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British Colonial Policy and the Island of St. John, 1763-1767

The early history of the Island of St. John under British rule has long been surrounded with an air of confusion and misunderstanding, particularly in terms of the background to the decision of the Privy Council to parcel the Island into 20,000 acre townships, which were allocated to applicants by lot on 23 July 1767. This action, of course, constituted the formal beginning of the complex land question on the Island, which saw the proprietors (mainly absentees) battling with the residents throughout much of the nineteenth century. Two factors have hampered a proper understanding of the "lottery" of 1767. In the first place, the hostilities of later generations of Islanders towards landlords have been read back into historical accounts of the origins of the landholding system.[1] In the second place, the early history of the Island has usually been viewed either in splendid isolation or at best in comparison with the development of other Canadian provinces, rather than within the framework of Britain's vastly expanded American empire of the 1760s.[2] Placed in its proper context, however, the decision to distribute the Island to proprietors in 20,000 acre townships — while perhaps a mistaken one in the long run — ceases to be arbitrary and unconsidered, and becomes instead a perfectly comprehensible and even liberal move on the part of a British government which could hardly be expected to predict the later stormy history of the colony. Moreover, the complicated manoeuvering which led up to the lottery of 1767 highlights some of the principal divisions of the time in Britain regarding policy toward America — and especially new settlements in the territory conquered from the French.

Isle St. Jean (as the French had called it) was surrendered on 26 July 1758 to the British by the commandant of Louisburg as part of the capitulation of that fortress. A few days later, General Jeffrey Amherst ordered four ships and 500 men (with a few French officers to authenticate the capitulation) to occupy the

1 For some notion of the vehemency still possible against the proprietors, see Milton Acorn, *The Island Means Minago* (Toronto, 1975) and Errol Sharpe, *A People's History of Prince Edward Island* (Toronto, 1976).

2 Most of the standard accounts view events from an Island perspective. See, for example, Duncan Campbell, *History of Prince Edward Island* (Charlottetown, 1875), pp. 10-17 — which contains the fullest account of the Egmont schemes — as well as Andrew Hill Clark, *Three Centuries and the Island: A Historical Geography of Settlement and Agriculture in Prince Edward Island, Canada* (Toronto, 1959), pp. 42-50, and F.W.P. Bolger, ed., *Canada's Smallest Province: A History of P.E.I.* (Charlottetown, 1973), pp. 33-42. In *The Atlantic Provinces: The Emergence of Colonial Society 1712-1857* (Toronto, 1965), pp. 64-6, W.S. MacNutt makes some attempt at a broader perspective.

Island and evacuate both French troops and civilians. Colonel Lord Rollo, following his instructions, erected a fort called Fort Amherst near the main harbour at Port La Joye (later the site of Charlottetown), and had little difficulty in rounding up most of the neighbouring inhabitants. The people in the more distant settlements escaped to Miramichi or Quebec in small schooners, however, and some, particularly at Malpeque Bay, were ultimately to remain on the Island. William Pitt was informed in September of 1758 that the Island was somewhat better populated than the British had realized, and that it was the major supplier of corn and beef to Quebec, grazing perhaps 10,000 head of horned cattle and producing corn in the thousands of bushels.[3] These assertions were gross exaggerations, probably based on French boasting, but they were readily accepted by the British, and gained credence when — to the surprise of the victors — more than 3500 inhabitants, many of them refugees from the mainland, were embarked from the Island by the end of 1758. The French governor himself estimated that over 6,000 horned cattle were being abandoned.[4]

With Isle St. Jean virtually depopulated in 1758 (perhaps 200 French and 200 Indians remained), the next step very much depended upon the peace negotiations which culminated in the Treaty of Paris in 1763. In the preliminary discussions for the treaty, the Island was conceded to the British without debate. While the French did hold out for fishing rights in the Gulf of St. Lawrence — ultimately winning concessions in Newfoundland as well as regaining possession of St. Pierre and Miquelon — Isle St. Jean was specifically excluded in the final treaty from any fishing concessions to the French.[5] Its only appearance in the public eye during the peace negotiations came when the double agent Thomas Pichon, writing as "an impartial Frenchman," published in London a treatise entitled *Genuine Letters and Memoirs, Relating to the Natural, Civil, and Commercial History of the Islands of Cape Breton and Saint John* (a work originally written in French and published at Paris).[6] While Pichon's real focus was upon Cape Breton, he managed to wax lyrically about St. John's as well: "St. John's is the largest of all the islands in the gulph of St. Lawrence, and has even the advantage of Cape Briton [sic] in point of fertility. Its length is twenty leagues, and circumference about fifty. It has a safe commodious harbour, with plenty of wood, and as great a conveniency for fishing as any place on the coast".[7] Pichon then described the Island's coastline in some detail, based upon a trip he claimed to have taken around it in 1752, emphasizing its natural advan-

3 Boscawen to Pitt, 13 September 1758, Colonial Office Series (hereafter CO) 412/3, Public Record Office, London.

4 D.C. Harvey, *The French Régime in Prince Edward Island* (New Haven, 1926), p. 193.

5 Adam Shortt and Arthur G. Doughty, eds. *Documents relating to the Constitutional History of Canada, 1759-1791* (Ottawa, 1907), I, pp. 85-6.

