Crown. But it was at one time a received maxim that the Crown could at any time, however remote, exercise the prerogative of disallowing any Colonial Act which had not been confirmed by an Order in Council. 'This, however, may now be numbered among those constitutional powers of the Crown which have been dormant for a long series of years, and which would not be called into action, except on some extreme and urgent occasion,'[1] and then only in cases where the Imperial Parliament had not placed a limitation upon this exercise of the prerogative. This supervision of the Crown over the legislation of the colonies, appears to have been claimed and exercised by virtue of the prerogative, and by virtue of the dependency of the colony on the Empire, in order that the laws appointed or permitted in the colony might not be extensively changed without the assent of the central authority of the State.[2]

The colonies (says Governor Pownall) had therefore legislatures peculiar to their own separate communities, subordinate to England, in that they could make no laws contrary to the laws of the mother country; but in all other matters and things, uncontrolled and complete legislatures, in conjunction with the King or his deputy as part thereof. Where the King participated in this sovereignty over these foreign dominions, with the Lords and Commons, the colonies became in fact the dominions of the realm.[3] 'These colonial legislatures, with the restrictions necessarily arising from their dependency on Great Britain, were *sovereign* within the limits of their respective territories.'[4]

(1) Howard's Colonial Laws, 26.

(2) This is substantially the judicial opinion affirming the right of appeal from Colonial Courts to the Sovereign in Council.—Vaughan's Reports, 290, 402.

(3) Pownall's Administration of the Colonies, 139.

(4) Story, s. 171.

Whatever constitutional usage may be deduced from these references to the extent and exercise of the Prerogatives of the Crown in the American colonies, it would appear that, although the power to appoint the Governors of these colonies was exercised by the Crown, the Proprietors, and the people, yet as the two latter derived their power primarily from the Crown, their appointments seem to have created no constitutional difficulty in vesting in their appointees, as Governors, the right to exercise the Crown's prerogative, so far as the same was requisite for the legislative function of their government. It seems to have been conceded even in days when Personal Rule was a marked feature in Imperial affairs, that, as the prerogative was vested in the Crown for the benefit of the people,[5] and for the exigencies of good government in the colonial domain of the Empire, that prerogative could be lawfully exercised by the Governor whether communicated to him by direct or indirect grant, or by necessary implication of law, and especially where, as a principle of constitutional law, the assent of the Crown was a pre-requisite to the making of colonial, as it was to the making of Imperial, laws; and thus the prerogative right to give or withhold that assent must have vested in the Governor acting for and as representing the Crown within the colony.[6]

The territory now forming the Provinces of Ontario and Quebec was placed under Provincial Governments from the first; and, although no representative assembly was established for

(5) The recognized modern doctrine is, tha all prerogative rights are trusts for the benefit of the people.—Mr. Mowat's Memorandum Sess. Papers (Can.) 1877, No. 89. p. 95.

(6) A legal and confirmed Act of Assembly has the same operation and force in the colonies that an Act of Parliament has in Great Britain.—Chitty, 37. The legislative bodies in the dependencies of the Crown have *sub modo* the same powers of legislation as their prototype in England, subject, however, to the final negative of the Sovereign.—1 Broom's Commentaries, 122.