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GUY CARLETON'S VIEWS
ON CANADIAN PROBLEMS: 1766-1770)
by (Gérald Lacombe)

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fulfillment of the requirements for
the degree of Master of Arts (History).



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CURRICULUM STUDIORUM

Gérald Lacombe was born in Vankleek Hill, Ontario, on July 27, 1941. In June 1960, he received his Secondary School Honour Graduation Diploma from the Vankleek Hill Collegiate Institute. On October 15, 1963, the University of Ottawa granted him the degree of Bachelor of Arts with a Major in History.

ABBREVIATIONS USED IN THIS THESIS

PAC: Public Archives of Canada

CD: Shortt, A., and Doughty, A. G., Documents
Relating to the Constitutional History of Canada: 1759-1791.

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INTRODUCTION

As this thesis deals with Carleton's first administration of the Province of Quebec, it would seem only natural that a short biography of the man be included. However, as this has already been done,¹ there would be no point in repeating the work. In the introduction, an attempt will therefore be made to present the factors which resulted in Murray's recall, and to describe the situation as it existed on the Lieutenant-Governor's arrival.

.

With the acquisition of half a continent in 1763, England faced the problem of moulding a race that differed in language, religion and customs into the British fabric. The main difficulties involved were how to rule and develop a large area peopled by a rival white race that had been living there since the beginnings of colonization. Another problem stemmed from the fact that a large group of British colonists, occupying the adjacent territory, were to be brought to co-operate with the new subjects in the

¹ A. Lefort, Le point de vue de lord Dorchester sur les problèmes canadiens entre 1786 et 1791, thèse présentée à la Faculté des Arts de l'Université d'Ottawa en vue de l'obtention de la maîtrise ès arts en histoire, 1964, xxii-366 p.

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development of the North American continent. The existence of a colored race that had been mastered by the French-Canadians, further complicated the situation.

The Treaty of Paris marked the end of French rule and the beginning of English domination in Canada, resulting in a severance of all ties between mother-country and colony. The French-Canadians had no alternative but to accept their fate and try to fare as well as possible under their new masters. At the same time, this infant race witnessed the loss of its political, economic and social elite.² This was not realized immediately, but the conquered group gradually proved capable of appreciating the fact. Canadian society became rural and agricultural as no place existed in the administrative and business fields for the conquered people. Having witnessed the hardships of the Conquest, the new subjects wondered as to what the future held in store for them.

Canada had been preferred to Guadeloupe in 1763 because of the openings that it offered to English settlement and produce. In so far as the colony's trade was concerned, it entered the British mercantile system

2 R. de Roquebrune, L'exode des Canadiens après 1760, from La Nouvelle Revue Canadienne, vol. III, n° 1, septembre-octobre 1953, p. 9.

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as did the other colonies. From the point of view of settlement, however, it presented a problem, since its population differed from that of the British world in language, religion, customs and laws.

As seen in the Royal Proclamation and in the instructions given to Murray, British policy in 1763, seems to have been oriented towards establishing English laws and language, as well as the Protestant religion. Opposition to the proposed policy soon appeared in the form of protests from the French-Canadians and from Murray and officials in England, resulting in a general mitigation of the letter of the law.

The governors sent to administer the newly-acquired colony soon realized that to keep Quebec British, the system in existence before 1760 was to be re-established as far as circumstances permitted. Murray, and more particularly, Carleton, thus began to re-instate the system of privileges. Fear that the new subjects might join their former mother country in opposing Great Britain in the eventuality of war, led them to attempt gaining the allegiance of the Canadians, by ensuring the support of church and nobility.³ It resulted in a mitigation of the rights of

³ S. D. Clark, Movements of Political protest in Canada: 1640-1840, University of Toronto Press, 1959, p. 43.

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British subjects, as witnessed in the refusal of calling an Assembly.

Opposition to the policy pursued, appeared in the form of the representations of the Grand Jury in October, 1764. They claimed that:

...as the Grand Jury must be consider'd at present as the only Body representative of the Colony, they, as British Subjects, have a right to be consulted, before any Ordinance that may affect the Body that they represent, be pass'd into a Law, And as it must happen that Taxes be levy'd for the necessary Expences or Improvement of the Colony in Order to prevent all abuses & embezzlements or wrong application of the publick money.⁴

A clause was added in which it was represented that one of their chief grievances stemmed from the fact that Roman Catholics were being admitted as jurors in flagrant contradiction to the 3rd James I, Chapter 5, section 8.⁵ It was also claimed that soldiers in active service could not constitutionally exercise judicial authority.⁶ This supplemental clause was signed only by the foreman and thirteen others. One may perceive in this last sector, the conflict developing between civil and military authorities.

4 CD, p. 213.

5 Ibid., p. 214.

6 Ibid., p. 215.

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The merchants soon organized their opposition, naming Fowler Walker (April 19, 1765), who was to play a major role in Murray's recall, as their agent in London.

The presiding justices expressed their disapprobation of the tone of the document, condemning and replying to each statement. The Canadians closely followed suit, repudiating all connection with the presentment.⁷

By expressing sympathy and admiration for the Canadians, Murray brought upon himself the wrath of the English mercantile minority. He was soon involved in a quarrel with the Province's garrison and mercantile minority. The opposition presented by the former group, stemmed from the fact that the Governor was devoid of military command; while the conflict with the latter sector was due to the unfulfilled promise of calling an Assembly. Furthermore, rivalry prevailed between the soldiers and the merchants.⁸

Murray's problems began in 1762 when he denounced Arnold Nesbit's monetary schemes. The Allsopp and Walker incidents added fuel to the fire. After a sufficient number of charges had been trumped up, the Home Government

7 Ibid., p. 126.

8 A. L. Burt, The Old Province of Quebec, Toronto, 1933, p. 102.

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issued an Order-in-Council (October 18, 1765) recalling Murray and Burton. At the same time an investigation into the state of affairs in the colony was ordered. It appeared to be a victory for the merchants, but they were soon to be deceived in their expectations. On June 28, 1766, Murray sailed for England, never to return to Quebec, although he was acquitted of all charges.

The first English Governor of Quebec had been given the task of inaugurating civil government, without being furnished with the means and assistance necessary to fulfill it. Of his two assistants (Suckling and Gregory), one had been recently released from prison, while the other knew very little law. In addition to this, Murray lacked the confidence of the Home Government.

During the interval separating Murray's departure from Carleton's arrival, Irving acted as governor. In a letter to Murray, dated August 23, 1766, he expressed the fears of the Canadians that his sufferings might deter future governors from interceding in their favor.⁹

A man of military training, Guy Carleton, was commissioned on April 7, 1766, to replace Governor Murray. The second governor of Canada is represented by Burt as a man of great reserve and self-control. His words were

⁹ PAC, MG 23, A 4, vol. 16: 90, Shelburne, 1766, Irving to Murray, Quebec, August 23, 1766.

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usually weighed to produce a calculated effect; quite often being to mislead. Carleton had a mean and treacherous temper that would stop at nothing to cut down his enemies and cover up his mistakes, as was shown soon after his arrival in 1766 when he excluded Mabane and Irving from Council.¹⁰

There was, nevertheless, a certain greatness about the man. Being possessed of a strong personality and a great confidence in his capacities, he never lacked decision. Carleton governed Quebec during what were probably its most trying years, proving able to make decisions under the guns of the enemy. Being a statesman and not a placeman, he could not tolerate corruption and the eighteenth century form of favoritism in office. Throughout the whole of his career he militated against the iniquitous system of fees.¹¹

Carleton arrived in Quebec on September 22, 1766, and on the following day was sworn in. For nearly three more years he was merely Murray's deputy. His main task consisted in gaining the allegiance of the Canadians and

¹⁰ A. L. Burt, "Guy Carleton, Lord Dorchester: An Estimate", from The Canadian Historical Association Report, 1935, p. 76-81.

¹¹ Ibid., p. 76-81.

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saving the colony from the absorbing force of its southern neighbours.

Although the difficulties facing the Lieutenant-Governor were greater and more numerous than those that had existed during his predecessor's administration, he had been supplied with more adequate means to overcome them. In the first place, military and civil command had been united in the person of the chief administrator. Furthermore, he had been supplied with experienced and capable legal advisors in the persons of Chief Justice Hey and Attorney General Masères.

Prior to their departure, the three men had been shown the case against Murray,¹² but not the one in his favor. They thus arrived in the colony filled with prejudices against the "French Party". They were soon involved in a struggle between the "English party" and Murray's friends.

As soon as he set foot on Canadian soil, Carleton noticed the rivalry existing in the colony. Three separate welcoming addresses were presented to him, due to the fact that these groups could not agree on a common representation. The Council expressed its satisfaction in seeing the

12 PAC, MG 23, A 1, vol. 2: 185, Dartmouth Papers, Conway to Dartmouth, Little Warwick St., April 27, 1766.

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military and civil commands united.¹³ In the address presented by the merchants and traders of the city of Quebec, it was demanded that free trade be restored.¹⁴ The magistrates prayed that tranquility reign in the province, promising to respect the laws and set the example by "Candor & Moderation".¹⁵

Lieutenant-Governor Carleton at once informed the English government of the unruly situation existing in the colony.

...The three Addresses from the Inhabitants of this Town, proceeded, partly from the Animosities that have subsisted among them, and, I understand, from a few who have taken the Resolution to prevent my restoring Tranquility among them; which, notwithstanding, I flatter myself, I shall accomplish. These raised no small Stir against the Addresses, and availing themselves of the Clause touching the Stamp Act, first joined the Colonists, tho' these very Men some time ago talked most violently of Cramming this same Stamp Act down their throats. This first Address presented, the Party, finding the colonists only Objected to that Clause, and would address, separated from them also:....¹⁶

13 PAC, Q 3: 338-339, Copy of an Address of the Council to Carleton, Quebec, September 24, 1766.

14 PAC, Q 3: 344-348, The Address of the Merchants and Traders of the City of Quebec to Lt. Gov. Carleton, Quebec, September 27, 1766.

15 PAC, Q 3: 350-351, Address of the magistrates and others residing in the City of Quebec to Carleton, Quebec, September 29, 1766.

16 PAC, Q 3: 259, Carleton to Shelburne, Quebec, October 25, 1766.

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In spite of unrest and growing opposition, the Lieutenant-Governor was confident that he would succeed in restoring order and tranquility. At first, the leading malcontents (Allsopp, Walker, etc.), were high in Carleton's favor, but he was soon attracted to Irving and Mabane's group. The "French" or "King's party" was, therefore, once more in honor. It was felt that the King had at last named an impartial governor.

One may perceive from this the main conflicts that appeared on the surface during Carleton's administration, that is, opposition between the mercantile element and the civil authorities. There also appeared jealousies between the soldiery and the merchants, as seen in the Walker incident. Furthermore, the English element opposed itself to the leniency shown towards the new subjects. Unrest increased from the growing demands of the Canadians for the rights that had been promised to them in 1760.

The Lords of the Board of Trade and Plantations summarized the problems existing in Quebec in the following manner:

The Circumstances in the State of that Province, which appear to be the most important are,

First, the unsettled State of Ecclesiastical Affairs, and the complaints and Representations of His Majesty's new subjects on that head.

Secondly, The defective and partial Establishments of Judicature in respect to the constitution of the Courts of Justice, and their Rules and forms of proceeding; and,

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Thirdly, The want of such a complete Constitution of Civil Government, as may be competent to the forming those Regulations essential to the Peace, Happiness and Welfare of the People, and the support of every necessary Establishment.¹⁷

The British authorities, through their colonial agents, wished to put an end to the grievances existing in their newly-acquired colony to strengthen its position and protect it from being engulfed by the growing tide of rebellion developing south of the border.

Such a strong province would serve as a base of action against the recalcitrant American colonies. Furthermore, a constant dread of war with France led to a desire to attach the Canadians to the English cause. Toleration thus became the guiding principle.

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In dealing with Carleton's views on Canadian problems, two approaches were possible. First of all, we might have shown in each chapter how his ideas on defence and colonization influenced the particular sphere dealt with, - involving numerous repetitions. A second way would have been to deal with his basic philosophy in the first chapter.

¹⁷ PAC, Q 3: 53-54, Report of the Lords of the Board of Trade and Plantations, Whitehall, May 16, 1766.

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As repetition is to be avoided, and as simplicity and clearness are to be sought, I have thought it preferable to adopt the latter course. I will therefore begin by exposing his views on defence, and then proceed to develop his whole philosophy from this main theme. As his views on colonization had great bearing on his defence policy, this will also be included in the first chapter. This process will enable us to perceive more easily the source of his political, economic and religious views.

CHAPTER I

DEFENCE POLICY

Fearing war with France, and desiring to protect her newly-acquired colony from the growing magnetism of the recalcitrant American colonies, England wished to consolidate her position in Canada. Two conditions had to be fulfilled, however, before such a goal could be attained. In the first place, the province's fortifications required extensive repairs and additions to place it in an adequate state of defence. As the conquered region was still populated by a Canadian majority and a few English merchants, the allegiance of the former group had to be won to assure its participation, or at least its neutrality, in case of an armed conflict.

The man sent to succeed Murray was a soldier of experience and reputation who had entered the army at the age of seventeen. Canada would need such a governor until the end of the war of 1812. Defence thus became a leading factor in Carleton's approach to the Canadian problems. From this basic principle followed his whole philosophy.

I take for granted, that the natural Rights of Men, the British Interests on this Continent, and the securing the Kings Dominions over this Province, must ever be the principal Points in View, in forming its Civil Constitution, and Body of Laws, And that

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the Last, is the Foundation of all, without which, other schemes can be little better than meer Castles in the Air;...¹

The Lieutenant-Governor could not but be influenced by his aristocratic background and military training, which made him consider his country's interest as of primary importance. Throughout his stay in the colony, he was haunted by this dread of war with France, as well as a desire to win the allegiance of the Canadians by making concessions to the noblesse and clergy.

1. Colonization.

Murray has left us a very valuable report on the state of the Province of Quebec which contains a census taken in 1765.

It (province) consists of One Hundred & Ten Parishes, exclusive of the Towns of Quebec and Montreal. These Parishes contain 9722 Houses, and 54,575 Christian Souls:... The Towns of Quebec and Montreal contain about 14,700 Inhabitants. The Savages, who are all Roman Catholics, living within the Limits of the Province consist of 7400 Souls. So the whole, exclusive of the King's Troops, doth amount to 76,275 Souls; of which, in the Parishes, are nineteen Protestant Families; the rest of that persuasion, a few half Pay Officers excepted, are Traders, Mechanics, and Publicans, who reside in the two Towns of Quebec and Montreal;...²

¹ PAC, Q 5-1: 260-261, Carleton to Shelburne, Quebec, November 25, 1767.

² PAC, MG 23, A 4, vol. 16: 101, Shelburne MSS, Murray to Shelburne, Quebec, August 30, 1766.

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It appears that in 1766, there were approximately 69,000 Canadians in the Province of Quebec, while there were still, in addition to the soldiers stationed there, only a few hundred English colonists.

On his arrival in the colony, Carleton was opposed to Murray's policies, allying himself to the English element. He soon realized, however, that to fulfill the Home Government's plans and to render justice to the Canadians, he must follow his predecessor's inclinations. This plan was to a great extent dictated by his realization of the fact that the colony's population included a majority of new subjects.

In a letter to Shelburne dated November 25, 1767, the Lieutenant-Governor set forth the fact that guided his whole way of thinking, - that the Canadians were a majority and would retain this privileged position. The English element, on the other hand, consisted of 1,627 regular troops, in addition to which there were five hundred men capable of carrying arms. The new subjects capable of bearing arms, however, numbered eighteen thousand, of which more than half had already experienced active service.

The King's Forces in this Province, supposing them compleat to the Allowance, and all in perfect Health, Rank and File, would amount to sixteen hundred and twenty seven Men; The King's old subjects in this Province, supposing them all willing, might furnish about five hundred Men, able to carry Arms,

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exclusive of his Troops; that is supposing all the King's Troops and old Subjects collected in Quebec; with two Months hard Labour, they might put the works in a tolerable State of Repair, and would amount to about one third of the Forces necessary for its Defence.

The new Subjects could send into the Field, about eighteen thousand Men, well able to carry Arms, of which Number, above one half have already served, with as much Valor, with more Zeal, and more military Knowledge for America, than the regular Troops of France, that were joined with them.³

Carleton further expressed the view that this Canadian preponderance would not lessen, but rather continually increase due to the fact that this group was accustomed to the climate and conditions of the region. The English, on the other hand, were in most cases mere passers-by who preferred to live in the southern colonies, coming to Canada merely to enrich themselves. Many of these individuals had already left Quebec and more were preparing to leave.

Having arrayed the Strength of His Majesty's old and new Subjects, and shewn the great Superiority of the Latter, it may not be amiss to observe, that there is not the least Probability, this present Superiority should ever diminish, on the Contrary 'tis more than probable it will increase and strengthen daily; The Europeans, who migrate never will prefer the long unhospitable Winters of Canada, to the more chearful Climates, and more fruitful Soil of His Majesty's Southern Provinces; The few old Subjects, at present in this Province, have been mostly left here by Accident, and are either disbanded Officers,

³ PAC, Q 5-1: 262, Carleton to Shelburne, Quebec, November 25, 1767.

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Soldiers, or Followers of the Army, who, not Knowing how to dispose of themselves elsewhere, settled where they were left at the Reduction; or else they are Adventurers in Trade, or such as could not remain at Home, who set out to mend their Fortunes, at the opening of this new Channel for Commerce, but Experience has taught almost all of them, that this Trade requires a Strict Frugality, they are Strangers to, or to which they will not submit, so that some, from more advantageous Views elsewhere, others from Necessity, have already left this Province, and I greatly fear many more, for the same Reasons, will follow their Example in a few Years; But while this severe Climate, and the Poverty of the Country discourages all but the Natives, its Healthfulness is such, that these multiply daily, so that, barring a Catastrophe shocking to think of, this Country must, to the end of Time, be peopled by the Canadian Race, who already have taken such firm Root, and got to so great a Height, that any new Stock transplanted will be totally hid, and imperceptible amongst them, except in the Towns of Quebec and Montreal.⁴

The Lieutenant-Governor could fully appreciate the situation existing in the colony during these first years of British rule. His predictions proved to be right, as we are able to witness today, if he was mainly concerned with only the territory covered by the modern Province of Quebec. On the other hand, his prophecy was inaccurate if he was thinking of the whole region, as a large English population came to occupy part of it. It is impossible to discover whether he meant only the Province of Quebec, or the combined areas of Quebec and Ontario. In either case, it was impossible for him to foresee the exodus of a mass

⁴ Ibid., 265-266.

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of Loyalists, who settled in what was to become Upper Canada and later on the Province of Ontario.

Carleton's whole defence policy was colored by this overbearing Canadian factor. He suggested that fortifications be repaired and strengthened, and that attempts be made to win the allegiance of the Canadians. The Lieutenant-Governor reiterated the same demands over and over again, but the English government procrastinated, making promises which were never completely fulfilled.

2. Fortifications.

One of the most important ideas that became deep-rooted in Carleton's mind had to do with the military situation of the colony. Being a soldier with a keen eye for strategy, he soon perceived of a plan to strengthen England's position in America. Fear of rebellion in the southern colonies, as well as fear of war with France led him to adopt this scheme. He saw that in the eventuality of either of these occurrences, there existed the danger that the new subjects would join the antagonists against England.⁵

⁵ A. L. Burt, The Old Province of Quebec, Toronto, 1933, p. 155.

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In answer to Gage's appeal for advice, Carleton suggested that the line of defence between Quebec and New York be strengthened by repairing the three forts along this path, that a fortified place be erected near New York, and that a citadel be built in Quebec.

The Forts of Crown Point, Ticonderoga, and Fort George are in a very declining Condition, of which, I believe, Your Excellency is well informed; should you approve of keeping up these Posts, it will be best to repair them as soon as possible. As you have been pleased to desire my Opinion of this Measure, I must freely say, that the more I consider the state of Affairs on this Continent, more and stronger Reasons present themselves, and I am the more convinced it is not only expedient, but indispensably necessary for the Interest of Great Britain, and His Majesty's Service, not only to keep these in good Repair, but to erect a proper Place of Arms near the Town of New York, and a Citadel in, or near the Town of Quebec. These, with temporary works thrown up occasionally at the other Places of landing and embarking, will secure the Communication with the Mother Country, and will link these two Provinces as strongly together, as will add great security to both; they will facilitate the Transport of ten or fifteen thousand Men in the beginning of a War, from the one to the other, as the circumstances may require.⁶

Such a scheme presented many advantages. In the first place, it would have facilitated the transportation of troops to any point of conflict along the line of defence. Furthermore, the American forces would, in this

⁶ PAC, Q 4: 100, Carleton to Gage, Quebec, February 15, 1767.

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way, have been divided into two sections, thus lessening their chances of uniting to attack the British army.

The natural and political Situation of the Province of Quebec and New York is such, as must forever give them great Influence and Weighth in the American Sistem, therefore no Pains, Address, nor Expence, too great to soot our Faction, or Party, to establish Tranquility, and a firm attachment to His Majesty's Government, at the same Time, it is equally essential to establish that Security and strength as can properly curb or overcome should such ever arise, who by the Tyes of Loyal Subjects and honest Men, are not thoroughly bound to their Duty.

This Communication so established will give Security to the King's Magazines, till then precarious, and doubtful who may avail themselves of them, will separate the Northern from the Southern Colonies, will afford an easy and advantageous Opportunity of transporting his Forces into any Part of this Continent, and may prevent the greatest of all Inconveniencies, Delay and Loss of Time in the beginning of a War.⁷

The plan exposed to Gage was represented to the Home authorities in the month of November. In this letter, Carleton dealt with the poor condition of the fortified places of the colony, stressing the fact that a citadel be erected at Quebec, around which would center the defence of the Province.

The Town of Quebec is the only Post, in this Province, that has the least Claim to be called a fortified Place; for the flimsy Wall about Montreal, was it not falling to Ruins, could only turn Musketry, it will be sufficiently accurate for the present Purpose, if this Town be considered as a good Camp for ten or twelve Battalions, whose Front

⁷ Ibid., 100-102.

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is fortified by a Bastioned Rampart, faced with Masonry; built, for the most Part upon a Rock; without Ditch or outwork; its Profile, slight for a Fortress, is substantial for an Encampment, its Parapet in very bad Order. The Flanks and Rear of this Encampment, in one thousand seven hundred and fifty nine, were closed partly by a thin Wall, the rest by great Stakes, now carried away, or rotten; these ran along the Heights and Precipices at a little Distance from the River St. Lawrence, the Bason, and River St. Charles, so as to leave a Passage between this Line and these Waters. With a Number of Troops sufficient for this Post, these Flanks and Rear might in a little Time be secured, and guarded so, as to reduce an Enemy to form his Attack in Front, but in Proportion as the Numbers fall short, the Danger increases, of being surrounded and Stormed with little ceremony; especially when this Line is open in many Places, as at present.⁸

The King's forces in the colony being only one-third of the number required to assure an adequate defence of the territory, and it being impossible to place any confidence in the newly-acquired subjects, added to the attempts made by France to ally her old subjects, compelled the Lieutenant-Governor to ask that a citadel be built in Quebec. Until help could be sent from England and from the neighbouring colonies, such a fortified place would have enabled the soldiers to concentrate their forces in Quebec, should an uprising occur. More preparation being required to insure a proper attack, it would have discouraged

⁸ PAC, Q 5-1: 261-262, Carleton to Shelburne, November 25, 1767.

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belligerent parties and would have served as a warning signal to the Mother-Country.

It was partly from these Considerations, as well as from those mentioned in my Letter of the 15th February last to the Commander in Chief, a Copy of which I inclosed to Your Lordship, that I recommended the building of a Citadel within the Town of Quebec, that the Troops might have a Post capable of being defended by their Numbers, till Succour could be sent them from Home, or from the neighbouring Colonies; for should a French War surprise the Province in its present Situation, the Canadian Officers sent from France with Troops, might assemble such a Body of People, As would render the King's Dominion over the Province very precarious, while it depends on a few Troops, in an extensive Post, open in many Places. A proper Citadel once erected, the Situation of Things will be greatly changed, the King's Enemies, who would attempt to disturb this Province, must hazard a larger Stake, and the Chance against them will be very considerably augmented; Greater Preparations must be made, which must give an Alarm at Home, a greater Number of Troops must be sent, with a Train of Artillery for a Siege, and a large Quantity of Ammunition, and Provisions, with a Fleet of Transports, and Ships of War to protect and assist in the different Operations, whose Success may be uncertain, but which, at all Events, must give Time for a Superior Squadron to follow, and catch them in the River, as well as to the Troops and Militia from the neighbouring Provinces to pour into this; a Work of this Nature is not only necessary as Matters now stand, but supposing the Canadians could be interested to take a Part in the Defence of the King's Government, a Change not impossible to bring about, yet Time must bring forth Events that will render it essentially necessary for the British Interests on this Continent, to secure this Post of Communication with the Mother Country; as might easily be proved, were they not too remote for the present Purpose.⁹

9 Ibid., 266-267.

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In this instance, Carleton based his demands for the erection of a citadel on the unpredictability of Canadian reaction to foreign intervention.

On May 9, 1769, Carleton once more exposed the expediency of building a citadel in Quebec. He then went on to give further examples of the colony's precarious state of defence.

... I have found it the general Opinion of the Canadians, that if Admiral Durell had pushed up in May 1759, with only a small Part of the Army, the Town might have been taken before the Governor in Chief could have sent them any Assistance from Montreal, where and in the upper Country all the Troops were collected to defend the Entrance by the Lakes; That after the Defeat of their Army upon the Plains of Abraham the 13th of September, altho' they had eight Battalions and forty Companies of regular Troops, with fifteen or sixteen thousand warlike Militia in the Field, after having had four Months Time to strengthen the Town. They apprehended the same so indefensible that it surrendered immediately, before one single Battery could be opened against it, And that if in the Succeeding year the Remains of ten brave Battalions were enabled to hold out untill the Arrival of our Fleet, it was in a great Degree owing to Monsieur De Levi's Army being in want of Artillery and Ammunition.

For the foregoing Reasons therefore as well as the many others before Alledged, I most humbly Recommend that essential and Salutary work to be set about as soon as possible.¹⁰

During the summer of 1769, Hillsborough, in answer to Carleton's suggestions, answered that the plans he had

¹⁰ PAC, Q 6: 63-64, Carleton to Hillsborough, Quebec, May 9, 1769.

forwarded were being studied.¹¹ Although the ministry seemed to realize the expediency of approving such a project, it persisted in its sluggish attitude. In 1776, Carleton was able to say that he had warned them of the impending danger. Had his plan of dividing the colonies by a line of fortification from Quebec to New York, and had the erection of strong places at the latter two towns been acted upon, it might not have saved the southern colonies for England, but it would at least have rendered resistance possible and more decisive.

3. Winning the Allegiance of the Canadians.

During the first years of his administration, Carleton expressed his fear of war with France. Should it occur, there was no doubt in his mind, that England's foremost rival would attempt to gain the assistance of her former subjects. On May 1, 1768, Hillsborough had asked Carleton information on intelligence he had received of the probability of war with France and of the participation of the Canadians. In a letter marked 'Secret correspondence',

¹¹ PAC, Q 6: 67-68, Hillsborough to Carleton, Whitehall, July 15, 1769.

PAC, Q 6: 12-13, Hillsborough to Carleton, Whitehall, May 18, 1769.

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the Governor expressed his views on the subject. He claimed that since his arrival in the colony he had seen no signs of such an occurrence, but at the same time added, that he did not doubt the Canadians' secret attachment to the French Crown, which would persist as long as they were excluded from employment by the British government. Should France declare war, she would attempt to regain her old possession. Furthermore, in the present situation, the Canadians would undoubtedly join the opposing power since nothing had been done to gain their allegiance.

Since my arrival in this province, I have not been able to make any discovery, that induces me to give credit to the paper of intelligence inclosed in your Lordships letter of the 14th of May last; nor do I think it probable the Chiefs of their own free motion in time of peace, dare assemble in numbers, consult, and resolve on a revolt; or that an assembly of military men should be so ignorant, as to fancy they could defend themselves by a few fireships only, against any future attack from Great-Britain, after their experience in fifty nine. Notwithstanding this, and their decent and respectful obedience to the Kings government hitherto, I have not the least doubt of their secret attachment to france, and think this will continue so long as they are excluded from all employments under the british Government, and are certain of being reinstated, at least in their former Commissions under that of france, by which chiefly they supported themselves, and families.

When I reflect that france naturally, has the affections of all the people; that, to make no mention of fees of Office & the vexations of the Law, we have done nothing to Gain one man in the province, by making it his private interest to remain the King's Subject; and that the interests of many would be greatly promoted by a revolution; I own, my not having discovered a treasonable

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correspondence, never was proof sufficient to convince me, it did not exist in some degree but I am incline to think, if such a message has been sent, very few were entrusted with the secret; perhaps the Court of France, informed a year past by Monsr. de Chatelet, that the King purposed raising a Regiment of His new subjects, caused this piece of intelligence to be communicated, to create a jealousy of the Canadians, and prevent a measure that might fix their attachments to the British government, and probably, of those Savages who have always acted with them; however that be, on receiving this news from France last spring, most of the Gentlemen in the province applied to me and begged to be admitted into the King's Service, assuring me they would take every opportunity to testify their zeal, and gratitude for so great a mark of favour & tenderness, extended, not only to them, but to their posterity.

When I consider further; that the Kings dominion here is maintained here but by a few troops, necessarily dispersed, without a place of security for their magazines, for their Arms, or for themselves; amidst a numerous military people, the Gentlemen all officers of experience, poor, without hopes that they or their descendants will be admitted into the service of their present Sovereign, I can have no doubt that France, as soon as determined to begin a war will attempt to regain Canada, should it be intended only to make a diversion, while it may reasonably be undertaken with little hazard, should it fail, and where so much may be gained, should it succeed. But should France begin a War in hopes the British-colonies will push matters to extremities, and she adopts the project of supporting them in their independent notions, Canada, probably, will then become the Principal scene, where the fate of America may be determined. Affairs in this situation, Canada in the hands of France would no longer present itself as an enemy to the British colonies, but as an ally, a friend, and a protector of their Independency. Your Lordship must immediately perceive the many disadvantages Great Britain would labour under in a war of this nature; and on the other hand, how greatly Canada might for ever Support the British interests on this Continent, for it is not united in any common principle, interest, or wish with the

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other Provinces, in opposition to the Supreme-seat of Government, was the Kings' dominion over it only strengthened by a Cittadel, which a few national troops might secure, and the natives attached, by making it their interest to remain His Subjects.

My letters to the Earl of Shelburne No- 20, 23, 24, 25 & 26, contain more fully my humble opinion of the measures necessary to obtain this desirable End, convinced, that the affections of the Canadians, or a great force, is necessary to secure this province in time of War, or, at least, till the marine of france is thoroughly subdued; to those letters I refer your Lordship for further particulars, and am, with great regard, and esteem.¹²

The Lieutenant-Governor saw in suspicious actions of Canadian subjects residing in France, attempts by the French government to win to their cause the Canadian subjects. Such, he believed, was the case with Cadet who had remitted large sums of money to some of his former dependents.

I have been the sooner induced to this, that Reports have been here spread of Canada's being to be restored by Treaty to the French, which, with a Circumstance, that has lately happened here, and which in the present Situation of Things, appears somewhat extraordinary, engages me to pay more than usual Attention to every thing that passes in this Province; a Monsieur Cadet, a Canadian of low Extraction, raised from a Butcher to be the Munionnaire General of the French Army before the Conquest, in which Employment he acquired great Wealth, after lingering near three Years in the Bastille, has been restored to the Enjoyment of a considerable Part of his Fortune, and this last Fall has remitted over a pretty large Sum, to the amount of two or three thousand Pounds Sterling, which he has directed

12 PAC, Q 5-2: 890-893, Carleton to Hillsborough, Quebec, November 20, 1768.

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to be distributed to some of his former Dependents, and in Charities to this and several of the adjacent Parishes; It may be owing to the Devotion, perhaps by way of Restitution, and perhaps also to preserve his Interest in the Province; He is by all Accounts an illiterate Man, all however acknowledge his having good natural Parts, and a fit person for the Court of France to make Use of, if ever they should have any Designs against this Country-¹³

Carleton also expressed his suspicions of a Mr. Vialars, a London merchant, whom he suspected of being a French spy.¹⁴ Every individual who favored French policies to any extent, appeared to Carleton as a possible French emissary.

A second part of Carleton's defence policy, thus consisted in winning the allegiance of the Canadians. The measures proposed were the products of a mind distracted by a knowledge of France, as well as by an aristocratic background and autocratic temper.¹⁵ Believing conditions to be similar in Old and New France, he attempted to restore in the latter a situation that had never existed.

The Governor's plan consisted of three parts. First, the habitants should be granted their laws and customs to show them that in 1763, Louis XV had simply been

13 PAC, Q 6: 9-10, Carleton to Hillsborough, Quebec, January 18, 1769.

14 PAC, Q 6: 161-165, Carleton to Hillsborough, Quebec, October 25, 1769.

15 M. Wade, The French Canadians: 1760-1945, Toronto, The Macmillan Co. of Canada Ltd., 1955, p. 60.

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replaced by George III. Secondly, the awarding of minor positions and pensions to the nobility, would assure the English government of their assistance. Finally, concessions would have to be made to the clergy who also exercised great influence over the masses.

... in my humble Opinion, the only way to make them faithfull Subjects, is to place a prudent Confidence in and employ them I am well convinced nothing else can have the same Efficacy-16

Very few recommendations were put forth by Carleton towards alleviating the habitant's condition, although he could foresee that their allegiance would be required in saving the colony from French and American claws. Assuring them of the possession of their property, granting them their laws and customs, reforming courts of justice, permitting their leaders to hold positions of trust and profit that might be little more than honorary, and forming a few Canadian battalions, he believed, would suffice to quell their opposition and attach them to the British Crown.