6 *Lettres et mémoires pour servir a l'historie. . .du Cap Breton et Isle Saint Jean* (Paris, 1760).

7 *Genuine Memoires*, pp. 65-6.

tages for the fisheries. The work concluded with an imaginary conversation between an Englishman and the author (as "impartial Frenchman") regarding the merits of the islands to each side. As befit the work of a double agent, it was impossible to discern which nation Pichon felt should possess them; the discussion revolved around their great economic and strategic value.

Although it could hardly be maintained that the Island of St. John had a high profile in Britain in the early 1760s, the occasional references to it suggest that — at least in some informed circles — it was seen as a very desirable piece of real estate. One description in the Hardwicke Papers in the British Library, prepared by an anonymous officer who had in 1762 "run over" the Island in a whale boat, with a French pilot and 30 men, concentrated upon the sites of the former French villages and their prospects for settlement by the British. Emphasizing the rich meadows and cleared lands (some by the French and some by fire), this brief survey emphatically made the Island sound ready for immediate recolonization with minimal effort.[8] Prosperity would be based upon agriculture and fishing. Certainly those British initially most attracted to St. John's were a handful of Anglo-American merchants with their eye on the Gulf of St. Lawrence fishery, a few land-hungry Nova Scotians, and a large number of military officers who had served with the British forces, especially the fleet, in the reduction of French America. Many of these officers had been involved in the capture of Louisburg — or knew someone who had been — and they had obviously heard promising advice about the Island.

Even before the British ministers had decided on policies for the newly-acquired territories, applicants for land grants on St. John's were making their appearance. On 3 June 1763 the Commissioners for Trade and Plantations (the Board of Trade) received a memorial from Colonel Alexander MacNutt, generously offering to transport foreign Protestants to the Island in return for a grant of fifty acres for each settler so transported. The Commissioners replied that they were willing to consider the proposal if MacNutt had in mind a limited operation, but not on St. John's; MacNutt shifted his attention to what is now New Brunswick.[9] Despite their response to MacNutt, on 18 November 1763 the Commissioners heard another memorial from Hutcheson Mure, Robert Cathcart, and George Spence — all London merchants — offering to settle villages and carry on a fishing trade from the Island in return for a large grant of its land.[10]

Between the MacNutt and Mure memorials the government had finally made

8 "Remarks relative to the Sketch of the Island of St. John's in North America, where I was employ'd by order of the General to run over that Island", Hardwicke Papers, British Library (BL) Additional Manuscripts 35914, ff. 95-9.

9 *Journal of the Commissioners for Trade and Plantations, January 1759 to December 1763* (London, 1935), p. 369.

10 *Ibid.*, p. 406.

a public announcement of its intended policy for the newly-acquired American territory. On 7 October 1763 the King had issued the famous Proclamation of 1763, a product of months of high-level discussion over the best policies to adopt not merely toward the new possessions but regarding North America in general.[11] From the standpoint of the Island's future development, three features of the complicated discussion over American policy were important. First, there was the oft-expressed concern that the American colonists were becoming entirely too insolent and independent; they needed to be brought under "due subordination" by a variety of new strategies, including the nurture of a colonial aristocracy and landed interest. Many observers were convinced that the absence of a proper aristocratic element in American society was a critical factor in the rambunctiousness of the colonies. Secondly, North America would require a large permanent military establishment, partly for protection from hostile Indians, partly to occupy and defend territory populated by former enemy aliens, and partly to keep the Americans in line. Finally, the administration and defence of the vastly-expanded American empire would be very expensive, and insofar as possible should be financed out of American revenue.[12] These concerns about a landed interest, military protection, and American revenue led, of course, directly to the policies of George Grenville which culminated in the Stamp Act and its resistance in America. But they also led somewhat more circuitously to the procedures ultimately adopted by the government for the settlement of the Island of St. John.

While the King's proclamation established at some length a basis for four new colonies — Quebec, East Florida, West Florida, and Grenada — it merely annexed St. John's and Cape Breton to the existing colony of Nova Scotia. Nevertheless, one clause of the proclamation was of critical importance for the future development of the Island. All reduced officers in both navy and army, as well as private soldiers who had served in America and resided there, were promised substantial land grants "without Fee or Reward" and free from quitrents for the first ten years. The amounts of land offered ranged from 5,000 acres for field officers to 50 acres for private soldiers. This promise of land had been personally added by the King to the proposed proclamation prepared by the government, and would undoubtedly further encourage officers to apply for attractive American lands.[13] A few days later, advertisements appeared in the *London Gazette* offering townships of 20,000 acres in East and West Florida to any proprietor who would settle foreign Protestants or

