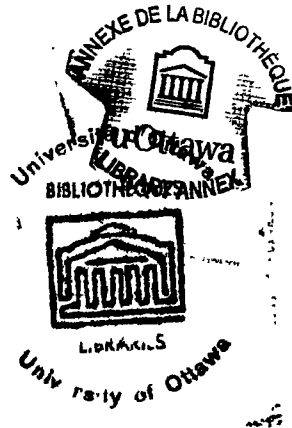


AYLMER'S VIEWS OF POLITICAL  
AND CONSTITUTIONAL AFFAIRS IN LOWER CANADA  
ACCORDING TO HIS CORRESPONDENCE (1800 - 1835)

by Gerald E. Wiley

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CURRICULUM STUDIORUM

Gerald E. Wiley was born May 16, 1933, in Sudbury, Ontario. He received his Bachelor of Arts degree in Modern History from the University of Toronto in 1956.

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## INTRODUCTION

## LORD AYLMER'S BACKGROUND.

Matthew Whitworth-Aylmer, the fifth baron, had a long and distinguished military career before becoming the Governor-in-Chief of British North America in 1831.

Ten years after his birth on May 24, 1775, he succeeded to the barony. At the same tender age he entered the army, and after a training period was posted to the West Indies. Within nine years he attained the rank of captain.

During the War against Republican France he served both in Holland, where he was once taken prisoner, and in Jamaica. He was a major in the 85th infantry regiment from 1800 to 1803 when he went to the Coldstream Guards as a lieutenant colonel. At the age of thirty he saw action under Lord Cathcart in the expedition to Hanover, and in the siege of Copenhagen. Then he spent a quiet two years as assistant adjutant-general for the district of Kent before returning to the battlefield in 1809, accompanying General Sherbrooke to Portugal. Promoted to major-general, he served in Spain under Wellington from 1813 until the end of the campaign.

After the war he became adjutant-general, this time in Ireland, and was made a Knight Commander of the Bath by King George III in 1815. Ten years later, at the age of fifty, he was promoted to full general.

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In 1829, the Duke of Wellington, then George IV's prime minister, needed a man to succeed Sir James Kempt as Governor-General of British North America. At this time Lord and Lady Aylmer were enjoying a tour of southern Europe, but when Wellington asked him to be the governor of the politically troubled colony across the Atlantic, he accepted the challenge.

## THE PREDICAMENT OF THE GOVERNORSHIP

He and his gracious wife arrived at Quebec in the autumn of 1830. They found that Sir James Kempt was anxious to yield his post, having exhausted himself in achieving a truce in the political struggles of the Province. At the same time Lord Aylmer was afforded a portent of the difficulties he would have with the Colonial Office. Sir James Kempt had been serving as administrator only, and the Colonial Office sent out a similar commission for Lord Aylmer, instead of one as Governor-in-Chief. It took until February 1831 for the correct commission to arrive. Unfortunately, the necessity of having to ask for the superior rank did not enhance his stature in the eyes of the political leaders of Lower Canada.

It is not surprising that such errors as Lord Aylmer's faulty commission were made. The English Government was in the midst of dealing with weighty and critical problems at home, in the Empire and in Europe. At home there was

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dissension, violence, and political turmoil over the Great Reform Bill which only became law after a struggle lasting to 1832. At the same time Irish unrest and the political and religious issues involved preoccupied Parliament. In the Empire, the campaign to abolish slavery, the concurrent disruption of the West Indies' economy, the transformation of the East India Company to an agent of government, and the problems of South Africa and Australia, all vied for attention with the unrest in British North America.

Meanwhile the Metternich system in Europe was being challenged by liberal and national revolts in France, Belgium, Spain, Portugal, Italy and Poland. The Belgian revolt had the greatest importance to Britain, and absorbed a good deal of the Whig government's time. Moreover the English businessmen who were anxious to exploit European markets for the manufactured products pouring from English factories, were urging the Government to ignore the colonies. In short, the affairs of Canada were facing strong competition for the attention of His Majesty's Government.

To add to Lord Aylmer's difficulties the office of Colonial Secretary changed hands several times, especially after 1833, so that by 1835 he had served six Secretaries. Furthermore, these men had quite divergent philosophies. Whereas Lord Goderich gave him very little support, Secretary Stanley gave a great deal, and in the final critical months Secretary Spring-Rice, and Lord Glenelg undermined his position.

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The political situation in the Province of Lower Canada in 1830 was at a critical stage. In essence, two groups were contending for control of the effective government of the Province. The one led by Louis Joseph Papineau was composed largely of French-Canadians, but had support from English farmers, Irish labourers, and the small businessmen. This "Canadian party" was striving to wrest control from the Château Clique, an English oligarchy. In 1830 John Richardson, a wealthy merchant led the Clique, and its members were generally English-speaking inhabitants who were involved in commerce and finance, or were occupants of key positions in the judiciary and the executive. This political division was becoming charged with racial and religious overtones. The Château Clique, or Bureaucracy was predominantly English and Anglican, whereas the majority of the opposition was French and Roman Catholic. A combination of discontent with the privileges of the Anglican Church, and fear for their French-Canadian heritage was already producing radicalism in the ranks of the Canadian party. In any event, this party was still seething with bitterness from the treatment they had received at the hands of Lord Dalhousie (1820-1827).

On the other hand, Louis Papineau and his colleagues had given his successor, Sir James Kempt, some co-operation while awaiting action on the recommendations of the Canada Committee of the British Parliament. This Committee had, in 1828, probed the political problems of the Province, and

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produced suggestions to ameliorate them. The British prime minister, Wellington, had taken no steps, however, to implement any of the recommendations by the time Lord Aylmer reached Lower Canada, and the French party was growing impatient. Within a month of his arrival, nevertheless, the Whigs, led by Earl Grey, came to power in England. Although distracted by events at home, in Europe, and in other parts of the Empire, the Whigs began to develop a new policy toward Lower Canada. This new policy took some direction from the report of the Canada Committee. It became Lord Aylmer's task to implement this inchoate, new policy.

He had no previous experience in politics or civil affairs to rely on in dealing with the politicians, the civil officials, and the complex problems of Lower Canada. Instead he had only his own upright character, good intentions, sense of justice, and amiable nature. It was also fortunate that he and his wife spoke French fluently, and were unprejudiced against Roman Catholics.

## THE PROBLEM

During his term as Governor, Lord Aylmer sent hundreds of dispatches and private letters to various leaders and officials in the King's Government. In fact, from 1832 he was instructed to send a report on the political affairs of the Province each week. From this mountain of correspondence, this thesis attempts to extract his views concerning the main

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issues which arose in the political struggles of Lower Canada of the time. Furthermore it seeks to determine whether these views were chiefly the result of his own philosophy and understanding of the events of the day, or the result of instructions from the Colonial Office, or even pressure from the Château Clique.

This report should have historical importance in providing thoroughly documented analysis of the views of the official whose responsibility was to judge the political situation, the political leaders and their goals, and the policies produced by the Imperial Parliament.

Lord Aylmer's governorship terminated less than two years before the Rebellion of 1837 in Lower Canada. The causes of the Rebellion did not suddenly occur in the interval following his departure. Some of the forces and circumstances which produced the Rebellion were present during his term. Indeed, while he was Governor the French or Patriote party adopted a belligerent attitude, and a platform which may be regarded as a non-violent rebellion, or at least the prelude to the Rebellion.

Historians still have different interpretations of what were the essential causes of the Rebellion. Some emphasize the constitutional deadlock which arose from the separation of the appointed councils and the elected assembly, while others stress the conflict between the main economic classes, and others attribute it mainly to increased

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nationalism among the French citizens of Lower Canada. Although this thesis makes no claim to settle all the differences its presentation of Lord Aylmer's views should shed some light on the question of the underlying causes.

Furthermore, now that the "late Province of Lower Canada" is undergoing a "quiet revolution", and the federal constitution of Canada is being questioned, reference to the efforts of Lord Aylmer and the English government to deal with a situation which bears striking similarities should at least be of interest, and perhaps may even be valuable.

## A REVIEW OF THE LITERATURE

Two authors only deal with the period 1830 to 1835 in detail and set down some of Lord Aylmer's speeches, replies and letters. Robert Christie is the earliest recorder of the period, having published A History of the Late Province of Lower Canada in 1866.<sup>1</sup> The other, William Kingsford, published his ten-volume History of Canada in 1897.<sup>2</sup> He covers the era in greater breadth, relating events in England as well as in the Province. For the period concerned, however, he relies heavily on Christie's work. Both men are extremely critical of Papineau and his followers. They regard the

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1 Robert Christie, A History of the Late Province of Lower Canada, Vols. III & IV, Montreal, 1866.

2 William Kingsford, The History of Canada, Vol. IX, Toronto, 1897.

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Patriotes as republicans determined to tear the Province out of the British Empire in order to give its French-speaking inhabitants an illegitimate sovereignty, and protect a backward agrarian culture. Christie's bias is easily understood. Although from 1827 he was consistently elected to the Assembly by the Loyalist enclave in Gaspé, he was as consistently expelled from the House for allegedly violating the privilege of that body in assisting in a purge of magistrates who opposed Lord Dalhousie during the latter's governorship. Nonetheless, many modern historians quote from Christie on account of the lavish documentation his narrative provides.

Christie and Kingsford coincide in the view that Lord Aylmer began his administration with the mistaken policy of deferring to the French and granting them major concessions, and that after realizing the folly of that approach he strove valiantly to defend the interests of the Empire and the loyal English subjects in Lower Canada.

None of the modern historians offer such extensive documentation, and most treat Lord Aylmer's views as incidental. Duncan McArthur judged, somewhat paradoxically, that Lord Aylmer: "approached the Canadian situation as a total stranger, free from prejudice," and that he: "inaugurated his administration by insincere and extravagant protests of admiration for the French-Canadian people, transparent pretences

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which ... failed to impress the most innocent of the French-Canadians."<sup>3</sup>

In his book, Movements of Political Protest in Canada (1640 - 1840), Samuel Clark casts doubts upon the accuracy of Lord Aylmer's estimation of the political situation. He especially attacks the Governor's assurances of the tranquility of the French population in the period 1832 to 1834.<sup>4</sup>

The most recent book on the period, The Revolt of French Canada (1800 - 1835) also is critical of Lord Aylmer. Mrs. Manning's contention is that: "from 1828 to 1837 every vital decision was made in Whitehall and Governors were important only so far as they met with success or failure in persuading the assembly to accept the policies laid down by the Colonial Office",<sup>5</sup> and consequently, she concentrates on the policy-making in England rather than on Aylmer's views. Following this assumption she scarcely refers to Lord Aylmer's opinions, and does not document her evaluation of him as a naive political leader possessing "remarkably little common sense".<sup>6</sup> Furthermore, she declares, again without presenting

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<sup>3</sup> Duncan McArthur, "Papineau and French-Canadian Nationalism", in Canada and its Provinces, Vol. III, Toronto, 1914, 310.

<sup>4</sup> Samuel Delbert Clark, Movements of Political Protest in Canada, 1640-1840, Toronto, 1959, 266-286.

<sup>5</sup> Helen Taft Manning, The Revolt of French Canada, 1800 - 1835, Toronto, 1962, 148.

<sup>6</sup> Ibid., 335.

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evidence, that he appeared to most of the members (of the legislature) to be an "aimiable (sic) fool who didn't know what he was talking about and on whose promises they had no good reason to rely."<sup>7</sup> On the other hand, Mrs. Manning gives valuable information concerning the Colonial Office, the Imperial Parliament, and the Provincial Parliament, as well as political, economic and social affairs all of which are much more fully documented.

Alfred De Celles, in his examinations of the life of Papineau, and the development of the Patriote party<sup>8</sup> also regards the protagonists to be the French-Canadian radicals and the Colonial Office. He exculpates Lord Aylmer from the charges of the Ninety-Two Resolutions. In addition, he believes that the Governor was sincere in his attempts to be conciliatory, but the intransigence of the Patriotes forced Lord Aylmer into the camp of the English party.

Nevertheless, it is Thomas Chapais who most directly presented an apology for Lord Aylmer. He argued that:

Il a été ... fort maltraité par nos historiens, et son nom a été classé à côté de ceux de Craig et de Dalhousie ... L'étude des dépêches et des documents ne nous permet pas de concourir dans les jugements

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<sup>7</sup> Helen Taft Manning, The Revolt of French Canada, 1800 - 1835, Toronto, 1962, 336. This view of the Assembly's low regard for Lord Aylmer coincides with Robert Christie's concerning the impression left by his addresses to the legislature especially in 1830 and 1832.

<sup>8</sup> Alfred D. De Celles, Papineau, Cartier, Toronto, 1906; and The Patriotes of '37, Toronto, 1916.

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rigoureux dont il a été l'objet. Il a commis des erreurs de jugement, sans aucune doute. Mais il a surtout été victime des circonstances. Et la justice nous impose le devoir de déclarer qu'il avait des intentions droites, des dispositions bienveillantes envers les Canadiens français et qu'il était animé d'un grand désir d'impartialité et d'équité."<sup>9</sup>

It was partly the divergence of opinion, noted in reviewing the literature, that inspired this investigation. The other motive was to contribute to a detailed re-examination of the period between the recall of Lord Dalhousie in 1828, and the recall of Lord Aylmer in 1835. As Mrs. Manning noted:

Although French Canadians of the present day are making enormous contributions to the writing of their own history, the period ... (1829 - 1835) has not yet received the detailed re-examination it deserves ... Most narrative histories, following Garneau, whose Histoire de Canada was first published in 1845, have passed lightly over the years between the recall of Lord Dalhousie ... and the acceptance by the assembly of the Ninety-Two Resolutions..."<sup>10</sup>

By setting forth the views of the Governor-General who was in the centre of the exciting events of this important period, this study hopes to shed some light which may assist those who will carry the re-examination further and deeper.

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<sup>9</sup> Thomas Chapais, Cours d'histoire du Canada, Quebec, 1921, III, 232.

<sup>10</sup> Manning, The Revolt of French Canada, xiii.

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## SOURCES, LIMITS AND METHOD

This study concentrates on the views revealed in Lord Aylmer's official dispatches and correspondence contained in two collections which are available in the Public Archives of Canada. The "Q" series which is a transcription of the original correspondence is somewhat easier to read, than the C.O.42 series which is an exact reproduction of the originals on microfilm. In general, the "Q" series parallels C.O.42 for the period under study, but the latter has marginal comments and other additions made in the Colonial Office. Being official correspondence these documents contain the views which Lord Aylmer wanted known to his superiors. However, it does not seem that Lord Aylmer had different views in private. In the Public Archives of Canada, catalogued as A 43, are the "Baroness Aylmer Papers" which contain several personal letters to friends and relatives written in 1831. These letters contain opinions very similar to those of her husband's dispatches. Moreover the correspondence entitled "Lord Aylmer's Papers" C.O.387 in Ottawa contains a few personal letters to Sir James Kempt in which his comments parallel those in his official correspondence. Therefore, it was assumed that his communications to the Colonial Office reflected for the most part his genuine views.

Enquiries to the National Register of Archives in England, and to the current possessor of the title Baron

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Aylmer who lives in British Columbia, failed to procure any other papers of Matthew Lord Aylmer. Apparently, no sources of his candid personal views are available to the public.

On the other hand, the amount of pertinent material available at the Canadian Archives is so extensive that rigorous selection was essential in order to encompass it in the bounds of a thesis. Inasmuch as little of this documentation has been published, Lord Aylmer's views are given to the fullest degree in his own words. In addition some of the major dispatches and letters are quoted at length, or in their entirety, in order to demonstrate Lord Aylmer's style of writing, and to allow readers to read some of his views in their original context, and these are in the appendix.

When the documents had been studied and analysed, it became apparent that the development of Lord Aylmer's political and constitutional views over the five years must be the organizing theme of the report. Although the correspondence contains a considerable number of references to economic, religious, and military matters, these are not sufficiently common or detailed to produce coherent units or to support valuable conclusions. It was decided, therefore, to exclude them from the report, unless they had direct bearing on the political questions being examined. Accordingly, Lord Aylmer's opinions on currency problems, provincial banks, the defence of British North America, and the appointment of a second Roman Catholic Bishop for the Province had to be

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passed over.

The background of the events and issues on which the Governor was expected to have comments was derived chiefly from secondary works. In general a situation is described, then Lord Aylmer's comment is presented, and its significance is analysed. If his comment on a major point, however, is not available the omission is noted, and whenever possible an explanation is suggested from other evidence. Naturally, despite the effort made to base these suggestions on evidence and to keep them consistent with the context, they should be regarded as very tentative, and open to further research.

## THE PLAN OF THE THESIS

The first chapter describes the constitutional apparatus, and the political situation in which Lord Aylmer had to operate. As well, it presents his early views of the proper relationship between the Colonial Office and the Governor-General, and between the Governor and the main parts of the Provincial government. It includes his views of the Château Clique, and of the French or Canadian party, and outlines the way in which he planned to improve the functioning of the government.

The second chapter describes the political situation in more detail, and Lord Aylmer's handling of it. The year 1831 was momentous in the politics of the Province. During the Legislative session the Canadian or French party began to

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shift to a more radical position, while at the same time, the Whig Colonial Secretary was attempting to meet their former and more moderate demands. Lord Aylmer's views of the political developments and his policy for controlling these developments are discussed.

Chapter three examines the watershed in Lord Aylmer's governorship. His response to the increasing radicalism of the Canadian, or (as it could now be called,) the Patriote party showed a change in his views and a hardening in his policy toward that party.

The winter session of the Legislature was termed "the sinister session" because battle lines were beginning to form. Chapter four notes that the Patriotes began to flaunt the banner of republicanism, and launched a campaign to destroy the "English" constitution of the Province. Their belligerence and obstructiveness naturally had repercussions on the Governor's policies. The distribution and nature of the repercussions were complex, and require a lengthy analysis and comparison of Lord Aylmer's views.

The political struggle brought the parliamentary process to a standstill in 1834. The fifth chapter first outlines and discusses Lord Aylmer's answer to the Ninety-Two Resolutions of the House. Then his assessment of the political situation after the Patriotes' landslide in the election of 1834, and his recommendations for both immediate and

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long term solutions to the impasse are considered.

The conclusion summarizes the views of Lord Aylmer, and suggests a pattern discernible in the development of his views. As well, topics for future research are recommended.

## CHAPTER I

EARLY CONSTITUTIONAL AND POLITICAL VIEWS  
OF LORD AYLMER.

## The Governor-General and the Colonial Office.

The Governor-General of British North America in the 1830's was the representative of the British Parliament. He was selected by the Prime Minister of Great Britain, and once installed, was responsible to the Colonial Office. From this department he received advice and instruction, and to it made reports and appealed for guidance. In Lord Aylmer's day, the British government could exert considerable control over the colony. The British Board of Trade regulated colonial commerce. The Treasury kept track of imperial finance because Great Britain was paying part of the cost of colonial administration. Money voted by the provincial legislature was, of course, outside the Treasury's control. The regular military and naval forces in British North America were the responsibility of the War Office and the Admiralty. Lastly, the British government had the power to reject any law passed in the colonies, and in its imperial capacity, could pass laws which applied to all British colonies, or to any particular one of them.

Lord Aylmer had interesting and important views upon the relationship which should exist between the British and the Colonial governments. Upon assuming office, he seems to

have believed that as the agent of the British Government, he would still have discretionary powers in applying Imperial policy. A change in the system of selling lands furnishes an example of this attitude. Early in 1831 an Imperial circular arrived in Canada dictating that complete payments for Crown Lands be made soon after purchase. Previously, purchasers had been able to make payments at their convenience, although they paid interest on the unpaid balance, and did not receive clear title until the last payment. This arrangement was considered by Lord Aylmer to be preferable to the new requirement.<sup>1</sup> Consequently, Lord Aylmer sent a request, July 14th, to be allowed to sell land under the old system. And what is more significant, he directed that Crown Land was to be sold under the previous conditions until a reply was received. On November 7, 1831, he received a mild rebuke for this action with a direct order to adopt the new system, and subsequently complied.<sup>2</sup> The point is that he expected that the governor of a colony would have the opportunity to modify Imperial policy as it applied to that colony.

More support for the idea that Lord Aylmer believed that the governor was competent to deal with local affairs can be seen in a letter to the Colonial Secretary April 6, 1831:

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1 P.A.C., Q, 198-I, Lord Aylmer to Lord Goderich, 14 July, 1831, 143.

2 Arthur G. Doughty, Report of the Public Archives for the Year 1931, Ottawa 1932, 231.

The Complaint of the House of Assembly regarding the imputed Conduct of several of the Judges as being engaged in the Political differences of the Province, might perhaps be left to the discretion of the Person at the Head of the Government, who, should he witness any instance of such Conduct, would of course take such steps as the Circumstances of the case might appear to him to require.<sup>3</sup>

Additional support can also be drawn from the fact that Lord Aylmer wanted the Executive Council to be responsible to him and not to the Crown alone. The details of this recommendation will be examined later under relations between the Governor and the Executive Council.

It is significant that he attempted to learn about the colony and its inhabitants first hand. Lady Aylmer indicated that the reason for his visiting more of the Province than had any previous governor was to become sufficiently knowledgeable to make policy for Lower Canada. She wrote in November 1831:

....did I tell you that Lord A. was engaged during past (sic) of the last Summer in visiting a great part of Lower Canada and he is supposed to have already seen more of this Colony than any former Governor, and as he thinks that seeing is judging for himself, I trust he is now able to form a correct judgment on many points....<sup>4</sup>

When these words about judging for himself are taken with Lady Aylmer's complaint about the Colonial Office

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<sup>3</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 288.

<sup>4</sup> P.A.C., A, 43, Baroness Aylmer to Mrs. Brown, November 15, 1831.

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written the next day, an impression that the Governor wanted more authority in local matters emerges. On November 16, she wrote:

....it seems an odd policy to send a man, as Governor to these distant Colonies, and when he has had time and opportunity to make himself acquainted with the nature of the difficulties which may surround him and has cleared for himself a way through them, that the Government at home, who have chosen their agent (and one should imagine ought therefore to place some confidence in his judgment) should on the contrary, oppose, his measures, of which on the spot he surely can best judge<sup>5</sup> of the probable good effects, and tie his hands.....

Judging from the date of these letters, they probably refer to Lord Aylmer's Crown Land policy, and reflect the attitude of the Governor himself.

On the other hand, Lord Aylmer recognized the necessity of the Governor-General being supported by the British government in a general way. Thus, he wrote in a private letter to Lord Goderich:

at the Commencement of my official career in this Government I had so many (difficulties) to contend with, which required very delicate handling, that I was rendered Sensitive with regard to the Support of His Majesty's Government<sup>6</sup> at home which was so necessary to my Success....

Although he was referring specifically to the need for Imperial legislation removing the Assembly's grievances, he

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5 P.A.C., A, 43, Baroness Aylmer to Mrs. Paynter, November 16, 1831.

6 P.A.C., Q, 198, Lord Aylmer to Lord Goderich, August 26, 1831, 173.

touched the key difficulty of the Governors in the decade preceding The Rebellions of 1837. The problem was that a Governor could do little that would have more than temporary success without real concessions toward self-government being made by the British government. It would be only later, however, that Lord Aylmer would realize the full significance of his plea for the support of British government in his efforts to bring about just and orderly government in Lower Canada.

After the General Assembly of Lower Canada had debated a long list of grievances in the spring of 1831, Lord Aylmer forwarded his comments on the resulting petition to the Crown. One of these comments is striking in that it seems to foreshadow the recommendation of Lord Durham made eight years later. Lord Durham, in 1839, recommended a division of responsibility between the Imperial government, and the grant of complete self-government on the matters delegated to provincial authority. While Lord Aylmer did not draw as specific a division as Lord Durham, he wrote:

I do not presume to enter upon that part of the Petition which relates to the Regulation of the Trade of the Colony because it is connected with Questions of general Interest beyond the Sphere of my Official duty to offer an opinion upon.... But I hope your Lordship will pardon me for taking this opportunity of remarking, that as a General Principle, it may be adviseable (sic) that the

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People of Canada should be allowed to Legislate for themselves on Subjects purely local.<sup>7</sup>

Of course, it would be possible to make too much of this statement. It must be remembered that it was written early in 1831, when the Great Reform Bill of Great Britain was just proceeding to victory, and so responsible government had much refinement to undergo even in the Mother Country. Furthermore, Lord Aylmer did not go on to define in his correspondence what the extent of colonial autonomy would be, and how much power the Governor-General would retain in the legislative process. Still, it is an interesting opinion, and one which is consistent with the evidence offered above that Lord Aylmer believed in the reduction of Colonial Office control over local matters in Lower Canada. Credit should be given to Lord Aylmer for his early grasp of the fundamental change required in relations between the British government and the Colony.

The Governor and Provincial Government.

The executive of Lower Canada consisted of the Governor-General and an appointed Executive Council. In practice, the local Justices of the Peace handled most day-to-day problems and supervised the execution of the statutes in their respective areas. The legislature, according to

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<sup>7</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, April 6, 1831, 287-288.

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the Constitution of 1791, was composed of two houses: the Legislative Assembly, elected by a broad electorate, and an appointed Legislative Council which had been instituted as a check on democracy. A bill could be initiated in either house, but had to be approved by both before being presented to the Governor-General for his signature. The latter could approve a bill, reject it, or reserve it for the approval of the home government. In addition, there was a Lieutenant-Governor, although when Lord Aylmer began his term, the incumbent, Sir Francis Burton was in England, and in the event of his return, was forbidden by Whitehall to take any part in political affairs.

The Governor-in-Chief was nominally responsible for all of British North America; only in the capacity of Commander-in-Chief was it customary for him to exert any control on the Lieutenant-Governors of provinces other than Lower Canada. Lord Aylmer adhered to this custom, and whereas he had some perfunctory communication with the Lieutenant-Governors of Upper Canada and New Brunswick, he was content to concentrate his attention upon Lower Canada. In this latter regard, however, he showed considerable zeal. During the summer of 1831, he:

visited the whole line of Coast comprized (sic) in the Bays of Chaleur and Gaspé, extending upwards

of 150 miles, and containing a Population of about 10,000 souls.....

and subsequently, he toured the Eastern Townships as far as the frontier of the state of Vermont. Shortly afterwards, he went up the Ottawa River as far as By Town. Such a tour of the province exceeded the efforts of any previous governor, and was taken because, as his wife noted:

....he thinks that seeing is judging for himself, I trust he is now able to form a correct judgment on many points, he is entirely devoted to this interesting Colony...

The fact that Lord Aylmer visited different places in the Colony, rather than remaining in the urban atmosphere of Quebec and Montreal, should be kept in mind when considering his assessment of the Province and its inhabitants.

At this point, it is advisable to interject a note about the English Bureaucracy, or Château Clique, as the oligarchy of Lower Canada was variously called. In the Province a small group of influential men monopolized the government offices, and emoluments. Most were members of the Church of England, but the main community of interest which bound the Clique together was the furtherance of commercial development. Important members were the government officials, chosen from the English residents, who sought ways to

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8 P.A.C., Q, 198-I, Lord Aylmer to Lord Goderich, October 12, 1831, 212.

9 P.A.C., A, 43, Baroness Aylmer to Mrs. Brown, November 15, 1831.

to supplement their meagre government incomes, and ambitious merchants who wanted to enlist public funds for commercial improvements, as well as to obtain personal privileges and titles.<sup>10</sup> The alliance of officials and merchants sought to control the government in their own interests. For example, they wanted land released from seigneurial tenure for the purpose of speculating, or perhaps lumbering, they wanted the government to finance navigational improvements on the Province's rivers, and they sought to divert the burden of taxes from commercial pursuits. The Château Clique was opposed by the mass of the inhabitants and their representatives in the Assembly. The latter house, in 1830, was dominated by French-Canadians who sought to promote agrarian interests and to preserve their French way of life and their Roman Catholic faith.

In face of this division, Lord Aylmer attempted to maintain a detached, impartial position:

My first and principal object has been to produce in the minds of the Canadians, whether of French or English extraction, a conviction that I am determined to act upon the principle of strict impartiality and to remain a watchful spectator of, but not a participator in, those party views which have caused so much strife and bad feeling in the Colony.<sup>11</sup>

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<sup>10</sup> A list of some of the "Château Clique" who were members of either the Legislative Council or the Executive Council, or both, appears in the Appendix.

<sup>11</sup> P.A.C., Q, 197-I, Lord Aylmer to Lord Goderich, 17 January, 1831, 29.

But the Château Clique expected a governor to rely on their advice. They needed and demanded his support. And it was their way, whenever a governor showed signs of compromising with the reformers, to appeal to the British government.<sup>12</sup>

At times, they would proclaim their loyalty to Great Britain and brand the reformers as anarchists or agents of American annexation; and at others, they would recall their past efforts in preserving British rule, and in extreme cases, even threaten to take action against the ungrateful British administration. They were shocked and annoyed by Lord Aylmer's demonstrations of impartiality. For instance, Robert Christie, a Gaspé member of the Clique, branded Lord Aylmer's conciliatory speeches to the Assembly as "eccentric".<sup>13</sup>

For his part, Lord Aylmer made no direct criticism of the English Bureaucracy in 1830 or 1831. This caution

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<sup>12</sup> Robert Christie, A History of the Late Province of Lower Canada, Montreal, 1866, III, 336. "In a letter addressed to Sir George Murray, in one of the Canadian prints .... we find these observations:-

'With such men as compose our lower house, what have we to expect but ... that laws will be enacted which are repugnant to british (sic) feelings and interests? Nor ought this to occasion surprise, since our late administrator (Kempt) has lent his aid to nourish and mature their ambitious projects...'

<sup>13</sup> Ibid., "To this accentric answer .... the members listened with attention and silence, but no further notice was taken of it."

was probably very wise because the Bureaucracy had influence in the home government.<sup>14</sup> Apparently, Lord Aylmer did detect the viewpoint of the Château Clique in some of the Colonial Secretary's dispatches, because he sent a letter to Lord Goderich on April 25th defending his position, and on August 26th, he wrote:

I will now frankly confess to your Lordship that my private Letter of the 25th of April was written under an idea that your Lordship's mind was exposed to impressions, derived from this side of the Atlantick (sic), unfavorable to my Official course of Proceeding in the Conduct of this Government, which it became necessary for me to guard against.<sup>15</sup>

It is difficult to determine whether or not he was as reassured as the next sentence might indicate:

I need hardly add that I am truly rejoiced to find by your Lordship's letter that this idea was erroneously conceived.<sup>16</sup>

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<sup>14</sup> Helen Taft Manning, The Revolt of French Canada 1800-1835, Toronto, 1962, 265-270. This passage gives illustrations of the connection between the Château Clique and Colonial Office. "Very naturally he (R. W. Hay) believed in a system under which he himself had received advancement, and was always ready to protect the right to permanent tenure of any colonial officials who appealed to him."

"Dalhousie's most serious censure was reserved for the conduct of the underlings on the staff, and particularly for George Baillie and Adam Gordon. According to his observations, they used the information garnered from his confidential memoranda to keep their friends in Quebec posted as to what was going on and what their Governor was up to."

<sup>15</sup> P.A.C., Q, 198-I, Private letter of Lord Aylmer to Lord Goderich, 26 August, 1831, 172.

<sup>16</sup> Ibid.

Despite the absence of direct comment on the Bureaucracy, a strong impression of Lord Aylmer's attitude can be gained from other evidence. Lady Aylmer's remark in a letter to a friend gives the impression that the Governor was at least wary of the Bureaucrats, and perhaps even hostile toward them, during the first years of his administration. On Good Friday, 1831 the Baroness wrote: "those who should have been his Councillors were, from interested motives, seeking to lead him astray!"<sup>17</sup> This indication will be given more support later in connection with the examination of Lord Aylmer's views on Executive Council responsibility.

There are no comments available concerning several aspects of local government which one might wish. The Governor seems to have believed that to comment on royal appointments, absentee civic officials, and other sinecures given by the home government was beyond his position (or dangerous). Unfortunately, he left no opinion about the important work of the Justices of the Peace.

The Legislative Assembly had two sessions in 1831. The first lasted from February 1st to April 5th, and the other from November 19th to April 3rd. Many of the questions raised were resurrected from those that Sir James Kempt had

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<sup>17</sup> P.A.C., A, 43, Baroness Aylmer to Sophy, 1 April, 1831.

managed to gloss over, but were now presented in a more determined and hostile manner. A large number of these questions bore upon changes in the constitution or upon changes in government practice. Accordingly, Lord Aylmer made almost all of his comments concerning the structure and operation of provincial government in connection with the Assembly's attacks upon them. As a result, his opinions about the government system of Lower Canada are bound up with specific events, and in one letter, or even one comment, he may deal with several different aspects of the government. Be that as it may, an attempt will be made to examine Lord Aylmer's views on the Executive Council, Legislative Council and the Assembly individually, and separate from other political issues of the moment.

The Executive Council was a small group which was appointed to advise the Governor, and to supervise the various departments of the government. For instance, members included the Chief Justice, the Attorney-General and the Anglican Bishop. The Executive Council was the nerve-centre of the Château Clique. From it, the offices and privileges upon which the power of the Clique depended, were dispensed. As well, executive councillors came from a small social circle, and maintained a good deal of continuity in the Council. On the other hand, Governors were "birds of passage" whose sojourns in British North America were relatively brief. Thus, in most cases, the Executive Council

usually controlled government policy by either duping the Governor or overawing him.

Lord Aylmer recognized the threat to his independence which lay in the executive system. He realized that his councillors wished to run the government in their own interests, and to do so by controlling him. Furthermore, he was disturbed by the fact that he alone was responsible for the acts of the government. A Governor could be recalled by the home government for misgovernment, but the councillors were often holdovers from a previous administration and a Governor had difficulty in dismissing them. As a point of fact, Lord Aylmer's suspension of the Attorney-General, James Stuart, drew upon him the censure of the Colonial Office. It was in connection with this suspension that Lord Aylmer wrote:

Had the Executive Council advised me to resist the desire of the House of Assembly expressed with all the solemnity which belongs to Constitutional forms, (and I have good reason to believe that such would have been the result had I consulted them) and that I had acted upon such advice, the Province would have been exposed to all the irritation, and all the bad feeling which it was my most anxious wish to avoid, and if on the contrary I had acted in opposition to their advice, after having demanded it, I should only have added to the responsibility which I have now individually incurred by the suspension of the Attorney General.<sup>18</sup>

and in the same dispatch:

There is but one thing more, I have to say on this part of the subject as it regards the

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<sup>18</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 28 March, 1831, 215.

## EARLY CONSTITUTIONAL AND POLITICAL VIEWS

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Executive Council - that Body is not responsible for the advice, good or bad which they may give me, and they may lead me into false measures with perfect security to themselves; whereas I am strictly responsible to His Majesty and to your Lordship as head of the Colonial Department, for all my acts as Governor of this Province.<sup>19</sup>

Later in May 1832, Lord Aylmer amplified his views on the responsibility of his executive councillors, and recommended that a solution would be to have the councillors' term cease with the appointment of a new Governor, and allow the Governor to make his own appointments to the Executive Council. He wrote:

Taking up the consideration of the Executive Council... it becomes a question for the consideration of His Majesty's Government, whether some change may not be necessary in the principle upon which the appointment to the Executive Council has hitherto proceeded. I mean more particularly as connected with its powers, and its responsibility, two attributes, which I apprehend should be commensurate in every public Body. The Executive Council, as it is now constituted, is supposed to be the adviser, and counsellor of the Governor, but he alone is responsible (at least I so understand the matter) for all Acts performed by him with their advice, to which he is in some cases even enjoined to have recourse.