In my Letter (No. 20) I have given the Military state of this Province, with a scheme for strengthening it by a Citadel; I shall now add that, was this already constructed, and I could suppose it impossible for any foreign Enemy to shake the King's Dominion over the Province, still I shall think the Interests of Great Britain but half advanced,

16 PAC, Q 6: 114, Carleton to Hillsborough, Quebec, August 6, 1769.

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unless the Canadians are inspired with a cordial attachment, and zeal for the King's Government; How far they are removed from that desirable Disposition, may easily be discovered, if brought to the Test, and examined by the general Cause of the Attachments of Men, Self-Interest; if it shall not be found more their Interest to remain as at present, than to return under the Dominion of their former Sovereign, they certainly have not all those Motives, which induce Men of Honor to disregard the general Rule; there remain, 'tis true, an Oath of Allegiance, which may keep some Quiet in Case of a French Expedition, and the Punishments due to traitors, which will be regarded, as long as Government has Force sufficient to inflict them; it therefore seems to me highly expedient, that, at least, those Causes of Complaint, which affect the Bulk of the People, and come home almost to every Man, should be removed; That they should be maintained in the quiet Possession of their Property, according to their own Customs, which Time immemorial, has been regarded by them and their Ancestors, as Law and Equity; and that the Approach to Justice and Government, for the Redress of Wrongs, be practicable and Convenient, in Place of being ruinous by Delay, and an Expence disproportioned to their Poverty; but this is neither in the Power of Justice or Government here to grant him, while the Supreme Court is obliged to Judge according to the Laws of England, and the different Offices can claim, as their Right, Fees calculated for much wealthier Provinces.

But, Beside these Points of Justice, as long as the Canadians are deprived of all Places of Trust and Profit, they never can forget, they no longer are under the Dominion of their natural Sovereign; tho' this immediately concerns but few, yet it affects the Minds of all, from a national Spirit, which ever interests itself at the general Exclusion of their Countrymen: three or four of their Principal Gentlemen, with the Rank of Counsellors, was it little more than Honorary, tho' on many Occasions they might prove useful; a few Companies of Canadian Foot judiciously officered, with three or four trifling Employments, in the Civil Department, would make very considerable Alterations on the Minds of the People; It would divide the Canadians at least, and secure a Part, in Case of a French War,

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that would emulate the zeal of the King's National Troops; It would hold up Hopes to the Gentlemen, that their Children, without being bred up in France, or the French Service, might support their Families in the Service of the King their Master, and by their Employments preserve them from sinking into the lower Class of People, by the Division and Subdivision of Lands every Generation.¹⁷

At the same time, he wished to protect them against the intransigent attitude of the old subjects, who were continuously demanding that they be granted their rights and privileges as Englishmen.

I have found in Canada, what I believe may be found everywhere, the People fond of the Laws and Form of Government they have been educated under, tho' scarcely a Man that Knows one sound Principle of Government, or Law; Three or four of the old Subjects, about a year ago, brought me the rough Draft of a Petition for a general Assembly, and hoped, I had no Objection to their having it signed by all the British, who wished to have one called; I told them, I had many Objections to great numbers signing a Request of any Kind, that it seldom conveyed the sincere Desire of the Subscribers, that it had an Appearance of an Intention to take away the Freedom of granting or refusing the Requests; I had no Objection to Assemblies in General, yet such was the peculiar Situation of Canada, tho' I had turned that Matter often in my Thoughts, I could hit off no plan that was not liable to many Inconveniencies, and some Danger; That perhaps they might be more fortunate, and I should think myself obliged to them, if they would show me one, that could be of advantage to the Province, and the King's Service, assuring them such a Plan wanted no Petitions to recommend it to me; about a month after, they asked me, if I had considered of their Request, and I repeated my former Answer; since which I have often urged them,

17 PAC, Q 5-1: 370-372, Carleton to Shelburne, Quebec, January 20, 1768.

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of my own Accord, to let me have their Scheme for an Assembly, and to inform me, who they thought should be the Electors, and who the Representatives, but to no Purpose; so that I imagined, they had laid aside all Thoughts of the Kind, till lately one John McCord, who wants neither Sense, nor Honesty, and formerly Kept a small Ale House in the poor Suburbs of a little Country Town in the North of Ireland, appearing Zealous for the Presbyterian Faith, and having made a little money, bargained some Credit among People of his sort; this Person purchased some Spots of Ground, and procured Grants of more, close to the Barracks, where he run up Sheds, and placed poor People to sell his Spirits to the Soldiers, finding that his lucrative Trade has lately been checked, by inclosing the Barracks to prevent the Soldiers getting drunk all Hours of the Day and Night, He has commenced Patriot, and with the Assistance of the late Attorney General, and three or four more, egged on by Letters from Home, are at work again for an Assembly, and purpose having it signed by all they can influence: On the other Hand the better sort of Canadians fear nothing more than popular Assemblies, which, they conceive, tend only to render the People refractory and insolent; Enquiring what they thought of them, they said, they understood some of our Colonies had fallen under the King's Displeasure, owing to the Misconduct of their Assemblies, and that they should think themselves unhappy, if a like Misfortune befell them...¹⁸

An assembly had been promised, but Carleton refused to call it because it would have meant the subordination of a whole race by a few merchants.

Carleton's foremost error of judgment consisted in his evaluation of the influence exercised by the nobility on the peasantry. Major emphasis was thus placed on the

¹⁸ Ibid., p. 372-374.

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granting of special privileges to this sector of society, in an attempt to gain its good wishes.

As the Common People are greatly to be influenced by their Seigneurs, I annex a Return of the Noblesse of Canada, shewing with tolerable Exactness, their Age, Rank, and present Place of Abode, together with such Natives of France, as served in the Colony Troops so early in Life, as to give them a Knowledge of the Country, and Acquaintance and Influence over the People, equal to Natives of the same Rank; from whence it appears, that there are in France, and in the French Service, about one hundred Officers, all ready to be sent back, in Case of a War, to a Country they are intimately acquainted with, and with the Assistance of some Troops, to stir up a People accustomed to pay them implicit Obedience. It further shews, there remain in Canada, not many more than seventy of those, who ever had been in the French Service; not one of them in the King's Service, nor one who, from any Motive whatever, is induced to support His Government and Dominion, Gentlemen, who have lost their Employments, at least, by becoming His Subjects, and as they are not Bound by any Offices of Trust or Profit, we should only deceive ourselves by supposing, they would be active in the Defence of a People, that has deprived them of their Honors, Privileges, Profits and Laws, and in their stead, have introduced much Expence, Chicannery, and Confusion, with a Deluge of new Laws unknown and unpublished. Therefore all Circumstances considered, while Matters continue in their present State, the most we may Hope for from the Gentlemen who remain in the Province, is a passive Neutrality on all Occasions, with a respectful Submission to Government, and Deference for the King's Commission in whatever Hand it may be lodged; this they almost to a Man have persevered in, since my Arrival, notwithstanding much Pains have been taken, to engage them in Parties, by a few, whose Duty, and whose Office should have taught them better. This Disposition the French Minister seems to have foreseen, as appears by Orders calculated to draw them from Canada into France, well knowing that such as remained, were bound by Duty and Honor to do nothing against their Allegiance to the King, under whose Government they live, whereas those,

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who go to France, are to all Intents and Purposes Officers in the French Service, and liable to be sent on any Service.

For these Reasons, I imagine, an Edict was published in 1762 Declaring, that notwithstanding the low State of the King's Finances, the Salary of the Captains of the Colony Troops of Canada should be raised from four hundred and fifty Livres, the Establishment at which their Pay was fixed at first, to six hundred Livres a Year, to be paid quarterly, upon the Footing of Officers in full Pay, by the Treasurer of the Colonies, at the Quarters assigned them by His Majesty in Touraine, and that such of them, as did not repair thither, should be struck off, the King's Intentions being, that the said Officers should remain in that Province, untill further Orders, and not depart from thence without a written Leave from the Secretary of State for the Marine Department-

A few of these Officers have been sent to the other Colonies, but the greater Part still remain in Touraine and the Arrears due to those, who have remained any Time in this Country, are punctually discharged, upon their Emigration from hence and Obedience to the above mentioned Injunction-

By the Secretary of State's Letter, a certain Quantity of Wine, Duty free, is admitted to enter the Towns, where these Canadian Officers Quarter, for their use, according to their several Ranks-¹⁹

This was an illusion which haunted the Governor throughout his first years in Canada. It was one of the main forces that compelled him to strive arduously for the passage of the Quebec Act, which granted special privileges to the Canadian nobility.²⁰ The Canadian masses, he believed, would naturally follow its nobility.

¹⁹ PAC, Q 5-1: 262-265, Carleton to Shelburne, Quebec, November 25, 1767.

²⁰ S. D. Clark, Movements of Political Protest in Canada: 1640-1840, University of Toronto Press, 1959, p. 90.

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The Governor thought that one of the means by which the seigniors could be attached to the King's service, consisted in awarding them pensions, as had formerly been done by the French government. A unique opportunity presented itself when Chevalier de Lery requested that the pension and position he had been promised by Neville be granted.²¹ Carleton immediately forwarded the memorial to the Home government, recommending that it be acted upon as it would serve as an example to the Canadians that they would some day be admitted into England's service.

The annexed Memorial of Monsieur De Lery is too long, and too much detailed to require any Explanation from me; As it exhibits a Sketch of the French Ministers Sentiments concerning the Canadians, I send it to Your Lordship unaltered. Mr Neville and the Duke of Bedford can best inform you, what those Services were, on which he grounds his Petition, and claims their Promise of two hundred Pounds a Year Pension; but whether they were of more or less Advantage to His Majesty's Service, it appears very clearly they have occasioned his being strongly marked by the French Ministers, and that the first Canadian Gentleman, who attached himself to the King's Interests as soon as he became His Subject, should be obliged to quit his Native Country, together with his Distress, must afford them Matter of Triumph.

I must in Justice to this Gentleman say, that I have great Reason to be satisfied with his Conduct since my arrival in the Province, that I think him qualified to be useful in Different Capacities, and am convinced, whatever Prince he

21 PAC, Q 4: 276-294, de Lery to Carleton, Quebec, September 7, 1767.

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engaged to serve, He will go through his Duty with that Zeal and Fidelity, which allways distinguishes a Man of Honor; Besides, should His Majesty be graciously pleased to grant his Petition, it will serve as a Proof to the Gentlemen of Canada, that they are not for ever to be excluded from the Service of their present Sovereign; this Opinion I have endeavoured to remove, as I am thoroughly convinced it is for the British Interests upon this Continent, they should be employed; From a Despair of this Sort, I imagine, it must have proceeded, that several young Gentlemen, whose Parents remain in this Country, and whose Fortunes they must inherit, have entered into the French Service, as Your Lordship may see by the inclosed Return, the three first are Heirs of three of the best and richest Families in the Province. 22

Another of Carleton's recurring ideas involved the formation of a Canadian regiment led by, what he believed to have been, the former leaders. Until the acceptance of this plan, a few young Canadian gentlemen could be placed in the American regiments.

Should His Majesty think proper to raise a Canadian Regiment, no doubt but these Gentlemen would prefer to serve, where both Duty and Interest require them; 'till that Scheme shall be adopted, the placing a few of the young Gentlemen in the American Battalions would make them turn their Eyes from France, which undoubtedly will endeavour to preserve an Interest here for future Events.²³

The principle which Carleton most held at heart, however, was the admission of a few Canadian seigniors to

22 PAC, Q 4: 273-274, Carleton to Shelburne, Quebec, September 24, 1767.

23 Ibid., 274.

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the Council, claiming that it was almost impossible to fill the vacancies with the English subjects residing in the Province. Such a measure, he insisted, would serve to conciliate the affections of the leading men who, in return, would be able to direct the lower classes. Furthermore, they would be a great help in elucidating questions of law, customs, internal police and management of Indian affairs. The old subjects, retaining a majority in Council, there was no danger of the minority ever leading it.

Ever since the Death of Mr. Benjamin Price, a Member of His Majesty's Council of this Province, in October last, I have been considering, agreeably to the King's Instructions for that Purpose, of proper Subjects to recommend to Your Lordship, to succeed thereto.

Mr. James Johnstone, whom I once before mentioned to Lord Shelburne, in my Letter No. 27, Mr. John Gray a sensible intelligent Man of a good Character, and Mr. Jacob Jordan, are the only Persons here, I can think of at present, to offer to your Consideration for filling up this Vacancy-

But so very difficult is it, in that Medley of People, collected here from all Parts of the World to find Persons furnished with all the Requisites for discharging the Duty of that Office with becoming Propriety that I am induced for that, as well as many other weighty Reasons, again to offer to Your Lordship, what I before laid upon the same subject to Lord Shelburne, in my Letter No 26, that the Admission of some of the Canadian Noblesse to that Board, might prove a great Means of Conciliating the Affections of the leading Men among them, of Managing through their Interest, the lower Class composed of a well regulated Militia and of giving Vigor and Influence to the King's Government through every part of this Province.

These Gentlemen might greatly assist the Council, in their Judicial Capacity on Points relative to their ancient Customs, or internal

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Police, as well as in the Management of the Indian Nations, with which they are, to a man, thoroughly well acquainted, nor, while a Superiority of the old Subjects sit at the Board, and their Conduct receives the immediate Inspection of the King's Governor can there be the least Reason to apprehend their gaining an improper Influence in the Deliberation of it.

And as an addition of five Members to the present Number of twelve, might in many Respects prove very advantageous, and give an Opening for the Introduction of so many of His Majesty's Canadian Subjects into the Council, I here subjoin a List of their principal Gentlemen, that if the Measure is adopted a Selection may be made of such as His Majesty chuses to Honour with His appointment. Mr. De Lery, Mr. La Naudière, Mr. Contrecoeur, Mr. Tonnancourt, Mr. D'Ailleboust De Guisy, Mr. Gaspé, Mr. St. Ours, Mr. St. Luc, Mr. Bellestre, Mr. Rouville, Mr. Montesson, Mr. Niverville. I have placed Mr. De Lery at the Head of this List, as he gave early Proofs of a Desire to serve His Majesty and the British Interests, that he expresses a gratefull sense of the King's Favours, and that great Trust and Confidence may be reposed, I verily believe, in his Fidelity and Attachment to the present Government. The others in General are Men of the first Property and Consequence in the Country, and therefore the most likely to render the Crown good Service upon Ocasion-²⁴

The same recommendation was once more put forth on the death of Francis Mounier.²⁵

In response to the Governor's demands for the awarding of a pension to De Lery, Hillsborough answered

24 PAC, Q 6: 34-36, Carleton to Hillsborough, Quebec, March 15, 1769.

25 PAC, Q 6: 113-114, Carleton to Hillsborough, Quebec, August 6, 1769.

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that he believed that the King could not but approve of the measure.²⁶ Later on during the summer, it was admitted that it would be desirable that Canadians be admitted into the Council and other government offices, but that further consideration must be given to the recommendation.²⁷

Because of the existence of numerous prejudices and factions, Canadians could not, as matters stood, be permitted to join the military corps of the Province.²⁸

Carleton's policy of demanding that special privileges be granted to the noblesse, was an illusion which was to obstruct his understanding of the situation during the first years of his administration. In addition to the reasons already explained, this was due to the fact that he had not witnessed the situation that had existed during the military regime. Had he ruled through this period, he would have been able to realize that the real leaders of society had been the captains of militia.²⁹

26 PAC, Q 6: 12-13, Hillsborough to Carleton, Whitehall, May 18, 1769.

27 PAC, Q 6: 67-68, Hillsborough to Carleton, Whitehall, July 15, 1769.

28 PAC, Q 6: 3-4, Hillsborough to Carleton, Whitehall, January 4, 1769.

29 A. L. Burt, The Old Province of Quebec, Toronto, 1933, p. 154.

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Every one of these men was the most respected habitant of his locality, serving both as representative of the people, and agent of the government. He was a military commander, a recorder and superintendent of roads. He also examined all cases before the courts, acted as intermediary between the seignior or the curé and the civil authorities, made reports as to litigations between seignior and habitant, and was involved in almost every event that occurred in his district. Although there was no drill after 1760, the captain of militia retained his former functions. Only in 1868, with the passing of the Militia Act, was the militia abolished.³⁰

Had he proven capable of evaluating correctly the role played by this group of individuals, he would not have relied as heavily upon a class that had had fewer privileges than their counterparts in France. Carleton attempted to create an order of things that had never existed in New France, that is, a well-ordered feudal society directed by the seigniors. He was unable to realize that the occupants of the French North American colony, had experienced much more freedom than their brothers in France.

³⁰ B. Sulte, "The Captains of Militia", in The Canadian Historical Review, Vol. 1, No. 3, September 1920, p. 241-245.

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A third part of his plan consisted in gaining the assistance of the clergy, whom he believed to be, along with the nobility, the real leaders of the masses. Briand and the Governor were on very cordial terms throughout the latter's stay in the Province. When accusations of lavish living and ostentatious proceedings were lodged against the Bishop, Carleton at once came to his defence.

Having received private Information that unfavourable Impressions had been attempted to be given Your Lordship of our Bishop here, to represent him as living in great Pomp and State, Affecting to exhibit all the Ostentation and Pageantry of the Church of Rome, and of erecting a Magnificent Palace, to have the better Opportunity of displaying his Pride and Arrogance, I must, in Justice to this Gentleman, with whose prudent Conduct and respectfull submission to Government, ever since my Arrival in the Province, I have all the Reason in the World to be Satisfied, assure Your Lordship, that both by his Example and Precepts He inculcates into the People all due Obedience to the new Dominion, under which they have passed, that far from increasing, He has, since his Return, lessened the Number of public Ceremonies, that the Procession of the Fête Dieu, which the People had been long taught the highest Veneration for is the only one observed throughout the year, as had been constantly practiced ever since the Conquest, and that the Magnificent Structure, he is said to have created, consists in new Roofing, for the Walls were still entire, the Bishop's House, which had suffered considerably in 1759, and repairing the Inside in the plainest Manner, the Expense whereof has been chiefly defrayed by a voluntary contribution; he has let the House for three Years to the Deputy Secretary, for about fifty five Pounds Sterling a Year, and many of the Public Offices are now kept there in a very commodious Situation; As for himself He leads a private, retired, and exemplary Life, in a small Apartment of the Seminary of Quebec, where he partakes of the Common Fare of

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the Priests of that House, eating every Day at the same Table, to which there is not the least addition, or any Difference made upon his Account.³¹

Carleton also exerted his powers in assisting the Jesuits, an order that was being persecuted throughout the world. After careful investigation, he reported to the Home authorities, that although they possessed large tracts of land, they could barely survive. It followed from this, that they could not have sent sums of money to foreign countries.³² The Governor once more came to their rescue when Roubaud, a former Jesuit, demanded that they pay him a pension. Carleton claimed that the payment of such a sum would impose great sacrifices upon the Order, but that they would, nevertheless, obey the King's commands.³³

A few more concessions were made to the clergy, such as the permission to name a coadjutor, which was granted by the Governor on the eve of his departure in 1770. Carleton wished to make life as easy as possible for the Roman Catholics, by agreeing to certain concessions that were of major importance in their lives.

31 PAC, Q 6: 36-37, Carleton to Hillsborough, Quebec, March 15, 1769.

32 PAC, Q 5-2: 590-592, Carleton to Shelburne, Quebec, April 14, 1768.

33 PAC, Q 6: 109-110, Carleton to Hillsborough, Quebec, August 2, 1769.

Carleton was under the impression that the clergy had, and still exercised a great influence on the masses and that it would be able to assure their assistance. There is no doubt that the Church still bore great weight upon the citizens of the Province. In fact, her position was enhanced after 1760, for now an alien race governed the colony, and the emigration of many seigniors had left the clergy as almost the sole supporter of Canadian rights. This role, however, should not be over-emphasized. Although the clergy did exercise an important influence upon the habitants, it could not dictate the line of action to be adopted by them towards the new master.

Although this part of Carleton's scheme succeeded to a limited extent, it did not guarantee the support of the Canadian race, as was seen when they were called upon to defend the colony against invasion from the south. Its success lay in the fact that they adopted an attitude of passive neutrality, instead of joining the American rebels.

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Carleton saw the problems existing in the Province of Quebec through the eyes of a soldier. His views were guided by the anticipation of a war in which he and the colony over which he presided, would be called upon to play a decisive role. Martin claims that he desired to make of

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this colony a force with which to over-awe the southern colonies in the eventuality of an open conflict with the Mother-Country.³⁵ It would seem more to the point if one were to see the policy adopted by the Governor towards the Canadians, as an attempt to guard the colony against war with France and American invasion. There was a constant fear that on the occurrence of such a conflict, the French government would seek to enroll the assistance of her former subjects, and would succeed unless pains were taken to win their allegiance.

Guided by such a principle, Carleton sought to strengthen England's position in America. This, he believed, would succeed insofar as two conditions were fulfilled: first, the line of fortification from Quebec to New York must be strengthened to divide the forces of the American colonies, as well as to insure a speedy transportation of troops to any point of conflict; second, the allegiance of the Canadian population must be won. This last objective could be attained only by granting certain privileges and rights to the masses, the clergy and the nobility. The latter two groups, being the natural leaders of the former, were to be treated with special care and attention. If enlisted in the King's service, they would be able to

35 C. Martin, Empire and Commonwealth, Oxford at the Clarendon Press, 1929, 385 p.

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exercise a beneficial influence over the habitants who would inevitably follow their lead. These conclusions were arrived at because of the Governor's realization of the fact that the Canadians were a majority and would remain in this favorable position forever. It was also partly due to his lack of understanding of certain basic principles in existence during the French regime. Carleton, himself being from the ranks of the aristocracy, naturally felt more at ease with the nobility and the higher clergy and was thus more favorable to them than to any other group in the Province.

His scheme for strengthening England's position in America was well-founded and to the point. In his evaluation of the influence exercised by the clergy and nobility, however, they were assigned too much credit. Had he lived through the military regime, he would have been able to see that the natural leaders of the people had been, and were still, the captains of militia. All that he proved successful in achieving, was assuring a passive neutrality of the Canadians when invasion finally came.

Carleton's defence policy influenced his whole way of thinking. Most of his recommendations to the Home authorities were tinted with this underlying desire to win the allegiance of the Canadians. His views on the reform

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of the laws, on the administration of the Province, and on ecclesiastical affairs evolved around this main theme.

CHAPTER II

ADMINISTRATION OF THE COLONY

One of England's major problems consisted in giving her newly-acquired territory a government suited to its unique character. How could a region, populated by a rival white race that had colonized it, be administered? The problem was further complicated by the existence of a small English minority, as well as the proximity of a large British group to the south.

As the new rulers wished to treat Canada as a British colony, liberty was to be granted to its subjects. Liberty for England, at that time, connoted three things: representative institutions, British law and justice, and freedom of conscience that meant the exclusion of all Roman Catholics from political offices.¹ The Canadians having inherited a long tradition of laws, customs, religion and language that were the absolute opposite of England's, were neither willing nor ready to change their ways.

It is difficult to discover the policy adopted by the Home government at this time, because a definite plan for administering the colonies did not exist. This was due

1 C. P. Lucas, A History of Canada: 1763-1812, Oxford at the Clarendon Press, 1909, p. 74.

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mainly to the fact that the Colonial Office was badly organized. The American colonies were under the management of the Secretary of State for the southern department, who also directed policy in southern Europe. The Board of Trade and Plantations was largely responsible in advising on colonial matters.²

On May 5, 1763, Egremont asked the Board of Trade for its recommendations for administering the new territories. Its solution was contained in three major documents: Royal Proclamation of October 7, 1763, Murray's commission as governor (November 21, 1763), Murray's instructions (December 7, 1763). The seeds of the trouble and unrest that were to shake the colony from its very foundation had thus been laid. An attempt had been made to conciliate contradictory points, - English settlement and administration of a French population, - that almost proved disastrous.

Carleton was sent out to the colony to consolidate Great Britain's position. In addition to the defence of the territory, he also had to deal with its administration. Murray having only recently established civil government, (August 10, 1764), many problems still existed. Means were

2 A. L. Burt, The Old Province of Quebec, Toronto, The Ryerson Press, Minneapolis, 1933, p. 76.

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being sought to reconcile the English minority, - divided into military and merchant elements that opposed each other, - and the Canadian majority.

1. Military vs. Civil Element.

The dispute between military and civil elements arose over the question of the billeting and transport of troops. During the military regime, there had been little difficulty in securing accommodation for troops stationed in the colony. With the establishment of civil government, however, that had theoretically introduced English law and custom, resistance to the illegal continuance of this practice appeared. Opposition became so widespread that in 1765, a Billeting Act had to be passed, providing for accommodation in public houses or by the renting of uninhabited houses by magistrates, where provincial barracks were inadequate. The expense was to be paid by the colonists.

Protests from Quebec were presented to the Governor late in 1764. An attack perpetrated in December 1764 by several masked men on the person of Thomas Walker, a merchant and justice of the peace for the city of Montreal who had opposed the billeting of troops in private houses, best exemplified the growing rivalry existing between military and civil elements. Both groups demanded that

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justice be rendered.³ The opposition resulted in the recall of Murray and Burton to England. The King's Council in the same year had ordered that an investigation be carried on in relation to the state of the Province.⁴

With the departure of Murray, the crisis seemed to have subsided. On Carleton's arrival, it was felt that the Home government had at last sent a man who would render impartial justice. Furthermore, the change brought a refreshing breeze. The Lieutenant-Governor having been given civil and military powers, he was in a better position to resolve the dilemma than had been his predecessor. As a result of a deposition made by George Magovock, a former soldier of the 28th regiment, on July 11, 1766,⁵ St. Luc La Corne, Capt. John Campbell, Capt. Disney, Lieut. Evans, John Fraser and Howard were arrested on November 18. This was to lead to a re-opening of the clash, which naturally became the more bitter.

³ PAC, CO 42, vol. 2, pt. 1: 182, Justice Lamb's Account of the Several Examinations Relative to Thomas Walker, Quebec.

PAC, CO 42, vol. 4: 124-128, Capt. B. C. Payne to Col. Walsh, Quebec, June 28, 1765.

⁴ PAC, CO 42, vol. 5: 1-5, Order-in-Council, St. James, October 18, 1765.

⁵ PAC, Q 55: 211-213, Magovock's deposition to Justice Dumas, Montreal, July 11, 1766.

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The accused, in the first place, complained of the brutal way in which they had been arrested by the deputy provost marshal, who along with thirty men, had not only surrounded their houses, but also their beds. On their arrival in Quebec city, they asked to be admitted to bail, claiming that one may be bailed even for murder and high treason.⁶ Hey answered that if any lawyer could prove that they were bailable, he would be glad to release them.⁷ The accused then forwarded such a document signed by William Gregory, Morison, Edward Antill and Johnston,⁸ but to no avail. Chief Justice Hey claimed that it would be a breach of his oath, - by which he had promised to render impartial justice, - if he were to release these men, as the law was quite clear on the point that they could not be bailed.⁹

Their last hope lay in obtaining the Lieutenant-Governor's assistance.¹⁰ In reply to their demand,

6 PAC, Q 4: 8-10, Six accused to Hey, Quebec, November 22, 1766.

7 PAC, Q 4: 10-12, Hey to John Fraser, Quebec, November 22, 1766.

8 PAC, Q 4: 20, Gregory, Morison, Antill and Johnston to Hey, Quebec, November 22, 1766.

9 PAC, CO 42, vol. 6: 100-104, Hey to the accused, Quebec, November, 1766.

10 PAC, Q 4: 12-15, Six accused to Carleton, Quebec, November, 1766.

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Carleton answered that were he to intercede in their favor, he would be acting against the letter of the law; and that such conduct would be highly disapproved of the King, as Hey's decision in such cases was to be binding.

I have Received your Memorial chiefly setting forth that the chief Justice had refused to accept of Bail, and suffer you to be at Large, till the time of your trial, therefore praying I should interpose my authority, accept of said Bail & Grant you that Liberty which he has refused. I sincerely Lament (and am convinced the chief Justice doth also Lament) that the circumstances of your case will not suffer him to Enlarge you consistently with his duty, and the Solemn oath he has taken to administer Equal Law & Impartial Justice. As unfortunately the person to whom the King has delegated his authority in these matters has found himself obliged, in compliance with his duty to make this final declaration, my interposing my Authority, and arbitrarily wresting you out of the hands of the chief Justice of the court of King's Bench, would be irregular, illegal, and in my opinion what would merit his Majesty's highest displeasure, As to the other points in your Memorial the humanity of the Chief Justice will undoubtedly bring on your trial as soon as may be, and in the Mean While order your confinement to be made as Little irksome to you as possible, to whose human intentions I willingly Subscribe my wishes and desire that it may be so, this desire being understood in no wise to interrupt the free course of Justice, nor in the Least to interfere with those officers in the execution of their duty to whose care you are, or may be Committed.¹¹

Petitions in favor of the accused were then presented to Carleton by eight Council members¹² and two

¹¹ PAC, Q 4: 38-39, Carleton to the accused, Quebec, November 26, 1766.

¹² PAC, Q 4: 15-20, Petition of eight members of Council and others to Carleton, Quebec, November, 1766.

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English and seventeen Canadian inhabitants of the Province.¹³ The Lieutenant-Governor forwarded to Irving the same reply that had been sent to the accused. He then added remarks that were intended to bring the councillors back to their duty, stressing the fact that he would not be intimidated by a great number of signatures. Had he complied with their demands, Carleton said that he would have disobeyed the twentieth article of the King's instructions to Murray. The fact that no one had come to see him after he had expressed his feelings on petitions proved, the Lieutenant-Governor believed, that they had had good intentions, but had been misinformed.

After explaining my Opinion of the Request, I must say a word or two as to the Measures taken to enforce it; that many Persons, who have subscribed, did not know the evil Tendency of interfering in Numbers, in the free Course of Justice, I sincerely believe, both from the good Opinion I have of them, and their own Declaration since; but that Gentlemen, who have the Honor to be of the King's Council, should not know that Law and Justice were to be obtained for the sake of Justice and Law alone, I did not expect; that any of them should particularly exert themselves to procure Numbers, should appoint them to assemble about the Time of coming from Divine Service on Sunday, should take Post in the Streets, and importune People returning to their Homes, with an Intent to go in Numbers to the Lieutenant-Governor, and in this manner to enforce such a Request, that Mr. Mabane then one of the Council, and a Judge of the Common Pleas, should tell me in Excuse for this Conduct, that he thought

¹³ PAC, Q 4: 48-49, English and Canadian inhabitants' petition to Carleton, Quebec, November 23, 1766.

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the greater the Numbers, the more likely he was to succeed, as if by Numbers he thought to intimidate, and so make me swerve from my Duty, as far as he had done from his; this, as it directly tends to overturn Law, Justice, and good Government, appears to me very extraordinary from a Councillor and a Judge-

I must just add for your Information, Sir, that had I thus wrested this Power out of the hands of the Chief Justice, I should have been Guilty of Disobedience to the Spirit and Meaning of the twentieth article of His Majesty's Instructions, which you have had some Time in your Hands-

The Readiness with which almost all desisted from coming up, on hearing my Opinion of such a Proceeding, is a Proof to me, of the good Intentions even of those I don't Know, and their future Conduct, I hope, will confirm it to all the world.¹⁴

The subscribers answered that they did not know that their petition would have been ill-received. It was not their intention, they replied, to dictate the course to be adopted, but merely to help their friends; that is, they wished to see the manner of their confinement mitigated if bail was not possible.

The bare Exposition of these our Motives, & Proceeding, will, we hope, be their Apology. The Spring of them all was Zeal for Brother-Officers, Whose Fortunes, Lives & Honour are closely attacked; Even this, should never lead us to an undutiful Act, for we were, and Remain, with unalterable Obedience to Publick Authority, and with the highest Respect.¹⁵

The men accused of the assault on Walker were brought to trial in March 1767. After the Grand Jury had

¹⁴ PAC, Q 4: 45-47, Carleton to Irving, Quebec, November 29, 1766.

¹⁵ PAC, Q 7: 238, Jones, Irving, Mabane to Carleton Quebec, November 29, 1766.

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acquitted Lieutenant Evans, Walker accused them of partiality. This might have developed into another struggle, had not Hey put an immediate end to it. Although Walker, his wife, and Magovock swore to the fact that Major Disney was one of the men involved in the assault, he was found innocent. Magovock proved to be an untrustworthy witness, contradicting himself in the course of his testimony. The defence brought forth Mme. Lanaudière, Mrs. Campbell, Mrs. Howard and Justice Robertson, who swore to the fact that the accused had been with them at the time of the assault. The other men were discharged,¹⁶ putting an end to an affair that had been blown out of all proportion.

In the light of information now available, we cannot discover whether these men were innocent or guilty, although it seems that Magovock had been hired by Walker to give false evidence. Although this has no bearing on the subject here treated, it is interesting to notice that an incident of minor importance should to such a degree have inflamed minds in the Province. The opportunity was seized by both sides and blown out of all proportion. Being further antagonized by Walker's accusations, the Grand Jury went so far as to say that they would prosecute him for defamation of character. In the heat of battle, Carleton

16 PAC, Q 4: 108-110, Carleton to Shelburne, Trois Rivières, March 15, 1767.

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expressed the hope that he would soon succeed, with the help of his assistants, in restoring peace and order in the colony.

...from many concurrent Circumstances, the Minds of the King's British Subjects here have been so heated, the most trifling Matter occasions a fresh Stir; on my first Arrival, I had conceived some Hopes, that letting all things rest as they were for some time, would by Degrees bring all Parties into better Temper, and believe it would have had the intended Effect, only for this unlucky Affair of Walker's, in which too many Persons of note in the Province were interested, not to set the Humours afloat again; It must therefore be a Work of Time, and it will require great Attention and Management from the King's Servants on this side of the Water, to restore them to a State of perfect Tranquility and Good Humour with each other; I can depend entirely upon Mr. Hey, with his Assistance, and the Support of Government at Home, I trust I shall yet succeed, notwithstanding the various opposite and contending Interests into which they are split; I have and can have no other View, than to fulfill His Majesty's most gracious Intentions to all His Subjects in General, by promoting the Welfare and Happiness of those He has been pleased to commit to my Charge, and to extinguish all Party among them.¹⁷

Carleton seems to have acted with justice and impartiality in this instance, refusing to wrest power from the hands of the chief Justice and leaving everything under his control. As we will see later on, the Lieutenant-Governor was a man who seized every opportunity to further his ends. This incident furnished him with the ammunition required to rid himself of individuals whom he believed were not acting

17 Ibid., 109-110.

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for the best interests of the colony. It may also be added that he probably wished to put an end to opposition that was limiting his ambition of attaining more extended powers.

The Allsopp affair was another example of the rivalry existing in the colony. George Allsopp, along with Walker and Eleazar Levy, were the leaders of the malcontents. They had been considered by Murray as being the instigators of the dissention between civil and military groups.¹⁸

We have already seen the trouble aroused by Walker, and we will later deal with the clash that developed in the fur trade as a result of Allsopp & Co.'s activities. At this time, an attempt will be made to expose the problem created by Allsopp's suspension as deputy secretary clerk of council, and his attempts to be reinstated.

In the month of April 1766, George Allsopp received a deputation from the English government to act as Secretary Clerk of the Quebec Council and Clerk of the Enrolment, in replacement of Henry Ellis who had been granted the commission.¹⁹ Murray refused to recognize his

¹⁸ PAC, Q 5-2: 669-671, Murray to the Lords of Trade and Plantations, Quebec, April 14, 1766.

