

"The purpois is honorabill, and may conduce to the good of our service":

Lord Ochiltree and the Cape Breton Colony, 1629-1631

Andrew D. Nicholls

Volume 34, Number 2, Spring 2005

URI: https://id.erudit.org/iderudit/acad34_2rn02

[See table of contents](#)

Publisher(s)

The Department of History at the University of New Brunswick

ISSN

0044-5851 (print)

1712-7432 (digital)

[Explore this journal](#)

Cite this note

Nicholls, A. D. (2005). "The purpois is honorabill, and may conduce to the good of our service": Lord Ochiltree and the Cape Breton Colony, 1629-1631. *Acadiensis*, 34(2), 109-123.

“The purpois is honorabill, and
may conduce to the good of our service”:
Lord Ochiltree and the Cape Breton Colony, 1629-1631

It has become common in recent studies of the origins of the British empire to downplay the importance of direct Crown support for colonial initiatives in North America, especially in the early decades of the 17th century. As John C. Appleby observes in the first volume of the *Oxford History of the British Empire*, “small, incomplete, and potentially chaotic societies were of slight concern to the state: colonies, like trade, aroused little interest unless they could be taxed or exploited for other financial purposes. In the long term, this lack of political interest or control was to be fatal to English interests in America. In the short term, it created a patchwork of small settlements and trading posts, populated by marginal migrants with a tenuous hold on the land, and with a future as unsettled as it was unclear”.¹ While this characterization cannot be completely refuted, the fact remains that both James VI/I and Charles I did show timely interest in colonial ventures, sometimes for reasons that were not exclusively economic in nature nor tied to the futures of marginal migrants.² This article examines the strategic underpinnings of one such venture: the abortive colony of Nova Scotia – specifically the settlement established by James Stewart of Killeith, fourth Lord Ochiltree, on Cape Breton Island in 1629. While that Cape Breton settlement was ultimately a failed initiative, that fact should not diminish the priority that Charles I and his governments initially placed upon it and the western North Atlantic as a component of a wartime strategy. Ochiltree’s Cape Breton colony represented a key component in an embryonic network of British installations in the western North Atlantic, something that grew out of the British kingdom’s war with France in the late 1620s. A new understanding of these details will challenge the aforementioned tendency to minimise the Crown’s active interest in colonial matters in the early-17th century.

In order to appreciate the strategic importance that the Cape Breton colony came to represent and to understand why Charles I lent his active support to it, some background on Nova Scotia and its original patentee, Sir William Alexander, is necessary. Notwithstanding the fact that Sir William Alexander’s dreams for the establishment of a Scottish colony in North America in the 1620s and 1630s went

1 John C. Appleby, “War, Politics, and Colonization, 1558-1625”, in Nicholas Canny, ed., *The Origins of Empire: British Overseas Enterprise to the Close of the Seventeenth Century* (Oxford, 2001), pp. 77-8. See also David Loades, *England’s Maritime Empire: Seapower, Commerce And Policy 1490-1690* (Harlow, 2000), p. 139. The author wishes to acknowledge the support of Lawrence Flood, Dean of Natural and Social Sciences at the State University of New York, College at Buffalo, who helped in the procurement of many of the microfilmed primary sources used in this paper. Special thanks are extended to John G. Reid of St. Mary’s University, Halifax, for his comments on various drafts of this paper and for his ongoing encouragement. Thanks also to three anonymous reviewers for their suggestions and insights

2 James VI of Scotland ascended to the throne of England in 1603 following the death of the childless Queen Elizabeth. He thereafter ruled as James I in England, but is often styled James VI/I in recognition of his two-kingdom rule.

largely unfulfilled, both the man and his fledgling colony have long been recognised for their importance in the wider history of the early British empire.³ From the time of James VI's grant to Alexander for the formation of a "New Scotland" in 1621 until the latter's death in London in 1640, the court poet turned colonial enthusiast organised four separate plantation efforts in the New World; despite numerous setbacks and the related accumulation of immense personal debts, he never abandoned his hopes for overseas initiatives.⁴ Along the way he contributed greatly to a philosophy of colonization that stressed self-sufficiency, cooperation amongst the peoples of the British kingdoms and the need for socially responsible leadership overseas.⁵ That the thrusts of his ideas were accepted at the highest level in British society can be seen from the fact that James VI/I was willing to introduce a new order of peerage in 1624 – the Knights-Baronet of Nova Scotia – to help finance and advance colonization in Nova Scotia.⁶ Charles I would subsequently ratify his father's creation during his own reign, but in 1631 he would order the transfer of Nova Scotia's only settlement, Port Royal, to French interests in order to complete the Treaty of Saint-Germain-en-Lay.⁷ In the final analysis, Alexander's importance to early imperial history may be, as John Reid has suggested, that he was "a transitional figure: more knowledgeable and sophisticated than an earlier generation of colonizers in North America, but soon overtaken by newer approaches".⁸

If Alexander's importance within the annals of early colonial schemes has been well established, the same cannot be said for everyone who was associated with his ventures. A case in point is James Stewart of Killeith, fourth Lord Ochiltree, who was the leader in 1629 of the short-lived British colony on Cape Breton Island (part of Alexander's chartered territory for Nova Scotia). While Ochiltree and his fellow colonists on Cape Breton are never absent from accounts of Alexander's transatlantic efforts, their roles and significance have rarely received comprehensive consideration.⁹ However, by fitting Ochiltree into the context of contemporary politics, networks of royal service and court patronage, crown military objectives in the North Atlantic theatre, and the known history of early Nova Scotia, it is clear that

3 H.P. Biggar, *The Early Trading Companies of New France* (Toronto, 1901); Thomas H. McGrail, *Sir William Alexander, First Earl of Stirling: A Biographical Study* (Edinburgh, 1940); D.C. Harvey, "Sir William Alexander", *Dictionary of Canadian Biography [DCB]*, vol. I, 1000–1700, pp. 50–4; John G. Reid, *Sir William Alexander and North American Colonization: A Reappraisal* (Edinburgh, 1990); Bruce Lenman, *England's Colonial Wars 1550–1688* (Harlow, Essex, 2001), pp. 175–7.

