

CHAPTER XII.

First council appointed, 1764—The war of Pontiac—American agitation—Introduction of English laws—The Stamp Act, 1765—Card money repudiated by France—Emigration to France—Who were the Canadians—What kind of people remained in Canada.

General Gage leaving the government of Montreal in the hands of General Burton, 15th October, 1763, addressed his thanks and compliments to the officers of the militia on the manner they had acted during the last three years.

The commission of General Murray as governor-in-chief was promulgated on the 10th of August, 1764. This put an end to the military government. The first step of Murray after that was to appoint a council composed of Chief Justice William Gregory, Lieutenant-Colonel Paul Æmilius Irving, Hector Theophilus Cramahé, Walter Murray, Samuel Holland, Thomas Dunn, Adam Mabane and François Mounier. The last mentioned was a Protestant Swiss. No Canadians were admitted because of the clause in the proclamation, etc., concerning the oath against the Pope.

The *Quebec Gazette*, in English and French, published its first number on the 21st of June.

The principal subject of public attention that summer was the war of Pontiac, the most formidable Indian in all the history of Canada. From the attack on Detroit, 9th May, 1763, to July, 1766, the posts on the Great Lakes were the scenes of numerous bloody encounters conducted on the part of the aborigines with a dexterity and persistence quite uncommon with them at any time before. The reduction of the troops rendered the situation of Colonel Bouquet precarious. Under such circumstances, Murray called out the militia (March, 1764), and formed a battalion that did good work in the field. There is no doubt that Pontiac wanted to conquer the Indian territories and prevent the English from occupying them, not thinking that the Canadians would oppose him in that enterprise.

The "old colonies" had fully made up their mind that Canada would join with them in opposing some of the measures of the Imperial authorities, especially in matters of taxation. This became an open question during the war of Pontiac, but no such good feeling existed between the Bostonians and the Canadians as there was on the other side with the British government, and the American emissaries enlisted only a few English-speaking individuals in support of their cause.

By an ordinance of the 17th September, 1764, the governor and council introduced the civil and criminal laws of England into the colony, created a superior court of judicature or Court of King's Bench, and prescribed the adoption of such laws in future. This was by far the worst thing that had been done since the conquest, and it grieved the Canadians more than the threat of the Stamp Act did the Americans. Some writers affirm that the abolition of the French laws had been prescribed by George III. in his letter of October 7th, 1763, but no such intention is to be found therein. The laws of a conquered country remain in force until they have been changed by a parliament, either imperial or provincial; the Crown alone is unable to effect such a change. The King had only expressed the desire that whatever laws and ordinances be passed by the council of Quebec afterwards, be in accordance with or as near as possible to the English laws. In stretching the sense of that document and interpreting the tenure of it so as to reach their conclusions, the governor and council acted illegally and we are surprised to see that no judge perceived: First, that the sovereign is not the only legislator; second, that the King had not prescribed such a change; and, third, that the provincial legislature was incomplete in the absence of a house of assembly. It is true, also, that Murray and the council could make laws provided they shall in "any way tend to affect the life, limb or liberty of the subject, or to the imposing any duties or taxes," but there was all that in the imported laws.

The Canadians had already commenced to abandon many false impressions entertained before the conquest against the British, when that unfortunate step came to revive them.

The suspicions which, later on, animated the Canadians were due to this mistake of Murray.

In transmitting copy of the ordinance to the home authorities, Murray furnished his explanation upon the clause which prescribes that "in all trials in the courts, all His Majesty's subjects in the colony are to be admitted on juries without distinction," and he says: "As there are but two hundred Protestant subjects in the province, the greater part of which are disbanded soldiers of little property and mean capacity, it is thought unjust to exclude the new Roman Catholic subjects to sit upon juries, as such exclusion would constitute the said two hundred Protestants perpetual judges of the lives and property of not only eighty thousand of new subjects, but likewise of all the military in the province; besides if the Canadians are not to be admitted on juries, many will emigrate. This ordinance for the establishment of courts of judicature, etc., is therefore no more than a temporary expedient to keep things as they are until His Majesty's pleasure is known on this critical and difficult point."

The ordinance to be valid had to be approved by the King in Council or by Parliament. No such authority ever endorsed it.

The presentments of the grand jury of Quebec, on the 16th October, 1764, embodied several observations and complaints on the part of the Protestant members of that corps and some others from the Catholic members, all of which became the subject of the King's consideration in due time.