¹⁹ PAC, Q 3: 381-385, Allsopp's petition to Carleton, Quebec, October 11, 1766.

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commission and suspended him from office, claiming that he had been at the root of the rivalry between the civil and military elements and that his main activity had consisted in disturbing government.²⁰ Irving also refused to permit him to enter upon his duties.

Soon after his arrival in the colony, Carleton was also presented the commission,²¹ and once more it was refused on the grounds that Murray's decision could not be overruled until instructions had been received from England.²² On November 14, 1767, Shelburne ordered Carleton to conduct an enquiry into the reasons surrounding Allsopp's suspension. The investigation was conducted by William Hey, Samuel Holland and Francis Masères from March 21 to April 2, 1768. They reported that Murray had based his suspension on two main points:

1st that after the Establishment of Civil Government he (Allsopp) began the dissensions between the Civil and Military-

2nd that he in Conjunction with James Johnstone & Eleazar Levi, stimulated the first Grand Jury, and was active in advising those Presentments, which it appears by a Letter from Mr. Secretary

20 PAC, Q 5-2: 669-671, Murray to the Lords of Trade and Plantations, Quebec, April 14, 1766.

21 PAC, Q 3: 381-385, Allsopp's petition to Carleton, Quebec, October 14, 1766.

22 PAC, Q 3: 326-327, Carleton to Allsopp, Quebec, October 17, 1766.

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Conway to Genl. Murray derived His Majesty's high Displeasure upon them their Authors and Abattors-

There then follows a general charge without any Fact to support it, that the Business of His whole Life ever since has been to revile at and disturb Government at the Expence of Truth Order and Decency.²³

Allsopp answered that Murray had opposed him because of a personal dislike. He claimed that many dissensions between civil and military elements had existed prior to his misunderstanding with the sentinels; and that the Grand Jury would testify to the fact that he had not influenced it. It was further added that the last accusation was based on no facts whatsoever.²⁴

Goldfrap and Potts, in addition, accused him of opposing orders of government in relation to houses he had erected in the posts of the Domain, that had been reserved for the Indians. It was also stipulated that he had presented many petitions against Murray which were later found to be groundless.²⁵ Allsopp simply answered that they were not following the accusations laid by Murray,

23 PAC, Q 5-2: 639, Report of the Board of Enquiry, Quebec, April 19, 1768.

24 PAC, Q 5-2: 676-683, Allsopp's answer to Murray's accusations, Quebec, March 23, 1768.

25 PAC, Q 5-2: 672-674, List of charges presented by Goldfrap and Potts, Quebec, March 21, 1768.

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and that this should not be permitted as it would force him to find new witnesses to disprove their accusations.²⁶

On April 2, 1768, Carleton and his Council removed the suspension and reinstated Allsopp to his offices.²⁷

Twenty Quebec merchants then presented a petition to the Governor a few days later, showing the danger of reinstating him to the charges of Secretary of the Province and Clerk of the Council and Registrar. They expressed the belief that the Province's economic life would suffer if such a man were permitted to hold those offices.²⁸ We can here see that there even existed rivalry between two groups of Quebec merchants.

In a letter to Shelburne, Carleton admitted that he knew that the re-opening of Allsopp's case would revive opposition among the merchants, but that he wished to show that the King's orders were to occupy the first place in the colony, and that this could not be changed by the removal of a governor.

Upon Receiving the King's Commands concerning Mr. Allsopp, I appointed the Chief Justice, Captain

26 PAC, Q 5-2: 684-688, Allsopp's answer to Goldfrap and Potts, Quebec, March 23, 1768.

27 PAC, Q 5-2: 746-747, Council Minutes, Quebec, April 2, 1768.

28 PAC, Q 5-2: 629-632, Petition of merchants and traders of Quebec to Carleton, Quebec, April 28, 1768.

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Holland, and the Attorney General, to sit as a Board, and enquire into the Cause of that Gentleman's suspension; I was aware, that a public Examination, of these old Affairs, would revive a momentary warmth among a few Gentlemen, and animate the Friends of the Persons immediately interested, but it appeared to me adviseable, to convince the Province now, as at first, by continuing the Suspension, that Disobedience, or Disrespect to Government, was not to be wiped away by the Removal of a Governor; that the King's Authority was the great Object, that this remained for ever, and for ever must be respected and obeyed, no Matter by what Hands Administered.²⁹

The King's commands being first and foremost in his mind, the Governor wished it to be so with the people under his jurisdiction.

The point was further stressed when he said that no one had a right to say who should or who should not receive the King's commission. He also added that he was ready to listen to all grievances that could be proven, and that they would be redressed.

A few Days after the Examination, a Petition was brought me, signed by twenty Persons, praying that Mr. Allsopp might not be admitted into His Offices, I suppose all their Strength was mustered on the Occasion as both Taylors and discharged Soldiers were of the Number. I had not as yet read all the Report, but as the Chief Justice declared, there was not the least Pretence to exclude Mr. Allsopp, from enjoying the Benefit of those Commissions derived to him from the King's, I imagine they Judged this the only Resource left-

I told the Gentlemen who brought it, I was sorry they should present me a Petition, which

29 PAC, Q 5-2: 626, Carleton to Shelburne, Quebec, April 27, 1768.

I could not pay the least Regard to; that Independent of my having received His Majesty's Commands on this Affair, which should be punctually complied with, No one had a Right to Point out, who should, or who should not receive the King's Commissions but if any Man was injured by a Person in Office, He had an undoubted Right to Complain, that every one should find me attentive to their Complaint, and when properly proved, an adequate Punishment should immediately follow; they replied, that this was all they could desire-³⁰

Carleton was opposed to petitions, judging them as attempts to dictate the course to be adopted.

The Governor removed the suspension, believing that Allsopp had been sufficiently punished for his wrongdoings. He was also influenced in this choice by Allsopp's good behaviour since he had known him.³¹ Carleton seemed set on treating every one impartially. Allsopp, who had been one of the chief instigators of the rivalry that still existed in the colony, having decided to adopt a wiser course, was to be treated with impartiality and impunity.

2. Carleton and his First Council.

The custom, established by Murray, of holding weekly council meetings, was interrupted by Carleton a few weeks after his arrival. From September 26, 1766, to December 1, only one meeting was convoked, and it was

³⁰ Ibid., p. 626-627.

³¹ Ibid., p. 627-628.

irregularly constituted in that only part of the Council was summoned. The session of October 9, was followed by a remonstrance of the excluded members, who enquired of Irving as to the reason of their not being called upon to attend. It was followed by a serious dispute that resulted in the dismissal of two of Murray's friends from the Board.

A commercial war between two groups of merchants, - Dunn and Gray vs. Allsopp, Howard and Chinn, - precipitated the incident. Murray, in 1762, had granted to Thomas Dunn and John Gray a monopoly of the King's posts, among which the most important were Tadoussac and Chicoutimi. On March 9, 1765, several Quebec merchants, basing their arguments on the Royal Proclamation of October 7, 1763, that had declared trade free and open to everyone, applied to the Governor and Council for permission to trade in the King's Domain. The leasees Dunn and Gray thought that they still had a right to the privilege granted three years earlier. They were supported in their claim by Governor and Council, who declared that no one else was to trade at these posts. During his administration, Irving along with Council, had ordered that the buildings erected by Allsopp in His Majesty's Domain be removed.³²

32 PAC, CO 42, vol. 6: 113, Council Minutes, Quebec, August 8, 1766.

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As soon as Carleton had taken over the reins of government, the independent merchants demanded that the decree of August 8 be repealed. On October 9, the Lieutenant-Governor called only half of the Council and decided to suspend Irving's order. This truncated Council then appointed itself, minus the Lieutenant-Governor, a committee to investigate the situation.

The excluded members (Mabane, Walter Murray, Francis Mounier and James Cuthbert), alarmed at Carleton's proceedings, asked Irving for an explanation. The latter does not seem to have realized why his friends had not been summoned. After discussing the matter with the Lieutenant-Governor, he assured them that it was merely an accident and that it had not been done on purpose. None of these men having mandamuses from the King, they were alarmed by the rumour that precedence in Council would be given to those possessing such a mandamus. Their fears were further heightened by the rumour spread by Eleazar Levy, that they would be permanently excluded from Council.³³

A remonstrance led by Irving, was then made to Carleton in which it was represented that they were under the impression that Murray's commission and instructions

³³ A. L. Burt, "Sir Guy Carleton and his First Council", from the Canadian Historical Review, vol. 4, 1923, p. 322.

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had given him authority to name them councillors, and that new nominees could not deprive them of their precedence in Council. The petition, they claimed, had been conceived not as a reproach, but merely as an expression of the excluded members' duty in informing the Lieutenant-Governor of the course that was customarily followed.³⁴

The following day they dined with Carleton, who received them very politely and cordially, telling them that he did not care who acted as councillor. He was much more explicit with Cuthbert, however, declaring his intention of getting removed from Council all those who had made the remonstrance. They answered that they considered him as being impartial, and had addressed him as such. The Lieutenant-Governor promised to give his answer in writing, but this was only received a few weeks later. Believing that Carleton had expressed his real intentions to Cuthbert, the excluded members now expected the worst.³⁵

The long-awaited answer was finally received on November 28. Carleton had at first seemed well disposed to the petitioners, but by the tone of his letter we are able

34 PAC, Q 4: 56-58, Irving, W. Murray, A. Mabane, F. Mounier, J. Cuthbert to Carleton, Quebec, October 13, 1766.

35 PAC, MG 23, A 4, vol. 16: 114-121, Shelburne MSS, Mabane to Murray, Quebec, October 21, 1766.

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to see that he had grown weary of their opposition, adopting a defiant and stubborn attitude. His opening remark was that since Irving had assured them that his calling only part of the Council was not intentional, he should be the one to explain it. He then went on to say that in all matters that did not require Council's approval, he would seek the advice of whoever he desired, and would make the final decision. It was further added that the King's appointees were to have precedence on the Board. All good subjects, he added, should work towards attaining peace and order in the Province.

As Lieut. Colonel Irving has signified to you that the part of my conduct, you think worthy your Reprehension, happened by Accident, let him explain to you his Reasons for so doing, he had no Authority from me,

But that there may be no further doubt, I hereby make known to you, that I both have and will, on all Matters that do not require the Consent of Council, call together such Councillors as I shall think best qualified to give me Information; And further that I will ask the advice and Opinion of such persons, tho' not of the Council as I shall find men of good sense Truth Candor and impartial Justice; Persons who prefer their duty to the King and the Tranquility of his Subjects, to unjustifiable attachments to party Zeal, and to all selfish mercenary Views; After I have obtained such advice, I shall still direct as to me shall seem best for His Majestys Service and the good of his province committed to my care.

I further make Known to you, and for the first time I give an opinion, that for the present His Majesty's Council consists of Twelve Members those named & appointed immediately by the King have the Preference; next follow those appointed by Governor Murray, till the Seats are all full.

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You will be pleased to recollect, Gentlemen that Mr. Stuart tho' sworn into Council after Mr. Mounier, has by Virtue of the Kings immediate appointment constantly taken place and precedence of you all.

I must also remind you that His Majesty's Service requires Tranquility and peace in his province of Quebec And that it is the indispensable duty of every good Subject and of every honest man to promote so desireable an End.³⁶

Carleton as chief administrator of the Province wished to make his will as supreme as possible. We should not forget however, that the colony had only been recently conquered and that a strong hand was required to administer it.

A rebuttal of Carleton's accusations was sent by Irving to the excluded councillors. He explained that the day before he had presented their remonstrance, he had informed the Lieutenant-Governor of their intentions. Carleton had answered that it was not a regular council meeting. It was also agreed upon that mandamuses were not to assure precedence in Council, and that one could justifiably contend for his rights. Irving claimed that the Lieutenant-Governor had expressed much party strife and passion in the second paragraph of his letter, while their own remonstrance had not the least expressed such feelings, wishing to avoid the taking of sides. The Council of October 9, he said, was a regular meeting and it even went

36 PAC, Q 4: 58-59, Carleton to the excluded councillors, Quebec, November 28, 1766.

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so far as to suspend a former order of Council. It would be absurd, he added, to think that they wished to dictate the company that Carleton should hold. Furthermore, the last paragraph was not necessary, since before Carleton's arrival, three months of peace and tranquility had prevailed in the colony.³⁷ One may see from Irving's answer, that Carleton had either misunderstood their intentions, or purposely twisted their words to make them appear in unfavorable light.

In his explanation of the events to the Home authorities, Carleton adopted a totally different tone. The Lieutenant-Governor here demonstrated his greatest talent, which consisted in interpreting the facts to suit his own purpose, or in other words, lying to save himself from a difficult position. He insisted that a committee had been constituted to gather information on the rivalry existing between the two groups of merchants for his personal use. It was further claimed that Irving, who had been present at all Council meetings, had not complained of the procedure before presenting the petition.

That I might the better be informed of the Nature of this Affair, I ordered five Members of Council, namely, Lieutenant Colonel Irving, Captain Cramahé, Mr. Goldfrap, Major Mills and Mr Hey to

³⁷ PAC, Q 7: 218-221, Irving to Murray, Mabane, Mounier and Cuthbert, Quebec, December 3, 1766.

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meet and collect for me, what had been ordered by Government therein.

I must also inform Your Lordships that on my Arrival I found thirteen Members in the Council Book, these two Circumstances occasioned the Remonstrance presented by Lieutenant Colonel Irving, a copy of which with the Answer I propose giving, is enclosed. The Members not called, and then in Town were, Mr. Dunn a Party concerned, Mr. Walter Murray, Mr. Mabane Surgeon, who had his Hospital to attend, Mr. Mounier a trader, who on Account of Absence had not been sworn in since my Arrival, and Captain Cuthbert, of whose Right to a seat in Council I had then some Doubts.

These four last with Lieutenant Colonel Irving signed the Remonstrance, I shall only observe that this Gentleman, who first signed and presented it never complained but in the Remonstrance, tho' present at every Transaction.³⁸

The situation, as Carleton wished the Secretary of State to see it, was further explained in his letter of October 25. In the first part, he painted the conditions existing in the colony as black as possible, seemingly condemning the actions taken by his predecessor.

...The three Addresses from the Inhabitants of this Town, proceeded, partly from the Animosities that have subsisted among them, and, I understand, from a few, who have taken the Resolution to prevent my restoring Tranquillity among them; which, notwithstanding, I flatter myself, I shall accomplish. These raised no small Stir against the Addresses, and availing themselves of the Clause touching the Stamp Act, first joined the Colonists, tho' these very Men some time ago talked most violently of Cramming this same Stamp Act down their throats. This first Address presented, the Party, finding the colonists only Objected to that Clause, and would address, separated from them also; At length

³⁸ PAC, Q 3: 397-398, Carleton to the Lords of Trade, Quebec, October 18, 1766.

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not to appear particular in the Beginning, by the Advice of their leaders, they likewise addressed, and assuming the Name of Magistrates, drew in two or three Strangers, who not knowing what all this meant, thought them half mad. Many were the bloody noses on this Occasion.

The Disputes between Dunn and Company on one side, and Howard and Company on the other spring from a different Source, as your Lordship will perceive in my Letter to the Lords of Trade.

Government here declared that trade open in the Gazette; afterwards the Secretary of the Province, by the Governors Orders, made a verbal Declaration that no Body must trade there but Dunn and Company; Merchants cleared out regularly at the Custom House for those Parts, and quietly enjoyed that Trade near a year, there they were threatened with Prosecution by the King's Receiver General, and to crown all, Lieutenant Colonel Irving and Council, looking on the Trade to be open, yet granted an Order directed to one Party, to destroy, under the name of dwelling Houses, the Sheds of all others, which is such a Mockery of the King's Subjects, as must tend to their Ruin, and so unjust, that had the Council unanimously opposed it, I should have thought it my Duty to suspend that Order. This Inconsistency your Lordship, I believe, will allow, Cause sufficient to occasion much Contention, about a lucrative Trade. The Suspension, tho' given to Howard, did not arrive in Time, their Sheds were destroyed, and part of their Goods are brought up, in what Craft they could find in the Saguenay River, it being impossible to live there without Shelter.³⁹

It was further set forth that only a few of the councillors had been called, as it was merely to get private information. A regular Council meeting had not been called because nothing that required their approval had occurred. Furthermore, the Lieutenant-Governor said that he wished to give the recalcitrant members time to

³⁹ PAC, Q 3: 259-261, Carleton to Shelburne, Quebec, October 25, 1766.

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think over the situation calmly. The excluded councillors were represented as men unworthy of holding offices of responsibility.

The Subject of the inclosed Remonstrance is another Matter I have to Mention. Your Lordship will see by my Letter to the Lords of Trade, by the Minutes of Council, and by the Minutes of the Committee, that nothing has been done that required a Council, my calling a few Councillors was meerly from prudential Reasons, and for private Information. As to the Members of Council, they themselves could have no Doubt who should have the Precedence, as the Case of W. Stuart doth prove; Hitherto I have been silent on that Subject, notthat I doubt of the King's Intentions, but as I understand these Gentlemen are searching an Excuse to resign their Seats, and make a Noise; I shall give them time to cool and Reflect; till Matter occurs that may require a Council. The great Leader of the intended Opposition is Mr. Mabane, who followed the Army, as Surgeon's Mate into this Country; He hoping and believing this Government unsettled, is determined to make some considerable Agitation; I trust he will not succeed: Captain Cuthbert threatens me much with his Friends, says he was forced into the Council by Governor Murray on his Departure, much against his will; but now he is in, he will shew the World who has Friends and who shall be turned out. I laugh and make no Answer. Mr. Walter Murray who has acted as a strolling player in other Colonies, here as a Councillor; Mr. Mounier, an honest quiet Trader, who knows very little of our Language or Manners, like most of the Canadians, will sign, without Examination whatever their Acquaintance urge them to, and Lieutenant Colonel Irving who professes he signed this, and the Order of Council mentioned above, because his Friends desired him.

All these little Workings I look on as the natural Consequence of the late Tempest, which after a few Months settled Calm must insensibly subside and die away, in General His Majesty's Subjects here seem rather to want Instruction, than Reproof. To know clearly the King's Will, and to see it steadily pursued here, will, or I am

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much mistaken, soon occasion a quiet and dutiful Obedience, in Spite of the Opposition of a few self Interested Individuals.⁴⁰

Mabane and Irving in their letters to Governor Murray, presented a very different picture of Carleton's dispute with Council, as we have already seen. Mabane claimed that the Lieutenant-Governor had taken over a quiet government, but had succeeded in creating an unruly situation by his partiality.⁴¹

Irving further added that the remonstrance had been made as an expression of their duty. Had Carleton been permitted to persist in his ways, Council would have become the mere sounding-board of the Lieutenant-Governor, who would thus have become a dictator.⁴²

Carleton was well on his way to attaining his objective, which at that time consisted in the exclusion of Murray's friends from positions of trust and authority. The Allsopp incident had furnished him the means necessary to trace out his course, while the remonstrance appeared as the excuse required to exclude them from Council. The Walker affair would permit him to further his desires, and

40 Ibid., p. 261-263.

41 PAC, MG 23, A 4, vol. 16: 114-121, Shelburne MSS, Mabane to Murray, Quebec, October 21, 1766.

42 PAC, MG 23, A 4, vol. 16: 94-95, Shelburne MSS, Irving to Murray, Quebec, October 24, 1766.

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definitely show that the recalcitrant councillors were largely responsible for the troubled condition of the Province. He was in this way able to exclude from Council, both Mabane and Irving, the leaders of the "French Party".

The Lieutenant-Governor wished to reduce Council to submission. The last phase of the Walker affair was to furnish him with the excuse he had been seeking. Six prominent Montreal men, who had been arrested on November 18, 1766, being unable to secure bail from the Chief Justice, applied to Carleton for redress. He also received petitions from several councillors and a few old and new subjects after he refused to interpose his authority.

The answer that had been given to the six accused men's petition was also sent to Irving, but a few indignant remarks were added to bring the councillors back to their duty. He said that it was understandable that laymen, who did not know the law, should attempt to influence him in his decisions, but that such conduct could not be tolerated from Council members. That they should attempt to gather people in the streets to visit him in order to enforce their demand was inconceivable. Furthermore, that Mabane, who was a councillor and judge of the Common Pleas, should give as an excuse that he believed that by greater numbers he could succeed, was wholly inadequate. The surgeon may

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have thought, he added, that he could thus make him swerve from his duty as he had from his, but such was not the case.

After explaining my Opinion of the Request, I must say a word or two as to the Measures taken to enforce it; That many Persons, who have subscribed, did not know the evil Tendency of interfering in Numbers, in the free Course of Justice, I sincerely believe, both from the good Opinion I have of them, and their own Declaration since; but that Gentlemen, who have the Honor to be of the King's Council, should not know that Law and Justice were to be obtained for the sake of Justice and Law alone, I did not expect; that any of them should particularly exert themselves to procure Numbers, should appoint them to assemble about the Time of coming from Divine Service on Sunday, should take Post in the Streets, and importune People returning to their Homes, with an Intent to go in Numbers to the Lieutenant Governor, and in this manner to enforce such a Request, that Mr. Mabane then one of the Council, and a Judge of the Common Pleas, should tell in Excuse for this Conduct, that he thought the greater the Numbers, the more likely he was to succeed, as if by Numbers he thought to intimidate, and so make me swerve from my Duty, as far as he had done from his; this, as it directly tends to overturn Law, Justice, and good Government, appears to me very extraordinary from a Councillor and a Judge.⁴³

Carleton wished to rid himself of Mabane's opposition, and seemed to have found the long-sought-for excuse.

Mabane answered that his conduct had been directed by his feeling of pity for the families of the accused, and that furthermore, the Lieutenant-Governor had known of their intentions to present such a petition. He then claimed that he did not go from house to house to gather

⁴³ PAC, Q 4: 45-46, Carleton to Irving, Quebec, November 29, 1766.

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signatures, although the procedure appeared to him as being quite innocent. In an affidavit signed by Captain Etherington, it was set forth that Mabane had only asked Lotbinière to agree to the petition.⁴⁴ As to Carleton's accusation that he had said that he thought that by greater numbers he could swerve him from his duty, he never entertained such ideas, but merely meant to repeat Mounier's words.⁴⁵

In the same letter, the Lieutenant-Governor claimed that, had he taken power out of the hands of the Chief Justice, he would have acted against the twentieth article of the King's instructions which Irving had had in his possession for three months.⁴⁶ Article 20 of the instructions issued to Murray, forbade the Governor from himself filling the position of judge or justice of the peace. It made no mention whatsoever of the governor not being able to grant bail, but with a little straining it could be interpreted in such a way.⁴⁷ In fact, however, the petitioners had asked for an alternative, - that if bail were

44 PAC, Q 7: 232-233, Mabane to Carleton, Quebec, December 5, 1766.

45 Ibid., 230-231.

46 PAC, Q 4: 44-47, Carleton to Irving, Quebec, November 29, 1766.

47 CD, p. 188.

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not possible, that their friends' stay in prison might be mitigated. Carleton had at first understood this, as seen by his answer to the accused, but later refused to accept it. He had once more side-stepped the issue.

In answer to Carleton's accusations, three of the petitioners alleged that they had acted in such a manner to show the great esteem in which the six accused were held in the colony. It had not been their intention, they remarked, to prescribe the course that was to be adopted, but merely to ask that in the impossibility of bail, that their friends' confinement might be mitigated.

The bare Exposition of these our Motives, & Proceeding, will, we hope, be their Apology. The Spring of them all was Zeal for Brother-Officers, whose Fortunes, Lives & Honour are closely attacked, Even this, should never lead us to an undutiful Act, for we were, and Remain, with unalterable Obedience to Publick Authority, and with the highest Respect.⁴⁸

The petitioners appear to have had the best possible motives for interceding in favor of their friends, but Carleton had his heart set on cutting them off, and this was the perfect excuse. Of all those who participated, only Mills possibly had some inkling of the Lieutenant-Governor's feelings. Irving and Mabane do not seem to have known that they might incur his displeasure by acting in

⁴⁸ PAC, Q 7: 278, Jones, Irving, Morris to Carleton, Quebec, November 29, 1766.

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such a manner. Mills was, therefore, the one who should have been proscribed, but he retained his seat on Council. The charge against Mabane had been based upon a misunderstanding, as it seems that he had simply repeated Mounier's words about the value of numbers. The latter was nevertheless retained, while the former was dropped. Irving also seems to have been relieved of his duties upon unfounded accusations.⁴⁹

Carleton then had to justify his motives for removing Irving and Mabane from Council. This he did in a letter to Shelburne on November 29. He said that although he had made his intentions known, a petition had been presented by four of the colony's leading men. As this was the first attempt to disturb the peace of the colony and interrupt the regular course of justice, and as it was led by the most prominent men, he had thought it necessary to use this as an example to put an end to such activities, and to show to the Canadians that such conduct would not be tolerated in English law. Had such methods been permitted to persist, he felt that it would have become dangerous. Mabane and Irving, being the leaders of the disturbance, had thus been removed from Council.

49 A. L. Burt, "Sir Guy Carleton and his First Council", taken from the Canadian Historical Review, vol. 4, 1923, p. 330.

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I informed your Lordship in my Letter by the last Post a Duplicate of which went by the little William that six Gentlemen were arrested at Montreal, and brought here to offer Bail, also that the Chief Justice declared their case notailable: After this, much Pains were taken to assemble a great Crowd of People, to this End many Gentlemen were called to assemble at the House where the Prisoners were Lodged on Sunday last, with the Intention to go, about the Time of coming from Divine Service, first to the Chief Justice, and afterwards to me, and demand that he would accept Bail, or that I would interpose my Authority, some Gentlemen went amongst them, and explained my Opinion of such Tumultuous Proceedings, which prevented their coming in the manner proposed; but tho' they would no longer be conducted as their Leaders proposed, yet many had signed the Memorials, and these were brought me by Lieutenant Colonel Irving, Lieutenant Colonel Jones, Mr. Lanaudière Knight of St. Louis, and Captain Morris, as Your Lordship will more particularly see by the Annexed Copies, with my Answers.

This has been the first open attempt to disturb the Peace, and interrupt the free Course of Justice, since my Arrival in the Province, and as it was headed by so many Officers and Persons of some Distinction here, I Judged it the more necessary for His Majesty's Service to make some Example, thereby to deter all from such Disorders; and particularly, to convince the Canadians such practices are not agreeable to our Laws and Customs, as they are taught to believe, and thereby induced to subscribe Sentiments very different from their natural Disposition; for I look on such Methods of deciding Affairs as very dangerous in any of His Majesty's Provinces, but would become more especially so in this, was it suffered to grow up into Strength; for these Reasons I have removed Lieutenant Colonel Irving, and Mr. Mabane Surgeon to the Garrison, from being of the Council, as they were Zealously Active in promoting these Disorders.⁵⁰

⁵⁰ PAC, Q 4: 40-41, Carleton to Shelburne, Quebec, November 29, 1766.

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The Lieutenant-Governor then explained his relations with Council, claiming that he would have asked for their approval on dismissing Mabane and Irving, (although this was not necessary since their appointment had never been approved by the King), had not six of the members out of nine who were present in Quebec city been involved in the affair.

Tho' the Nomination of these two, to be of the Council, never was approved by the King, and consequently I am no wise restrained by my Instructions from removing them; yet I would have brought it before Council, had not six Members, out of nine present in Town, been concerned in the same Misdemeanor. There still remain eleven formerly sworn in, and I hear, Mr. Finlay has received a Mandamus, tho' it has not been presented, this compleats the Number. I have found it necessary to point out Mr. Mabane, in order to warn well disposed Persons against his Artifices and Intrigues.⁵¹

Carleton had succeeded in his attempt to clip the wings of the "French Party". He concluded his letter in his usual assuring tone, by expressing hopes that the rendering of impartial justice would prevent disorders in Montreal, thus referring to the troubles that had existed during Murray's administration.

The Chief Justice has given me his Account of his own Conduct, for your Lordship; He tells me 'tis necessary for him to send another to be laid

51 Ibid., 41-42.

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before the Judges. This Gentleman has been much hurt by these Transactions, and by some Insolences he has undeservadly suffered; the Measures taken speedily restored every one to a proper Sense of his Duty: I have since had Protestations of Repentance from many of the Subscribers, I hope too, it will prevent the like attempts at Montreal.⁵²

In response to Carleton's accusations and suspension of Irving and Mabane, the petitioners claimed that they had presented their remonstrance because of the fact that the Chief Justice had said that Walker's consent would have rendered bail possible, seeming to imply that the discretionary powers contended for by the accused's lawyer might be granted. Only the year before, they added, Murray had signified to the Canadian seigneurs that the King was ready to redress their grievances and receive their petitions. After having signed the petition in question, they were told that they were punishable by imprisonment. They thus no longer knew what to believe. Irving agreed that he had had the King's instructions in his possession for three months, but never saw any clause that forbade petitions. He then went on to say that Carleton had never signified his disapprobation of such measures, for had he done so, he would not have disobeyed him.⁵³

52 Ibid., 42.

53 PAC, Q 7: 226-229, Petitioners to Carleton, Quebec, December 6, 1766.

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After the dismissal of these two councillors, peace and quiet reigned in the Province. Carleton had succeeded in showing to the Home authorities that the excluded members had been the source of the unruly situation existing during the opening months of his administration. A regular Council meeting was then summoned on December 1. This body, having been purged of the opposing faction, had now become the mere echo of the Lieutenant-Governor's views.

In 1770, Irving and Mabane asked for redress, desiring that the motives for their suspension be examined, so that justice might be rendered. The Secretary of State answered that the case having been decided during Shelburne's administration, no steps could be taken to re-open it.

Some historians such as Bradley and Kingsford, in dealing with Carleton's dispute with his First Council, have ascribed all the blame for the upheaval on Irving and Mabane, while representing their hero as being impartial and blameless of any wrongdoing. Bradley, for instance, deals rather rapidly with the incident, concluding that the population of Quebec could now see that it had an impartial governor.⁵⁴ Kingsford adds that Carleton had been forced

⁵⁴ A. G. Bradley, The Makers of Canada series, vol. 5, Lord Dorchester, Toronto, Morang & Co. Ltd., 1907, p. 35.

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to dismiss the recalcitrant councillors because of their participation in promoting disorders.⁵⁵

Burt, on the other hand, claims that the Lieutenant-Governor had acted unjustly towards Murray's friends, and foolishly as far as he was personally concerned as events would later prove. Carleton having been filled with prejudices against the former governor's assistants, arrived in the colony with the intention of undoing all that had been accomplished by them. He thus joined the party opposed to the Canadians, and worked towards the suppression of the opposing faction. On realizing his error of judgment, he became the advocate of the Canadians. Adam Mabane, being considered as the best instrument to further these ends, was included in the new Council that took office in May 1775.

Two major reasons had influenced Carleton in behaving in this outrageous manner. The first of these was the party strife that had been fomenting in the colony on his arrival. Murray had been recalled because of accusations, - that would later be proven unjust, - that had been lodged against him by a group of malcontents. His friends residing in Canada wished to see him absolved of

55 W. Kingsford, The History of Canada, vol. 5, Rowsell & Hutchison, Toronto, 1892, p. 196.

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all charges, waiting impatiently for his return. This group, led by Irving and Mabane, were largely responsible for the remonstrance. On the other side stood the anti-Murray faction led by Allsopp, Levy and Walker, who feared his return. Their salvation seemed to reside in their support of Carleton. It was only natural for the Lieutenant-Governor to join the party that was ready to champion him. Furthermore, before his departure from England, having been shown the case against the Governor, he arrived in the colony filled with numerous prejudices. A second reason for his behaviour lay in his intolerant attitude.⁵⁶

On closer analysis of the facts, however, it would seem that the Lieutenant-Governor may have had sufficient motives for acting in such a manner. As Carleton had been sent to administer a newly-conquered territory, it fell upon him to consolidate England's position there. Being an imperialist, he thus sought to make the Home government's will supreme in the colony. As a few individuals opposed themselves to some of his policies, he thus felt that it was his duty to put an end to their influence in order to assure peace, order and prosperity. We must agree with

56 A. L. Burt, "Sir Guy Carleton and his First Council", taken from the Canadian Historical Review, vol. 4, 1923, p. 332.

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Burt, however, in that he may have been too critical of the councillors' conduct and punished them too severely. It cannot be denied that Carleton had an autocratic temper and that his methods were not always the most acceptable; however, his main purpose lay in defending the best interests of both the colony and the Empire as a whole.

3. Carleton on Colonial Government.

The Royal Proclamation of October 7, 1763, promised the calling of an Assembly as soon as circumstances would permit. Legislative and taxation powers were to be exercised by Governor, Council and Assembly. The same provisions were repeated in Murray's commission and instructions. An attractive form of government had been promised for the newly-acquired colony to attract colonists. This would, however, prove to be the root of many problems, as until such an Assembly was called, the government of the Province would be devoid of legislative and taxation powers. Grave doubts as to the legislative competence of Governor and Council were to arise.

The Governor's refusal to call the promised Assembly resulted in agitation in the colony and demands at home for the fulfillment of the promise. On April 19, 1765, a group of London merchants trading in Canada petitioned the Lords of Trade and Plantations with this

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purpose in mind. They claimed that because of the promise that had been made in 1763, many important merchants had settled in Canada to carry on trade, but had been deceived in their hopes by the arbitrary government administering the colony. It was further added that:

...a military Government is entirely incompatible with the Spirit & Genius of Commerce; & that a civil Administration, with a regular House of Representatives, is the only Means to make this Infant Colony flourish, & become useful to the Mother Country.⁵⁷

Several petitions along the same lines were presented to the Home authorities. The Canada Committee, in 1768, expressed the idea that the trade of the Province could only be recovered by means of an Assembly.⁵⁸ They even went so far as to say that some of the new subjects might be admitted into the Council and House of Representatives.⁵⁹

Carleton's appointment for a time quieted the agitation. During the winter of 1766-1767, a few English subjects approached him to discover his views on their signing a petition for the calling of an Assembly. The

57 PAC, CO 42, vol. 2, pt. 1: 112, Petition of London Merchants trading to Canada to the Lords of Trade and Plantations, London, April 18, 1765.

58 PAC, CO 42, vol. 7: 3, Canada Committee to Hillsborough, New York Coffee House, April 13, 1768.

59 PAC, CO 42, vol. 7: 4-5, Canada Committee to Hillsborough, New York Coffee House, September 20, 1768.

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movement was discouraged, but re-awakened during the following winter under the leadership of John McCord and George Suckling.

The Lieutenant-Governor reported these incidents to the Secretary of State, along with his views on the form of government that should be adopted for the colony. When he was presented the rough draft of a petition by a few English merchants, he told them that he was opposed to such a procedure because it seldom expressed the feelings of the subscribers, and that it gave the impression of imposing one's views. Carleton also claimed that, theoretically, he was not opposed to assemblies, but that because of Canada's peculiar situation he could not think of a suitable plan.