4 For the etymology of the name "Nova Scotia" and its applications in British imperial circles into the 18th century, see John G. Reid, "The Conquest of 'Nova Scotia': Cartographic Imperialism and the Echoes of a Scottish Past", in Ned C. Landsman, ed., *Nation and Province in the First British Empire: Scotland and the Americas, 1600–1800* (Lewisburg and London, 2001), pp. 39–59.

5 Sir William Alexander, *An Encouragement to Colonies* (London, 1624); David Armitage, "Literature and Empire", in Nicholas Canny, ed., *The Origins of Empire: British Overseas Enterprise to the Close of the Seventeenth Century* (Oxford, 1998), pp. 101–2.

6 J.H. Burton and D. Masson, eds., *Registers of the Privy Council of Scotland*, first series, 14 vols. (Edinburgh, 1877–98) [RPCS], vol. XIII, 1622–25, pp. 616, 650–1.

7 John G. Reid, "The Scots Crown and the Restitution of Port Royal, 1629–1632", *Acadiensis*, VI, 2 (Spring 1977), pp. 39–63.

8 Reid, *Sir William Alexander*, p. 14.

9 For the main exception to this lack of coverage of Ochiltree and the Cape Breton colony see C. Bruce Fergusson, "James Stewart of Killeith, fourth Lord Ochiltree", *DCB*, vol. I, pp. 613–14.

the importance of the man and his colony in early British overseas initiatives deserves re-evaluation.

In virtually every study dealing with Sir William Alexander and the early history of Nova Scotia, Lord Ochiltree and the colony that was established on Cape Breton Island rarely receive more than a few paragraphs of treatment. This is understandable because, at first glance, their story seems straightforward. In the spring of 1629, Sir William Alexander's son, Sir William Alexander junior, led two parties of colonists out to the New World. One group, evidently an adjunct or cadet colony to Alexander's main plantation, was deposited near Port-aux-Baleines on Cape Breton Island in July of 1629 under Ochiltree's command. After off-loading this party, Alexander sailed on and established his own settlement on the Bay of Fundy at the former French installation of Port Royal. That settlement would face hardships of its own, but would endure as a colony until Charles I ordered its return to the French in 1631.¹⁰

Ochiltree's settlement did not enjoy such a lengthy history. In September 1629, just two months after its establishment, it was attacked by a French raiding party, sacked and its inhabitants marched in chains to the hold of a French ship. While some of the colonists were eventually deposited in England, Ochiltree and 17 others were kept as prisoners and incarcerated in Dieppe. While there, Ochiltree faced charges and testified before the French Admiralty Court before his own extradition to England was arranged in the late autumn or early winter of 1629-30. After that, he disappears from most accounts of British overseas ventures, although it is generally noted that he was arranging to return to the New World when he became embroiled in a court scandal in the spring of 1631.¹¹ On this occasion, Ochiltree's misguided charges of treason against the third Marquis of Hamilton, which spawned the scandal, ended in personal disaster and gained Ochiltree a lengthy term of imprisonment. He was not released until 1652, just seven years prior to his death.¹²

There is little evidence to explain why Ochiltree was in the New World in the first place or why he faced criminal charges at the hands of his French captors, nor is there any scholarly consideration of how he might have contributed to the entrenchment of Nova Scotia or how his own political fall may have influenced the almost simultaneous decline in Crown interest in the colony. Overall, Lord Ochiltree is a footnote in the early Nova Scotia story and few scholars have seen it necessary to portray him as anything other than a subordinate to the Alexanders in their positions of leadership within the early colony.

In order to challenge this view and to gain a greater understanding of Ochiltree's role in British endeavours in North America in the late 1620s and early 1630s, it is first necessary to understand why he fit the profile desired for the leader of a new colony and how he came to perform in that function. Like many northern European

10 The final surrender came in 1632 as part of the completion of the terms of the Treaty of Saint-Germain-en-Lay. These circumstances are fully explained in Reid, "The Scots Crown and the Restitution of Port Royal".

11 Ferguson, "James Stewart of Killeith", p. 613; George Pratt Insh, *Scottish Colonial Schemes, 1620-1686* (Glasgow, 1922), pp. 104-10.

12 These events are outlined in Hilary L. Rubinstein, *Captain Luckless: James, First Duke of Hamilton 1606-1649* (Totowa, 1976) and Maurice Lee, *The Road to Revolution: Scotland Under Charles I, 1625-1637* (Urbana, 1985), pp. 88-9, 162-3.

colonial leaders of the early-17th century, Ochiltree could boast both long periods of service to his sovereign and the kinds of connections at court that might yield favours and assistance.¹³ In terms of his family history, he had known both tremendous highs and devastating lows. His father, James Stewart of Bothwellmuir had once served (under the usurped title Earl of Arran) as James VI's Lord Chancellor in Scotland.¹⁴ Despite his father's disgrace and fall, Ochiltree eventually managed to carve out a noteworthy political career for himself in his native kingdom. In 1614, he had served with and eventually commanded the royal forces suppressing Earl Patrick Stewart's revolt in Orkney. From 1614 until 1622, he was the king's tacksman for Orkney, in charge of the collection of royal rents, the administration of the king's laws and the policing of the waters and fisheries around the northern island.¹⁵ He also acted in important political capacities in the Scottish capital, which included being named one of the Lords of the Articles (the committee that determined the legislative agenda for the Scottish parliament) for James' only return visit to his native kingdom in 1617 and through serving on the assembly that ratified the Five Articles of Perth (James' controversial religious reforms for Scotland) in 1618. In 1619 he was made a commissioner of the peace for Ayrshire and, in 1620, was added to a commission seeking voluntary contributions from Scotland for the relief of the Palatinate.¹⁶

These accomplishments alone might have marked Ochiltree as a useful member of the social and political elite in Scotland: experienced and able to lead a new colony if that was what he wished to do. However, unlike most long-time enthusiasts for overseas adventures, there is no indication in Ochiltree's personal history prior to 1629 that he desired to go to the New World at all. To be sure, the early 1620s began to mark a steady decline in his personal fortunes, featuring the loss of his tack for Orkney, mounting debts and the stain of several political and financial scandals in Edinburgh. While records for this period of his life are incomplete, there is a strong suggestion that he fled his creditors in Scotland sometime around 1623 and attempted to remake his fortune in Ulster.¹⁷

In 1625-26 he briefly returned to prominence in spectacular fashion through the intercession of his friend and patron, Robert Maxwell, first Earl of Nithsdale. At

13 The importance of these prerequisites is addressed in Reid, *Sir William Alexander*, pp. 12-13.

14 For the story of Ochiltree's father, see Samuel Cowan, *The Lord Chancellors of Scotland: From The Institution Of The Office To The Treaty Of Union* (Edinburgh, 1891) vol. II, pp. 122-39 and Gordon Donaldson, *Scotland: James V-VII* (Edinburgh, 1990), p. 173.

