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## OBSERVATIONS ON A POINT OF LAW.

The Acts of Parliament in force in this Province may be divided into two classes. In the first, are all Acts of Parliament made expressly for the Colonies and Plantations, or for this Province in particular.

The second class is composed of Acts of Parliament not originally enacted for the Colonies; and which *proprio vigore*, were not binding in this Province, but have been introduced into it, by Acts of Parliament, subject to be repealed or altered by the then existing Provincial Legislature.

The relation of superiority and dependance between the Metropolis and its Colonies or Provinces, does not permit the supposition of a Colonial or Provincial Legislature having (otherwise than by permission from Parliament) a right to repeal, alter or suspend the Acts of Parliament: for such a power would make the Colonial Legislature equal to Parliament, and there would be a multitude of Legislatures all equally supreme and sovereign in one and the same state. In fact, the Legislature of Lower Canada never claimed to exercise this power without the express permission of Parliament; and this permission was actually given to the Canadian Legislature by the Acts of 1774 and 1791, in relation to Acts of Parliament of the second class, and for this obvious reason, that those acts, originally made for England, were likely to prove in many respects inapplicable to the wants, manners and circumstances of Canada; and that a power in the Colony itself to modify those laws was a necessary corrective to their promiscuous introduction.

But the same permission was never given in relation to Acts of Parliament made expressly for the Colonies or for this Province; and a power to modify those Acts of Parliament, of the first class, was never exercised or even claimed by the Legislature of Lower Canada.

Such were the well understood and admitted supreme powers of Parliament; such the more limited but very great powers of the Lower Canada Legislature, when the latter was suspended by the Act of Parliament, 1 Victoria, chap. 9. By this Act a temporary legislature is erected, with power to make laws and ordinances, such as might have been made by the suspended Legislature. The Governor and Special Council are thus entrusted with the powers of legislation that belong to the suspended Legislature, but no more. If, therefore, the suspended Legislature had no power to suspend, alter or repeal Acts of Parliament made expressly for the Colonies or for Canada, it is manifest that the Governor and Special Council have not that power. It is a power which cannot belong to a Colonial Legislature without express permission of Parliament; and this permission not having been given to the suspended Legislature, is clearly not given to the Governor and Special Council.

Indeed, it is quite manifest that the legislative powers of the Governor and Special Council, are less extensive than those of the suspended Legislature; for the statute after conveying to the Governor and Special Council the powers of the suspended Legislature,