

In the exercise of that authority, whatever it may be, it is not exercising a delegated authority.

To found an argument as to Parliament exercising a delegated authority, upon the language used by American writers, or upon judicial decisions in the United States, appears to me to be wholly fallacious. In the States of the American Union the theory is, that the sovereign power is vested in the people, and they, by the Constitution of the State, establishing a legislature, delegate to that body certain powers, a limited portion of the sovereign power which is vested in the people. The people, however, still retain certain common law rights, the authority to deal with which they have not delegated to the legislative body. Hence the language used by Bronson, J., in *Taylor vs. Porter*, 4 Hill, at p. 144.—“Under our form of government the legislature is not supreme. It is only one of the organs of that absolute sovereignty which resides in the whole body of the people. Like other departments of the government it can only exercise such powers as have been delegated to it.” It is in the light of this theory that the language of Mr. Justice Story in *Wilkinson vs. Leland*, 2 Peters, 627, must be read and by which it must be construed. The case of the British Parliament is quite different, “in which,” as Blackstone says (*Blackstone*, Christian’s Ed., Vol. I., p. 147, “the legislative power and (of course) the supreme and absolute authority of the State, is vested by our constitution.” And again, at p. 160, he says, “It hath sovereign and uncontrollable authority in the making, conferring, enlarging, restraining, abrogating, repealing, revising, and expounding of laws, concerning matters of all possible denominations * * * this being the place where that absolute despotic power which must in all governments reside somewhere, is entrusted by the constitution of these kingdoms.”

To the extent of the powers conferred upon it, the Dominion Parliament exercises not delegated but plenary powers of legislation, though it cannot do anything beyond the limits which circumscribe these powers. When acting within them, as was said by Lord Selborne in *The Queen vs. Burah*, L. R. 3 App. Ca., at p. 904, speaking of the Indian Council, it is not in any sense an agent or delegate of the Imperial Parliament, but has, and was intended to have, plenary powers of legislation, as large, and of the same nature as those of that Parliament itself. That the Dominion Parliament has plenary powers of legislation in respect of all matters entrusted to it was held by the Supreme Court in *Valin vs. Langlois*, 3 Sup. C. R. 1, and *City of Fredericton vs. The Queen*, 3 Sup. C. R. 505. So also, the judicial committee of the Privy Council have held, in *Hodge vs. The Queen*, L. R. 9 App. Ca. 117, that the local legislatures when legislating upon matters within section 92 of the British North America Act, possess authority as plenary and as sample, within the limits prescribed by that section, as the Imperial Parliament in the plenitude of its power possessed and could bestow.

The power of the Dominion Parliament to legislate for the North-West Territories seems to me to be derived in this wise, and to extend thus far. By section 146 of the British North America Act it was provided, that it should be lawful for Her Majesty, with the advice of Her Privy Council, “on address from the Houses of the Parliament of Canada, to admit Rupert’s Land and the North Western Territory, or either of them, into the Union, on such terms and conditions as in each case as are in the addresses expressed, and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.”

In 1867, the Dominion Parliament presented an address praying that Her Majesty would be pleased to unite Rupert’s Land and the North Western Territory with the Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government. The address also stated, that in the event of Her Majesty’s Government agreeing to transfer to Canada the jurisdiction and control over the said region, the Government and Parliament of Canada would be ready to provide that the legal rights of any corporation, company or individual within the same should be respected and placed under the protection of courts of competent jurisdiction.

The following year, 1868, the Rupert’s Land Act, 31 and 32 Vic., c. 105, was passed by the Imperial Parliament. For the purposes of the Act the term Ruperts,