15 *RPCS*, vol. X, 1613-16, pp. 239-41, 298, 320; George Barry, *The History of the Orkney Islands: in Which is Comprehended an Account of their Ancient State* (Edinburgh, 1805), pp. 349-50.

16 *RPCS*, vol. XI, 1616-19, pp. 156-7, 431, 434 and vol. XII, 1619-22, pp. 379. The Palatinate was a largely Protestant principality in Germany. In 1613, its ruler, Elector Frederick, married Elizabeth, daughter of James VI/I. Frederick's acceptance of the Bohemian crown in 1619 was an important element in the expansion of the conflict that became the Thirty Years War. When Frederick was ousted by forces loyal to the Holy Roman Empire at the Battle of the White Mountain in 1620, his cause became a matter of increased interest in the British kingdoms. When imperial and Spanish forces began invading the Palatinate itself, relief for the principality, and aid for the king's son-in-law and daughter, occasioned both fund-raising efforts such as Ochiltree was engaged in and outright calls for war against the Habsburg alliance, especially in the English House of Commons.

17 *RPCS*, vol. XIII, 1622-25, pp. 714-15, 760, 818-19; John Maidment, ed. *State Papers and Miscellaneous Correspondence of Thomas, Earl of Melros*, vol. II (Edinburgh, 1887), pp. 365-6, 428.

Nithsdale's urging, Ochiltree became part of a circle of court-based Scots in London who advised the king on matters pertaining to the northern kingdom.¹⁸ For several months he played an important role in formulating and defending Charles' proposed changes to Scottish land taxation and legal administration. This was a fleeting brush with success and influence, however, and within a few months of his arrival at court, Ochiltree's reputation as a policy maker and royal spokesman had been seriously damaged.¹⁹ In the wake of his failure to help implement the king's original "Revocation" for Scotland, he all but disappeared from public view until his enlistment to the Nova Scotia settlement scheme in 1629.²⁰

Whatever personal reasons Ochiltree may have had for wishing to join in an enterprise in the New World, there is no question that his decision to settle in Sir William Alexander's chartered lands carried the highest level of official support; in April 1629, Charles I personally guaranteed a loan of £500 to Ochiltree for the express purpose of planting a colony on Cape Breton Island.²¹ On its own, this intervention by the king on behalf of a would-be colonist stands as the first occasion in which either James VI/I or Charles I had granted financial concessions to anyone other than Alexander for the Nova Scotia colony. Ochiltree's former services to James and Charles might explain the king's willingness to offer support if all Ochiltree wished to do was emigrate; however, this does not explain why he was proposing to found a new colony on Cape Breton Island or why his party was not being used to strengthen Alexander junior's settlement at Port Royal. In the absence of explicit documentary

18 When James VI of Scotland ascended the English throne as James I in 1603, the Scottish court moved south and thereafter resided in London. Scotland's government remained independent, however, and the early Stuarts essentially ruled it from afar. In this situation, communications between the king, his advisors at court and the Scottish Privy Council in Edinburgh were crucial. For James VI/I, who left Scotland at the age of 37, this scenario presented comparatively few difficulties, as he had intimate knowledge of the northern kingdom and the men he appointed to its government. Although Charles I was born in Dunfermline, he was raised in England and did not visit his native kingdom until 1633. Accordingly, when he succeeded his father in 1625, he lacked both first-hand knowledge of Scotland and many of the officials in its government. Instead, he often relied on Scots who were resident at court in London, or who had access to patronage networks through key figures like the Duke of Buckingham, for advice and information about Scottish affairs. Understandably, this situation often revealed tensions between those who gained the king's ear at court and his governmental officials in Edinburgh as the Ochiltree case demonstrates. For a more complete discussion of the dynamics of ruling England, Scotland and Ireland simultaneously, see Andrew D. Nicholls, *The Jacobean Union: A Reconsideration of British Civil Policies Under the Early Stuarts* (Westport and London, 1999).

19 Gilbert Burnet, *The Memoires of the Lives and Actions of James and William Dukes of Hamilton and Castlherald* (London, 1667), p. 11; Historical Manuscripts Commission [HMC], *Report On The Manuscripts Of The Earl Of Mar And Kellie* (London, 1904), pp. 134-42; Lee, *Road to Revolution*, pp. 17-24; Peter Donald, *An uncounselled king: Charles I and the Scottish Troubles, 1637-1641* (Cambridge, 1990), pp. 16-20; Allan I. MacInnes, *Charles I and the Making of the Covenanted Movement* (Edinburgh, 1991), pp. 42-64.

20 Revocation was a legal and customary method by which Scottish rulers could recover monies and properties granted in their names during periods of royal minority. Obviously, this mechanism only applied to grants made during a ruler's own lifetime. Under the advice of Ochiltree and others, Charles' 1625 Revocation proposed to recover all grants made since 1540.

21 Charles I to the Scottish Privy Council, 10 December 1629, in Charles Rogers, ed., *The Earl of Stirling's Register of Royal Letters Relative to the Affairs of Scotland and Nova Scotia from 1615 to 1635*, vol. I (Edinburgh), p. 403.

evidence, the reasons for this anomaly and the explanation for the origins of the Cape Breton colony must instead be sought in the previous history of Sir William Alexander's unsuccessful efforts to settle Nova Scotia as well as in the commercial and strategic realities that faced the Stuart monarchy in the late 1620s.