I cannot but think that the application of this principle of non-responsibility on the part of the Counsellors, and responsibility on the part of the individual receiving Counsel, for Acts performed in pursuance of their advice, constitutes a case of great hardship, and renders the position of the Governor of this Province one of extreme hazard to his character as a public Officer; nor can I think that this evil would be altogether removed by causing the Members of the Executive Council to bear a

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<sup>19</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 28 March, 1831, 215.

part of that responsibility, which at present attaches solely to the Governor because it must surely be considered an injustice to compel the Governor to associate himself in the responsibility with persons, who not only have not been selected by himself as his confidential Counsellors and advisers, but who, possibly, may have been appointed Members of the Executive Council, previous to his arrival in the Colony, in consequence of entertaining opinions on the subject of its affairs diametrically opposite to his own.

I see but one mode of getting over the difficulties above stated, but it is liable to very serious, and perhaps insurmountable objections - I mean by investing the Governor with the power of appointing and removing the members of the Executive Council at pleasure, and by directing that the Commissions of all Executive Counsellors shall cease and determine on the swearing in of a new Governor. Under such an arrangement no Governor could reasonably object to share responsibility with the Executive Council, and the latter upon accepting the appointment, would be aware beforehand of the responsibility attached to it.<sup>20</sup>

The phrase "to which he is ... enjoined to have recourse" quoted in the preceding passage perhaps refers to the advice of the Permanent Under-Secretary for War and the Colonies, R. W. Hay, to which Lord Aylmer alluded in a dispatch of April 1831:

Your Lordship I am sure, will not have failed to remark that my Situation here is Surrounded with difficulties, and certainly during the last two or three months, the Circumstances in which I have found myself placed, demanded great circumspection, and a thorough independence of all parties of every description. Under these Circumstances, had I taken the view which Mr. Hay seemed to have adopted with regard to the Executive Council, in which body

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<sup>20</sup> P.A.C., Q, 201-II, Lord Aylmer to Lord Goderich, 5 May, 1832, 442-444.

I will not scruple to say a Political bias does exist, I should very soon have found myself involved in difficulties from which no dexterity could have relieved me.<sup>21</sup>

It is apparent from these quotations that Lord Aylmer was wary of the advice of the Executive Council. He was repelled mainly by the English bias of the Councillors. Although in his "training period" he had to rely heavily on the advice of the Executive Council in legal and constitutional matters, he obviously recognized that their political advice was tainted.

Whatever other results it might have, Lord Aylmer's suggested reform would likely have destroyed the Château Clique because it would have removed their assurance of tenure and continuity. The Governor-General would become the most important figure in the government by virtue of controlling the executive. Such an amendment would naturally recommend itself to a military commander, and a man of independent will such as Lord Aylmer. In the reform, the Governor-General would be able to appoint men who agreed with him, and dismiss those who opposed. He and his Executive Council would be responsible, not to the Provincial legislature, but only to the British government. This is not to say that he believed that the Governor should, or even could, rule independently of the Legislative Assembly. Rather, he

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<sup>21</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, April 25, 1831, 344.

treated the Assembly with considerable deference; at times appearing to act as their agent or minister. During the session of 1831, when the Assembly called for copies of any opinions in his possession concerning the necessity of renewing commissions and paying the attendant fees, he stated that he had strong objections to laying these documents before the House, but added that "if the house of assembly should nevertheless think proper to apply for them, they should be sent down."<sup>22</sup> On the other hand, he did later refuse to reveal instructions he received from England.

Another instance of his acting like an agent of the assembly was his suspension of Attorney-General Stuart on their insistence. He was rebuked by the Colonial Secretary for his action in these words:

I cannot but feel strongly that the Royal Authority is subjected to great indignity when His Majesty's Representative is thus invited & consents to act as the mere ministerial Agent of either House of the General Assembly....<sup>23</sup>

In response to this rebuke, Lord Aylmer expressed his view of the Governor's relationship to the Assembly:

....the application for suspension comes to him from the whole House of Assembly in a Body, as one entire Branch of the Legislature .... and in that

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<sup>22</sup> Christie, The History of the Late Province of Lower Canada, III, 316.

<sup>23</sup> Doughty, The Public Archives Report 1931, 269.

view is entitled to very great deference, and consideration on the part of the Governor in Chief.<sup>24</sup>

There are other examples as well, which show that Lord Aylmer respected the constitutional authority of the House. He also had respect for the power of the Assembly and sought to win their co-operation. In keeping with this aim, he wanted to bridge the gulf between the Assembly and the Executive Council.

In May 1831, he appointed Philippe Panet, an important member of the Papineau party and the Assembly, to the Executive Council. Although Panet would be operating from the enemy's stronghold, the move met with the general approval of his fellow radicals. Panet's function was to convey the Governor's messages to the House, explain executive decisions and generally to be the spokesman of the executive in the Assembly. Lord Aylmer hoped that Panet's presence would reduce the suspicion and enmity with which the Lower House and the mass of citizens regarded the Executive Council. Panet seems to have fulfilled the Governor's hopes until the events of 1832 crushed all harmony between the Executive and the French party.

And Lord Aylmer went further than appointing Philippe Panet. Early in 1831, he asked to have Louis Joseph Papineau and John Nielson appointed to the Executive Council. After

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<sup>24</sup> P.A.C., C.O. 42-232, Lord Aylmer to James Stuart, 28 March, 1831, 244.

arguing against this move, Lord Goderich was finally convinced, and the mandamus for their appointment was prepared in December, 1831. Both of the Reformers however, declined the appointment. Lord Aylmer's arguments in favour of the appointments, nevertheless are revealing. In his first letter proposing the move, he wrote:

There is one consideration which more than any other, renders it desirable, in my view of the matter, to make choice of these two Gentlemen - a very general opinion prevails in this country that the Person at the head of the Government is always more or less influenced by the Executive Council, which ... is not held in General Estimation, and it appears to me that the Introduction of two Gentlemen, enjoying like Messrs. Papineau and Neilson, the confidence of the Publick (sic) into that Body, and as it were, behind the scenes, would go far towards removing the opinion above alluded to....<sup>25</sup>

In another dispatch, in April 1831, he reiterated some of the above argument and added that Papineau would not be able to disrupt the Council since he would have only a single vote. Then, as a conclusive point, he observed that the Governor was not responsible to the Executive Council.<sup>26</sup>

Subsequently, in August, Lord Aylmer wrote a private letter to his superior giving this argument to dispel Lord Goderich's qualms about appointing Papineau:

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25 P.A.C., Q, 197-I, Lord Aylmer to Lord Goderich, 7 February, 1831, 73-74.

26 P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 25 April, 1831, 343.

It is quite impossible to go further than I do in condemning the Publick (sic) Conduct, and Language of that Gentleman (Papineau) in the House of Assembly; and he must himself be well aware of this for I have expressed myself without reserve on the Subject to some of his most intimate friends; and although as an individual I live upon good (I may say cordial) terms with Mr. Papineau whose private character I much esteem, I studiously avoid all Conversation with him upon the Publick (sic) affairs of the Province. My recommendation of him therefore, to be a Member of the Executive Council, could not have proceeded from any favorable disposition towards him as a Publick Character. But I felt desirous, I confess, to shew Mr. Papineau, and all those who participate in his Political Sentiments, that the Administration of the Province was free of all party connexions - determined to work its way in a straight forward course, and to afford the most unequivocal proof that the machinery which it impelled it (sic) was open to the inspection of whoever might be disposed to examine it: a Policy like this appears to me to be the only one that will suit the Actual Circumstances of this Government, which is altogether --- without influence of any description in the House of Assembly, the only branch of the Legislature which is regarded with any degree of respect and confidence by the people at large.<sup>27</sup>

One of the first things to note is that Lord Aylmer's touchstone of policy is impartiality between the contending factions. He is trying to create a balance in his Executive Council. In fact, he proposed Joseph Signay, the Roman Catholic Bishop of Quebec, as an executive councillor in December, 1831; probably to balance the membership of the Anglican Bishop. In accordance with this impartial policy, he was obviously willing to appoint men such as Papineau,

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<sup>27</sup> P.A.C., Q, 198-I, Private letter of Lord Aylmer to Lord Goderich, 26 August, 1831, 173-174.

whose political actions he deplored. It would seem, also, that there is a germ of executive responsibility in this action. At the time, Papineau and Nielson were the spokesmen of the majority in the Assembly, and merely because of their position, Lord Aylmer was amenable to including them in his Council. Moreover, the idea that by the appointment of members of the Assembly, the operation of the Executive Council would be "open to the inspection" of all, is close to responsible government. But it must be noted at the same time, that Lord Aylmer did not regard the Governor as being responsible to the Council, and instead seemed to hope that the appointments would enable the Council to have more influence in the Assembly, rather than the reverse. Thus, in the final analysis, Lord Aylmer was not a definite advocate of responsible government, but he did have ideas for reforming the composition and the method of appointment of the Executive Council which would have had the effect at least, of breaking the stranglehold of the English Oligarchy on the government of Lower Canada.

A grievance of which the Assembly complained in March 1831, was the dual role of the Executive Council as the Court of Appeals. A resolution of the Assembly attacked the practice of allowing judges, who were supposed to be impartial to participate in politics and public affairs. And it was just as serious that lay members of the Executive Council were not competent to adjudicate complex legal points. Part

of the solution was made when the Colonial Office directed that no more judges were to be nominated for the Executive Council, and that current members who were judges should be discouraged from attending Council meetings. The absence of judges from the Executive Council however, would have a detrimental effect on that body's ability to act as the Court of Appeal. Lord Aylmer proposed that the Council's judicial function be abolished in 1831, and in a dispatch of May, 1832, he amplified his reasons as follows:-

I Conceive it to be highly desirable that (the Executive Council) should be divested of its functions as a Court of Appeals; more especially as the Judges of the Province are no longer to be appointed to the Executive Council.

It may so happen that the Executive Council may not reckon one individual of the Legal profession amongst its members, and thus composed it is called upon to pronounce judgement upon the decision of the Courts below composed of, and presided by, the most learned (or at least supposed to be) legal characters in the Province.

Were the duties of the Executive Council as a Court of Appeals confined solely to cases of Equity those duties might very well be executed by Gentlemen unconnected with the Legal profession, and possessing those qualities only of integrity, good sense and sound discretion for which, it must be presumed, they were originally selected as Executive Councillors, but it frequently happens (I believe I may say during every term) that cases come before the Court of Appeals from the Courts below, in which intricate and technical points of Law are involved, upon which no individual not having studied the Law as a profession, can be deemed qualified to pronounce an opinion; and I can assure your Lordship with regard to myself individually, that I am very much disinclined to preside (as I have sometimes found it necessary to do) in the Court of Appeals, from the sense of my own inadequacy (arising from a want of legal knowledge) to fulfill in a manner

satisfactory to my own mind the duties which thereby devolve upon me.<sup>28</sup>

The result that Lord Aylmer anticipated was the creation of a separate court of appeals by the Legislature.

Returning to the subject of the independence of judges, it remains to be said that the Assembly, in January passed the Independence of Judges Bill. Lord Aylmer appealed to the home government to accept it, although it had not all the requirements laid down by the Colonial Office, especially in the provision of a permanent salary for the judges.<sup>29</sup> The Governor considered that the principle of separating the judges from the political sphere had been achieved in the Bill. Lord Goderich, however, pointed out the grave improprieties which the Governor had been willing to overlook in the Bill, and rejected the measure. What the Assembly had tried to do was to put the judges under its control by making their salaries subject to an annual vote of the Assembly. Lord Aylmer's mistake here, seems to have arisen from his desire to appease the Assembly, and his opinion that the Bill was the best that was likely to be forthcoming from that House. He wrote:

At the same time I take leave ... to recommend it to the favourable consideration of His Majesty.

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<sup>28</sup> P.A.C., Q, 201-II, Lord Aylmer to Lord Goderich, 5 May, 1832, 441-442.

<sup>29</sup> P.A.C., Q, 201-I, Lord Aylmer to Lord Goderich, 26 January, 1832, 33-4.

Once rejected, it is highly probable that no other can be looked for from the House of Assembly, at a future period, upon more favourable terms, or even upon terms equally favourable.<sup>30</sup>

Here again, Lord Aylmer is tacitly accepting the authority of the Assembly, probably recognizing the futility of a Governor resisting its will.

Altering the Constitution in order to break the stranglehold the English party had on the Legislative Council eventually became one of the chief demands of the Papineau party, and a burning political issue. In 1831, the idea was introduced in the Assembly, and Lord Aylmer made some comments on its constitutional aspects. As noted above, the Legislative Council was an appointed body which was designed to be a watchdog over the elected house. Its membership was dominated by the Château Clique<sup>31</sup> when Lord Aylmer arrived, and it was usually locked in battle with the Assembly. In addition, all but two of the Executive Councillors were included in the Legislative Council. Testifying before the Canada Committee, John Nielson, had illustrated that the struggle for opposed interests between the Legislative Council and the Assembly had seriously crippled the

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<sup>30</sup> P.A.C., Q, 201-I, Lord Aylmer to Lord Goderich, 26 January, 1832, 33-4.

<sup>31</sup> In 1830, about half of the Legislative Council were prominent members of the Clique. Included were Sewell, Richardson, Kerr, Cochran, James Stuart, John Stewart, Ryland, Bell, Forsyth and Moffat.

legislative process in Lower Canada. Early in the session of 1831, Mr. Lee's motion for making the Legislative Council elective was narrowly defeated eighteen to twenty-four. Although he did not approve of the membership of the Legislative Council on similar grounds to those cited against the method of appointment of the Executive Council, Lord Aylmer did not welcome the radical change proposed. Writing to Sir James Kempt, he called the proposals: "outrageous Resolutions tending to the extinction of the Legislative Council."<sup>32</sup> Rather than see the Legislative Council disappear, he wanted to take steps to increase its authority and prestige. He recommended an increase in its membership in April, 1831:

Your Lordship having desired that I would state my opinion regarding an extension of the numbers of the Legislative Council, I have now the Honor of stating that I conceive such a measure would be productive of much benefit, and would materially contribute to place that Body upon a more respectable footing than at present, especially if due care be taken in the selection of the new Councillors.<sup>33</sup>

Although Lord Aylmer made no reference, in 1831, to his expectations concerning the Legislative Council's role in the legislative process, he did state that he wanted to add a judicial function to it. He foresaw "great advantages to be derived from the erection of the Legislative Council into a

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<sup>32</sup> P.A.C., C.O. 387, Lord Aylmer to Sir James Kempt, 2 April, 1831.

<sup>33</sup> P.A.C., C.O. 43 - 232, Lord Aylmer to Lord Goderich, 7 April, 1831, 293-294.

Tribunal for the trial of Impeachments".<sup>34</sup> The Governor, of course, realized that the upper chamber was held in low regard by the people and he hoped that, as the Tribunal for Impeachments, which would be the means for keeping judges and government officials responsible, it would gain importance and worth. As he wrote to Lord Goderich:

....it appears to be that not amongst the least of these (advantages) would be the additional weight and character, with which such a measure would invest that branch of the Legislature, an advantage which is the more desirable to obtain for it, since it is very evident that in this Country the House of Assembly possesses more and the Legislative Council less, of consideration in the eyes of the Publick, than is consistent with a wholesome state of the Constitution of the Colony.<sup>35</sup>

The Governor's constitutional view, then, was that the Legislative Council should be preserved as an appointive body, and this subsequently placed him at odds with the Patriotes, (as the radical wing of the French or Papineau party are often called). He realized that to save the Council it would be essential to raise its prestige by giving it an important judicial role; a role which incidentally should have appealed to the nationalism of the Patriotes. Inasmuch as the impeachment function would eliminate the need to appeal to the English government, and would make officials

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<sup>34</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 28 March, 1831, 219.

<sup>35</sup> Ibid.

responsible to a Canadian court, it should have won support from French-Canadians. Almost as important a reform was a change in personnel mentioned in the phrase "especially if due care be taken in the selection of the new Councillors".<sup>36</sup>

An illustration of Lord Aylmer's view of what were desirable changes in personnel was his list of appointees in 1832. He chose eight men of French extraction, and only three of English.<sup>37</sup> It is also noteworthy that the English appointees were important leaders of the English commercial faction: Peter McGill, John Molson and Robert Harwood. Obviously, he was attempting to balance the racial complexion of the Council by appointing more French than English. Unfortunately for subsequent political events, he was unable to persuade French-Canadian figures of real stature to join the Council, and it was consequently vulnerable to the charges of still being a tool of the Governor.

Lord Aylmer did not make any observations about the important matter of representation before 1832. It could be assumed consequently, that he approved of the broad franchise of the electorate. Nor did he comment at this time about the

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<sup>36</sup> P.A.C., C.O. 43-232, Lord Aylmer to Lord Goderich, 7 April, 1831, 294 (quoted above p. 26).

<sup>37</sup> Members of the Legislative Council appointed in 1832: Roch de St. Ours, J. B. Duchesnay, M. P. de Sales Laterrière, F. X. Malhiot, Jean Dessaulles, Barth. Joliette, Pierre de Rocheblave, Ant. G. Couillard, Peter McGill, John Molson and Robt. Harwood.

new device of paying members of the Assembly during their attendance. The conservative element in the province predicted that this innovation would lower the social standard of parliament, allowing in the "scum and dregs" of society. On the other hand, its proponents argued that it would allow the voters, especially of outlying constituencies, to send to parliament popular men who otherwise could not have afforded the loss of income and added expense. Nor did he comment on the new distribution and increase in the number of constituencies which now introduced representatives from the Eastern Townships into the House. He did, however, have comments on the catalogue of grievances which the Assembly of 1831 presented. The next chapter will discuss the issues raised.

## CHAPTER II

## LORD AYLMER'S VIEW OF POLITICAL AFFAIRS IN 1831.

The political scene in Lower Canada was at a turning point in 1831. On the surface, it seemed to be relatively tranquil, but there were ominous signs. Relations between the two main parties, the English and the French, seemed to be unusually harmonious. For one thing the radical faction of the English party was demoralized. Its leader, John Richardson, died in the spring of 1831, and his successors Sewell and Ryland appeared willing to compromise with the French. The arrogance of the Tories of Lower Canada had been shaken by the election of the Whig reformers in England.

A kind of despair and urge to compromise had taken the place of truculence among the older members of the official class, and the second generation of some of the English families in the province, like T. A. Young, the son of John Young, made peace with the leaders of the French party. Young himself, entered the Assembly as one of the 'popular' candidates.<sup>1</sup>

Meanwhile, the moderates in the French party were at the height of their influence. Their spokesman, John Nielson, was still in the good graces of Papineau. The latter, the effective leader of the Canadian party, had not yet fallen under the influence of its radical faction.

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<sup>1</sup> Helen Taft Manning, The Revolt of French Canada, 1800-1835, Toronto, 1962, 321.

On the other hand, rifts in the Canadian party were growing, and the leader of the radical group, Louis Bourdages was enlarging his influence. His able lieutenants, Elzéar Bédard, and L. H. Lafontaine were hammering out a clear platform and enlisting supporters among the members. They adopted an uncompromising stand based on Bourdages' revolutionary interpretation of British constitutional history. Three times during the 1831 session, they unsuccessfully moved for a refusal of supplies until all important grievances had been removed.<sup>2</sup> Conversely, John Nielson did not have aides equally capable, and the moderate group lacked discipline. As a result, the moderates were losing ground even as they were doing their most constructive work in the legislature. Unfortunately, Nielson was not making any effort to communicate with moderate reformers in the other provinces, nor was he learning from their endeavours at building better relations between the assembly and the executive. Nielson was not working to improve relations between the two in Lower Canada. It may be remembered that he and Papineau rejected Lord Aylmer's invitation to become executive councillors. Consequently, during the relatively peaceful sessions of 1831, the French radicals were gaining ascendancy over the moderates.

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2 H. T. Manning, The Revolt of French Canada, 322.

Another dangerous aspect of the political situation was that the Assembly was still awaiting the fulfillment of promises made three years previously. In 1828, the Wellington government in England had reluctantly promised to enact the reforms recommended by the Canada Committee,<sup>3</sup> but by 1831, partly because of the change in England's government, nothing had been done. Although the Canadian moderates were tolerant of the delay, the radicals were out of patience and inclined to doubt the sincerity of the English government. The political situation in 1831 was at a crossroads. On one hand the Assembly was showing signs of working harmoniously on constructive programmes, but at the same time the radical wing of the Canadian party was gaining strength and losing patience with the delay in implementing the Canada Committee Report.

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<sup>3</sup> The British Parliament formed the "Canada Committee" in response to the appeal from the Assembly of Lower Canada for the redress of several serious grievances, and Colonial Secretary William Huskisson's desire to alter the Canada Constitutional Act of 1791 so that Canada might become more appealing to British settlers. After compiling a large mass of evidence, the Committee produced a report which favoured the appeal of the Assembly. They condemned the manner in which the Governors and the Colonial Office had administered the Colony over the previous ten years. Among the more important reforms recommended were the removal of most government office holders from the Legislative Council, the concession of complete control to the Assembly of the revenues apportioned to the provincial government by the Constitution of 1791 provided that a permanent civil list be established, and the taxing of land grants held "unimproved and unoccupied contrary to the conditions of the grant". W. P. M. Kennedy, ed., Statutes, Treaties and Documents of the Canadian Constitution 1713-1929, London, 1930, 254-258.

## POLITICAL VIEW IN 1831

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Lord Aylmer was obviously concerned about the radicals of the Canadian party when he wrote to the Colonial Secretary:

I know (from pretty good Authority) that about six weeks ago, it was in the contemplation of some of the leading Political Characters here, to propose some very violent measures in the House of Assembly; but I have since learnt that this idea has been abandoned and that it has been decided to allow matters to remain on the footing of last Year, waiting the result of whatever Measures His Majesty's Government may contemplate, in regard to the Financial Question, - which would appear to be the hinge upon which everything is made to turn.<sup>4</sup>

Towards the end of the session, however, he reported optimistically:

....I confess to your Lordship (Goderich) that they are much more moderate than I had reason to expect; I am not without hopes that the excitement now existing will gradually subside and at all events, I think I may venture to assure you, that, that excitement is only to be found on the surface of society, it has not penetrated into the mass of the Population of the Country, and in fact, it may be said that perfect tranquility prevails at this moment, amongst the people in Lower Canada.<sup>5</sup>

Then at the end of the session in April, he wrote to his predecessor Sir James Kempt: "... upon the whole I think I may say that we parted good friends - at least as regards myself, and the two other Branches of the Legislature."<sup>6</sup>

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<sup>4</sup> P.A.C., Q, 197-I, Lord Aylmer to Lord Goderich, 18 January, 1831, 32.

<sup>5</sup> P.A.C., Q, 197-I, Lord Aylmer to Lord Goderich, 5 March, 1831, 140.

<sup>6</sup> P.A.C., C.O. 387, Lord Aylmer to Sir James Kempt, 2 April, 1831.

It should be noted that the phrase "good friends" is probably used ironically, as indicated by his joke later in the letter as follows:

These matters, with God knows what besides, denoting hostility, were to have been brought forward, but ... the Prorogation has put a stop to all these intended Proceedings. I am comforted however, with the Assurance, that the whole will be brought forth again at the opening of the next Parliamentary Campaign; .....<sup>7</sup>

At about the same time, he reported to Lord Goderich:

I have remarked towards the close of the Session a very decided improvement in the tone and temper of the House of Assembly, which if met by Judicious Measures on the part of the Executive Government, may go far towards bringing about a greater degree of Political tranquility in this Colony than it has enjoyed for years past.<sup>8</sup>

This opinion was correct as far as anyone could judge at the moment. Had Bourdages' group not been able to persuade the majority of the members to demand completion of sweeping reforms immediately, perhaps the violent course of the province's politics might have been avoided.

On the other hand, Lord Aylmer underestimated the growing power of Bourdages. He wrote Kempt, in the April letter quoted above:

Circumstances which occurred during the Session just terminated, had very much lowered the Party which had hitherto been paramount in the House of Assembly (Bourdages')....

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<sup>7</sup> P.A.C., C.O. 387, Lord Aylmer to Sir James Kempt, 2 April, 1831.

<sup>8</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 5 April, 1831, 265.

Certainly the House of Assembly has taken up a new Character, and I am much mistaken if the Members will suffer themselves any longer to be led by the nose as they have hitherto been by a few Individuals.<sup>9</sup>

During the winter session, he showed some misgivings, however, when he reported to Lord Goderich that there was "no systematic opposition to His Majesty's Government's views."<sup>10</sup>

The qualifying word "systematic" implies that there was opposition, but that it still lacked a philosophical or constitutional rationale, and an orderly strategy of attack. It would not be long, however, until Bourdages would have a systematic platform based partly on American Constitutional ideas.

Unfortunately Lord Aylmer made no report on the attitude of the English party during these sessions. He merely mentioned to Kempt that "the Assembly and Legislative Council were as usual at Daggers drawing (sic) during the whole session, and if they had not separated when they did, we should have had them at open War..."<sup>11</sup> As mentioned earlier, it was probably wise not to criticize the English Oligarchs to the Colonial Office. At all events, we are not given any indication at this time as to whether the Governor

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9 P.A.C., C.O. 387, Lord Aylmer to Sir James Kempt, 2 April, 1831.

10 P.A.C., Q, 201-I, Private letter of Lord Aylmer to Lord Goderich, 5 February, 1832. My italics.

11 P.A.C., C.O. 387, Lord Aylmer to Sir James Kempt, 2 April, 1831.

blamed the Council for the animosity between the Houses.

The two sessions of the Legislative Assembly in 1831 were largely concerned with a comprehensive petition of grievances, and the British Government's replies, the question of extending the Assembly's financial authority, and charges against certain members of the English Oligarchy. The grievances which deal with social and economic problems will be discussed later under corresponding sections. Lord Aylmer's reactions to political and constitutional aspects of the Assembly's resolutions, and the charges against certain officials concern us here.

In general, Lord Aylmer was sympathetic with the petitioners. In his despatch accompanying the petition to England, he wrote:

Your Lordship will, I hope, permit me to say that I cannot but think that many of the complaints preferred (sic) in the Petition of the House of Assembly are well-founded; and fortunately, the remedies for them are within reach of His Majesty's Government.<sup>12</sup>

The first point of complaint in the resolutions concerned the use of revenues and property taken from the Jesuit Order by the state. Although the revenues were supposed to be used for promoting education, the British Government had not turned them over to the Legislature which had the responsibility for education, and several governors when in

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<sup>12</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 285.

financial straits had paid administrative expenses from the fund. What brought the injustice of the situation readily to the attention of all the Quebecois was that the Jesuit College was being used as an army barracks.

Lord Aylmer made two recommendations for redressing this grievance. The first was conservative and did not involve surrendering the Crown's right to the Jesuit Estates. He first said:

Under all the circumstances of the case I would with great deference submit to Your Lordship that the Jesuit Estates should be expressly and avowedly set apart for the purposes of Education, under the management of Commissioners; subject to such Regulations as His Majesty might be pleased to direct; and that the whole of the Accounts of the Receipts and Expenditure should annually be made Publick, not through the medium of the House of Assembly, but by insertion in the Official Gazette of Quebec.

By this arrangement the rights of the Crown would be preserved intact, and the Property itself would be applied in the way desired by the House of Assembly.<sup>13</sup>

The main concern here seems to be to maintain Crown Control of the Jesuit Estates, but in addition, there may have been a desire to ensure that Protestant education would not be slighted. This could be an intent of having a Commission and "such Regulations as His Majesty might be pleased to direct." There was, during this time, considerable pressure exerted by the Anglican Bishop to keep control of

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<sup>13</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 286.

all schools. According to Nielson's evidence to the Canada Committee, the Bishop had sent an Anglican to teach in a school including Roman Catholics, Anglicans, and Nonconformists, and the teacher soon began to teach all the children the Anglican catechism. Lord Aylmer may have been trying to prevent the Bishop's opposing his solution by the suggestion of Commissioners. Unfortunately, he did not amplify these brief remarks and his motives remain hidden. At all events, he continued with an alternative:

Should His Majesty, however, think fit to waive His exclusive Right to these Estates, such a Proceeding would certainly be received as a very gracious Act, more especially if made the Subject of a Separate and distinct communication to the Legislature unconnected with any further Financial Arrangement which it might be considered expedient to propose.<sup>14</sup>

This suggestion was in accord with the Report of the Canada Committee of 1828, but since the Report's recommendations had not been implemented, Lord Aylmer must have been surprised when Lord Goderich replied:

The King cheerfully, and without reserve confides that duty to the Legislature in the full persuasion that they will make such a selection amongst the different plans for this purpose which may be presented to their notice, as may most effectually advance the interests of Religion and sound learning amongst his Subjects;...<sup>15</sup>

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<sup>14</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 286-287.

<sup>15</sup> A. G. Doughty, Report of the Public Archives for 1931, Ottawa, 1932, 218.

It is noteworthy that both Aylmer and Goderich assumed that the Crown should retain possession of the College buildings because, as Aylmer noted, "it is capable of containing two Battalions of the present Strength, and the relinquishment of it would entail considerable Expense and inconvenience to the Publick Service."<sup>16</sup> It is evident that neither considered that the buildings were also needed for education in the Province, or that the army should at least pay rent to be applied to education.

The next grievance of the House was the "vicious and improvident" management of the Crown Lands. Lord Aylmer conceded that there were instances of abuse, but he felt that the local government was competent to remedy the problems:

The Second point noticed in the Petition regards the Management of the Crown Lands, but as this ground of Complaint is within the power of the local Government (in a great measure at least) to remove, it will be unnecessary for me to trouble you further upon it at present, except to assure your Lordship that my best Endeavours shall not be wanting to remove the Evils which notoriously exist, connected with the Management of the Crown Lands, including the Crown, and Clergy Reserves.

This, with the very able assistance of Mr. Felton, the Commissioner of Crown Lands, I hope to be able to effect.<sup>17</sup>

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<sup>16</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 287.

<sup>17</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 289.

Here again, we see Lord Aylmer attempting to retain as much local authority as possible. On the other hand, it is an open question whether the Governor was sufficiently aware of the magnitude of the corruption, confusion and chaos which was evident in the management of the Crown Lands. It is perhaps significant that Mr. Felton, upon whom Lord Aylmer is prepared to place so much trust, was the man who, in 1826, sponsored the project of establishing the Lower Canada Land Company. In this venture he had the general support of Richardson, Gerrard, Forsyth, and McGillivray in Canada, and Ellice, Gould, Usborne, Gillespie and other merchants in England.<sup>18</sup> The project was stillborn. Felton's association with the Château Clique, however, seems clear.

Lord Aylmer agreed with the petitioners that the English party monopolized the government and judicial offices, was "just and true", but pointed out that under the prevailing system of royal appointment, the situation "cannot be remedied, and can therefore only be taken as a beacon to direct the Executive Government in a more equitable course for the time to come."<sup>19</sup> As mentioned earlier, Lord Aylmer would have preferred to have the authority to remove executive councillors appointed by former governors. It is unclear why

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<sup>18</sup> Donald Creighton, The Empire of the St. Lawrence, Toronto, 1956, 211.

<sup>19</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 288.

he did not take this opportunity to reiterate his recommendation of the previous month to have all executive councillors appointed and dismissed by the current governor. There is nothing to suggest, however, that he had changed his mind.

The Governors of Canada in the early nineteenth century held considerable powers of patronage. In an effort to protect himself from charges of favouring his friends, relatives, and countrymen, Lord Aylmer denied himself the use of these powers. His wife excused him in a letter to a petitioning friend:

....his merely nominating any friend, or connection of his own, even to a minor situation ... would be looked on with a jealous eye and so delicate is he on this point, that in order to secure the influence he is attaining and which is so necessary to carry his measures forward, that Aylmer feels it necessary to forego anything bordering on (or which might be construed into) an interested motive, in anything - and you may imagine how much this takes off the value of this Government in our eyes, as he might otherwise have hoped to have been of service to our friends and Relations.<sup>20</sup>

And the Governor's own words corroborate his wife's protestation, when in explaining why he nominated Samuel Gale to a high judicial post, in 1834, he declared: "Personally, I have very little knowledge of Mr. Gale, ... My selection of him, therefore, for the appointment of Puisné Judge could not have originated on my part in personal or political motives."<sup>21</sup>

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20 P.A.C., A,43, Lady Aylmer to (?) 28 January, 1832.

21 P.A.C., Q, 217-II, Lord Aylmer to Spring-Rice, 2 September, 1834.

Lord Aylmer declined any comment on the Assembly's complaint about the detrimental effects some Imperial regulations had upon commerce in the Province because he believed that such Imperial policy was out of his jurisdiction.

Lord Aylmer's solution for the difficulties arising from the concurrent use of French and English laws was to establish "a Commission composed of competent persons, acting under Instructions from the local Legislature."<sup>22</sup> He repeated this idea of setting up a Commission to revise "all the Laws, French as well as English, now in force in the Province"<sup>23</sup> in an inclosure in the Tenures Act sent April 7, 1831.

The Assembly next complained that government officers were not held responsible for their actions, and in particular those officers such as the Receiver-General and the Sheriff who were intrusted with money were not held to account. The problem was complicated by the political objects of the reformers. It was presumably their intention to make all public officers responsible to the Assembly, so that the Canadian majority there could threaten and control the appointees of the Château Clique. As regards the Receiver-General, not only were they trying to prevent a recurrence of a theft such as that perpetrated by John Caldwell in 1821,

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<sup>22</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 288.

<sup>23</sup> P.A.C., C.O. 42-232, Lord Aylmer to Lord Goderich, 7 April, 1831, 297.

but were also attempting to gain more control over public finances.

Lord Aylmer tried to find a compromise solution. He proposed that the responsibility of officials be guaranteed "by the Establishment of a Tribunal for the trial of Impeachments, in cases not cognizable by the Ordinary Courts of Law."<sup>24</sup> It is not made clear how he planned to prevent this Tribunal from becoming another weapon of partisan politics. Since it was his desire to have the Legislative Council assume this duty, perhaps he was relying on the appointment of a membership balanced between the contending parties. At all events, it seems to be a rather unwieldy arrangement for guaranteeing responsibility.

In the early 1820's, the Receiver-General had been permitted to loan money from the public treasury on letters of credit. John Caldwell had abused this privilege flagrantly and the province was unable to recover all of its losses when Caldwell went into bankruptcy in 1823.<sup>25</sup> Lord Aylmer recognized that this loss was still a source of grievance, but observed: "I am not aware that there now exists any just ground of Complaint as to the want of an Adequate

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<sup>24</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 289.

<sup>25</sup> Duncan McArthur, History of Public Finance, 1763-1840, Canada and Its Provinces, IV, Adam Shortt & Arthur G. Doughty, eds., Toronto, 1914, 512.