11 Most of the critical documents are reprinted in Shortt and Doughty, *Documents*, I, pp. 93-122.

12 C.V. Alvord, *The Mississippi Valley in British Politics* (New York, 1959), I, pp. 157-210; R.A. Humphreys, "Lord Shelburne and the Proclamation of 1763", *English Historical Review*, 49 (1934), pp. 241-64; Jack M. Sosin, *Whitehall and the Wilderness: The Middle West in British Colonial Policy, 1760-1775* (Lincoln, Neb., 1961), pp. 52-78; John Shy, *Toward Lexington: the Role of the British Army in the Coming of the American Revolution* (Princeton, 1965), pp. 140-231; Franklin B. Wickwire, *British Subministers and Colonial America 1763-1783* (Princeton, 1966), pp. 88-96.

13 Shortt and Doughty, *Documents*, I, p. 121.

British-Americans on the land at his own expense.[14] Nova Scotia (which included St. John's Island) was not similarly advertised at this time, but the announcement indicated the general thinking of the Board of Trade regarding the best process for the settlement of the conquered territory; the main outlines of these advertisements would ultimately be applied to the Island.

In early 1764, however, the Board had under consideration a proposal for the Island's development from the Earl of Egmont.[15] Not long after the publication of the proclamation, a syndicate of distinguished military officers, politicians, and merchants headed by the Earl had submitted a memorial to the King asking for the grant of St. John's to be held perpetually in fee from the Crown as one entire county with "all manner of Rights, Royalties, Privileges, Franchises, and Appurtenances whatsoever; with all the Civil and Criminal Jurisdiction, with all manner of Courts as in England, and with Power to appoint or commission from time to time all manner of Officers for the Exercise of the said Jurisdiction, and for ordering the Government thereof".[16] Egmont was an outspoken opponent of the Whig ministries of George II and a close friend of the present king's father; he had come to prominence and power with George III's accession to the throne. Created an English peer in 1762, Egmont served briefly as Paymaster General, and then in September of 1763 was appointed First Lord of the Admiralty. A learned man of great ambition, he was a staunch advocate of the reinstitution of feudal tenures and the good old ways. At Enmore he built a residence which was to be defensible with crossbows and arrows, "against the time in which the fabric and use of gunpowder shall be forgotten".[17]

Egmont's efforts to obtain St. John's Island (in all he prepared three memorials) have received rather a bad press from historians, largely because they were based on the institution of military feudalism in America and came from a man apparently so out of step with his time. Since the beginning of the nineteenth century, for example, the story has been repeated that Egmont sought to make himself "Lord High Paramount" of the Island, although this highsounding title was never used by him and was apparently first invented by John Stewart as part of an attempt to blacken the Earl's proposals and British policy generally.[18] Both because of such inaccurate treatment and because they greatly influenced the Board of Trade's final arrangements for the Island, Egmont's plans are worth examining in some detail.

14 *London Gazette*, number 10368 (22-26 November 1763).

15 *Journals of Commissioners. . .January 1764 to December 1767* (London, 1936), pp. 6-7.

16 *To the King's Most Excellent Majesty, the Memorial of John Earl of Egmont* (n.p., n.d., but January 1764), p. 1.

17 For John Perceval, second Earl of Egmont (1711-1770), see *Dictionary of National Biography*, XV (Oxford, 1921), pp. 815-818.

18 John Stewart, *An Account of Prince Edward Island, in the Gulph of St. Lawrence, North America* (London, 1806), p. 155.

As the text of the memorials and their supporting documentation make quite clear, Egmont was not engaged in a singlehanded, naked, and idiosyncratic land grab of the Island, but was acting on behalf of a large number of influential men who felt they had some legitimate claims upon land in North America, and had deliberately left the complex question of distributing the land in the proposed grant to him. In 1765, when the Egmont scheme was again brought before the King after its rejection by the Board of Trade and Privy Council, its supporters emphasized that Egmont was only the "Nominal Grantee", holding the land "in Trust. . .for a due Division, Subdivision and Distribution thereof between him and your Majesty's Petitioners".[19] At the outset, the Earl's colleagues were mainly senior-rank naval and army officers who had served in North America and were familiar with the reported agricultural and commercial possibilities of the Island. On the basis of the King's proclamation, they were entitled by their rank and service to substantial quantities of American land. A few merchants were also part of the original group of petitioners, but at its inception the proposal was largely backed by military men. It was a mark of the credibility of Egmont's memorial as initially presented — both in terms of the influence of those involved and of the perceived good sense of their plans — that most of the other groups who were at the time seeking Island land chose to withdraw their own applications and join the Egmont syndicate. Thus three other major groups of petitioners — one of seven career officers headed by Charles Saunders, one of twenty-one reduced officers organized by Colonel Charles Lee, and one of four merchants already active in the fisheries — had added themselves to the Egmont ranks by mid-January of 1764.[20]