I have found in Canada, what I believe may be everywhere, the People fond of the Laws and Form of Government they have been educated under, tho' scarcely a Man that Knows one sound Principle of Government, or Law; Three or four of the old Subjects, about a year ago, brought me the rough Draft of a Petition for a general Assembly, and hoped, I had no Objection to their having it signed by all the British, who wished to have one called; I told them, I had many Objections to great numbers signing a Request of any Kind, that it seldom conveyed the sincere Desire of the Subscribers, that it had an Appearance of an Intention to take away the Freedom of granting or refusing the Requests; I had no Objection to Assemblies in General, yet such was the peculiar Situation of Canada, tho' I had turned that Matter often in my Thoughts, I could hit off no Plan that was not liable to many Inconveniencies, and some Danger; That perhaps they might be more fortunate, and I should think myself obliged to them, if they would shew me one, that could be of

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advantage to the Province, and the King's Service, assuring them, such a Plan wanted no Petitions to recommend it to me;...⁶⁰

He was, in this instance, thinking of the injustice that would be committed towards the Canadians if an Assembly, in which they could have no voice, were called. By this time, he had been converted to the "French Party" and was even more zealous than Murray had been.

McCord, the leader of the remonstrance, was in this letter represented as an agent of sedition.

...about a month after, they asked me, if I had considered of their Request, and I repeated my former Answer; since which I have often urged them, of my own Accord, to let me have their Scheme for an Assembly, and to inform me, who they thought should be the Electors, and who the Representatives, but to no Purpose; so that I imagined, they had laid aside all Thoughts of the Kind, till lately one John McCord, who wants neither Sense, nor Honesty, and formerly Kept a small Ale House in the poor Suburbs of a little Country Town in the North of Ireland, appearing Zealous for the Presbyterian Faith, and having made a little money, bargained some Credit among People of his sort, this Person purchased some Spots of Ground, and procured Grants of more, close to the Barracks, where he run up Sheds, and placed poor People to sell his Spirits to the Soldiers, finding that his lucrative Trade has lately been checked, by inclosing the Barracks to prevent the soldiers getting drunk all Hours of the Day and Night, He has commenced Patriot, and with the Assistance of the late Attorney General, and three or four more, egged on by Letters from Home, are at work again for an

60 PAC, Q 5-1: 373-373, Carleton to Shelburne, Quebec, January 20, 1768.

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Assembly and propose having it signed by all they can influence:...⁶¹

Murray and Carleton considered these merchants as being of a very low class. Their discontent stemmed from the fact that the governors were obstructing some of their plans in the conduct of trade. Furthermore, they were irritated by the tolerance shown towards the Canadians, while English laws and customs were receding further into the background.⁶²

Carleton believed that the Canadians were opposed to representative institutions. The reason on which he based his assumption was that some of these bodies existing in the American colonies had evoked the displeasure of the King by their insolence, while the conquered people wished to follow his every desire.

...On the other Hand the better sort of Canadians fear nothing more than popular Assemblies, which, they conceive, tend only to render the People refractory and insolent, Enquiring what they thought of them, they said, they understood some of our Colonies had fallen under the King's Displeasure, owing to the Misconduct of their Assemblies, and that they should think themselves unhappy, if a like Misfortune befell them...⁶³

61 Ibid., p. 373.

62 A. L. Burt, "The Problem of Government, 1760-1774", from the Cambridge History of the British Empire, Cambridge at the University Press, 1930, p. 152.

63 PAC, Q 5-1: 373-374, Carleton to Shelburne, Quebec, January 20, 1768.

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They were represented as a group that would do its utmost to obey the wishes of its ruler. In fact, there developed three reactions to the question of an assembly. Most of the seigneurs and the older clergy opposed the idea, as it might result in the loss of their semi-feudal rights. The old colonists who had adopted a commercial outlook, were much closer to the economic ideas of the English trading minority than to those of the old seigneurs. As politics did not interest them, most of the habitants remained indifferent to the problem.⁶⁴

The Governor's conservative tone of mind appeared in his closing remarks. He felt that the liberal institutions of the Mother Country could not succeed in America because the dignity of the throne and peerage could not be sustained here. Furthermore, the Governor having very little to give away, could exercise only a limited influence. Instead, he ran the risk of being unpopular, as it was his duty to restrain corrupt officials from running up their fees to extortion. It was his misfortune to deal with incompetent and dishonest men, as offices were sold to the highest bidder, who then sought to make the best profits possible. These men would thus refuse to assist the Governor in his task. The Governor, assisted by

64 D. H. Gillis, Democracy in the Canadas: 1759-1867, Oxford University Press, Toronto, 1951, p. 43.

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a weak council, would experience great difficulty in dealing with a vigorous assembly, in which existed equality and a tendency to democratic principles. It should be considered seriously whether a colony recently conquered, exhibiting an independent democratic spirit, was to be granted republican institutions.

...It may not be improper here to observe, that the British Form of Government, transplanted into this Continent, never will produce the same Fruits as at Home, chiefly, because it is impossible for the Dignity of the Throne, or Peerage to be represented in the American Forests; Besides, the Governor having little or nothing to give away, can have but little Influence; in Place of that, as it is his Duty to retain all in proper Subordination, and to restrain those Officers, who live by Fees, from running them up to Extortion; these Gentlemen, put into Offices, that require Integrity, Knowledge and Abilities, because they bid the highest Rent to the Patentee, finding themselves checked in their Views of Profit, are disposed to look on the Person, who disappoints them, as their Enemy, and without going so far as to forfeit their Employments, they in general will be shy of granting that Assistance, the King's Service may require, unless they are all equally disinterested or equally corrupt. It therefore follows, where the executive Power is lodged with a Person of no Influence, but coldly assisted by the rest in Office, and where the two first Branches of the Legislature have neither Influence, nor Dignity, except it be from the extraordinary Characters of the Men, That a popular Assembly, which preserves its full Vigor, and in a Country where all Men appear nearly upon a Level, must give a strong Bias to Republican Principles; Whether the independent Spirit of a Democracy is well adapted to a subordinate Government of the British Monarchy, or their uncontrollable notions ought to be encouraged in a Province, as lately Conquered, and Circumstanced as this is, I with great Humility submit to the Superior Wisdom of

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of His Majesty's Councils; for my own part, I shall think myself Fortunate, if I have succeeded in rendering clear Objects, not allways distinctly discernable at so great a Distance.⁶⁵

After this incident, there was no further agitation in the Province for the establishment of an Assembly until Carleton's departure for England in 1770. That year, a petition was presented by the Quebec merchants requesting that an Assembly that would work for the best interests of both old and new subjects be called.⁶⁶

Opposing views on such an important issue forced the English government to investigate its various aspects. In 1766, Attorney General Yorke put forth the opinion that it was up to the King to decide whether or not Catholic subjects residing in the colonies should submit to the test against transubstantiation prior to occupying government offices.⁶⁷ The Lieutenant-Governor's denunciation of representative institutions evoked no response from Hillsborough. The new instructions sent to Carleton on August 12, 1768, following his promotion to governor in January, repeated the directions given to his predecessor

65 PAC, Q 5-1: 374-375, Carleton to Shelburne, Quebec, January 20, 1768.

66 PAC, Q 7: 359-362, Petition of the British Freeholders, Merchants and Traders in the Province of Quebec to the King, Quebec, no date but probably 1770.

67 CD, p. 266, note I.

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as far as the calling of an Assembly was concerned.⁶⁸ This was not a mere accident as may be seen in the report of the Lords of Trade and Plantations of July 10, 1769, that recommended the calling of an Assembly composed of twenty-seven members, out of which thirteen were to be Roman Catholics.⁶⁹

Carleton successfully opposed the calling of an Assembly in the Province as it was not established until 1791. His spirit of fairness and his desire of rendering justice to the Canadians were the major reasons that led him to disapprove the calling of such a body. The Lieutenant-Governor felt that had the English merchants' will been fulfilled, they would have regulated not only the destinies of the Canadian population, but also those of the English soldiers residing in the colony. The unruliness of the American assemblies and the agitation of the Quebec merchants further strengthened his views. Furthermore, Carleton could not see how the British throne and peerage could be properly represented in such a far-off land.

It must be admitted that in this case, Carleton had adopted the more sensible and wise attitude as the

68 Ibid., p. 304.

69 PAC, Q 42: 131, taken from the Archives' Report (1890), p. 15-16.

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calling of an Assembly would have been a grave injustice to the Canadians. It would also most probably have served to increase unrest and unruliness in the Province as the malcontents would then have disposed of a means by which to make their resentment felt.

We could say that even a Council was not always well adapted to his desire of subordinating the whole colonial administration to his views. This was vividly demonstrated in the dispute with his First Council, when two recalcitrant members were dismissed.

4. Government Revenues and Expenses.

The Imperial authorities in London regarded the collection and disposition of the public revenue of Quebec as a prerogative of the Crown. It thus attempted to create and maintain a system that would succeed in controlling provincial finances. Several skirmishes between the Home authorities, its colonial representatives and the inhabitants occurred to ascertain who should have priority in this field.⁷⁰

In October 1763, civil government had been proclaimed, but not until August 10, 1764, was it actually

⁷⁰ H. R. Balls, "Quebec, 1763-1774: The Financial Administration", from the Canadian Historical Review, vol. 41, 1960, p. 203.

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established in Canada. During the military regime, taxes had been collected by Brigadier General James Murray, but now a receiver general or collector of revenues would have to be appointed by the Lords Commissioners of the Treasury. As no one was being named to fill this position, Murray, on September 14, 1764, appointed Walter Murray as receiver general of all the King's taxes in the colony.⁷¹

On July 10, 1765, the King appointed Thomas Mills, receiver general of the Province. In June 1766, he arrived in Quebec and a month later entered upon his duties. The actual revenues of the colonial government were quite limited, however, consisting chiefly of the duties on spirituous liquors.

Irving and Mills, on July 5, 1766, issued proclamations, whereby the taxes that had been collected by the French government were now to be paid to the Receiver General and used to defray the expenses of the colony.⁷² In the same month, Irving informed the Lords of the Treasury that it would be difficult to force the importers of wine, rum and other liquors to pay the duties that had

71 Ibid., p. 205.

72 PAC, Q 3: 188-191, Proclamation issued by Irving, Quebec, July 5, 1766.

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been collected during the French regime.⁷³ It proved impossible to collect duties, as they were abhorrent to the Quebec merchants, who had suffered the influence of American resistance to taxation without representation. Furthermore, these duties had not even the authority of Parliament. Such a case was heard on November 8, 1766, where Comte Dupré was sued for £482 for duties on 28,920 gallons of British brandy that had been imported by him. The jurors found the defendant not guilty.⁷⁴ Another unsuccessful attempt to collect duties was made in 1769. The merchants had won their point. They were to pay dearly for this victory, however, as the jury system was removed in 1774.

Throughout his stay in Canada, Carleton worked towards reforming its financial system. In December 1767, he set forth the reforms that should be brought about in the remunerating of government employees, in the collection of revenue and in the general economic life of the colony. His main idea was that civil servants should receive a set salary so that they would not attempt to defraud the government.

73 PAC, Q 3: 218-220, Irving to Lords of Trade and Plantations, Quebec, July 21, 1766.

74 PAC, Q 3: 400-404, Carleton to Shelburne, Quebec, November 9, 1766.

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Concerning the Civil Establishment of this Province, I shall say little except, to represent to their Lordships, how very necessary it is, that the Salaries of all in Civil Employment should be properly ascertained, and a Regular Revenue, for discharging the same, established, that the Officers, being apprised by what they are to expect, may Conform thereto, and none be tempted into irregular Courses, in Order to provide for themselves...⁷⁵

Carleton incessantly militated against the iniquitous system of fees, whereby government officials exploited the colony and worked against the best interests of the British government.

It was then added that up to that time, the accounts of the colony had not been regularly kept, and that the civil list had been made out by taking the average of the expenses of government from August 1764 to September 24, 1766. This sum, he said, was large when compared to the expenses of 1767, but this could be explained by the particular situation of the Province which had necessitated the expenditure of large sums of money for the repairing of buildings, for the development of agriculture and for aid furnished to the colonies for their survival. There were so many things to do, he added, that were the revenues of government greater, they could all be used to bring various improvements in the Province.

⁷⁵ PAC, Q 5-1: 300-301, Carleton to Grey Cooper (Secretary to the Lords Commissioners of the Treasury), Quebec, December 10, 1767.

The Revenue Affairs and Accounts of this Province had not been carried on, with all the Regularity requisite, towards forming a certain and accurate Estimation of the Contingent and incidental Charges attending its Civil Establishment, it has been made out, by taking the Medium of these Expenses, from the Establishment of Civil Government in August 1764, to the 24th of September 1766, and tho' this sum is rather large, as their Lordships will be best able to Judge, when compared with the Expence of the Current Year, Yet when the particular Circumstances of this Country are taken into Consideration, the ruinous Condition of all the Publick Buildings, which require an immediate and very large Repair; The Necessity, by Premiums and Encouragements, to excite the Industry of the Inhabitants, and to engage them to improve in the Culture of Grain, Hemp, Flax, and Pot Ash, the only Articles they can furnish to repay the large Ballance owing by them at present to the Mother Country; The Distresses of many of the Individuals, by the unavoidable Calamities of War, (as well as the Want of Industry among the People) which call aloud for Help, never withheld from such Objects under their former Government, and for which, since the Repeal of the Ordinance for Licencing Publick Houses, there is no Fund at all; The Necessity of establishing Granaries at Quebec and Montreal, in Order to put the Province out of all Danger of Famine, to which from the Peculiarity of its situation, and Severity of the Climate, it is too liable; without saying a Word about the Fortifications; in a Word, there is so much to be done, That was the Revenue much larger, there would be ample Room for employing the same in Improvements, as Beneficial to Great Britain, as to the Country itself.⁷⁶

Carleton wished to relieve the condition of the Canadians by giving them an efficient and honest government, and by giving them the help necessary to achieve a higher standard of living.

76 Ibid., p. 302-303.

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After showing how the revenues of the Province could be used, he then dealt with the best way of augmenting them. Carleton could see that in 1760, the commerce of the colony had been disrupted and had not yet established itself on a firm basis. He believed the best source of revenue to be the duty on spirituous liquors. Several factors had been working against this trade, however, such as the high price and poor quality of English rum which favored the sale of American spirits. As nothing had been taken in return, this had resulted in a draining of species from the Province. Carleton favored a direct exchange of products between Canada and the West Indies. Because of many varying factors, however, he thought that England could not yet consider this as being a reliable source of revenue. All duties on imported goods should not be charged before the opening of navigation on May 1, as it would give the same chance to all the merchants. It was also asked that no further duty be laid on wines, as this would merely serve as an incentive to smuggling.

Since the Conquest of this Province, her Commerce, forced out of its' usual and established Channel, has not yet settled into such a regular and uniform Course, as to allow of fixing her Consumption of those Commodities, upon which Taxes, with the least Inconveniency can be laid, with any Kind of Precision; The inclosed Accounts will shew, what the Imports of the several Articles, proposed for Taxation, amount to for three years past, The most certain Revenue, that

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can be raised, is undoubtedly upon Spirits, of which the Inhabitants are in the Custom to consume a considerable Quantity; From the high Price of Grain in England, which has raised the Price of British Spirits, and the bad quality of those imported, the People here have taken such a Distaste thereat, that the Colonies upon the Continent have been enabled to drive here a very gainfull Trade by vast Importations of Rum, of their own Manufacturing, and vending the Produce of the West India Islands, on which they get considerable Profits; the more detrimental to this Country, that they drain it of the Species, as in Return they take nothing else, except Bills of Exchange. To divert a Trade so ruinous and Impoverishing to throw more of this Branch of Commerce into the Hands of the Mother Country, and to excite the People here to engage in a direct Trade to the West India Islands, where with the Produce of the Country, instead of ready Cash, they may purchase such Articles, as are wanted for their own Consumption, is the main Drift of the Scheme inclosed; at the same Time it must be considered, that the very Imposing of these Duties, and a plentiful Harvest in Britain, may again shift the course of this Trade, and leave but a scanty Revenue for the Exigencies of Government; I must further observe to their Lordships, that as there is a considerable Quantity of Spirits actually on Hand, it may at first damp the Importation so much, it will not be prudent, for some Time absolutely to rely thereon; That it would be highly necessary, the raising these, or any other Duties, on Importation, should commence from the Opening of the Navigation, which may be commonly esteemed about the first of May, as it has scarcely ever been known, that foreign Vessells have arrived at Quebec before that Time, in Order to put all Importers of these Commodities upon an equal Footing; That all Vessells coming up the River should be obliged to enter at this Port, and break Bulk nowhere before their arrival here; A List of the Officers deemed Requisite for the Collection of these Duties, and of the Salaries that may be allowed them, is herewith likewise enclosed.

It may not be improper to inform their Lordships, it is not thought Right to lay any

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further Duty upon Wines, those already existing being judged quite sufficient, and that any Increase of Duty might prove a still stronger Temptation to smuggle.⁷⁷

The Lieutenant-Governor could see that the colony was in a ruinous state, but that it could be saved by providing it with a wise and honest administration that would work for the best interests of both mother country and colony. His plan for the increasing and collection of revenues was good, but it proved impossible to apply because of the opposition of the merchants.

Carleton expressed his optimism of the colony's soon being able to pay the salaries of its officials, as well as all its extraordinary expenses.

I could almost Venture to promise, that in a little Time, the Provincial Duties may pay all the Officers necessary for Government and the administration of Justice, on the Footing I propose of procuring Persons properly Qualified without Fees, together with all necessary extraordinary Expences, (I except however sine Cure Salaries, and all public Works,) without giving the least Discontent;...⁷⁸

When the Secretary of the Lords of the Treasury asked Carleton's assistance in collecting duties, he answered that if this meant that they were to be collected immediately, it would result in a general confusion and

⁷⁷ Ibid., p. 303-305.

⁷⁸ PAC, Q 5-1: 321, Carleton to Shelburne, Quebec, December 24, 1767.

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ruin everyone involved in commerce. He again said that duties should not be collected until the opening of the following season's navigation. Carleton believed that the most important source of revenue was the duty on spirituous liquors.

Upon the 1st Instant I Received your Letter Dated the 1st of June, acquainting me that the Lords Commissioners of His Majesty's Treasury had caused Instructions to be given to Mr. Mills Receiver General for the Province, for the Collection of Duties claimed by His Majesty as heretofore belonging to the French King, and that their Lordships desired I would give all the Aid and Assistance in my power to Mr. Cramahé, who Acts in his Absence as well as to Major Mills, when He arrives at Quebec, towards carrying the said Orders and Instructions into execution.

If by this their Lordships intend a Retrospect for what has been ahead entered, I am to request, you would represent to their Lordships, that it must evidently Ruin every Family concerned in that Trade, and of course throw the whole Colony into Confusion; this will certainly put them into such a ferment and set them so strongly against these Duties, the Crown would inevitably be cast whenever the affair is brought to a Tryal, if on the contrary they mean nothing more than to raise them in the time to come, the Navigation this year is so near a close, that it would prove a particular hardship upon the Owners of Goods, liable to the Duties required, in such Vessels as may yet come up, if they were exacted of them, while those who had the advantage of the Market, were exempted therefrom, at the same time that very little benefit will accrue to the Crown, from the small quantity likely to arrive this year

I have consulted the Officers of Government thereupon, who are unanimous in their opinion, it will be more for the Interest of the Crown, to defer that matter for the present, and to set out with it at the opening of the Navigation next Spring, when the People being fairly apprised and no one of the Importers more prejudiced than

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another, there is a much greater probability of carrying the Business through smoothly and to the Satisfaction of the Crown, than by an immediate and peremptory Demand at this late season of the year-79

The Lieutenant-Governor had once more expressed his desire to preserve the Colony from abrupt decisions on the part of the Home government.

The English government had attempted, without success, to collect revenues that would have served to defray part of the civil list. A receiver general had been named, who had unsuccessfully brought suits against merchants refusing to pay the duties imposed. Capable and honest officials such as Hey, Masères and Carleton had been sent to the colony, to reform the tangled financial machinery, but they had had no more success than their predecessors. The Governor had felt confident that the Province would soon be able to pay most of its own expenses, but this was merely an illusion.

5. Fees of Office.

During the eighteenth century few of the public officials received salaries, and all of them took fees. The scale of fees existing in the Province of Quebec bore more heavily upon this population than on any others, as

79 PAC, Q 5-2: 849-850, Carleton to Grey Cooper, Quebec, October 12, 1768.

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it had been adopted from the richest colony where the standard of wealth was considerably higher. It resulted in a general discontent, - the Canadians opposing it because justice had been free under the French government and the English revolting against the officials' numerous exactions.

Murray complained and militated against the system, but all that he was able to do was to draw a list of fees which was published in the Quebec Gazette on June 4, 1765. The new Lieutenant-Governor saw that the situation needed reform. Furthermore, it was felt that the system should be totally abolished, civil servants receiving a set salary instead of collecting fees. From the date of his arrival until his final departure in 1796, thirty years later, he incessantly denounced it to the Home government and attempted to restrict its operation. All that he proved able to accomplish, however, was to renounce his own perquisites of office, and dismiss a couple of individuals for collecting excessive fees.

The first step on the road to reform was taken by Carleton on November 7, 1766, a few weeks after his arrival in the colony. Wishing to set an example for other civil servants, he relinquished all fees due to the Governor, except those on ale houses, that were to be paid to the

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receiver general and considered as a part of the Province's revenue.

Whereas the numerous Fees, which the Inhabitants of this Province have been Obliged to pay, have been found very burthensome and inconvenient to the said Inhabitants in the low and distressed Condition to which many of them have been reduced during the Calamities of the late War &c. The Publick is hereby given to understand that Lieutenant Governor Carleton has resolved to Release and Relinquish During the time that he shall continue in the Government of this Province, and doth hereby Release and Relinquish all the Fees that may be due to himself by Virtue of the Commissions or Powers with which it has pleased His Majesty to Invest him, Excepting only the Fees Due from Vintners and other Publicans for Licences to keep Publick Houses which Fees shall still continue to be paid. And the said Lieutenant Governor further declares, that the Money Arising from those Fees last mentioned shall not be appropriated to his Private Use - but shall be paid into the hands of the Receiver General of His Majesty's Revenue in this Province, and considered as a part of that Revenue and accounted for Accordingly.⁸⁰

Carleton felt that it was unbecoming for crown officials to exact fees. He believed that as they were to be unbiased, they should be remunerated by the authority that had nominated them to their office. The colony's impoverished condition further necessitated the mitigation of all taxes. Furthermore, as such a system had not existed under the former government, the Canadians were not familiar with it, and disliked it.

⁸⁰ PAC, Q 3: 414-415, Carleton's proclamation relinquishing fees, Quebec, November 7, 1766.

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Besides those general Principles which make the regard as unbecoming a Governor Profits, that I think a private Gentleman ought to decline, and which convince me it is much for his Majesty's Service, that His Servants removed far Distant from His Throne, to whom he has Entrusted the Command of any of His Provinces, should be perfectly disinterested, free from Bias, and without Views, but for the Good of His Service and without Reward but what comes from the same Hand that Delegated the command; I say besides those general Reasons, there are others peculiar to this Province—Canada has been so impoverished by the War, the Frauds of Bigot, the Retreat of many of the Richest Families into France with all their Wealth, and other Causes, that the Numerous Fees and Perquisites we have imported are really Burthensome in their present situation, Many of them were unknown under the French Government in particular those I have remitted, and what did Exist, were very trifling, compared to the Present. Now as there is a Certain Appearance of Dirt, a sort of Meanness in Exacting Fees on Every occasion, which seems still stronger from the Novelty, and by comparison with the former Government, I think it necessary for the King's Service, that his Representative at least, should be thought unsullied.⁸¹

On the other hand, means should be taken to relieve the distressed condition of the Canadians. Such an end could be reached by pursuing the course he had adopted of using the tax collected for retailing liquors to help the needy seigneurs, as had been done by the French government.

As to the Money raised by granting Licences to retail Spirituous and other Liquors, I look on that as a Tax, which the Good of the People, above considered, would require not to be Diminished, but greatly augmented, an opinion I should not think myself at Liberty to give, did

⁸¹ PAC, Q 3: 411-412, Carleton to Charles Townsend, (Chancellor of the Exchequer), Quebec, November 17, 1766.

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the Profit remain with me. This Fund I mean to appropriate for Charitable Uses, chiefly to the Relief of such of the Noblesse as are reduced to Distress; An Object the French Government had great attention to granting many small Pensions, as well as sums of Money for their immediate Relief, and indeed that Entire Body Depended solely on the Crown, both for their Superior Honors, Power and Fortune, in return they rendered Considerable Services, these Mutual Advantages seem at present Extinguished.

This Licence Money I have ordered to be paid to the Receiver General, because I judge it more for His Majesty's Service, that such Favors should be granted in His Name, as formerly, than as the private Charity of a Governor of which with the rest Exact Account shall be given.⁸²

Carleton's thoughts were constantly directed towards alleviating the misfortune of the Canadian noblesse. He thought that by granting them small pensions and a few positions of honor, they would be won to the British cause.

The Lieutenant-Governor then went on to justify his conduct in the matter. He claimed that on his arrival in the colony, many Canadians complained of the great number of fees exacted by the officials, and more particularly, of the high cost of justice. These grievances, he added, had also been presented to Murray. Had all the fees due been collected, it would have amounted to more than twice the Province's resources. Although these were not higher than in any other colony, they weighed more heavily upon this population, as Canada was a poorer region. The

82 Ibid., 412-413.

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advertisement had therefore been published to set the example. Deputy Secretary Goldfrap had told him that Murray had taken the licence money, and wished to know if he would do the same. Although the Governor had talked of paying some of the justices of the peace and using it for the Province's best interests, he also said that it was his to do with as he pleased. As Murray had a right to take the money arising from the source in question, Carleton claimed that he also had a right to relinquish it. The Lieutenant-Governor then grew more irritated, saying that if the Governor had taken the trouble to inform himself of his conduct as quarter master general in his three campaigns, where he had accepted only his salary, he would have been able to understand his conduct in Canada, and see that the advertisement had not been meant as an insult. It was then pointedly remarked that Murray's memory had failed him in more points than one. Carleton, in his closing remarks, said that he did not wish to enter into an argument with the Governor, but merely wished to submit his actions to the King's examination.

Upon my Arrival not a Canadian approached me, that did not complain of the number of Fees demanded, and particularly of the exorbitant Expences that attended the obtaining any Redress by Law, which Complaints, I am credibly informed, had been repeatedly made to Governor Murray; That the Fees of Office are burthensome, Your Lordship will be enabled to judge by the Secretary's,

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Provost Marshall's, and Clerk of the Council's Accounts herewith inclosed, and so the Individual does not pay less than the Crown, it certainly bears hard upon a People, who are not wealthy, particularly in Regard to the Registering of Lands, as directed by an Ordinance of the 6th Nov. 1764, the Fees for which, if executed in its utmost Rigor, some pretend, would have amounted to more than double the current Cash of the Province, and by Consequence has not, nor could it be complied with.

Altho' I believe, the Fees do not exceed those taken in other Colonies, yet to lighten to the People, as far as in me lay, a Burthen they were not used to bear, to restrain every Tendency to Rapaciousness, and to prevent the public Officers attempting any undue Impositions, I thought the best Precept I could give, was to set them the Example, and these, with what I formerly mentioned to Mr. Chancellor of the Exchequer, were the true and only Motives, which urged me to publish that Advertisement.

As I had not then been above six weeks in the Province, it can hardly be supposed, I had read and was Master of all the Instructions, Ordinances, and other Papers of all the Province, I took my Information with Regard to the Governor's Fees from the Deputy Secretary, who acquainted me at the Time, as appears by the Minutes of Council, hereto annexed, of Governor Murray's having taken the Licence Money, and desired to know, if I would receive the same, as it came in, or as Governor Murray had done, let it remain in his Hands, untill it amounted to a Sum; and if the words of the first Ordinance, repealed by himself, in Consequence of an Order from Home, Copy whereof is also inclosed, as well as of the second enacted, while Lieutenant Colonel Irving presided, are carefully attended to, which order that the Monies arising from thence shall be applied to such public Uses, as the Governor and Council shall direct, and not, as he advances in his Letter, 'Accounted for as part of the Revenue to the Government', it will sufficiently confirm what the Deputy Secretary and others of the Council have affirmed, that Governor Murray more than once declared, he looked upon that Money as his Right, tho' at Times he talked of paying some Justices at Montreal out of it, or of applying it to other public Uses.

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By the 11th Article of his Transactions, Governor Murray, even with his Council, was restrained from laying any Taxes, but by the 18th Article of the same Instructions he had a Right, with the Assistance of his Council, to establish and regulate Fees; as Fees therefore he had a Right, and did take the Money arising from the Licencing of public Houses, and I certainly had an equal Right to relinquish them.

If Governor Murray had been pleased to inform himself of my Conduct in respect to Money Matters during three Campaigns in which I had the Honor to serve as Quarter Master General, an Employment by which several Officers have been enriched, and that I never accepted of any Fee, profit, or Perquisite, usually attending that Office, besides my Pay, except the share of Prize Money allotted to me at the Havannah, which I considered as the Gift of my Royal Master, he needed not have been so grievously offended at my Behaviour in this affair, or have so readily apprehended, it was meant as a personal affront to him.

It might not be a very difficult Matter to prove, that in the extraordinary Performance, Governor Murray's Memory has failed him in more Points than one, but I shall make no further Strictures upon it; As I act from Principle, not from Whim, I shall not enter into any Altercation with him, or trouble the Public about the Matter; All that I wish or desire is to submit my Conduct to His Majesty's Examination, or Censure, which upon the strictest Scrutiny, it may appear to deserve.⁸³

Carleton on seeing the motives of his conduct questioned, reacted vehemently, replying that he had acted for the best interest of the Canadians.

In April 1768, Carleton exposed the measures he had taken to abolish the iniquitous system. He claimed that he

⁸³ PAC, Q 4: 174-177, Carleton to Shelburne, Quebec, May 14, 1767.

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had experienced many difficulties in getting the officials to draw up a list of the fees they exacted, since they were more interested in accumulating profits than in losing their time compiling such a report. As no penalties existed for infringement of the law, these fees were often run up to a very high degree. The Lieutenant-Governor believed that it would have been preferable to give them a set salary instead of letting them crush the population. The oppressive proceedings of the civil officials, he believed, served only to alienate the Canadians, who, because of the numerous grievances they were suffering, would take the first opportunity to return to their former allegiance.

Immediately upon the Receipt of Your Lordship's Letter of the 13th Jany 1767, All Persons in Public Office here were called upon to give into Government a fair State of the Fees they required in their respective Departments, in which they have been so slow and dilatory, that, tho' not without much Spurring, I am barely at present enabled to transmit the inclosed List, which is as full and ample, as it was practicable for me to procure, Considering the Difficulties that have occurred in Obtaining it, Officers, who meerly Depend on Fees for their Support, are too Solicitous of promoting their own Interests, to relish these Researches, and ever incline to retard and prevent them.

Altho' since my Arrival in the Province, I have dismissed two Officers for exacting more than the Allowance, yet have I not been able to restrain all the Abuses this Method of rewarding their Services is productive of; If to avoid the Consequences, they restrict themselves to the taking only the established Fee, and if your Lordship

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but cast an Eye upon the Bottom of the 11th Page, you will find they were established by a simple order, without any Penalty upon the Infringers thereof, they are active in Multiplying and Requiring them, where no Provision has been made, so that altho' the Fees appear trifling in themselves, they are run up in such a Manner, as to render them really Burthensome to the People.

A Specimen of this, the inclosed Copies of some Bills, hereto annexed, will afford to Your Lordship, and are a convincing argument, in my humble Opinion, how far preferable it would be for the Community to allow the Civil Officers a Competent Salary, than suffer them to crush and oppress those Individuals, who are obliged to have Recourse to their Ministry.

By Comparing the Fees usually Required, with those established by the aforementioned Order of 20th June 1765, Your Lordship will see how ingenious many of the Officers show themselves in eluding the Orders of Government, and how difficult it must prove to restrain them within proper Bounds, while several, especially those who hold under Patentees residing in Britain, found their Pretensions on Expressions slipped into those very Patents, and think themselves intitled in this, at present, every way impoverished Province, to the Fees adopted in the wealthiest of our Colonies; the first Attorney General took care to get it inserted in his Mandamus, that he should be allowed the same Fees as in the Leeward Island, which has been continued to the present one, who, whatever he may charge the public in Consequence, from his well known Character, I believe, has been much more moderate in Regard to Individuals.

What Impression must it make upon the Canadians, when they see their Countrymen obliged to have Recourse to public Collections to extricate themselves out of a Gaol, even after their Innocence has been declared.

While they are restrained in the Fur Trade, cut off from the sedentary Fisheries of the Loup Marin, deprived of the Property they enjoyed for Generations, are Governed by Laws they are ignorant of, and Labour under such a Weight of Fees, How Far we may reasonably expect, the Canadians ever will relish their new Government, or not sigh after, and heartily embrace the first Opportunity that

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ever offers, of returning under their antient Dominion, I humbly submit to Superior Judges.⁸⁴

Carleton returned to this theme the following day in his letter to Shelburne. Here he said that the problem stemmed from the fact that offices were being sold to the highest bidder, who in turn attempted to make the greatest profits possible by filling these with the least costly individuals without paying any attention to their qualifications.

Again I find myself under a necessity to repeat very near the same apologies, as in my last about the Fees; the Truth is, that while Offices are farmed out to the best bidder, Tenants will make the most of their Leases, and in their Turn hire such Servants, as work at the cheapest Rate, without much Enquiry, whether the same is well or ill done;...⁸⁵

Hillsborough expressed the English government's desire that an end be put to the dishonesty and corruption existing in the Province, but no mention was made of abolishing the system of sinecures.

It is His Majesty's firm Purpose that every proper Measure shall be taken to remedy those Evils, and to remove that scandal and Reproach brought upon His Majesty's Government, and the Consequential unfavorable Impressions made upon the Minds of His Majestys New Subjects, which are the Effects of the little attention given by the

84 PAC, Q 5-1: 441-443, Carleton to Shelburne, Quebec, April 11, 1768.

85 PAC, Q 5-2: 477, Carleton to Shelburne, Quebec, April 12, 1768.

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Patentees in this Kingdom to Ability and Integrity in the appointment of their Deputies; and of the shamefull Frauds and Exactions of exorbitant Fees which are practised, and of which you so justly complain...⁸⁶

The Home authorities limited themselves to abstract recommendations, formulating no definite means of reforming the wicked system.