Accountability in Persons entrusted with Publick Money."<sup>26</sup>  
 Yet, in at least two instances, Lord Aylmer admitted that it was difficult to render precise accounts of some public officers. And in addition, the practice of leaving accounts open for years, and the tendency for officers to use public funds for personal gain were notorious in the province.<sup>27</sup>

Upon receiving the petition from the Assembly, Lord Aylmer asked whether there remained "some unripe grievance or complaint which it may be intended to bring forward hereafter when those now produced shall have been disposed of."<sup>28</sup> The question puzzled the Assembly, and rumours of it reaching England disturbed the Colonial Office. Two historians have presented their explanations of its significance. Helen Manning implies that it was meant ironically, "delivered with his tongue in his cheek."<sup>29</sup> William Kingsford, following Robert Christie, called this question "eccentric and unusual" and then speculated that it was dictated by his special instructions from the Colonial Office.<sup>30</sup> But, some passages

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<sup>26</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 289.

<sup>27</sup> William Kingsford, History of Canada, IX, Toronto, 1897, 397.

<sup>28</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, reporting his speech, 6 April, 1831, 283.

<sup>29</sup> Manning, the Revolt of French Canada, 336.

<sup>30</sup> Kingsford, History of Canada, IX, 452.

in the available documents cast a different light on his motive. Lady Aylmer wrote:

Aylmer has, by his straightforward and manly Address, conquered, by urging them to give him their entire confidence, and state all their Grievances at once....

....this conduct has gained him great credit, because so urged, to speak out, it has left them no plea to say, that they are not listened to - and has puzzled the Agitator our O'Connor (as the Speaker here is called) a good deal, they could only find one little Grievance in addition to those already made out...<sup>31</sup>

Lady Aylmer believed that her husband wished to demonstrate his willingness to listen to all the Reformers' complaints, and in addition, he hoped to put an end to the manufacture of grievances by the Assembly. Lord Aylmer's words give support to his wife's explanation, and add some detail. During the session, Mr. Bourdages had moved two resolutions which asked for the abolition of the Legislative Council, and the Assembly had passed them by the narrow margin of 32 to 30. In drawing up the formal petition to the Crown, however, the Assembly omitted these resolutions. So it was that Lord Aylmer described his remark about "unripe grievances" as a reference to these two deleted resolutions. His dispatch accompanying the speech said: "your Lordship will not fail to observe a very pointed allusion to the above mentioned two

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31 A, 43, Baroness Aylmer to Sophy, 1 April, 1831.

Resolutions...."<sup>32</sup> The best explanation for Lord Aylmer's query would seem to be, not some secret instructions, nor a sarcastic reference to the Assembly's recent hypercritical mood, but simply a desire to have that body state plainly all of their grievances and not to hold back any for some later occasion. He wanted to have the Assembly thereby confirm their tacit rejection of the two resolutions calling for the abolition of the Legislative Council. When the resolutions were not revived, he was able to assure Lord Goderich:

....the House of Assembly having taken no notice of my Answer to their Address desiring me to transmit their Petition to England for the purpose of being laid at the foot of the Throne, I feel justified in assuring your Lordship that the whole of their Complaints and Grievances are comprized in that Petition.<sup>33</sup>

This part of the Governor's speech, perhaps, illustrates his naivety in politics. The leaders of the Assembly were unlikely to feel bound to keep silent on any grievances merely because they had not been brought forward at this time.

The Legislative Assembly during the sessions of 1831 also raised the question of their right to control all of the finances of the Province. The struggle for fiscal control had been carried on for over a decade when Lord Aylmer addressed the House of Assembly on the matter in 1831.

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<sup>32</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 284-285.

<sup>33</sup> P.A.C., Q, 197-II, Lord Aylmer to Lord Goderich, 6 April, 1831, 291.

Shortly after the close of the Napoleonic Wars, the British government had remarked with concern that the expenses of defending and governing the colonies of British North America were a serious drain on the Treasury. Accordingly, they had tried to persuade the provinces to assume the major expenses of administration by granting a civil list for the life of the king or some definite number of years. Although the Assembly of Lower Canada had offered, as early as 1810, to pay these expenses in an attempt to control the executive through the purse, it had refused the offer of Sir John Sherbrooke, in 1818, because of certain conditions included in the scheme.<sup>34</sup> The British government proposed to exclude some custom duties, and the revenues from "casual and territorial dues of the Crown" from the control of the Assembly. The effect of this would be to allow the executive considerable income outside the control of the Assembly. In addition, the Assembly wanted the Civil List to be voted annually for all officers below the Governor, and in the 1820's the Assembly claimed the right to vote the salaries individually, rather than collectively, so that any officer incurring their displeasure could be punished financially. Lord Aylmer was, none the less, quite optimistic about the possibility of ending the struggle by compromise when he first met the

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<sup>34</sup> A. D. De Celles, The Patriotes of '37, Toronto, 1916, 23.

## Legislature:

Parliament is to assemble on the 24th: already the combatants are beginning to assemble and the Quidnuncs are on the tip-toe of expectation for the opening of the Campaign. It will not, as I am led to hope, be a very severe one; as a Despatch of Lord Goderich's has arrived very à propos to enable me to introduce some very conciliatory Passages in my opening Address.<sup>35</sup>

What Lord Goderich had allowed him to offer was the complete surrender of all revenues in the province. Unfortunately, the condition that in return, the Assembly should vote a permanent Civil List for the life of the sovereign in the amount of £19,100 was not to the satisfaction of the Assembly. In fact, the French party persuaded the members to reject the offer, and to renew the pretension of voting salaries annually and individually. Despite this rejection, Lord Aylmer remained optimistic, and passed it off as a result of the Patriotes' dislike of certain officials such as the Attorney-General. He wrote at the close of the session:

In all other respects, I have reason to be satisfied with the Proceedings of the Legislature during the last Session, for I think it must have been foreseen that the permanent Civil List would be resisted by the House of Assembly. They have nevertheless, passed a Vote of Supply (under the same reservations as last Year) by a large Majority (42 to 11), Papineau and Bourdages being in the Minority!<sup>36</sup>

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<sup>35</sup> P.A.C., C.O., 387, Lord Aylmer to Sir James Kempt, 20 January, 1831.

<sup>36</sup> P.A.C., Q, 197-I, Lord Aylmer to R. W. Hay, 6 March, 1831, 148.

He suggested as the main reason for this rejection, the Assembly's strategy of using the civil list as a lever for getting the other complaints remedied. As a result, he expected that: "if His Majesty's Government will ... redress the real grievances of the Country, ... all will go well."<sup>37</sup> It is a possibility that in stating that the rejection "must have been foreseen", he recognized as well that the proposal had two aspects objectionable to the Assembly. First, the Civil List was broken into three categories, a strategem devised by Lord Dalhousie which provided for the reservation of the whole supply bill if the executive and judicial categories were not provided for. Secondly, the Civil List included too many officials. The Assembly was very unlikely to enlarge upon its 1828 promise to arrange for the salaries of the Governor, the judges and the executive councillors. Owing to lack of further comment, however, such insight on Lord Aylmer's part remains mere conjecture.

When Lord Aylmer failed to realize was that he had contributed to the rejection of the proposal. By not taking Papineau and Nielson into his confidence before submitting the proposal to the Assembly, and by not giving Philip Panet, his spokesman in the Assembly, adequate information to defend the

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<sup>37</sup> P.A.C., Q, 201-I, Lord Aylmer to Lord Goderich, 26 January, 1832, 43.

measure, he had diminished the chances of its acceptance.<sup>38</sup>

The Governor's optimism about a settlement disappeared however, when during the November session, Lord Goderich's attempts to satisfy the aspirations of the Reformers were rebuffed. Even the reduced permanent Civil List of £5,900 for the salaries of the Governor-General, the Secretaries, the Attorney- and Solicitor-General was rejected. Lord Aylmer reported his disillusionment to the Colonial Office in January:

I am very much disposed to believe that the concessions which have been made to the House of Assembly by His Majesty's Government, have created in that Body a conviction that nothing they may be inclined to require will be withheld (sic) from them, if they are steady and persevering in their demands.<sup>39</sup>

At the same time, he urged the British Government to stand firm in its just demands concerning the permanent Civil List, arguing that the populace did not support the views of the Assembly, and further that the Assembly had to be shown that the Government had reached a limit in making concessions.<sup>40</sup> In February 1832, he was willing to lay the major responsibility for the rejection upon the Assembly's hatred of

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<sup>38</sup> Manning, The Revolt of French Canada, 342.

<sup>39</sup> P.A.C., Q, 201-I, Lord Aylmer to Lord Goderich, 26 January, 1832, 43.

<sup>40</sup> Ibid., 41. Lord Aylmer should have recognized, however, that the Assembly's promise in 1828 did not include salaries for the Attorney- and Solicitor-General.

certain government officials, principally the Attorney-General.<sup>41</sup> A final comment concerning this phase of the Financial Question appeared in April, when Lord Aylmer was advising the Colonial Secretary about the proposed grant of a tract of Crown Land to the British-American Land Company:

....the refusal of the House of Assembly to grant the very moderate Civil List proposed during the late Session, is a sufficient indication of the determination of that body to control the Executive Government in every possible way, without regard to those Constitutional principles which regulate the practice of the Mother Country....<sup>42</sup>

The consequence of Lord Aylmer's disappointment with the failure of Lord Goderich's concessions on the matter of provincial revenues and other issues, will be seen more vividly in the next year. It is very likely that his disillusionment with Papineau began with his part in the spurning of the conciliatory overtures of the home government. Up to this time, he seems to have believed that Papineau would compromise, despite his violent language. The need for a body in the Province to arbitrate charges brought against judges and other officials is illustrated by the next issues raised by the Assembly in 1831.

As a major stroke in their attack upon the Château Clique, the Assembly made a petition to the King, bringing

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<sup>41</sup> Details of this issue will be seen in the following section.

<sup>42</sup> P.A.C., Q, 201-II, Lord Aylmer to Lord Goderich, 13 April, 1832, 405.

charges against Attorney-General Stuart and requested the Governor to suspend him, pending a final decision. Mr. Stuart was charged with trying minor cases in superior court in order to receive fees, showing political partiality in trying cases, intimidating voters in Sorel, 1827, trying supporters of his opponent at Sorel falsely for perjury, procuring the registration of fraudulent voters during the Sorel election, and general misconduct in the office of Attorney-General. Although the Assembly had not attempted to try Mr. Stuart, nor even given him formal notice of the charges, Lord Aylmer decided that the Attorney-General would have to leave his office until a trial had been conducted in England. First, he suggested to James Stuart that he take a leave of absence in order to prepare his case and to defend himself in London. When Stuart rejected the offer, Aylmer suspended him from office.

Lord Aylmer expressed his views to Sir James Kempt.

What presses on me at the present moment more than anything else, is the decided step I have found myself compelled to take in the suspension of the Attorney General from the exercise of his functions until His Majesty's Pleasure be known regarding a Petition from the House of Assembly.... The Presentation of this Address was followed up by an Address from the whole House with the Speaker at their head, praying me to suspend the Attorney General, and this .... I found myself compelled to do. I was anxious to spare both him and myself the painful alternative by giving him an opening to apply for leave of absence to proceed to England to meet the charges preferred against him but this he has declined to avail himself of - he is,

however, ... going over, and you will probably have him with you, not long after receiving this letter.<sup>43</sup>

When Lord Aylmer reported his proceedings officially to London in March, he explained that he had two prime reasons for suspending Stuart. First, there was a large amount of evidence against him, and second, the Governor feared a serious outbreak of violence in Lower Canada if Stuart had been allowed to continue in office. By the first consideration, Lord Aylmer did not intend to impute guilt to Stuart, as he assured Lord Goderich in his report:

I must now beg your Lordship to be assured that in all I have just stated, I am furthest in the world from imputing criminality to the Attorney-General. The Proceeding I have adopted regarding the Law Officer is quite distinct, and apart from all considerations of either Guilt or Innocence.<sup>44</sup>

He included in his report a copy of his letter to James Stuart to underline his position. He wrote the Attorney-General:

It appears to His Excellency that he is not called upon to decide or even to pronounce an opinion upon the merits of the case submitted to His Majesty.... should the Governor in Chief resist the desire of the House of Assembly on this occasion, he would then indeed invest himself with the character (that of a Judge) which he now distinctly disclaims.... But the application for suspension comes to him from the whole House of Assembly in a Body, as one entire Branch of the Legislature of this Province, and in

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<sup>43</sup> P.A.C., C.O., 387, Lord Aylmer to Sir James Kempt, 2 April, 1831.

<sup>44</sup> P.A.C., C.O., 42-232, Lord Aylmer to Lord Goderich, 28 March, 1831, 213-214.

that view is entitled to very great deference and consideration on the part of the Governor in Chief.<sup>45</sup>

Although Lord Aylmer's action may have been politically expedient, it was regarded by the Colonial Office as a violation of established legal proceedings. Nonetheless, he believed that he had a precedent of sorts, as he explained to Sir James Kempt:

It is most remarkable that the Attorney General should have been himself the Individual who drew up, and proposed to the House of Assembly, those Resolutions, by which Sir George Provost (sic) is pronounced Guilty of a breach of the Constitutional Privileges of the House of Assembly, for not doing in a similar case, that which I have done. But this he seems to have forgotten, for now, I am told, he inveighs against my Proceeding with the utmost virulence, and threatens to prosecute me for the loss of Emolument to which he is exposed by his suspension.<sup>46</sup>

Obviously Lord Aylmer at this point was neither frightened by the criticism of the Château Clique, or concerned with maintaining their friendship at the expense of alienating the Assembly and the electors. Despite being reprimanded by the Colonial Secretary, his self-confidence shines in his October letter to Kempt:

....regarding the Attorney-General's case - I have yet to learn how that affair will be finally disposed of at home; & with regard to myself individually,

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<sup>45</sup> P.A.C., C.O., 42-232, Lord Aylmer to James Stuart, 28 March, 1831, 244-246.

<sup>46</sup> P.A.C., C.O., 387, Lord Aylmer to Sir James Kempt, 2 April, 1831.

I am under no anxiety as to the result - I weighed well the course I adopted....<sup>47</sup>

Lord Goderich rebuked the Governor-General again in April 1832, for his handling of the Stuart case, but in the end it seems that Lord Aylmer was vindicated. At the close of 1832, Stuart was found to be guilty on most of the charges preferred, and was dismissed from office. Lord Aylmer had by his somewhat unorthodox proceeding, prevented civil disturbance in the Province, had demonstrated his independence of the Château Clique, and prevented Stuart from continuing his illegal harassment of political opponents.

Attorney-General Stuart was not the only law officer to be indicted by the Assembly in 1831. Two judges, John Fletcher, the provincial judge for St. Francis, and James Kerr, judge of both the Court of King's Bench at Quebec and the Court of Vice-Admiralty were named as being unworthy to hold these offices. The Assembly asked the Governor to suspend each of these men as he had Mr. Stuart. For reasons which he did not explain, Lord Aylmer did not see fit to take any action against judge Fletcher.<sup>48</sup> Likewise he refused to suspend judge Kerr. This time, however, he took pains to explain to the Assembly his reasoning. He argued that

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<sup>47</sup> P.A.C., C.O., 387, Lord Aylmer to Sir James Kempt, 10 October, 1831.

<sup>48</sup> Robert Christie, The History of the Late Province of Lower Canada, Montreal, 1866, III, 367.

although it might appear that the Kerr case was the same as Stuart's, it was different. Whereas Stuart had been a law officer whose continuance in office was at the pleasure of the Crown, Kerr was a judge who would not be a Crown agent as soon as the Independence of Judges Bill which had been passed by the provincial parliament became law. "Moreover," he said,

since ... his Majesty's government is disposed to concur in the necessary measures for rendering the judges independent of the pleasure of the crown, it becomes my duty as the King's representative, to consider those public officers in the light in which his Majesty, in accordance with the views of the legislative council, and the house of assembly is desirous of seeing them placed.

Therefore, taking into consideration the peculiar features of this case as just represented, I find myself under the necessity of declining to suspend Mr. justice Kerr ... upon, the single address of the house of assembly; nevertheless being at all times disposed, as far as my sense of duty will permit, to meet the wishes of the house ... I shall be prepared (however) to suspend Mr. justice Kerr, from the exercise of his functions until his Majesty's pleasure is known, upon receiving a joint address to that effect from the legislative council and the house of assembly.<sup>49</sup>

Notice should be taken that in regard to the three cases, the Governor was consistent in regard to procedure despite his different responses to the petitions. The petition concerning Fletcher was directed solely to the Governor, and merely asked him to consider the assembly's report and to "adopt such proceedings as would afford immediate relief and

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<sup>49</sup> Christie, The History of the Late Province of Lower Canada, III, 381.

protection to ... his Majesty's subjects who resided within the jurisdiction of ... Mr. Fletcher."<sup>50</sup> He apparently investigated and concluded that no action was needed.

Inasmuch as the petition against Kerr, like that against Stuart, was addressed to the King, Lord Aylmer again declined to arbitrate any part of the charge. He went further in the second instance, however, refusing to dismiss Kerr pending a decision from England. This refusal was based on two points. The stronger of them was that the petition did not have support equal to that against the Attorney-General. Since many of the representatives had returned to their farms, the petition had been passed by only a "rump" assembly.<sup>51</sup> Thus, the Governor demanded "a joint address to that effect from the legislative council and the house of assembly" before he would suspend Kerr. He was still upholding the principle that the Governor must obey the wishes of the legislature in these matters, despite the rejection of the principle by the Colonial Secretary regarding the Stuart

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<sup>50</sup> Christie, The History of the Late Province of Lower Canada, III, 348.

<sup>51</sup> Kingsford, The History of Canada, IX, 476. "Owing to the attendance of the House becoming less regular, the quorum was reduced to 30 members."

case.<sup>52</sup> Besides, it is apparent that the likelihood of serious civil disturbance in the wake of a rejection of the plea to suspend Kerr was less than it had been in that regarding Stuart.<sup>53</sup>

The second point is weakened by an internal paradox. Although the Governor was sending the petition to England, he believed that the judges must be considered in the light of the position in which they would be placed by the Independence of the Judges Bill, namely, as independent of the pleasure of the Crown. Perhaps, he was merely trying to be subtle in reminding the Assembly that when the Bill became law the Legislature would have the power to discipline the judge. It may be that he was alluding to his recommendation that the Legislative Council be erected into a Tribunal for the trial of Impeachments.<sup>54</sup>

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52 Doughty, Public Archives Report, 1931, Lord Goderich to Lord Aylmer, 12 April, 1832, 268. Lord Goderich, on learning that he was still following this principle, again reprimanded the Governor "I must enter the most distinct and solemn protest against the principle by which your Lordship's decision was guided."

Although too much should not be made of this limited application, the principle of responsible government, (the executive carrying out the wishes of the majority of the legislature despite his personal opinion,) is inherent in Lord Aylmer's position.

53 P.A.C., C.O., 387, Lord Aylmer to Sir James Kempt, 2 April, 1831. "... I am quite sure that had I not taken that step (suspending Stuart) the whole Colony would have been in a flame..."

54 See pages 51-52.

Whatever his reasons, his procedure in regard to the Kerr issue did considerable harm to his position as Governor. By refusing to dismiss Kerr he erased any goodwill on the part of the Assembly which may have been created by the suspension of Stuart, and the Kerr issue became a grievance of the assembly against the Governor. On the other hand, his stubborn support of the principle of deferring to the wishes of the Legislature even in the face of Lord Goderich's rebukes, undermined his relations with the Colonial Secretary, and caused the latter to place less trust in the Governor's discretion, at just the moment when events in the Province were going to require greater powers of discretion being in the hands of the Executive.

Lord Aylmer's comments upon public opinion in the Province stress that the mass of the population, English and French, were loyal to Great Britain. He did recognize, however, that large numbers of the French could be persuaded by such leaders as Papineau and Bourdages that their rights were endangered. The unlettered and politically uninformed among the habitants would believe the misrepresentations of such politicians and could be aroused to violence. Consequently, while Lord Aylmer would report that the populace was peaceful, he apparently realized that agitation by the radical politicians could stir up sections of the people rapidly and refute his words. The opinion of Lord Aylmer concerning the loyalty of the populace can be seen in the

following passage. In March 1831, after the first session of the parliament in which the Assembly drew up its petition of complaint, he reported:

The present state of affairs in this Colony does not, on the first view of it, present a very encouraging appearance, and yet I cannot persuade myself that the result will be unfavourable to the views of His Majesty's Government. The Mass of the People are, I am persuaded, loyal to His Majesty's Person and Government; and the late Proceedings of the House of Assembly are not so much the index of the feelings of the People as of the views of certain Individuals, which are best promoted by the keeping up of a certain degree of Excitement in the Publick mind; and it is possible that even they themselves would deprecate the results which their own proceedings are calculated to produce.<sup>55</sup>

The distinction that Lord Aylmer made between the mass of the people and the radicals is clear in this letter.

Lord Aylmer's attitude at the end of his first eighteen months in the Province can be described as cautiously optimistic. His original optimism was dampened by the events of the last session of the Legislature, but he was still confident that his policy would succeed eventually. He had faith that the majority of the inhabitants were loyal to the British connection. He believed them to be reasonable men who would, in time, reject the radicals who were trying to cause violence. Thus, he remained convinced that his best policy was to be impartial and to try to create a balance

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<sup>55</sup> P.A.C., Q, 197-I, Lord Aylmer to Lord Goderich, 15 March, 1831, 162.

between the English and French in government positions. By encouraging harmony in the Province he expected that it would become peaceful and remain a loyal part of the British Empire.

On the other hand, he recognized that Canada had interests which were distinct from the Empire's. Consequently, he spoke cautiously against the increasing tendency of the Colonial Office to set all of the policy of the Province. Successful government required, in his opinion, the Governor to have authority to make minor policy decisions in order to seize political opportunities. The Governor would naturally require British support for his policy and actions, and Lord Aylmer seemed to be generally anxious to receive the approbation of British authorities. Nevertheless, he was prepared to stand by his decision even if it brought criticism from the Colonial Secretary. It was very unfortunate that in following an advanced principle, which foreshadowed responsible government, in respect to the Stuart and Kerr cases, he so undermined his position with the Colonial Office that he was not allowed that flexibility and discretion which he understood a Governor of Canada needed.

His policy, in general, seems to have been in line with the recommendations of the Canada Committee of 1828. He believed that the Constitution of 1791 was still viable, and with some minor adjustments, and some important reforms in administration would provide harmonious and effective government. The changes in the system which he advocated

would have gone far toward making public officials responsible to the Legislature and creating a balance of power between the Judiciary, the Legislature and the Governor. The Assembly was to have control of finances, but the Executive and the Judiciary would be guaranteed their salaries. Understandably, therefore, the Assembly's rejection of the provision for a permanent Civil List and their failure to provide a permanent salary for the judges in the Independence of Judges Bill were a keen disappointment to Lord Aylmer.

## CHAPTER III

## LORD AYLMER'S VIEWS IN TRANSITION.

The year 1832 was a pivotal one in the Governorship of Lord Aylmer. It marked the last opportunity for a peaceful resolution of the major constitutional and political differences between the Assembly and the Imperial Government. Unfortunately, the opportunity was missed in a year beset by natural calamity and by provocative political moves in the Province, as well as by bungling at the Colonial Office.

The natural calamity was the cholera epidemic which struck the Province in the summer. The epidemic killed at least seven thousand people. It is a measure of the extremism of the French leaders that despite his efforts to prevent the outbreak, Lord Aylmer was blamed by the French for the epidemic. The Governor and the British government were jointly accused of introducing diseased immigrants in order to decimate the French Canadian population. Although Lord Aylmer did not comment explicitly on the unwarranted charge, it was very unlikely to improve his regard for its authors.

The Legislative Council in the last weeks of the legislative session seriously provoked the party of Papineau. They jailed Dr. Tracey and Luger Duvernay, editors respectively of the Vindicator and La Minerve, for alleged libel against the Legislative Council. The editors were contemptuous of the changes in personnel of the Council made by the

Governor and British Parliament, and had made this clear in their editorials. Their attitude arose from the fact that although fourteen new members who were not placemen had taken seats, and although most appointees were French, and six had been members of the Assembly, no change was apparent in the policies of the Council.<sup>1</sup> These criticisms, however, drew no comments from Lord Aylmer on the composition or policies of the Legislative Council in 1832.

At all events, in January the two radical papers increased their editorial attacks on the Council. The editors were especially disgruntled by the Council's rejection of the "Loi des Fabriques" which passed in the Assembly by a vote of thirty-two to twenty. It was an anti-clerical measure, designed to overcome the authoritarian control of the priests over the administration and finances of the parishes, and accordingly was opposed by the clergy.

Significantly, the moderates and the English-speaking Protestants voted against the radicals.<sup>2</sup> Again, Lord Aylmer unaccountably, did not comment on the important debates concerning this radical proposal, nor upon the new voting alignment. Albeit, the fresh attacks on the Council stirred the Montreal members of the Council to demand the arrest of the

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1 H. T. Manning, The Revolt of French Canada, 1800-1835, Toronto, 1962, 344-345.

2 Ibid., 330-331.

editors, Tracey and Duvernay. The English faction, led by George Moffatt, won approval for this action despite the opposition of the older members of the Council. Despite this controversy, Lord Aylmer scarcely mentioned the proceedings and the Colonial Secretary pointedly mentioned this lack of information.<sup>3</sup>

The editors could be imprisoned only for the duration of the sitting of the Legislative Council, and upon their release, were hailed as martyrs. Indeed, the next incident between the Government and the radical Patriotes was related to this feeling. Until his persecution, Tracey had not been a figure of importance, despite his editorship of the English-language Vindicator. Upon his release from jail, he was invited to be a candidate in the upcoming by-election for West Ward in Montreal. He was opposed by an Englishman named Stanley Bagg, who was well-liked by conservative businessmen of both English and French extraction. The election ran twenty-two days, from April 24 to May 21, and was marked by intimidation and violence. During the weeks of voting, the lead changed hands several times, but when the poll finally closed, Tracey was ahead by three or four very questionable votes.

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<sup>3</sup> A. G. Doughty, Report of the Public Archives, 1931, Ottawa, 1932, 258.

As a result of the exceptionally violent character of the by-election, the magistrates who governed Montreal decided to reinforce the one hundred and fifty extra constables they had sworn in. The magistrates, who incidentally were mostly English, invited a company of British soldiers to be present in West Ward on May 21 to help keep the peace.

On that fateful day, Colonel Mackintosh arrived in mid-afternoon and took the precaution of having the two magistrates on duty sign an order for them to remain. Although the special constables were able to deal with all the scuffles which broke out before the poll closed, about five o'clock however, a riot broke out, and several businesses including a liquor store were forcibly entered. As the mob began throwing paving stones at store windows and adversaries alike, two more magistrates arrived on the scene, and one urged the troops to take action. George Moffatt, the Legislative Councillor and a magistrate, came up and motioned to the troops. Whereupon, William Robertson, a magistrate in charge, asked Colonel Mackintosh officially to intervene. Advancing under a hail of stones, the troops drove the civilians back from the square in front of the polling station. Unfortunately, the troops fired a volley, killing three Canadian bystanders. As an immediate result the mob dispersed quickly, and peace was restored.

The bodies of the three victims were displayed in the Place d'Armes, and the tragedy was soon styled the

"Montreal massacre" by the Patriotes. On the same night as the riot, an inquest was held. Papineau attended the inquest and interfered outrageously in its conduct. Although the jury failed to reach a unanimous verdict, Papineau prevailed upon the coroner to have Colonel Mackintosh and Captain Temple arrested. Despite Papineau's energetic efforts, the two officers were eventually exonerated by a grand jury.

Papineau charged that the Clique had conspired to thwart justice. He accused Conrad Gagy, a Swiss Protestant and a Legislative Councillor of using his office of Sheriff to pack the grand jury with jurors sympathetic to the magistrates and the military.<sup>4</sup>

The first recorded notice Lord Aylmer took of the tragedy was in a letter to the Colonial Office, June 7, 1832. It was his opinion that the actions of the magistrates and the commanding of the troops were required by the outbreak of riot in West Ward.<sup>5</sup> Later in the month, he explained his rejection of Papineau's request to go to Montreal with Neilson and Panet in order to investigate the occurrence:

....I think that it may not prove uninteresting to your Lordship to be informed, that on the day following that on which the Military had been called upon to act during the riot at Montreal, Mr. Louis Viger, (a Member of the House of Assembly, and a friend of

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<sup>4</sup> Manning, The Revolt of French Canada, 348-352.

<sup>5</sup> P.A.C., C, 202-I, Lord Aylmer to Lord Goderich, 7 June, 1832, 201.

Papineau) was despatched with a Letter from him to me, ... the object of this Letter, as your Lordship will observe, is to induce me to proceed to Montreal in person, and thus place myself in the very focus of all the Agitation which had been excited by recent events. I told Mr. Viger that the Position in which I had been placed by the Occurrence (sic) of those events, demanded the utmost calmness, impartiality and circumspection on my part, and that above all things it behooved me to keep my mind free from the possibility of receiving impressions from the Statements & Opinions of persons not called upon by their Public Situations to communicate with me officially on the subject; and that under these Circumstances I desired Mr. Papineau would not deem it a want of Politeness on my part if I abstained for the present from even acknowledging in writing the receipt of his Letter.<sup>6</sup>

There are several possible reasons for the Governor's reaction to Papineau's letter. First was the desire, mentioned in the above letter, to let the agitation dissolve. By intervening in the case, the Governor would have attracted widespread attention to it, and expanded its effects. Secondly, he may have wanted to demonstrate his faith in the competence of the Montreal officials. By not launching his own investigation he showed that he trusted them to carry out a proper inquiry. It must be remembered that Papineau's letter was not an official request of the Assembly, and had only the weight of a private individual. To have acceded to his request would have been to set a serious precedent, which might have embroiled Governors in all sorts of future

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<sup>6</sup> P.A.C., Q, 202-I, Lord Aylmer to Lord Goderich, 16 June, 1832, 221.

disputes. In addition, Papineau's hysterical and overbearing behavior at the inquest was not likely to inspire confidence in the Governor's mind that the leader of the Patriotes would not try something desperate to embarrass the British Government. Lord Aylmer's refusal to acknowledge the receipt of Papineau's message may have been prompted by similar caution. There may have been, as well, a touch of personal spite because of his displeasure with Papineau's part in rejecting the Colonial Office overtures in the previous legislative session.

On the other hand, some historians have criticized Lord Aylmer for his failure to conduct an investigation personally instead of sending Solicitor-General Ogden. Chapais cites as justification for such an investigation that the conduct of the magistrates had not been faultless, and that the intervention of troops in an election was highly irregular.<sup>7</sup> For her part, Mrs. Manning argues that if, as Papineau reported, Colonel Mackintosh refused to divulge who had given the order to fire upon the crowd except to a superior military authority,

....there does seem justification for his (Papineau's) demand that the commander-in-chief conduct his own investigation of the events leading up to the tragedy, and issue a public statement explaining why an officer of the British army should have

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<sup>7</sup> Thomas Chapais, Cours d'Histoire du Canada, IV, Quebec, 1921, 7.

consented to bring a company of troops to the scene of a provincial election.<sup>8</sup>

It is not clear, however, what the Commander-in-Chief could have said which would have pacified public feeling. Had he rebuked either the British officers or the magistrates he would have in all likelihood increased the demands for extreme punishment, which denied, would have only increased the agitation. Given the unfortunate deaths, and the behavior of the radical leaders, Lord Aylmer had little chance of overcoming the emotional climate with or without a personal investigation and statement. Although its judgment was from a distance, the Colonial Office did express approval of Lord Aylmer's conduct.<sup>9</sup> This approbation is perhaps significant in the light of the expressions of regret and disapproval which arrived the same year concerning other actions taken by the Governor-General.

Lord Aylmer was, nevertheless, tactless when he later commended the officers and the Montreal magistrates for their conduct during the riot. The statement was made, however, in September, after the grand jury had dismissed all the charges against them. His statement could have risen from a desire to emphasize the acquittal. It could also be an indication of how much Lord Aylmer's relations with the French party had

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<sup>8</sup> Manning, The Revolt of French Canada, 353.

<sup>9</sup> Doughty, The Public Archives Report, 1931, 273 and 280.

deteriorated. This deterioration had been caused by the provocative actions of the Montreal officials, the hysterical words of the radicals, Papineau's irregular interference with the investigation, and even the Governor's tactlessness.

Lord Aylmer had always deplored the extremism exhibited by the radicals in both the English and French camps. But he had always tried to see the reformers' side, and to be impartial. Although he seems to have struggled to maintain hope and impartiality throughout 1832, there are lapses. At the close of the legislative session which began in November, 1831, he wrote:

....the refusal of the House of Assembly to grant the very moderate Civil List proposed during the late Session, is a sufficient indication of the determination of that body to control the Executive Government in every possible way, without regard to those Constitutional principles which regulate the practice of the Mother Country, and it is evident that unless the Executive Government shall have means to a certain extent at its disposal, the whole machine may at any moment be brought to a Stand by a vote of the House of Assembly.<sup>10</sup>

What Lord Aylmer apparently anticipated was an impasse between the Assembly and the Executive, and he realized that unless the Executive had substantial revenue at its disposal it could not carry on in face of obstruction by the Assembly.

The attitude revealed in this warning is distinct from that of 1831 when he was in favour of giving the Assembly

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<sup>10</sup> P.A.C., Q, 201-II, Lord Aylmer's private letter to Lord Goderich, 13 April, 1832, 405.

control of provincial revenue. Of course, until this session he had expected that the Executive would have an established civil list. But he foresaw correctly the extreme difficulty that the policy of surrendering unconditionally the control of revenue favoured by the Colonial Office would create, in a protracted struggle for ultimate control of all provincial government.

In June 1832, he pursued a similar theme when he wrote a private letter to the Colonial Secretary:

The disposition which has manifested itself in the House of Assembly of this Province on many occasions, and more particularly during the last Session, demonstrates very clearly that the majority of that body, consisting principally of Canadians of French extraction, entertain views which if accomplishd (sic) will render this Province a dependence of the British Crown in nothing but the bare name. These views may be clearly deduced from the manner in which all the advances of His Majesty's Government have been received by the Majority of the House of Assembly, who appear always to recede in proportion to the extent of the liberality of His Majesty's Government as if apprehensive that the final settlement of all their Grievances real & pretended, would divest them of their importance by tranquillizing the Public mind.<sup>11</sup>

The Governor-in-Chief was reacting to the growing extremism of the words and actions of radicals on both ends of the political spectrum. Yet he is noticeably more critical of the Patriotes, and seems to be shifting his policy closer to that desired by the English Clique. Despite his concern for

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<sup>11</sup> P.A.C., Q, 202-I, Lord Aylmer's private letter to Lord Goderich, 16 June, 1832, 216.

the continuance of executive strength, as a decisive clash with the Assembly approached, he could at times display some optimism, although it is increasingly prejudiced against the Papineau faction.