The numbers in the Egmont syndicate were subsequently increased substantially as twelve more senior officers and fifteen "gentlemen" (including three members of Parliament, a number of officials in Britain and America, and several Perceval relations of Egmont) signed on. Those who were to receive major subdivisions from Egmont were carefully distinguished on the list of signatories, and while they included all members of the three competing groups who had merged with the Earl's, very few of the latecomers were to benefit directly; they were simply adding their weight to the proposals. In any event, the final list of seventy-five names signing Egmont's first memorial included eight members of Parliament, two peers, four admirals, and three generals. Scots names were particularly in evidence among the junior officers, reflecting no doubt the composition of the regiments which had conquered French America. At least fourteen of the twenty-one reduced officers, for example, were Scots. This point is of some importance, for there was considerable continuity between this initial list and the final one approved by the Board of Trade in 1767. Egmont's colleagues were not only of impressive combined political influence,

19 Petition of Sir Charles Saunders *et al.*, 15 November 1765, BL Add. Mss. 35914, ff. 48-9.

20 First Memorial of John Earl of Egmont, BL Add. Mss. 35914, ff. 68-9.

but they also represented individuals entitled in terms of the King's proclamation to several hundred thousand acres of land in North America.

If, given all the groundrules of the day, most of the members of the Egmont syndicate had a proper claim upon land in America, so too their proposals for the settlement and governance of that land had a certain legitimacy as well. As First Lord of the Admiralty, the Earl was well aware of the discussions within ministerial circles over American policy, and he had even participated in them himself. His proposed grant of the Island of St. John was an ingenious attempt to provide due subordination, a military presence, and self-financing, not only for the Island but by extension for all of newly-conquered North America. The scheme's drawback was not that it was completely out of step with the direction of all British thinking on American settlement, but that it was far too perfect a fit with the ideas of men such as Henry McCulloch, William Knox, and Maurice Morgann, calling for the reassertion of Crown sovereignty in America and the establishment of a standing army to force due obedience from the colonials.[21] As such it was open to criticism from those who were not prepared to support any thorough-going reorganization of North American administration. And it is worth emphasizing that the scheme was not merely a personal whim of the Earl of Egmont, for most of those military men who were associated with him resurrected it without his active support in 1765.

At its outset, Egmont's first memorial made it quite clear that his proposal would result in a government by "Persons who will have a permanent and common Interest in the Prosperity of those over whom they are to preside, and a great Stake at home to pledge for their good Behaviour abroad, either to the People or the Crown — Without the Expence of One Shilling to the Public".[22] Not only was there no mention of any "Lord High Paramount", but it was emphasized that the Island would remain firmly under the control of the Crown. The common and statute laws of Britain (except those relating to land tenure, game, and taxes) would be in force; the King's assent would be required for criminal executions (except those for mutiny) and for the appointment of officers, who would be removable by the King in Council. In short, Egmont was asking for far less political autonomy for himself than had been given to earlier large proprietors such as William Penn — or was ultimately allowed to the government of the Island. He proposed to hold St. John's as "Earl of the whole County" in return for providing 1,200 soldiers within ten years for its defense upon demand of the King or his governor. The basis of the complex system of landholding and land tenure, therefore, was to be military obligation. An eclectic scheme, it was based upon a number of models, including the grant of

21 Particularly the suggestions of William Knox, who ironically became the London agent of Prince Edward Island in 1801. See Leland J. Bellot, *William Knox: The Life & Thought of an Eighteenth-Century Imperialist* (Austin, Texas, and London, 1977), esp. pp. 46-55.

22 *The Memorial of John Earl of Egmont*, p. 1n.

Carolina in 1663 and several for settling West Indian islands; one proposal which anticipated many of Egmont's arrangements had been made in 1728 by the Duke of Montagu in a petition for the Island of Tobago.[23] Not surprisingly, Montagu's proposal was in 1764 again before the Board of Trade at the same time as Egmont's.[24]

The plan for St. John's called for the Island to be surveyed into fifty parts of equal extent, each of which would be called a "hundred". Forty of these hundreds would be let to major tenants and ten set aside for the Earl, who would provide land for a capital town. The hundreds would in turn be divided into twenty manors of 2,000 acres each (with court baron, court leet, and hundred court), ten of which would be granted to Lords of the Manor and ten reserved to the Lord of the Hundred, who would set aside 500 acres for a town. Each holder of 2,000 acres would establish two freeholds of 200 acres and set aside 100 acres for a village. No individual could engross any more than a single hundred, and each was obliged to regrant half of his holding. Through a complicated series of obligations on the part of the tenants and subtenants, every hundred would be able to furnish thirty men for military service. Lands would be granted on the basis of a quitrent of one shilling per 100 acres to the Crown and one shilling per 100 acres to the landlord, payment to commence ten years after the institution of the grant. In a lengthy footnote, Egmont observed that his proposal for the Island could serve as a pilot plan for settling all the conquered territory in America, which could be subdivided into 62 provinces of 18,000,000 acres each and then granted to "the Peers, great Commoners, eminent Merchants, and other Gentlemen of Distinction" in Britain according to the scheme for the Island of St. John's. This policy, he maintained, would provide 744,000 soldiers for the British army.[25] What was left unsaid, of course, was that these soldiers could be employed against any American insurrections, which were feared by some private advisors of the great ministers.[26] It was certainly difficult to conceive any other enemy against whom they could be employed. Indicating the extent to which he was thinking of the Island in West Indian terms, Egmont observed that he had expectations from the Earl of Egremont for a grant on Dominique, and was prepared to take land in the Caribbean if St. John's fell short of the 2,000,000 acres required for his plan. In conclusion, the memorial proposed the allocation of the hundreds to the syndicate members by setting up a ballot box at the Board of Trade filled with fifty tablets corresponding to lot numbers of a map.[27] Here was the origin of the lottery.