Alexander's charter for the territories, comprising the modern-day Maritime Provinces and much of the state of Maine, dated to a grant from James VI/I made in 1621.²² Alexander had long dreamt of a colony that his native kingdom could call its own, and James proved happy to provide the necessary charters. Sadly for Alexander, his countrymen had not been as willing or as enthusiastic to embrace overseas exploits; despite numerous inducements, including the creation of a new level of peerage for investors in the proposed colony, Nova Scotia languished through the 1620s. Alexander's first attempt to send a party of settlers to the territory in 1622-23 was unsuccessful and subsequent attempts to plant settlers in 1627 and 1628 had been equally disappointing.²³ By the late 1620s, however, the unfolding of the Thirty Years War in Europe and the strategic objectives of Charles I's government made the handling of transatlantic territories a much greater priority.

Where James VI/I had desired to play the role of peacemaker in Europe and largely avoided actions that might antagonize any of his European neighbours, particularly Spain and France, Charles I came to the throne determined (largely under the influence of the royal favourite, George Villiers, first Duke of Buckingham) to pursue a more aggressive foreign policy. War was declared on Spain in the autumn of 1625 and, after two years of uneasy alliance, the British kingdoms also went to war against France in 1627.²⁴ It was partly in an effort to prosecute this phase of the war that Charles granted letters of marque (licenses) to British merchants to attack enemy shipping on the high seas as well as title to colonial possessions in the New World.²⁵ In the summer of 1628, a cadre of London-based merchant privateers commanded by Captain David Kirke and his brothers, acting on behalf of the wine merchant William Berkeley and his partner Gervaise Kirke (the father of the privateers), bottled up the St. Lawrence River and nearly forced the surrender of Quebec.²⁶ The Kirkes were so successful that, upon their return to England in the autumn of 1628, London rang to a ballad celebrating their exploits and expectations ran high that they would complete the siege of Quebec the following summer.²⁷

Not everyone at Charles' court, however, was overjoyed by the news that the London consortium, known as the Merchant Adventurers of Canada, stood poised to control the St. Lawrence and France's most important installation in North America. Sir William Alexander's ascent had gone on at court despite James VI/I's death. In 1626, Charles promoted him to the position of Secretary for Scotland and continued to offer official support for the settling of Nova Scotia. Alexander now feared that the

22 *RPCS*, vol. XII, 1618-22, p. 774.

23 McGrail, *Sir William Alexander*, pp. 83-8.

24 Mark Kishlansky, *A Monarchy Transformed: Britain 1603-1714* (London, 1996), pp. 104-10.

25 *Acts of the Privy Council of England [APC]*, vol. 41, 1626 (Liechtenstein, 1966), p. 271.

26 Peter Pope, "Adventures in the Sack Trade: London Merchants in the Canada and Newfoundland Trades, 1627-1648", *The Northern Mariner*, VI, 1 (January 1996), p. 4.

27 Martin Parker, "England's Honour Revived . . ." (London, 1628), Library and Archives Canada, www.nlc-bnc.ca/1/1/nl-224-e.html (accessed 2000).

Berkeley-Kirke company was proposing to seize and maintain territories that lay within his chartered lands for Nova Scotia.²⁸

Charles I rarely receives plaudits for his diplomacy or his abilities to create a coalition of interests. In the case of the competing parties for Canada and Nova Scotia, however, he was successful in bringing the Berkeley-Kirke syndicate and Alexander together. Throughout the autumn of 1628, and into the early winter of 1629, he helped to transform potential competitors into partners and, in February 1629, a new incarnation of the Company of Adventurers of Canada was formed. This success stands as an important though underrated effort on Charles I's behalf to provide Crown leadership in directing an overseas venture. Furthermore, given the nationalities of the principal figures involved, the formation of a company that featured both English and Scottish interests demonstrates that this king was indeed eager to see subjects from both of his sovereign kingdoms cooperate in specific colonial and commercial efforts. Significantly, when the Kirkes made their successful return to the St. Lawrence and Sir William Alexander junior led out his parties of colonists to Cape Breton and Acadia in the spring of 1629, they did so as part of an effort that was "British" in scope and that had carrying the war with France to the North American theatre as at least one of its goals.²⁹

In order to achieve this wider objective, and to ensure that the new colonies were successes, it was imperative that they feature leadership from socially prominent men, who were schooled in the arts of war and experienced agents of their king's decrees. James Stewart of Killeith, fourth Lord Ochiltree, fit the profile as a leader for the Cape Breton colony. As noted, just a few years earlier, while on royal service in Orkney, he had administered and participated in such activities as coastal patrols, the interdiction of pirates and the establishment of fortifications. In addition to the experience Ochiltree brought to the colony, his party featured another seasoned military man, a Scottish mercenary officer named Constance Ferrar, who was a veteran of the European wars.³⁰ Equally telling was the fact that Ochiltree's party carried a sufficient supply of guns, ammunition and heavier artillery, thus showing that they were prepared to take an aggressive stance from the time they arrived on Cape Breton Island.³¹

Once more, the context of the European war and the geography of the North Atlantic world must be presented as supporting evidence for this hypothesis. As Charles I and his advisors worked to bring the Kirke and Alexander interests together in the winter of 1628-29, they must have realized what such a partnership would mean. There was every reason to believe that the Kirkes would complete their operations against Quebec when they returned to the New World that summer, and

28 "Propositions of accomodation for the settling of the trade and plantation in Canada or New France, 1628", in HMC, Twelfth Report, Appendix, Part I, *The Manuscripts of the Earl Cowper, K.G., Preserved at Melbourne Hall, Derbyshire* (London, 1888), pp. 376-7; Biggar, *Early Trading Companies*, p. 143; Reid, *Sir William Alexander*, p. 6.

29 Pope, "Adventures in the Sack Trade", p. 4.

30 C. Bruce Fergusson, "Constance Ferrar", *DCB*, vol. I, p. 305.

31 "Memorial of Lord Ochiltree to the King", Public Record Office, State Papers (Colonial) [PRO, SP, CO], 1/5, no. 46. For an inventory of the party's goods and equipment, see National Library of Scotland [NLS], MS 2061.

this would mean the French would be swept from the St. Lawrence. Alexander had already gained the adherence of Claude LaTour, the French licensee in Acadia, and had cause to expect that the coming summer would finally witness the planting of a successful colony in his chartered territories.³² But, separated by hundreds of nautical miles, the English and Scottish partners in the Merchant Adventurers of Canada would be unable to coordinate their defences and were unlikely to be able to share intelligence regarding any French activities in their respective areas.

