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COLONIAL PENSACOLA : THE BRITISH
PERIOD

PART II

By CLINTON N. HOWARD

After the initial difficulties which accompany any new settlement were over, Pensacola developed during the late 1760's and early 1770's much as did the other eighteenth century English colonial capitals in North America.

The return of Governor Johnstone to England upon leave of absence in January, 1767, left the administration of the province in the hands of the Lieutenant Governor Montfort Browne and the Council. The years between 1767 and 1770 constitute what may best be designated an interim period in the history of the political government of the province.

The Lieutenant Governor continued the administration from the time word of Johnstone's dismissal in February 1767 was received until the arrival of Governor Eliot.¹ The latter's sudden death within a month of his arrival in the province again left Browne in charge of the government until his departure for England in 1768 under a cloud of suspicion caused by tangled accounts and quarrels with factions in the colony. He was succeeded by Elias Durnford who was appointed lieutenant governor and who continued the administration until Peter Chester's arrival in the summer of 1770. Governor Chester continued in charge of the province until its capture by the Spanish forces under Bernardo de Galvez in 1781. Neither Johnstone nor Browne returned to the province after his departure, but Durnford continued to work amicably with Chester as lieutenant governor and member of the Council.

1. Public Record Office of Great Britain, Colonial Office paper, Series 5, volume 584.

The Assembly met on the twenty-third of February 1767 in accordance with the prorogation of Governor Johnstone. Members present at the opening session were John Lorimer, Alexander Moore, John Crozer, James Ross, Daniel Ward, John Weir, William Aird and Benjamin Ward.² Other assemblies were called in later years but there seems to have been no incident in the history of the Assembly which involved Pensacola more than other parts of the province. Between 1772 and 1776 a quarrel of the usual colonial sort between the governor and the Assembly induced Chester not to call that body. Probably the sitting of the assembly was something of an event in Pensacola as it was in other colonial capitals. Probably, too, it brought additional activity to Pensacola during the days of its session. So even more must the Indian congresses have done.

A number of regulations of local interest which had earlier been enforced as ordinances by the authority of the governor and council were enacted with the consent of the governor into statute law by this first session of the Assembly. These statutes were, of course, subject to the approval of the Crown. At a meeting in Pensacola on November 25, 1764, the governor in council had ordained that a proclamation for promoting religion and restraining vice and immorality in the province should be issued forthwith.³ It was likewise resolved that the General Commission of the Peace should be issued.

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2. P.R.O., C.O., 5:575, 627, 632. The material on the early work of the assembly is found in these three volumes. The minutes of the first session (November 3, 1766 - January 3, 1767) have been edited by James A. Padgett and published in the *Louisiana Historical Quarterly*, April, 1939, vol. 22, no. 2, pp. 311-384.
 3. P.R.O., C.O., 5:632. All of the following material on the governor, council and assembly, unless otherwise stated, is taken from the Minutes of the Council and of the Assembly in the Public Record Office.

The members of the Council were for the time being made members of the Commission and to them were joined Alexander Fraser, Elias Durnford, John MacGillivray, Henry Stuart, William Shaw, Arthur Gordon, John Stephenson, Lockhart Russel and William Aird of Pensacola and nine gentlemen of Mobile. James Noble of Pensacola was added to the Commission by the governor in council at the meeting of November 27. At this meeting the clerk of the council read some advertisements to the inhabitants of Pensacola. These advertisements forbade the townspeople to sell spirituous liquors by retail. This was probably for fear of the effect of a retail liquor trade upon the Indians. Another advertisement forbade the dumping of dirt or ballast into the harbor. The reason for this appears obvious. The council also considered at this meeting the regulation of indentured servants: "That some Regulation for the better Government of Indented Servants, Likewise for the more effectual Carrying Their Different Contracts into execution, as well in respect of what they are to perform, as in respect of what their Master has on his part also engaged to perform are necessary." It was unanimously resolved that the question be referred to a committee which should draw up such resolutions on the subject as should seem proper to them.

On the twelfth of December the Council considered the questions raised by the Indian trade. It resolved that the licenses which had been issued by Major Farmar should be called in at the next Indian congresses. It was felt that the trading of spirituous liquors for horses and raw skins was the principal object of the lawless sort of traders and that their actions would ruin the Indian trade and would also encourage the Indians to steal horses. In order to forestall cattle thieves the Council ordained that all persons selling meat

should hang up the green hide with hair on it on the stockade facing the street for four hours a day. Messrs. Stuart, Blackwell and Morcier were asked to report on regulations for ascertaining identification of black-cattle, sheep, hogs and horses. At this meeting the Council also approved the project of a road between Mobile and Pensacola. At another meeting the Council returned to a consideration of the retail liquor business and resolved that not more than three retail liquor licenses should be granted in Pensacola.

Most of these early ordinances-in-council were re-enacted into statute law by the first meeting of the Assembly.⁴ Some of these acts of the first West Florida Assembly dealt generally with the province ; some of them dealt specifically with Pensacola and Mobile. All in all these first acts of the Assembly give a good picture of the colonial life. M. A. Lamb wrote from Lincoln's Inn, London, to the lords of trade apropos of these acts on May 30, 1768:⁵

In pursuance of your Lordship's Commands Signified to me by Mr. Pownall's Letter Wherein you are Pleased to Desire My Opinion in Point of Law upon the following Acts Passed in West Florida in January 1767. I have Perused and Considered the same (Viz^t.)