In 1832, the Colonial Secretary ordered him to make a weekly report of the political events and situation in the Province, apparently because he had not been receiving sufficient reports from the Governor. Unfortunately, for the purpose of this thesis, Lord Aylmer adopted the expedient of sending copies of the provincial newspapers, often without significant comment, instead of writing personal observations. Nevertheless, the weekly reports which followed do give more instances of the Governor's opinions.

At the beginning of June, Lord Aylmer reported that agitators were still at work stirring up bitterness about the deaths suffered in the "Montreal massacre" in hopes of maintaining a hold on the masses. Then he went on to say:

These are well known to consist of Persons who have hitherto enjoyed a large share of popular favor, which happily for the peace of the Province is now on the decline; they feel and know that it is so, and in their desperate efforts to maintain their ground, it is to be expected they will not scruple to avail themselves of any event, which may be converted to an instrument for arresting their downfall.<sup>12</sup>

It appears that he was aware of the increasing virulence of the radical agitation, but expected that it was bringing the

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<sup>12</sup> P.A.C., Q, 202-I, Lord Aylmer to Lord Goderich, 7 June, 1832, 201.

agitators and not the Government into disfavour.

It may be recalled that the imprisonment of the editors of the Vindicator and La Minerve at the instigation of the Legislative Council had been at the root of the West Ward election bitterness. In June, Lord Aylmer was contemplating taking the editors to court. In his private report to Lord Goderich, he explained why he rejected that step, and incidentally revealed the seriousness of the situation in Montreal:

The Language of these prints is becoming every day more outrageous, and it is certainly more desirable to put a stop to it by instituting Prosecutions against the Editors; but such is the state of the Public feeling at Montreal at this Moment amongst that class of Persons who would be called upon to act as Jurymen, that I should despair of obtaining a verdict of guilty in a case of the most atrocious libel that could be penned, against the Government, the Magistrates, or the Military. Under these Circumstances, I have been induced to abstain from Prosecuting the Editors of the Minerve & the Vindicator. I am not without hope that the evil will work its own cure - already many of the more moderate members of the liberal party have expressed their disapprobation of the language of the two newspapers above mentioned (La Minerve & Vindicator) and should it be continued, they will probably separate (sic) themselves altogether from the Authors and Abettors of the mischief.<sup>13</sup>

Later in the same letter, he assured Lord Goderich that the Patriotes were alienating the mass of moderate people. And, although he hastened to avow that he does not expect violence, his remark that the government could count

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<sup>13</sup> P.A.C., Q, 202-I, Lord Aylmer's private letter to Lord Goderich, 16 June, 1832, 219-220.

on the support of the citizens of Upper Canada tends to belie this optimism. While not wanting to appear to be an alarmist, he is giving the Colonial Secretary a warning of what might occur. It is worth noting that he correctly predicted the attitude that the majority of Upper Canadians had toward rebellion when it came in 1837. These are his words:

Upon a careful review of passing events, I am much disposed to entertain favorable anticipations in regard to the tranquility of the Country - the Ultra liberal party (or as it is termed here, the Papineau party) are going great lengths, and will probably in the end disgust & estrange from them, many who have hitherto acted with them - they are discountenanced by the Clergy, and as they seek to draw a line between the British Inhabitants & the Canadians of French extraction, the former will unite, and rally round the Government. Should matters proceed to extremity, of which however I entertain no apprehension, we shall have the support of the Population of the Upper Province, essentially British in its Character and feelings.<sup>14</sup>

During the summer, Lord Aylmer's weekly reports referred to several meetings around the Province called to denounce the government over the Montreal massacre, the cholera epidemic, and other issues. In August he mentioned protest meetings reported by La Minerve, and to counter the radical tone of the report, stated: "but I really believe it is only the feelings of the Individual by whom it is uttered, and not of the people at large."<sup>15</sup> His arguments

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<sup>14</sup> P.A.C., Q, 202-I, Lord Aylmer's private letter to Lord Goderich, 16 June, 1832, 221-222.

<sup>15</sup> P.A.C., Q, 202-II, Lord Aylmer to Lord Goderich, 1 August, 1832, 477.

in support of this were presented in his next private report but they sound somewhat weak. He counted the meetings as failures because they had not achieved their purpose of producing petitions to the Governor to call a meeting of Parliament. As well, he pointed to the failure of attempts to convoke protest meetings in the District of Quebec.<sup>16</sup> A two-day visit to Montreal in October, however, caused Lord Aylmer some anxiety. On October 9, he reported that Montreal was still disturbed, both parties being in a state of excitement. He found the English party worried about extreme measures which they expected from Papineau's party. Lord Aylmer commented:

....it would appear that these alarms are not without foundation. For my own part I believe them to be exaggerated, but as it is possible that the Papineau Party may be urged on to some act of outrage during the ensuing winter, when the difficulty & delay of moving Troops will be very considerable, I have judged it prudent to reinforce the Garrison of Montreal....<sup>17</sup>

The Colonial Secretary must have been confused by these reports on the political scene. For instance, a week after the above report of a grave situation, Lord Aylmer returned to his optimistic tone. Along with copies of the leading Canadian newspapers he sent this comment:

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16 P.A.C., Q, 202-II, Lord Aylmer to Lord Goderich, 9 August, 1832, 502.

17 P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 9 October, 1832, 149.

It is impossible to avoid seeing that Public Opinion is undergoing a very great change both in Upper & Lower Canada, and that the British Interest is daily acquiring strength in the Lower Province. If this disposition be judiciously dealt with, there is good ground to hope that a third, and most powerful party may be created - one that shall combine all that is respectable and talented, amongst the French Canadians, & the British established in the Colony; and which if once declared, would soon extinguish the influence of the Ultra's on either side.<sup>18</sup>

The Governor-General correctly gauged the growing division between such moderates as Nielson, and the radicals, but he was too optimistic about the cohesion and strength of the moderates. The latter did not have an attractive alternative to the republicanism now manifest by the radical French. More importantly, Nielson's patient policy did not get the judicious treatment from London that was urged by Lord Aylmer. Consequently, it was the Papineau party which grew in power at the expense of the moderates.

At this point, one of Papineau's lieutenants, de Bleury, posted notices exhorting French militiamen to take arms against the Government. Lord Aylmer expressed confidence that this notice had no practical effect, and was probably only an instance of de Bleury's ranting. Events, in this instance, bore out Lord Aylmer's words as there was no uprising that year.

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<sup>18</sup> P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 17 October, 1832, 168.

During the summer, Daniel Tracey, a principal in, if not an instigator of the Montreal election riot, was carried off by the cholera epidemic. In July, Lord Aylmer reported this event in a somewhat sarcastic tone: "...no event of any public interest has occurred (sic) in Lower Canada except (if indeed it may be so considered) the death of Mr. Tracey." He went on to conjecture that Papineau would be relieved since his support of the Irish editor had been unpopular with Papineau's associates.<sup>19</sup> If Lord Aylmer was correct in his view, Tracey must have been disliked for personal rather than political reasons. The Irish leader of Quebec, Edmund O'Callaghan, was a confidante of Papineau and an instigator of the Rebellion in 1837. And it was O'Callaghan who took control of the Vindicator after Tracey's death, and upset Aylmer's prediction that the Vindicator would be likely to close.<sup>20</sup>

Another sign that Lord Aylmer's views were becoming more in line with those of the Château Clique was his resurrection of the Union issue. Back in 1822, a bill to unite Upper and Lower Canada had been introduced in the British House of Commons. Friends of the Canadian party, however, had managed to defeat the measure which would have severely

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<sup>19</sup> P.A.C., Q, 202-II, Lord Aylmer to Lord Goderich, July 24, 1832, 453.

<sup>20</sup> Ibid.

reduced the rights of the French. The proposal, and the clandestine manner of its introduction had inflamed political opinion in Lower Canada, and created important new political alignments. Indeed, De Celles contends that the proposal to unite the two provinces of Upper and Lower Canada in 1822 was in large measure responsible for the enmity between the executive and the popular assembly in Lower Canada.<sup>21</sup> The idea of Union never was entertained again by the British House of Commons, until after the Rebellion of 1837. It was resurrected in Colonial Office circles in 1828, but went no further. Lord Aylmer was aware of the aversion to Union held by most Lower Canadians. In January, 1832, he attributed the defeat of Bourdages' bill to make the Legislative Council elective to the dread of a possible reintroduction of Union.<sup>22</sup> Yet,

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<sup>21</sup> Alfred D. De Celles, The Patriotes of '37, Toronto, 1916, 26-27.

<sup>22</sup> P.A.C., Q, 201-I, Lord Aylmer to Lord Goderich, 27 January, 1832, 48-49.

for some unknown reason,<sup>23</sup> he raised the possibility of Union himself five months later. In June, he wrote on the subject:

The question of a Legislative Union .... was abandoned on a former occasion, I apprehend, on the ground that strong objections to it were found to exist amongst a large proportion of the people of both Provinces. I do not pretend to say that Circumstances have since changed to an extent which would warrant an early recurrence to that measure; but the rapid encrease (sic) of Emigration - the extent to which British blood has been lately, and still continues to be infused into the mass of the Population of these Provinces; together with the desire which is known to exist, and which will soon be loudly, and vehemently expressed, by the people of Upper Canada, to have free access to the Sea without the Controul (sic) of any intervening Authority, point out distinctly that the period is fast approaching when the whole of these Provinces must become essentially British, and it would appear

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23 Although a conclusive explanation based on documents is not possible, there are known circumstances which might have moved the Governor to think of Union. First, negotiation of the division between the Provinces of customs duties collected in Quebec had almost broken down. Secondly, in May, Lord Aylmer gave notice that he was considering by what means funds could be obtained for maintaining the Rideau Canal until it had been operating long enough to make a profit. At the same time he was seeking means of raising the £50,000 necessary for locks and other improvements on the St. Lawrence. He believed that these funds should come from both Provinces. Thus, the idea of Union might have come to mind as being a good means of getting money jointly for these projects. It can safely be assumed that the English merchants, especially of Montreal were actively advocating the idea of Union. In October, commercial leaders of Upper Canada began to prepare a petition asking the King to give Montreal to Upper Canada. (Annexation was merely a substitute for union). In December, the proposal was hotly debated in the Assembly at Quebec. It is likely that Lord Aylmer knew unofficially of this campaign as early as May. Thus, the need for joint funding of navigation improvements, the division of customs revenue, and pressure from the Montreal merchants for their perennial panacea, Union, all were factors which had some bearing on Lord Aylmer's action.

that this object cannot be so effectually accomplished as by a Legislative Union.<sup>24</sup>

These words echo the arguments of the English commercial community in Montreal, and misrepresent the desires of Upper Canadians. While some Upper Canadian merchants did regard Union as a means of forcing the taxpayers of their sister province to contribute more to the costs of canal building, the Family Compact and the western settlers had good reason to reject Union. The Upper Canadian oligarchy would have been loathe to share offices and emoluments with their Lower Canadian counterparts, and both they and the settlers would have disliked the transfer of the capital to an eastern city such as Montreal.<sup>25</sup> Judging from this evidence it appears that Lord Aylmer had begun to take the part of the English party of Montreal.

Lord Aylmer did temper his remarks in relation to timing. He continued his comments as follows:

The time when, as well as the manner in which this great measure shall be brought to bear requires very

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<sup>24</sup> P.A.C., Q, 202-I, Lord Aylmer's private letter to Lord Goderich, 16 June, 1832, 217-218.

<sup>25</sup> These objections were of course not applicable to the proposal to annex only Montreal and area. "In October, 1832, .... a public meeting was held in York; and William Allan, the president of the Bank of Upper Canada, H. J. Boulton, the attorney-general, C. A. Hagerman, the solicitor-general, W. H. Draper and George Munro were appointed a committee to draw up a petition to the king for the annexation of Montreal to Upper Canada." Christie, The History of Lower Canada, III, 424.

mature Consideration. Perhaps it might be injurious to the best Interests of the Crown, & of the Colony at large, to press it too hastily forward, and it might in the first instance be productive of good effects to let it be known that a proposition to that effect coming from the people themselves, would not be unfavorably entertained by His Majesty's Government.<sup>26</sup>

It is difficult to tell in what light to take this statement. Since it is contained in a letter to the Colonial Secretary with other serious comments, it must have not been ironic. Lord Aylmer seems to this point to have been aware of the political situation and he was certain to have known that even the moderates opposed Legislative Union; John Nielson being one of the emissaries sent to London to oppose it in 1822. Yet he seems to be advocating Union as a solution to the political problems. If he sincerely believed that the time to consider Union was very near, he was obviously in error. By some process he had become persuaded that the threat of Legislative Union would cause Papineau to shrink from tampering with the Constitution of 1791 in respect to the Legislative Council. His remarks continue:

At all Events, I know of nothing more calculated to alarm, & correct the Proceedings of, the Ultra liberal party in Lower Canada, than the knowledge that such a proposition (Legislative Union) would be so entertained. I am thoroughly persuaded - indeed I have good grounds for believing it to be the Case, that the party above alluded to, are fully aware of the tendency (sic) of passing events towards the accomplishment of a Legislative Union

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26 P.A.C., Q, 202-I, Lord Aylmer's private letter to Lord Goderich, 16 June, 1832, 217-218.

between the two Provinces - they are by no means blind to what is passing before them - the increasing wealth, Population and importance of the Upper Province - the tide of Emigration flowing in upon, and overspreading the Country - the Establishment of the Lower Canada Land Company. All these Circumstances warn them of their impending fate; and to these may in a great measure be attributed the extreme Agitation now existing in the Public mind in Lower Canada.<sup>27</sup>

An important proposal for reform in the financial administration of the Province was introduced in the spring of 1832, but not until September did Lord Aylmer make any comment on it. The proposal was to create a new board of audit. Augustin Cuvillier, as chairman of the Assembly's finance committee had begun draughting bills in 1830 to create a board of audit and to regulate the receiver-general. He had worked slowly, and in addition had become engaged in a bitter debate with the radicals over the membership of the board so that the bills did not get Assembly approval until early 1832. Subsequently, however, the Legislative Council severely amended the proposals and they were dropped. Cuvillier had proposed that the board of audit be composed of "experienced accountants some of whom were English, and had held similar posts by appointment of the Governor."<sup>28</sup> The radicals, led by Louis Bourdages and Thomas Lee insisted that

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<sup>27</sup> P.A.C., Q, 202-I, Lord Aylmer's private letter to Lord Goderich, 16 June, 1832, 217-218.

<sup>28</sup> Manning, The Revolt of French Canada, 325.

only Roman Catholic Canadians should be appointed. The issue really amounted to whether the appointments should be political or should follow the sound principle of maintaining some continuity in keeping provincial accounts. Apparently requests for returns, and complaints about delays and discrepancies from England, and not the death of the Cuvillier measures moved Lord Aylmer to write as follows:

The duties of the Inspector General, and Auditor General of Accounts in this Province, are extremely laborious, arising from the great number of Accounts which have to pass through their hands, and which have of late years been greatly increased (sic) by the establishment of Elementary Schools in the Province, for every one of which Schools a separate (sic) account is rendered; and from the great increase (sic) of Public Buildings, and other Public Works, the whole of the accounts of which, (and some of them are very voluminous) have to undergo the most scrupulous examination by the Inspector General and the Auditor General of Accounts.<sup>29</sup>

Later in the same letter, he recommended a thorough investigation followed by an adjustment of the Accounts of the Province and the accounting system. He pointed out that the books then showed a balance twenty times greater than the actual amount in the public treasury. He makes no comment on the principle at issue, however. Instead he merely noted that Cuvillier's bill was thrown out by the Legislative Council.<sup>30</sup> His chief concern in this communication seemed to be that the

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<sup>29</sup> P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 18 September, 1832, 51.

<sup>30</sup> *Ibid.*, 52-53.

Assembly might try to spend more than the actual sum available because of the "paper balance".<sup>31</sup> It should be noted that he had included in this dispatch the arguments of the Executive Council, and his lack of further comment possibly indicates concurrence with them. Here, once again Lord Aylmer reveals views which are compatible with those of the English party, although it should be noted that the extreme demands of the Patriotes made it difficult to do otherwise.

The spring of 1832 was the watershed in Lord Aylmer's policy toward the political struggle. Until then, he had managed to maintain a position equitable to both of the adversaries. As early as April, there is evidence that Lord Aylmer was beginning to think in terms of fighting against the Assembly majority. He was at that point anxious to have the financial resources available to outlast the Assembly. He revealed his increasing estrangement from the French party in his dispatch of June 16. In it he accused the French party of aiming for the substance of independence, and indicated that they might resort to violence. He advocated legislative union but at some distant time. He revealed his intention of taking the editors of the radical press to court. He reported his rejection of Papineau's demand to go to Montreal. And finally, he optimistically prophesied the

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<sup>31</sup> P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 18 September, 1832, 52-53.

ascension of the moderates to dominance. In spite of his quarrels with the French party he still had faith in the habitants. In the same letter he wrote:

I beg your Lordship to believe that I have in no degree changed my opinion of the mass of the Canadian people - they are docile, contented, happy, and well-meaning people; but extremely ignorant withal, and extremely suspicious in regard to the Intentions of the British Authorities in the Province.<sup>32</sup>

Thus, by the summer of 1832 the spirit of mutual forbearance, if not of cordiality, between the Patriotes and the Executive which had existed a year ago had disappeared. Despite the Governor's hopes and optimistic predictions, the radicals were overshadowing the moderates. The latter had failed to unite sufficiently to produce a strong platform, and the Colonial Office had not given them the support which Lord Aylmer realized was required to increase their strength. For example, the measure conceding control of the major revenues was tainted by the inclusion of unpopular officials in the Civil List request, and the Independence of Judges bill had been rejected despite the Governor's plea.

Meanwhile, the Patriotes had gained strength and become more radical. Indeed they had almost made it impossible for the Governor-General to work with them. Their spokesmen had accused him and the English government of

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<sup>32</sup> P.A.C., Q, 202-I, Lord Aylmer to Lord Goderich, 16 June, 1832, 216.

deliberately infesting the Province with cholera, and with murdering innocent Canadians at the Montreal poll. They had scorned Government proposals and concessions. Papineau had interfered illegally with a coroner's inquest in Montreal. At their direction meetings had denounced the Administration, and incited the habitants, and one of their lieutenants had even called for an armed uprising.

For their part, the Oligarchy had continued to block legislation such as the Loi des Fabriques, imprisoned two newspaper critics, and invited troops to attend the poll closing in West Ward. In face of the violent words and postures of the Patriotes, nevertheless, they were sincerely alarmed, and abandoned their coolness to the Governor.

Lord Aylmer, despite his assurances of the loyalty of the citizens, became anxious over the violence shown by the Patriotes. Understandably he criticized the Patriotes, and in seeking ways of curbing their extremism began to advocate measures long cherished by the Oligarchs, such as Legislative Union. He had been driven from his policy of being impartial in thought, word and action, but he had not entered the tents of the Château Clique.

## CHAPTER IV

LORD AYLMER'S VIEWS DURING THE SINISTER SESSION  
OF THE ASSEMBLY, 1832-1833.<sup>1</sup>

The Legislative Assembly met again in November. Following the political turmoil of the summer, it had a new mood and a new character. In it, the moderates had lost influence and were an ineffective minority. The radicals, on the other hand, had grown in power, and, led by Papineau, had embraced republican ideas. In addition, Papineau and his party were openly hostile to the Governor. Under the circumstances, nothing positive was accomplished. Instead, the Assembly was occupied mainly in drawing up grievances against the British government, and in opposing every desire and proposal of the Executive.

It is not surprising that, in the face of such cantankerous opposition, and after the bitter attacks made upon his dignity and integrity during the late summer, Lord Aylmer was ill-disposed towards the French majority in the Assembly. He allowed his new attitude to show in a private letter to Lord Goderich early in the session when he referred to the

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<sup>1</sup> P.A.C., C.O. 42-241, Lord Aylmer to Lord Goderich, 21 February, 1833, 247-8. "The whole of this Session hitherto has been distinguished by Proceedings of a Sinister description in the House of Assembly...."

French party as "our Adversaries".<sup>2</sup> Towards the end of the session in the spring, he again revealed his prejudice against the French party by pointing out that "the majority" of its members were scarcely literate and that two of them were forced to sign with an "X".<sup>3</sup> In addition, he accused the members of being "ignorant & full of prejudices".<sup>4</sup>

It is not fair, however, to suggest, as does Clarke, that the Governor had completely gone over to the English camp.<sup>5</sup> He was, indeed, valiantly trying to maintain his neutral position between the factions. During the third session he explained his position to the Colonial Secretary:

I will .... state as the groundwork of all my Proceedings, that I am, and have been ever since the administration of its Affairs has been placed in my hands, engaged in breaking up the influence of the two contending parties - the Ultras on either side of the question.<sup>6</sup>

Such a position was certain to draw the attacks of both sides upon the Governor. Perhaps in the circumstances, it would have been politically expedient for him to have

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2 P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 29 November, 1832, 279.

3 P.A.C., C.O. 42-242, Lord Aylmer to Lord Goderich, 7 May, 1833, 21.

4 P.A.C., Q, 207-II, Lord Aylmer to Lord Goderich, 5 April, 1833, 378.

5 Samuel Delbert Clark, Movements of Political Protest in Canada, Toronto, 1959, 267.

6 P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 15 December, 1832, 302.

taken charge of the disparate moderates and to have welded them into an effective force. Such a move held a remote hope of averting the drift to rebellion, but Lord Aylmer chose to maintain his dignified position above party struggles, and for such resoluteness, he deserves credit. Judging from the course of events in Upper Canada, the alternative of taking the part of the Oligarchy was even less suited to preventing trouble. Indeed, had he received the support from the Colonial Office which he requested, it is conceivable that his policy might have been successful. The dispatch of December 15, previously quoted, contained his appeal for support from the Colonial Office in "breaking up the influence of the two contending parties".

That this is no easy task, and I hope Your Lordship will pardon my frankness when I add, that it cannot be accomplished without the countenance & support of His Majesty's Government, more especially as the position in which I have placed myself, renders me obnoxious to both parties. If well supported in that position, I make little doubt of seeing a new & a better order of things grow out of the present troubled state of our political affairs. Both the Parties to which I have attended above (the Ultras), are sinking in Public estimation; and the men of real respectability are coming forward. The Party of Mr. Papineau, although they still command a majority, composed of the most ignorant of the Members of the House of Assembly, with a few young Lawyers possessing little talent & no experience of Public Affairs, are deserted by all that is talented & respectable in that Body.<sup>7</sup>

It is plain that Lord Aylmer did not intend to abandon his

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<sup>7</sup> P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 15 December, 1832, 303.

impartial position between the English and French parties, despite his growing displeasure with the activities of the latter.

On the other hand, his optimism concerning the deterioration of the popularity of both the major parties is not well founded. Apparently his hopes caused him to overvalue some of the instances of disunity in the French bloc as it became more extreme. For example, in November he wrote Whitehall:

I have the satisfaction of observing that the members from the Townships manifest a disposition to abandon the party of Mr. Papineau, and to draw near the Executive Government; and that the good sense of the Province at large is beginning to tell in a corresponding change of sentiment.<sup>8</sup>

Unhappily for Lord Aylmer's policy, the Townships were at odds with Papineau only on the questions of immigration and a British land company, but were ready to support him in other battles against the Oligarchy.

A final piece of evidence against Clarke's accusation that the Governor had succumbed to the Tory faction comes from Lord Aylmer's description of the Oligarchy in his mid-December report.

Of the other Party, I will only say that it consists of persons seeking Office, who have an interest in seeing the Head of the Executive Government embroiled with the Mass of the People of the Country, in the

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<sup>8</sup> P.A.C., C, 203-I, Lord Aylmer to Lord Goderich, 29 November, 1832, 279.

hope that he will thereby be compelled to throw himself into their Arms for Support; this last mentioned Party have had more to say to the Affairs of this Country than is consistent either with the true interests of His Majesty's Government, or of the Province at large.<sup>9</sup>

Obviously in his caustic description of the Tories, Lord Aylmer showed that he was aware of their goals and was determined to reduce rather than enlarge their influence on the government. Unfortunately, his inability to make any accommodation with Papineau and his great following left him only the course of awaiting the waning of Papineau's charisma.

An examination of the events of the 1832 winter session bears out the general trend. First, the Assembly once again expelled Robert Christie, the English representative from Gaspé. Then they took the unprecedented step of excluding Dominique Mondelet from sitting in the House. Mondelet had been appointed to the Executive Council, replacing Philippe Panet who had resigned from both the Council and the Assembly on his elevation to the Court of King's Bench. When Panet had been chosen for the Council two years earlier, the move was applauded by his fellow assemblymen. He had served as an important liaison between the executive and the legislature, although his popularity among the French party had declined because of his defence of the Civil List proposal. For his part, Dominique Mondelet had only been a member for a

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<sup>9</sup> P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 15 December, 1832, 303.

year but he had a long unblemished record for patriotism and service to the interests of French Canadians. He had been deprived of his commission in the militia by Lord Dalhousie as punishment for opposing his militia policy. As well, he had served on the committee of correspondence which had communicated with Nielson in London during the struggle to defeat Union of the Canadian Provinces in 1828. He had drawn up the account of Dalhousie's dismissal of magistrates and militia officers which was attached to the Report of the Canada Committee. Indeed, he had taken considerable personal risk on behalf of the French and of justice. The Assembly pretended to dismiss Mondelet on the grounds that his presence contravened a resolution of 1831 which stated that any member who accepted a salaried position in the government must give up his seat and seek re-election.

There were several things wrong with the Assembly's action. The "exclusion resolution" had not been sanctioned by the Imperial Government.<sup>10</sup> Secondly, Mondelet had evaded the restrictions of the resolution by not accepting any salary, "and there was ample precedent for councillors holding their seats without receiving the £100 annual allowance

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<sup>10</sup> P.A.C., Q, 302-I, Lord Aylmer to Lord Goderich, 27 December, 1832. In his dispatch, Lord Aylmer argued for the acceptance of the measure in the future, pointing out that otherwise "whenever the Executive Government shall select a Member of the House of Assembly for office it will be exposed to a contest with the House" since the Assembly will continue to attempt to enforce the principle of the Bill.

allotted to them in the provincial budget".<sup>11</sup> Finally the resolution expelling Mondelet was passed by only five votes, thirty-two to twenty-seven, and therefore had the approval of less than half the Assembly.<sup>12</sup>

Lord Aylmer must have been surprised by the attack on such a patriotic French-Canadian, although no immediate comment is available. In March, when the Governor explained his action to the Colonial Office, he wrote:

I have not alluded to the opinions of the Executive Council & Law Officers of the Crown, in regard to the Unconstitutional power assumed by the House, and I have preferred showing (in which certainly I am borne out by the Acts and proceedings of the House itself) that their Acts and proceedings, in addition to the known views of the House of Commons on the same subject, were sufficient to justify me in Entertaining doubts of the Competency of the Authority of the House in this case, & in withholding my signature to the writ for the Election of a Member for the County of Montreal, until I should receive further Instructions for my guidance.<sup>13</sup>

Clearly, Lord Aylmer was temporizing. He managed to put off a by-election for Mondelet's seat for the entire sitting. But he could not force the Assembly to accept Mondelet as the Executive's spokesman, a fact he conceded in the December plea to have the exclusion resolution sanctioned by Parliament.

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<sup>11</sup> Helen Taft Manning, The Revolt of French Canada, 1800-1835, Toronto, 1962, 356.

<sup>12</sup> Robert Christie, The History of the Late Province of Lower Canada, vol. III, Montreal, 1866, 448.

<sup>13</sup> P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 20 March, 1833.

Although Lord Aylmer had a strong constitutional case for refusing to sign the election writ, he declined to use it fearing that an outright refusal would provoke violence. He wanted to avoid the necessity of suppressing such violence, because the Patriotes would assuredly turn his action into a fresh grievance. The Patriotes, so Lord Aylmer believed, were seeking such new propaganda materials in order to regain public favour which was dwindling as a result of their intemperate and unreasonable opposition to the Executive. Consequently, he intended to keep the session going so that the Patriotes could discredit themselves, and so that he could escape any suspicion of suppressing them. Lord Aylmer's dispatches of November and March illustrate the tenacity with which he clung to this policy. On November 29, he wrote:

The fact is, that Mr. Papineau and his party feel that they are daily losing ground in Public estimation, and their only chance of recovering it, is to provoke a prorogation, or a dissolution of the present Parliament. I am so thoroughly persuaded of this, that my anxious exertions shall be employed in warding off a measure so evidently to the advantage of our Adversaries.<sup>14</sup>

And in the March dispatch explaining his method of dealing with Mondelet's expulsion, he said:

This course (postponing a decision) appeared to me the most prudent to adopt in the state of excitement existing in the House of Assembly; which, had I taken up the strong ground afforded by the decision

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<sup>14</sup> P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 29 November, 1832.

of the Executive Council & Law Officers of the Crown, might have led to some violent Proceedings calculated to force a Prorogation upon me in spite of my determination to the Contrary; and it appeared to me to the last degree important to prolong the Session as much as possible in order to give the lie to the reports which had been industriously circulated at the commencement of the Session, that the Executive was anxious to seize upon any pretext for proroguing the Provincial Parliament in order to stifle the threatened Enquiry into the events of the 21st of May at Montreal, whereas, in truth, the Executive, the Magistrates & the Military, all in short who were implicated in the Accusations to be brought under the notice of the House of Assembly concerning those events, were most anxious for the fullest possible Enquiry, conceiving that the more the matter was sifted & discussed, the more fully would it appear that no blame could justly attach to any of them.<sup>15</sup>

Lord Aylmer's "patience" with the fractious Assembly obviously was inspired not by goodwill, but by the opposite.<sup>16</sup>

If he was correct in judging the willingness of those accused of responsibility for the election deaths in Montreal, the Assembly obliged them generously. At the beginning of the session the House met as a committee of the whole, four

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<sup>15</sup> P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 20 March, 1833, 109-110.

<sup>16</sup> P.A.C., C.O. 42-244, Lord Aylmer to Mr. E. G. Stanley, 19 August, 1833, 147. He was trying to expose the Patriotes to criticism by the electorate and hasten their decline. "Thus on one occasion Mr. Panet was permitted to retain his Seat after having accepted Office as an honorary Executive Counsellor; and in the very next Session following, Mr. Mondelet who had accepted the same Office, and under precisely the same circumstances, was deprived of his Seat. This Proceeding evidently originated in party feelings on the part of the House of Assembly - it appeared to me to be desirable to make this fact apparent to the Public, and it was with that intent chiefly, that (keeping out of sight for the moment the substantial grounds of my Proceedings, and the Authority by which it was supported) I rested my refusal to sign the writ for the Election of a member in place of Mr. Mondelet...."

days of each week to examine evidence concerning the events of the election. Although the enquiry continued to the end of the session in April, it never reached a conclusion. Despite this preoccupation, the Assembly had time to deal with the flood of petitions coming in from all parts of the Province. Most of the petitions complained of maladministration and English oppression. Indeed, as Manning points out:

Most of these documents show every sign of having been prepared by Papineau or the members of his staff and were destined to serve as a kind of party platform for the radicals in the Assembly.<sup>17</sup>

The most common grievances in these submissions concerned the cholera epidemic, the Montreal "massacre", seigneurial exploitation and the Tenures Act, the appointive Legislative Council, and the proposed British American Land Company.

Lord Aylmer did not dignify with a rebuttal the absurd charges that he and his agents introduced or spread the plague in order to decimate the French population. He had previously reported the steps he had taken in an effort to prevent and suppress the epidemic. On the subject of the Montreal election, Lord Aylmer added nothing new during the session. As shown above, he remained convinced that the military had acted correctly, and that any competent inquiry would exonerate all those accused in the anti-British petitions.<sup>18</sup>

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17 Manning, The Revolt of French Canada, 357.

18 P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 20 March, 1833, 109-110.

Other comments concerning the enquiry dwelled upon its great expense in time and money, and the consequent difficulties in getting legislation and other pressing matters of government accomplished.

Evidently, he entertained no thought that he should reverse his stand of the past summer, and involve himself in an investigation of the circumstances which brought British troops to the scene of a polling station in a provincial election. Rather he seemed to believe that the Assembly, despite its attempt to condemn the civil and military authorities, would ultimately be forced by the evidence to exonerate them.

A large number of the petitions complained of the Canada Tenures Act of 1825. This Act allowed a seigneur to convert any undeveloped land which he had not parcelled out to his tenants or censitaires into freehold tenure. Once he had it converted, the seigneur could sell the land or use it for lumbering. Although only a few English, but no French seigneurs, had taken advantage of this option during the decade following passage of the Tenures Act, it had induced most seigneurs to resist applications by censitaires for land. Instead of the seigneur establishing the sons of censitaires on farms in his wild land, he held onto the land in case it became more profitable to pay the commutation fees and get absolute ownership of unconceded land. Meanwhile, the censitaires were fearful that there would soon be a scarcity

of seigneurial land available for their sons. When that occurred, they would have to divide their own land among their sons or pay the market price for freehold land. Both alternatives meant sacrifice. Consequently, the petitioners, such as those from the seigneuries of Two Mountains on the Ottawa, and St. Charles on the Richelieu, put pressure on their representatives to force the seigneurs by legislation to grant land more readily.

Papineau, being a seigneur himself, was more aggrieved by the fact that the Tenures Act was an imposition from England than by its provisions.<sup>19</sup> At all events, he and his Party recognized the political opportunity and led the attack on the Tenures Act. From the mid-point of Lord Aylmer's administration especially, the Patriotes emphasized their complaints against the Act in order to keep the support of the censitaires.

At the beginning Lord Aylmer himself, had shown understanding and sympathy for the problems of the censitaires. In December, 1830, he had requested permission to issue Crown Land in seigneurial as well as freehold tenure, because he realized that subsistence farmers would have difficulty buying land outright for their sons. As he explained to Sir George Murray:

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19 Manning, The Revolt of French Canada, 175.

the great majority of inhabitants of Lower Canada hold their lands under the Seigniorial Tenure to which they are much attached, & .... in denying them the power of acquiring Crown Lands under that Tenure, they are virtually excluded from the Market when Crown Lands are put up for sale.<sup>20</sup>

The Colonial Office, however, steadfastly assumed that the seigneurial system was medieval and oppressive. Thus when Lord Goderich became Colonial Secretary, he indicated that Lord Aylmer's request would not be granted.<sup>21</sup> All that he would permit was a modification by the Provincial Parliament of the English laws of inheritance, since he believed that therein lay the root of French opposition to freehold.

At the same time the new policy of allowing only a limited time for the payment of the price of Crown Lands was instituted throughout the Empire. Lord Aylmer had immediately objected to this change because it operated to the disadvantage of persons with little or no capital.<sup>22</sup> Censitaires as much as pauper immigrants lacked capital; and Lord Aylmer wanted to provide both with a means of obtaining land on credit. By 1833, however, the Governor's views concerning the sale and ownership of waste lands had altered considerably

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20 P.A.C., C, 195-II, Lord Aylmer to Sir George Murray, 19 December, 1830, 373.

