may be held to belong to him by virtue of his office, as in the case of the Governors appointed by proprietors, or elected by the people, before referred to.[1]

But, without discussing this last point, enough may be found in the British North America Act to elucidate the extent of the Prerogative of the Crown in the local legislation of the Provinces.

It has been shown that the Governors and Lieutenant-Governors of the old American colonies exercised the Crown's prerogative of calling together the Legislative Assemblies in the Sovereign's name. In the former Provincial Governments of Canada, the Lieut.-Governors of Upper and Lower Canada, and of Nova Scotia and New Brunswick, and the Governor of Canada, were specially authorized 'in the Queen's name,' to summon the Legislative Assembly of these Provinces; and by section 82 of the British North America Act, this power is expressly conferred upon the Lieutenant-Governors of Ontario and Quebec, and by fair inference, from sections 88 and 129, upon the Lieutenant-Governors of Nova Scotia and New Brunswick. The Imperial Colonial Regulations also provide that the Governor of a colony 'has the power of issuing, in the Queen's name, writs of summons and election to call together the representative assemblies and councils where they exist, and for the election of their members; and also that of assembling, proroguing and dissolving legislative bodies.'

The legislature, so summoned in the Queen's name, has exclusive legislative authority to make laws in certain classes of subjects defined by section 92 of the British North America Act, and which laws by the unrepealed clauses of the Constitutional Act of 1791, are to be 'assented to by Her Majesty,' or to 'be made by Her Majesty by and with the advice and consent' of the local legislature. These laws, which, by the Act of 1791, require the assent of the Crown, are the laws relating to 'the time and place of holding elections' (s. 25), repealing or varying laws then existing, or in so far as the same should thereafter be repealed or varied by temporary laws (secs. 33 and 50), altering the constitution of the Courts of Appeal of Upper and Lower Canada (sec. 34), varying or repealing the provisions of the Act respecting the Clergy Reserves (sec. 41), altering the law then established, with respect to the nature and consequences of the tenure of lands in free and common soccage (sec. 43). The Union Act of 1840, also provided that 'Her Majesty shall have power, by and with the advice and consent of the Legislative Council and Assembly, to make laws for the peace, welfare and good government of the Province of Canada, such laws not being repugnant to this Act, or to such parts of the said Act [of 1791], passed in the thirty-first year of his said late Majesty, as are not hereby repealed . . . and that all such laws, being passed by the said Legislative Council and Assembly, and assented to by Her Majesty, or assented to in Her Majesty's name, by the Governor of the Province of Canada, shall be valid and binding to all intents and purposes.' Of the classes of subjects, specially mentioned in this Act, which are now within the legislative authority of the Provincial Legislatures, are, the establishment of new and other electoral divisions, and alteration of the system of representation (s. 26), laws relating to or affecting Her Majesty's Prerogative touching the granting of waste lands of the Crown within the Province (sec. 42, amended by 17 & 18 Vic. c. 118, s. 6), the constitution of the Courts of Appeal, of the Court of Chancery for Upper Canada, and the place of holding the Court of Queen's Bench of Upper Canada

(1) The Lords Commissioners for Trade and Plantations communicated with the Governors of these colonies; and to the Lieutenant-Governor of Pennsylvania, if not to others, royal instructions were given.—Pennsylvania Archives, 1740, p. 616.