

THE ONTARIO ACT WITHIN THE MUNICIPAL AND LOCAL POWERS
ASSIGNED TO PROVINCES.

The subjects of legislation in the Ontario Act of 1877, secs. 4 and 5, seem to come within the heads Nos. 8, 15, and 16 of Sec. 92 of British North America Statute, 1867.*

Their Lordships are, therefore, of opinion that, in relation to secs. 4 and 5 of the Act in question, the Legislature of Ontario acted within the powers conferred on it by the Imperial Act of 1867, and that in this respect there is no conflict with the powers of the Dominion Parliament.

Assuming that the Local Legislature had power to legislate to the full extent of the resolutions passed by the License Commissioners, and to have enforced the observance of their enactments by penalties and imprisonment with or without hard labour, it was further contended that the Imperial Parliament had conferred no authority on the Local Legislature to delegate those powers to the License Commissioners or any other persons. In other words, that the power conferred by the Imperial Parliament on the Local Legislature should be exercised in full by that body, and by that body alone. The maxim *delegatus non protest delegare* was relied on.

POWERS OF THE PROVINCIAL LEGISLATURES AMPLE AND PLENARY.

It appears to their Lordships, however, that the objection thus raised by the Appellants is founded on an entire misconception of the true character and position of the Provincial Legislatures. They are in no sense delegates of or acting under any mandate from the Imperial Parliament. 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 Sec. 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

* The following are the heads Nos. 8, 15 and 16 referred to as they appear in the B.N.A. Act under section 92:—

Section 92.—In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say:

Sub-head 8.—Municipal institutions in the Province.

Sub-head 15.—The imposition of 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 this section.

Sub-head 16.—Generally all matters of a merely local or private nature in the Province.