The geographical location of Lord Ochiltree's colonial settlement, Fort Rosemar, also points to military considerations. It was near the spot where the French would ultimately construct the fortress of Louisbourg nearly one hundred years later, and while it should not be suggested that either Charles I's government or the Company of Merchant Adventurers of Canada envisioned anything so imposing in the spring of 1629, several factors speak to its potential strategic importance.³³ First of all, a colony on Cape Breton Island would have created a network of British installations in the New World, stretching from Newfoundland all the way south to New England.³⁴ From the materials that the Ochiltree party carried and, as will be seen, from the activities they engaged in once they were landed on Cape Breton, it was evident that asserting Charles I's sovereignty in the adjacent waters was part of their *raison d'être*. The documentary evidence that does exist indicates, however, that the decision to put Ochiltree in charge of a colony on Cape Breton was a late one. His name does not appear in any known documents connected with either Alexander's proposals or those of the Merchant Adventurers of Canada prior to his sailing in May 1629. Indeed, the only mention of anything that remotely connects Ochiltree with the New World is a letter from December 1629 noting Charles I's aforementioned loan guarantee the previous April for Ochiltree for the purpose of planting just such a colony.³⁵

Another indication of the last-minute nature of Ochiltree's expedition is its composition. Richard Guthry, a clergyman who sailed with William Alexander junior and ultimately settled at Port Royal, recorded that when Ochiltree's party

32 La Tour had married one of Henrietta Maria's French ladies-in-waiting, and eventually accepted a knight-baronetcy of Scotland as a mark of his alliance with Alexander. This did not impress or persuade his son Charles La Tour, who continued to retain his allegiance to the French Crown from his base in Acadia. As Samuel de Champlain remarked, "He [Charles La Tour] had not allowed himself to yield to the persuasions of his father, who was with the English; for he would rather have died than consent to such baseness as to betray his King". See H.P. Biggar, ed., *The Works of Samuel de Champlain*, vol. VI (Toronto, 1922-36), p. 173.

33 Insh, *Scottish Colonial Schemes*, p. 106.

34 While it would not have been known at Charles I's court in the winter of 1628-29, Newfoundland was itself facing a crisis of leadership. George Calvert, first Baron Baltimore, and the proprietor of the Anglo-Irish colony at Ferryland, was on the brink of leaving the island. Having endured a year of repulsing French raids against his colony and its fishermen, losses among his colonists owing to sickness and death, and a terrible winter in 1628-29, Baltimore decided in August 1629 to quit Newfoundland for Virginia. Although this did not spell the end of British settlement in Newfoundland, and the Calvert family continued to offer support to the colony, the departure of Lord Baltimore deprived Charles and his council of an experienced administrator and leader in a key North Atlantic position. See Gillian Cell, *Newfoundland Discovered: English Attempts At Colonisation, 1610-1630* (London, 1982), pp. 54-5.

35 Charles I to the Scottish Privy Council, 10 December 1629, in Rogers, *The Earl of Stirling's Register of Royal Letters*, p. 403.

disembarked on Cape Breton Island, “eight households of his company” revealed for the first time that they were Brownists (separatists from the Church of England) and that they had no intention of residing with the main body of settlers.³⁶ Guthry’s memorial records that this revelation was a complete surprise and that the existence of bitter religious divisions did nothing to strengthen the fledgling colony.³⁷ While it has been speculated, elsewhere, that the presence of this group foreshadowed a deliberate policy to settle dissenters in the New World, the evidence instead seems to point to Ochiltree’s hasty recruitment of colonists in England without considering their compatibility with his wider objectives.³⁸ Ultimately, this group would not prove to be fatal to the survival of the colony but their presence, and the surprise they provided for Ochiltree and Alexander junior once they had crossed the Atlantic, demonstrates that they were an unknown quantity for the leaders of Nova Scotia when they embarked on their voyage.

To return to the wider proposition, that Ochiltree’s Cape Breton colony was part of a coordinated effort to provide defensive security for Britain’s new North American holdings, some additional contextual information must be presented. With the formation of the Merchant Adventurers of Canada, which vastly expanded Charles I’s areas of claimed sovereignty in the New World, and with a state of war with France still in place, some consideration for the security of these regions had to be made. As it was, the royal navy and the king’s other military resources were already stretched to the limit, a situation that had necessitated the employment of privateers like the Kirkes in the first place. This contingency notwithstanding, the realities of war, the necessity to try and defend the coasts of the British kingdoms, and the administration of the early Stuart multiple monarchy had already spawned three high-level proposals to utilise civilian shipping and material from the three British kingdoms in order to provide for maritime defences at home. In September 1626 the Duke of Buckingham, in his capacity as Lord Admiral of the Royal Navy, had issued directives calling on all English and Irish skippers to license themselves for the purposes of assisting in the patrol and defence of home waters.³⁹ Similar orders were also issued under the king’s signature for Scotland so that “all this dominions may be provided and furnished with sufficient strength both for the defense of themselves and the mutuall assistance each of other against attempts of any enemy”.⁴⁰ Then, in early 1627, English Secretary of State Sir John Coke sent a memorandum to Charles I urging a strict

36 Richard Guthry, “A Relation of the Voyage and plantation of the Scots Colony in New Scotland under the conduct of Sr Wm Alexr younger 1629”, National Archives of Scotland, GD 90/3/23.

37 As Richard Guthry related, “eight households of his [Ochiltree’s] company hiding fire under ashes for a time, at last it burst forth shewing there [*sic*] ingratitude to my Lord, having been a great charge with them and the rottenewss of there hearts, a thing verry common among all factionists and schismaticks for in plain terms they refused to joyne stocks with my Lord, and did separate themselves from their company they will admitt none to their society without publick confession . . . they glory in the name of Brownists”. See Guthry, “Relation”, pp. 4-5.

