thing, the stronger will injure or hurt him. A crime is an act of disobedience to a law, forbidden under pain of punishment" (p. 8). "The definition of crimes may therefore be conveniently restricted to acts forbidden by the law under pain of punishment. This definition, however, requires further explanation; for what, it may be asked, is a punishment? Every command involves a sanction, and thus every law forbids every act which it forbids at all, under pain of punishment. This makes it necessary to give a definition of punishments as distinguished from sanctions.

"The sanctions of all laws of every kind will be found to fall under two great heads; those who disobey them may forced to indemnify a third person either by damages or by specific performance, or they may themselves be subjected to some sufferings. In each case the legislator enforces his commands by sanctions, but in the first case the sanction is imposed entirely for the sake of the injured party. Its enforcement is in his discretion and for his advantage. In the second, the sanction consists in suffering imposed on the person disobeying. It is imposed for public purposes, and has no direct reference to the interests of the person injured by the act punished. Punishments are thus sanctions, they are sanctions imposed for the public, and at the discretion and by the direction of those who represent the public (p. 4). . . . . The result of the cases appears to be that the infliction of punishment in the sense of the word just given is the true test by which criminal are distinguished from civil proceedings, and that the *moral nature* of the act has nothing to do with the question" (p. 5). It is sufficient in this place to observe that they illustrate the general proposition that the province of criminal law must not be supposed to be restricted to those acts which popular language would describe as crimes, but that it extends to every act, no matter what its moral quality may be, which the law has forbidden, and to which it has affixed a punishment" (p. 7).

It may, perhaps, be as well here to give an extract from Le Sellyer's *Traite de la Criminalité*, showing what constitutes in France the "crime" of the English Law. "La criminalité c'est la qualité de certains actes les rendant passibles de l'application d'une loi pénale. Ces actes sont compris sous l'expression generale d'*infractions*. . . . . Nous donnerons de l'infraction, la définition que donnait du délit le code de brumaire en ajoutant copendant un caractère oublié par ce code, à savoir qu'il n'y a de délit où d'infraction que dans less actes ou omissions *punis* par la loi. . . . Nous dirons donc que l'infraction est toute action toute omission contraire aux lois qui ont pour objet le maintien de l'ordre social et la tranquillité publique et qui est punie par la loi."* (Nos. 2 and 3.)

To define is always difficult, and it is easy to perceive that the answer to the question, what is a crime? is necessarily a definition.

From the foregoing citations, however, it is submitted that the definition of a crime as "an act or omission forbidden by the law under pain of punishment," is strictly correct; but in order thoroughly to understand it, the word "punishment" must also be defined.

The task in this case is hardly less difficult than in that of "crime," but "punishment," it is submitted, may be declared to be "suffering in property or person imposed by the law (in the interests and name of society), on those who violate the law.

The imposition of punishment, then, appears to be the true test by which criminal are distinguished from civil proceedings, and punishment stamps the act or omission, to which it is affixed as a crime.

But it has already been shewn that the Criminal Law is that portion of the law relating to crimes; therefore that portion of the law relating to acts or omissions forbidden under pain of punishment, forms part of the Criminal Law, and all laws regulating proceedings to be adopted to apply such punishments to offenders are laws regulating procedure in criminal matters, and also form part of the Criminal Law.

It is clear, therefore, that by the 32 Vict. c. 70 s. 17, the Legislature of Quebec usurped authority over the Criminal Law (not within the limits granted to them by s. 92 of "The B N. A. Act, 1867") and its authorization of the Council of the City of Montreal to pass by-laws inflicting punishment on certain offenders against the provisions of those by-laws, was invalid null and of no effect.

Moreover, a Provincial Legislature has but the right of imposing punishment by fine, penalty *or* imprisonment for enforcing any law of the Province, made in relation to any matter coming within any of the classes of subjects enumerated in s. 92. It cannot, therefore, impose punishment for any offence which is not an infraction of some of its own laws, made in relation to some matter coming within a class of subjects enumerated in s. 92. It cannot impose punishment by fine *and* imprisonment for the same offence. It cannot regulate the proceedings by which such punishment shall be applied to offenders (otherwise called the Procedure).

The Parliament of the Province of Canada possessed full power over the Criminal Law and had also full power over Municipal Institutions, so that the grant to the Corporation of Montreal of a limited power to award punishment for violation of its By-laws, was strictly within the powers of that Parliament, and such delegation was valid. But how can it be pretended that Provincial Legislatures have the right of delegating to Municipal Institutions greater legislative powers than they possess themselves? How can it be pretended that when Provincial Legislatures have but the right of punishing infractions of *their own laws* by fine, penalty or imprisonment, they

* See also *Parker* v. *Green*, 2 B. & S. 299; *Cattell* v. *Ireson*, E. B. & E. 91; 2 Austin (ed. 1869) 1101.