

THE TRANSCENDENT POWERS OF PARLIAMENT.

"In short, the Legislature. . . can do everything, that is not naturally impossible, and is restrained by no rule, human or divine. . . . The prohibiton 'Thou shalt not steal' has no legal force upon the sovereign body"—Mr. Justice Riddell, in *Florence, etc. v. Cobalt, etc.* (1908) 18 O.L.R. 275, at p. 279.

This was approved by the Court of Appeal of Ontario, 18 O.L.R., at p. 293; and the Judicial Committee of the Privy Council "saw no reason to differ from the conclusions of the Courts below", (1910) 48 O.L.R. 474 at p. 476.

"The basis of the English constitution, the capital principle upon which all others depend, is, that the legislative power belongs to Parliament alone; that is to say, the power of establishing laws, and of abrogating, changing, or explaining them . . . no man in England . . . can oppose the irresistible power of the Laws"—De Lolme, *The Rise and Progress of the English Constitution*, Book I, Cap. IV: Book I, Cap. IX.

"Of the power and jurisdiction of the Parliament, for making of the laws . . . it is so transcendent and absolute as it cannot be confined either for causes or for persons, within any bounds. Of this Court it is truly said: *Si . . . spectes . . . jurisdictionem, est capacissima*". Coke, 4 Inst., 36. And he gives as an example: "It may adjudge an infant, or minor of full age". "It hath sovereign and uncontrollable power in . . . laws; this being the place where the absolute despotic power, which must in all governments exist somewhere, is entrusted by the constitution of these kingdoms": Blackstone: *Commentaries on the Laws of England*, Book I, Cap. 2, p. 156, follows him.

All of these declarations, however, must give way to Oliver Cromwell's dictum; when his son Richard succeeded him as Chancellor of Oxford, a contemporary account of his Address to the University represents him as saying: "My father said that a parliament could do anything but make a man a woman, and a woman a man": *News from Pembroke and Oxford* . . ., vol. 6, Harleian Miscellany . . ., p. 135. (I suppose some hypercritical persons may cast doubt upon the literal accuracy of the report—there are always such doubting Thomases—by reason of the way in which the Chancellor ends

his first paragraph: "Dam me, this writing and reading hath caused all this blood".)

An American will be delighted to see his favourite word "star-spangled" in another pamphlet in this volume, p. 346—I need not cite the title.

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Concerning Danzig.—One can hardly believe that Mr. Stresemann can feel any particular gratitude to the citizens of Danzig for impelling him at each session of the Council to take part in a big political fight. One cannot even help feeling that the Danzig Senate is letting itself be manoeuvred, undoubtedly unconsciously, by the nationalist adversaries of Mr. Stresemann, and that it is playing domestic politics—but German politics, and not those of Danzig.

It is not enough to be right either in fact or in principle; one must also know how to avoid both the spirit of exaggeration that amplifies all possible dangers and the purely judicial spirit that is often the greatest enemy of the political spirit.

THE LIVING AGE.