38 David B. Quinn, “The First Pilgrims”, *William and Mary Quarterly*, 3rd ser., vol. XXIII (1966), pp. 359-90; N.E.S. Griffiths and John G. Reid, “New Evidence on New Scotland, 1629”, *William and Mary Quarterly*, 3rd. ser., vol. XLIX (July 1992), p. 498.

39 James Morrin, ed., *Calendar of Patent and Close Rolls of Chancery in Ireland, Charles I* (London, 1863), p. 277.

40 *APC*, vol. 41 (1626), p. 271. See also Nicholls, *Jacobean Union*, pp. 94-5.

coordination of all English, Scottish and Irish military material and personnel, including shipping, for the duration of the war.⁴¹ Finally, the war was already having ramifications for the settlers and fishermen of Newfoundland, who found themselves being harried by French privateers in 1628. As Lord Baltimore, the proprietor of the Ferryland colony, wrote to the Duke of Buckingham in August 1628: "We shall defende this place as well as wee are able: but for the tyme to come, it much concerns his *Maiesties* Service and the good of that Kingdome in my poore Iudgement that two men of warre at the least mightbe bee Continued all the yeare excepte it bee the winter tyme, vppon this Coast for preseruinge of soe many of his Subiectes being all bread Seamen and their shipping and goodes".⁴²

There is good reason to suppose, therefore, that the efforts made to join the Kirke and Alexander interests together were intended to achieve more than just a commercial partnership, and that the seemingly random decision to help finance, then plant, a new colony on Cape Breton Island was part of an emerging strategy for dealing with the expanded British holdings in North America. If these were to be retained, there would have to be close cooperation among the British interests in the New World as the home governments were finding it increasingly difficult to meet their own defensive needs. The exigencies of war had, however, provided a model for cooperation that could be implemented across the Atlantic, which included the ongoing use of civilian forces like privateers.

Consideration of the defensive capabilities of these holdings was especially imperative in the late winter of 1628 and early spring of 1629 because British intelligence sources in France confirmed that the Company of One Hundred Associates was outfitting a flotilla of its own in Dieppe, to be deployed for the relief of Quebec and to sweep British shipping from the St. Lawrence.⁴³ To fully appreciate what this meant, it is again necessary to recall how events in Europe existed as a backdrop to these efforts. The major effort that Charles I's government made against France in the European phase of the war had consisted of ongoing attempts to relieve the Huguenot enclave at La Rochelle. But in October 1628, La Rochelle fell to Louis XIII's army and the prospects for any British successes on the continent had dimmed. Furthermore, the Duke of Buckingham was assassinated in August and this event, coupled with the ongoing opposition Charles I faced from the English parliament over the prosecution of the war, caused the king to seek a diplomatic conclusion to the hostilities with France.⁴⁴ These negotiations to end the war must be seen as one of several contingencies being pursued by Charles and his advisors at this juncture, and from what we have seen there is no reason to believe that their efforts to secure holdings in the New World were insincere. On 29 April 1629, however, French and British representatives reached a peace agreement at Susa and, in technical terms, hostilities came to an end.

The timing of this agreement was pivotal for events that were about to unfold in

41 Sir John Coke, "A proposition for the settling of his Maties affairs", Public Records Office, State Papers, Domestic, Charles I, 16/527, f. 104v.

42 Baltimore to the Duke of Buckingham, 25 August 1628, in Cell, *Newfoundland Discovered*, p. 279.

43 "Notes on the preparation of French shipping for raids on North America and the West Indies", PRO, SP, CO, 1/5, p. 3.

44 Biggar, *Early Trading Companies*, p. 146.

North America. Knowing that the state of war with the British kingdoms had formally ceased, Cardinal Richelieu downgraded the fighting capacity of the convoy that was about to embark for the St. Lawrence. Thus, when Captain Charles Daniel, the commander of the convoy, left Dieppe, he did so knowing that peace had been reached and that his objective was to use this knowledge in preventing the Kirkes from taking Quebec.⁴⁵ By contrast, word of the peace agreement had not reached London when the Kirke and Alexander expeditions departed in early May. Therefore, all the British initiatives that were undertaken in Canada and Acadia that summer were made under the assumption that a state of war still existed. The confusion that this caused would ultimately prove to be highly important in the determination of agreed French and British colonial holdings in North America.

Where Ochiltree's colony was concerned, an assumption that the war was on, and that the king's rights must be asserted and defended, lay at the heart of all undertakings. This caused the colonists to assume an aggressive stance from the start. One of the party's first acts upon arriving in the waters off Cape Breton was to attack and capture a 60-ton Portuguese barque – they mistakenly believed it was French – that was found at anchor near the site of their proposed settlement. The ship itself was dismantled and stripped of its cannon, which were then used as artillery to guard the colony's new fortified residence Fort Rosemar.⁴⁶ Along with constructing this defensive fortification, Ochiltree and his party showed further signs that their colony was meant to be something other than an agricultural plantation. Throughout July and August, Ochiltree supervised patrols of the fishing grounds around Cape Breton Island and instituted a ten per cent duty on all catches made in the region. If the skippers of the fishing vessels, of whatever nationality, were unable to produce a license from Charles I's government giving them permission to fish in those waters, Ochiltree confiscated their catches and, in some cases, their boats. That he and his party possessed sufficient arms and patrol boats of their own to carry out these operations is additional fodder for the notion that they were to be alert for ongoing hostilities.⁴⁷

The fall of Fort Rosemar, and the capture of Ochiltree and his party by Captain Daniel, shows that the French remained very concerned over the new British presence on Cape Breton Island. After a difficult Atlantic crossing, Daniel had learned from French fishermen in Gaspé that Quebec had fallen to the Kirkes and that he would be unable to make any successful efforts in that direction. News of the presence of Ochiltree's party on Cape Breton, however, and complaints over their harassment of French and other fishing vessels, caused him to make Fort Rosemar and Cape Breton Island his new objective. On 10 September 1629 he captured the British fortification, ordered its demolition and marched his prisoners north to Bras d'Or Bay, where they were forced to construct a new fortification for the French. After leaving behind a small party to garrison the installation, Daniel set sail for France with his prisoners

45 Charles Daniel, "Relation Du Voyage De Charle Daniel Capitaine pour le Roy en la Marine, & General de la Flotte de la nouvelle France", in J. Felix, ed., *Voyage à la Nouvelle-France du Capitaine Charles Daniel de Dieppe, 1629* (Rouen, 1881), p. 1.