23 *Acts of the Privy Council of England, Colonial Series*, vol. VI (London, 1912), #401 (10 April 1728).

24 *Ibid.*, #584 (5 January 1764).

25 *The Memorial of John Earl of Egmont*, pp. 21-22n.

26 Shy, *Towards Lexington*, pp. 140-231.

27 *The Memorial of John Earl Of Egmont*, p. 25.

The Board of Trade's response to Egmont's memorial was almost immediate — and very critical. In the behind-the-scenes struggle over the question of overall American policy, the members of the Board were opposed to any efforts for grand colonial reform or intimidation of the Americans.[28] The Board reported to the King on Egmont's scheme on 12 February 1764, less than a month after it had been received — a remarkable feat of alacrity for any eighteenth-century government body. It criticized the proposal for its reinstitution of ancient tenures, arguing that they were designed more for military discipline than to encourage trade and commerce. Moreover, such tenures were totally averse "in their Principles to that System of Settlement and Tenure of Property, which have of late Years been adopted in the Colonies" with much advantage to the Kingdom. Emphasizing that its principles of settlement were economic rather than political, the Board opposed any burdensome and unnecessary services which hampered commerce and industry. America was flourishing and held a "due Dependence. . .upon the Mother Country", a clear reference to the implications of the Egmont plan. Grants to high persons with elaborate plans of government — however much based upon study and reading of the wisest and most learned philosophers — checked and obstructed the settlement of the country. Noting the similarity to the seventeenth-century Carolina grant, the Board emphasized that Carolina had flourished only when taken back from proprietors and reinvested in the Crown. The Board did not even bother to take legal advice on the Egmont proposals because they were so unacceptable.[29]

In reply, Egmont prepared a second memorial which withdrew the requests for special tenure and extraordinary jurisdiction which had been so criticized by the Board of Trade; this memorial apparently was never submitted to the government.[30] A third memorial, however, was sent to the Privy Council on 8 March 1764, asking for the Island in free and common socage as part of Nova Scotia, with settlement terms and quitrents to be decided by the Crown after ten years.[31] The Board of Trade responded to this proposal even more swiftly than to the original memorial, drafting an answer of 23 March 1764. Admitting that settlement and cultivation in America might be expedited if persons of rank took the lead and that military officers deserved to be rewarded, the Board recommended distributing the Island to the Earl and his associates upon "those *Principles of Settlement, Cultivation, and Government, which have been adopted for many Years Past,* and are founded upon the Experience of former Times". Obviously pressed to spell out its own plans, the Board offered an alter-

28 Leading members of the Board at this time were the Earl of Hillsborough (the American Secretary of State), Soame Jenyns, Bamber Gascoyne, and Lord Orwell.

29 "The Report of the Board of Trade upon the Earl of Egmont's First Memorial, 13 February 1764," BL Add. Mss. 35914, ff. 70-1.

30 BL Add Mss. 35914, ff. 72-3.

31 Third Memorial of John Earl of Egmont, BL Add. Mss. 35914, ff. 73-4.

native scheme for dividing and allocating the Island lands, based, it insisted, upon the proposals of Egmont's associates which had been withdrawn in favour of his arrangements. This plan called for a survey to divide the Island into 500,000 acre counties, 100,000 acre parishes (with church glebe and school site) in each county, and townships of 20,000 acres each. No one but the Earl would get more than one township, but he could have ten (for himself and each of his nine children) at His Majesty's discretion; the Board would undertake the allocation of the townships remaining. It again maintained that every condition of landholding, other than cultivation and settlement "only. . .embarrass the settlers, and. . .delay and discourage, or altogether prevent the Settlements". Egmont's military conditions were thus "impolitick, inexpedient, and anti-commercial". Significantly, the Board did not consider a quitrent to be one of those unnecessary conditions of tenure. It emphasized that — because of the Island's value — it had even before the appearance of Egmont's proposals been contemplating the institution of a quitrent of three shillings per 100 acres in allocating the townships.[32]