"Little, very little," says Murray in a letter dated 29th October, 1764, "will content the new subjects, but nothing will satisfy the licentious fanatics trading here, but the expulsion of the Canadians who are perhaps the bravest and the best race upon the globe, a race who, could they be indulged with a few privileges which the laws of England deny to Roman Catholics at home, would soon get the better of every national antipathy to their conquerors and become the most faithful and most useful set of men in this American Empire."

The Canadians looked rather to the preservation of their laws and institutions, their civil and social rights, than to any matters of a political nature. Self-government, politics, legislation were quite out of their sphere and beyond their aspiration. The government of a single individual, or governor aided by a council or a certain number of advisers, was perfectly

intelligible to them, and such as they had been accustomed to, and, if honest and upright, all they desired.

Hearing of the dissatisfaction brought on by the publication of the ordinance, Lord Mansfield wrote: "Is it possible that we have abolished their laws, customs and forms of judicature all at once? a thing never to be attempted or wished. The history of the world does not furnish an instance of so rash and unjust an act by any conqueror whatsoever; much less by the Crown of England, which has always left to the conquered their own laws and usages, with a change only so far as the sovereignty was concerned."

Let us see now what Lord Hillsborough said (6th March, 1768), on that subject: "I had the honour to serve His Majesty at the Board of Trade in the year 1763, when His Majesty was pleased to publish his royal proclamation relative to the new colonies, and, whatever the legal sense conveyed by the words of that proclamation may be, I certainly know what was the intention of those who drew the proclamation, having myself been concerned therein, and I can take upon me to aver, that it never entered into our idea to overturn the laws and customs of Canada, with regard to property, but that justice should be administered agreeably to them, according to the modes of administering justice in the courts of judicature of this kingdom, as is the case in the county of Kent, and many other parts of England, where Gavel-kind Borough English and several other particular customs prevail, although justice is administered therein according to the laws of England."

That letter has been the subject of some remarks by a modern writer who has made a special study of the proclamation of 1763. He says: "The explanation that Hillsborough offers, is too far fetched to be seriously considered. It would indeed be difficult for an English judge to interpret the *Coutume de Paris* as English law in the sense that such local customs as Gavel-kind and Borough English were accepted. If the Lords of Trade were so ignorant, the attorney general (Yorke), who examined the proclamation before its publication, could have undeceived them. The only possible explanation is that of haste and inexperience."*

*Clarence W. Alvord: *Proclamation of 1763*, p. 38.

The Board of Trade had acted on the principle that a government was required for the newly acquired country, but never imagined that such an organization was already in existence there and worked well.

The King appointing Murray governor-in-chief, thought he could absorb in his person the administration of the colony, as if he were another Louis XIV., but there was a Parliament in England.

Anxiety prevailed during the whole period of 1763-1773 as to the system of law that was finally to rule the province. Each class of subjects looked for the prevalence of that with which they were most familiar, and consequently considered the best.

“The royal proclamation of 1763 introduced a new order, something more congenial to British feelings and habits, with the double view of tranquilizing ‘the new subjects’ by the introduction of a government better suited to protect them in their civil rights and institutions than that which previously existed, and of encouraging emigration from home into His Majesty’s newly acquired dominions. All disputes from this time forward, between the new subjects concerning rights in land and real property, inheritance, succession to, and division of the same among co-heirs, continued as previous to the conquest, to be determined according to the ancient customs and civil laws of Canada, and by judges conversant with those laws, selected from among their own countrymen; and these also were the rules for decision in the like matters, between the old subjects of the King, who had emigrated hither and settled in the province. Most of these expected, however, that in all cases wherein *they* were personally concerned, civilly or criminally, the laws of England were to apply, in conformity as they read it, with His Majesty’s proclamation, imagining also that in emigrating, they carried with them the whole code of English civil and criminal laws for their protection.”*

On the 22nd March, 1765, the Stamp Act received the royal assent and took effect 1st November, same year. By this law all instruments in writing were to be executed on stamped paper, to be purchased from agents of the British government. It was repealed on 18th March of the following year.

The people of Canada and Nova Scotia submitted to the Stamp Act

*Christie: *History of Lower Canada*, I. 2.

quietly, but the older British provinces were dead against it, and it caused bitter, angry excitement, and even threats on their part.

The statesmen of England tried to make the colonies bring in money to the mother country in ways that would now be thought rather unwise. For instance, they forbade the making of certain articles in America, so that the colonists should be forced to buy from British merchants, and ordered that goods must always be carried to and from America in British ships. Besides having to obey these unfair laws, the people of New England and New York had been greatly offended by the rude and scornful bearing of the British officers who had fought in the recent war—and this last fact formed a remarkable contrast with the behaviour of the military in Canada at the same time.