46 Guthry, "Relation", p. 4.

47 Guthry, "Relation", pp. 4-6. See also "Memorial of Lord Ochiltrie to the King", PRO, SP, CO, 1/5, no. 46.

stowed in squalid conditions below decks where many soon succumbed to disease and death.⁴⁸

Although Daniel did off-load some of his British prisoners at Falmouth that autumn, Ochiltree and 17 others were taken on to Dieppe where they became the responsibility of the French Admiralty Court. From Daniel's behaviour toward them, and from the way Ochiltree was treated before and during his trial in Dieppe, there is no question that the French considered him to be a pirate rather than a prisoner of war.⁴⁹ As it was, it required high-level British diplomatic efforts before Ochiltree's extradition was arranged and he was able to return to London.⁵⁰

The closing notes surrounding Lord Ochiltree's brief but tempestuous career as a colonist are best seen in light of the ongoing negotiations that were taking place between the French and British surrounding events in North America and efforts to ratify the Treaty of Susa. It is now generally accepted that Charles I was prepared to restore Quebec and the St. Lawrence installations to the French – partly because they had been taken after hostilities had officially ceased and partly because other aspects of the treaty made this a worthwhile concession.⁵¹ For this territory, the main task was to arbitrate the varying claims of the Merchant Adventurers of Canada and the French who had been at Quebec. This was accomplished through recourse to the English Admiralty Court and was mostly settled by the end of 1631.⁵² Acadia, however, was another matter. John Reid has shown convincingly that Charles I did not immediately abandon hope of retaining this territory nor did he want to negotiate away Sir William Alexander's ability to entrench Nova Scotia as a colony.⁵³ It is here that Lord Ochiltree enters the picture one last time and where his role in high-level strategies regarding the region must be reconsidered.

Reid's assertions regarding Charles I's ongoing intention to retain Nova Scotia up to 1632 are convincingly based upon the continued support the king provided for Alexander and related assurances he made to the Scottish Privy Council. That body had belatedly decided that retaining the colony was a matter of national prestige. Any encouragement that the king could provide for Alexander was most understandable, as his charter was now over a decade old and because he had staked so much on the establishment of the colony. Thus, Charles' letters to these parties, and the

48 Guthry, "Relation", pp. 4-6; Daniel, "Relation"; André Malapart, "La prise d'un seigneur ecossaise", in Felix, *Voyage*, pp. 13-14. See also Andrew Nicholls, "Showdown at Fort Rosemar", *The Beaver* (June/July 2004), pp. 30-4.

49 PRO, SP, CO, 1/5, no. 41, 46.

50 There is conflicting evidence over the exact month in which he was returned. When Constance Ferrar petitioned the Privy Council on 9 December 1629, he assumed that Ochiltree was still imprisoned in Dieppe. Sir Isaac Wake, writing from Paris in January, stated that his complaints over the treatment Ochiltree was receiving in prison had already led to his release. Ochiltree seems to have been in London by late January, as he began to petition the king and the Privy Council during that month. See PRO, SP, CO 1/5, no. 41, 46, 47 and *Calendar of State Papers, Domestic Series, of the Reign of Charles I*, vol. V, (Liechtenstein, 1967) p. 164.

51 For one thing, ratification of the treaty promised the full payment of Queen Henrietta Maria's marriage dowry. For a full account, see Reid, "The Scots Crown and the Restitution of Port Royal", pp. 53-5.

52 PRO, SP, CO, 1/5, no. 16, 20, 33-6, 38, 49, 51.

53 Reid, "Scots Crown".

correspondence of his ambassadors who were working to ratify the treaty with France, give strong indications that Nova Scotia (or Acadia as the French called it) was to be retained.⁵⁴ Lord Ochiltree was expected to play a role in strengthening this claim because, from the time of his return from France, Ochiltree had lobbied Charles for restitution of damages he had incurred on his recent adventures and for support to resume his colonial venture. In his appeals to the king, he made no mention of any subordinate status he might have had to the Alexanders and instead indicated that he saw the retention of Nova Scotia, and his own return to the New World, as necessary for wider British security purposes.⁵⁵

Charles was evidently in agreement and took several steps to assist Ochiltree in his ambitions. He helped, for example, to clarify Ochiltree's status vis-à-vis Alexander and his charter. As a mark of this, on 18 April 1630 Ochiltree's name was listed for the first time as one of the newly made Knights-Baronet of Nova Scotia.⁵⁶ Charles went even further. To help Ochiltree fund his new venture, the king also awarded him a 21-year lease of "all fellones landis and houses rendring [£] 500 per annum". As this was an award on Scottish properties, and Ochiltree's former creditors might present claims of their own, Charles offered an even more crucial consideration in his declaration: "These ar therfor to will and requyre yow to prepair a bill readie for our signatur wheby to mak the said Lord Vchiltre a frie denizen of this our kingdome of England and dominions therof; with this speciall caution, that it be nowayes prejudiciall to ws in our customes: And for your soe doinge these shalbe be your warrand".⁵⁷ For his part, Ochiltree appears to have expended great efforts of his own recruiting potential colonial partners among the ranks of his former neighbours in Ulster. This is evident in a final letter that Charles wrote on Ochiltree's behalf on 19 April 1631 to the Lords Justices of Ireland. He praised the efforts of Ochiltree, and three planters from Ulster, who wished to start a new colony "near unto the river of Canada, in America". The king's support for this could not be mistaken: "Becaus the purpos is honrabill, and may conduce to the good of our service, Our speciall pleasur is, that from tyme to tyme, as they or any of them shall have occasion, yow grant them Commissions and warrants requisit for transporting thither such persones as shalbe willing to be employed in the plantation; and that yow licence and caus licence them, and such as shall have ther or whatsoever fitt for there vse; ffor doeing wherof, as these presents shalbe vnto yow a sufficient warrant, so we will accompt your care in forthing of them as good and acceptable service done vnto ws".⁵⁸

This glowing affirmation of the king's ongoing support buttresses the notion that Charles was fully sincere in his stated objective of retaining Nova Scotia for the Alexanders, and that he wanted to ensure Ochiltree's return to the New World up until at least April 1631. While the letter to the Lords Justices of Ireland does not specify the exact location Ochiltree intended for the plantation, all of the rest of the

54 Reid, "Scots Crown", pp. 52-3.

55 PRO, SP, CO, 1/5, no. 46, 47.

56 "Roll of Baronets of Nova Scotia", in David Laing, ed., *Royal letters, charters and tracts relating to the colonisation of New Scotland* (Edinburgh, 1867), p. 122.

