

commitment, in case of neglect or refusal, it has been doubted whether an indictment will lie." The author, however, adds: "But all that the authorities establish on this point is, that where there is a substantial general prohibition or command in one clause, and there is a subsequent clause which prescribes a specific remedy, the remedy by indictment is not excluded."

The question was gone into by the late Mr. Justice Robertson in *Rex v. Meehan*, 3 O.L.R. 567, both as to the power of the Legislature to enact the Municipal Act and to regulate elections thereunder, and to prescribe the penalty or forfeiture for a wilful breach thereof, and also as to the cases where indictment will lie; some of the authorities there cited have a bearing on the present case.

Lord Denman, C.J., in *Regina v. Buchanan*, 8 Q.B. at p. 887, declares that wherever a person does an act which a statute, on public grounds, has prohibited generally, he is liable to an indictment. He agrees, however, that where, in the clause containing the prohibition, a particular mode of enforcing the prohibition is prescribed, and the offence is new, that mode only can be pursued; but he explains this by saying that the case is then as if the statute had simply declared that the party doing the act was liable to the particular punishment; and he adds, "But, where there is a distinct absolute prohibition, the act is indictable."

In the present case there is in one clause of the statute a distinct, absolute prohibition, the penalty being provided by a separate and substantive clause.

It appears to me that these authorities are applicable here, and that they are distinctly opposed to the defendant's contention.

In that view the application must be dismissed. I see no reason for relieving the applicant from payment of costs; and the dismissal is, therefore, with costs.

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MIDDLETON, J.

FEBRUARY 27TH, 1913.

McFARLANE v. FITZGERALD.

*Schools—Township Continuation School—Resolution of Township Council—Ultra Vires—Perpetual Injunction—Costs.*

Motion by the plaintiffs for an interim injunction to restrain the defendants from acting upon a resolution passed by the coun-