

whole case. The proclamation was issued and its terms consented to by the city.

I entirely agree that neither the Lieutenant-Governor nor his Royal Master can as such validate an agreement which is ultra vires of any municipal corporation. The legislature can, however, give to the Lieutenant-Governor powers which otherwise he would not have. It is too late in the day to contend that the legislature of Ontario has only a delegated power, and, as *delegatus non potest delegare*, their powers cannot be delegated. Such cases as *The Queen v. Burah*, 3 App. Cas. 889, *Powell v. Apollo Candle Co.*, 10 App. Cas. 290, and *Hodge v. The Queen*, 9 App. Cas. 132, make it beyond any question that our legislature is in no sense a delegate of or acting under any mandate from the Imperial Parliament. It is beyond any question that, within the limits of its jurisdiction, its authority is as plenary and ample as that of the Imperial Parliament, and may be as freely and effectively delegated.

The power of the legislature is validly given if the legislature had the power itself which the statute confers upon him, and it cannot be argued that, had the legislature passed an Act in the terms of the proclamation, such an Act would be valid. This being so, the proclamation is effectual, and, whatever may be the terms and conditions of the proclamation, these terms and conditions have the same effect although they were contained in a statute. But it is because they are in the proclamation, not because they are in the agreement, that they are effective; and the rights thereunder are statutory and not contractual. The township has no more interest in enforcing the rights, if any, of the inhabitants of the township under this proclamation than those under any statute; the township then should not have been a party to the action.

There being no one before the Court entitled to such a broad declaration as is contained in clause 2 of the judgment, that clause should be struck out.

Against clauses 3 and 4 there is no appeal. As to the latter, however, something may be said. The defendants complain that the learned trial Judge animadverted against the defence in a manner not justified by the facts. I find that he did say that the city had been absolutely dishonest in its defence. No doubt, this remark was called forth by the fact that the city, after entering into an agreement in 1902, and receiving money from the plaintiff Barnes, as they did,