

DELEGATION OF LEGISLATIVE POWER.

correction, punishment and reward of convicts imprisoned therein."

These references sufficiently illustrate the extent of the delegation of legislative power by the Imperial Parliament and Legislatures of Canada, since the establishment of colonial parliamentary government.

Few will deny to the Imperial Parliament, or even to the Parliament of Canada, the power to delegate legislative authority to subordinate bodies. But it is contended that although such power is within the legislative functions of the Imperial Parliament and the Parliament of Canada, it has not been expressly or impliedly conferred upon the Provincial Legislatures. If the power is not so conferred, then there is some reason to question the delegation of legislative authority to the municipalities by the Ontario Legislature.

Mr. Todd, in his work on "Parliamentary Government in the Colonies," says, (p. 367), "under their several constitutions, and pursuant to the 92nd section of the B. N. A. Act, these Local Legislatures possess powers of legislation as complete and absolute, within their exclusive jurisdiction, as those enjoyed by the Dominion Parliament, or even by the Parliament of the mother country, within the respective spheres."

Judicial opinion sustains this view. Draper, C.J., in *re Goodhue*, (19 Gr. 386), said: "Conceding to the fullest extent that the powers of the Legislature of Ontario are defined and limited by the B. N. A. Act, I conceive that, within those limitations, Acts passed in the mode described by that statute are, as to the Courts and people of this Province, supreme;" and Strong, V.C., added that where property and civil rights within the Province are affected, the Provincial Legislature has power to pass Acts "to the same unlimited extent that the Imperial Parliament has in the United Kingdom."

In *Regina v. Hodge*, (7 App. R. 246), Spragge, C.J., in referring to the distribution of legislative power, said: "I do not propose to attempt a definition of the powers con-

ferred by the Imperial Parliament by the B. N. A. Act, upon the Dominion Parliament and Provincial Legislatures respectively. They each derive their powers from the same source; and the power to make laws in relation to the several classes of subjects, legislation upon which is by the Imperial Act committed exclusively to the Provincial Legislatures, is as large and complete as it is in the classes of subjects committed, by enumeration of subjects, to the Dominion Parliament. The limits of the subjects is prescribed, but within those limits the authority to legislate is not limited." On the same point, Burton, J.A., said: "Reading the powers granted in section 92, with the exceptions where they occur in section 91 (of the B. N. A. Act) the Local Legislature is absolute and supreme over those subject matters, with as ample a power to legislate in respect of them as the Imperial Parliament, and without any possibility of interference by the Dominion Legislature."

* * * "It is true that the Imperial Parliament gave both to the Dominion and to the Provinces the constitutions under which we live; both limited in extent, but both giving representative institutions, and giving to the legislatures elected in the manner pointed out, plenary powers of legislation as large and ample as those of the Imperial Parliament itself. The Legislatures so elected have a delegated authority it is true, but it is of the same character as that of the Imperial Parliament, who are collectively the delegates of the whole people."

The Imperial decisions are consistent with these views. In *Phillips v. Eyre*, (L. R. 6 Q. B. 20,) Willes, J., said: "A confirmed Act of a Legislature lawfully constituted, whether in a settled or conquered colony, has, as to matters within its competence, the operation and force of sovereign legislation." And Lord Selborne, L.C., in defining the limited legislative powers of the Indian Legislature, in *Regina v. Burah*, (3 App. Case, 904,) said: "The Indian Legislature has powers expressly limited by the Act of the Imperial