

There is no power under the British Constitution to question the authority of Parliament. It may yet have to be considered whether it has so effectually given up its powers of legislation in regard to the internal affairs of Canada, by the British North America Act and some other statutes, that it cannot resume them; whether, in case of a conflict between the Parliament of Canada and the Imperial Parliament, the Courts of Canada are bound by the enactments of the one or the other; but these are questions which need not now be decided. It is true that the Parliament of Canada is the creature of statute, and that its powers cannot be greater than the statutes expressly or impliedly bestow upon it, but there has been no attempt by the Imperial Parliament to take away or to encroach upon the powers given to the Parliament of Canada, and we have nothing to do at present with speculations upon the effect of such an attempt. The British North America Act, 1867, begins with the recital that the Provinces of Canada, Nova Scotia and New-Brunswick "have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the United Kingdom." By section 9 the executive government and authority of and over Canada are declared to be vested in the Queen. Under section 17 there is "one Parliament" for Canada, consisting of the Queen, an Upper House—styled the Senate—and the House of Commons. By section 18 the privileges, immunities and powers of the Senate and House of Commons are to be such as are from time to time defined by the Parliament, but so as not to exceed those of the British House of Commons at the passing of the Act.

It thus appears that the Parliament of Canada is not, within its legislative powers, placed in an inferior position to that of Britain. The Sovereign form as integral part of the Canadian as of the British Parliament, the Executive authority is vested in the Queen. So far as relates to her internal affairs, Canada stands in a position of equal dignity and importance with the United Kingdom, and, except in so far as the action of the Sovereign may be indirectly controlled by the Imperial Parliament, Canada stands in this respect rather in the position of a sister kingdom than in that of a dependency.

It is principally by the 91st section that the legislative authority of the Canadian Parliament is defined; and under this section it can "make laws for the peace, order and good government of Canada," in relation to all matters not coming within the classes of subjects assigned exclusively to the Legislatures of the Provinces. By a portion of section 146 provision is made for the admission by Order in Council of Rupert's Land and the North-West Territories upon addresses from the Canadian Houses of Parliament, and under this provision and under the Rupert's Land Act, 31 and 32 Vic. c. 105, and the British North America Act, 1871, 34 and 35 Vic. c. 28, the North-West Territories have been added to the Dominion. By these two latter Acts the jurisdiction and powers of the Parliament of Canada are enlarged, both as to the territory over which they may be exercised and the subjects upon which laws may be enacted. There are no Provincial Legislatures (except in Manitoba) to share in the legislation, and there is no qualification of or exception from the power of legislation upon all matters and subjects relating to the "peace, order and good government" of Her Majesty's subjects and others in these added territories. Over these territories and with the addition of these subjects of legislation the Parliament of Canada is in the same position as it was over the Dominion when first formed, and in respect of the subjects of legislation committed to it by the British North America Act, 1867.

The American theory of constitutional government is, that the legislatures are composed of delegates from the people, and that certain rights and powers only are committed to them, and that the people have retained to themselves certain rights necessary to the free enjoyment of life and liberty which the legislatures have been given no power to interfere with, and it is now attempted to apply the term "delegated" to the bestowal by the Imperial upon the Dominion Parliament of the powers of legislation conferred by the Confederation and other Acts, and in this way to introduce the same theory into the consideration of our constitution. The principle of the British Constitution is, however, that the people of the State, the three estates of realm, composed of the Sovereign, the Lords and the Commons, are all assembled in Parliament, and that the enactments of