Egmont responded to this report with a trenchant critique of the Board's position. Although the Board wanted the nobility and upper classes to lead in America, it sought to reduce everyone in practice to the level of the "low and unhappy People" transported to Nova Scotia. If the Board could point to Carolina as an example of the foolhardiness of Egmont's schemes, he in turn could use Nova Scotia as a club with which to beat the Board's principles. Despite government expenditure of over £600,000 in Nova Scotia, Egmont pointed out, the province had only attracted 1,400 families. He blamed this failure on the want of "*that Order, and that Protection, that Care and individual Patronage*" embodied in his proposals. The Board's plans were totally contrary to his, since they were based not on "British liberty" but the notions of the actual occupiers of land, the most indigent and wretched of mankind, quite hostile to men of rank, distinction and property.[33] This prescient point was ignored, however, and on 9 May 1764 the Privy Council approved the Board's report and directed "that no grants of land in the Island of St. John be made upon other principles than those contained in the Board's representation".[34] Instructions for the laying out of counties, parishes, and townships were given to Samuel Holland, whose proposal for a survey of the Island had been approved by the Privy Council in February. On 14 May 1764 a petition from twenty-five of Egmont's colleagues prayed that since the Earl's scheme was unacceptable,

32 "Report of the Board of Trade in Consequence of the Earl of Egmont's Third Memorial, 23 March 1764", BL Add. Mss. 35914, ff. 75-76.

33 "Observations on the Report of the Board of Trade in Consequence of the Earl of Egmont's Third Memorial, transmitted by the said Earl to the Committee of Council", BL Add. Mss. 35914, ff. 77-82.

34 *Journal of the Commissioners 1764-1767*, p. 53.

they could receive 20,000 acre townships under the Board of Trade's proposals.[35]

Despite the seeming rejection of his scheme, Egmont's memorials had produced a considerable impact on British policy for the Island. Most obviously they forced the Board of Trade to bring forward a plan of its own for the systematic and total allocation of land on the Island; grants would not be considered piecemeal, but 20,000 acre townships encompassing the entire acreage of St. John's would be awarded simultaneously. Moreover, the Egmont memorials had produced many of the grantees who would subsequently receive land under the final Board of Trade lottery. As well, there were some less apparent implications of the Board of Trade's response to Egmont. It had accepted the principle of quitrents, both as a condition of tenure and as a means of financing whatever form of government — as yet undecided — was instituted for the Island. Egmont's emphasis on the self-financing aspects of his scheme made it politically impossible to implement any plan of settlement which would involve government expenditure of money, as had been done in Nova Scotia. Finally, although the point was not underlined in 1764, Egmont had suggested the mechanism for the final allocation of surveyed townships to the grantees in his proposal for a lottery. These influences upon policy were by no means inconsiderable. But Egmont was not quite finished with the Island with the rejection of his scheme in 1764.

While Holland was off in America surveying, any controversy over the Island's future remained in abeyance. But in late 1765, rumours that the survey was nearly completed combined with the latest news of resistance from the American colonies to the Stamp Act and the vagaries of British politics to produce one final attempt on the part of the Egmont syndicate to overturn the Board of Trade's plans for the Island. By this time the Grenville ministry had fallen, and had been replaced by a Whig administration headed by the Marquis of Rockingham. In the new government, Egmont continued as First Lord of the Admiralty, and several of his principal associates in the Island of St. John memorial, especially Sir Charles Saunders and Augustus Keppell, had been appointed to the Admiralty Board. The political strength and influence of the memorialists was greatly enhanced, and they decided to exhume their rejected proposal for the disposition of the Island. On 8 October 1765 Egmont wrote to Captain Holland:

> I think it proper to let you know that a petition will be again presented to His Majesty in a few days for a grant of the Island of Saint John, upon the very same plan as that proposed before, which I have now reason to expect will meet with better success than the former. The same persons very nearly will be concerned, those only excluded who were drawn away by proposals and grants elsewhere by the Board of Trade, in order if possible

35 Petition of Admiral Charles Knowles *et al.*, 14 May 1764, BL Add. Mss. 35914, f. 84.

> to defeat my scheme. . . .Whether the grant may be made before the arrival of the survey or not I cannot certainly say, but we wait patiently for it, and hope it will be done accurately as to Hundreds, Manors, Freehold Villages, Towns and Capitals, that a moment's time may not be lost afterwards in proceeding to draw the lots. . . .[36]

In the end, Egmont did not directly associate himself with the new petition, headed by the names of Admiral Sir Charles Saunders and Admiral Augustus Keppell, asking the Lords of the Committee of Council for Plantation Affairs for the reconsideration of Egmont's scheme with a clause that if after ten years "any ill consequence shall be found to have arisen therefrom", the King in Council on address to Parliament "may change the Jurisdiction in such manner, as experience of the use or abuse thereof in the course of time, may then dictate or demand".[37] The new memorial of 1765 rehearsed the previous history of the attempt to gain the grant of St. John's, concluding this account by asserting that the Board of Trade had insisted upon employing the "System upon which *Nova-Scotia* has hitherto been conducted", declaring it the one system they always "intended to adopt for the future Settlement of America".