21 Doughty, The Public Archives Report, 1931, 211.

22 P.A.C., C, 198-I, Lord Aylmer to Lord Goderich, 14 July, 1831, 143.

Many of those petitions received in the summer of 1832 from the rural regions of the Province objected strongly to the establishment of a British land company in the Province. Those which came from the area of Montreal echoed the extreme views of the Patriotes. They claimed all undeveloped lands of Lower Canada for native Canadians and protested the alienation of large areas to the British American Land Company by the English Government. Indeed they even declared the sale of Crown Land to British emigrants, or "other foreigners" a violation of their rights as Canadians.<sup>23</sup> Lord Aylmer, as an Englishman, as an Imperial representative and as a man interested in promoting the economic progress of the Colony, rejected these pretensions.

Since 1831, when he had conceded that there were abuses in the management and sale of Crown Lands, he had developed a proposal for reform. His plan still retained Crown control over the Waste lands, but envisaged the Lands Commission adopting some of the methods of private land companies. He proposed that the Commission have the lands surveyed and the main roads and bridges built before the lots in an area were sold. Revenues derived from the sales of land in one area would be used to prepare other regions for sale, and the programme would be self-supporting. Indeed, he estimated

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<sup>23</sup> Christie, The History of Lower Canada, III, 413; & William Kingsford, History of Canada, Toronto, 1897, IX, 509.

that for the small sum invested in building roads and bridges, and in surveying the waste land, an increase of 200 per cent could be expected in the value of Crown Lands.<sup>24</sup> Of course he hoped for other benefits as well, such as providing a source of wages for the pauper immigrant.

He had submitted this scheme after hearing that negotiations between the organizers of a Land Company and the English government had collapsed, and from the tone of his words it is apparent that he did not approve wholeheartedly of a private land company. He did concede that "next after the plan that I had in contemplation, it (a land company) was the best that could be adopted for the disposal of the Waste lands of the Crown".<sup>25</sup> This faint praise for the land company was probably sincere. He certainly regarded it ahead of the Assembly's claims to authority over Crown Lands. It was politically prudent as well, since the Lower Canada Land Company involved important men in England, and in the English

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<sup>24</sup> P.A.C., Q, 206-I, Lord Aylmer to Lord Goderich, 16 January, 1833, 193. The Governor, however, did not outline any proposals for improving the procedures which caused intolerable delays in getting grants established, or for clearing up the chaotic backlog of land claims, and grants.

<sup>25</sup> Ibid.

party of Lower Canada.<sup>26</sup>

Lord Aylmer's qualms about a private land company were revealed when negotiations were re-opened. He advised the Colonial Office against granting the Company much more than half of the Crown Land available in the Townships because he wanted to guard against abusive speculation which might occur if it had a monopoly. In the same letter he recommended that the Company's grant be in a compact block in order to keep prices uniform.<sup>27</sup> These recommendations show once again that he was anxious to assist the settler of limited means who wanted to acquire land.

At the same time, he opposed giving free land to individuals. He believed that the man who earned his land would likely be a more stable and industrious citizen. In a report of April 12th, he noted that free grants detracted from the sale of Crown Lands. He criticized, especially, the practice of making free grants to retired soldiers. He observed that most of the latter were too old or otherwise incapable of managing a farm, and often sold the grants "for a bottle of

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26 P.A.C., Q, 207-II, Lord Aylmer to Lord Goderich, (private), 24 April, 1833, 508. He observed that the English Party and the inhabitants of the Eastern Townships would be pleased with the establishment of the Land Company. G. R. Robinson, M.P. was Governor of the Company, N. Gould deputy Governor, and George Moffatt and Peter McGill became commissioners. Donald Creighton, The Empire of the St. Lawrence, Toronto, 1956, 276.

27 P.A.C., C.O. 42-243, Lord Aylmer to Lord Goderich, 22 May, 1833, 310-312.

Rum".<sup>28</sup> It is most likely that the purchasers of these free grants would be speculators, and Lord Aylmer's earnest intention was to restrict the opportunities for those unworthy profiteers.

From the petitions received, the Assembly prepared resolutions protesting against the British American Land Company plan, and in March asked the Governor to convey them to the King. When he did, Lord Aylmer sent along comments which were in effect a counter-statement. He ascribed the French-Canadian opposition to three major causes: "the predilection to the Seignorial Tenure" which many French-Canadians had, the alarm felt by many of them as to the results of the "great influx of British settlers", and the pretensions by their political leaders that all sources of revenue and all waste lands were the sole responsibility of the Lower Canadian Legislature.<sup>29</sup> It is obvious that the English government would have little sympathy for any of those motives.

In his comments on the French-Canadian desire to acquire land under seigneurial tenure he revealed a decided change in his sympathies. Whereas in 1831 he had seemed sympathetic to the wishes of the habitants, he now dismissed their concern for the diminution of land available under

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28 P.A.C., Q, 207-II, Lord Aylmer to Lord Goderich, 12 April, 1833, 415-420.

29 P.A.C., Q, 207-II, Lord Aylmer to Lord Goderich (private), 18 March, 1833.

seigneurial tenure as unwarranted. He cited as proof, a survey he had instituted which revealed that "more than half of the land in these seigniories is still unconceded".<sup>30</sup> Such reasoning, however, overlooked several important considerations which should have been presented in order to give a balanced view to the Colonial Office. A good deal of the unconceded land in the seigneuries was in the hinterlands behind the farms along the main rivers. Such land was not only likely to be less productive, but was less accessible. The habitants, nevertheless, were more eager to attempt to eke out a subsistence on these lands than were the seigneurs to grant them. The seigneurs, especially the English, realizing that rents from these back concessions would be small, were either reserving them as timberlands, or merely holding them until real estate prices rose enough to make it profitable to commute to freehold ownership under the Tenures Act.

Yet these limitations do not necessarily mean that there would not have been enough land available under seigneurial tenure for the growing French-Canadian population. The petitioners had been showered with Patriote propaganda, and being out of touch with conditions beyond their immediate neighbourhood, they understandably became alarmed. Further study by experts in land use and population is required

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<sup>30</sup> P.A.C., Q, 207-II, Lord Aylmer to Lord Goderich (private), 18 March, 1833, 68-69.

before the Governor's judgment can be conclusively criticized. At all events, it is obvious that his concern for the prospects of censitaires obtaining seigneurial grants had been superseded by another concern.

The sight of emigrant ships disgorging their human cargoes at Quebec must have impressed upon his mind, the necessity of assisting them to acquire the farm land they sought. It was assumed generally in the Province that the British immigrants who decided to settle in Lower Canada would prefer the Eastern Townships where English was the chief language, and where English civil law was used. Lord Aylmer shared this view. He had concluded from his personal reconnaissance of most of the regions available for settlement in the spring of 1831 that the Eastern Townships were the most promising, and that they were capable of receiving at least 500,000 persons.<sup>31</sup> The problems to be overcome in the project of accommodating the tens of thousands of immigrants, and of satisfying their requirements of land, naturally, came to overshadow the complaints of the censitaires in his sense of priorities.

Lord Aylmer was correct in his statement that much of the opposition to the Land Company arose from the French-

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<sup>31</sup> P.A.C., 198-I, Lord Aylmer to Lord Goderich, 12 October, 1831, 213. He estimated that the Ottawa River region of Lower Canada below By Town could receive at least 100,000.

Canadians' fear that it was part of a scheme to introduce sufficient immigrants to outnumber them. For his part Lord Aylmer was rather cautious in his welcome for the tide of immigrants reaching Lower Canada, and at least up until the summer of 1833, he did not mention the prospect of using immigrant votes to counterbalance the French.

His attitude toward immigration had changed, however, between the summers of 1831<sup>32</sup> and 1832. Even as late as October 1831, he was advising the British government to restrict and control emigration:

It is highly necessary that some Regulations should be adopted at home to guard against too great an influx of Emigrants in any one season....<sup>33</sup>

It appears to me to be very desirable that, if possible, the numbers of Emigrants coming out to Canada next season should not exceed 50,000 of all descriptions.<sup>34</sup>

In proportion as the country becomes settled and the quantity of surplus produce augments, the numbers of Emigrants may be augmented in a corresponding ratio.<sup>35</sup>

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32 P.A.C., C, 198-I, Lord Aylmer to Lord Goderich, 25 June, 1831, 99. In this dispatch he advocated giving only a minimum of assistance to the immigrants; such assistance was limited to such things as providing "sheds to save the expense of lodging on first landing, means of transportation to the settlement, and information pamphlets."

33 P.A.C., C, 198-I, Lord Aylmer to Lord Goderich, 12 October, 1831, 215.

34 Ibid., 217.

35 Ibid., 218.

And in November, he warned the Colonial Secretary that the enthusiasm of those persons in the British Isles who regarded emigration as the best means of solving the problems of poverty and overpopulation there, was liable to create reaction in Lower Canada:

if the idea were to get abroad into the Publick mind here, that it is intended to relieve the United Kingdom of indigent & disorderly persons who are burdensome on the Parishes, & troublesome to society, by sending them out to Canada - in that case the Legislature would probably take up the consideration of the subject, with the view of counteracting any such Proceedings, and restrictive measures might be adopted tending to check the progress of Emigration generally.<sup>36</sup>

It is fair to say that the Governor approved of a steady and planned flow of immigrants, but was not a zealous exponent of the theory that the Colonies should serve the Mother country by relieving her population pressure. Nor had he even implied that he welcomed more British blood in order to outnumber the French.

Then, in June 1832, he suddenly dropped his insistence upon restricted immigration. His letter to the Colonial Secretary opened with strong praise for immigration.

There is every reason to believe that the Emigration of the present Season to the Canadas will be productive of very important results. The Emigrants generally speaking are of a superior description to that of preceding Years, in regard to property, respectability, & intelligence, and their Establishment

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<sup>36</sup> P.A.C., Q, 198-II, Lord Aylmer to Lord Goderich, 11 November, 1831, 275-276.

in this Country will undoubtedly give a powerful stimulus to its Commerce & Agriculture.<sup>37</sup>

From this part of the letter it would seem that his increased enthusiasm for immigration to the Province had arisen from his appreciation of the quality of the immigrants, especially in regard to the amount of wealth they were capable of investing in the country. The fact that this letter was mainly an attack on the Patriotes increases the significance of the final paragraph of the section dealing with Emigration.

The Emigration now in progress, with every prospect of an increase to an incalculable extent, is fraught with the most important consequences, and in many ways will contribute to the development of its resources, and the improvement of its Political Condition.<sup>38</sup>

Absent in this passage was any caution concerning the numbers which the Province was capable of absorbing. In addition the Governor alluded to the good effect increased numbers would have on the political situation. He especially regarded British immigrants as a counter-weight to the Patriotes' agitation after the Montreal election violence, and their cries for independence from Great Britain.

Despite his rejection of the request of a group of settlers from England for free land grants in February 1833, there is nothing to indicate that he had changed his readiness

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<sup>37</sup> P.A.C., 4, 202-I, Lord Aylmer to Lord Goderich, 16 June, 1832, 215.

<sup>38</sup> Ibid., 215-216. For the complete letter, refer to the appendix.

to welcome unlimited numbers of British citizens. In consequence it is apparent that he intended his observation that the French desired to put obstacles in the way of immigration to be criticism. It is very likely that Papineau's campaign to obstruct his administration was an important factor in Lord Aylmer's change of view.

As the Crown's representative he opposed the Assembly's claim to authority over the Waste lands, and since the financial question was still unresolved, he realized that the revenues accruing from the sale of Crown Lands were going to be needed for the support of the Executive.

The financial question had emerged again early in the session. In the Governor's speech at the opening of the Legislature, Lord Aylmer informed the House that the Supply Bill passed in the previous sitting and reserved by him, had been given royal assent. On the fourth day of the session, Louis Bourdages, a radical spokesman of the Patriotes opened an attack on the Governor's remarks concerning the reservation of the Supply Bill. His attack became very personal, rebuking Lord Aylmer and inviting him to go home. During the denunciation, Bourdages contended: "It is with us lies the right to vote money."<sup>39</sup> In his reports, Lord Aylmer made no direct comment on the personal attack directed toward him,

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39 Kingsford, History of Canada, IX, 500.

although he did complain of the difficulties that he had with the radicals in the Assembly.

He passed on to the Assembly, the message which he had received during the summer from the Colonial Secretary concerning the Supply Bill. The message complained of both the form and the principle of the Bill. In form, the Bill lacked direction concerning the purposes the money would serve, and in principle, it attempted to make the Governor and every other public official dependent for his official salary on the annual votes of the Assembly. Lord Aylmer consequently informed the Assembly that if they presented a bill similar in form and principle in the current sitting, he was instructed to reject it. Despite this warning, the Assembly passed a Bill of Supply in virtually the form forbidden by Lord Goderich. When the Legislative Council received the resolution in March, it was struck down after a short but heated debate.

Since the time for prorogation was at hand, no funds were provided for the expenses of the Government. Unless a means of obtaining funds was found, it seemed that the administration of the Province would collapse. Lord Aylmer was pessimistic about the prospect of the House yielding. He wrote Lord Goderich:

....it would be unavailing to call the Provincial Parliament together for the purpose of again taking up the consideration of the supplies for the current year. Neither do I think that any good purpose

would be answered by a premature dissolution of the present Parliament, with the view of effecting that object.<sup>40</sup>

In view of the desperate situation, Lord Aylmer recommended the extreme measure of voiding the concession of control over the customs revenues recently granted to the Colonial Legislature. If the British Parliament concurred with this action, there would be more than enough money to cover expenses. Citing the Provincial Accounts for the previous year, he demonstrated that:

if the net produce of the Revenues levied under the Act of the 14th Geo. 3rd (customs duties) be considered available, His Majesty possesses the necessary means within the Province, not only of providing for the Expenses of the Civil Government, but of disposing of a surplus amounting to nearly Ten Thousand Pounds for any other purpose that may be deemed Expedient.<sup>41</sup>

The Governor had obviously lost patience with the obduracy of the party controlling the Assembly. In restrained but clear words he blamed it for the impasse:

The Proceedings of the House of Assembly in regard to the Question of Finance during the two last Sessions - the neglect, or rather it may be said, the scorn, with which the propositions of his Majesty's Government have been met by that Body, and the principle upon which the Supply Bill passed this Session has been framed - all these circumstances combined may, I humbly conceive, fairly

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<sup>40</sup> P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 29 March, 1833, 246.

<sup>41</sup> Ibid., 249.

justify His Majesty's Government in considering their former overtures to the House of Assembly to be no longer binding.<sup>42</sup>

In addition, he referred to "the unbounded pretensions of the House", and to "the capricious Vote of that Body" to justify his recommendation that financial control should be retrieved from it. Such phrases were strong language for Lord Aylmer's dispatches, and reveal the degree of his disapproval of the Assembly's actions. He had indeed decided upon open war with the House.

Since there was to be war, he had urged the English Government to arm itself with sufficient financial strength and deprive the opposition of the same. He pointed out that in such circumstances, it would be a fatal mistake to try to carry on with only the salaries designated in the latest Civil List presented for the approval of the House.<sup>43</sup> He indicated that he had lost hope for the success of the lenient policy being followed and was:

fully persuaded that the uncompromising Spirit manifested by the House of Assembly of Lower Canada will render it impossible to carry on the Government of this Province to any useful purpose, unless the Salaries of all Public Officers, and other indispensable expenses of the Government shall be placed beyond the reach of the Annual Votes of the Assembly.<sup>44</sup>

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<sup>42</sup> P.A.C., 2, 207-I, Lord Aylmer to Lord Goderich, 29 March, 1833, 250.

<sup>43</sup> Ibid., 251.

<sup>44</sup> Ibid., 250.

To bolster his argument, he assured the Colonial Secretary:

....that notwithstanding all the clamour which has for several years resounded within the walls of the House of Assembly regarding the disposal of the Revenues of the Province, the Public at large are prepared for the adoption of some unusual mode of proceeding in providing for the Civil Expenditure of the Province, and I think strong indications of their being prepared are to be traced in the tone & language of the Public Press of the Province.<sup>45</sup>

It is indicative of his conviction of the wisdom and urgency of the measures to relieve the Executive from financial dependency upon the Legislature that he reiterated this recommendation on April 6th, and twice in May. In a private communication to Lord Goderich on the second of May, he wrote:

I cannot too often repeat to your Lordship that the Proceedings of the House of Assembly are generally disapproved in the Province; and that the people in general are prepared for the measure I have taken the liberty to recommend.<sup>46</sup>

One qualification should be made regarding the use of the terms "public at large" and "people in general" used in Lord Aylmer's assurances. They should not be taken literally, as the following illustration shows. In the summer following these assurances, the new Colonial Secretary, E. G. Stanley, suggested that a general election would remove the political difficulties of the Governor. Basing his argument on the

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<sup>45</sup> P.A.C., C, 207-I, Lord Aylmer to Lord Goderich, 29 March, 1833, 249.

<sup>46</sup> P.A.C., C.O. 42-243, Lord Aylmer to Lord Goderich, 2 May, 1833, 12. The dispatch of May 13, 1833 has been printed in the appendix.

Governor's own predictions of a decline in the popularity of Papineau's party<sup>47</sup> he concluded that it would be defeated and the impasse would be broken.<sup>48</sup> Apparently, Stanley had mistaken Lord Aylmer's meaning and the Governor upon realizing the situation, hastened to explain:

I have in these communications held out assurances that a certain party (Papineau's).... have lost ground in public estimation; and I have the satisfaction of being able to add that, since the date of my latest communications relating to that subject, the fact is becoming every day more evident, for, on a review of the party alluded to, it will be found that the most talented and the most respectable of them in, and out of the House of Assembly, have deserted their ranks:- But I have never in any of my Communications held out the expectation that an Appeal to the People of the Province, by a Dissolution of the present Parliament would have the effect of obtaining the return of a House of Assembly more favorable than the existing one to the measures of (the) Government;- In fact the change in the sentiments of public men which has been brought about by the violent & unconstitutional proceedings of the House of Assembly, has not hitherto....extended to the great mass of the Electors who, I am persuaded, would if appealed to upon any disputed point between the Government and the House of Assembly, return the same Members, or perhaps

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47 An example of such a prediction appears in P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 23 March, 1833, 208. "Notwithstanding the imposing appearance of large Majorities in the House of Assembly, in favor of the measures of Mr. Papineau & his party, I can confidently assure Your Lordship that the credit of that party is rapidly sinking in Public Estimation...."

48 A. G. Doughty, The Report of the Public Archives for the Year 1931, Ottawa, 1932, Stanley to Lord Aylmer, 1 October, 1833, 302.

others still more adverse than they to the measures of His Majesty's Government.<sup>49</sup>

Near the conclusion of the message, Lord Aylmer makes an attempt to clarify his use of the term "public" and its equivalents. To him the "public" is composed of

those Persons only ... who are competent to form a correct judgment of the affairs of the Province, (and of whom it may be observed in passing the great majority is to be found in the two large Towns of Quebec and Montreal)....<sup>50</sup>

Obviously, he made a peculiar distinction between the mass of the people and the more politically competent inhabitants of the larger towns. That he did not create this distinction at the moment just to excuse poor judgment is shown by earlier letters. For example, in the letter of March 23rd, he had said:

I can confidently assure your Lordship that the credit of that party is rapidly sinking in Public Estimation, and that any momentary stretch of authority to which the Executive Government may be driven by their Proceedings would be viewed without alarm by the rational part of the Public...<sup>51</sup>

Nevertheless, E. G. Stanley's interpretation of the Governor's assurances is natural. The burden of Lord Aylmer's messages is optimistic. He was remiss in not realizing that

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<sup>49</sup> P.A.C., Q, 209-II, Lord Aylmer to E. G. Stanley, 7 December, 1833, 399-400.

<sup>50</sup> Ibid., 403.

<sup>51</sup> P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 23 March, 1833, 208. (Italics added).

qualifications which were apparent to one on the scene would not be obvious to a reader across the miles of the Atlantic. In addition, unless the development of democratic government was to be reversed, and government by an oligarchy perpetuated, Lord Aylmer's assurances concerning the attitude of the upper strata of society in the Province were irrelevant. It seems that a combination of wishful thinking and bitterness toward the political leaders of the French masses had once more caused Lord Aylmer to echo the sentiments of the English Oligarchy. Furthermore, as an aristocrat, Lord Aylmer had a tendency to value social and intellectual quality over mere numbers. Nevertheless, it is unfortunate that his messages misled the Colonial Office.

Lord Aylmer was asked for his opinion on the advisability of uniting Gaspé with New Brunswick, as requested in a petition of freeholders from that district. He replied in a private letter to Lord Goderich that Gaspé's nearness to New Brunswick and its uninterrupted communication with that province lent strong support to the suggestion. He urged, on the other hand, that the wishes of the inhabitants be given priority in making a decision, although he conceded a consensus would be difficult to determine because the social, racial and religious backgrounds of the people were so varied and complex.<sup>52</sup> This answer, which seems to be realistic and

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<sup>52</sup> P.A.C., Q. 206-I, Lord Aylmer to Lord Goderich, 23 January, 1833, 215-218.

diplomatic, did not enhance Lord Aylmer's reputation with the Patriotes.

On the other hand, Lord Aylmer made no comment upon the resolution of the House protesting the proposed transfer of Montreal and the county of Vaudreuil to Upper Canada. Although he later<sup>53</sup> advised against the transfer, he sent the resolution on March 5, 1833 without indicating any opinion.

The House of Assembly in its bellicose mood revived the attack upon the composition and constitutional role of the Legislative Council. The matter had been dropped from the list of grievances presented to the Crown during the first session of Lord Aylmer's governorship. In January 1833, however, the attack was renewed when a series of resolutions condemning the method of choosing the Legislative Council was passed by a small majority. By the end of the month, the debates revealed the extreme republicanism espoused by the lieutenants of Papineau, such as Louis Bourdages. Presumably shocked, Lord Aylmer reported to Lord Goderich:

It is very evident that Mr. Papineau & his Party, have taken up New Ground, for they no longer confine themselves to false or exaggerated statements of abuses in the Administration of the existing Government. Their avowed object is now to alter the whole frame of the Constitution & Government of the Colony - to render the former purely Democratic, & the latter purely elective.<sup>54</sup>

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<sup>53</sup> P.A.C., Q, 216-II, Lord Aylmer to Stanley, 8 May, 1834, 367-368. See page 168 of this thesis for the text.

<sup>54</sup> P.A.C., Q, 206-I, Lord Aylmer to Lord Goderich, 30 January, 1833, 258.

And what was even more extreme, he announced, the Patriotes were calling for the abolition of the Legislative Council, and for the placing of the Governor in a position subservient to the Assembly. Radical speakers had proposed in debate that whenever the Governor and the House were at odds over government matters, the Governor should be replaced. Papineau had even gone to the length of recommending that the Governorship itself be elective. Lord Aylmer scoffed at such proposals as "the Rhapsodies of this Party", which indicated "the lengths of absurdity to which they are led by passion & Party feeling."<sup>55</sup> He made it very plain that he was opposed to the republican wishes of the "reformers".

In the same report, he showed that he recognized the dangerous trend which had manifested itself among the Patriotes' ranks when he wrote:

Mr. Nielson .... does not go along with Mr. Papineau & his Party, but has taken his stand upon the principles of the Constitution; whilst the others are going recklessly forward towards Revolution.<sup>56</sup>

What he meant apparently was that the party was taking such a

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<sup>55</sup> P.A.C., Q, 206-I, Lord Aylmer to Lord Goderich, 30 January, 1833, 258-260.

<sup>56</sup> P.A.C., C.O. 42-241, Lord Aylmer to Lord Goderich, 30 January, 1833, 179-180. Earlier in the month he had warned: "persons who I have reasons to believe possess good information of the plans of the party..., are disposed to believe that that party are mad enough to entertain views of a hostile nature tending to affect (sic) a separation between Lower Canada and the Mother Country." P.A.C., Q, 206-I, Lord Aylmer to Lord Goderich, 8 January, 1833, 25.

radical position, and was so uncompromising that they were tending not to reform the constitution but to destroy it.

He did not believe that the Patriotes would receive enough popular support to sustain a physical revolution.<sup>57</sup>

Lord Aylmer's opinion that the aims and actions of the French party did revolutionary violence to the constitutional practices of Lower Canada was given emphasis by later communications. For instance, when explaining why the Assembly had not produced an acceptable bill providing for the independence of provincial judges, he remarked:

In short, it is absolutely hopeless to expect anything like consistency from that party, for it is very evident that under any Circumstances they will invariably place themselves in opposition to the view of His Majesty's Government.<sup>58</sup>

And in March, he complained:

....this assumption of the overweening importance attached to the Political Character of the Speaker of the House of Assembly, has been productive of much evil in this colony, and tends greatly to lower the Executive Government in the estimation of the ignorant people of this country.<sup>59</sup>

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57 P.A.C., C.O. 42-241, Lord Aylmer to Lord Goderich, 16 February, 1833. "...it is quite plain that Mr. Papineau and his party will go to every length, but that of drawing the sword - this I think they are not prepared to do, and even were they mad enough to attempt it, they could meet with no manner of support from the great body of the French Canadian Population...."

58 P.A.C., Q, 206-I, Lord Aylmer to Lord Goderich, 7 February, 1833, 296.

59 P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 7 March, 1833, 59.

As a final example of his anxiety concerning the Patriotes' attack upon the established constitutional arrangements, he objected to Mr. Viger's acting as Agent of the Assembly of Lower Canada in England on constitutional grounds.<sup>60</sup> He declared that Viger's appointment was irregular, and made by a resolution of the Assembly alone. The upper chamber had not been consulted, and the Governor had never been advised officially of the appointment. Furthermore, no provision for the sending of directions from the Assembly had been specified, but he presumed that the Speaker communicated with Viger. This irregular and constitutional arrangement displeased the Governor very much as a dangerous precedent, a view shared by the Legislative Council which complained of it in an address.<sup>61</sup> It is noteworthy, however, that he made no direct criticism of the Assembly's resolution calling for a constitutional convention of elected delegates whose purpose it would be to consider the revision of The Constitution Act.<sup>62</sup>

In the face of the Patriotes' attack on the Legislative Council, Lord Aylmer put his previous criticism of that body aside, and justified its method of selection, and argued its value to the Province. He implied that the system of

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<sup>60</sup> He had other grounds as well. He reminded the Colonial Secretary that Viger was closely connected with La Minerve, a radical newspaper which had libelled the Government.

<sup>61</sup> Christie, The History of Lower Canada, III, 489.

<sup>62</sup> Manning, The Revolt of French Canada, 359.

appointing members had created a body of men of high quality who had considerable economic interest in the province.

I take leave to submit to Your Lordship that I am so far from viewing the Legislative Council in the light in which it is represented by the House of Assembly, that I am decidedly of the opinion that it would not only be difficult, but impossible at this time, to find in this Province an equal number of Individuals who should possess collectively a larger proportion of Talent, independence & respectability, and I believe I may truly add, a larger amount of property, than belongs to those Gentlemen who now compose the Legislative Council;- And I am moreover confident that I should be borne out in the assertion by every reasonable man in this Province, that in the present posture of affairs, and notwithstanding every defect with which that Body may be chargeable, a much greater misfortune can hardly be contemplated than any event that should deprive the Province of their presence and services as a distinct branch of the Legislature.<sup>63</sup>

Although there are some qualifications in this statement such as "at this time", and "in the present posture of things", and "notwithstanding every defect", the tone on the whole is approving.

He did not attempt to defend the actions of the Legislative Council, saying that he believed that Council to be able to speak for itself adequately in that regard. Instead, he went on to deal with the charges that the Legislative Councillors were not truly representatives of the interests and composition of the mass of society in Lower Canada. He seemed to be puzzled as to the grounds for the charge when

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<sup>63</sup> P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 25 March, 1833, 214-215.

he observed that

many of the Members of the Legislative Council are Natives of Lower Canada, and .... all of them are permanently resident in the Province, where they possess property, and are more or less interested in its prosperity.<sup>64</sup>

Although on the face of it this appears to be a very weak reply to the charges by the House, there were certain facts which he might have used to bolster it. During his term of duty, he had tried to create a racial balance in the Legislative Council. Most of the new Councillors were of French origin, and six were former representatives in the House.<sup>65</sup> During 1832, eleven additional members were appointed, of whom no less than eight at least bore French names.

On the other hand, it is apparent that the real leaders of the Legislative Council were English. Men of the stature of George Moffatt, Peter McGill, John Molson were not balanced by leaders of the French community. Very often, members from the seigneurial strata of society were old and ailing. As mentioned before,<sup>66</sup> new members had not meant new policies in the Council. Although Lord Aylmer did not mention it in his dispatch, the crux of the matter was that the Council invariably blocked or mutilated measures of local

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<sup>64</sup> P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 25 March, 1833, 219.

<sup>65</sup> Manning, The Revolt of French Canada, 344-345.

<sup>66</sup> See page 64.

importance which were passionately desired by leaders in the Assembly. Most recently of course, the Council had angered these leaders by arresting the editors of the radical papers, and by rejecting the Assembly's charges against Justice Kerr.

At the same time, Lord Aylmer presented his fundamental objection to the proposal of substituting election for appointment as the means of selecting the Legislative Council. He recognized that with the prevailing composition of the population, and the political attitudes of the time, an elected Council would merely be a replica of the House.

I apprehend that the practical effect of such a measure, in the present state of Society in the Province, would be, to create a second House of Assembly, composed of materials nearly similar to those which now constitute the House of Assembly, and by the manner in which that Branch of the legislature has been found to work of late years, it is not very difficult to foresee what would be the effect of two such Legislative bodies upon the operations of Government.<sup>67</sup>

The Governor General rejected, also on constitutional grounds, an attempt by the Assembly to investigate the dismissal of Dr. Tessier as Health Officer at Quebec. He refused to turn over the documents concerning the case and lectured them on the proper roles of the branches of the government as follows:

The Constitution has invested the several branches of the Legislature with certain prerogatives and

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<sup>67</sup> P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 25 March, 1833, 219-220.

privileges, the free exercise of which is essential toward enabling each of them to perform its peculiar function.

This principle has been recognised and acted upon by the House of Assembly in its own behalf on more than one occasion; ... it may perhaps be sufficient to remark that the interference of the several branches of the Legislature with each other in matters connected with their respective prerogatives and privileges, must obviously tend (if persisted in) to disturb that harmony between them which is essential to the public welfare.

It was in the exercise of the undoubted prerogative of the Crown that Dr. Tessier was removed from Office as Health Officer at the port of Quebec, and the documents now prayed for by the House of Assembly, the knowledge of which documents I have, on the present occasion, considered it expedient to withhold, abundantly prove that his continuance is incompatible with the due regard to the preservation of the Public Health, on the part of the Executive Government.<sup>68</sup>

According to the constitutional practices of Lower Canada and of England Lord Aylmer was correct. Even in the republic of the U.S.A., the Chief of State had the power to dismiss public officials without interference from Congress. What the Assembly was asking therefore, was novel and tended to make the Assembly the sole source of authority in the Colony. Although on some matters such as the dismissal of the Attorney-General, the Governor had been willing to be the minister of the House, he obviously had hardened his position in face of the violence of the Patriotes, and was trying to

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<sup>68</sup> P.A.C., Q, 206-IV, Quebec Gazette, 13 February, 1833, report of speech of Lord Aylmer to House of Assembly, 11 February, 1833, 909.

keep his prerogatives from further erosion. In general, however, his views of the distinct separation of powers was consistent with his ideas of 1831.<sup>69</sup>

On the other hand, it does not seem to have been "expedient to withhold" the documents of the Tessier case, nor to lecture the House. If the proof against Tessier was as strong as the Governor contended, then he might have avoided a fresh excuse for grievance by revealing them. The course of action he chose only exacerbated relations with the Assembly.

When Lord Aylmer prorogued the House on the 3rd of April, he remarked that it had been the longest session since 1794, and that only time would show whether it had been productive, and beneficial to the Province. He was speaking in diplomatic terms since it was obvious that little of benefit had been accomplished. Even the inquiry into the election deaths in Montreal had not been concluded. The Supply Bill had been presented in a form which was unacceptable. What had been accomplished was not of benefit to the Province.

The Patriotes had drawn up their radical political platform and demonstrated their uncompromising position in opposition to the Governor, the Executive and the Legislative

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<sup>69</sup> He had not changed his view in August when he wrote: "the unbounded Pretensions of the House of Assembly which have already deranged, and if not successfully resisted, must eventually destroy the Balance of the Constitution of the Province." C.O.42-244, Lord Aylmer to E.G. Stanley, 19 August, 1833, 154.

Councils, and to British Colonial policy. Their insults and obstinate opposition to all proposals from the Executive Council had provoked a negative reaction from Lord Aylmer. At the beginning of the session, he had hoped that his display of correct impartiality and patience would overcome the attempts of the radicals to paralyze the government of the Province. By the spring, his patience was exhausted. He had, for example, put off or refused requests from the Assembly to produce documents and communications. More importantly, he had begun to regard the party of Papineau as the enemy, and was urging the Colonial Secretary to launch a counter-offensive. He recommended that the revenues recently bestowed upon the provincial parliament should be restored to the administration. Immediately before prorogation he had suggested that if the House persisted in demands to change the Constitution of 1791, the Colonial Secretary might contemplate changes which were abhorred by the Patriotes: union of Upper and Lower Canada, or at least the transfer of Montreal to Upper Canada, the transfer of Gaspé to New Brunswick, and changes in electoral qualifications which would increase the weight of the British population, and "the monied & Commercial Interests".<sup>70</sup> Despite his good intentions, Lord Aylmer had obviously shifted from his conciliatory and

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<sup>70</sup> P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 25 March, 1833, 220.

non-partisan position.

As a result of mistakes made by all the participants, the Colonial Secretary, the Governor and the leaders of the Legislature and the Executive, a head-on political clash was imminent and the battle lines had been drawn in the session just concluded. The first blows were struck in the summer of 1833, and the battle was joined in the session of 1834.

## CHAPTER V

LORD AYLMER'S VIEWS DURING THE BREAKDOWN  
OF PARLIAMENTARY GOVERNMENT IN LOWER CANADA  
1833-35.

During the summer of 1833, Lower Canada began to divide into two hostile camps. Meetings organized by the Patriotes denouncing the tyranny of the government were matched by "loyal" meetings opposing their views and pledging support for the Governor and the Constitution. Newspapers representing both camps poured out acrimonious articles which intensified the strained atmosphere. Under such circumstances it would have been only natural for Lord Aylmer to have chosen the side which offered him support and joined the "English" camp.<sup>1</sup> The Governor, regardless, strove to maintain his policy of impartiality, while hoping for a coalescence of moderates. Although he intensified his criticism of the Patriotes, he did not attempt to suppress them nor even campaign in the Colony against them. Lord Aylmer's reports of the summer agitation give indication of his feelings.

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<sup>1</sup> The titles suggest a clear racial division. Although most people of English or British extraction supported the Constitution, and most French supported Papineau, there were important exceptions. Most of the clergy, and long-established seigneurs, as well as the French involved in commerce opposed the French radicals. On the other hand Papineau had Irish and English lieutenants, and several men with Anglo-Saxon names were elected as Papineau supporters in 1834.