After four years of persistent struggle, Carleton's achievements were rather limited. One might even say that they were nil. By relinquishing his perquisites of office, he had thought that this would set an example to be followed by other civil servants, but all that it succeeded in accomplishing was gaining the opposition of Murray. The Lieutenant-Governor militated for the adoption of a scale of salaries to put an end to extortion, but the Home government refused to acknowledge such a policy. His primary reason for seeking redress in this field was to alleviate the burden of the Canadians, thus conciliating them to the British Crown. Carleton received little assistance in his endeavor. All that he proved capable of achieving was dismissing two officials who had exacted fees higher than permitted by law. It would seem that he was fighting a losing cause as, after thirty years of work, little more had been accomplished.

⁸⁶ PAC, Q 5-2: 602, Hillsborough to Carleton, Whitehall, July 9, 1768.

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6. Custom House Fees and Admiralty Court

Carleton also experienced difficulties with civil officials who were not directly related to the administration of the colony. The Collector of Customs for the Province, Ainslie, refused to obey the Lieutenant-Governor's orders in relation to his fees, paying more attention to the directions of his superiors in Boston. There also developed a dispute as to who should exercise authority over the Admiralty Court.

In 1769, the Customs House officers increased their fees without asking the Governor's permission. Almost immediately, they were ordered by Council to transmit a list of the fees they had taken, and to explain by what authority they had thus acted. The Governor further ordered them to restrain from demanding such increases, until it had been approved by Council and himself.⁸⁷ The Collector (Thom. Mellish) and Controller (Tho. Scott) of Customs answered that they did not know by whom the fees had been regulated, but that they had been approved by the Inspector General on his last visit.

⁸⁷ PAC, Q 7: 159-160, Allsopp to Customs Officers, Quebec, October 14, 1769.

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They promised to observe the Governor's commands and to advise their assistants to do so.⁸⁸

On October 25, Carleton expressed his grievances to the Commissioners of Customs at Boston. He claimed that the fees of the officers involved had been settled in August 1765, by act of Parliament, and that he could not understand by what authority their inspector, Mr. Hooton, had increased them. Hooton could at least have had the courtesy to show him the authority by which he acted. It would be working against the King's best interests to increase the fees of these inferior officers who were on friendly terms with the population. The Lieutenant-Governor then added that Mellish and Scott had obeyed his orders, and had even desisted from taking some of the additional fees before receiving such.⁸⁹

A month later, Carleton once more complained of the conduct of some of the officers, especially of that of Collector Mellish, who had taken advantage of the ignorance of a ship captain to seize his goods.

The Revenue Laws were framed to prevent and Guard against Frauds, for those purposes great Powers were vested in the Officers who have the

88 PAC, Q 7: 161-162, Mellish and Scott to Allsopp, Quebec Customs House, October 16, 1769.

89 PAC, Q 7: 163-165, Carleton to the Commissioners of His Majesty's Customs at Boston, Quebec, October 25, 1769.

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Execution of them, but it never was nor could be the intention of Legislature, to Arm them with such Powers, to entrap honest men, for the sake of enriching the Executive Officers, which in this Affair, appears too plainly the case, and must ever be so, while men of low Birth and no Education are raised to Offices, to the filling of which, if their merits were duly weighed, they would not be found to have the least pretention.⁹⁰

This opportunity had been seized by the Governor to attack the corrupt eighteenth century system of officeholding.

Richard Reeve, Secretary to the Commissioners at Boston, answered that his letters would be dealt with at the first meeting of the Board. In the meantime, the Customs House fees at the port of Quebec, were to be regulated by the table in existence at Halifax as ordered by the 5th of George III, which stipulated that officers were entitled to such fees as were collected at the nearest port.⁹¹

Carleton considered such a decision as an insult, claiming that neither the officers of the Board at Boston, nor those at the port of Quebec had any right to increase the fees, and that he was surprised to see such a system being imposed without the provincial government's approval. He had, therefore, given orders to the effect that fees

⁹⁰ PAC, Q 7: 167, same to same, Quebec, November 22, 1769.

⁹¹ PAC, Q 7: 168-169, Reeve to Carleton, Boston, May 14, 1770.

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were not to be increased. The Governor then added, that in the last year, he had seen three lists of fees, all pleading the authority of the same act of Parliament. He then went on to say that Halifax had not been mentioned in the latter, but that it merely stipulated that the tables of the nearest port were to be followed, which was New York. No changes were to be permitted until orders had been received from proper authorities. Carleton then pointedly advised the Board to adopt a more moderate and wise policy.

My Letter of the 25th of October last complained to your Board, that Mr. Ainslie the Collector of this Port, and Mr. Hooton your Inspector, had in the course of last Autumn greatly increased the Fees of the Officers of the Customs established here, more particularly those of the Collectors, without the Knowledge of the King's Government in this Province, it also informed you, that I had given Orders to the Custom house Officers not to receive any Additional Fees, untill approved of by the Governor and Council; In return, your Secretary in his Letter of the 14th of last May informs me, by Order, that your Board has been under a long Adjournment, which prevented your answering my several Letters, but that at their first meeting, you will take under consideration the points I have laid before you, and communicate to me your Sentiments thereon; In the mean while that you had directed the Officers of the Customs to receive Fees agreeable to a List, which the Collector and Comptroller of Halifax certify, the 23rd of December last, to be taken by the Officers of the Customs of that Port.

With all deference due to Gentlemen at the Head of a Department, which requires so much good sense, Moderation and Discretion, while Disobedience seems to be the saying Vice of the Time, I humbly conceive, my complaints on this Point merited some consideration, before you decided so soundly against us, and I flattered myself, considering the Experience you have had at Boston,

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that your Board would accordingly have taken them under consideration, before you directed the Officers under your comptroll to throw off all Subordination and to Ask in open and avowed Disobedience to the Kings Government in this Province, where they reside; even supposing I was in an error, you surely must know it is the King's Interests you strike at by such Directions, and not mine, I am only his Servant, raised in Authority by his Will, and removed at his Pleasure, but his Government, in whatever hands intrusted, should still remain uninjured: To put a speedy stop to this dangerous beginning, I must explain to you very clearly, that in my Judgment, neither the Officers of the Customs, nor your Board have any Power to increase the Established Fees of Office in this Province, nor to expound Acts of Parliament on that head, nor will I suffer any such Precedent, untill I know the King's Pleasure thereon; I have therefore acquainted the Officers of the Customs that I expect they will strictly comply with those orders of not increasing their Fees untill approved by Governor and Council, as Mr. Ainslie has at large informed you.

In less than Twelve Months, I see here three Lists of Fees, and tho' very different one from the other, all pleading the Authority of the same Act of Parliament, in the second the Collector has taken very great care of himself indeed, little troubling himself how ruinous it may prove to the People, and this he calls the Halifax List, Your Secretary sends me a third List, heavier than the First, but not quite so exorbitant as the Second, this is also the Halifax List, had the Act of the 5th of His present Majesty named the Port of Halifax, and did it now remain to be carried into Execution, I should write to the King's Governor of that Province to learn of him, what Fees were legally established at that Port the 29th of September 1764, taking especial care no more were introduced into this poor Province, and not content myself with an Account certified last December of what the Officers of the Customs are now pleased to take there, but this is not the case, the Act of Parliament does not name Halifax, but the nearest Port, which is New York by some hundred Miles, and agreable thereto Mr. Stuart, who had the same direction of the Customs, Your Board has now, brought the List of Fees taken at

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New York, and they were received in this Province, in Obedience to the Supreme Power, and much to the satisfaction of the Officers of the Customs, for these Fees then were, or were understood to be the most Lucrative; the Act was then carried into execution, and such it shall remain, 'till I am better informed, or 'till it be changed by Lawfull Authority.

According to Mr. Ainslie's Doctrine, which you support, the Kings Subjects in this distressed Province are for ever to be at the discretion of a Collector, for I presume the Collectors of New York and Halifax have as much right to increase their Fees of Office, without permitting their respective Governments to interfere, or take cognizance thereof, and as their Fees augment, he may take his choice of either Port, informing me New York is nearest by Land, Halifax by water; in time it may suit his purpose to demand the Fees of Newfoundland, and still agreeable to said Act.

You may rest assured, Gentlemen, that as no man, or number of them in this Province, dare oppose any Act of Parliament, or interrupt an Officer of the Customs in an honest and faithfull Discharge of his Duty, so whenever these attempt the same uncontrolled Freedom, they have already done, of laying new burthens upon the People for their own Profit, and by their own power, or should they attempt to have fair Traders condemned, who never meant to Trade illicitly, because they have fallen into inaccuracies, the Officers themselves have artfully occasioned, lying in wait untill a Rich Prize shall enter their Decoy, you may, I say, be assured, that on all such occasions, they shall find me firm in their way, and if a remedy cannot be procured on this Continent, I will bring the case before those, who I am confident will pronounce righteous Judgment.

And in all this, Gentlemen, I think I only comply with the Will of the King our Master, who required of me, that, to the utmost of my power, I should protect his Subjects within my Government from oppression and wrong, that I do not suffer Acts of Parliament to be confounded with the mercenary Iniquity of Men in Office, and that I Put it out of the power of artfull turbulent Spirits to deceive the People by shewing the Supreme power to the multitude through such filthy mediums: The people here are not misled by the

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factions, but are informed of their Sovereign's gracious intentions, and taught to apply to his Government with decency and respect, for the performance of this indispensable part of their Duty, and not to have recourse to Tumults and Rioting.

I hope you will excuse my troubling you with so long a Letter, but I think 'tis necessary you should clearly and fully understand the Principles which Govern this Province, and if I might presume to offer my advice to Gentlemen of your Abilities, I would respectfully recommend to you the sending to the Lords of His Majesty's Treasury, as I shall, Copies of our Correspondence, that if I misjudge what is best for the King's Interests, I may be better informed by his Confidential Servants, or receive His Majesty's commands, which, as in Duty I am bound, I shall obey before you again attempt to introduce here a contempt of the Orders of Government, an Indecency not common in this Province; I am the more emboldened to propose this method, as I think it more decent than the former, and seeing me serve the same Master, I wish much as should unite in good humor, cordially to promote his Interests.

On all such Occasions you will surely find me, Gentlemen, with much Regard

signed Guy Carleton

P.S. Since my writing the above, I find Mr. Ainslie, who has been very violent upon the Occasion, threatens all the Officers, who cheerfully complied with my orders, with his Indignation, in which he feeds himself with the vain hopes, as I am persuaded he will find them, of being assisted by you; in a Letter to Mr. Lock, a copy whereof is inclosed, he accuses Mr. Scott of refusing to do the Official business, altho' well known to be a diligent Officer, and that his Willingness to submit to my Order, and disinclination to enter into the Mercenary views of his Colleague, can be the only reasons for casting upon him such a Reproach, when at the very time, and ever since his Arrival Mr. Ainslie has not signed a Single clearance, and that it is Mr. Mellish, his Deputy, Clerk, and Tidewaiter, who Transacts all the Custom House business, except what regards the Fees, and that Mr. Ainslie indeed pays the greatest attention to; Finding himself all alone, and that

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his Orders and Threats are to no purpose, Mr. Ainslie has at length, tho' with Reluctance, obeyed, as you will see by the inclosed Copy of his Letter of the 23rd June 1770, which for that purpose I enclose.⁹²

The Governor could not suffer to be overruled by other colonial officers. On being attacked, he reacted in a vehement fashion. The case was then laid before the Home authorities.

A similar case had presented itself in 1768, when the officers of the Admiralty Court had refused to recognize his authority in a case lying before them.⁹³

Carleton, having advised the Secretary of State that this Court should be subjected to the supervision of some proper authority in the colony, was told to reform it as best he thought fit.⁹⁴ (It would be interesting to know what reforms were brought forth by Carleton, but it has been impossible to discover whether or not he acted.)

In all matters relating to the Province, Carleton felt that he should have the decisive word. His primary interest was to protect the old inhabitants of the colony, and he was ready to adopt any means to reach his objective.

92 PAC, Q 7: 180-186, Carleton to the Commissioners at Boston, Quebec, July 4, 1770.

93 PAC, Q 5-2: 385-389, Carleton to Hillsborough, Quebec, November 20, 1768.

94 PAC, Q 6: 1-2, Hillsborough to Carleton, Whitehall, January 4, 1769.

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The Governor seems to have been very successful in his major pursuit, as he retained the favor of the Home government throughout these first four years.

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The government of Quebec, from 1764 to 1774, was a welter of chaos and discontent. Attempts had been made by England to establish an administrative system that would both attract colonists and conciliate the Canadian population. Quebec's unique character presented problems for which no set and proven solutions existed. Confusion prevailed on nearly every point of constitutional importance. The Governor and Council's legislative and taxation powers were being questioned. The British merchants wondered as to whether or not an Assembly would be called. The councillors were curious as to their status. Such a system naturally favored corruption and insubordination in official circles.

A team of honest and capable men was sent to the colony in 1766 to reform the situation. It was felt that the trio composed of Carleton, Hey and Masères, would succeed in establishing peace and order from the turmoil then prevailing.

On his arrival in the Province, Carleton immediately saw the rivalry existing between military and civil

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factions. The Lieutenant-Governor joined the cause of the English merchants, opposing himself to the Murray faction. This led him to crush the opposition by dismissing two of the leaders, - Irving and Mabane, - from Council. As this was a newly-conquered territory, opposition to the chief administrator's will could not be tolerated as this would have created a highly dangerous situation.

A few months later, Carleton was converted to the "French Party" and throughout his stay in Quebec, he strove to further their cause. This was expressed through his relentless opposition to the merchants' agitation for an Assembly, and by his repeated demands that Canadian seigneurs be awarded positions of honor. At the same time it led him to militate against the corrupt and extortionate eighteenth century system of sinecures.

This was one of the motives that irritated the English element and led it to oppose several of the Lieutenant-Governor's attempts at reform. He received no co-operation whatsoever in his endeavors to abolish the system of fees. Even inferior civil servants, such as the officers of Customs and of the Court of Admiralty, refused to submit to his authority.

During the first four years of his administration of Quebec, Carleton strove to establish an efficient and

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honest administration. Furthermore, he attempted to erect an organization whereby the colony would have paid its civil list.

In conclusion we may say that Carleton achieved only limited success in his endeavors, as the system of fees persisted, minor officials and English merchants continued in their opposition, and chaos prevailed almost everywhere. The fruits of his work were to be reaped only during his second administration of the Province, when many rights and privileges would be granted to the Canadians.

Carleton attempted to reform the situation too rapidly. This thus changed many potential allies into determined foes. Had the Lieutenant-Governor made use of greater tact and diplomacy in his endeavors, he might have enjoyed more success.

CHAPTER III

REFORM OF THE LAWS

Justice in New France was simple, rapid and inexpensive. Courts were opened throughout the year except on feast days and during special periods of the year such as harvest time. Law officers in these courts exacted very moderate fees or none at all. The civil relations of Canadians were regulated by the body of laws existing in the mother country. France's strong centralizing policy held her colony in bonds closer than those existing between New and Old England. The Coutume de Paris was its common law. Judges and other law officers who had been trained in the courts of France thus established a system modelled on what they knew best.¹ During the French regime, lawyers were not permitted to plead before the courts as it was thought that this would have unnecessarily complicated the processes of law, while at the same time rendering it more expensive and less efficient.²

The Conquest put an end to the normal evolution of the colony. All ties with the mother country were

1 W. Smith, "The Struggle over the Laws of Canada, 1763-1783", from The Canadian Historical Review, vol. 1, 1920, p. 166.

2 J. E. Roy, L'ancien Barreau du Canada, Montréal, C. Théoret éditeur, 1897, p. 21.

disrupted. Attempts were then made by the new masters to impose their judicial system on the conquered population. By the Royal Proclamation of October 7, 1763, and by Murray's commission and instructions, it was proclaimed that English law was to be introduced into the colony. The Proclamation of September 17, 1764, establishing courts of judicature was to mark the theoretical end of French laws and the beginning of English law in the Province of Quebec.

As we have already seen, however, the newly-conquered territory already had its own highly developed judicial organization. The legality of such a decision was immediately questioned. It was also wondered to what extent the ancient laws of the colony remained in force, and to what extent English law had been introduced. England's problem, as we have already seen, was that this new continent would be occupied by two civilized groups. This does not seem to have been realized at first as the English minority living in the province were promised British law. At the same time, it was hoped that this would serve to attract English colonists who would thus soon outnumber the old inhabitants.

No consideration whatsoever seems to have been given to the group already occupying the area. Murray's proclamation established a Court of King's Bench presided by the Chief Justice; a Court of Common Pleas which was

intended to be for the Canadians only, presided by three English judges; and justices of the peace to determine minor cases.³ All of these offices were to be filled by English Protestants as Roman Catholics could not take the test against transubstantiation, and thus were barred from all official functions. This was soon to be changed, however, due to the reiterated demands of the governors for the granting of special privileges to the Canadians.

From 1764 to 1774 many of the French and English laws ran concurrently, creating a disorderly and tense situation. The Canadians in some instances would follow English law, while in others they would follow French laws and customs, depending on the advantages that might be gained from one or the other. Confusion and corruption reigned in the province during these years. The population was uncertain as to the laws that were to be followed and was incessantly being exploited by minor government officials. The situation had completely changed, justice being expensive, slow and complicated.

Murray attempted with very limited success, to mitigate the burden of the Canadians. He was assisted by men who were not familiar with the French language and

3 W. Smith, Op. Cit., p. 168.

laws. Only the Lieutenant-Governor, however, would strive to alleviate the misfortunes of the conquered people.

The question as to whether English or French laws should be enforced was at that time being examined both in the colony and in the mother country. Three courses lay open: a) English laws might have been adopted as a whole, b) a code of laws based on the French and English systems might have been drawn up, or c) French laws might have been retained with a few minor changes, as was finally adopted. Carleton successfully militated for the adoption of the last course. He also strove to procure cheap, impartial and rapid justice. His objective was to re-establish the situation that had existed in 1759.

1. Land Laws.

New France had been colonized by means of the seigniorial system that had been adapted from the French feudal system. Although outwardly it differed little from its prototype, in its practical application it was markedly superior. It was neither oppressive nor despotic, permitting a relatively high degree of social mobility. The system proved able to maintain order among the colonists.⁴

⁴ D. H. Gillis, Democracy in the Canadas: 1759-1867 Oxford University Press, Toronto, 1951, p. 4.

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Nothing in the articles of Capitulation abolished the seigniorial system. After the Conquest it was to continue existing. A few seigniors left the colony, but they were replaced by English proprietors. Even as late as 1762, Murray granted land en fief et seigneurie. The Royal Proclamation and the instructions sent to Murray ordered that in the future land be granted in free and common soccage, while at the same time imposing English laws on property. With the establishment of the courts of judicature on September 17, 1764, Murray declared that English law would prevail in the Province of Quebec, thus inferring that land was to be granted according to the English system. The Governor did not favor this system, but having no choice in the matter, was forced to impose it on a people he loved and admired.

Carleton favoring the establishment of French law, naturally opposed himself to the English system of land tenure. Being from the ranks of aristocracy, he wished to maintain a hierarchical system at the top of which stood the seigniors, who would thus be able to control the masses and win their allegiance to the English Crown.

Fearing the consequences of the rigorous application of laws on tenure, inheritance and alienation of lands, the Lieutenant-Governor, during the spring of 1767, asked Masères to prepare an ordinance that would continue

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and confirm the French laws and customs on that matter. The document that was sent to the British government on December 24, 1767, expressed Masères' basic idea, that is, the introduction of English law as the general law of the province, and French law for certain specified cases such as in the granting and alienating of land.⁵

In a letter accompanying the ordinance, Carleton explained the situation that had existed before 1760.

To conceive the true State of the People of this Province, so far as the Laws and Administration of Justice are concerned, and the Sensations, they must feel, in their present Situation, 'tis necessary to recollect, they are not a Migration of Britons, who brought with them the Laws of England, but a Populous and long established Colony, reduced by the King's Arms, to submit to His Dominion, on certain Conditions; That their Laws and Customs were widely Different from those of England, but founded on natural Justice and Equity, as well as these; That their Honors, Property, and Profits, as well as the King's Dues, in a great Measure Depended upon them, That, on the Mutation of Lands by sale, some special Cases excepted, they established Fines to the King, in Lieu of Quit Rents, and to the Seigneur, Fines and Dues, as his Chief Profits, Obliging him to grant his Lands at very low Rents.

This system of Laws established Subordination, from the first to the lowest, which preserved the internal Harmony, they enjoyed untill our Arrival, and secured obedience to the Supreme Seat of Government from a very distant Province. All this Arrangement, in one Hour, we overturned,

⁵ PAC, Q 5-1: 323-327, Ordinance, Quebec, December 24, 1767.

by the Ordinance of the Seventeenth of September One Thousand seven hundred and sixty four...⁶

This theme of an organized, hierarchical French society will be returned to by Carleton in his later correspondence. The seigniorial system, he believed, had kept the habitants in check and had provided law and order in the colony. It was added that this had been destroyed by a stroke of the pen in 1764.

Hillsborough answered that such had not been the intention of the English authorities. The blame was placed on the officials who had been sent to the colony to apply the Proclamation. The Secretary of State claimed that it had been misinterpreted and applied cruelly, in contradiction to the King's wishes.⁷ If such had been the intention of the Home government, it is not perceivable in the Proclamation and the instructions that had been given to Murray.

On April 12, 1768, Carleton made a formal bid for the adoption of the seigniorial system. He began his letter by attempting to dispel the fears of the Home authorities as to the matter of haute, moyenne et basse

6 PAC, Q 5-1: 316, Carleton to Shelburne, Quebec, December 24, 1767.

7 PAC, Q 5-1: 344-350, Hillsborough to Carleton, Whitehall, March 6, 1768.

justice that had been formerly granted to the seigniors, claiming that as it had been controlled by government, little chance of its getting out of hand existed.

Some of the Privileges contained in those Grants appear at first to convey dangerous Powers into the Hands of the Seigneurs, that upon a more minute Enquiry, are found to be really little else than Ideal; the Haute Moyenne et basse Justice, are Terms of high Import but even under the French Government were so corrected, as to prove of little Signification to the Proprietor, for besides that they could Appoint no Judge without the Approbation of Government, there lay an Appeal from all the Private to the Royal Jurisdiction in every Matter exceeding half a Crown; it could not therefore be productive of Abuse, and as the Keeping of their own Judges became much too Burthensome for the Scanty Incomes of the Canadian Seigneurs, it was grown into so general a Disuse, there were hardly three of them in the whole Province at the Time of the Conquest.⁸

The Lieutenant-Governor also felt that the King's Canadian vassals should be asked to pay foi et hommage to their new masters at the Château St. Louis. This, he said, would serve to win the allegiance of the Canadians, confirm them in their possessions, and recall to the colony individuals possessing land there who had entered the French King's service.

All the Lands here are held of His Majesty's Castle of St. Lewis, and nothing I am persuaded, would be so agreeable to the People, or tend more to securing the Allegiance of the new Subjects to His Majesty, as well as ensuring the Payment of

⁸ PAC, Q 5-2: 477, Carleton to Shelburne, Quebec, April 12, 1768.

those Fines and Dues, which here stand in the Lieu of Quit Rents, than a formal Requisition of all those immediately holding of the King, to pay Faith and Homage to him at his Castle of St. Lewis; The Oath, which the Vassals take upon the Occasion, is very Solemn and Binding, they are obliged to furnish what they here Term their Aveu et Denombrement, which is an exact Account of their Tenants and Revenues, and to discharge whatever they owe their Sovereign, and to appear in Arms for his Defence, in Case His Province is ever attacked; And at the same Time that it would prove a Confirmation to the People of their Estates and Immunities, after which they most ardently sigh, it might be a Means to recall out of the French Service, such as have yet Possessions in this Country, or at least oblige them to dispose of their Effects here, and although it may not be possible, at least for a Time, entirely to prevent that Intercourse, every Measure, that can tend towards putting an End to it, must be Useful-⁹

Carleton was highly idealistic, believing that by a mere formal declaration, the population could be attached to the English Throne. There was much more than this to the seigniorial system. The spirit that had held it together before 1760 was no more. With the change from French to English rule, it had disappeared.

Although this system differed from that existing in the other English colonies, the Lieutenant-Governor wished to see it adopted in Quebec as he foresaw that the French-Canadians would always be a majority.

The Canadian Tenures differ, it is true, from those in the other Parts of His Majesty's American Dominions, but if Confirmed, and I cannot see how

9 Ibid., p. 478.

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it well can be avoided, without entirely over-setting the Properties of the People, will ever secure a proper Subordination from this Province to Great Britain; if it's detached Situation be constantly Rembered (sic), and that on the Canadian Stock we can only depend for an Increase of Population therein, the Policy of Continuing to them their Customs and Usages will be sufficiently Evinced-10

Carleton concluded that for these reasons, the vacant lands in the interior part of the province ought to be granted en fief et seigneurie. It was further added that land in the Gaspé and Chaleur Bay regions should be reserved for the English colonists, and granted to them in free and common soccage.

For the foregoing Reasons, it has occurred to His Majesty's Servants here, that it might prove of Advantage, if, whatever Lands remain Vacant in the Interior Parts of the Province, bordering upon those, where the old Customs prevail, were henceforth granted on the like Conditions, taking Care that those at Gaspey and Chaleur Bay, where the King's old Subjects ought chiefly to be encouraged to settle, were granted on such Conditions only, as are required by His Royal Instructions; And, upon this Consideration, have some Grants in the Interior Parts, been deferred Carrying into Execution, untill I could receive the same of Government thereupon-11

On July 2, 1771, the English government acquiesced to Carleton's desires. Additional instructions were sent to the Governor whereby lands were to be granted en fief

10 Ibid., p. 479.

11 Ibid., p. 479.

et seigneurie, with the reservation that judicial powers were not to be exercised by the seigniors.¹²

Carleton had thus succeeded in winning his point. The Quebec Act confirmed the order of 1771. Seigniories would continue to be granted until the mass exodus of the Loyalists to Quebec. After 1791-1792, the granting of lands by the French system would be practically discontinued. The Union government on December 18, 1854, would pass a law whereby censitaires possessed their land free of all seigniorial dues.¹³ The Governor had therefore succeeded in retaining an institution, which, he believed, would be able to secure the assistance of the mass of the Canadians. His illusions were to be shattered with the American invasion, when the Canadians adopted an attitude of passive neutrality. He had merely succeeded in winning the allegiance of the nobility and clergy.

2. Bankruptcy Laws.

The disagreement over the introduction or non-introduction of bankruptcy laws into the colony, was an example of the unsettled status of the laws. The conflict

12 CD, P. 422.

13 M. Trudel, "Le régime seigneurial", from Les brochures de la Société Historique du Canada, n° 6, 1956, p. 18.

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arose over the question as to whether or not the establishment of English laws had included bankruptcy laws.

At the end of October, 1767, after having confessed his inability to pay his debts, Levi Solomons, a respectable Jewish merchant, consulted the Attorney General as to the best way of reaching a settlement with his creditors. Masères, believing that the bankruptcy laws had been introduced in 1764 along with all the other English laws, advised a bankruptcy commission. Having received Hey's approval, Carleton granted the request. A group of Quebec merchants, alarmed by the Lieutenant-Governor's action, petitioned for a recall of the commission, stressing the point that such proceedings would endanger their credit and property, and be detrimental to the province's trade. It was further added that these acts were not being applied in Scotland, Ireland or in the American colonies.¹⁴

As a result of the expression of strong differences of opinion, the commission was recalled and the Lieutenant-Governor refused to give a decision. On November 21, 1767, the whole matter was referred to the Lords of Trade.

Having lately received an Application for a Commission of Bankruptcy, agreeable to the British Acts of Parliament in that Case made and Provided, and as there was no Precedent of such a Commission's

14 PAC, Q 5-1: 248-250, Memorial of Quebec Merchants to Carleton, Quebec, November 17, 1767.

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being issued since the Establishment of Civil Government in this Province, I consulted His Majesty's Attorney General thereupon, who was clearly of Opinion, the Laws relative thereto, as well as all the Laws of England, which existed upon the 17th of September 1764, were introduced here by the Ordinance of that Date, and that these therefore might be carried into Execution.

But many of the People in Trade having taken the Alarm thereat, and represented, as your Lordships will see by the inclosed Petition, that it might very much endanger the Credit of the Merchants at this Place with their Correspondents in England, for whose sake, and for the Preservation of whose Rights, it was chiefly intended to put them in Execution, and the Canadians likewise, from their not understanding those Laws, having conceived apprehensions, they might subject them to many Difficulties, I have determined to let the Matter remain in Suspense, agreeable to the Prayer of said Petition, untill I can receive the sense of Government upon the Subject Matter thereof.

As the Commercial Interests of this Province are intimately united with those of the Mother Country, the British Merchants concerned in the Trade thereof must be the best Judges of the Advantages or Disadvantages likely to result to them from the Execution of these Laws, and whether there is any Foundation for the Complaint made by some, of partial Assignments having been the Consequence of the Want of such a Regulation, as well as of an Ordinance of this Province of the 9th of March 1765, to which I take the Liberty to refer Your Lordships.

And untill I could be entirely Satisfied herein, I Judged, as these Laws had never yet been put in Force. A further Suspension of the same, for about six Months, could not be attended with any Manifest Inconveniency; That every Creditor, in whatever Part of the Globe Situated, should equally and proportionably share in the Effects of his insolvent Debtor, Honor and Justice evidently Direct, How to attain this End is the Point in Question, in which the Merchants at Home are strongly interested, as the Ballance of Trade hitherto, I apprehend has been greatly against

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this Province, the Impediments, thrown in the Way of the Fur Trade above, and of the Fisheries below, having very much curtailed the ancient and usual Resources of her Commerce.¹⁵

It would appear that the province's leading officials had felt that these acts had been introduced along with the other English laws in 1764.

Hillsborough commended Carleton on his conduct in the matter, adding that the Act of Bankruptcy was not to be applied in the province,¹⁶ thus overruling the decisions of both Hey and Masères and contradicting the Royal Proclamation.

The problem might have cost Carleton the friendship of a large body of the merchants but because of his tact and moderation, it almost passed unnoticed with the Secretary of State having the final word. As may be seen from this decision, it would seem that some English laws had been introduced while others had not. Once more it had been vividly demonstrated that the colony was in need of a settled and fixed system of laws.

15 PAC, CO 42, vol. 6: 236-237, Carleton to the Lords of Trade and Plantations, Quebec, November 21, 1767.

16 PAC, Q 5-1: 344-350, Hillsborough to Carleton, Whitehall, March 6, 1768.

3. Carleton's Report on the Laws of Quebec.

In 1764, Murray had been forced to impose upon the Canadian population a system of laws that he considered as being unsuited to their particular character and condition. Almost immediately, steps were taken to mitigate the shock. On February 17, 1766, additional instructions were sent to Murray, whereby Canadian lawyers were to be permitted to plead in both courts on an equal footing with the English barristers, and juries were to be chosen as dictated by the nationality of the litigants.¹⁷ Murray's departure signalled the end of the first phase of the Canadian population's struggle for the enjoyment of French laws. They had succeeded in winning the right to act as juries and be represented in court by lawyers of their own kin. The province's judicial system was still rather unsettled, however.

During Carleton's first administration of Quebec, the major domestic question continued to be the lack of a legal code. Rivalry between British and Canadian elements intensified. The latter group received assistance from official circles both in the colony and in the mother country. Among the first to see the root of the problem

¹⁷ PAC, CO 5, vol. 24: 90-91, Order-in-Council, Court of St. James, February 17, 1766.

were Charles York and William de Grey, attorney and solicitor general respectively. The province's difficulties were ascribed to two major causes:

1st. The Attempt to carry on the Administration of Justice without the aid of the natives, not merely in new forms, but totally in an unknown tongue, by which means the partys Understood Nothing of what was pleaded or determined having neither Canadian Advocates or Sollicitors to Conduct their Causes, nor Canadian jurors to give Verdicts, even in Causes between Canadians only, Nor Judges Conversant in the French Language to declare the Laws, and to pronounce Judgement; This must cause the Real Mischiefs of Ignorance, oppression and Corruption, or else what is almost equal in Government to the mischiefs themselves, the suspension and Imputation of them.

The second and great source of disorders was the Alarm taken at the Construction put upon his Majesty's Proclamation of Oct. 17th 1763. As if it were his Royal Intentions by his Judges and Officers in that Country, at once to abolish all the usages and Customs of Canada, with the rough hand of a Conqueror rather than with the true Spirit of a Lawful Sovereign, and not so much to extend the protection and Benefit of his English Laws to His new subjects, by securing their Laws, Libertys and propertys with more certainty than in former times, as to impose new, unnecessary and arbitrary Rules, especially in the Titles to Land, and in the Modes of Descent Alienation and Settlement, which tend to confound and subvert rights, instead of supporting them.¹⁸

Means had already been taken to remedy the first evil. On July 1, 1766, an ordinance had been passed by Irving and

¹⁸ CD 252, "Report of Attorney and Sollicitor General Regarding the Civil Government of Quebec", from Dartmouth Papers, M 383, p. 170.

Council in pursuance of an order-in-council of February 17, granting the Canadians more extended rights.¹⁹

Carleton was to present himself as the champion of French law. In answer to Shelburne's request for information,²⁰ the Lieutenant-Governor forwarded a letter on the state of the population of Quebec. He explained that it must be taken into consideration that those people were not British immigrants, but a race possessing its laws and customs, that had long inhabited the territory and had been conquered by the King's armies. The English government's conduct in relation to the Canadians was then attacked.

...All this Arrangement (French Laws), in one Hour, we overturned, by the Ordinance of the Seventeenth of September One Thousand seven hundred and sixty four, and Laws, ill adapted to the Genius of the Canadians, to the Situation of the Province, and to the Interests of Great Britain, unknown, and unpublished were introduced in their Stead; A Sort of Severity, if I remember right, never before practiced by any Conqueror, even where the People, without Capitulation, submitted to His will and Discretion.

How far this Change of Laws, which Deprives such Numbers of their Honors, Privileges, Profits, and Property, is conformable to the Capitulation of Montreal, and Treaty of Paris; How far this Ordinance, which affects the Life, Limb, Liberty and Property of the Subject, is within the Limits of the Power, His Majesty has been pleased to

19 PAC, Q 3: 181-184, "An Ordinance to alter and amend an Ordinance of His Excellency, the Governor and His Majesty's Council of this Province, passed the seventeenth Day of September 1764", Quebec, July 1, 1766.

20 PAC, Q 4: 130, Shelburne to Carleton, Whitehall, June 20, 1767.

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Grant to the Governor and Council; How far this Ordinance, which in a Summary Way, Declares the Supreme Court of Judicature shall Judge all Cases Civil and Criminal by Laws unknown and unpublished to the People, is agreeable to the natural Rights of Mankind, I humbly submit; This much is certain, that it cannot long remain in Force, without a General Confusion and Discontent.²¹

The confusion caused by the evasive attitude of the Home authorities was then dealt with. Carleton claimed that although English law was supposed to have been introduced in 1764, the Canadians still conducted their affairs according to the ancient laws, leading to numerous reversals of decisions by the courts.