In the wake of the Stamp Act controversy, the Board of Trade's sanguine philosophy for American settlement was obviously impeachable, and the memorialists proceeded to attack it vigorously. Referring to their own proposals, they insisted that they had

> *. . .an absolute Certainty, that they are able, upon this Plan, speedily and at their own Expence to compleat the Settlement of the said Whole Island, to maintain the said Settlement so made, and to support the Government thereof, without the Charge of one Shilling to the Publick, and that the like Benefit to this Nation, respecting either Policy or Commerce can be attained by no other Means, in this or any other part of America.*

The memorialists further charged that obstruction to their proposal had come from "private and secret" interests either desirous of choice locations in the old French settlements or anxious to maintain the old mode of loose and partial grants in the colonies. The Egmont scheme was less improper "from the distracted State of many of Your Majesty's Provinces at this time, proceeding plainly from the Want of a regular Division and Subdivision of Lands, with proportional Powers annexed thereto; and of that Connection, Order, Gradation, and Subordination which may be naturally produced thereby". They continued: "For a Plan adopted to diffuse a legal Authority through a whole People (where

36 Quoted in Campbell, *History of PEI*, pp. 15-16. For the Rockingham government, see Paul Langford, *The First Rockingham Administration 1765-1766* (Oxford, 1973).

37 Petition of Sir Charles Saunders *et al.*, BL Add. Mss. 35914, f. 47.

little or none seems now to be maintained) and in the Consequence thereof, to prevent, correct or controul, a licentious Spirit, might not be considered or conceived a necessary Measure then [in 1764], and yet be judged (from a Change in the State of things) a wise Expedient *now*." In conclusion, the memorialists asked that "this important *Experiment* on this small Portion of Your Majesty's immense Empire. . .be permitted to them".[38]

The Privy Council on 19 November 1765 referred all the documents in the case to the English Attorney and Soliciter Generals for an opinion on the legality and constitutionality of the Egmont scheme and ordered them to recommend any alterations necessary to enable the King to comply with the memorialists in a way "as may best agree with their intentions, but in strict conformity with Law".[39] The Egmont scheme clearly was not yet dead, and although the Earl's name was not signed to the November 1765 memorial, he was still observing a great interest in St. John's. In April of 1766 he wrote Attorney-general Charles Yorke requesting a speedy legal opinion, since the capital of many of the "most deserving adventurers" was being consumed by all the delay.[40] Soon afterward, the Board of Trade received the official Holland survey, and forwarded the documents to the King.[41] On 1 August 1766, the Crown's lawyers finally made their report on the Egmont scheme.

According to the lawyers, the King had the legal power to make the grant requested by Egmont, although the matter of its constitutionality was a complicated business.[42] The Egmont plan, observed the lawyers, did not accord with any modes of the constitution either at home or abroad. The scheme was well formulated and peculiarly adapted for the Island to effect settlement without cost to government and to avoid the unusual inconveniences of granting land in America. It clearly maintained a "regular Subordination" with "great Ability and ingenuity", but it posed some legal problems. In the first place, the military requirements of tenure were clearly inconsistent with 12 Charles II c. 24, which had eliminated knight service from English law. Moreover, the limitations placed on the alienation of land needed reconciliation with 5 George II c. 7. The Crown's legal advisers had other criticisms of the Egmont plan as well, noting it made no provision for liberty of fishing on the coasts of the Island, and did not specify either judicial or legislative powers. The report concluded: "Perhaps the peculiar Circumstances of some parts of His Majesty's extended Empire in *America* may demand new Establishments deviating from those already formed upon that Continent, but preserving always the Trade and Navigation of the

38 *Ibid.*, ff. 47-52.

39 BL Add. Mss. 35914, f. 89.

40 Egmont to Charles Yorke, 26 April 1766, BL Add. Mss. 35914, f. 86.

41 *Journal of Commissioners 1764-1767* (8 May 1766), pp. 277-8.

42 Charles Yorke and W. DeGray to the Right Honourable the Lords of the Committee for Plantation Affairs, 1 August 1766, BL Add. Mss. 35914, ff. 87-93.

Mother Country in view, as the great essential Object".[43] Local circumstances called for different arrangements, proclaimed the lawyers, and Egmont's proposals were certainly legal and with alterations constitutional.