Month after month, news was expected from France in regard to card money. None came. The Canadians understood finally that hope could no longer be entertained. This conviction, says Garneau, came like a thunderbolt on these poor people who hold over forty million francs of that currency. They had sacrificed their last penny for the defence of the colony and they were without resources. Those who were still in France expecting a settlement came back to resume their occupations and start afresh fighting against adversity. The Canadians felt as if they had actually lost everything in a conflagration and had to rebuild for a new start in life. No doubt, on the spur of the moment they were discouraged, but we have found no trace of such severe depression in the archives of the time. The strong temperament of the race saved them on this occasion. They were land owners and this is a very solid base for a people. Besides, the financial system adopted by the English deserved full confidence. Coins only were in circulation, instead of that contemptible scrap money of old; shops were opened freely, and there were no more of those privileged stores imposed by monopoly and special favour. The farmers were encouraged to produce as much as they could of grain, flax, etc., because there was a cash market for them. No such thing had been seen in the past. Altogether, men of energy had a prospect before their eyes, and we all know that the Canadians did not lack courage.

It is customary in our days to use the term "French Canadians" to

designate those who speak the French language, but, in 1760, until 1860, and even later, there were no "English Canadians" and, therefore, no "French Canadians" known by that name. These were plain "Canadians," as they had been during the French régime, to distinguish them from the "French" who, as a rule, would not be called "Canadians." This was so much the case that, if we desire to ascertain what part of the population returned to France at the conquest, we are safe to say, "the French only." The Canadians remained in their own country as a matter of course. The people ceded by Louis XV. were not French, but Canadians solely—the French had already gone home.

Some time about the year 1870, when Confederation exalted more than ever the name of Canada, young Englishmen, born on this soil, styled themselves "Canadians," and we must say that it created some surprise, but it gradually became popular and gained ground more rapidly than could have been expected at first. That does not deprive them of their love for the old country, and they stand like the ancient stock of Canadians proud of their origin—in the meantime true Canadians. If the language of the present French Canadians be considered as a line of demarkation between two classes of our people, it is only that, and we all know their love for France is now-a-days purely sentimental. We could not register a single vote in Canada in favour of a re-union with France. The writer will go further: at no time since 1760 could that have been possible. After 1760 the Canadians considered they had no home on the other side of the ocean, and we may say this state of mind existed among them long before that date, but then they were under French rule and their Canadianism did not amount to a great deal in the general run—except that, as Canadians, they were kept outside of the administration as much as possible.

Some writers are apt to make singular assertions. For instance, in a book recently published we read that the French who possessed means of their own removed from Canada at the conquest, and that the poor folks only remained there. Now, apart from a few privileged merchants, all those who left the country on that occasion were functionaries and military gentlemen living on their meagre salaries. Surely, the necessitous were not the Canadians, although these had been ruined by the war, but they knew

how to redeem themselves from necessity, and it is not likely that those who went back to France would have been able to do so.

The emigration here alluded to was not over four hundred individuals, all living at the expense of the public, whilst it is fair to calculate that four hundred French soldiers—nearly all men of various trades—remained in the colony and settled for good. In this interchange no doubt that Canada was the gainer.

The country people did not emigrate. The diminution took place in the higher classes, that is the French section, but the real Canadian leading families remained here.

I have perused, said the late Judge George Baby, numerous account books and other papers of those days and found that all the trades and professions necessary for a population such as it was at that time were largely represented. The departure of the emigrants did not disturb business and created no vacuum anywhere. He adds: "Four hundred families of the best class remained here, I say four hundred families having some means to live on, the most educated, the most influential never had a thought for France. They comprised one hundred and thirty seigneurs, one hundred gentlemen and bourgeois, one hundred and twenty-five merchants, twenty-five men of law, about thirty surgeons and doctors in medicine, the same number of notaries public—this was certainly sufficient to meet the requirements in political, intellectual and other cases for such a small population. They were the natural advisers of all, and their influence proved to have been beneficial throughout the most critical periods. The descendants of these families are still amongst us; many have kept their elevated position and serve the country as their forefathers have done."

In a curious letter written by Haldimand to Amherst, on the 22nd of November, 1763, he says that some Canadian officers have returned from France and that many others will soon come back, after vain attempt to obtain a settlement of their respective claims. "They complain bitterly of the treatment of the French authorities. Card money is a grievance they will soon easily forget. I am very doubtful whether any of them ordered masses for the repose of the soul of Mr. Bigot."