57 Charles I to the Scottish Privy Council, 19 April 1631, in Rogers, *Register of Royal Letters*, vol. II, p. 513.

58 Charles I to the Justices of Ireland, 19 April 1631, in Rogers, *Register of Royal Letters*, vol. II, p. 514.

correspondence surrounding the ongoing negotiations with the French suggests that it would have been somewhere within the lands Alexander claimed as Nova Scotia. Even though the French had remained firm in their demands since the beginning of 1631 that Acadia must be returned to them, Charles' ambassadors did not actually agree to abandon claims to the territory until early April.⁵⁹ If Charles' support for Ochiltree, as outlined in the letter to the Lords Justices of Ireland, is to be believed, then even in mid-April he was still keeping his options open. But, just two weeks later, Ochiltree made the supreme political blunder of accusing the Marquis of Hamilton of raising troops to orchestrate a *coup d'état* in Scotland.⁶⁰

Still reeling from the loss of Buckingham three years earlier, and growing increasingly paranoid about the loyalty of many of his subjects, Charles quickly reversed his support for Ochiltree and immediately ordered his incarceration. It is a rather unfortunate footnote to Ochiltree's story that he never actually faced charges or a trial surrounding this incident, but instead languished in prison in London throughout the summer of 1631 until Charles finally ordered him transported to Edinburgh. Ultimately, he would remain in prison in Blackness Castle until his release by Oliver Cromwell's troops in 1652.⁶¹ He died, virtually penniless, in 1659.

The rapid decline in Ochiltree's fortunes in the spring of 1631 should not be seen as an isolated incident that affected him alone. Instead, it should also be seen as an aspect of the final death of William Alexander's dreams for Nova Scotia and as the abandonment of a emerging policy for protecting British interests in North America. By the end of April 1631 Charles I was faced with a difficult choice. His agents had concluded the Treaty of Saint-Germain-en-Lay with the French, which included the firm French demands of the surrender of Port Royal and the abandonment of Acadia. However, Charles had not only made supportive gestures to Alexander and political interests in Scotland – he had also provided fulsome support for Ochiltree. Ochiltree's reckless charge against Hamilton, and the royal fury which this invoked, thus gave Charles a compelling reason to allow a diplomatic reversal on Nova Scotia. Alexander

59 Reid, "Scots Crown", p. 54.

60 HMC, *Mar and Kellie Papers*, pp. 184-9.

61 The historiography surrounding this incident, and Ochiltree's motive in leveling the treason charges against Hamilton, has been most inconclusive. Giovanni Soranzo, the Venetian Ambassador in London, perceived no personal motives against Hamilton and he indicated that Ochiltree was merely acting on the rumours about Hamilton's troop-raising effort. As he reported to the Doge and Senate: "They [Ochiltree and his informant Captain Donald Reay] based their calumny upon his followers in that kingdom [Scotland] and his [Hamilton's] near blood relationship to the Crown. They suggested in particular that these levies were with that intent, and that his last journey to Scotland had no other object". See Giovanni Soranzo to the Doge and Senate, 18 July 1631, in *Calendar of State Papers Venetian*, vol. XXII, pp. 526-7. *Post facto* commentators have, nonetheless, been certain that where Ochiltree was concerned, the motive was personal. Bishop Gilbert Burnet, who was a client of the Hamiltons, and wrote a laudatory biography of the third Marquis in 1677, accused Ochiltree of acting from base and jealous instincts: "His malice against the Marquis was hereditary, he being the Son of Captain James Stewart, who in King James his Minority, when the Hamiltons were groundlesly and in a mock-Parliament attainted, carried the Title of Earl of Arran, and possessed their Fortunes". See Burnet, *Memoirs of James and William, Dukes of Hamilton*, p. 11. This interpretation has enjoyed a general resonance among modern historians. See Rubinstein, *Captain Luckless*, pp. 29-30. Maurice Lee is less certain, noting simply that it is difficult to ascertain why Ochiltree acted as he did, although he allows that jealousy of Hamilton may have been a factor. See Lee, *Road to Revolution*, pp. 88-9.

had always argued that Port Royal was essential to the survival of the colony as it was the only functioning settlement. This was true, and Nova Scotia was certainly vulnerable on a number of counts. The Ochiltree settlement was, therefore, to have been an important component in strengthening the colony. But, as the politics of the Hamilton incident played themselves out, and as it became clear that Ochiltree would not be returning to the New World, Charles was able to claim a balance between diplomatic imperatives and the ambitions of the Alexanders and other supporters of Nova Scotia. On 10 July 1631 Charles issued a royal order demanding the surrender of Port Royal to the French.⁶² The terms of the treaty were thus on their way to being met, but Charles remained careful in his correspondence with Alexander and with the Scottish Privy Council to affirm that the surrender of Port Royal did not mean a denial of Alexander's chartered territories. It amounted to the same thing, however, and ultimately doomed this incarnation of Nova Scotia.

In the final analysis, the king's change of heart in 1631 ought not to suggest that he was ignorant of the potential importance of the Nova Scotia colonies nor that he was unprepared to offer their leaders his active support. Thus, the documentary evidence, at least in this instance, does not support the conventional view of British Crown disinterest in colonial initiatives in North America in the early-17th century. The new circumstances created, however, by the end of the French war, the completion of the Treaty of Saint-Germain-en-Lay and Ochiltree's fall from favour freed Charles from making specific commitments in that direction. As a result, Nova Scotia would not become a recognized part of the British empire until 1713.

ANDREW D. NICHOLLS

⁶² Rogers, *The Earl of Stirling's Register of Royal Letters*, vol. II, pp. 544, 547-8; Reid, "Scots Crown", p. 55.