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At first appearance, his reports of political activities seem ambivalent. In March 1833, he predicted trouble:

The events of the present Session of the Provincial Parliament ... have certainly contributed to inflame the spirit of political party in the Province, and I think it will not be long before Your Lordship will perceive unequivocal proofs of the acrimony of that spirit, expressed in public meetings.<sup>2</sup>

Then, less than a month later, he sent newspaper reports of riotous political meetings, but accompanied them with the assurance:

Notwithstanding the State of Political Excitement existing in Lower Canada, from which indeed it has not been exempt for many years past, I see no reason whatever to apprehend any interruption to that Public tranquility.<sup>3</sup>

In the same report he clearly stated his personal and official position during the war of words:

I regret these meetings because they tend to foster and keep alive national prejudices, and would willingly influence both parties to abstain from holding them; but this is, I fear, impossible to effect, at least in the present state of Political Excitement - I can therefore only ... repeat the expression of my determination to steer clear of both parties, and to use my best endeavours to allay their mutual animosity.<sup>4</sup>

To maintain such a policy required all the will-power and self-discipline Lord Aylmer possessed. While the Patriotes

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<sup>2</sup> P.A.C., Q, 207-II, Lord Aylmer to Lord Goderich, 30 March, 1833, 350.

<sup>3</sup> P.A.C., Q, 207-II, Lord Aylmer to Lord Goderich, 24 April, 1833, 510.

<sup>4</sup> Ibid., 508.

decried his policies and insulted him, the Clique used flattery and protestations of loyalty in an attempt to enlist his aid.<sup>5</sup> The insults he bore with good humour, or at least dignity, and the blandishments he resisted for the most part. Nevertheless, his concern for the economic development of Lower Canada, the welfare of immigrants, the quality of judges, jurors and officials at times did cause his views to coincide with those of the Oligarchy.

Later in May the Governor had some propitious events to report to England. He sent a newspaper relating that John Neilson had broken with Papineau.<sup>6</sup> Then, on the 26th he reported that Papineau's attempt to stir up excitement by means of a parade and memorial ceremony for those killed in the Montreal riot had failed. He noted especially that the clergy had shown their disapproval by staying away. From this failure, Lord Aylmer concluded that the Patriotes "are sinking in Public estimation."<sup>7</sup> Indeed, Lord Aylmer had a purpose in emphasizing the apparent decline in Papineau's support.

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<sup>5</sup> For example, on the 16th of April, 1833, a meeting sponsored by leading Quebec merchants declared their attachment to the Constitution.

<sup>6</sup> P.A.C., C.O. 42-243, Lord Aylmer to Lord Goderich, 18 May, 1833.

<sup>7</sup> P.A.C., C.O. 42-243, Lord Aylmer to Lord Goderich, 26 May, 1833, 326-7.

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He had adopted as the corner-stone of his effort to preserve orderly government, the nullification of the Act of 1831 which had turned over control of the principal revenues to the Assembly. He repeatedly assured the Colonial Secretary that the increasing disenchantment with the radicals among the clergy, the English, and the better sectors of society in general had made such a move feasible. For example in May, 1833 he wrote:

I have no hesitation in Stating that the State of the Public Mind in Lower Canada is tranquil, and, I have no doubt that if it shall be decided to appropriate the Revenues raised under the 14th of Geo: 3rd as well as others unquestionably disposable to the Crown, to the Support of His Majesty's Government in this Province, to the entrust of the Estimate sent down to the House of Assembly in the course of the last Session, - no evil consequences will result from such a decision.<sup>8</sup>

On January 12, 1834, Lord Aylmer opened the Provincial Parliament. This session was the last in which the moderates were to have any voice. They performed their last service on behalf of the Constitution when they managed to defeat Bourdages' recommendation that the Assembly sever all communication with the Executive. The Governor expressed his pleasure at this display of strength in his dispatch of January 22:

The Violent Party in the House of Assembly certainly calculated with confidence upon being able to induce the House to refuse proceeding to business, and the failure of Mr. Bourdages' motion is considered as a great triumph of the Moderate Party in the House of Assembly; Whether this first success will be productive

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<sup>8</sup> P.A.C., C.O. 42-243, Lord Aylmer to Lord Goderich, 2 May, 1833, 11.

of any further benefit in the progress of the Session is a point upon which I am unwilling to hazard an opinion, and indeed the affairs of the Colony are in such a state at the present moment that even those who are best acquainted with the temper and composition of the House of Assembly are at a loss to conjecture what may be the result of the present Session. But although anxious to guard myself against holding out prospects of success which may ultimately prove illusory, I cannot refrain from expressing an opinion that the Violent Party have received a severe blow and are greatly staggered by the communications which have been made to the House of Assembly since the opening of the Session, and I hope, Sir, you will pardon my freedom when I add that if the firmness of purpose and decision distinguishable in those communications is steadily persevered in, the happiest consequences to the King's Government, and the peace & prosperity of the Province may be anticipated.

Encouraged by this defeat of Bourdages, and by approbation of his firm treatment of the Assembly from the Colonial Secretary, Lord Aylmer refused to sign warrants for the contingent expenses of the House. The Patriotes, however, were not chastened by the new attitude of the Governor and the Secretary of State. On the contrary, they accepted the challenge, and replied in February with the now-famous Ninety-Two Resolutions.

The Resolutions were a list of major and minor grievances, real and exaggerated; accusations against various officials even including the Governor, and the former Colonial Secretary, Lord Goderich; and a threat to rebel unless their

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9 P.A.C., Q, 215-I, Lord Aylmer to Mr. Stanley, 22 January, 1834, 38-39.

recommendations were heeded.

Many people including Papineau were surprised that Lord Aylmer accepted the Address containing the Resolutions. His reasons, however, were consistent with his policy. First of all, the Address was directed to the King, and Lord Aylmer had always accepted such submissions, as shown in the Stuart and Kerr cases. Secondly, he believed that the Resolutions would strengthen rather than weaken his appeal for support from England. He also expected that the threat, exaggerations, and falsehoods in the Resolutions would help discredit the Patriotes in the Province itself. He revealed much of this reasoning in the dispatch sent along with the Assembly's address.

The disrespectful reception given to His Majesty's gracious Communications by the existing House of Assembly on various occasions has not escaped the notice or animadversions of His Majesty's Government, and the same marked disrespect is to be traced in certain proceedings of that Assembly regarding myself - these certainly would have drawn from me appropriate remarks in my communications to the House of Assembly had I not been withheld by important considerations arising out of the peculiar circumstances of the Colony.

The true character of the dominant party in the House of Assembly has long been known to me, and I have always been thoroughly persuaded that it was only by suffering that party to pursue, without interruption the headlong career upon which they had entered that their Schemes would be fully developed and made apparent to the Public - time & patience alone were wanting to bring about this desirable result which at length has been accomplished through the means of their own acts - the party which has so long governed the House of Assembly may now be seen by all in their true Colours. In their Ninety-two Resolutions and the Addresses of the House of Assembly

founded upon those Resolutions, they have traced their own portrait which is now held up by themselves to the view of His Majesty and the Imperial Parliament. This is enough - one single touch by another hand might injure the resemblance.<sup>10</sup>

And not only could they now see in England the Patriotes in "their true Colours", but all reasonable men in the Colony could as well. Indeed, Lord Aylmer still believed that most of the Colonists, including the French habitants, were reasonable.

He realized that, if the home government was to implement his policy of dealing with the political situation with a firm and judicious hand, he must convince the Colonial Secretary also that the mass of the people were reasonable. Thus in the same dispatch he assured him in these words:

It affords me great satisfaction ... to be able to assure You that ... the People of the Province are everywhere perfectly tranquil and I have no knowledge of any Public Meetings having taken place in connexion with the Proceedings of the House of Assembly although efforts have not been wanting to accomplish that object.

The vehemence of feeling which breathes throughout the Ninety-two Resolutions of the House of Assembly is confined to the Walls of that Assembly and to a very limited number of the Country.<sup>11</sup>

Lord Aylmer may have overstated his case at this point, because S. D. Clark observes that at the same time the

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<sup>10</sup> P.A.C., Q, 215- I, Lord Aylmer to Mr. Stanley, 5 March, 1834, 117.

<sup>11</sup> Ibid., 93-94.

Vindicator, reports twenty such meetings.<sup>12</sup> This newspaper, however, was an organ of Patriote propaganda and the Governor may have chosen to disregard its accounts. At all events he was undoubtedly minimizing the amount of sympathy which existed for Papineau, knowing what effect the tone of the Resolutions and exaggerated rumours of strife, in Lower Canada might have on men unacquainted with the Colony. For instance when he learned of the highly-coloured contentions which subsequently were made by J. A. Roebuck during debate on the Resolutions in the House of Commons he ridiculed them:

It is difficult to say what the effect of such a menace may be at the distance of Three thousand Miles from the scene of action, but I can assure you that here it is only calculated to excite a smile of contempt.<sup>13</sup>

Although the Ninety-Two Resolutions were not discriminately organized and were repetitious, Lord Aylmer carefully organized his comments into eleven sections which covered the major complaints presented therein. First, he dealt with the Legislative Council which was obviously the main topic of the Resolutions. Against the charges that the Legislative Council was composed of "men of little property, of no proved fitness; their main qualification being a community of

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12 Samuel Delbert Clark, Movements of Political Protest in Canada, Toronto, 1959, 274.

13 P.A.C., Q, 217-II, Lord Aylmer to Mr. Spring-Rice, 9 September, 1834, 361.

sentiment with the governor, the laws and institutions of the country being the objects of their dislike"<sup>14</sup>, he argued:

The Legislative Council has undergone important changes, all tending to render it more and more independent of the Crown than it was at the period above referred to. This fact is fully established by the following statement. -

Two Legislative Counsellors Puisné Judges of the Court of King's Bench for the District of Quebec (Messrs. Kerr & Bowen) have abstained from sitting and voting in the Legislative Council on being informed of the determination of His Majesty not to appoint Puisné Judges to be Legislative Counsellors in future.<sup>15</sup>

Then, the Governor printed the names of appointees to the Council since 1830 with the "Canadians" designated by an asterisk, and noted by whom the members were appointed. He drew attention to the fact that of eighteen appointees, ten bore French names. In answer to the charge that Counsellors were dependent on the executive, Lord Aylmer emphasized that "Not one of those Eighteen Gentlemen holds office, or is in any way connected with or dependent upon the Government of the Province." He then explained why he regarded the Council of Lower Canada as the most independent in the Empire:

The actual state of the Legislative Council is as follows - It consists of thirty-five members taken from the most opulent, and respectable classes of Society of various origins, in different parts of

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<sup>14</sup> William Kingsford, The History of Canada, IX, Toronto, 1897, 546. "The Ninety-two Resolutions".

<sup>15</sup> P.A.C., Q, 215-I, Lord Aylmer to Mr. Stanley, 5 March, 1834, 97.

the Province, of whom seven only hold office including their Speaker (the Chief Justice of the Province) and the Lord Bishop of Quebec, who is rarely present at the deliberations of the Council.

It would be difficult perhaps to find in any British Colony a Legislative Body more independent of the Crown than the Legislative Council of Lower Canada, and so far am I from possessing as the King's Representative any influence there, that I will not conceal that I have on more than one occasion, regretted the course adopted by the Council.

But whilst I make this confession, I will not deny, but I have on the contrary much satisfaction in avowing, that I repose great confidence in that branch of the Colonial Legislature - it is a confidence derived from my knowledge of the Upright, Independent and Honourable character of the great majority of those who compose it, and of their firm and unalterable attachment to His Majesty's Person & Government, and to the Constitution of the Colony as by Law established.<sup>16</sup>

In the second section of his rebuttal, Lord Aylmer spoke to the charges against the Executive Council, especially that denouncing:

The vicious composition and irresponsibility of the executive council, whose members form the court of appeal, with secrecy not merely as to its proceedings, but even as to the names of its members.<sup>17</sup>

He first offered a list of the changes in the membership of the Executive Council since 1830. It shows that Chief Justice Sewell and Mr. Hale, the Receiver-General had resigned and that Justice Kerr had withdrawn. Of the five persons

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<sup>16</sup> P.A.C., Q, 215-I, Lord Aylmer to Mr. Stanley, 5 March, 1834, 98-99.

<sup>17</sup> Kingsford, The History of Canada, IX, 553. "The Ninety-Two Resolutions."

recommended by Lord Aylmer, he observed that Messrs. Papineau and Neilson had declined the honour; Philippe Panet had served until his appointment to the Court of King's Bench, and he was thereupon replaced by Dominique Mondelet, and that the most recent nominee, Hugues Heney, was an Executive Counsellor as well as being a Law Clerk of the House of Assembly.<sup>18</sup>

Lord Aylmer also expressed surprise that the Assembly should label the composition of the Executive Council as "vicious" and "unrepresentative". Four of the five that he had nominated were of French origin, and all of them were members of the Assembly and all belonged to the Canadian (or Papineau) party in that House.<sup>19</sup> No mention was made, however, of the four Executive Councillors such as Andrew

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<sup>18</sup> When Mr. Heney was nominated, he refused the honour since it seemed to require him to resign his position with the Assembly, and the Council post only paid a salary of £100 per annum. Lord Aylmer argued that Heney should be able to retain both positions, especially if the Executive Council was "divested of its function as an appeal court". The Governor wrote: "If the condition attached to the appointment of Mr. Heney as an Executive Counsellor, arises from the circumstance of his being a holder of office, and not from any incompatibility of the particular office held by him, with that of Executive Counsellor, I take the liberty of stating to Your Lordship, that the difficulty of filling up the vacant seats in the Executive Council, will, I fear, in that case, prove insurmountable.... I have now been upwards of two years endeavouring to fill up the vacancies existing in the Executive Council, with Individuals unconnected with the Government, and although no pains have been spared in making the necessary enquiries my endeavours have ... only proved unsuccessful hitherto; ... P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 13 December, 1832, 297.

<sup>19</sup> Ibid., 102.

Cochran, who had been appointed before Lord Aylmer's arrival, and who did have official posts. The Governor of course was defending only his appointments, and had already recorded his recommendation that the practice of allowing Councillors to continue in office during a succession of Governors be abandoned so that the entire Executive Council would be acceptable to the new Administrator. It is likely that he believed that his view on this matter was well-known and required no re-iteration. He did repeat, on the other hand, his recommendation that the Executive Council's role as a court of appeal be discontinued, and added -

that it should still continue to be a Board of final audit of Public Accounts, assisted by a subordinate Board of Audit, the establishment of which would render the two distinct, and often conflicting Offices of Inspector General and Auditor General of Accounts no longer necessary.<sup>20</sup>

He reminded the Colonial Secretary that the creation of the subordinate Board of Audit had been the intention of the Assembly in each of the last three sessions, but that the Bills had been rejected by the Legislative Council

in consequence of the interference of the House of Assembly with the Prerogative of the Crown in naming in the Body of the Bills the Individuals (selected by the House) to compose the Board; providing for their holding office during good Behaviour, and for the removal from office on the single Address of the House of Assembly.<sup>21</sup>

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20 P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 13 December, 1832, 102-3.

21 Ibid., 103-4.

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It may be recalled also that the Patriotes had stated their intention of allowing only those of French origin to serve on the Board, ignoring any technical qualification. Accordingly, Lord Aylmer was attributing the lack of a Board of Audit to the irresponsibility of the Assembly, and with justification.

Under the third section of his reply to the charges of the Assembly, the Governor dismissed the general allegation of "fraudulent and illegal" disposal of Crown land with the observation that the Governor did not have the power to grant "a single acre of the Crown Lands without the authority of the Secretary of State ... or under Regulations sanctioned by His Majesty's Government."<sup>22</sup> Clearly, Lord Aylmer was implying that he neither could nor would attempt to answer allegations of such a vague nature. His forthright rejection of the complaints of venality in the Crown Lands Commission appears sincere. His reliance on the advice and reports of Mr. Felton, the Chief Commissioner show his regard for the honesty and talent of that official. Consequently, he must have been greatly shocked by the revelation in the Report of Crown Land returns of May 1834 to discover that Mr. Felton had acquired for himself and his family over twenty-three thousand acres of Crown Land. Nearly all of this vast amount of land had been acquired before Lord Aylmer took office.

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22 P.A.C., Q, 203-I, Lord Aylmer to Lord Goderich, 13 December, 1832, 104.

In July 1834, Lord Aylmer disclaimed any knowledge of Felton's excessive possession:

I have to observe that the Circumstances connected with this subject having occurred previous to my assumption of the Government of this Province I have no knowledge of them besides what is derived from the Documents now transmitted.<sup>23</sup>

At the same time he explained the sole grant made during his own term:

In the Statement of the Secretary of the Province ... there appears a Grant to Mr. Felton during my Administration, of Six hundred Acres, as late Purser in the Royal Navy. That Grant was issued upon the recommendation of the Executive Council, ... and I take leave to observe, that had I been then aware, which I was not, of the large Grants already obtained by Mr. Felton, I should not have given my sanction to that recommendation.<sup>24</sup>

It is obvious that Lord Aylmer regarded Felton's acquisitions as excessive. He did not know, and the Colonial Department officials were just beginning to investigate, whether Felton had obtained them legally.<sup>25</sup> Until this question was settled, the Governor had no reason to dismiss the Commissioner, since possession of large amounts of Crown Land was not in itself

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<sup>23</sup> P.A.C., C.O. 42-252, Lord Aylmer to Mr. Stanley, 3 July, 1834, 77.

<sup>24</sup> Ibid., 78.

<sup>25</sup> In 1830, Sir James Kempt had reduced Felton's application for 12,000 acres of land drastically, but the Provincial Secretary had transferred the 12,000 acres to Felton and his family either in error or as an accomplice.

illegal.<sup>26</sup> Finally it is credible that the Governor was not aware of the extent of Felton's holdings. Even the records of the Secretary of the Province did not reveal the whole picture. Either through connivance, or poor accounting the Secretary's records showed Felton to have 16,800 acres whereas the Parliamentary returns showed him to have 23,541. Significantly, the Assembly never attempted to implicate Lord Aylmer personally in any scandal concerning the issuance of Crown Lands.

Under the fourth heading, "The Case of Mr. Mondelet", Lord Aylmer merely referred to his previous dispatches on the case. At all events, he had already sought and received Mr. Stanley's approval of his actions; which fact had been related to the House. As a result their complaint was directed ultimately at the policy of the Colonial Secretary.

The situation was similar in connection with the Assembly's protest against the presence of military forces at elections. Clearly they were alluding to the events in Montreal during the by-election of 1832. Again the Governor merely noted his previous dispatches. He did add a word about the Assembly's ponderous inquiry into the affair:

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<sup>26</sup> Kingsford, History of Canada, IX, 623. Mr. Felton was dismissed from his post after an investigation by Lord Gosford in 1836 into charges of dishonesty and malversation of office made by the House against the Crown Land Commissioner.

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It is however worthy of remark that the House ... has been engaged in a most laborious investigation of this Subject, during the whole of the last and present Sessions, and it is generally supposed that few if any Witnesses, have even yet been examined in disculpation of the parties implicated by the House, at all events it is certain that the Committee of the whole House which has been so engaged have not yet made their Report, and yet the Subject of this Solemn Inquiry still pending is described in the Resolutions of the House of Assembly as "a Sanguinary Execution of the Citizens by the Soldiery".<sup>27</sup>

In this statement, Lord Aylmer patently intended to show that whatever legal improprieties the Assembly may have imputed to him, their own conduct was not blameless.

Lord Aylmer's comment upon the Canada Tenures Act has a tone more of resignation than of support. His opening observation that:

it must be taken for granted that this Subject was well and duly considered by His Majesty's Government before recommending it to the consideration of the Imperial Parliament,<sup>28</sup>

is ambiguous. These words may have been only a diplomatic form. On the other hand they may imply that he doubted the real wisdom of its adoption. Or they might possibly have been written in favour of the measure. The latter interpretation gains some weight from the fact that he had withdrawn his support for the censitaires' plea for the extension of

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27 Kingsford, History of Canada, IX, 107.

28 P.A.C., Q, 215-I, Lord Aylmer to Mr. Stanley, 5 March, 1834, 107.

seigneurial tenure into the Townships.<sup>29</sup> It is worthy of note, however, that he did not directly praise the Tenures Act.

His chief comment instead was that:

....having been now for a considerable time in operation, the effects of the Tenures Act have become interwoven to a degree which must unavoidably increase every day, with the concerns of the Inhabitants of the Province in relation to their Property; & I think the observance of extreme caution will therefore be necessary in making any attempt to alter or modify its provisions.<sup>30</sup>

It is curious that Lord Aylmer would have argued that the Tenures Act was so interwoven with the civil affairs of Lower Canada. Commutation of seigneurial land had not up to 1834 become common. As well, he had himself remarked back in 1831 that the whole mixture of French and English civil law created problems. Some of his admonition to be cautious may have arisen from the fact that no action had yet been taken on the recommendation he had made in 1831 to set up a special Commission to revise all the Laws in the Province. He may have feared that any major change in the Tenures Act would have served to increase the difficulties of administering civil justice, unless the whole legal apparatus was first revised; a step which his experience in the past three years must have taught him was unlikely.

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<sup>29</sup> See page 105 above.

<sup>30</sup> P.A.C., Q, 215-I, Lord Aylmer to Mr. Stanley, 5 March, 1834, 107-108.

Some of his caution may also have been the result of the importuning of the English leaders. Andrew Stuart, and the English merchants were arguing that the Tenures Act was vital to the commercial development and future prosperity of the Province.<sup>31</sup> The depression of 1834, although a result of other factors, may also have contributed to Lord Aylmer's cautious attitude toward the Tenures Act.

Whatever his reasons, he was once more expressing views similar to those of the English Oligarchy.

On the subject of the control of the revenue of the Province he merely pointed out the obvious fact that the Assembly was asserting the right to control all revenues without exception. He then turned to the accusation that the Executive had withheld public documents thereby impeding the work of the House. In rebuttal, he forwarded the House's twenty-five requests for documents and his replies. There were only four instances where he refused to divulge the documents and he stated that "if necessary" he would reveal his reasons. He further denied that there had been instances where he had refused to instruct public officials to furnish documents on request of the House, although he did concede that there were occasions when officials had refused to leave public documents in the possession of the Committees of the

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<sup>31</sup> Donald Creighton, The Empire of the St. Lawrence, Toronto, 1956, quoting from The Montreal Gazette, 1 February, 1834, 273.

House. He argued that these refusals were justified in this vein:

it is very obvious that ... a large portion of the Public Documents of the Province would be transferred during an entire Session to the Committee Rooms of the House of Assembly, to the great interruption of the ordinary business of the Departments concerned, to say nothing of the risk of loss, or damage to the Documents themselves whilst in possession of the Committees.<sup>32</sup>

While this argument reveals again his low opinion of the majority of the representatives, it is probably based also on the consideration of the time and expense that would be required to furnish copies.

The seventieth Resolution alleged that the Governor-in-Chief had paid large sums out of public revenue without lawful authority. Lord Aylmer surmised that this charge alluded to the payments made to public officials of part of their salaries. In his defence he attributed his action to "the instructions of His Majesty's Government", and "the authority of the existing laws of the Province". To leave no charge unanswered, he even explained that one extraordinary expenditure which had gone to meet unforeseen expenses in combatting the cholera epidemic had been "sanctioned without hesitation by the House of Assembly during the present

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<sup>32</sup> Creighton, The Empire of the St. Lawrence, Toronto, 1956, quoting from The Montreal Gazette, 1 February, 1834, 110.

Session".<sup>33</sup>

Later in the dispatch, but in connection with the lack of a Supply Bill which occasioned the extraordinary use of public funds mentioned above, the Governor advised the home government of the seriousness of the fiscal situation in these words:

I cannot here avoid most earnestly to solicit the early attention of His Majesty's Government to this important subject, for our daily increasing difficulties are such as to excite lively apprehensions for the very existence of the King's Government in the Province from the want of means to carry on its ordinary operations.

The Salaries of some of the Public Officers are now ten months and others thirteen months, in arrear, to alleviate in some degree their distresses arising from this unprecedented circumstance, I purpose making a similar advance to that authorized by Your Dispatch of the 6th of June 1833 - No. 13, to be charged upon the same Funds, being those which are at the disposal of the Crown, towards defraying the Expenses of the Civil Government, and the Administration of Civil Justice. But this can only prove a temporary relief, and unless speedily followed by the payment of the Balance due on Account of their Salaries, will not effectually relieve the distress of the Public Officers.<sup>34</sup>

It is worthy of note that the Governor again used initiative and applied an instruction from England as he thought best. Despite being in such political difficulties he retained his confidence in the correctness of his policy. In this regard

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<sup>33</sup> Creighton, The Empire of the St. Lawrence, Toronto, 1956, quoting from The Montreal Gazette, 1 February, 1834, 111.

<sup>34</sup> Ibid., 113-114.

he was doubtlessly encouraged by the firm support which he received from E. G. Stanley in contrast to the vacillating policy of Lord Goderich.

His plea for attention to the question of the government of Lower Canada undoubtedly implied an adoption of his recommendation to restore the revenues from the 14th of Geo: 3rd to the Crown for the support of the civil administration in that Province, although he did not specifically mention it in this dispatch. Nevertheless, he did send a draft of an act drawn up by his officials for that purpose, on March 15, along with this assertion:

nothing short of the disposal by the Crown of the Revenues arising from the 14 of Geo 3<sup>d</sup> cap. 88 will enable His Majesty's Government to hold its ground in this Province: And I am more than ever persuaded that every thinking man in the Province is prepared for such an arrangement.<sup>35</sup>

Thus, he has become confirmed in the policy first mentioned during the previous session of carrying on with the revenues formerly available to the Crown, in the expectation that the violence of the Patriotes would ultimately discredit them, leaving the way clear to a resumption of orderly government.

Even the Governor's refusal to sign a warrant to meet the contingent expenses of the Assembly was linked to his concern for the plight of the public officials who were not receiving their full salaries as a result of the failure of

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<sup>35</sup> P.A.C., Q, 215-II, Lord Aylmer to Mr. R. W. Hay, 15 March, 1834, 360.

the Supply Bill. In explanation of this refusal, which was the subject of Resolution eighty-three, he confessed that part of his reason was the hope of maneuvering the Assembly into passing an acceptable Supply Bill. In any case he felt that providing money for the Assembly when that body was keeping some civil servants on the point of destitution would be unfair. He also expressed his objection to the House's purpose of paying officers and agents who had been illegally appointed on the sole authority of the House with the funds requested. He even conjectured that Papineau made the request as part of some devious scheme.<sup>36</sup>

Finally, in the eleventh part of his rebuttal, he observed that since the Assembly had impugned the conduct of public officials only in general terms, he could but answer "by a general and unqualified contradiction".<sup>37</sup> At the end of May, however, in a private letter to Mr. Stanley he was moved to make charges of his own against the Assembly:

(It) might readily be proved that the leaders of the House of Assembly possess ample means of rewarding their followers - such as grants of public money for local purposes, and in other ways that can only be detected after a long and intimate acquaintance with the affairs of the Colony, and I do not scruple to assert that admitting in their full extent the charges of the House of Assembly against the Executive Government, of corruption

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36 P.A.C., Q, 215-II, Lord Aylmer to Mr. Stanley, 5 March, 1834, 84.

37 Ibid., 112.

and malversation, the practices of that Assembly in the appropriation of public money are infinitely more corrupt.<sup>38</sup>

Obviously, this statement was a very imperfect defence of the Executive, and would not have been suitable as a formal reply to the Ninety-two Resolutions, but it does convey some of the antipathy that the actions of Papineau and his followers had aroused in the Governor.

Lord Aylmer's eleven points of comment did not, of course, meet all of the charges contained in the Ninety-two Resolutions, although they did deal with the key accusations. There are five points in addition on which one might have expected a comment. Two of these, however, were probably passed over because they lay more within the competence of the British government than with the Governor-General; namely, the Assembly's contention that the French-Canadians' customs, laws, and civil rights were guaranteed by treaty and were consequently inviolable, and the argument that the House had a constitutional right to make the removal of certain grievances a condition attached to a supply bill.<sup>39</sup>

The Resolutions' description of the racial composition of Lower Canada was a third unanswered topic. William

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<sup>38</sup> P.A.C., Q, 216-III, Lord Aylmer to Mr. Stanley, 29 May, 1834, 488.

<sup>39</sup> A device called a "tack" which was declared unconstitutional on at least two occasions by the Secretary of State.

Kingsford contended that the estimate of the relative proportions of the French and British populations used in the Resolutions was biased in favour of the French.<sup>40</sup> If this were so, it is curious that Lord Aylmer did not correct the statement. He may have expected that the discrepancy would be apparent to the Colonial Office from the statistical reports sent previously.

Another Resolution with which Lord Aylmer's report of March 5th did not deal was number seventy-five. It complained of the small number of civil servants of French extraction. His views on this matter, however, were later presented in a speech to some English citizens of Montreal, and subsequently relayed to the Colonial Office on May 29th. After sarcastically pointing out the problems of trying to distribute the "honors and employments" in proportion to the population divisions by any mechanical system, he averred that it was his intention

that the most rigid impartiality shall be observed in distributing the honors and employments at the disposal of the Crown; and, that without reference to National Origin, he who shall be considered the best qualified for employment, or the most deserving of honors shall be the Individual preferred.<sup>41</sup>

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<sup>40</sup> Kingsford, The History of Canada, IX, 491, and 552. The balance in the Resolutions was 525,000 of French and 75,000 of British or other origin, while Kingsford calculated that 370,000 were of French, and 183,000 were of English or Irish origin.

<sup>41</sup> P.A.C., Q, 216-III, Lord Aylmer's response to the "Loyal Petition" of the Inhabitants of Montreal, May 1834, 494-6.

Furthermore, this policy was reiterated on two occasions when Lord Aylmer was discussing the appointment of Samuel Gale to the post of Puisné Judge. On September 2nd, he wrote the new Colonial Secretary Mr. Spring-Rice:

The integrity and respectability of Mr. Gale's character - his experience, and knowledge of his Profession - the considerations he enjoys as a Member of the Bar - his qualifications, in short for the high office to which he has been called appear not to be disputed by those who are opposed to his appointment; but it is urged against him, by them that he is not a Canadian of French Extraction; and that he has shewn himself, in politics, a partizan (sic) of the Administration of the Earl of Dalhousie, ...

Personally, I have very little knowledge of Mr. Gale, ... (having only met him once about 3 years ago), and upon that occasion an impression was created in my mind, which has not since been effaced, that Mr. Gale was opposed to the line of Policy I had adopted in administering the Government of the Province. My selection of him, therefore, ... could not have originated on my part in personal or political motives, - it was in fact the result of a very strong recommendation of himself by Mr. Reid, the Chief Justice of the District of Montreal, who himself stands as high as any man in the Province for purity, & independence of character, and for sound Judgment.<sup>42</sup>

Despite the Governor's commendable display of impartiality in appointing a person who opposed his policy, it was not a very wise appointment under the political circumstances. Chief Justice Reid may have been pure and independent, but he was biased in favour of English law, and undoubtedly Mr. Gale

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<sup>42</sup> P.A.C., Q, 217-II, Lord Aylmer to Mr. Spring-Rice (private), 2 September, 1834, 322-323. Lord Aylmer also disavowed any political or racial bias in appointing Gale in another letter to Lord Aberdeen, 18 March, 1835.

shared this bias. The choice of a person with a strong English bias was not a suitable way of demonstrating the Governor's proclaimed impartiality to the Canadians. Indeed his reliance on the judgment of the chief judicial officials, and his appointments to judicial posts were the most unfortunate facets of Lord Aylmer's governorship.

Lord Aylmer's mixed feelings regarding judicial appointments in the last months of his governorship are revealed in a private letter to Mr. Spring-Rice, November, 1834. The Colonial Secretary had recommended that the French Canadian representation on the Bench be increased, and urged specifically that Justice Kerr's posts be filled by two French Canadians who while not being Patriotes were acceptable to the House. Lord Aylmer explained the dilemma such a recommendation created:

In the first place, it is nearly impossible to make any Selections acceptable to the Majority of the House of Assembly unless the person selected shall be a decided Partizan of theirs, and in the next place there is not within my knowledge any such decided Partizan of theirs who possesses the indispensable qualifications of knowledge & Integrity. The Lawyers attached to that Party are almost all Jurymen of low standing.<sup>43</sup>

He also pointed out that even a Partizan of the Patriotes would be regarded as an outcast by them for merely accepting a place on the Bench. Obviously Mondelet's rejection by

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<sup>43</sup> P.A.C., C.O. 42-252, Lord Aylmer to Mr. Spring-Rice, 28 November, 1834, 378-9.

Papineau was the premise for this conclusion, and for the warning which followed: "In one word it is utterly impossible to propitiate that party by any sacrifice whatsoever as their influence as a party will be destroyed whenever they become reconciled to His Majesty's Government."<sup>44</sup>

Part of his explanation to Spring-Rice contained an attitude uncharacteristic of Lord Aylmer. Although he often expressed his racial impartiality, and seemed prepared, both before and after the time of writing, to increase the proportion of French-Canadians in official posts, he wrote:

I take for granted that the main object of His Majesty's Government must be to render Lower Canada essentially, & in principle a British Colony otherwise it must ever remain a Foreign Country, as it is in fact at the present Moment, in regard to Great Britain, to effect this object it appears to me to be absolutely necessary to Secure the Ascendancy (of) British Interests on the Bench, and in the Executive & Legislative Councils ...<sup>45</sup>

This outburst clearly is at variance with the Governor's line of policy. In addition, his warning words: "The Political connexion (here?) between (England), & this Country, must be ever in danger unless British Interests are paramount in the Departments of the State above mentioned,"<sup>46</sup> were not in

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<sup>44</sup> P.A.C., C.O. 42-252, Lord Aylmer to Mr. Spring-Rice, 28 November, 1834, 378-9.

<sup>45</sup> *Ibid.*, 381. Lord Aylmer's handwriting in places is undecipherable, and the sentences are not coherent. Perhaps the tone, and the poor writing indicate that the letter was written in haste or in anger; (both of which are also uncharacteristic of the Governor).

<sup>46</sup> *Ibid.*

accord with his efforts to dispel fears at home of rebellion in the Province.

This departure from his customary urbanity may have been caused by the Patriote triumph at the polls, or by some particularly galling personal insult emanating from the Patriote leaders and newspapers. Or it may have arisen from the discussions with Chief Justice Sewell to which he alluded later in the letter.<sup>47</sup>

In 1835, he again excited the Patriotes by filling three judicial posts with one French and two English appointees. According to his letter to Lord Aberdeen, he believed that these appointments would be well-received both by the French people and by the bar.<sup>48</sup> Nevertheless, the French appointee, Mr. Duval, had opposed the Ninety-two Resolutions, and consequently had been defeated in the election of 1834. The Patriotes had naturally denounced Duval for his disloyal opposition, and his appointment would undoubtedly have been interpreted by the supporters of Papineau as a reward for this "betrayal", rather than as a gesture of conciliation.

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<sup>47</sup> P.A.C., C.O. 42-252, Lord Aylmer to Mr. Spring-Rice, 28 November, 1834, 389. "The advancement of French Canadians to the Bench in larger proportions than has hitherto been the practice is an object which engaged my early attention on assuming the government of this Province, and in the crises of last summer I had many Conversations on that subject with Sewell the Chief Justice of the Province. Since the receipt of your letter I have renewed it with him ..."