A few Disputes have already appeared, where the English Law gives to ones what by the Canadian Law would belong to another; A Case of this Sort, not easy to determine, lies at present in Chancery; if decided for the Canadian, on the Principle, that Promulgation is necessary to give Force to Laws, the uniformity of the Courts of Justice thereby will be still further destroyed, Chancery reversing the Judgments of the Supreme Court, as that Court reverses those of the Common Pleas; the People notwithstanding continue to regulate their Transactions by their Ancient Laws, tho' unknown and unauthorised in the Supreme Court, where most of these Transactions would be declared Invalid.²²

Carleton then claimed that he had met only one Canadian who understood the change that had taken place.

²¹ PAC, Q 5-1: 316, Carleton to Shelburne, Quebec, December 24, 1767.

²² Ibid., p. 318.

It was further added that on the day the conquered people did realize the significance of the conquest, it would be completely lost.

So short sighted are Men, that although these few Instances manifest the Difference of the old and new Law, and give some uneasiness to the Parties, yet I have met with only one Canadian, who sees this great Revolution in its full Influence, but when Time brings forth Events, which shall make known to the Canadians, that their Modes of Inheritance are totally changed, and other Alterations, which affect the Property and Interest of every Family in the Province, the Consternation must become General:...²³

His solution appeared to be very simple. The Lieutenant-Governor suggested that the ordinance establishing courts of judicature be invalidated and that the Canadian laws be retained almost in their entirety, alterations being brought about as they were needed.

The most advisable Method, in my Opinion, for removing the present, as well as for preventing future Evils, is to repeal that Ordinance, as null and void in its own nature, and for the present leave the Canadian Laws almost entire; such Alterations might be afterwards made in them, as Time and Occurrences rendered the same advisable, so as to reduce them to that System, His Majesty should think fit, without risking the Dangers of too much Precipitation; or else; such Alterations might be made in the old and those new Laws Judged necessary to be immediately introduced, and publish the whole as a Canadian Code, as was practised by Edward the First after the Conquest of Wales.²⁴

23 Ibid., p. 318.

24 Ibid., p. 319.

Carleton had begun a campaign which was to reach its conclusion with the passing of the Quebec Act in 1774. Up to that date the substantive law (English) of the province remained unchanged, although the administrative side witnessed several alterations mainly in the direction desired by the Canadians.

The process that had been started by Murray towards altering the constitution he had reluctantly imposed upon the Canadian population in 1764 halted with the removal from office of the Rockingham ministry in July 1766. Until May, 1767, the British administration was more interested in the problems of the Old American colonies than in the New. Fear of the Duke of Richmond's attack of the government's neglect of Quebec awakened Shelburne to his responsibilities. In August, 1767, the Secretary of State named his personal secretary, Maurice Morgan, to investigate conditions in the province.²⁵

The order-in-council commanded that two main points be examined:

- 1st Whether any and what Defects are now Subsisting in the present State of Judicature.
- 2nd whether the Canadians in particular are, or think themselves aggrieved According to the present Administration of Justice. Wherein and in what Respects? together with their Opinions

²⁵ A. L. Burt, The Old Province of Quebec, Toronto, the Ryerson Press, 1933, p. 151.

of any Alterations, Additions or Amendments that they can propose for the General Benefit of the said province, and that such Alterations or Amendments for the Clearer apprehension thereof, be transmitted in form of Ordinances but not passed as such, And that such Report be returned signed by your Majesty's Governor or locum tenens, the said Chief Justice and Attorney General...²⁶

The persons differing in opinion with the said report were to explain their reasons for such. On March 14, 1768, Carleton, in council, resolved that Hey, Masères and Cramahé form a committee, which any councillor could join, that was to meet every Monday, Wednesday and Friday to examine the French King's edicts pertaining to Quebec.²⁷

Carleton, Hey and Masères were all agreed on the form of government that ought to be established, believing representative institutions to be impossible in the present state of the colony. Here, however, agreement ceased. The Governor wished to retain French civil law and English criminal law while his assistants favored English law, although permitting the survival of a few minor French laws.²⁸

²⁶ PAC, Q 5-1: 437, Order-in-Council, St. James, August 28, 1767.

²⁷ PAC, Q 5: 439, Council Minutes, Quebec, March 14, 1768.

²⁸ Kennedy, W. P. M. and Lanctôt, G., Reports on the Laws of Quebec: 1767-1770, Ottawa, F. A. Acland, 1931, p. 51-83.

The Governor first asked Masères to write a report, but in finding it to be too critical of his own views, he discarded it. Morgan, who had been sent to the province by Shelburne in order to conduct the investigation, was then given the task. Hey also wrote a report. The finished product, which was signed in Quebec on September 15, 1769, was a combination of both Hey's and Morgan's ideas, and was written by Carleton himself.²⁹

Carleton's report on the laws of the province³⁰ was divided into four main parts: a) an account of the laws and constitution of Quebec prior to 1760, b) the changes brought about in 1764, c) the grievances devolving from the latter, and d) means by which these might be removed.

In the first part it was shown that under French rule the Canadians had led a simple, happy and prosperous life. The ordinance of 1764 had changed this completely, however. The French Governor and Intendant were succeeded by an English Governor and Council of twelve, and French laws were supplanted by English laws.

29 PAC, MG 23, A 4, vol. 16, vol. 66: 25-28, Shelburne MSS, Morgan to Shelburne, Quebec, August 30, 1769.

30 PAC, MG 21, vol. 21: 1-50, BM King's Manuscripts-207, Carleton and Hey's Report upon the Laws and Courts of Judicature in the Province of Quebec, Quebec, September 15, 1769.

Such conduct entailed many grievances. The assault on their laws and customs was considered by the Canadians as a general calamity, many of them migrating to France. Those who remained attempted to protect themselves from the effects of the new laws, considering the courts as extortionate, inefficient and complex.

Ambiguity resulted from the Supreme Court's inability to apply English law in all cases. Due to the infrequency of the sessions and the high cost of suits, the situation in the Court of Common Pleas was little better. Canadian laws and customs were to serve as the basis of the decisions in all actions between Canadians where the cause of action had arisen before September 1764. Vagueness and uncertainty resulted from the fact that many cases that had occurred after the above-mentioned date were being determined according to equity. The replacing of captains of militia by bailiffs, further aggrieved the population. Because of this situation, the Canadians had ignored the ordinance, preferring to regulate their affairs without recourse to the courts. The French system had thus been destroyed without being replaced by any other. Several individuals, taking advantage of the uncertainty of the laws, in some instances followed the French system while in other cases they had recourse to the English system.

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Four main grievances were expressed by the Canadians.

1st. The uncertainty of the law and the doubt whether their ancient System is or is not abrogated by the Ordinance of 1764.

2dly. The dilatoriness of the Law Proceedings occasioned by the unfrequency of the Sessions.

3dly. And as a consequence of the former, the expence of the Suit, and

4thly. The Severity of our Proceedings in Civil Actions, by Arresting and imprisoning the Defendant's Body.³¹

Before law courts could be reformed, however, it was believed that it ought to be decided which system of laws would be adopted. Carleton claimed that the best way of winning the allegiance of the Canadians lay in the imposition of as few of the English laws as possible. Should an opposite policy be adopted, it would act against the best interests of Great Britain by alienating the Canadian population. Furthermore, such conduct would be impracticable until the population had been educated in the English language and laws. As the old subjects also had a right to certain privileges, they would without doubt oppose the restoring of the whole of the Canadian laws.

The Governor's solution consisted in the annulment of the ordinance of 1764, and a restoration of the former

³¹ PAC, MG 21, vol. 21: 32, B. M. King's Manuscripts, 207, Carleton and Hey's Report upon the Laws..., Quebec, September 15, 1769.

situation. A formal, concise and clear declaration to this effect would then have to be made. Carleton explained his main idea in these terms:

The next Thing that We apprehend to be necessary, is a clear, precise and positive Declaration in Terms that cannot be mistaken, of those Laws which Your Majesty shall think proper to prescribe, as the Rule for the Subject's Conduct in Time to come, And as to this Point so essential in every Sense to the Welfare and even the Security of this Your Majesty's Province; when we consider that Your Majesty's old Subjects, who became Resident in this Country, are daily Removing hence, and that there is little Probability that they will be succeeded by others, as long as such immense Tracts in the more Temperate Climates of this Continent remain uncultivated, whilst Your Majesty's new Subjects are on the other Hand daily increasing their Numbers by Propagation, We are induced by every Consideration of Justice, Humanity, and sound Policy to recommend: That the former Laws of this Country, such as they stood upon the 13th of September 1759, whether derived from the Custom of Paris, the King's Edicts, or Governor and Intendant's Ordonnances, (their Criminal Law, and Laws of Trade only excepted) shall be deemed the Law of the Province, and be still in Force throughout the same, Saving to Your Majesty, or to those You shall Please to authorise for that Purpose to make such Alterations and Reforms therein, as hereafter shall seem necessary or advantageous to it's Inhabitants; And we humbly conceive this on all Accounts to be the wisest and most eligible Measure, even tho' we should assume the Opinion, that it will be Your Majesty's Intention, at some future Period, to introduce the British Laws into this Province, and to Model its Government in Conformity to that of Great Britain, Experience having sufficiently taught Us, that a thorough Change of the Laws and Customs of a settled Province can never be affected at once, but must be a Work of great Time, and can only be brought about by slow and gentle means.

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We are also of Opinion:

That all the Criminal Laws with all the Forms and Modes of Proceeding adopted by the several Courts, that have Criminal Jurisdiction in England, except the Laws that respect the Roman Catholicks, should be, firmly established in this Country, subject nevertheless to a Revision, to be undertaken without delay, in Order that such Parts thereof as are manifestly improper to be received in the present weakly and infant State of this Country, may be immediately struck out, and the People in General informed of the Nature of those which remain, the Offences described by them, and the Punishment annexed to the Commission of them, more particularly with respect to those Statutes which either create Offences unknown to the Common, or take away the Benefit of Clergy from particular sorts of Felonies, So that the Rule of the Subject's Duty, the Measure of his Obedience, and the Pains and Penalties he is to guard against may be fairly before him.

We think it likewise very expedient; That the Habeas Corpus Act should have full Force in this Province, and that in all Criminal Prosecutions the Trial should be by Juries, as well as in every Case, wherein pecuniary Compensation is sought for Personal Wrongs.³²

French civil laws along with English criminal laws, except those aimed at Roman Catholics, were thus to be introduced. The Habeas Corpus Act and trial by jury for criminal offences were also to be permitted. To please the old subjects, juries were to be called in cases for torts. English commercial law was taken for granted. After the laws had been adapted to Canada, they were to be republished by Parliament, so that neither French law books nor the decisions of the Parlement of Paris were ever to be heard of.

³² Ibid., p. 38.

The report's remaining proposals were aimed at copying as closely as possible the judicial and police organization of New France, - the province was to be divided into three districts, bailiffs were to be replaced by militia officers, the governor and council were to act as court of appeal. The last point mentioned was that the restrictions upon the legislative competence of governor and council be removed.

Carleton favored French civil law and English criminal law, while Hey and Masères desired to see the whole body of English laws introduced into the colony. The Attorney General differed from the Chief Justice in that he wished to see these laws codified, while the latter believed that there was not sufficient time and talent to complete such a task.

After repeated demands, the Governor in October 1769, agreed to grant Masères a twelve-month leave of absence. In his letter informing Hillsborough of his decision, Carleton painted a vivid picture of the Attorney General's conduct, claiming that he had been deceived in his expectations that the latter would finally adopt a more conciliatory attitude towards the Canadians.

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After repeated Solicitations, I have at last granted a twelve Months Leave of Absence to Mr. Maseres His Majesty's Attorney General for this Province.

Our Arrival here was much about the same Time; the summer following, this Gentleman, disgusted at the Severity of the Climate, and in Hopes of obtaining further Preferment at Home, applied for my Leave to return, which I then prevailed upon him to lay aside; for altho' I very soon discovered his strong Antipathy to the Canadians, for no Reason, that I Know of, except their being Roman Catholicks. I attributed many of those narrow Prejudices, which he entertained, to his Want of Knowledge of the World, and his having conversed more with books than Men, I was in Hopes, Time and Experience would insensibly wear these away, and that from his speaking the French Language well, and from his Knowledge in our Laws, He would be indeed He might, have made himself Usefull here.

I am sorry to say, I was deceived in my Expectations, and that Mr. Maseres has been so indiscreet, I judged it highly proper to yield to his Entreaties, and let him depart the Province, to which, I believe, he never desires to return; indeed as I understand he neither would have remained here so long, or wished to have gone Home Attorney General, if it were not for the Hopes of thereby paving his Way to further Preferment. I would not however agree to his leaving it, untill the Report upon the State of the Laws and Courts of Judicature was compleated and sent away, and I sincerely wish, now he is gone, that some Opportunity may offer of placing this Gentleman in a Situation more agreeable to his own Inclinations, and where the Fervor of his Zeal can be of no essential Disadvantage to the King's Service.³³

On December 1, 1769, Carleton was granted a leave of absence to assist the government in formulating a plan for the administration of Quebec. The struggle that had

³³ PAC, Q 6: 124-125, Carleton to Hillsborough, Quebec, October 3, 1769.

been developing in the province during the last few months, was to be continued in England for the next four years, that is, until the passing of the Quebec Act in 1774.

This report may be considered as a synthesis of Carleton's whole philosophy. His main goal had been to relieve the burden weighing on the Canadians and in this way succeed in winning their allegiance. As they could not be fitted into the English mould, it was to be re-casted so as to fit them. He was the first to advocate the liberty of non-English people inside the Commonwealth. The report was to form the basis of the Quebec Act which granted to the Canadians many of their former rights and privileges. The Governor's recommendations as to the means by which the courts of law ought to be reformed were largely implemented during the following February.

4. Administration of Justice.

One of the major grievances of the Canadians lay in the administration of justice. Prior to 1760, justice had been inexpensive and rapid. With the change of government, however, conditions were completely altered. The military courts had rendered quick and efficient justice. With the establishment of civil government, however, justice became expensive. Carleton was to react against this and attempt to reform the colony's judicature.

Murray's ordinance of September 17, 1764, establishing courts of judicature, was the source of innumerable complaints. The root of the problem stemmed from the extensive powers that had been granted to the justices of the peace, resulting in the exploitation of the population. The justices of the district of Montreal were informed of the grievances of the people, and were asked to correct the situation. Chief among them was the circulation of blank forms (summons, judgments) with the justices' signature, on which only the charges and the names of the accused and the prosecutor had to be inserted. A second irregularity was the method of summoning individuals to appear before the magistrates. On many occasions, they were summoned from great distances for trifling matters and on short notice. This process proved to be expensive and did not, in many cases, give the accused time to prepare his defence, and quite often resulted in condemnation on default of appearing. Furthermore, no choice was given between paying the debt and appearing in court.³⁴

The committee constituted to investigate the administration of justice by the justices of the peace reported

34 PAC, Q 6: 134-141, Allsopp and Carleton to the Justices of the Peace for the district of Montreal, Quebec, Council Chambers, July 10, 1769.

to Council on September 11, 1769, that the conduct of the magistrates in the administration of justice had been oppressive and grievous to the population. It was claimed that as their authority was too extensive, it should be diminished or totally abrogated. The irregularity which they emphasized was that land had been sold for the payment of small debts. Furthermore, several individuals who had been unable to pay their debts had been imprisoned. It was also set forth that the rapaciousness of the justices had resulted in the charging of exorbitant fees for collecting small debts. The committee recommended that another judge of the Common Pleas be appointed in Montreal, and that the salary be two hundred pounds per annum. Secondly, it was felt that an ordinance should be passed abrogating the magistrates' authority to determine matters of real property, and that their powers should be defined. It further advised that the court of Common Pleas sit once a week both in Quebec and Montreal, so as to judge all causes.³⁵

On February 1, 1770, Carleton, along with Council, enacted an ordinance based on the committee's report, whereby the justices of the peace's powers were greatly

³⁵ PAC, RG, 1 E 1, vol. 5: 119-124, Committee's report on the administration of justice by justices of the peace, Quebec, September 11, 1769.

curtailed. Their authority in matters of private property was taken away, except from those who had special commissions. Causes of less than twelve pounds were to be judged by the Court of Common Pleas. To render justice more efficient, the court at Montreal was to be independent of that of Quebec. Both of these were to sit throughout the year, except on prescribed holidays, and twice a year to permit the judges to go on their circuits. Special commissioners were to judge causes not exceeding three pounds. To further alleviate the burden weighing upon the population, no houses or lands were to be sold for debts in the case of actions not exceeding twelve pounds, and in other cases, sold only on default of personal property.³⁶

In a letter accompanying the ordinance, the Governor explained the motives that had led him to enact such legislation. Carleton said that the main reason was that it was required to relieve the oppression weighing upon the Canadians. This situation had arisen from the fact that most of the law officers (bailiffs, justices of the peace) were bankrupt traders who sought to enrich themselves by exploiting the people, consuming exorbitant fees for the

³⁶ PAC, RG 1, E 1, vol. 5: 127-145, An Ordinance for the more effectual Administration of Justice..., Quebec, February 1, 1770.

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collection of minor debts. Such measures had led the people to resist law officers who were, moreover, acting illegally.

Herewith inclosed, I transmit to Your Lordship an Ordinance, just published to correct the ill consequences of the Clause therein repealed, and to put an End to the improper and oppressive Use made thereof in some Parts of this Province, a Measure become so necessary to the Ease and Happiness of the People, and in the End to the King's Interests, that it would have been highly injudicious to have either delayed or suspended their Relief any longer.

Your Lordship has been already informed, that the Protestants, who have settled or rather Sojourned here since the Conquest, are composed only of Traders, disbanded Soldiers, and Officers, the latter, one or two excepted, below the Rank of Captain; of those in the Commission of the Peace, such as prospered in Business, could not give up their Time to sit as Judges, and when several from Accidents and ill Judged Undertakings, became Bankrupts, they naturally sought to repair their broken Fortunes at the Expence of the People; Hence a Variety of Schemes to increase the Business and their own Emoluments, Bailiffs, of their own Creation, mostly French Soldiers, either disbanded, or Deserters, dispersed through the Parishes with blanks Citations, catching at every little Feud or Dissension among the People, exciting them on to their Ruin, and in a Manner forcing them to litigate, what, if left to themselves, might have been easily accommodated, putting them to extravagant Costs for the Recovery of very small Sums, their Lands, at a Time there is the greatest Scarcity of Money, and consequently but few Purchasers, exposed to hasty Sales for Payment of the most trifling Debts, and the Money arising from these Sales consumed in exorbitant Fees, while the Creditors reap little Benefit from the Destruction of their unfortunate Debtors; This, My Lord, is but a very faint Sketch of the Distresses of the Canadians, and the Cause of much Reproach to our National Justice, and the King's Government.

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In my last Tour through the Country, the Outcry of the People was general, the inclosed Copy of a Letter I received, at my Return to this Place, from a very sensible old Captain of the Militia, is exactly the Language of all I met in this Progress, and some recent instances could be brought of their Resistance to Officers of Justice, acting illegally indeed, a strong Symptom among many others of their Patience being near exhausted.³⁷

A further motive for reducing the powers of the magistrates and reviving part of the former system of judicature was the confusion caused by the existence of different jurisdictions.

But among other Reasons, besides the foregoing, (which I am apt to believe, Your Lordship, will, however, think fully sufficient) that might be alledged for the Expediency of reducing the Justices of the Peace to nearly the same Power, they have in England, and of reviving Part of the Ancient mode of Administering Justice in this Province, there was one, which had due Weight, and that was the Confusion arising from so many different Jurisdictions, all acting upon different Ideas and Notions, to the great Perplexity of the honest Part of His Majesty's new Subjects, and of which the cunning and ill designing among them did not neglect to make their Advantage; And if Your Lordship only considers, that the new Residents here, since the Conquest, came not only From all Parts of the King's extensive Dominions, but from all parts of the world beside, there is not great Reason to wonder at that Variety of Sentiment in Regard to what is right or wrong, and that in General being Men of no great Learning, or extraordinary Abilities, they should conform their Notions of Justice, to what they had formerly seen practiced, rather than to the present circumstances of Things in this Province.³⁸

³⁷ PAC, Q 7: 7, Carleton to Hillsborough, Quebec, March 28, 1770.

³⁸ Ibid., p. 8.

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Carleton again returned to one of his former ideas, whereby civil officials would be paid by the government. In this instance, he declared that the scheme of paying the judges would serve to assure impartial justice as they would no longer attempt to supplement their salaries.

By the present Plan, it is intended, that the Kings Judges, paid by the Crown, may in future chiefly, if not altogether, take Cognizance of Matters of Property, which of course will produce a greater Uniformity in the Administration of Justice, and as these Gentlemen enjoy Salaries, it will be more incumbent upon them, in Point of Interest, as well as for their Honor and Reputation, to give Satisfaction to the Publick, than it ever can be upon those, who for their daily Subsistence depend meerly upon the Emolument of Office, which it will consequently ever be their Interest to enhance.

This new Disposition will indeed occasion some additional Expence to Government, untill a Provincial Revenue can be settled, as another Judge must of Course be appointed, and that on Account of the Circuits they are hence forward to take within their respective Districts, both for the Sake of Administering Justice, and to see that nothing Detrimental to the King's Interests is carrying on among the People, I have thought proper to make an Addition of fifty Pounds a year to each of those already established.³⁹

A month later, the Governor presented a rebuttal to the opposition concerning the legislation passed in February. Carleton claimed that it was being opposed by the old subjects mainly because it deprived many of them of their means of subsistance.

39 Ibid., p. 9.

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From the Temper and Disposition of His Majesty's old Subjects in this Province, with which Your Lordship is already well acquainted, it would not be a Matter of much surprise to me, that the Ordinance, transmitted in my Letter No. 28, produced a Stir among some of them, or that a Regulation depriving so many of a most unfair Means of Subsistence, altho' raised under the specious Pretext and color of the Law, should engage these to struggle, for a Repeal of what was likely in so great a Degree to affect their private Circumstances, as well as the Influence and Sway they had acquired, in Consequence of the Powers they were before invested with.⁴⁰

He then went on to show to what extent opposition had arisen, and to explain his conduct in the affair.

Soon after the Publication of the Ordinance, Six Gentlemen, the same who Certify the Copy of the Memorial, waited on me with said Copy, whereof a Copy is herewith inclosed; they said they were chosen to present me that Remonstrance, as they stiled it, against the Ordinance, that as it was pretty long, they would not then read it, but leave the same for my consideration.

I told them very possibly the Ordinance might require Amendments, which Time and a little Experience would clearly shew, that for my part, I should always be obliged to any Gentleman, who took the Trouble to set me right in any Mistake I might commit or point out any Thing that could be of Advantage to the Province, but that for their own Sakes, I was concerned at their Attempts to follow the Conduct of a Province, which had incurred the Displeasure of Government at Home, and whose Manner of demanding Redress had proved the Means of preventing it, in those very Points, wherein Government wished to gratify them, had they asked in a proper Way, or with becoming Decency; That I was really ashamed of the Manner in which I was informed, many of the King's old

⁴⁰ PAC, Q 7: 89, Carleton to Hillsborough, Quebec, April 25, 1770.

Subjects had behaved, sending about Hand Bills to invite the People to assemble in order to consult upon Grievances, importuning, nay insulting several of the Canadians, because they would not join them; That I was not only ashamed of it, but astonished they did not see how much they acted against their own Interests, for if in tumultuous Meetings, or by dint of Numbers only, Laws were to be made or abrogated, the lowest Dregs of the People, and the most ignorant among them, would of course become the Lawgivers of the Country, And the firm Refusal of the Canadians as well as of most of their own Countrymen, plainly shewed the Opinion the Generality entertained of their Proceedings.

They replied with Temper and Submission, denied their having acted with any Violence, and begged I would not believe all that had been reported upon that Head; However I could not help observing to Mr. Charles Grant, who had all along put himself at the Head of this Affair, I was well assured, and that, some Time before the Ordinance was near perfected, He made this Declaration, that as he had not been consulted, tho' one of the most considerable Traders in the Country, He was resolved to oppose it; to this he made no Reply, I had been long informed, that one Mr. Shapher, formerly in Trade here, who owed a considerable Sum to some Merchants in London of the name of Grant, which he had no other Means of discharging, than by the very Beneficial Employment, as He made it, of Clerk of the Peace of this District, which he had enjoyed for some Years, was determined to cause a Bustle, and pushed on this same Mr. Charles Grant to take the Part he has acted therein.⁴¹

The Governor's opposition to petitions was once more set forth.

Carleton felt that he had acted with impartiality and justice towards the Canadians. This, he believed, was

⁴¹ Ibid., p. 89.

sufficient reason for reforming the administration of justice as he had done.

After considering with the greatest Attention all that they have, or can possibly object against this Ordinance, I cannot, at least for the present, discover any Foundation for repealing any Part thereof, that which seems to carry with it the great Appearance of Plausibility, the Lands not being liable to be sold for Debts under twelve Pounds Currency, I am well convinced, can be attended with no particular Inconvenience, for the Produce of the smallest Farms allowed by the French Regulation, about sixty Acres, which in my humble Opinion was a very prudent and political one, and ought to be kept up, besides the Stock, will considerably more than pay that Sum, exactly equal to nine Pounds Sterling; and I believe the Canadians would not very readily adopt the wise Proposal these Gentlemen make of saving the latter for settling new Lands, where they must toil like slaves for two or three years before they can introduce the Plough.

Within these four or five Years between three or four hundred Families have been turned out of their Houses, obliged to sell their Lands, and seek new Habitations, a real Loss to Trade, as they become a Burthen to Society, and are years before they can be enabled to purchase our Manufactures, and what is still a greater Hardship upon them, the Lands have not been sold for a sixth or eight of their Value, so that many Instances can be brought of Debtors being ruined, the Produce consumed in Fees, and the Creditor's Demand remaining undischarged.⁴²

The conduct of the law officers, he claimed, required the utmost curtailment, as they had constantly oppressed the population. Arrest of the body for debts, and the practice of trading justices, it was felt, were

42 Ibid., p. 91.

measures which could not but make the Canadians dislike the English government.

It is but a few Months since sixteen Debtors were released out of the Gaol of Montreal, at the Expence of Government, by my Orders, whose Debts and Gaol Fees, the latter of which were above one half of the whole, did not amount to quite forty Pounds Sterling; What Effect this must have upon a People, to whom an Arrest of the Body for Debt was almost entirely unknown, I humbly submit.

A Trading Justice was likewise a new Practice, no Ways likely to make the Canadians relish British Government, there was not a Protestant Butcher or Publican, that became a Bankrupt, who did not apply to be made a Justice, they cantoned themselves upon the Country, and many of them rid the People with despotic Sway, imposed Fines, which they turned to their own Profit, and in a Manner looked upon themselves as the Legislators of the Province.

To ease the poor People of such intolerable oppression, to render them usefull to Great Britain, and the Society they live in, and that the only Order of Canadians most likely to reap any Advantage from the Change of Dominion, might feel the full Benefit of this Change, were the only Motives which guided my Conduct upon this Occasion, I shall be happy, if it procures the End proposed.

Before I conclude, I cannot help mentioning to Your Lordship, that tho' I disapproved that mode of Administering Justice, and it appears to me, not at all calculated for the peculiar Circumstances attending this Country, and tho' I have great Reason to be dissatisfied with the Conduct of some of the Justices, there are worthy Men in the Commission of the Peace in both Districts, and particularly in this of Quebec.⁴³

His leading motive in passing such a decree had been to relieve the poor Canadians, thus attaching them to the interests of Great Britain.

43 Ibid., p. 92.

Opposition to the ordinance appeared mostly in the ranks of the Protestant colonists, but also from some of the Canadians such as Magistrate Ducalvet. It was claimed by the former group that such legislation would hurt the general interest of the colony and ruin many merchants; that it would help debtors to defraud their creditors; that it gave too much authority to the judges of the Common Pleas.⁴⁴ Ducalvet, one of the justices of the peace for the district of Montreal, explained that it was a personal insult, as it condemned both the guilty and innocent parties concerned. He further said that it was an infringement upon personal liberty and detrimental to commerce.⁴⁵ Although opposition had appeared from many sides, Hillsborough, on June 12, 1770, signified to Carleton that his ordinance had been approved by the Home government.⁴⁶

One of Carleton's major objectives on reaching the province had been to assure the Canadians of inexpensive and impartial justice. He wished to put an end to the corruption existing in juridical circles. As the justices

44 PAC, CO 42, vol. 7: 60-61, Memorial of the merchants of London trading to Quebec to the Board of Trade, London, July 11, 1770.

45 PAC, Q 7: 190-191, Pierre du Calvet to Hillsborough, Montreal, July 29, 1770.

46 PAC, Q 7: 61, Hillsborough to Carleton, Whitehall, June 12, 1770.

of the peace were the individuals most responsible for the province's depressed state, their powers had been curtailed and almost totally abrogated. They had been replaced by judges who would receive an adequate salary, thus putting an end to the extortionate exaction of fees. To make justice more efficient and less costly, separate law courts that were to sit throughout the year, had been established at Quebec and Montreal. A first step had been taken in reforming the tangled system of laws.

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With the conquest of New France, the English government attempted to introduce a system of laws and customs alien to that of the conquered people. This policy, however, witnessed very little success, the Canadian population persisting in its attempts to retain its French traditions.

Men who understood the situation had been sent to implement the Home authorities' plans. Instead of attempting to impose such a policy upon a recalcitrant population, they saw that the best way of winning their allegiance lay in remoulding the cast to fit them. Carleton, throughout his first administration of the province, strove to alleviate the burden weighing upon the conquered race. Steps

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were taken to restore the situation existing prior to 1760, re-introduction of the seigniorial system and the French judicial system.

The second English Governor of Canada attempted to disentangle the complex system of laws that had been introduced by the proclamation of September 17, 1764. As we have already seen, it involved the establishment of peace and order from a situation of near chaos. This enterprise proved to be the most important of Carleton's undertakings as it formed the core of his plan to relieve the distressed state of the Canadian population.

CHAPTER IV

THE FUR TRADE AND ECONOMIC DEVELOPMENTS

Mercantilism was the generally accepted theory that directed English colonial development until the beginning of the nineteenth century. Colonies, it was believed, existed for the benefit of the mother country; that is, they were to supply her with the raw products that she needed, while at the same time provide an expanding market for her manufactured goods. By this system, colonies were encouraged to supply commodities which England could not produce, but were also discouraged from competing with the motherland's enterprises. The mercantile system, in fact, meant a monopoly of trade and shipping by the mother country. In brief, the colonies' economy was to be organized so as to supplement that of England while competing with it in none.¹

British commercial thought did not witness any marked change with the acquisition of Canada.² From 1760 to 1763 there was some discussion as to the commercial advantages of retaining either Guadeloupe or Canada as a

1 E. McInnis and J. H. S. Reid, The English-Speaking Peoples: A Modern History, New York, Alfred-A-Knopf, 1949, p. 25.

2 D. H. Gillis, Democracy in the Canadas: 1759-1867, Toronto, Oxford University Press, 1951, p. 67.

colony. During the years that followed the Treaty of Paris, attempts were made to render Quebec more self-sufficient, while at the same time diversifying its production. The fur trade and fisheries, however, still remained the colony's major economic activities. Manufacturing, such as the production of linen, pot ash and the distilling of rum, was developing slowly. The Home government had expressed certain reservations as to the production of some of these commodities.

1. The Fur Trade.

The Treaty of Paris signalled the end of one great conflict and the beginning of another. Prior to 1760, France and England had rivalled for the possession of America. It now became a contest opposing traders and settlers from the thirteen American colonies and British merchants operating from Canada. The United States were to succeed in controlling Northwest commerce only with the Treaty of Ghent (1812).³

After the defeat of French arms, British merchants began moving into the region, thus crowding out their former rivals. As the new situation called for the

³ W. E. Stevens, The Northwest Fur Trade: 1763-1800, University of Illinois Studies in the Social Sciences, 1926, p. 14.

establishment of a system regulating trade and Indian affairs, the Home government unsuccessfully sought to discover the solution. The problem came mainly from the question as to whether control of the Northwest should be under imperial or colonial authority, and in the latter eventuality, which colonial government should administer it. There was also the question as to whether trade should be free and open to all, or limited to a few specified posts. The erection of a boundary line between English settlement and Indian territory also created many difficulties.

While the English ministry was still attempting to determine the policy to be adopted, the terrible Indian outbreak known as the Conspiracy of Pontiac broke out. Chief among the causes that led to this revolt were the Indians' fear that their lands would soon be occupied by English settlers, and mismanagement of tribes by British officials. Unrest was probably intensified by the activities of the French traders.⁴

The Royal Proclamation of October 7, 1763, contained the first announcement of the general policy that was to be followed in relation to the fur trade. Commerce with the Indians was to be free and open to all English

4 Ibid., p. 21.

subjects, who were to take out licences from the governors or commanders-in-chief of the provinces where they resided and submit bond for the observance of all rules concerning the regulation of trade.⁵ It had also established a temporary boundary line beyond which settlement was prohibited. By prohibiting settlers from encroaching on their lands, it was hoped that this would allay the fears of the Indians, but its promulgation was too late to prevent hostilities. This forced the English government to adopt a more sympathetic and generous policy towards the Indians. Until 1768 the Northwest territories were to remain under imperial control.

The Proclamation was to lead to great unrest in the Province of Quebec, the fur traders agitating to obtain the right of free trade. A group of independent merchants (Allsopp, Howard and Chinn) opposed itself to Dunn and Gray who had been granted a lease of the King's posts in 1762, demanding that the latter be laid open. This had resulted from Murray's proclamation of June 31, 1765, declaring trade free and open to all British subjects as mentioned in the Royal Proclamation. The lessees demanded that they be protected in their monopoly; while Allsopp, Chinn and company applied for permission to trade with the Indians of

5 CD, p. 168.

the Domain. A general pass was issued, but they were not to trade with the Indians of the King's posts. These orders having been disobeyed, - buildings having been erected in the King's Domain and trade having been conducted with these Indians, - Irving and Council, on August 15, 1766, issued an order authorizing the removal of all buildings erected by the recalcitrant merchants. On October 9, after Allsopp and company had applied to Carleton for a suspension of the warrant granted by Irving, a second party of men was sent to recall the first and freedom of trade was granted to the petitioning group.⁶

In a letter to the Lords of Trade dated October 18, 1766, Carleton explained the action he had taken in relation to the problem in question. He emphasized the point that he had acted in conformity with the King's Proclamation of 1763.