The Canadians who went to France in 1761 and 1762 had particular business to transact there before the end of the war and the preparation of a treaty of peace. Most of them were anxious to ascertain whether the paper money would be recognized, or if they could obtain a step in rank, or some other family arrangements. As soon as the treaty was signed and all private negotiations closed, they returned to Canada. Amongst those were: De Montenoy, de Niverville, de Montizambert, de Boucherville, Sabrevois, Hertel, Lachevrotière, de Meyer, Guy, Remont, Godefroy, de Montesson, Schindler, Daneau de Muy, Bouvet, de Bleury, Baby de Ranville, Perrault, Tarieu de Lanaudière, Duchesnay, de Lotbinière, Chorel, Dufy-Charest, Saint-Ange-Charly, de Vienne, de la Morandière, Hertel de Chambly, Levesque, Chaillé Porlier, Desauniers, Mézière, Picoté de Belestre, Vassal de Monviel, Juchereau, Hertel de Rouville, Robutel de la Noue, Margane de la Valterie, de Rocheblave, etc. They all came back disappointed on the money question. Some of them were made Knights of the Order of St. Louis.

But the main subject of interest with us is not so much the more or less successful trip of such solicitors, as to know what class of people remained here, besides the ordinary country folks. This will be readily understood after consulting the following lists compiled by the late Justice Baby.*

Seigneurs.—Joybert de Soulanges, Saveuse de Beaujeu, Chartier de Lotbinière, Lambert Dumont, Leber de Senneville, Celoron de Blainville, Le Moyne de Longueuil, Boucher de Boucherville, de Montbrun, de Laperrière, de Montarville, de Grosbois, de Lillebonne, de Montizambert, de la Bruère, de la Broquerie, de Niverville, Gautier de Varennes, de la Vérendrye, Jarret de Verchères, Boucher de Grandpré, Jarret de Beauregard, Pécaudy de Contreccœur, de Saint-Ours, Daneau de Muy, Hertel de Chambly, Jenisson, Hertel de Beaubassin, Hertel de Rouville, Dandonneau du Sablé, Margane de la Valtrie, Crevier de la Meslée, Crevier de Saint-François, Sicard de Carufel, Petit-Bruno, Le Gras de Pierreville, Panet, Denys de Saint-Simon, Damours de Clignancourt, de Courberon, d'Esmard de Lusignan, Sabrevois de Bleury, Le Gardeur de Courtemanche, Martel de Brouages, Couillard de Lespinay, Poulin de Courval, Bellecourt de Lafontaine, Migeon de la Gauchetière, Gastineau-Duplessis, Chavigny de la

**The Canadian Antiquarian*, 1899, p. 110.

Chevrotière, Jolliet, Morel de la Durantaye, Fleury d'Eschambault, Levrard, Lepage, Foucault, Perthuis, Chavoy de Noyan, de Gannes de Falaise, Cugnet de Saint-Etienne, de Couagne, Deschailions, de Chapt, de Lacorne, de Saint-Lue, Nolant la Marque, de la Gorgendière, Gourdeau de Beaulieu, Riverin, Hamelin, Taschereau, d'Audegan, Hazeur de Lorme, Robineau de Bécaneourt, Damours des Plaines, Brassard-Descheneaux, Denys de la Ronde, Denys de Vitré, d'Ailleboust d'Argenteuil, de Cerry, de Musseaux, de Périgny, de Mantet, de Cuisy, de Saint-Vilmé, de la Madeleine, Cressé, Chaussegros de Léry, de Linière, de Beaumont, Juchereau, de Salaberry, de Tonnancour, de Normanville, de Vieux-Pont, de Martigny, Bouer de Villeraye, Neveu, Tariou de Lanaudière, de Vienne, Amiot, de Gaspé, de la Cardonnière, de Lessard, Charest, Dumesnil, Cabanae, de Villedonnée, Dugué de Boisbrillant, Beequet, Berthelot, Dunière, Noyelle de Fleurimont, Mouet de Moras, de Lintot, Lemaitre-Lamorille, Saint-Ange de Bellerive, Piot de Langloiserie, du Tremblay, de Villiers-Douville, Bailly de Messein, Mariacheau d'Esglis, Belair, Bissot de la Rivière, Martel de Saint-Antoine, de Bonne de Misselle, Toupin du Sault.