<sup>48</sup> P.A.C., Q, 222-I, Lord Aylmer to Lord Aberdeen (private), 30 April, 1835, 129.

The remaining unanswered charge is also connected with the judiciary. Resolution seventy-seven states that the judges were attempting to abolish French in the courts. Very probably jurists such as Mr. Reid were in favour of at least making English the preferred language in the courts. For his part, Lord Aylmer had requested, in May 1833, that a recent act which had gone into effect with his support be disallowed by the Crown.<sup>49</sup> The act in question regulated the qualification and the summoning of jurors. The Governor had passed on the complaints of English judges and lawyers that the act created intolerable conditions at trials. He had pointed out to Lord Goderich that many times juries were composed of ignorant and illiterate French-Canadians, and that the act permitted juries to be packed in favour of French political figures, including libellous newspaper editors.<sup>50</sup>

The home government had, nevertheless, rejected the Governor's recommendation and merely assured him that the Provincial Legislature would be moved to amend the Jury Act by the continuing evidence of its inadequacies. Since

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<sup>49</sup> P.A.C., C.O. 42-243, Lord Aylmer to Lord Goderich, 16 May, 1833, 156-162. A fuller text is included in the Appendix.

<sup>50</sup> P.A.C., Q, 217-II, Lord Aylmer to Mr. Spring-Rice, 29 October, 1834, 490. Lord Aylmer stated that he believed that it would be futile to bring the newspaper l'Echo du Pays to trial for seditious libel because no Canadian jury would vote for conviction. See also his comment about the editors of La Minerve and the Vindicator above, page 74.

Stanley had replaced Goderich in the intervening period, it is curious that Lord Aylmer did not attempt to reopen the question of the Jury Act, or at least allude to the problems it created in reply to the charge of Resolution seventy-seven.

Until March 1835, Lord Aylmer continually assured England that the Province was "tranquil" in the wake of the Ninety-two Resolutions. He did not conceal the fact, however, that there were meetings or rallies being held by both those who wanted to alter and those who wanted to preserve the Constitution. On May 1st, 1834, he reported:

(Papineau's) Agents have been actively employed since the prorogation of the Provincial Parliament in getting up Meetings in various parts of the Province, but the result has proven anything but favorable to their Views. Upon those occasions discussions have taken place which have given rise to other Meetings in an opposite sense, and thus the Canadians of French origin who have heretofore been united in favor of the Majority of the House of Assembly, now take up different sides of the question, ...<sup>51</sup>

And on May 29th, he wrote:

Since the date of my Letter (8 May) no event of a public nature has occurred in Lower Canada deserving any particular notice. Meetings continue to be held in various parts of the Province, some in favor of, and others condemning, the Proceedings of the House of Assembly - but upon all these occasions, the utmost tranquillity prevails, and I have in no instance heard of their being attended with any attempt at a breach of the Peace.<sup>52</sup>

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<sup>51</sup> P.A.C., Q, 216-II, Lord Aylmer to Mr. Stanley, 1 May, 1834, 268.

<sup>52</sup> P.A.C., Q, 216-III, Lord Aylmer to Mr. Stanley, 29 May, 1834, 485.

He mentioned also the verbal battles between the newspapers supporting each party, but indicated that the editorial violence was harmless to public order.<sup>53</sup>

At the same time there was an energetic contest between the Patriotes and the English party to produce petitions supporting their positions. While pointing out that fraudulent means were often used by the agents of Papineau, he denied that the Administration had any part in "Loyal" meetings or in circulating petitions reflecting the views of the English party. For example he wrote in May:

I beg of you, Sir, to be assured that the Executive Government of the Province has no Share in the Meetings which are termed here loyal Meetings, although the contrary is maintained by the Opponents of Government - the people are left entirely to themselves in that respect, and I must not omit remarking, that every shift & expedient is resorted to by the Violent party to obtain signatures to their Addresses in favor of the proceedings of the House of Assembly - such as practising upon the credulity of the ignorant Inhabitants by stating that the Addresses they are called upon to sign, have for their object to save them from the imposition of Taxes, and from being called upon to perform Military Service, and other pretences of the same description, - the Signatures of Children & females are taken in the latter case by giving the Initials only of the Christian name; but in many cases even the Signatures, or affixing of a Cross to the name is not required, but the Agent in his rounds, enquires at different houses on his Passage, the names of the Inmates which he adds to his list without further Ceremony.<sup>54</sup>

<sup>53</sup> P.A.C., Q, 216-II, Lord Aylmer to Mr. Stanley, 8 May, 1834, and Q, 216-III, 16 June, 1834 are examples.

<sup>54</sup> P.A.C., Q, 216-II, Lord Aylmer to Mr. Stanley, 1 May, 1834, 269-270.

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The Governor was anxious to discredit the Patriotes, and this warning is obviously part of his efforts to that end. It is very unlikely that he was so naive as to believe either that only the Patriote petitions bore fraudulent signatures, or that no one connected with the Government had any part in organizing "loyal meetings" or petitions. His coloured reports were designed to minimize the effect of the Patriotes' campaign in England during what he believed to be a critical period.

The spring and summer of 1834 he regarded as critical because he imagined that the Patriotes were losing their following in spite of their energetic campaign. What he feared was that the Resolutions, addresses, and spokesmen of the Patriotes in England were combining to create the belief that the Colony was going to rebel, and that the Imperial Parliament consequently might be moved to some act of desperation such as yielding unconditionally to Papineau's demands. To counteract the effect of Opposition propaganda, he drew a detailed picture of the political state of the Province for the recently-appointed Colonial Secretary Mr. Spring-Rice:

(the leaders of the Patriotes) are indefatigable in their efforts to deceive .... Amongst those efforts of deception may be classed the impression which it would appear they have contrived to create in the Minds of several members of the House of Commons that this Country is now in a state nearly resembling (sic) that which in the United States immediately preceded their struggle for Independence. If such were really the case I should be deserving the severest punishment were I to conceal the fact from His Majesty's Government - but I can with the utmost

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confidence assure you that nothing upon Earth can be more remote from the truth - The French Canadians it is true will eagerly listen to, and will even subscribe to the list of sham grievances, which the leaders of the disaffected party possess such a surprising talent in inventing - but as to anything beyond that, any attempt at an armed opposition to the constituted authorities, I believe no thought ever entered into the Contemplation of the most fiery Patriot in the Province - besides the circumstances of the United States at the period alluded to, and of Lower Canada at the present day are totally dissimilar - The former were an active enterprising people speaking the same language - inheriting from their Ancestors an ardent love of liberty & independence - possessing the same habits - the same attachments - and having one common object in view - the latter are a divided people and of distinctive characters totally opposite - the French Canadians a tranquil, contented race - orderly and obedient to the laws and troubling themselves very little about abstract notions of government, and disposed to be satisfied with any under which they may be exempt from taxation and be permitted to free (sic) exercise of their Religion. - these compose the majority of the population, and they are made the Instruments by means of which a small number of factious men contrive to gain an ascendancy in the House of Assembly and to embarrass (sic) the operations of Government with a view to the acquisition of power. The minority in the Province is composed of the English Settlers and Merchants, and the Americans who abandon their own Country for the superior advantages which are to be found here. - this minority makes up for its deficiency in numbers by its wealth, energy & superior Industry, and in the event of any Insurrectionary Movement on the part of the French Canadians (which I cannot too often repeat is one not to be dreaded for one moment) would almost to a man range themselves on the side of the British Government ... I am well aware that it is part of the Game now playing (sic) by the disaffected in the Province to inspire the belief at home that the people are on the point of taking up Arms, but once for all I beg of you to be assured that their tongues, and their pens are the only weapons to which they will ever have

recourse in the war they are waging against the British Government & the Influence of the Mother Country.<sup>55</sup>

He did not convey any hope that the autumn election would improve the situation in the Provincial Assembly. On the contrary he predicted -

the new House of Assembly will prove still more unreasonable than the last - every effort is being made to exclude the opponents of the Ninety-two Resolutions; and it is thought that a declaration of their determination to adopt, & to act upon these Resolutions will be required from the Candidates at the approaching Election.<sup>56</sup>

From the observation of the Governor-in-Chief, therefore, England could not expect a speedy amelioration of the political troubles of Lower Canada. Nevertheless, Lord Aylmer had a course of action for the period of crisis which he pressed on the Colonial Office.

He estimated that the political inexperience of the French electors was the basis of the problem. He declared this in May;

so long as the great body of the French Canadians who send the majority of the Members to the House of Assembly shall remain as ignorant as they now are, the Constitution of the Province granted by the British Parliament will never work beneficially. It will on the contrary be constantly made use of as a stalking horse behind which a few crafty, and unprincipled demagogues will contrive to render abortive every attempt of the Mother Country to

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<sup>55</sup> P.A.C., Q, 217-II, Lord Aylmer to Mr. Spring-Rice, 8 October, 1834, 447-450.

<sup>56</sup> Ibid., 450.

consolidate British Interests, and to promote the real welfare of the Country.

But in advancing this opinion Justice must be rendered to the great mass of the population of French origin - they are a contented, loyal, and honest people, and yet paradoxical as it may appear, this very people will return to Parliament men who are the very reverse of themselves...<sup>57</sup>

When Lord Aberdeen became Colonial Secretary he repeated this analysis:

the favor enjoyed by Mr. Papineau ... is to be traced to the ignorance of the great mass of the Canadian Population. Altho' by their Support of that Individual and his followers they contribute to embarrass the King's Government, and to retard the improvement of the Country, they are not conscious that such is the fact - ...<sup>58</sup>

It is clear, then, that Lord Aylmer considered the ignorance of the French voter to be the crux of the political problem.

He might have recommended, as Lord Durham did five years later, that encouraging British emigration for the purpose of submerging the French element in a British tide was the solution. This recommendation, however, is not evident in his dispatches. Rather, he looked to a long-range solution, beginning with the improvement of education in the Province. He made this clear in his speech closing the session of 1834 when he said:

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<sup>57</sup> P.A.C., Q, 216-III, Lord Aylmer to Mr. Stanley, 29 May, 1834, 487-8.

<sup>58</sup> P.A.C., Q, 221-I, Lord Aylmer to the Colonial Secretary, 23 February, 1835, 160.

I very sincerely wish that the general diffusion of Education may have the effect of promoting the happiness of the People ... It will at all events be productive of this great benefit that it will make the People better acquainted than they now are, with the political advantages they enjoy in comparison of other Communities in various parts of the world, and will enable them to estimate at their true value the arguments of those who endeavour to render them dissatisfied with their condition, and whose Education gives them the facility in clothing in specious language the Inspirations of a weak or disordered Intellect.<sup>59</sup>

Thus he hoped that education would save the French-Canadian from the sophistry of the Patriotes. There were pitfalls in this road to salvation of which the Governor was aware when he reserved Bill eleven, An Act for the Further Encouragement of Education.

In the education system, there were Boards of Visitors chosen by the Assembly Committee on Education and including the captains of militia and the parish priests in each district. These Boards were to report to the Assembly Committee how well each school was performing.<sup>60</sup> Explaining his reason for reserving Bill eleven, Lord Aylmer wrote:

the influence of the School Visitors is exercised for political purposes, and as the most active and the most considered in the several Counties, of these School Visitors are the County Members, the particular tendency of that influence may be readily imagined, and as to its extent, it will

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59 P.A.C., Q, 215-II, Lord Aylmer's Speech at the Close of the Session, 18 March, 1834, 379-380.

60 H. T. Manning, The Revolt of French Canada 1800 - 1835, Toronto, 1962, 314.

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be sufficient to state that the Elementary Schools in the Province amounted ... to nine hundred and two ...

The Act now reserved goes ... to augment to a limited extent the rewards to the Teachers, at the discretion of the School Visitors.

In a word the several Acts for the management of Elementary Education have the effect of placing the Education of the Youth of the Province in the hands of the Majority of the House of Assembly, and the proceedings of that Body sufficiently indicate the use to which such extensive and important powers have been and will be applied.<sup>61</sup>

Thus, providing elementary education free of Papineau's influence he recognized would be difficult. There was some source of hope, nevertheless. The priests were very important on the Boards of Visitors and almost all of them had become opponents of the "Violent party".

The other foundation stone of Lord Aylmer's solution was to render the Executive, Judges, and Public Servants independent of Supply Bills from the Assembly, and then to carry on the government in a manner which benefited the Province.<sup>62</sup> This benevolent and effective government, he calculated, would contrast so sharply with the recent sessions of the House rendered ineffective by the obstruction of

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<sup>61</sup> P.A.C., Q, 216-I, Lord Aylmer to Mr. Stanley, 17 April, 1834, 121-122.

<sup>62</sup> Besides earlier recommendations that the revenues of 14th Geo: 3rd should be assumed by the Crown, Lord Aylmer asked for this act on 29 May, 1834 (Q, 216-III, to Mr. Stanley), on 11 September, (Q, 217-II, to Mr. Spring-Rice), and 23 February, 1835, (Q, 221-I, to the Colonial Secretary).

the Patriotes, that the French voters would soon recognize its value and desert the false friends they now supported.

He wrote in February, 1835:

until they (the Canadian people) shall become more enlightened, or until some efficient measure shall be adopted by the Imperial Parliament to improve the Representative System of the Province and to render the Judges and the Public Servants of the Crown independent of an Annual Vote of the House of Assembly, the same impediments to good government and to the improvement of the country, must continue to exist.<sup>63</sup>

Presumably the reference to the improvement of the Representative System in this passage alludes to giving the Anglo-Saxon part of the population more weight. He had in March 1833, referred to improving the representative system:

with the view of providing more effectually for eventual representation of an increased and increasing British population, and by creating certain qualifications of property for Electors, and for Members of the House of Assembly, in which the monied & Commercial Interests shall be admitted to have their due weight.<sup>64</sup>

Lord Aylmer, however, did not refer to changing the electoral system again.

It is significant that Mr. Frederick Elliott, secretary to the Gosford Commission which was sent out to Lower Canada in 1835 to attempt some conciliation with the Assembly, and who was on his arrival predisposed to concede a great

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63 P.A.C., Q, 221-I, Lord Aylmer to the Colonial Secretary, 23 February, 1834.

64 P.A.C., Q, 207-I, Lord Aylmer to Lord Goderich, 25 March, 1833, 221.

deal to the Radicals, indicated that Lord Aylmer's plan had a chance of success. He agreed that the French-Canadians in general were docile, loyal, and naive in politics. Although he did not agree with Lord Aylmer's idea of drawing a firm line with Papineau, he agreed that education of the masses would help turn the people from Papineau. As well, he reported that many of the habitants he had sought out and interviewed were turning against their elected representatives because those representatives were too busy playing politics to deal with pressing legislation, the lack of which was causing hardship and suffering. He also predicted that in time the habitants would not be so easy to hoodwink, and he stated that the Radicals were already concerned that reaction against them was arising.<sup>65</sup>

Lord Aylmer's immediate strategy, then, was to carry on the normal functions of government and hold a firm line in face of the Patriotes' obstructionism. It appeared that he had second thoughts, however, about using the threat of Legislative Union or the annexation of Montreal by Upper Canada as a means of coercing the Radicals. In January 1832, he had believed in the efficacy of this threat, but in May

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<sup>65</sup> P.A.C., A. 23, Frederick Elliott to Sir Henry Taylor, 20 October, 1835. It is also significant that by 1836 Elliott was as dubious as Lord Aylmer about the results of granting the demands of the Assembly, especially fearing evil consequences if the Legislative Council was made elective.

1834, he wrote to Lord Stanley:

I hope, Sir, you will be pleased to pardon me for stating my opinion regarding a Union between the Provinces of Lower & Upper Canada. I freely confess that I should not anticipate any beneficial results from that measure. The geographical form of the Canadas presents a long line of waters along the banks of which the Population is scattered, and a Legislative Union would bring together at some intermediate point the Inhabitants of Districts perhaps one Thousand or Twelve Hundred miles distant from each other, having few objects of Common Interest, and many of a directly opposite character - to say nothing of withdrawing to a great distance from their homes such Individuals as usually compose popular Assemblies in a new Country, every moment of whose time is valuable to them in the prosecution of their ordinary affairs.<sup>66</sup>

He was now also opposed to the transfer of Montreal to Upper Canada, but indicated that such a change might be advisable as a punitive measure or as a means of preventing the Patriotes from hampering the development of the Upper Province

As to any territorial changes which may be contemplated I confess I regard with concern the transfer of the Island of Montreal to Upper Canada, at least for the present - but I am not prepared to say that a continuance of such Proceedings as we have lately witnessed in the House of Assembly may not render such a measure necessary at some future period.<sup>67</sup>

These sentiments would have been unpopular with the commercial element of the English party in Lower Canada, and indicate that Lord Aylmer had not in May 1834 become a puppet of that faction.

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66 P.A.C., Q, 216-II, Lord Aylmer to Mr. Stanley (private), 8 May, 1834, 367-368.

67 Ibid., 368-369.

He went on in the same dispatch to recommend the transfer of both the Magdalen Islands and Gaspé:

It appears to me that the transfer of the Magdalen Islands to the Colony of Prince Edward Island, and of the District of Gaspé & Bonaventure to New Brunswick, would greatly tend to promote the welfare of those places & Provinces, without in any material degree affecting the Interest of Lower Canada - in fact the dependence of the Magdalen Islands upon this Province is merely nominal, & its connexion with the District of Gaspé & Bonaventure is but little more so.<sup>68</sup>

From this passage it appears that Lord Aylmer recommended the re-alignment of districts on non-political grounds. He made no mention of Robert Christie's feud with the Assembly, or the petition of Gaspé residents to be placed under the jurisdiction of New Brunswick. On the other hand, political considerations did enter into his opposition to Legislative Union for he wrote:

It is moreover to be apprehended that the Co-operation of the disaffected in the two provinces might prove too powerful for the Executive Government. In addition to the foregoing objections to a Legislative Union between these two Provinces, I would take leave to submit this consideration, that by uniting them a sense of importance, and a desire for independence may be created, calculated to hasten the period of their separation from the Mother Country.<sup>69</sup>

Obviously, Lord Aylmer regarded British North America in the manner of an orthodox imperialist. Whereas he expected at some future time that the colonies would break away from

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<sup>68</sup> P.A.C., Q, 216-II, Lord Aylmer to Mr. Stanley (private), 8 May, 1834, 368-9.

<sup>69</sup> Ibid.

Britain, he wanted the process to be impeded at the moment, and by the proven tactic of "divide and rule". At the same time, his plea for local autonomy on matters affecting only the colonies was not necessarily withdrawn. He assuredly regarded the political situation as exceptional, and many of his recommendations from 1833 onward<sup>70</sup> should be regarded as merely temporary expedients until the Patriotes "sooner or later sink ... to their true level of insignificance, from which a combination of fortuitous circumstances had raised them for a time..."<sup>71</sup>

When reports of the reaction to the political crisis in Lower Canada by the Imperial Parliament reached Lord Aylmer, he sensed that his efforts were going to be undermined and frustrated. He continued to plead for support from England for his patient and calm approach to the situation.<sup>72</sup>

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70 For instance he regarded the use by the Government of the proceeds of the Quebec Revenue Act as temporary when he asked his legal advisers: "does any power or legal authority reside in the Lord High Treasurer, in the Commissioners of His Majesty's Treasury, in any three or more of them for the time being to cause such Money to be applied ... and if so to what extent & to what branches of the Public Service. (My italics). C.O. 42-243, enclosed in Lord Aylmer to Lord Goderich, 13 May, 1833, 95.

71 Christie, The History of Lower Canada, Lord Aylmer's words to the loyal petitioners of Montreal, 1835, IV, 9.

72 F.A.C., Q, 222-I, Lord Aylmer to Lord Aberdeen, (private) 30 April, 1835, 116. "in short, my Lord, that Party (the Patriotes) are consistent only in their oppositions to the existing order of things and there is a degree of frivolity in their very rancour which in the end renders it perfectly harmless if met with calmness, & forbearance."

Nonetheless he was growing uneasy about what would happen to his own reputation if the English Government sought a scape-goat. He confessed his first fears that he might become the victim should the home government make concessions to Papineau in a private letter to Spring-Rice:

I cannot however refrain from expressing my regret at the determination of the Committee of the House of Commons on Canadian Affairs, not to report or, publish the evidence taken before it, ... that determination I confess creates in my mind anything but a favorable anticipation of the Report of the Committee insofar as regards myself personally ... If after having been held up to the King & Imperial Parliament as a Criminal by the House of Assembly, the falsehood of their charges is not to be made manifest by the publication of the Evidence taken before the Committee, and the Documents submitted to them by the Colonial Office, I shall indeed have cause deeply to regret that the House of Commons has not in compliance with the demand of the House of Assembly preferred Articles of Impeachment against me before the House of Lords.<sup>73</sup>

In a similar tone he wrote the Colonial Secretary in September complaining of the lack of support from a former Secretary, Lord Goderich:

my situation in this Province has this peculiar difficulty attending it; that having rejected the alliance of the Public Press, and having traced out a line of policy of my own, wholly independent of all parties, I am considered as an object against which they may all level their principles. Such has been my position hitherto in Lower Canada with this further disadvantage in the early stage of my administration, not only of being unsupported, but openly censured by the Authorities at home.

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<sup>73</sup> P.A.C., Q, 217-II, Lord Aylmer to Mr. Spring-Rice, 10 August, 1834, 305-307.

To have maintained my ground up to this time, under those circumstances, must be considered by all those who are acquainted with the politics of this distracted province as a sort of miracle.

I beg leave to add that the foregoing observations has (sic) no reference to Mr. Stanley from whom I have received the most manly & honorable support in discharging my public duty in Lower Canada.<sup>74</sup>

One may imagine that Lord Aylmer was not relieved to be informed that his recommendation of Samuel Gale was deplored by the Colonial Secretary, or by the suggestion that he resign as Governor-General. The latter course he rejected firmly, arguing that such an act would be regarded as an admission of guilt by the Radicals at least.<sup>75</sup>

This feeling that he lacked support from England was one of his reasons for not rejecting Papineau when he was elected Speaker of the House at the beginning of the 1835 session in January. Although the Governor readily admitted that "an Individual more objectionable than Mr. Papineau could not possibly have been selected by the House of Assembly to fill the chair as Speaker,"<sup>76</sup> he felt that the course he took would be the one most likely to please the Colonial Secretary. He pointedly referred to the fact that Lord

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<sup>74</sup> P.A.C., Q, 217-II, Lord Aylmer to Mr. Spring-Rice, 2 September, 1834, 325-326.

<sup>75</sup> P.A.C., Q, 217-II, Lord Aylmer to Mr. Spring-Rice, 24 November, 1834, 532-538.

<sup>76</sup> P.A.C., Q, 221-I, Lord Aylmer to Mr. Spring-Rice, 23 February, 1835, 150-151.

Dalhousie's rejection of Papineau had been deplored by the home government, and this fact "held out no encouragement to the adoption of a similar proceeding in the present instance." He then went on to a more recent instance concerning himself saying:

besides, having considered it necessary on a recent occasion to justify myself in the eyes of the Secretary of State when reporting the Proceedings of the House of Assembly during the last Session for having abstained from dissolving the Parliament in Vindication of the dignity of the Crown and the respect due to the Legislative Council openly attacked by the House of Assembly; and having been honored with the entire approbation of His Majesty (as conveyed in Mr. Secretary Stanley's Dispatch of the 5th of May 1834 No. 59) for having so abstained, I considered it my duty to act upon the same principle of forbearance in the present instance.<sup>77</sup>

Finally, he alluded to the effect the Canada Committee's tolerant approach toward the Radicals had on his decision:

The motives by which I was actuated ... have been strengthened by subsequent events; and the indulgence which appears to have been extended to the Ninety-two Resolutions of the House of Assembly by the Committee of the House of Commons which sat upon Canadian Affairs during the Last Session, would under any circumstances have rendered me very cautious in taking any step calculated to reflect censure on the Proceedings of the House of Assembly.<sup>78</sup>

The remarks concerning the Canada Committee were unnecessary because he had already in the dispatch supplied compelling constitutional and political grounds for accepting Papineau.

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<sup>77</sup> P.A.C., Q, 221-I, Lord Aylmer to Mr. Spring-Rice, 23 February, 1835, 158-159.

<sup>78</sup> Ibid., 159.

Thus, they seem to be a further complaint against that Committee's indecisiveness.

His constitutional and political argument was that since the House had chosen Papineau it followed that it condoned the Speaker's conduct even though he occasionally violated its own rules and regulations, and concluded:

as in no instance has the House taken cognizance of such violation on his part of their own Rules and Regulations, the head of the Executive Government cannot, constitutionally speaking, be supposed to know anything of the matter.<sup>79</sup>

Furthermore, Lord Aylmer stated that he did not believe that depriving Papineau of the Chair was an appropriate method of punishing him for his seditious speeches outside the House, and that he doubted whether taking him to court would be effective since it was very unlikely that under the current Jury Act a jury could be formed which would convict the French leader.

A third argument against overturning the House's selection was that it would only make Papineau seem a martyr, and provide a fresh source of complaint against the Executive. Moreover, such a move would inevitably result in the dissolution of Parliament without any business being transacted, which would chagrin the Province, and the Executive rather than the Patriotes would receive the blame.

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<sup>79</sup> P.A.C., Q, 221-I, Lord Aylmer to Mr. Spring-Rice, 23 February, 1835, 152.

Finally, Lord Aylmer was anxious not to take a step which would lead to dissolution lest it seem that he was afraid to have a session in which "fresh grounds of accusation" against the Governor were expected:

had the Session therefore been prevented from taking place through any act of mine, it would have been asserted, and with much plausibility, that I had sacrificed the Interests of the Province on that occasion through an apprehension of the consequences to be anticipated from the Proceedings of the House of Assembly, regarding myself.<sup>80</sup>

After explaining the factors in his decision, the Governor invited the home government to intervene to show its authority and its displeasure with Papineau's actions.

I take leave to submit that the matter may be set right by an Order from Home to dissolve the Provincial Parliament, and to reject Mr. Papineau should he be again elected by the Assembly. It appears to me that this Course of Proceeding is calculated to make a much more powerful impression on the Public Mind, than if he had been rejected by the Governor of the Province on his own responsibility...<sup>81</sup>

Here again the Governor made a plea for a tangible sign of support which might restore his influence in political affairs.

This recommendation has the ring of desperation. Lord Aylmer's policy of avoiding dissolving Parliament and rejecting Papineau had the advantage of leaving the onus on

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<sup>80</sup> P.A.C., Q, 221-I, Lord Aylmer to Mr. Spring-Rice, 23 February, 1835, 157.

<sup>81</sup> Ibid.

the House to produce reforms and constructive laws. That policy withheld from Papineau an observable basis for an accusation that the Imperial Government was thwarting his beneficent intentions. It is moreover, unlikely that a new election would have at that time resulted in the defeat of the Patriotes. On the contrary, English interference probably would have turned even more voters against candidates associated with such suppression of local government. In addition, intervention would have been a poor precedent in the future relations between Lower Canada and England.

Allowing the Majority Party to proceed unfettered but by the current constitution placed Papineau in the position of having to pass constructive legislation for the Province, and at least hear the offers of the Colonial Office, or to continue his repetition of grievances and threats. The latter course of action, according to both Lord Aylmer and Frederick Elliott, would ultimately disenchant the electorate. The chances of intervention overawing the Patriotes and the electorate at this date were remote, and the dangers of a reaction were too large to make the gamble worth the risk.

At any rate, his plea brought no result, and the session continued until prorogation on March 18.

Drawing confidence from their triumph at the autumn election, the Patriotes disdained passing any legislation. Instead they drew up an insulting reply to the Governor's opening message, and a petition to the King which was of the

same style as the Ninety-two Resolutions. Once these addresses were completed there was such a decline in attendance that a quorum was impossible and Lord Aylmer consequently prorogued the session with a message of regret that it had been so brief and unproductive. It was the last time that he addressed the Parliament of Lower Canada.

Meanwhile, meetings and counter-meetings, continued throughout the Province, and the changing political situation was reflected in Lord Aylmer's dispatches. After assuring the Colonial Office for months that the Patriotes would not likely act on their threats of rebellion, Lord Aylmer reported a new danger; this time from the opposite party:

...If something is not done to curb the unbounded pretensions of the House of Assembly I shall indeed begin to fear that the English portion of the Population will take the Law into their own hands.<sup>82</sup>

The English party and especially its young men were meeting the Radicals insult for insult, and were even preparing for physical clashes.

The arrival in April of news that a Royal Commissioner was to come to Canada and make a thorough study of the situation pleased Lord Aylmer, and in his opinion, relieved the reasonable men of the Province. He reported the effect of the news on the Patriotes as follows:

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<sup>82</sup> P.A.C., Q, 221-II, Lord Aylmer to Mr. Hay, 14 March, 1835, 301.

Indeed the announcement of his appointment has come upon them so completely by Surprise that they have not yet had time to mature their plans - but if an opinion may be formed of their future proceedings from the experience of the past, I should be disposed to conclude that they will throw every obstacle in the way of amicable adjustment of the existing difficulties, and will continue their hostility to his Majesty's Government upon various pretences.<sup>83</sup>

He also reported the pleasure of the "Moderate Canadians of all descriptions French as well as English" at the appointment of a Commissioner, "more especially since it has been generally known that His Majesty's choice has fallen on a nobleman so highly, and so universally respected as is my Lord Canterbury."<sup>84</sup>

When Lord Canterbury, and in turn, Sir Stratford Canning and Lord Amherst declined the mission to Canada, the undistinguished Lord Gosford became the Commissioner. Lord Aylmer made no protest but must have been disheartened. And he must have been even more so when Colonial Secretary Lord Glenelg suddenly reversed Lord Aberdeen's intention to have Lord Gosford sent merely as an investigator, and turned the administration of the Province over to him.

Although most Patriotes bore no personal malice against Lord Aylmer they exulted in his recall as a victory for republicanism. The English inhabitants criticized his

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83 P.A.C., Q, 222-I, Lord Aylmer to Lord Aberdeen, 30 April, 1835, 113-114.

84 Ibid., 15.

recall and many addresses came to him from all parts of the Province expressing appreciation for his service as Governor. Even the Château Clique, with whom he had not always agreed despite their common cause of defeating Papineau, recognized that they had derived some benefits from his impartial adjudication and his concern for the prosperity and development of the economy of the Province.

All in all, Lord Aylmer maintained remarkably well his purpose of being impartial even in the face of insults from the Patriotes, criticism from the Oligarchy, the crises in the Provincial Legislature and Administration, and even the changes in Colonial Secretaries. It is natural that he could not be as deferential with the Assembly majority as he had been at the beginning of his administration since he was now struggling to overcome their campaign to win absolute control of the machinery of government. In addition, although he was still desirous of giving offices and honours to French-Canadians, the difficulties of finding men both with the technical qualifications, and willing to incur the displeasure of Joseph Papineau among the French community, became insuperable. The example of Mondelet had demonstrated the fate of those who accepted government positions. Accordingly, most of his appointments to the Bench were English, or in the case of Duval, French-Canadians already at odds with the Patriotes.

From the moment when the Patriotes exhibited republicanism and narrow nationalism Lord Aylmer fought them. He wanted the support of the English government in meeting the extremists with a calm, united, and firm front. Primarily he asked the Imperial Parliament to restore to him the funds which would make his Administration independent of the Papineau majority in the Assembly. In his last months as Governor, he also asked for the intervention of the Crown to overturn the Lower Canadian Legislature's choice of Papineau as speaker. Although this request was fraught with risk and was perhaps unwise, it did reveal the Governor's desperate concern for the continuation of the Constitution and the Imperial connection.

From this vantage point in history it does seem that Lord Aylmer's policy of outwaiting the Patriotes was viable. Provided that the Governor could carry on a benevolent administration, while promising and demonstrating to the French that the Patriotes' fear-mongering was baseless, the masses were very unlikely to rebel. At the same time, the Patriotes would have been discredited. In this struggle, the Administration had the important assistance of most of the Roman Catholic clergy. Indeed, as Lord Aylmer himself pointed out, the greatest threat to this strategy would have been an act of rashness from the frustrated Oligarchy.

So long as the Governor's display of firmness operated against extremists of both sides, and so long as the

English Parliament did not begin to yield to the Patriotes, it was likely that the English party could have been kept in check.

The point on which all of this policy depended was, of course, the extent to which all the people of Lower Canada maintained faith in the integrity and justice of the Imperial Government and especially in its representative, Matthew Lord Aylmer.

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## SUMMARY AND CONCLUSIONS

This presentation of Lord Aylmer's views revealed that some of his ideas concerning political affairs changed significantly during his governorship. On the other hand it also revealed certain fundamental views that did not change. Furthermore it is apparent that he did not merely echo the policy of the Colonial Office. And finally, it has shown that he did not become a puppet of the English party.

The greatest change in his attitude concerned the Canadian party and the Assembly when both came to be dominated by the radical Patriotes. At the outset of his administration he tried to be impartial, and to seek a middle course between the extreme demands of the leaders of both the Canadian party and the Château Clique. In 1831, he had been relatively optimistic about the chances of this impartial policy bringing harmony to the politics of Lower Canada.

The Assembly's rejection of the arrangement whereby the principal revenues of the Province would be yielded to the Assembly in return for a permanent Civil List, and the Assembly's refusal to make provision for permanent salaries for the judiciary caused him to qualify his optimism. He obviously believed that the Colonial Secretary was making an appreciable beginning toward meeting the major complaints of the Canadian party. When the Civil List was reduced, in the winter of 1831, to include only the chief officials, and

still Papineau spurned the arrangement Lord Aylmer no longer regarded him as a reasonable and responsible leader. In January 1832, the Governor advised Whitehall to stand firm on the proposal of a permanent Civil List of £5,900. He was apprehensive that Papineau had misinterpreted the initial concessions of the Whig government as a sign of surrender to all his pretensions.

At this point, Lord Aylmer began to regard the moderates in the Canadian party, and in the House in general, as a source of hope. Believing that the mass of the people were sensible and loyal to the Empire, he predicted that the extremists of both the English and French parties would lose their support to the moderates who would constitute a third party. Nevertheless, his prediction did not bear fruit in 1832.

A combination of events caused his hopes to be dashed. A cholera epidemic was attributed to the arrival of diseased immigrants, and the Patriotes used the fear created by the epidemic in their anti-British propaganda apparently with some effect. Also the English Bureaucracy arrested the editors of two radical French newspapers, and then involved British troops in quelling an election riot in Montreal. The Patriotes expanded these actions into a sensation which Papineau cunningly used to impugn the integrity and impartiality of the Governor. Meanwhile, the Colonial Office had not put forward any new reforms or concessions which could

have been used by the moderates as a demonstration of goodwill.