On My Arrival here, Lieutenant-Colonel Irving complained to me, that Mr. Mills, the King's Receiver General, had of his own Accord, published an Advertisement in the Gazette, threatening to prosecute all Traders who should interfere, or be concerned in the Trade with the Indians, at what is commonly called the five Posts of the King's Domaine, except the Leasees Dunn and Gray, tho' this very Trade had been, in compliance with His Majesty's orders, laid open by Government here

6 PAC, CO 42, vol. 6: 117-127, "State of the Posts of the King's Domain in Canada, with an abstract of the proceedings relating thereto since the reduction of that Country", presented by Murray, May 26, 1767.

by a Proclamation published also in the Gazette the thirty first of January 1765, as likewise by an Advertisement in said Gazette, dated 9th March 1765, Mr. Howard and Company complained not only of this, but further that Lieutenant-Colonel Irving and Council had given an order to pull down and destroy the Sheds they had Erected twelve months before to cover themselves and Servants from the Severity of the Winter, that this order was directed to Mr. Stuart as Justice of the Peace, Agent to Mr. Dunn and Gray, the former leasees of these Posts, and five or six soldiers given him to Execute the same, whereby this Trade, to all Intents and Purposes was rendered as Compleat a Monopoly, as before it was declared openly Government since they, their Goods and Servants must perish, if not suffered to cover themselves against the severity of the Winter, or he must be ruined by bringing back the Goods while Dunn and Company Enjoyed the Benefit of the King's Houses.

I stated to Major Mills the many wits that must accrue from that open opposition and Disagreement of the King's Servants in this Province, and I must do that Gentleman the Justice to Acquaint Your Lordships, that he very respectfully answered, he was willing to do What I thought best for His Majesty's Service, and at my Request immediately dropped that Advertisement. I must further say, that I believe, what he had done proceeded from his Mistaking the Intent and Meaning of an Article in his Instructions, and his not perceiving the bad consequences likely to Enssue.

I recalled the Party of Soldiers, suspended the order for Destroying their Sheds, and so leave that Trade, as Explained by the Advertisement published in the Quebec Gazette and dated the 9th of March 1765, till His Majesty's Pleasure be further known, tho' I understood the Parties concerned intend to Litigate the Matter.

That I might the better be informed of the Nature of this Affair, I ordered five Members of Council, namely, Lieutenant Colonel Irving, Captain

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Cramahé, Mr. Goldfrap, Major Mills and Mr. Hey to meet and collect for me, what had been ordered by Government therein.⁷

Petitions were presented by both Canadian and London merchants for the opening of the King's domain. The lessees Dunn and Gray also persisted in their claim that the permission granted by Murray in 1762, was still binding. On June 26, 1767, an Order-in-Council was issued dismissing the petition of the merchants demanding free trade. It was further added that Allsopp, Howard and Chinn had no right whatsoever to trade at the Royal Posts of Tadoussac and Chicoutimi. The lessees were thus to retain their monopoly.⁸

It would appear that the Lieutenant-Governor acted in such a manner because of his ideas on free trade. Carleton believed that the best way of assuring the development of the colony's fur trade lay in permitting the merchants to trade freely with the Indians of the interior country, while at the same time placing them under proper surveillance. This may then be considered as a sign of the policy that he would later explain quite clearly to the Home government. It should not be forgotten, however,

7 PAC, Q 3: 395, Carleton to the Lords of Trade and Plantation, Quebec, October 18, 1766.

8 PAC, CO 42, vol. 6: 181-183, "Order-in-Council dismissing the petition of Anthony Merry and others respecting their trade at the posts of Tadoussac and Chicoutimi", Court of St. James, June 26, 1767.

that at this time he was quite sympathetic to the independent group of English merchants.

The English traders operating from Canada incessantly presented petitions to Carleton and to the Home government for the granting of free trade. John Livingston and a group of merchants in September 1766, represented to Carleton that the regulations enacted to confine trade to certain forts, which during the French regime had never been considered as posts for trade, but only as warehouses, would destroy commerce. They prayed that trade with the Indians be free and open to all English subjects; that they be permitted to winter with the Indians to furnish them with immediate necessities such as guns and powder; and that they be permitted to extend credit to them. It was further added that there was no danger of their being insulted and robbed by the natives.⁹

The merchants' major grievances were expressed in their objections to Johnson's orders and regulations respecting Indian trade and the duties of the commissaries, presented to Carleton in March, 1768. They objected to the second article stipulating that on passing a post they show their pass and an exact invoice of their goods to the

⁹ PAC, Q 4: 200-207, John Livingston and a group of merchants to Carleton, Montreal, September 20, 1766.

commissary and not break bulk without his permission, on the grounds that this was not in keeping with the rights of free citizens. It was impossible, they believed, to conduct business only at the posts as they were often obliged to trade en route to lighten their load. The article to which they most objected, however, was the fifth that restrained trade to the posts. Here they expressed their chief grievance.

It is absolutely necessary that the Trade with the Indians should be free to all, the restraining it to Posts that are Garrisoned will entirely destroy it, the same Reasons which are made use of to have a Permission from Michillimakinac to go to the North of Lake Huron, hold equally good to the South of Lake Ontario Lake Erie and Lake Michigan, Miamis the Ouabach and others at a greater Distance from Fort Detroit than the Saulteurs from Michipicotton Le point on Lake Superior, and every Person who has acquired a Pass from the Governor of the Province where he resides ought to have the Liberty to go where he pleases without being molested, excepting for Reasons, where the service demands it.¹⁰

On January 27, 1767, Johnson, superintendent of the northern district, in a letter to Carleton complained of the conduct of the French traders who were attempting to turn the Indians against the English population. He claimed that this was dangerous as it could act to the detriment of trade and endanger the frontiers. It was

10 PAC, Q 5-1: 393, "Sir Wm. Johnson's Regulations for the Indian Trade, and the Observations of the Quebec Merchants thereon-", Quebec, March, 1768.

further set forth that traders should not be permitted to range freely among the Indians, but be under the control of inspectors and restrained to a few posts.¹¹

The Lieutenant-Governor answered that such conduct did not surprise him as the French would always be their rivals in trade. This, he believed, could be overcome only by being kind and fair to the Indians. He further noted that the Canadians would not attempt to get the Indians to revolt against the British as this would be detrimental to their trade.

That the French who must always be our Rivals in Trade, often our open Enemies, should take every opportunity of gaining the Affection of the Indians, and of misrepresenting us, I expect as a Thing of Course; it belongs to us to defeat their Endeavours, whether fair or fraudulent, and by wise Regulations, honest dealing, and by kind Treatment to attach them to us, and avail ourselves of those extensive Channels of Trade to enlarge our Commerce to the Utmost.

Your Complaints of the Canadians, by which Name I distinguish the Subjects of the King our Master, acquired by the Conquest of this Province, are so general that I can only make my Enquiries, and speak to them in as general a Manner, When I talk here of that Perfidy, false Stories, or Views of exciting an Indian War, you complain of, they appeal to Colonel Gladwin, and all the rest of our Officers, who were spectators of the last, and are Confident these will give Testimony of very different Dispositions in them at that Time, when such Views might have been more excusable, than at present, and that even then some of them were utterly ruined by the Indians for their

¹¹ PAC, Q 4: 115-121, Wm. Johnson to Carleton, Johnson Hall, January 27, 1767.

Attatchment to us; they very plainly shew me, that such a War must be very destructive to them, and in Case of such a Misfortune, that they then did, and would again chearfully take up Arms, to reduce them to Peace, by Force. Ever since my arrival, I have observed the Canadians with an attention, bordering upon Suspicion, but hitherto have not discovered in them either Actions or Sentiments, which do not belong to good Subjects...¹²

Carleton disagreed with Johnson as to the placing of restraints on trade, claiming that unless these were removed it would nearly ruin the province and thus be harmful to Great Britain, while France would be the sole benefactor as furs would be turned down the Mississippi instead of the St. Lawrence. It was further added that the Canadians were willing to help the English traders in familiarizing themselves with the fur trade. He also said that it had been brought to his attention that rivalry should not exist between English merchants, but rather that it should be directed against the French and Spanish traders. It had also been represented that in 1765, furs intended to pay the debts incurred by the Indians the previous year had been taken by the French and Spaniards who had come to twenty leagues of Detroit, while the English merchants were confined to the forts. The only means to put an end to such practices lay in permitting the traders to go among

¹² PAC, Q 4: 122, Carleton to Johnson, Quebec, March 27, 1767.

the Indians in order to undersell the competitors and detect any wrongdoings they may have done and correcting them.

...Whether they are right or wrong in their Opinion of the Indian Trade, I submit to those whom the King has appointed to direct and superintend the same, but the unanimous Opinion of all here, Canadians and British, is, that unless the present Restraints are taken off, that Trade must greatly suffer, this Province, be nearly ruined, Great Britain be a considerable Loser, and France the sole Gainer, as they must turn the greatest Part of the Furs down the Mississippi, instead of the St. Lawrence, they compute that a very large Quantity of Merchandise formerly passed thro' this Province to Nations unknown to Pondiac, and too distant to come to any of our Posts, and that so much is lost of the Consumption of British Manufactures. They say that their own Interest will allways be a sufficient Reason and Motive to treat these People well, and to use their utmost Endeavours to keep them in Peace, and the Canadians will engage to take some English in every Canoe, to acquire a Knowledge of these Countries, and the Language, to shew they have no Jealousy at their becoming acquainted with this Trade; 'Tis imagined here, that the other Provinces, who are neither acquainted with those Countries, nor so advantageously situated for this Trade are the secret Causes of their being so severely fettered; they presume to think each Province should be permitted to avail itself of its natural Situation, and acquired Advantages and that it would be as unreasonable in us to expect the Posts to the Southward should be shut up by Regulations, as long as our's are by a severe Climate, that in this Respect all the King's Subjects should be considered as Brothers, or one Family, and that the Rivalship ought not to be between Province and Province, but between the King's Subjects and those of France and Spain, some have offered to prove, that two years ago, while they were confined to the Forts, the French or Spaniards from the Mississippi came within twenty Leagues of the Detroit, and carried off the very Furs, that were intended to clear off the Credit given the Indians the year before.

They even assert 'tis impossible to prevent them from carrying off by far the greatest Part of that Trade, unless those Restraints are taken off, they maintain that the only possible Means of preventing those Evils for the future, and of removing the Discontents of the Indians, for not being supplied with the Necessaries of Life as formerly, is to permit them to go among them, as was the Practice of this Colony, that thereby they will be enabled to undersell the Mississippi Traders, detect their Artifices, and be the means of bringing them to Punishment, as it is their Interest and Duty so to do; but supposing the worst of them, they hope the King's Subjects of Canada are as much to be trusted, as the French from New Orleans, and ought to have the Preference, considering they carry up the British Manufactures only...¹³

The English merchants also requested that the commissaries be obliged to give security for their good behaviour, so that if any injustices were committed, damages could easily be recovered.

... I have also had many Complaints of the Partiality and Violence of some Commissaries, but as I find by your Letter to Lieutenant Colonel Massey, you are already informed of them, I will not trouble you with a Repetition, not doubting but they will be properly punished, if they are found Guilty; the British in particular request, that for the future these may all be obliged to give Security for their good Behaviour, while in that Employment, that should they commit any Injustice, Partiality, or Violence, they may know how to recover proper Damages in a regular Course of Law, this they think the more reasonable, as they on their side give Bond to observe the King's Regulations, which, if they do amiss, subjects them to suffer for it, in the same Way, and not to be left to the Information of a Commissary in those distant Parts, of whose Partiality they have already seen many Proofs, by suffering many to go out and trade abroad, they suspect for Value

¹³ Ibid., p. 123.

received, while the rest were confined to the Fort, that whatever was the King's Pleasure, they would submit to, but still it became necessary to be apprised thereof, as they must considerably lessen the Quantity of Merchandise for these Parts, and not be obliged to leave them packed up, and lodged in a Warehouse without, willingly submitting to let all be confiscated, if they sold for one Farthing, rather than bring them to a small Market in the Fort, exposed to all the Accidents of Fire, this some of them preferred and practised at the Detroit. Had I those Regulations, I would have given them a Copy, but I am as yet uninformed of them.¹⁴

The English merchants had very little confidence in the commissaries appointed to supervise the fur trade and Indian affairs. They thus wished to see their authority checked.

In a letter written to the Secretary of State on the following day, Carleton emphasized the principles of free trade that he had communicated to Johnson. Once again it was explained that restricting the traders to a few limited posts and refusing them leave to go among the Indians acted to the detriment of trade. From the information that he had been able to gather, the Lieutenant-Governor hoped and believed that the bad rumours being spread among the natives was the work of French merchants from New Orleans and not from Canada. He did not believe that they would foment an Indian war because it would endanger their own lives and fortunes. It was also felt

14 Ibid., p. 126.

that it would be better to permit the Canadians to lead the English traders into Indian country rather than restrict them to a few posts where the Indians could never come. The argument, that outrages could be committed against the Indians, did not hold he claimed, because when the British merchants would be far into Indian territory they would be afraid to commit acts of violence as this would endanger their safety. Furthermore, if they had had any fear for their lives, they would not have been in such a hurry to go among the Indians.

...I inclose a Copy of a Letter from Sir William Johnson together with my Answer, containing the Complaints, which all the Merchants here concerned in the upper Country Trade, have repeatedly, and very respectfully made me, of the great Detriment the Fur Trade receives, from the Traders being confined to the Forts of Niagara, Detroit and Michillimakinac, and their not being permitted to go amongst the distant Indians. I both hope, and believe, from all I have been able to learn since my Arrival, that the Persons, Sir William Johnson says are spreading unfavourable Suspicions of us among the Indians, and endeavouring to turn them against us, are from New Orleans, and not from Canada, where they seem to be convinced, it is their Interest, as well as their Duty, to preserve those Savages in Peace; that they are most Anxious for carrying all their Merchandise, wherever they think it most for their Advantage, is certain, some Restraints on Spirits excepted, which has most pernicious Effects on that barbarous Race, and visibly forwards their Destruction with that of their Trade, but am persuaded they never could think of stirring up an Indian War, which must evidently endanger both their Lives and Fortunes. Before the end of Summer, I shall be able to transmit to Your Lordship, an exact Account of the number of Canoes, that went from this Province, when under

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the Dominion of France, with the Value of their Cargoes, and the Parts they went to, some of them nine hundred Leagues beyond Michillimakinac, to great Lakes, and Regions unknown to any of His Majesty's old Subjects, in order to submit it to His Majesty's Wisdom, which shall be most for His Service, and the good of His People, to suffer the Canadians to lead his old Subjects into these Countries, and push together that Trade we found them possessed of, which we may reasonably suppose was then but in it's Infancy, or confine them to a few Forts, where those Indians can never come, and that are as unknown to them as to the Country People of Great Britain; which is most likely to produce a combination of Indians against the Peace of America, to suffer them to live dispersed, and our Traders to go among them, whose Safety and whose Interest requires they should treat them well, and who all allow, keep but spirituous Liquors from them, and they are an inoffensive People, or our forcing those who can come for the Necessaries of Life, to assemble in great Numbers every Year about our Forts. I believe it will be found on strict Examination, that the Outrages committed upon the Indians have been near our own Frontier, where the Assassin had Hopes of immediate Refuge; this Refuge they are deprived of, when far advanced among them, their own Safety will there deter them from such Acts of Violence, had they any thing to fear, they would not be so urgent to go among them.¹⁵

Carleton also asked that the regulations governing the fur trade be sent since the merchants had no confidence in the word of the commissaries. Even if restraints, which would be detrimental to trade, were enacted, they were ready to obey the King's commands.

¹⁵ PAC, Q 4: 111, Carleton to Shelburne, Quebec, March 28, 1767.

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I beg Your Lordship will be pleased to send me a Copy of the King's Regulations, for the Traders pray me to inform them of those Orders they give Bond to obey, and that I would not leave them to get their Information of Commissaries, in whom they have but Little Confidence and whom they suspect of acting beyond their Authority, and I will venture to assure Your Lordship, they will be most respectfully submitted to; tho', should the present Restraints be confirmed, every one here in Trade, and out of Trade, is convinced they must prove a very considerable Detriment to the Prosperity of this Province, and will turn a large Share of the Trade it formerly enjoyed down the River Mississippi, instead of the St. Lawrence.¹⁶

A year later Carleton forwarded to the Home authorities a report on the state of the fur trade under the French government in which he explained its Indian policy. The troops sent among the natives to maintain law and order had begun by learning their language. They had acted as magistrates forcing the traders to deal equitably. Furthermore, they had distributed the King's presents to the Indians, thus winning their loyalty.

The annexed Return of the French Posts of the Troops for the Protection of Trade, with the number of Canoes sent up in the year 1754, shews in some Measure the Extent of their Trade, and the System pursued by the French Government in Indian Affairs, they did not depend on the Number of Troops, but on the Discretion of their Officers, who learned the Language of the Natives, acted as Magistrates, compelled the Traders to deal equitably, and distributed the King's Presents; by this conduct they avoided giving Jealousy, and gained the Affections of an ignorant, credulous, and brave People, whose ruling Passions are

16 Ibid., p. 113.

Independance, Gratitude and Revenge, with an unconquerable Love of strong Drink, which must prove destructive to them, and the Fur Trade, if permitted to be sent among them; thus Managing them by Address, where Force could not avail, they reconciled them to their Troops, and by Degrees strengthened the Posts of Niagara, Detroit and Michillimakinac without giving Offence.¹⁷

The procedure followed by the French in conducting fur trade was then explained.

The Country was divided into certain Districts, and the only Restraints laid on the Traders were, first, not to go beyond the Bounds of that District they obtained Passes for, and secondly, not to carry more spirituous Liquors than was necessary for their own use, nor sell any of that to the Indians, the King's Posts, or rather the Intendant's, were the only ones excepted from this general Rule.

Under these Regulations the Canoes went first to the Post of the District, from whence they had full Liberty to go among the Indians, and accompany them to their Hunting Grounds, they likewise called on their Return, if any were ill treated, they complained to the Commandant, who assembled the Chiefs, and procured Redress, the Savages also made their Complaints, and obtained immediate Satisfaction, an exact Report of all which was sent to the Governor; this Return may be depended upon for so much as it contains, but as the King of France was greatly concerned in all this Trade, a corrupt Administration did not think it their Interest, that all these Matters should appear in a full, clear, and lasting Manner.¹⁸

France had had a very simple system, organized so as to win the friendship of the Indians, thus lessening the threat of revolt on their part.

¹⁷ PAC, Q 5-1: 382, Carleton to Shelburne, Quebec, March 2, 1768.

¹⁸ Ibid., p. 383.

The way in which the French merchants had conducted their trade since the Conquest was then set forth.

Your Lordship will be pleased to observe, that the great Inletts, to the North East, from the Mississippi, by the Ohio, and from thence up the Ouaback, which heads towards the Sources of the River Miamis and Lake Erie by the Illinois that leads to Fort St. Joseph and Lake Michigan, and the Quisconsing that leads to Fox River and Bay des Puans, besides these the different Streams that run into the Mississippi carry them towards Lake Superior and the Western Lakes.

The French or Spaniards have a Settlement two hundred and fifty Leagues above New Orleans, at Arkouka, which serves for a Deposit, and three, opposit to Fort Chartres, formed since the Conquest; from these Magazines they are enabled with Ease to transport their Merchandise into the interior Parts of the King's Territory, to the North of the Mississippi, and to the Western Lakes; while even the extra Provincial Canadians, in the Neighbourhood of our Posts, particularly at Detroit, and those scattered about the Country, rather buy the Goods that come from New Orleans, tho' at a higher Price, than submit to the great Restraints on Trade at our Posts.¹⁹

Carleton further added that there were many officers who were ready to undertake voyages of exploration, but that these would require the assistance of the Canadians as they were not familiar with the territory, the languages and manners of the Indians. To attract the Canadians to the King's service they would have to be assured of employment for life, and in case of death that their widows continue to enjoy their salary.

¹⁹ Ibid., p. 384.

I shall easily find in the Troops here many Officers and Men very ready to undertake to explore any Part of this Continent, who require no other Encouragement, than to be told, such Service will be acceptable to the King, and if properly executed, will recommend them to his Favor; but as they are unacquainted with the Country, the Indian Languages, and Manners, 'tis necessary to join with them some Canadians to serve as Guides and Interpreters; the Gentlemen here are mostly poor and have Families, in Order to induce them to attach themselves thoroughly to the King's Interests, 'tis necessary they should be assured of their being taken into His Service for Life, and in Case they perish on these Expeditions, that their widows will enjoy their Pay, to support and educate their Children.

Should His Majesty think proper to allow the Traders to go up to the Western Lakes, as formerly, I think a Party might winter in one of those Posts, set out early in Spring for the Pacific Ocean, find out a good Port, take its Latitude, Longitude, and describe it so accurately, as to enable our Ships from the East Indies to find it out with ease, and thus return the year following; Your Lordship will readily perceive the Advantage of such Discoveries, and how difficult Attempts to explore unknown Parts must prove to the English, unless we avail ourselves of the Knowledge of the Canadians, who are well acquainted with the Country, the Language, and Manners of the Natives.²⁰

The Lieutenant-Governor could see that to succeed in exploring Indian territory, the help of the Canadians was required as they were the only ones familiar with the territory and its population. These would thus act as guides and educators of the British who would later on be able to traffic on their own.

20 Ibid., p. 385.

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In April, 1768, Hillsborough announced to Carleton the change in policy that had been adopted by the English government.

Upon Mature Consideration of the Present Regulations, the great Expence of the Variety of Establishments far Exceeding the Value of the Object; and the Difficulties which have attended the Execution of the Plan in General, for want of a due authority in the Superintendants, His Majesty had thought fit that it shall be laid aside: That the Regulation of the Trade shall be left for the Colonies, whose Legislatures must be the best Judges of what their Several Situations and Circumstances may require; That the Office of Superintendants shall however be Continued for such Matter as are of immediate negotiation, between His Majesty and the Savages, and cannot therefore be regulated by Provincial Authority; And that the boundary Line between the Indians, and the settlements of His Majesty's Subjects every where negotiated upon, and in many Parts settled and Ascertained, shall be finally ratified and Confirmed.²¹

Imperial control of Indian territory was to be replaced by provincial authority. The colonies were to manage Indian trade, while the empire was to maintain the boundary line between white and Indian territories. This policy had been based mainly on Shelburne's plan of 1767, which had been immensely influenced by the arguments on behalf of unrestricted trade first brought forward by the Canadian merchants and then reinforced by the pleas of Carleton.

²¹ PAC, RG 4, A 1, S 1: 104, Hillsborough to Carleton, Secretary of State Papers, Whitehall, April 15, 1768.

Before such a plan could be applied, forethought and preparation were a must. The governmental machinery needed readjustment. Instead of this the policy was carelessly applied. The efforts of the colonies to devise a plan regulating the fur trade met with very little success. This was due mainly to the divergence of interests of the colonies.²² The whole problem had to be studied once more and a new solution was arrived at in 1774.

In a report presented to Council on April 8, 1769, the alterations needed for the well-ordered conduct of the fur trade were set forth. The main point was that no civil jurisdiction existed for the new areas created in 1768. The government of Quebec seemed to be the best prepared to handle such a task, they believed, because of its geographic situation and also because of the fact that its traders had more contacts with the Indians than those of any other province. A few other minor details, such as the form of the licences, were also discussed.²³

After studying several memorials presented by merchants militating for the adoption of trade free and open to all, Carleton was converted to the cause. Certain

22 W. E. Stevens, Op. Cit., p. 31.

23 PAC, Q 6: 83-89, Report of the Committee appointed to investigate the fur trade, Quebec, April 8, 1769.

restraints, however, were to be placed on the traders so that the Indians would be treated humanely. This policy, it was believed, would favor the interests of both the mother country and its colonies. Many of the Lieutenant-Governor's arguments were based on the system that had been followed by the French government prior to 1760. The safest course for Canada, he contended, was to permit the fur traders to continue in their well established methods. There was a constant fear of the French traders living among the natives. In order to overcome this, the Indians were to be attached to British interests by putting an end to the outrages committed against them and by giving them presents. The Canadians were also to play an important role in this endeavor as they were the only ones familiar with the territory, the languages and the customs of the Indians.

Carleton successfully conducted his campaign as in 1768, the Board of Trade and Plantations replaced imperial control of Indian affairs by a plan whereby the colonies themselves were to play the leading part. This was not the final solution, however, due to the lack of forethought and the complexity of the problem.

2. Fisheries.

Carleton also championed the cause of the Quebec fishermen engaged in the seal-fishing industry. In 1758 the posts had been abandoned because of the war, but in 1761 they had been taken over by Englishmen. On April 8 and August 28, 1765, Hugh Palliser, the Governor of Newfoundland, had severely interfered.²⁴

Tachet and Cugnet, in October 1766, presented a petition to Carleton asking that their titles to the seigniories and tract of land on the north shore of the St. Lawrence, and of the islands of that coast and of the island of Anticosti be restored to them.²⁵ This was followed by a petition of some of the Canadian Quebec merchants engaged in the same industry. They stated that the orders issued by Palliser in 1765 and 1766, would put an end to their cod, salmon and seal fisheries. It was further added that England need not fear that they join the French fishermen at St. Pierre and Miquelon, as there would be no advantage in their doing so.²⁶

24 A. L. Burt, The Old Province of Quebec, Toronto, The Ryerson Press, 1933, p. 141.

25 PAC, CO 42, vol. 6: 51-53, Pétition de Messrs. Cugnet et Tachet à Carleton, Québec, 10 octobre 1766.

26 PAC, CO 42, vol. 6: 54-57, Petition of some of the Canadian merchants at Quebec relative to the Fisheries presented to Carleton, Quebec, November 12, 1766.

In a letter accompanying the petitions, Carleton explained the advantages of granting the Canadian fishermen's requests. The Lieutenant-Governor admitted that as these tracts of land were within the dependence of Newfoundland, he could not discuss their legality. He then went on to add that the fisheries had proven to be an important source of revenue for the province. The Canadians, he believed, were the best prepared to conduct winter seal fishing, but they needed land on the coast to erect buildings to cover themselves and their equipment since it was carried on between the middle and the end of December. Were they prohibited from engaging in this, it would further injure the balance of trade and probably result in the total loss of that industry for Great Britain.

The inclosed Memorials of Messieurs Cugnet and Tachet of this City in behalf of themselves and other Coheirs of a certain Tract of Land upon the North Shore of the St. Lawrence, of the Islands on that same Coast, and of the Island of Anticosti, were presented to me some Time ago, by the aforesaid Gentlemen, copies whereof are actually lodged in the Plantation Office, all of which I advised them to lay before His Majesty's Attorney General of this Province, whose Opinion thereupon, I have the Honor herewith to transmit to your Lordship.

As these Grants are mostly situated within the Dependencies of Newfoundland, as Regulated by His Majesty's Proclamation of 1763, it does not become me to enter into the Merits of their Claims; I can only observe to your Lordship, that hitherto the Fisheries, in those Parts, have proved a very considerable Resource to this Province, that the Canadians of all Men seem to be best calculated for carrying on the Winter Seal Fishery, The Season

for which is from the middle to the End of December, when the Navigation is impracticable and the Weather so Tempestuous, it is absolutely Requisite for the Persons employed therein, to have some fixed Establishment upon the Coast, to Protect and cover the Fishermen, and to house the necessary Utensils and Materials for this Business.

If proper Regulations are established, this Winter Fishery, the most profitable of any carried on upon that Coast, as I am informed, can neither prevent or obstruct the Cod and Whale Fisheries; should the Canadians be debarred from it, they will still be the less able to make Returns to Great Britain, and even at present the Balance of Trade is greatly against this Province; it is indeed much to be feared, that the Consequence will be a Total Loss of that valuable Branch of Commerce to the Mother Country.

With Regard to the great Extent of these Grants, Your Lordship will permit me further to observe, that they are perhaps less obnoxious here than anywhere else, as by the Custom of the Country they are divided every Descent, so that what at first was solely held by two or three Grantees, is now parcelled out among thirty Families, actually His Majesty's Subjects and Resident within the Province of Quebec.

By this Opportunity I likewise transmit to your Lordship a Petition of some of the principal Merchants of this Town, relative to these Fisheries, and which are considered here as a Matter of such great and important Concern to this Province, that it would have been signed by every Person in it, had I not discouraged those general Associations, which are too often brought about for the very worst, as they are allways pretended to be intended for the very best Purposes.²⁷

The two Canadian gentlemen's case was referred to the King's Attorney and Solicitor General, Wm. de Grey and E. Welles, who decided that the claims, as they stood, had no legal validity. They further expressed their fears that

²⁷ PAC, Q 4: 50, Carleton to Shelburne, Quebec, January 3, 1767.

the granting of such posts might lead to the illegal entry of French goods into the colony.²⁸ The injustice was removed only a few years later when the Quebec Act was under consideration.

Carleton had once more shown his determination to place the colony on a firmer economic basis, while in this instance he favored the Canadians. Were his measures adopted, he believed that it would practically have ensured the further development of the fishing industry which was one of the province's important assets. This would also have served to win over part of the Canadian population. Such a policy would have worked for the interests of both mother country and colony. The Lieutenant-Governor did not seem to fear the contacts between Canadian and French fishermen as he did not mention it in his correspondence.

3. Manufacturing.

Mercantilist theories were best expressed in relation to manufacturing. After the conquest of the colony, attempts were made to revitalize its economic position which had been greatly hurt during the Seven Years War. The British government, however, still fostered

28 PAC, Q 5-1: 328-342, Decision of the Lords of Trade on Cugnet and Tachet's Claims, whitehall, March 3, 1768.

industries which were advantageous to the province, but which at the same time did not interfere with its own.

Carleton reported to Hillsborough in August 1768, that the high price of French goods throughout the course of the war had stimulated the Canadian population in becoming more self-sufficient. It was further added that were the revenues of the colony sufficient, encouragement on the spot could greatly assist in developing the cultivation of hemp and flax. The Lieutenant-Governor also believed that unwrought iron imported from Spain and Sweden to England, might soon be replaced by that produced at Three Rivers.²⁹

From the first report on the state of manufacturing in the Province of Quebec, compiled by Carleton in 1768, we are given an account of Canada's production as well as predictions of what could be expected in the near future. First of all we learn that a considerable quantity of flax was being grown in the colony, which was then made up into coarse linen. As little or none of it was being sold at public markets and as it was all spun in the home, it was impossible to ascertain the exact quantity produced. Since the long and severe Canadian winters rendered the keeping of sheep unprofitable, wool was not very plentiful. When

²⁹ PAC, Q 5-2: 760-762, Carleton to Hillsborough, Quebec, August 31, 1768.

woven with thread, it produced a "linsey woolsey" coarse cloth, which was used chiefly for making men's garments. Wool was also used by the women in knitting stockings. While caps and blankets were imported from Britain, it was estimated that one third of the people clothed themselves out of the products of the colony. Coarse pottery used as dairying and kitchen utensils was being made. A few tanneries had been established in the colony, but as hemlock bark was being used in tanning, only a coarse grade of leather was being produced. A large quantity of leather was being imported from the southern colonies, due to the high price of finer English leather. Bar iron was only beginning to be produced as the forges in Three Rivers had only been re-opened in 1768. Very little wrought iron was being smelted. It was being used chiefly to produce edge tools, axes and hatchets for local consumption and Indian markets, as the British manufacturers had been unable to furnish the type of product required. The pearl and pot ash industry had only recently been established but there were great hopes that it would be successful.³⁰ In his report of 1769, Carleton noted that a distillery for the production of rum had been built at Quebec the previous fall. It was difficult to predict its yearly production at

³⁰ PAC, Q 5-2: 763-765, "Report on the State of Manufacture in the Province of Quebec", Quebec, August 1768.

that time, but the Governor was highly optimistic as it would retain in the colony considerable sums of money which had previously gone to New England and New York, and also promote trade with the West Indies. Other distilleries were also to be established.³¹

After the report of 1768 had been received, the Secretary of State had shown himself very happy with the state of the province's economy, but had also added that he was alarmed at the great quantity of linen and woollen products being produced. It was hoped that encouragement might soon be furnished for the manufacture of products that might be of use to the empire while not competing with its industries.³² The British government unsuccessfully attempted to promote the cultivation of hemp to secure a reliable supply of rope for its sailing vessels. Currie believes that the lack of mills to prepare the product for market, and the cultivation of wheat which was much more profitable explains the lack of success.³³ England maintained a strong control over the development of her

31 PAC, Q 6: 166-170, "Report on the State of Manufacture in the Province of Quebec", Quebec, November 13, 1769.

32 PAC, Q 5-2: 839-841, Hillsborough to Carleton, Whitehall, November 15, 1768.

33 A. W. Currie, Canadian Economic Development, Toronto, Thomas Nelson and Sons Limited, 1942, p. 37.

colony's industries. She was to produce products needed by the mother country, such as staples and raw materials, but she was not to manufacture goods that would compete with British merchandise.

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The eighteenth-century British mercantile outlook considered the fur trade as being a valuable source of raw materials as well as being an important market for British goods. It was believed that the best means of exploiting the territory lay in retaining a strong and centralized control. That is, imperial control of the Northwest appeared as the most efficient method.

Carleton foresaw that with the relinquishing of authority to the colonial governments, more especially to the government of Quebec, and with the opening of trade while still maintaining certain restraints, this commercial enterprise could be developed to a greater extent. The Lieutenant-Governor thus favored a policy of greater economic liberalism, militating for the adoption of a system whereby the merchants would be permitted to range much more freely among the Indians. Carleton wished to see the system in existence during the French regime continued, as he thought that the fewer the changes the better would

fare the fur trade. He also desired that the Indians be treated with fairness and kindness as this would avoid many difficulties.

The secondary industries of the colony, - fishing, manufacturing (linen, wool, iron, pot ash), - were also to be encouraged as it would serve to render the colony more self-sufficient, while at the same time furthering the economic development of the empire. In the economic field, Carleton thus strove to better the condition of the colony, its colonists and more particularly that of the Canadians, and of the empire as a whole.

