

"in force in Canada" and was likewise made applicable to Ontario and Quebec, and which enacted that the following words, indicating the authority by which Provincial Statutes were passed, should continue to be used: "Her Majesty by and with the advice and consent" of the other legislative bodies, enacts, etc.

We have already shown that it is one of the prerogatives of the Crown to enact all laws by and with the advice and consent of the other legislative bodies, especially the laws which may be classed as regal or supreme, such as relate to the property and civil rights of the subjects of the Crown; the establishment of superior courts of civil and criminal jurisdiction; the right of eminent domain; the establishment of local or municipal authorities with powers of taxation; and to the general executive government of the province. And this legislative prerogative of the Crown, as well as those which are classed as executive prerogatives, it is well known cannot be taken from the Crown unless by express words, or by terms which make the inference irresistible. In giving judgment on the Quebec Election Act in *Theberge v. Landry* (*supra*) the Lord Chancellor, referring to the contention that the Act did not take away any prerogative right of the Crown, because the Crown and the prerogative of the Crown were not specially or particularly mentioned in the Act, said: "Their lordships wish to state distinctly that they do not desire to imply any doubt whatever as to the general principle that the prerogative of the Crown cannot be taken away except by express words; and they would be prepared to hold, as often as has been held before, that *in any case where the prerogative of the Crown has existed* precise words must be shown to take away that prerogative."

Not only did the Privy Council in that case affirm that the Crown was a constituent part of the Provincial Legislature, but in *Hodge v. Reg.* 9 App. Cas. 117, the same judicial body thus described the jurisdiction and powers of the Legislature of Ontario:

"When the British North America Act enacted that there should be a legislature for Ontario, and that its Legislative Assembly should have exclusive authority to make laws for the province, and for provincial purposes in relation to the matters enumerated in s. 92, it conferred powers, not in any sense to be exercised by delegation from, or as agents of, the Imperial Parliament, but authority as plenary and as ample, within the limits prescribed by s. 92, as the Imperial Parliament in the plenitude of its power possessed and could bestow. Within these limits of subjects and area the Local Legislature is supreme and has the same authority as the Imperial Parliament, or the Parliament of the Dominion would have had under like circumstances."

It may be noticed that the constitution of the Legislatures of Nova Scotia and New Brunswick was continued by the B.N.A. Act as it existed at the Union; and no one has contended that prior to Confederation the Crown formed no constituent part of their Legislatures. There was, therefore, in the prior Provincial Constitutions of the separate provinces, a recognition of the legislative function of the Crown, and it may have been considered appropriate when establishing a new legislative body for the collective provinces as a united Dominion, to