In his report of June 16, 1832, Lord Aylmer began to prepare the Colonial Secretary for a counter-offensive against Papineau. The association of ideas in this report is very significant, and thus it has been included in the appendix. In the report, Lord Aylmer focusses his remarks on the results of the increasing flow of immigrants into British North America. To this immigration he attributes the desperate attacks of the Patriotes upon the Province's British government. At the same time he points to immigration as the ultimate solution to the political problems of Lower Canada. He anticipates that the expanding British population will assist in preserving British constitutional practices, and the continuance of the Province's Imperial connection. On the other hand, he predicts that by the fury of their opposition, the Patriotes will alienate even the moderate French Canadians. Nonetheless, he suggested in this letter a means of silencing the Patriotes' volleys. He surmised that Papineau might be induced to curb the violent campaign by the prospect of His Majesty's Government considering legislative union of the Canadian provinces as a counter-proposal.

Until the third session of the provincial parliament in November, 1832, the Governor still held out hope for a reaction of the moderates against the "ultras". Despite his tentative suggestions of meeting Papineau with a show of

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strength, he met parliament still convinced that by maintaining a dignified and impartial position, he would expose to the masses the sterility of the radicals.

In the face of the failure of the moderates to produce a third party, and the calculated obstructiveness of the Patriotes, however, Lord Aylmer made important changes in his thinking. He not only abandoned his qualifications concerning the immigration of immense numbers of British settlers, but he urged a strong counter-offensive against Papineau. The principal weapon that he wanted for this counter-move was financial independence for the Executive. Until the end of his administration he repeatedly requested the Imperial Government to place the customs revenues again at the disposal of the Governor. With these funds he planned to meet all the salaries and other government expenses, and carry on services which, while benefitting the inhabitants, would contrast markedly with the futile ranting of the Patriote-controlled House of Assembly. The violence, calumnies, and falsehoods of the Ninety-Two Resolutions, repeated as they were in the brief session of 1835, indicated to Lord Aylmer that the Patriotes would continue the war of words until their supporters grew bored with them. Combined with the provision of essential services, the Governor planned to carry on schools which would no longer be dependent upon funds from the House. He hoped that by increasing the educational level of the masses they would become critical of the Patriotes.

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To sum up, his correspondence shows that the main change in Lord Aylmer's views was to abandon the attempt to conciliate the party led by Papineau, and instead, endeavour to promote its extinction. To this change, it seems clear, he was driven largely by the intransigence of the radical wing of the Canadian party.

This examination of Lord Aylmer's correspondence shows that he did not merely transmit the views and policies of the Colonial Office. For instance, although he had been appointed by a Tory government, his early views anticipated the policy of the Whig administration which replaced it. Moreover, he was prepared to go even further in making concessions and meeting the complaints of the Canadian party in 1830 and 1831, than was the Whig Colonial Secretary, Lord Goderich. For example he recommended the abolition of permanent appointments to the Executive Council which might have uprooted the Château Clique. Many such proposals were ignored by the English officials, and some which were adopted, such as the offer of seats on the Executive Council, were spurned by the Canadian leaders.

At times he tried to modify or evade recommendations from the Colonial Office.. It was not until he was given a direct order, for example, that he changed the payment terms for Crown Lands. Furthermore, he was censured on several occasions for taking initiative, and heeding his own judgment on matters. One instance of note was his acceptance of the

Assembly's demand for the Attorney-General's immediate suspension. Despite the Colonial Secretary's reproof for this action he publicly reiterated his own conviction of its validity. Nevertheless, he did recognize his need for support from England, and in general carried out the policy of the Imperial administration. Indeed, he could scarcely be expected to have done otherwise.

Neither was he the ally of the Château Clique. Even when the English party seemed to be his only source of strength in the struggle against the radicals of the Canadian party, he did not allow his office and himself to become its tool. Admittedly some of his actions and recommendations, especially after the summer of 1832, seem to provide a basis for that assumption. For example, he gave his blessing to the British American Land Company, appointed men who were anathema to the French, to the judiciary, and defended the appointive Legislative Council. As well he raised the question of the Union of the two Canadian provinces, and recommended the alienation of Gaspé to New Brunswick. A close examination of his views, however, reveals that he had his own reasons for his actions and recommendations. In the area of judicial administration alone he relied upon the advice of the English Bureaucracy, and this was attributable to his lack of technical competence in legal affairs. Perhaps what has lent most credence to the assumption that the Governor finally joined the ranks of the English party was the flowery

and sympathetic testimonials given him by members of that party on the eve of his departure.

Although some of his views changed in the course of the political struggle, Lord Aylmer did have several fundamental opinions which remained constant. Above all he was unswerving in his concern that British North America remain a part of the British Empire. This concern underlies much of his policy, and lends continuity to many of his actions. For instance, he was in favour of a cautious and planned introduction of British immigrants until the Patriotes became a threat to the Imperial connection. Thereupon he began to regard the influx of loyal subjects of the King as a counterweight to French Canadian nationalism, and welcomed it with less reservation.

Secondly, he maintained a belief that the Constitution of 1791 was basically valid although it required some important revisions. Among these he advocated a complete revision of the legal codes, and changes in the appointment and function of the Executive Council, the creation of a Board of Audit, independence of the judges from the executive and legislature, and expansion of the function of the Legislative Council. The latter, nevertheless, he wanted preserved as an appointive body, and as a check upon the democratic House of Assembly. Naturally, he rejected outright the radical suggestion that the Governorship become elective, or dependent upon the pleasure of the House.

Finally, he consistently defended the loyalty, peaceableness, and innate wisdom of the ordinary French-Canadian. Although he commented upon their political ignorance, their naivety, and their exasperating tendency to follow Papineau and his republican lieutenants, he constantly predicted that they would recognize ultimately the unworthiness of these leaders. From first to last, he contended that if treated judiciously the inhabitants of French origin would not only eschew revolution, but would learn to use the constitutional apparatus in harmony with the English inhabitants. Such faith withstood the test of violent demonstrations, and public meetings, published slights and insults to such a degree that it is understandable that some observers have doubted his sincerity. Nonetheless, at the close of his term he was warning England to beware of an uprising, not from the French, but from the English people of Lower Canada.

Admitting his mistakes in judgment, and errors in tactics, Lord Aylmer is shown from his correspondence to have been a Governor with constructive ideas and considered views who deserves to be regarded as much greater than an amiable fool.

Much research on the topic of his administration remains to be done. There is material in the Public Archives on his relations with the Roman Catholic and Anglican clergy. Perhaps the Archives of the Roman Catholic Church in Montreal and Quebec contain information regarding his views on

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religious affairs and his relationship with the Roman Catholic Bishops. The economic views of Lord Aylmer, and especially the validity of his contention that there was sufficient seigneurial land available require more detailed examination. An examination of the composition, views, and activities of the Château Clique; the extent and means by which the Clique may have tried to influence Lord Aylmer would also be valuable in assessing the events of this crucial period in Canadian history. As has been noted, the period from 1828 to 1835 is ripe for re-assessment. Such a project requires modern research for a basis. It is hoped that this presentation of Lord Aylmer's political and constitutional views may be a contribution to it.

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MANUSCRIPTS

A 43, Aylmer, Louisa Anne, Baroness, 1831 - 1832, 2 inches, P.A.C.

A volume of extracts from newspapers and copies of personal letters to friends and relatives in England. Some comments shed light upon the views and actions of Lord Aylmer. Baroness Aylmer indicates that goodwill existed between the Governor and the Roman Catholic clergy. Unfortunately, the volume ends before the main difficulties of Lord Aylmer arose.

C.O.387, Aylmer Matthew, Lord, 1830 - 1835, 1 foot, P.A.C.

This volume consists of letters received by Lord Aylmer from the Colonial Office, letterbooks, addresses, and replies. A few letters from Lord Aylmer to Sir James Kempt state his views in 1831.

C.O.42, Canada, Original Correspondence, 1830 - 1835, vols. 231 - 257, P.A.C.

Microfilmed reproductions of Lord Aylmer's correspondence with the Colonial Office. They contain dispatches, private letters, reports, journals, petitions from Canada. An indication of the reception given some of the Governor's views in the Colonial Office can be obtained from the annotations made by English officials. A few letters not found in the "Q" series are contained herein. A main source of the thesis.

"Q" series, Copies of Correspondence from Canada, 1830 - 1835, vols. 195 - 222, P.A.C.

This series parallels C.O.42, and with it forms the major source of the thesis.

## SECONDARY SOURCES

Chapais, Thomas, Cours d'Histoire du Canada, Quebec, Librairie Garneau Ltée., tomes III et IV, 1921.

The period of the thesis is dealt with in volume III (317 p.) and vol. IV (312 p.) of this general history. The author is one of the few who regarded Lord Aylmer with some esteem. Indeed his assurance that Lord Aylmer's reputation would be improved by a close study of the documents helped sustain the search.

Christie, Robert, A History of the Late Province of Lower Canada, Montreal, T. Cary & Co., vol. III and IV, 1866.

Robert Christie was a participant in the political struggle of Lord Aylmer's administration. His historical memoirs reproduce the Château Clique's change of attitude toward the Governor from hostility to admiration and sympathy.

The value of Christie is twofold. First he provides the background of many events overlooked by general accounts. Secondly, he quotes public documents extensively and is a ready source of speeches, petitions and resolutions. This account is useful if its bias is taken into consideration.

Clark, Samuel Delbert, Movements of Political Protest in Canada (1640 - 1840), Toronto, University of Toronto Press, 1959, 518 p.

The author argues that Lord Aylmer was incapable of assessing the political situation. He is especially critical of the Governor's reports that the Province was tranquil despite the unrest apparent from 1832 - 1835. Only twenty pages treat the period, and the conclusions suffer from the oversimplification of events.

Creighton, Donald, The Empire of the St. Lawrence, Toronto, Macmillan, 1956, 441 p.

Chapters X, and XI, give the best available exposition of the composition and economic aims of the Château Clique, and help explain the struggle between that party and the French Canadians.

De Celles, Alfred D., Papineau, Cartier, Toronto, Morang & Co., 1906, 203 p. The Patriotes of '37, Toronto, Glasgow Brook & Co., 1916, 140 p.

These books provide information concerning the party against whom Lord Aylmer contended. The author is critical of the Patriotes because of their extremism which drove Lord Aylmer into the arms of the English Bureaucracy. According to De Celles Lord Aylmer wanted the friendship and loyalty of the French Canadians, but was forced to combat the Patriotes. The author sympathizes with the mistaken intransigence of Papineau, and regards the Colonial Office as the ultimate villain because its concessions were too little and too late. Both books have some use for background, but the reader should be reminded that they tend to oversimplify and distort issues.

Doughty, Arthur G., Report of the Public Archives for the Year 1931, Ottawa, King's Printer, 1932, 493 p.

Appendix A of the Report consists of a calendar of state papers addressed by the Colonial Secretaries to Governors and Administrators of Lower Canada from 1830 until 1838. Those sent to Lord Aylmer appear between pages 188 and 349. An extremely useful collection which often reveals the reason for a comment by Lord Aylmer. Also the struggles between Lord Aylmer and Lord Goderich appear in the papers. The dates when Lord Aylmer's dispatches were acknowledged, and the reaction to them at times are significant.

Kingsford, William, History of Canada, Toronto, Rowsell & Hutchison, 1897, vol. IX, 634 p.

An extremely biased, and uneven account. On the other hand, it is, with Christie, the only detailed examination of the period available. It is also useful for its inclusion of public documents.

Manning, Helen Taft, The Revolt of French Canada, 1800 - 1835, Toronto, Macmillan, 1962, 426 p.

The most recent examination of the period. It deals with the struggle between the French Canadians and the English minority. The author assesses the roles played by various governors in the struggle, and examines the main issues such as Union, land tenures,

## BIBLIOGRAPHY

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representation, and the English-dominated Councils. She also presents the views of leaders in England to the problems of Lower Canada. Unfortunately this book has many flaws such as obscure logic, inaccurate references and awkward organization. Moreover, it dismisses Lord Aylmer as an amiable fool, and his period as the inevitable denouement of a tragedy predestined by the clash of French Canadian nationalism with British Imperialism. Nevertheless it is useful if used with care.

McArthur, Duncan, "History of Public Finance, 1763 - 1840", in Canada and its Provinces, ed. Shortt Adam, and Arthur G. Doughty, Toronto, Glasgow, Brook & Co., vol. IV, 1914.

A brief but useful description of the irresponsible state of the public accounts in the period.

## APPENDIX 1

## COMMENTS ON THE ASSEMBLY'S PETITION OF GRIEVANCES

6th April, 1831.

My Lord,

In my Despatch of the 15th Ultimo, (No. 20) I had the Honor of apprizing your Lordship that in addition to the Resolutions of Mr. Neilson, two others had been adopted by the House of Assembly, which if acted upon, would go the length of altering the Constitution of this Province by the extinction of the Legislative Council, - these two last mentioned Resolutions were carried by a very small majority, the Number of Votes being 32 in favor of, and 30 against them; and, but for the absence from the House on that occasion of four Members who, it is well known, were adverse to the principle of the Resolutions, they would have been lost altogether. - at all events the temper of the House soon changed on the Subject. for the Resolutions (which on being adopted had been appended to Mr. Neilson's thirteen Resolutions) were got rid of by a subsequent motion for a Petition to His Majesty, and the two Houses of the Imperial Parliament, carried by a large Majority, embodying Mr. Neilson's Resolutions, and leaving out the others.

A Copy of this Petition to His Majesty, I have now the Honor of transmitting to your Lordship together with a Copy of an Address from the House of Assembly to me, requesting me to forward their Petition, and of my Answer to that Address, in which your Lordship will not fail to observe a very pointed allusion to the above mentioned two Resolutions, which were held back in the manner above described.

Your Lordship, will I hope permit me to say, that I cannot but think many of the complaints preferred (sic) in the Petition of the House of Assembly are well founded; and fortunately the remedies for them are within reach of His Majesty's Government.

They embrace in some way or other the whole of the Publick (sic) concerns of the Province, and altho' I am conscious that on this occasion it becomes my duty to offer some remarks upon them, I enter upon the task with very great diffidence arising from my want of local knowledge, and my insufficiency in other respects to treat the Subject in the way its great importance demands.

I take the Subjects of Complaint in the order in which they stand in the Petition, - in the first place your Lordship is well aware of the very great dissatisfaction which has for years existed in this Colony arising out of the assumption on the part of the Crown of a Right to the Possession of the Estates belonging to the late Order of Jesuits, and really when the true Value of the matter in

dispute is considered, it may well become a question whether it be worth contending for, except in as far as regards the Rights of the Crown, as a Matter of Principle.

I will in a seperate (sic) Despatch make this apparent to your Lordship by a Statement of the Receipts of, and Charges upon, those Estates, which show how very trifling is the Balance remaining to the good, after all those charges are provided for.

Under all the circumstances of the case I would with great deference submit to your Lordship that the Jesuits Estates should be expressly and avowedly set apart for the purposes of Education, under the management of Commissioners; subject to such Regulations as His Majesty might be pleased to direct; and that the whole of the Accounts of the Receipts, and Expenditure should Annually be made Publick, not through the medium of the House of Assembly, but by insertion in the Official Gazette of Quebec.

By this Arrangement, the rights of the Crown would be preserved intact, and the Property itself would be applied in the way desired by the House of Assembly.

Should His Majesty, however think fit to waive His exclusive Right to these Estates, such a Proceeding would certainly be received as a very gracious Act, more especially if made the Subject of a Seperate and distinct Communication to the Legislature unconnected with any further Financial Arrangement which it might be considered expedient to propose.

In this supposition (upon which, however, I do not presume to express an Opinion) it would perhaps be adviseable (sic) to retain possession of a Building situated in the City of Quebec. it was formerly a College of the Order of Jesuits, and is now used as a Barrack, - it is capable of containing two Battalions of the present Strength, and the relinquishment of it, would entail considerable Expence, and inconvenience to the Publick Service.

The Second point noticed in the Petition regards the Management of the Crown Lands, but as this ground of Complaint is within the power of the local Government (in a great measure at least) to remove, it will be unnecessary for me to trouble you further upon it at present, except to assure your Lordship that my best Endeavours shall not be wanting to remove the Evils which notoriously exist, connected with the Management of the Crown Lands, including the Crown, and Clergy Reserves. -

This with the very able assistance of Mr. Felton, the Commissioner of Crown Lands I hope to be able to effect.

I do not presume to enter upon that part of the Petition which relates to the Regulation of the Trade of the Colony, because it is connected with Questions of general Interest beyond the Sphere of my Official duty to offer an Opinion upon - - But I hope your Lordship will pardon me for taking this opportunity of remarking, that as a General Principle, it may be adviseable that the People of Canada

should be allowed to Legislate for themselves on Subjects purely local. -

The uncertainty and confusion which unquestionably prevail owing to the intermixture of French and English Laws in this Province, call for a Commission composed of competent persons, acting under Instructions from the local Legislature.

The Complaints of the House of Assembly regarding the imputed Conduct of several of the Judges as being engaged in the Political differences of the Province, might perhaps be left to the discretion of the Person at the Head of the Government, who, should he witness any instance of such Conduct, would of course take such steps as the Circumstances of the case might appear to him to require.

The charge of the House of Assembly as to the distribution of Judiciary, and Executive Offices, almost exclusively amongst a certain class of Subjects in this Province, is one which, even admitting it to be just, and true, cannot now be remedied, and can therefore only be taken as a beacon to direct the Executive Government in a more equitable course for the time to come.

The want of responsibility complained of in the case of Publick Officers could be remedied, I presume, by the Establishment of a Tribunal for the Trial of Impeachments, in cases not cognizable by the Ordinary Courts of Law.

I am not aware that there now exists any just ground of complaint as to the want of an Adequate Accountability in

Persons entrusted with Publick Money, - most certainly such an evil did exist until a late period in this Colony, to one instance of which (I mean that of Mr. Caldwell late Receiver General) your Lordship, I apprehend, is not a Stranger.

The deficiencies in that Gentleman's Publick Accounts have long constituted, and do still constitute, one of the most prominent heads of complaint, of the House of Assembly, upon the ground that no Security having been required from him on receiving his Appointment from the Lords of the Treasury, they conceive it a hardship that the Province should be made to suffer from any want of due precaution on that occasion.

They have accordingly all along maintained, and do still maintain; that the deficiencies in Mr. Caldwell's Publick Accounts as Receiver General, ought in Justice and Equity, to be made good out of the Imperial Treasury, and not out of the Revenues levied in the Province.

Upon a general view of the Publick Affairs of the Province of Lower Canada, I would take the liberty of suggesting as the course most adviseable in the actual state of the Publick mind, that every possible attention should be given to the several Subjects of Complaint comprized in the Petition of the House of Assembly with the view to their removal, or modification, according to circumstances.

But that whatever remedial measures may be adopted on any future occasion, they should not be mixed up with any

Arrangement which may be contemplated for the Adjustment of the Financial Question, and that while every possible indulgence should be shewn to the People of Canada, in regard to their Complaints, the Act of the 14th Geo. 3 should be suffered to stand unrepealed until the Legislature should of their own accord come forward with some distinct Propositions on the Subject of Finance, in answer to those submitted to them during this Session.

I cannot close this Despatch without performing what I conceive to be an Act of Justice; and that is, to express to your Lordship my firm conviction that throughout the whole of the King's vast Dominions, His Majesty no where possesses Subjects more loyal, and true than the People of Lower Canada.

I have the Honor, to be, My Lord, your Lordships most Obedient, Humble Servant, Aylmer.

P.S. I have inadvertently omitted in the body of this Despatch, an observation which nevertheless is of importance; and that is, that the House of Assembly having taken no notice of my Answer to their Address desiring me to transmit their Petition to England for the purpose of being laid at the foot of the Throne, I feel justified in assuring your Lordship that the whole of their Complaints and Greivances (sic) are comprized in that Petition.

## APPENDIX 2

## SOME OF THE CHÂTEAU CLIQUE

Below are listed Executive and Legislative Councillors who were members of the Château Clique. This list is not exhaustive; instead it emphasizes some of the men who were important in politics during Lord Aylmer's governorship. Naming members of a vague, and shifting collection such as an "establishment" is difficult and some names might be disputed. Many of those in this list were cited as commercial and political leaders by Donald Creighton in Empire of the St. Lawrence. After each man named, the date of his first appointment, and his occupation or any other public office he held appear.

Matthew Bell (1823)	Legis. Council & Merchant, & Licensee of St. Maurice forges.
A. W. Cochran (1829)	Exec. Council & Auditor of Land Patents
William B. Felton (1822)	Legis. Council & Crown Land Sales Commissioner
John Forsyth (1827)	Legis. Council, Montreal merchant
Robert H. Harwood (1832)	Legis. Council, Merchant
James Kerr (1821)	Legis. Council & Judge of Court of King's Bench and Court of Vice-Admiralty
Peter McGill (1832)	Legis. Council, Banker
George Moffatt (1830)	Legis. Council, Montreal merchant.

John Molson (1832)	Legis. Council, Brewer, Shipping line owner, Capitalist
John Richardson (1808)	Died 1831. Until his death leader of the Montreal merchant-capitalists
Herman Ryland (1811)	Legis. Council & Treasurer of Jesuit Estates Commission
Jonathan Sewell (1808)	Legis. Council & Chief Justice
James Stuart (1827)	Exec. Council & Attorney-General until discharged 1832.

## APPENDIX 3

Private

June the 16th 1832.

My Lord,

There is every reason to believe that the Emigration of the present Season to the Canadas will be productive of very important results. - The Emigrants generally speaking are of a superior description to that of preceding Years, in regard to property, respectability, & intelligence, and their Establishment in this Country will undoubtedly give a powerful Stimulus to its Commerce & Agriculture. - At the close of the Navigation this Year I will endeavour to ascertain as nearly as Circumstances will permit, the amount of property which will have been introduced into the Colony by these Emigrants; In the mean while I can only rely upon vague reports - according to one of these I have learnt that recently one hundred & forty persons proceeding together to Montreal on their way to Upper Canada had Specie in their possession to the amount of Sixty Thousand pounds - I give this report to your Lordship as I received it, without vouching for the Accuracy of it - it will at least go to prove that a large Amount of Capital is flowing into this Country. -

The Emigration now in progress, with every prospect of an encrease (sic) to an incalculable extent, is fraught with the most important Consequences; and in many ways will

contribute to the development of its resources, and the improvement of its Political Condition.

The disposition which has manifested itself in the House of Assembly of this Province on many occasions, and more particularly during the last Session, demonstrates very clearly that the Majority of that body, consisting principally of Canadians of French extraction, entertain views which if accomplishd (sic) will render this Province a dependence of the British Crown in nothing but the bare name. - These views may be clearly deduced from the manner in which all the advances of His Majesty's Government have been received by the majority of the House of Assembly, who appear always to recede in proportion to the extent of the liberality of His Majesty's Government, as if apprehensive that the final settlement of all their Grievances real, & pretended, would divest them of their importance by tranquillizing The Public mind.

I beg your Lordship to believe that I have in no degree changed my opinion of the mass of the Canadian people - they are a docile, contented, happy, and well meaning people; but extremely ignorant withal, and extremely suspicious in regard to the intentions of the British Authorities in the Province. - this feeling is constantly kept alive, by those who know better, but who have Objects of their own in view. The Representatives chosen by the people are generally speaking, ignorant like themselves, for in this Country, the

class of Society corresponding with that of Country Gentlemen in England is very limited in numbers compared with others; - But unfortunately these Representatives are exposed to be acted upon by Persons having a Common Origin with them, and therefore looked up to as their best friends and Advisers, but who have their own Individual & personal objects in view. The last mentioned class consists of Notaries, Attornies, & Medical men whose Education, and habits of business, open the way for them into the House of Assembly, and give them, when there, vast Advantages over their ignorant Collegues.(sic) I have no doubt that some of these Influential Persons might be detached from the others, from Motives of Self Interest; but still it is to be apprehended that Sufficient Materials will remain at the disposal of the Ambitious & disaffected, to embarass (sic) the regular, and wholesome action of the Provincial Government. -

The question of a Legislative Union between the Provinces of Lower, and Upper Canada, was abandoned on a former occasion, I apprehend, on the ground that strong objections to it were found to exist amongst a large proportion of the people of both Provinces. - I do not pretend to say that circumstances have since changed to an extent which would warrant an early recurrence to that measure; but the rapid encrease of Emigration - the extent to which British blood has been lately, and still continues to be infused into the mass of the Population of these Provinces; together with the

desire which is known to exist, and which will soon be loudly, and vehemently expressed, by the people of Upper Canada, to have free access to the Sea without the Controul (sic) of any intervening Authority, point out distinctly that the period is fast approaching when the whole of these Provinces must become essentially British, and it would appear that this object cannot be so effectually accomplished as by a Legislative Union - The time when, as well as the manner in which this great measure shall be brought to bear, requires very mature Consideration - Perhaps it might be injurious to the best Interests of the Crown, & of the Colony at large, to press it too hastily forward, and it might in the first instance be productive of good effects to let it be known that a proposition to that effect coming from the people themselves, would not be unfavorably entertained by His Majesty's Government.

At all Events I know of nothing more calculated to alarm, & correct the Proceedings of, the Ultra liberal party in Lower Canada, than the knowledge that such a proposition would be so entertained. - I am thoroughly persuaded - indeed I have good grounds for believing it to be the Case, that the party above alluded to, are fully aware of the Tendancy (sic) of passing events towards the Accomplishment of a Legislative Union between the two Provinces - they are by no means blind to what is passing before them - The encreasing wealth, Population and importance of the Upper Province - the tide of

Emigration flowing in upon, and overspreading the Country - the Establishment of the Lower Canada Land Company - All these Circumstances warn them of their impending fate; and to these may in a great measure be attributed the extreme Agitation now existing in the Public mind in Lower Canada. - Of this Your Lordship will be enabled to judge on perusing the number of the Minerve and the Vindicator newspapers which, I have the honor of transmitting herewith - The Language of these prints is becoming every day more outrageous, and it is certainly most desireable (sic) to put a stop to it by instituting Prosecutions against the Editors; but such is the State of the Public feeling at Montreal at this moment amongst that class of Persons who would be called upon to act as Jurymen, that I should despair of obtaining a Verdict of guilty in a Case of the most atrocious libel that could be penned, against The Government, the Magistrates, or the Military. - Under these Circumstances I have been induced to abstain from Prosecuting the Editors of the Minerve, & the Vindicator, and I am not without hope that the evil will work its own cure - already many of the more moderate members of the liberal party have expressed their disapprobation of the language of the two newspapers above mentioned, and should it (to) be continued, they will probably seperate themselves altogether from the Authors, and Abettors of the mischief - I think it necessary to apprise Your Lordship that the Honorable Mr. Viger now in London as Agent of the House of

Assembly, is concerned in the Minerve Newspaper, which is considered as the organ of his Sentiments, and those of his Relation, & friend Mr. Papineau, and others of the Same party. I trust Mr. Viger will be able to satisfy your Lordship that the language of the Minerve connected with the recent transactions, Stigmatizing the Kings Troops, & the Magistrates as murderers, does not find an advocate in him, and that he is ready to give unequivocal proofs of his Sincerity in disclaiming it. - Should he, however, defend that Language, it is not for me to say in what light he will deserve to be considered by His Majesty's Government.

Having named Mr. Papineau, I think it may not prove uninteresting to your Lordship to be informed, that on the day following that on which the Military had been called upon to act during the riot at Montreal, Mr. Louis Viger, (a Member of the House of Assembly, and a friend of that Gentleman) was despatched with a Letter from him to me, of which I have the honor of transmitting a Copy herewith: the object of this Letter, as your Lordship will observe, is to induce me to proceed to Montreal in person, and thus place myself in the very focus of all the Agitation which had been excited by recent events. - I told Mr. Viger that the Position in which I had been placed by the Occurence (sic) of those events, demanded the utmost calmness, impartiality, and Circumspection on my part, and that above all things it behoved me to keep my mind free from the possibility of receiving impressions

from the Statements, & Opinions of persons not called upon by their Public Situations to communicate with me officially on the Subject; and that under these Circumstances I desired Mr. Papineau would not deem it a want of Politeness on my part if I abstained, for the present, from even acknowledging in writing the receipt of his Letter. - This I have since done, and a Copy of my answer accompanies the Copy of the Letter of Mr. Papineau above mentioned.

Upon a careful review of passing events I am much disposed to entertain favorable anticipations in regard to the tranquility of the Country - the Ultra liberal party (or as it is termed here, the Papineau party) are going great lengths, and will probably in the end disgust, & estrange from them, many who have hitherto acted with them - they are discountenanced by the Clergy, and as they seek to draw a line between the British Inhabitants, & the Canadians of French extraction, the former will unite, and rally round the Government - Should matters proceed to extremity, of which however I entertain no apprehension, we shall have the support of the Population of the Upper Province, essentially British in its Character, and feelings.

I have the Honor to be, My Lord, Your Lordship's  
Most Obedient, Humble Servant, Aylmer.

## APPENDIX 4

## SOLUTION FOR FISCAL DIFFICULTIES

13 May, 1833.

If these Revenues shall be found sufficient for the necessary purposes of Government (and that they will be so found can hardly be doubted, since some of them are in progress of improvement) and if their absolute disposal for these purposes is provided for by the Acts under the authority of which they are levied, I confess to Your Lordship that I can see no useful purpose to be accomplished by applying to the House of Assembly for any aid towards carrying on the Government of the Province, excepting in the one only case above alluded to, of the wants of the Government exceeding the amount of the Revenues in question, in which case it would be necessary to call upon the House of Assembly to provide for the Amount of the deficiency only.

In pursuing the consideration of this subject further, I take leave to submit to Your Lordship that the granting of a Civil List by the House of Assembly (provided that the abandonment of the Revenue levied under the Authority of the 14th of Geo 3. Cap. 88. be the price of such a concession on their part) to the extent contemplated in any arrangement hitherto submitted to the House, would not have the effect of

relieving the Government of His Majesty from the Embarrassment to which it is now annually Exposed by the Proceedings of that Branch of the Provincial Legislature.

I will illustrate my view of the subject by supposing that the proposal made to the House of Assembly in the Session before the last, of providing, for the life of the King, a Civil List to the amount of Five thousand, nine hundred Pounds per Annum, had been acceded to; and that the same highly objectionable Bill of Supply which was passed by the House of Assembly during their late Session had been sent up to, & rejected (as in fact was the case) by the Legislative Council, would the scanty Civil List above mentioned, which provides only for the Salaries of the Governor & three or four other public officers, have enabled the Administration of the Province to carry on the ordinary business of Government? - What, in that case, was to become of the Salaries of the Judges; and of other Officers whose daily services are absolutely indispensable, and the Law Expences (sic) of the Crown, besides many other items of unavoidable expence which it is unnecessary here to enumerate? And where was the remedy for this perplexing embarassment (sic) to be sought for, supposing always that the Revenues levied under the 14th of Geo 3. had been abandoned in return for the scanty Civil List above mentioned?

These are propositions which forcibly present themselves to the Mind; - every day's experience of the temper

of the House of Assembly, and the objects (now stripped of their disguise) of those who bear sway in that Assembly, equally point out the necessity for their speedy solution; and I hope Your Lordship will pardon my freedom when I add that I can see only one way of disposing of the difficulties arising out of the actual state of the Finance Question in this Province, and that is, by exerting the power with which the Law provides His Majesty to dispose of the Revenues under consideration for the support of the Civil Government, & the Administration of Justice, taking care always to observe the strictest economy in their management & distribution. - The liberal propositions on the subject of the Finances of the Province, which from time to time have been submitted on the part of His Majesty's Government to the House of Assembly, having been received, I will not say with disrespect, but rather with contempt & scorn by that Assembly, they can have no cause to complain if His Majesty shall now assert His Right, more especially as the Act of the 1st & 2nd of William the 4th has enabled the Provincial Legislature to dispose (if they shall see fit to do so) of the Revenues levied under the British Statute of the 14th of Geo. 3. Cap. 88. -

I have the honor to be My Lord Your Lordship's most Obedt. humble Servant, Aylmer.

APPENDIX 5

OPINION OF JURY ACT'S OPERATION

16 May, 1833.

In the Session before the last of the Provincial Parliament of Lower Canada, An Act was passed, to which (under advice) I gave the Royal Sanction, entitled 'An Act to regulate the qualifications & summoning of Jurors in Civil & Criminal Cases.'

Although many objections to the Act were urged by Persons well acquainted with the want of education amongst the People of the Province, and their unfitness, on that account, to act as grand Jurors, which they would be called upon to do under the operation of it, its inconvenience in practice was not sensibly felt until the Criminal Term in the District of Montreal on the Month of February last, upon which occasion it appeared that, of the Individuals selected for the Grand Jury under the Act one only had sufficiency of education to be able to write, and the whole of them were ignorant of the English Language;

....being fully persuaded that the interests of Public Justice must be injuriously affected by the operation of the Act, I take the liberty of submitting to your Lordship the expediency of advising His Majesty to exercise His Royal Prerogative, by disallowing the Act within the period of two years from the passing of it, as prescribed by Law.

(He then recommended reverting to the previous system whereby)

the defect of the Pannel (sic) of petty Jurors so qualified may be supplied by a tales as in other ordinary cases, at the discretion of the court in such manner as the said Court shall judge proper to give the Party prosecuted in any Criminal Cause Jurors for his trial, one half of whom at the least may in the judgment of the Court be competently skilled in the Language of his defence, if the same be either the English or French language.

....the Sheriffs in the different Districts were in the habit of selecting as Grand Jurors those most distinguished in the Society by Education & Wealth, the proportion of French Canadians being equal to the English Canadians; the selection was not confined to the Cities, but to the District generally - the Majority however, was taken from the Towns. The Petty Jurors were selected in the same way, but from the Towns only and consisted half of English Canadians and half of French Canadians, the only qualification required by the Ordinance, above referred to, being the payment of an Annual Rent of fifteen pounds.

....now under the present system the pannel (sic) never furnishes a sufficient number for this purpose (half of jurors knowing language of the defence) the consequence is that a tales if prayed, must be allowed, and the Sheriff in that case must select from the Individuals attending the Court as Spectators, who are so skilled, and who possibly may have been brought there by design, either as friends of, or hostile to, the accused.

(In the enclosures it is complained that the French are agriculturalists and do not understand cases of commercial nature. Commerce is predominantly in the hands of the English.)

## APPENDIX 6

## ABSTRACT OF

Aylmer's Views of the Political and  
Constitutional Affairs of Lower Canada  
According to his Correspondence, 1830 - 1835.

This report presented the views of Matthew Lord Aylmer on the political and constitutional events and issues during his governorship of Lower Canada 1800 - 1835. These views were derived from the letters in collections C.O.42, C.O.387, and "Q" series of the Public Archives of Canada.

The project arose from the contradictory historical opinion of Aylmer's role in the events leading up to the Rebellion of 1837. Documentary evidence was scanty in most accounts of his administration, although considerable material was available in the Public Archives. Consequently, his own words were quoted extensively, and several important letters were presented in an appendix.

The study concluded that he had remained convinced that the mass of French-Canadians were peaceable and reasonable, and that, if England remedied the palpable flaws in the constitution and administration, they would disavow the radical Patriotes, and continue to be loyal subjects of the Empire. Acting on this conviction, he had urged Parliament to resist the Patriotes' extreme demands. It further concluded that Aylmer's views throughout arose from his own

appreciation of developments. It denied that he was merely a puppet of the Colonial Secretary or the English Bureaucracy in the Province.