At this point, except for several petitions for land on the Island submitted to the various authorities, the documentary record becomes exasperatingly silent until 23 May 1767, when the Lords of the Committee of Council for Plantations referred several applications for land to the Board of Trade to "proceed upon the plan approved by his Majesty on the 9th of May 1764".[44] Obviously the resurrected Egmont memorial had failed, and in the absence of concrete evidence we can only speculate as to the reasons. Undoubtedly the principal factor was the fall of the Rockingham ministry in July 1766. Although Egmont remained as First Lord of the Admiralty in the Chatham (Pitt) government, he soon resigned on 13 August 1766 for reasons completely unrelated to the Island. No longer in power, Egmont had no hold upon the government, which could then find several good reasons for rejecting his proposals.[45] In the first place, the legal officers, in questioning the military requirements of tenure, had probably cast considerable doubt upon what even its supporters regarded as the central ingredient of the scheme. Moreover, the Holland survey, which had been very expensive, had been based upon the Board of Trade's plan, and it would have been extremely costly and time-consuming to resurvey. The Board had undoubtedly hurried Holland off to America with detailed instructions to help prevent any possible change of policy. Finally, the Chatham government had no wish to pursue any programme, however limited, which might bring the "American problem" back to the fore. In the end, therefore, the last gasp of the Egmont scheme had merely delayed final action on allocating land in accordance with the 1764 proposals, although only the rapid shifts in British politics prevented Egmont and his associates from gaining the Island. The "liberals" had won their point.

Unlike the tale of the schemes of the Earl of Egmont for the Island, the story of its ultimate allocation by lottery has been often told, and need not long detain us here. Advertisements were placed in the *London Gazette* that the Board of Trade would receive applications for St. John's lots at the end of June and the beginning of July, 1767.[46] The Earl of Egmont was — by the King's instructions — offered an entire parish of 100,000 acres, but quite properly responded that

43. *Ibid.*, f. 93.

44 *Journal of Commissioners 1764-1767*, pp. 393-4.

45 Saunders and Keppell remained at the Admiralty, Saunders as First Lord, until November of 1766. Their continuation in office probably accounts for the delay until 1767 of the implementation of the Board of Trade's scheme.

46 *Journal of Commissioners 1764-1767*, p. 394. Documents on proceedings from this point are most readily available in *Public Archives of Canada Sessional Paper Number 18* (Ottawa, 1906), pp. 3-22.

under the Board's plan he "could not now do credit to himself or service to the public by an undertaking there".[47] Egmont had intended a major colonial experiment, not merely a land grab. On 8 July, lots 40 and 59 were reserved in advance for those merchants who had been active in seeking Island land since 1763, "in consequence of Assurances given to Messrs. Mure, Spence, Mill, and Cathcart in the year 1764, that they should have the choice of situation", and lot 66 was set aside for the Crown.[48] A list of approved applicants was prepared by the Board of Trade for the forthcoming lottery, and a number of conditions were attached to the grants. Quitrents were to be "proportional to the value of the lands" as assessed in the Holland survey, ranging from six shillings per hundred acres for twenty-six prime lots, to four shillings per hundred acres for twenty-nine average lots and two shillings per hundred acres for eleven poor ones, to be payable on half the acreage in five years and all in ten. The grantees had ten years to settle one person per two hundred acres, the settlers to be either European Protestants or individuals resident in America at least two years before the date of granting.[49]

The Board's final list of applicants included forty names from the ninety-eight which had appeared on the various Egmont memorials. These forty were to receive twenty-seven lots among them (many were granted half and even one-third lots); thus Egmont's associates accounted for just over forty percent of the sixty-six lots allocated in 1767. Thirteen of the seventeen reduced officers in the Egmont group were included in the final list of individuals whose names were to be written on a piece of paper and put in a ballot box for the draw by an "indifferent person." On 23 July 1767 the balloting was carried out and the Island finally allocated.[50] The stage was now set for its subsequent development and the ensuing controversies over land.

The final arrangements for the allocation of the Island of St. John were, of course, the responsibility of the Board of Trade. But, as this paper has emphasized, there was considerable overlap of personnel and detail between the Board's scheme and the various proposals advanced by Egmont and his associates. To a great extent, the Board's hand had been forced by the Earl. The Island was totally granted at one time, and the final quitrent figures were much higher than were usual in British North America in order to assure that under the Board's plan — as in Egmont's — the Island would provide a sufficient revenue to finance its as yet unspecified governance. What the Board's policy would have been without the pressure from Egmont is uncertain, although it appears likely it would have preferred making purely *ad hoc* grants as attractive

47 Egmont to Lords of Trade and Plantations, 6 June 1767, CO 217/22, p. 57.

48 *PAC Sessional Paper no. 18*, p. 7.

49 *Ibid.*, pp. 7-9.

50 *Ibid.*, pp. 10-11.

applicants for land on the Island appeared before it. Whether such a procedure would have proved more satisfactory than the one ultimately adopted is a matter of speculation and no more. What is demonstrable, however, is that the question of land granting on the Island of St. John received considerable attention from the British government between 1763 and 1767, and that the final arrangements were decided against a background of British politics and in the context of general policy toward North American settlement. The eventual system implemented represented a victory of sorts for the relatively liberal attitudes of the Board of Trade regarding American policy, and while the allocation of the Island may have been greatly influenced by the nearly successful schemes of the Earl of Egmont, it was hardly arbitrary.