

though from its unsanitary condition it is hardly a fit place for invalids at least. It was then suggested that upon the prisoner, who is a hotel keeper, undertaking not to violate the provisions of the Liquor License Act by selling intoxicating liquors within the town of Hawkesbury in the said county (in which town he resided), he might be discharged. But I observed that I had no jurisdiction to entertain such a proposition, but agreed to send the above-mentioned undertaking to the Lieutenant-Governor, who is given "the power of committing and remitting sentences for offences against the laws of this province or offences over which the legislative authority of this province extends." (R. S. N. S. 1900, c. 7, s. 2).

The prisoner entered into the proposed undertaking, and I sent the same to the Lieutenant-Governor for executive action, and adjourned the further hearing in the meantime of this application. The Attorney-General, however, returned the undertaking, suggesting that I decide first the legal ground taken by the prisoner's counsel.

The application was finally heard, counsel for the Crown opposing.

At the argument, prisoner's counsel urged that I had power to discharge the prisoner in view of his physical condition, and cited from Kenny's Criminal Law under the head of Reprieve and Pardon. The author, treating of the the subject of reprieve which may be granted not only by the Crown but by a judge, remarks: "But a pardon lies, of course, beyond all judicial discretion and can be granted by no authority below that of the Crown." I therefore decide that I have no power to discharge the prisoner on his undertaking to sin no more, as such discharge would be tantamount to the exercise of the pardoning power possessed only by the authority representing the source of the law.

It is urged also on behalf of the prisoner that proof should have been given on the trial of the complaint against him, and conviction for the offence, that there was no license in force at the time in the town within which the offence had been committed. As the accused admitted the charge I held that I could not give effect to this objection.

The ground that the defendant was convicted on the 30th of April for an offence against the Liquor License Act committed between the 12th of February and the 24th of April, as a second offence subsequent to a conviction on the