CHAPTER V

ECCLESIASTICAL AFFAIRS

Church and State in New France were staunch allies working for the best interests of the colony, its population, the mother country and the glory of God. Although numerous conflicts as to the interpretation of what constituted the colony's best interests existed, historians have usually overemphasized these, thus creating a misleading impression. That they clashed fiercely, one cannot deny; but, for the greater part of the time, they co-operated and supported each other.¹

Gillis claims that after 1760, the clergy's influence over the population of Quebec was actually enhanced. This had resulted mainly from the fact that the colony was now being ruled by an alien group and that it had lost some of its seigniors who had emigrated to France, thus creating a void. The priests, appearing as the sole protectors of the conquered race, now felt that they had a special duty to furnish leadership to the political

¹ W. B. Munro, The Seigneurs of Old Canada, Toronto, Glasgow, Brook & Company, 1914, p. 122.

interests of the Canadians. Such a privileged position was to be used to solicit obedience to the conqueror.²

The English government would probably have liked to have abased and repressed the Catholic religion in Quebec, but the political exigencies of the time did not favor the adoption of such a policy.³ The persistence of the colonists and their clergy in retaining their faith curbed the conqueror's attempts to abolish it. As long as the Canadians remained completely severed from France and did not attempt to spread political ideas by means of the privileges that they had been granted, they would be permitted to enjoy a more complete freedom of religion than that allowed to Catholics in England.

Such a policy was set forth in Norton and de Grey's report on the status of the Canadians in relation to religion. They reported that:

...His Majesty's Roman Catholick Subjects, residing in the Countries, ceded to His Majesty, in America by the Definitive Treaty of Paris, are not Subject, in those Colonies, to the Incapacities,

² D. H. Gillis, Democracy in the Canadas: 1759-1867, Toronto, Oxford University Press, 1951, p. 36.

³ S. Pagnuelo, Etudes historiques et légales sur la liberté religieuse en Canada, Montréal, C. O. Beauchemin & Valois, 1872, p. 37.

disabilities, and Penalties to which Roman Catholics, in this Kingdom, are Subject by the Laws thereof.⁴

The English ministry's tolerant attitude was further exemplified in its unofficial assent to the nomination of a bishop for the newly-conquered territory.

During Carleton's administration of the colony there appeared three major sources of difficulty in the realm of religion:

1. the Catholic Church itself,
2. the Jesuit Order that had been dissolved in France in 1764, and was being attacked from several sides, and
3. the Protestant ministers who were attempting to gain more privileges for themselves while reducing those of the Roman Catholics.

The Lieutenant-Governor once more attempted to curb the desires of the English element and further the rights of the Canadians.

1. The Catholic Church.

Even after the vacancy created by the death of Mgr. de Pontbriand had been filled by Bishop Briand, three major grievances still plagued the Canadian Church. In the first place, the newly-consecrated bishop was seeking the English government's approval in naming a coadjutor who

⁴ PAC, CO 42, vol. 2, part 2: 120-121, "Norton and de Grey's report on the status of Canadians as regards religion", June 10, 1765.

would succeed him at his death. He also wished to fill the vacancies in the Quebec cathedral chapter. A third problem lay in the Home government's and the Lieutenant-Governor's refusal of permitting the entry into the province of priests from France and the American colonies.

Throughout his stay in the province the Lieutenant-Governor remained on very cordial terms with Briand. When accusations of lavish living and ostentatious proceedings were lodged against the latter, Carleton at once came to his defence.⁵ This, however, did not stop him from opposing some of the prelate's plans. He had certain fixed ideas which no one could change.

After his consecration, Briand had asked the Holy See for permission to name a coadjutor to assure the perpetuity of the episcopate. It having been granted, the Bishop then needed only the consent of the Lieutenant-Governor in order to succeed in his endeavor. This was mentioned several times to Carleton who did not seem ready to make a decision. He showed himself to be quite favorable to the naming of a coadjutor as it would have put an end to the sending of candidates to foreign countries for consecration. Carleton, however, was opposed to Joncaire, the leading contender to the post.

⁵ See p. 29-30.

I have some Reason however to believe, from the private Intelligence I have been able to Obtain, that he (Joncaire) has not been altogether free of the Ambition of wearing a Mitre, if Government should acquiesce in the appointment of a Coadjutor to the See, for which they are here extremely pressing, and which would be attended with this good consequence of the Bishop's being allways consecrated here, without sending to Foreign Dominions for the Purpose.

As far as I can find, in his Negotiation with his Brethren, He has not met with the Encouragement he expected, And for this indeed, I should think him, as any other Person, who has lived so long out of the Country, an improper Subject, as they reasonably may be suspected of Attachments, not altogether favourable to our Interests.⁶

Carleton was afraid to see a man who had lived twenty-five years in France become leader of the Canadian Church, even though he had been born in Canada. He wished to see the position filled by a native Canadian who had spent his whole life in the colony.

On the eve of his departure for England in 1770, Carleton agreed to Briand's nomination of Louis-Philippe Mariachau Desglis, parson of Saint-Pierre, Ile d'Orléans, as coadjutor. On July 12, 1772, he was consecrated bishop, and in March 1774, proclaimed coadjutor. The Canadian Church had thus been assured of the survival of its episcopate and of the perpetuation of its clergy.

⁶ PAC, Q 4: 320, Carleton to Shelburne, Quebec, October 30, 1767.

The Lieutenant-Governor, however, opposed himself to the filling of vacancies in the Quebec cathedral chapter, the second of Briand's requests that had been granted by the Pope. All that he mentioned in his letter of October 30, 1767, to Shelburne, was that he had put off the demands of the clergy.

They have likewise repeatedly applied for the Approbation of Government to compleat their Chapter, that out of that Body, and by their Election for the future, the See may be filled, I have put them off from both these Requests, by telling them, I must be well informed of the Merits and Characters of the Candidates, before I can venture to Report or Recommend such a Measure at Home.⁷

It is quite difficult to discover the true reasons which led to this decision. Carleton, knowing that in the past the Chapter had been the cause of numerous divisions in the clergy, may have wished to avoid this. He may also have feared the resultant prestige and influence that this would have given to the Bishop.⁸ Whatever the motives, no new canons were elected. The Chapter became extinct with the death of the last canon in 1795.

The coming of new priests from France and the American colonies was also discouraged by Carleton. When

7 Ibid., p. 321.

8 Abbé A. Gosselin, L'Eglise du Canada après la Conquête: première partie - 1760-1775, Québec, Imprimerie Laflamme, 1916, p. 192.

an English Jesuit from the southern colonies, Hunter, arrived in the colony, the Governor reported to the Secretary of State that he had refused to grant him permission to remain. He further added that he had explained to the missionary that a bishop had been granted to the Canadians so that they might have their own provincial clergy, thus putting an end to support from abroad.

I represented to him (Hunter), that a Bishop was allowed the Canadians, that they might have the Advantage of a Provincial Clergy, and that any Accession thereto from abroad, even from the King's other Dominions was altogether unnecessary, and never would be allowed.⁹

In this way the possibility of continuing French ecclesiastical domination in Canada, after the end of French political rule, would be removed.

Carleton proved to be highly suspicious of priests who had resided in France, fearing that they might be used as government agents in the colony. Such an instance arose with the arrival of Joncaire, a former Jesuit, into the province. The Lieutenant-Governor had very little confidence in this man, believing that he was a fit person for furthering the projects of the French government in the colony. What most aroused his suspicions was the fact that Joncaire, who was a native Canadian, after spending twenty-

⁹ PAC, Q 6: 71, Carleton to Hillsborough, Quebec, July 17, 1769.

five years in the mother country, suddenly should decide to come back to settle the affairs of his brother Chabert.

Chabert I have not yet seen, he is represented to me as a Man of weak parts. But the present Joncaire was first a Jesuit, left that Society, and took up the Title of Abbé, a little before their Expulsion from France, where he has lived five and twenty years.

He arrived in the Colony before me, to settle, as he says, the Affairs of His Brother who has had dealings with Mr. Rybot a spittlefield's weaver, he complains that Rybot had dealt fraudently by him, thus he is returning to London on the same Errand, and purposes being back in the spring to settle here for the remainder of his Life.

I have been told by others, he purposes going to Paris, and is not certain of his Return. He appears to me to have a very good Understanding, with a quick insinuating Address, this with his Interest in this Colony, and with the five Nations of Indians, would render him a proper Person to Employ, did the Situation of Affairs with France, give an opening for him to display his Talents for Intrigue and secret Correspondence Consequently natural Enough for me to Suspect his Visit of two Months, After so long Residence in France; He avoided me till on the Point of his Return, Yet I betrayed no Suspicion of him, fearing to disgust unjustly, if innocent, or to put him on his Guard, if Guilty, before I could lay hold of anything Material.

I only told him I supposed he had a Passport, he answered he had, he takes his passage in the Loudon, that sails in a few days, for London, I shall take care he, and indeed Everyone is informed, a fresh Passport is necessary on returning to this Province from France, as I judge it advisable to observe that Intercourse with attention.

This sketch of a Man, well qualified to serve, or injure, I thought fit to communicate to Your Lordship, as you may learn more of him, perhaps, from other parts, and by comparing different

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Descriptions and Circumstances, His Majesty may be able to judge what Measures are best for his Service.¹⁰

To discourage priests with doubtful intentions from coming to the colony, Carleton required that they secure passports from the Secretary of State's office in London. As the passports would either be granted or refused by the Home government, it would not be as apparent to the Canadians when certain individuals were refused entry and would thus cause less trouble.

I cannot but observe to your Lordship how necessary it were, to oblige any Priest who have an Inclination to come over to this Country, to furnish themselves with a Passport from your office, in Order to insure their Reception here, And at the same Time that it proved a Check to those who had not very good Reasons for undertaking the Voyage, it would create less Disturbance, and not come so Home to the Canadians, that the Restraint, which it is judged Right to lay upon that Inter-course, should proceed from the other side of the Water, rather than from this, and that for Reasons so obvious, I think it needless to trouble Your Lordship further about the Matter.¹¹

In November 1769, the Governor further advised Hillsborough that Joncaire should be refused entry into the province.¹²

¹⁰ PAC, Q 3: 401, Carleton to Shelburne, Quebec, November 9, 1766.

¹¹ PAC, Q 4: 322, Carleton to Shelburne, Quebec, October 30, 1767.

¹² PAC, Q 7: 3-5, Carleton to Hillsborough, Quebec, November 22, 1769.

The Secretary of State agreed not to grant the requested passport.¹³

One of the means by which a provincial clergy could be established, it was claimed, would be by favoring Canadian priests as opposed to French priests.

Two Parties have ever subsisted here among the Clergy, tho without much Noise or Eclat, between the Natives of old France and the Colonists, the former of which before our Arrival had the Preference in every Thing; I apprehend that at present it would be Judicious to throw what Advantages there are rather into the Hands of the Natives of Canada.¹⁴

This, it was probably believed, would result in the departure of many French priests from the province, thus leaving a wholly Canadian clergy which would be able to solicit the obedience of the colonists to the British Crown.

Although Carleton had opposed himself to the filling of vacancies in the Quebec Chapter, he had adopted quite a tolerant religious policy. Briand was permitted to conduct his church with very little intervention. The only stipulation seems to have been that the clergy must be Canadian. Foreign priests were not welcome in the province, and every means were taken to limit their entry. Furthermore, measures were adopted to favor the native

¹³ PAC, Q 7: 6, Hillsborough to Carleton, Whitehall, February 17, 1770.

¹⁴ PAC, Q 4: 321, Carleton to Shelburne, Quebec, October 30, 1767.

clergy so as to rid the colony of foreign priests. This whole way of thinking was influenced by the Governor's fear that French priests might be used to spread propaganda among the Canadians and Indians and incite them to revolt.

2. The Jesuits.

The Society of Jesus that was being persecuted everywhere in Europe and had been expelled from France in 1764, was also being attacked from several sides in the Province of Quebec. In a petition sent to Shelburne in November 1766, De Glapion, Superior of the Quebec Jesuits, set forth the three major grievances of his Order. He claimed that they had been brought to Canada to educate the youth of the colony and to evangelize the Indians. In order to fulfill this, it was requested that the Society be permitted to receive recruits, that their buildings be returned to them and that compensation be made for those that had been destroyed.¹⁵ They were thus demanding that they be permitted to enlarge their personnel and that they be given the financial means necessary to pursue their work. Carleton presented himself as the protector of the Order.

¹⁵ PAC, Q 3: 416-419, de Glapion to Shelburne, Quebec, November 12, 1766.

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Although the Lieutenant-Governor sought to relieve their condition, he could not fulfill all their hopes. In a letter to Shelburne, dated November 17, 1766, Carleton claimed that the Jesuits were under the impression that the regulations published by Murray to the effect that they were to receive no new recruits was a mistake and that such had not been the King's intention. This naturally led them to oppose his orders and ask redress directly from the Secretary of State.

...That Society (Jesuits), and all the Clergy are persuaded, that the orders given by General Murray to the regular Clergy not to admit any nun Conventuals, was a Mistake of his, and not the King's Intentions, so that what I have said in support of that Doctrine, they suspect, as not coming from proper Authority, they therefore, I Judge, have Addressed themselves Directly to Your Lordship and have taken their Precaution to Assure its Passage, whether I assist therein, or not, all this, with great civility to me, but without my knowledge till the Morning the Abbé was to sail I enquired of these Fathers, the Reason of that Persuasion, that Governor Murray had mistaken his orders concerning them, And I learned from them, and others that they were confirmed in this Opinion, At a Dinner he gave about a Month before his Departure, to some of the principal Clergy, when turning the Conversation on this Subject, he undertook to prove, beyond a Doubt, he complied with his Instructions in giving that Order; and to this End, sent for a Paper (Lord Egremont's Letter of the 13th of August 1763) and read to them the Paragraph against all Popish Hierarchy, without giving unnecessary Alarm or Disgust, which Terms they have treasured left in their Memories.

Mongolfier Superior of the Seminary at Montreal, and the rest immediately undertook to prove to him, he had mistaken his orders, and explained to him, that the sense and meaning of the word Hierarchy is that Subordination and

Connection of the Secular Clergy, from the Pope to the youngest Deacon, but that the Regulars were never comprised under that Term.

As Governor Murray undertook in this Manner to justify himself to them for his Orders before his Departure, why he chose that Paragraph about the Hierarchy, and neglected another that follows soon after, in the same Letter against filling up the Vacancies in the Regular Clergy, he is upon the Spot, and I must suppose can Explain to your Lordship, I cannot.¹⁶

Carleton wished to follow the orders furnished by the Home government. As it had been stipulated in 1763 that the Jesuits and Recollets were to receive no recruits, he never permitted them to accept new members.

The Lieutenant-Governor did not even permit them to receive priests from the American colonies. When Hunter, an English Jesuit from the southern colonies, attempted to join the Quebec Jesuits, Carleton refused him permission to remain in the colony.

As ever since my Arrival here I have strictly attended to the suffering of no new Professions in the only two Orders of Regulars we have the Jesuits and Recollets, agreeable to the King's Intentions signified by Lord Halifax to Governor Murray, or to admit the Function of any of their Brethren from foreign Colleges, I Instantly declared to him (Hunter), I neither could or would permit him to remain, and He must without Delay Depart from hence, which he is very shortly to be in a Ship for Britain.

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This Reception, which otherwise was as Civil as possible, will I believe, prevent any more

¹⁶ PAC, Q 3: 405, Carleton to Shelburne, Quebec, November 17, 1766.

such Visits, and put a Stop to the Hopes those Fathers may have conceived of gaining a Settlement for some of their exiled Brethren.¹⁷

The English government wished to see the Jesuit Order disappear from Canada, as it temporarily did with the death of its last member, Père Cazot.

Carleton nevertheless came to the rescue of the Fathers, defending them against the greed and accusations of several jealous parties both in the colony and in England. When Shelburne in November 1767, informed the Lieutenant-Governor that he had learned that the Canadian Jesuits had sent large sums of money to their General in Italy, and asked him to enquire into the matter,¹⁸ Carleton answered that such reports were false. He agreed that they held very extensive possessions in the colony, but added that these did not provide large profits. It was further represented that far from being able to send large sums of money to Italy, they could barely subsist.

From My Arrival in the Province, I made a Point of attending to the Motions of all the Clergy, both Secular and Regular, to study the Characters of the Men, and to acquire a Knowledge of their temporal Estates and Revenues.

From my Researches at first, and more minute Enquiry into the Circumstances of the Jesuits of

17 PAC, Q 6: 70, Carleton to Hillsborough, Quebec, July 17, 1769.

18 PAC, Q 4: 298-301, Shelburne to Carleton, Whitehall, November 14, 1767.

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this Province, since your Lordship's Letter of the 14th Nov. came to Hand, I am persuaded, the inclosed State of their Affairs delivered to me by Pere Glapion their Superior, is fair and Just, and that they have neither concealed, nor misrepresented the Value of their Possessions.

Their Estate indeed contains a very large Tract of Country, a great Part whereof is neither Cultivated, nor likely to be so, and of that which is, none pays more than about a Half-penny Sterl. the arpent, which is somewhat less than our acre, and a great Part of the first Conceded Lands do not pay near so much; their Mills yield them, as to the other Seigneurs, their greatest Profit, and the Produce is accordingly valued in the inclosed Estimate of their Revenues.

Far from being able to remit considerable sums, from what appears to every one, they must have expended upon the Repairs of their Mills, the Church, and Wing of the House they occupy, and the Care they take of some of their aged Brethren, I readily believe, what they advance, that they barely maintain themselves.

Before the conquest, they were in better Circumstances, the King allowed them 14,500 Livres Yearly for the Maintenance of their Missionaries, and they had an Estate in France dependent of the College here, and annexed thereto, which produced upwards of eleven thousand Livres a Year, and which shared the Fate of all the other Effects of that Society at the Time of their general Expulsion.

Tho' I was well convinced of this myself, I thought it best fairly to tell the Superior of the Reports spread about them, and he has given me the strongest and most positive assurances of their never having remitted a single Shilling; one strong corroborative Proof of the Exaggerations of their Wealth, is, that there are here several Persons, who remember the College, when the English first took Possession of the Town, that are ready to declare, the Furniture of it is much in the same State, as it was at that Time, no Part whereof, a little Plate excepted, is, or ever was Valuable.¹⁹

19 PAC, Q 5-2: 590, Carleton to Shelburne, Quebec,
April 14, 1768.

The Lieutenant-Governor could not stand by and let the Jesuits be attacked in such an unjust manner. Being an honest man, he would see to it that justice was rendered impartially.

The Jesuits were further aggrieved by the demands for a pension made by one of their former members, Roubaud, who had left them to join the English. Carleton explained that although they could not admit that a man who had left their Order in such a notorious manner had any right to an annuity, they were ready to obey the King's commands. They had also explained that this man's demands were unreasonable and that in order to comply with them, they would have to impose themselves numerous sacrifices. The Governor added that he knew that they had very limited revenues which were further lowered by the necessity of caring for aged and infirm members.²⁰

Carleton wished to obey the Home government's orders, but at the same time he sought to furnish it with accurate information on the condition of the Canadian Jesuits. He forbade them to receive recruits either from Canada or from foreign lands as ordered in 1763. On the other hand, when the Order was unjustly attacked, he came to its rescue. The Governor desired to show the English

²⁰ PAC, Q 6: 109-110, Carleton to Hillsborough, Quebec, August 2, 1769.

ministry that the Jesuits had previously held extensive possessions, but could now barely survive and could not possibly send money to their parent Order in Italy. Carleton further wished to protect them against the greedy endeavors of individuals such as Roubaud. Further demands were to be made against the Order. In 1770, Amherst requested that he be given all of their possessions in the colony.²¹

4. The Protestant Church.

In July 1768, when two Protestant ministers arrived in the colony with letters from the English government granting them permission to collect tithes from the parishioners of Quebec and Three Rivers, Carleton once more came to the rescue of the Catholic population.

The Governor wrote that as the words contained in these two men's mandamuses were the same as those found in all such documents given to Protestant ministers in the American colonies, he wondered as to whether or not this was to apply to the Province of Quebec. As this would have greatly aggrieved and impoverished the population, general commissions had been given to Montmolin and Veysière whereby they would not be able to commit harm.

²¹ PAC, CO 42, vol. 7: 55, Council Minutes, Whitehall, May 25, 1770.

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On my Return from Montreal a Mandamus was presented by a Mr. Montmolin, and another by a Mr. Veyssiere, formerly a Recolet, directing me to admit and collate the one to the Church and Parish of Québec, the other to the Church and Parish of Trois Rivières, to enjoy the same during life, with all Rights dues, profits and Privileges as thereunto belonging in as full and ample Manner as the Ministers of Churches in any of our Colonies in America have usually held and enjoyed, or of Right ought to hold and enjoy the same.

As I find these words in every Mandamus, I look upon it as a Stile of Office, that has been adopted for many years for the other Provinces, and under that Sanction, unnoticed, has slipped into those for this Province, tho' under very different Circumstances.

These general and extensive Expressions have occasioned no small Difficulty already in Civil Matters, and been the Cause of many Complaints, giving Authority to claim Fees of Office or, that are Burthensome, but if they are to be extended to ecclesiastical Property, to dispossess the People of their Parish Churches, and their Clergy of their Tithes and all Parochial Dues, for our Lawyers are clear these words import no less, the Evils must be much worse.

As I judge it impossible this could have been designed, and that Your Lordship could not have failed to communicate to me, if a Measure of such Consequence had been resolved upon, I have in the mean while, and till I am certain of the King's Pleasure therein, granted them commissions which leave the Power to do all the good they can, or chuse to do, without authorising them to do Mischief.²²

Carleton, having a very bad opinion of Veyssiere, then expressed his feelings.

I had so mean an Opinion of Mr. Veyssiere, that I refused to recommend him, when he went, to Europe last year, and had I not imagined, my

22 PAC, Q 5-2: 726, Carleton to Hillsborough, Quebec, July 21, 1768.

silence of a Person leaving the Province, notwithstanding his Letters of Recommendation from others, which any one may procure, would have prevented his Return with the King's Mandamus, I should have thought myself obliged to have given a full Account of his Levity and Folly both before, and after his renouncing the Errors of the Church of Rome.²³

The Governor then disclosed Montmolin's disapproval of his conduct in not letting him use the Jesuit Church in the City of Quebec and forbidding him to collect tithes. Such conduct, he believed, would not be right as the Protestants had more church room than they could use, and the situation would become even better with the gradual disappearance of Jesuits and Recollets.

Mr. Montmolin, notwithstanding we have in this Town, the Use of two Churches in common with the Roman Catholicks, and one entirely to ourselves, thinks it very hard, the Parish Church being still in Ruins, I will not give him up the Jesuit Church, which we took for a Store, on our Arrival; having no further Occasion for it, nor Money to preserve it from Ruin, it was given up to them above a Year ago, and is now almost repaired at a considerable Expence; He thinks it still harder, I disapprove of his taking the Tithes; I endeavoured to shew him the Violence, Injustice, and Breach of Treaties I must be guilty of to gratify him in these particulars, he replied that Louis the fourteenth had not kept his Treaties with Protestants, he therefore sees no Reason why we should keep ours with Roman Catholicks.

In our present Situation, we have more Church Room, in common with the Roman Catholicks than we want, and if the order, which prohibits the Recollets and Jesuits from recruiting their Converts, is continued, we shall, in a few years,

23 Ibid., p. 727.

without Violence, or giving Offence, and without appearing to depart from the general Levity of the King's Government, have more Churches to ourselves than we can possibly occupy, or Keep in repair, unless the Treasury is pleased to assist us with Money for that Purpose...²⁴

Hillsborough agreed with Carleton's decision, adding that Veyssiere and Montmolin had been granted salaries and were not to collect tithes.²⁵

Carleton, desiring to attach the Canadians to the British Crown, could not permit the imposition of further burdens upon them. As they were a majority, he could not let Protestant ministers collect tithes from them as this would have greatly angered them. The Governor seems to have understood the situation and the Home government approved of his conduct.

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After the English government had more or less decided upon a policy of religious toleration, a man who was to favor such a scheme was sent to the colony. Briand and Carleton, who were to arrive in the colony almost at the same time, remained on friendly terms throughout the latter's stay. The Lieutenant-Governor, wishing to win the

²⁴ Ibid., p. 727.

²⁵ PAC, Q 5-2: 756-757, Hillsborough to Carleton, Whitehall, October 12, 1768.

allegiance of the Canadian population, naturally championed their religion while still upholding the orders published in 1763. In 1770, the naming of a coadjutor was permitted so as to assure the perpetuity of the episcopate. The secular and regular clergy were also defended against the accusations of jealous parties. Carleton, however, opposed himself to the securing of recruits by the Jesuits and Recollets. They were not even permitted to acquire members from the American colonies and still less from France. His motives for opposing the filling of vacancies in the Quebec cathedral chapter are difficult to discover.

As the Canadians were to be attached to British interests and as there was a constant fear of war with the old mother country, emphasis was placed on the forming of a wholly Canadian clergy. The conquered population was to retain religious freedom as long as it remained severed from France and did not attempt to spread political propaganda.

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The difficulties involved in the conquest of New France were to be only the beginning of England's ordeals. After obtaining control of the North American continent, it faced the problem of consolidating its position and protecting its newly-acquired territory from the growing magnetism of the southern colonies. Fear of war with France and the probable reaction of the Canadians further impressed upon the ministry the urgency of adopting measures that would assure the proper defence of Quebec.

Repression and abasement of the conquered population's laws, customs, language and religion would probably have been the policy preferred by the British government, but as the political exigencies of the time did not favor such a course of action, it leaned towards the adoption of more lenient and tolerant measures. The person chosen to apply its program would thus be faced with a two-fold task: that of assuring the province's defence and placing its administration on a firm basis.

Murray who was the first governor sent to implement the Home government's plan witnessed very limited success, being recalled to England because of growing opposition and unrest in the colony. It was hoped that his successor would be more fortunate.

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Being a man of military training, Carleton viewed the problems of the colony through the eyes of a soldier. On his way to Quebec he passed through New York in order to better understand North America's state of defence. To strengthen England's position in the New World, he claimed that two conditions must be fulfilled. On the one hand, the fortifications required extensive repairs and additions. His plan consisted of building a line of fortresses from Quebec to New York and in the erection of a citadel on the site of the former town, as well as a stronghold near the latter. The second phase of his program stemmed from his views on colonization. As the colony was populated almost wholly by Canadians, their allegiance was to be won. This, he felt, could best be done by granting them their laws, customs, language and religion; by awarding a few pensions and positions of honor to their seigniors, whom he considered as having been their real leaders; and by making a few concessions to the clergy. These two groups would then naturally attempt to attach their followers to British interests.

Had his recommendations on fortifying the province been acted upon, it would have resulted in a greater concentration of the English soldiery and divided the American forces. Because of the lack of decision on the part of the English government, when the feared uprising

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finally did occur, the colony was unable to defend itself properly. His knowledge of Old France and his aristocratic background having also influenced him in his desire of favoring the Canadians, he was led to ascribe too much credit to the clergy and nobility. Many of his suggestions to the Home government were to be tinted by this desire to win the allegiance of the conquered population.

As the civil administration of the colony had only recently been inaugurated by Murray, numerous problems still persisted. The new Lieutenant-Governor was to attempt to restore order in the highly explosive situation.

The first governor had been recalled home because of a quarrel with the province's military and mercantile elements. Instead of subsiding, opposition to Murray's rule had grown more acute and tense. Carleton at first showed himself to be very sympathetic to the malcontents, but he soon changed camps, joining the "French party" in favoring the cause of the Canadians. The rivalry between military and civil elements seemed to have subsided for a few weeks, but it soon erupted once more with the Allsopp and Walker incidents. These were used by the Lieutenant-Governor to show that, although such conduct could result in the recall of a governor, the King's commands were still to be obeyed. Although the methods employed in curbing the opposition were not always the best, peace and order seem

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to have temporarily prevailed in the colony. These two affairs were also used by Carleton to rid himself of two of his predecessor's most trusted friends. Striving to attain tranquillity and order in the colony, and desiring that everyone submit to his will, Carleton adopted the means necessary to reach these ends.

His aristocratic temper also influenced him in the choice that had to be made as to the form of government that was to be adopted for the colony. As the Canadians were unable to participate in the political life of the colony, he opposed himself to the calling of an Assembly. This would have meant that approximately three hundred Englishmen would have directed the destinies of the whole population. Such a policy could not be tolerated as the conquered race was to be treated with kindness, respect and justice. Furthermore, Carleton felt that an Assembly would have served to increase unrest in the province, as the malcontents would then have had a means of expressing their opposition. It may be added that at times even a Council appeared as too great a check upon his authority. His views on the form of government that was to be adopted were thus to be influenced by two main ideas: first, his desire to win the allegiance of the Canadians; and secondly, his craving for more extended powers.

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Throughout his stay in the province, Carleton attempted to reform the corrupt and tangled financial machinery of government. It was hoped that by securing for the colonial administration a set and constant revenue, which would be collected in great part from the duties on spirituous liquors, that the administration would soon be able to defray its own civil list. Little, however, was achieved in this direction, the merchants successfully opposing themselves to the application of such measures.

The Governor witnessed no more success in his campaign to end the corruption and favoritism of the iniquitous system of fees. Lacking the assistance of both groups concerned in the matter, he proved unsuccessful in getting the Home authorities to adopt a set scale of salaries for its colonial officials. Carleton merely proved able of dismissing two officials for exacting excessive fees. His relinquishing of the governor's perquisites of office merely brought upon him Murray's opposition.

Even officials who were only indirectly related to the administration of the colony, - such as the Collector of Customs and the Officers of the Admiralty Court, - opposed themselves to the Governor's authority. In this endeavor, however, he was much more successful as the

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Secretary of State advised him to reform this Court as best he thought fit.

Carleton's major undertaking, that of the establishment of the system of laws existing in 1759, witnessed much more success. By permitting the Canadians to retain their laws and customs, it was felt that this would make them more sympathetic to British interests in North America. In 1771, on the Governor's recommendations, French land laws were given legal sanction in the Province of Quebec. The Governor's demands for the adoption of French civil law and English criminal law were recognized with the passing of the Quebec Act in 1774.

Prior to this date the English and French systems of law had continued to survive side by side, resulting in vagueness, uncertainty and expensive proceedings. Such had been clearly demonstrated in the case involving bankruptcy laws.

In 1764, English laws were supposed to have been adopted, but there was uncertainty as to whether or not the whole body or only a part had been introduced. Carleton wished to disentangle this complex and ambiguous system. He felt that the adoption of his recommendations would assure the allegiance of the Canadian population and at the same time establish a definite and set system of laws.

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The Governor also wished to place the colony on a sound economic basis in order to assure its further development. As the fur trade was still considered Quebec's major industry, attempts were made to render it more profitable. Carleton favored the adoption of a more liberal economic policy, whereby the provinces would have been called upon to play a greater role in the administration of the Northwestern territories. The English ministry in 1768, accepted a plan granting to the provinces control over the fur trade of the western regions, while retaining guardianship over the boundaries between White settlement and Indian territory.

Although Carleton favored the development of the colony's secondary industries, - fishing and manufacturing, - England persisted in its eighteenth-century mercantilist views that colonial enterprises were not to compete with the mother country's industries. Two objectives could be reached by revitalizing the colony's economic life: first, the empire's economic condition would thus be improved; and secondly, the Canadians would further be attached to the British Crown by improving their standard of living.

As the great majority of the population inhabiting the province was Roman Catholic, it was to be granted the right to practise its religion freely. Such a policy was

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pursued by making concessions such as permitting the Canadians to have a bishop and a coadjutor. Although it was given several privileges, the clergy was never permitted to receive new members from abroad. The province's clergy was to be wholly Canadian as there were fears that French priests might spread propaganda and incite the Canadians and Indians to revolt. The secular and regular clergies were defended by the Governor when they were unjustly attacked by jealous parties who wished to see their authority and influence curbed.

The conquered population was thus to retain its freedom of religion as long as it remained severed from France. This policy of religious toleration merely succeeded in gaining the allegiance of the clergy and more or less assuring the neutrality of the Canadians when invasion from the South finally came.

In his appreciation of the Canadian situation, Carleton made two fundamental errors of judgment. His knowledge of the society of Old France did not permit him to see that conditions in New France had produced a society different from that of the motherland. This thus led him to attempt to restore something that had never existed in the colony, - a well-ordered and stratified society under the leadership of clergy and nobility. He naturally championed the cause of these two groups by recommending

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that they be granted pensions, honorific positions and several other minor privileges to attach them to the British Crown and thus assure the allegiance of the population. Little attention, however, was paid to the mass of the Canadian people as it was believed that they would be led by their elders. His second error consisted in not consulting the mercantile minority before changing the laws, resulting in the alienating of an important though small group. This was to be realized only a few years later when the rebel American armies invaded Canada.

We must add, however, that his plan for strengthening the colony's defences was well-thought-out and to the point. Carleton was a military man and not a politician. He saw all the problems through the eyes of a soldier, presenting solutions based on military theory. Because of his background and training, he conceived of Quebec as a region that would act as a spearhead to curb American ambitions and crush revolt should it come. In addition to this, there was a constant fear of war with France. To assure the defence of the province, the Canadian race was thus to be attached to British interests.

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MG 11, CO 42, 467 volumes, Quebec and Lower Canada Papers.

This completes the "Q" Series. The period 1766-1770 is covered in volumes 2 to 9.

MG 11, Supplementary II, n° 7 (1886), Colonial Office Records, Quebec, Instructions to Governors, 1763-1787.

MG 11, CO 5, 1,304 volumes, America and West Indies, 1689-1819.

This series is composed of the correspondence of the Secretary of State and the Board of Trade, entry books of letters, instructions, warrants, sessional papers, acts, shipping returns and gazettes. Volumes 21-35 contain Orders-in-Council on the period in which we are interested.

MG 21, F-Quebec and Upper Canada, 1-Canada Papers

Selections from three volumes of the Hardwicke Papers consisting chiefly of papers of the Solicitor General, Charles York, and those of Fowler Walker, agent of the merchants and leading settlers of Quebec, 1765-1773.

3-Laws of Quebec

King's MSS. 207, no folios given. Report on the laws and courts of Quebec by Sir Guy Carleton and William Hey, 15 September 1769; Hey's dissenting opinion; and Carleton's letter to the Earl of Hillsborough, 18 September 1769. (70 p.)

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MG 23, Late 18th-Century Papers, A-British Statesmen, 4-Shelburne Papers, 1751-1787, 217 volumes.

Selections from the correspondence and papers of William Petty Fitzmaurice, first Marquis of Lansdowne, better known as Lord Shelburne. The selections relate to colonial affairs in North America, diplomatic negotiations with France over British North America, and the American Revolution. Only volumes 30, 33, 49 and 64 were of use in this thesis.

Section RG (State papers)

RG 1, E. State Records of the Executive Council, E I. Minute Books, 1764-1864, 116 volumes.

Minutes of the Executive Council meetings in United Canada, 1841-1867, and in Upper and Lower Canada, 1791-1841, together with minutes of the predecessor of the Executive Council in Quebec, 1764-1791. The Legislative Council's minutes for the years 1766-1770 are contained in volumes 3-5.

RG 4, C. Provincial Secretary's Correspondence, 1765-1867, 2. Letter Books, Quebec, Lower Canada, 1765-1771, 1812-1819, 1828-1865, 73 volumes.

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