Nobility.—Picoté de Belestre, d'Estimeauville, Courraud de la Coste, de Peiras, Vassal de Monviel, Duvergé de Saint-Blain, Dequindre-Douville, Rastel de Rocheblave, Charron de Lespinasse, Baby de Ranville, des Bergères, de Lesdignières, Verneuil de Lorimier, Dufrost de la Gemmerais, You d'Youville, Duelos de Celles, Levraud de Langis, Cadieu de Courval, d'Adhémar de Saint-Martin, Marchand de Ligneris, de Villars, de Landrière, Dorval des Groseilliers, de Villedonnée, Volant de Chamblain, Saint-Ange de Bellerive, Le Gardeur de Montesson, Roebert de la Morandière, Ruelle d'Auteuil, Drouet de Richarville, Le Fournier du Vivier, Le Gardeur de Saint-Pierre, Saint-Lue de Lacorne, Lefèbvre de Bellefeuille, Robineau de Villebon, La Noue, Lenouillier de Boisclair, Duffy-Charest, Desauniers, Baby-Chenneville, Desrivières, Beaubien, Ménélier de Monrochon, Joncaire de Chabert, Desdevans de Glandons, Chorel de Saint-Romain, Saint-Onge, Jacau de Fiedmont, Louvigny de Montigny, De Goutin, Testard de Montigny, Dejordy de Cabanae, d'Houtelas, de Niort, Aubin de l'Isle, de la Saussaye, Joncaire de Chauzonne, Desbarras, Hubert de la Croix, Gamelin-Maugras, Fromenteau de Boucherie, de Langlade, L'Euuyer, Bonneville de Bellefleur, Lériger de la Plante, Douaire de

Bondy, Poulin de Francheville, Chatelain de Rigny, Porlier de la Groizandière, Robineau de Portneuf, Leroux d'Esneval, Moral de Saint-Quentin, Cauchon de la Verdrière, de Lafrenaye, de Billy, Delisle de la Cailletterie, Mézière de l'Epervenche, de Saint-André, Du Buisson, de Tonty, de Catalogne, de la Poterie, de Montreuil, Lachapelle de Bercy, de Berthe de Chailly, de Lamarre, Miville-Deschênes, Poulin de Courval, Lecomte-Dupré, Peuvret et Menu, Forestier du Longpré, Gaillard de Saint-Sauveur, etc.

Merchants in Montreal.—Guy, Blondeau, Le Pellé-Lahaye, Dequindre, Perthuis, Nivard de Saint-Dizier, Hervieux frères, Gaucher-Gamelin, Giasson, Moquin, Saint-Sauveur, Pothier, Lemoine de Monnière, de Martigny, Desauniers, de Couagne, Mailhot, Saint-Ange-Charly, Dumas, Magnan, Métivier, Lamy, Bruyères, Chaboillez, Fortier, Lefèbvre du Chouquet, Courteau, Vallée, Cazeau, Charly, Carignan, Auger Porlier, Pommereau, Larecque, Dumenion, Roy-Portelance, De Vicne, de Monforton, Sanguinet, Campeau, Laframboise, Vauquier, Guillemain, Curot, Dufau, Campion, Lafontaine, Truillier-Lacombe, Périneault, Orillac, Léveillé, Bourassa, Pillet, Hurtubise, Leduc, Monbrun, Landrieu, Mézière, Hubert, Tabeau, Sombrun, Marchesseau, Avrard, Lasselle, Dumas-Saint-Martin, Desrivières, Réaume, Nolin, Chaboillez (Pierre), Cotté, Saint-Germain, Ducalvet, Léchelle, Beaumont.

Merchants in Quebec.—Cureu, Papin, Comte, Desroches, Boisseau, Philibert, Taché, Pacaud, Dunière, Basançon, Frémont, Laforce, Levesque, Fleurimont, Brissot, Perreault, Lemoine des Pins, Marcoux, Bourassa, Charest, Dunière, Basin, Cherrier, Voyer, Larcher, Bernard, Forestier, Séguin, Sombrun, Perreault, Morin, Guichaud, Charlery, Trottier, Riverin, Dumont, Hiché, Lamorille, Marchand.

Merchants in Three Rivers.—Pélissier, Perrault, Jacquin, Dufau, Perroy, Beaucin.

Men learned in law.—Taschereau, Gaillard, Belcourt, Juchereau, Mézière, Saillant, Girouard, Moreau, Lepailleur, Hodienne, de Coste, father and son, Louet, Bonneau, Porlier-Benac, Hubert, Cugnet, Panet, Desche-neaux, Lamorille, Sanguinet, Badeaux, Pinguet, Berthelot, Foucher, etc.

Medical men.—Benoist, Badelard, Jobert, Soupiraux, Gervats-Beaudoin, Destrampes, Birault, Fonblanche, Hubert de la Croix, Lajus, Lérigault, de Bonne, etc.