1. - An Act appointing the Number of the Assembly and Regulating Elections.
2. - An Act for the Regulation of Servants.
3. - An Act to Oblige Masters of Vessells to give Bond in the Provincial Secretary's Office.
- 4 - An Act for Granting Licences to Retailers of Spirituous Liquors Imposing a Duty on said Licences and for Regulating of Taverns or Publick Houses.

4. P.R.O., C.O., 5:632.

5. P.R.O., C.O., 5:575.

5. - An Act for Encouraging the Inhabitants of Pensacola and Mobile to Build Wharfs and for Establishing Rates of Wharfage.
6. - An Act for Clearing the Town of Mobile of all Offensive Weeds and Cutting down the Woods around the said Town
7. - An Act to Restrain Drunkenness and promote Industry
8. - An Act appointing where the Laws of this Province shall be Lodged.
9. - An Act Concerning Flats, Boats, and Canoes
10. - An Act to Erect Mobile into a County and to Establish a Court of Common Pleas
11. - An Act Establishing the Interest of Money and Ascertaining the damages of Protested Bills of Exchange
12. - An Act for Granting certain Duties to his Majesty to be applied towards supporting the Government of this province
13. - An Act Concerning Coasters
14. - An Act for the Regulation and Government of Negroes and Slaves

Upon Perusal and Consideration of the before mentioned Acts I have no Objections thereto in Point of Law. They are the first Acts that have been passed in this Province, And the Propriety of them, and how far they are agreeable to the Governors Instructions Will be in your Lordships Judgment, and particularly the last Act relating to Foreigners and the Powers therein Given to Papists.

On June 2, 1766 the Assembly passed an act to provide for the cleaning of the streets of Pensacola and to prevent nuisances in and about the town. The act appointed washing places at the west end of town and at the south front of Garden Lot Number 157 in the east end of town.

Several interesting sidelights on the character of these members of the colonial legislature are found in events of June 1766. On June 6 the Committee of the Assembly on Courts of Justice and the State of the Gaols reported that "the Chancellor of this Province had lately Reversed the Verdict of a Jury . . ." The Assembly thereupon resolved "That if in our Present Situation such things have happened they cannot be Considered Precedents to Deprive his Majesty's Subjects of the Benefit of being Judged by Their Peers." The Committee also reported that both felons and debtors were lodged in the same jail. The Assembly resolved "That this House will contribute to the Hire of Separate Apartments for Debtors." On this same day the Assembly was dissolved by Lieutenant Governor Browne. Browne had his opinion of the members of the Assembly. On June 29 he wrote to Shelburne "the old leaven remains, besides seeing clearly that their chief Motive for protracting of the Business of the Province was to Enjoy that Enormous Sallary, they had voted themselves . . . there are such people come are daily Coming to the Province, who will be above swallowing up the small Revenues of this Infant Colony in exhorbitant Wages . . ." ⁶ Before this stricture on the assemblymen is accepted completely it is well to remember that many of these men were Browne's political and even, often, personal enemies.

The summer of 1767 passed quietly in the government and social life of the province. On September 29 the Lieutenant Governor wrote to the lords of trade in complaint of the number of absentee office holders. One of the absentees was James McPherson the provincial secretary. He was the

6. Montfort Browne to the Earl of Shelburne, Secretary of State for the Southern Department, June 29, 1767, P.R.O., C.O., 5:584.

famous translator and editor of the *Ossian*, poems. After a few months residence in the province in 1764-65 he had returned to England leaving Daniel Clark as his deputy.⁷ Also a number of the provincial offices were vacant. The rectorships of Mobile and Pensacola were among these offices.⁸

The Spanish trade was without doubt very important to Pensacola from the point of view of the then existing mercantilistic imperial relations. Browne wrote to the lords of trade on September 29, 1767:

My Lords

I have the Honor to acquaint Your Lordships that an application made to me by the Principal Merchants engaged in the Spanish Trade at this Place; That the Provincial Sloop, would, if sent in a proper manner to Havanna and Campechy be of the utmost benefit to the Trade of this Infant Colony.

I therefore with the advice of the Council and the Commodore on this station, sent the Sloop to the Havanna, with a Merchant on Board who has long been a resident and Trader among the Spaniards and was well known at these Places.

The Pretence I made use of in my Dispatches to the Governor's, was to request of them Copys of the Records of a Vessel called the Don Carlos that had Been lost about two years ago, for want of which the Merchants could not recover their Insurance at home.

The Sloop upon her arrival at the Havanna was admitted to come to anchor at the mouth of the Harbour. between the Forts, Moro and Punto, and the Gentlemen I sent, as well as the

7. Browne to the lords of trade, September 29, 1767, P.R.O., C.O., 5 :575.

8. P.R.O., C.O., 5:632.

Captain and Ships Company were treated very Civilly but none were permitted on Shore.

I flatter myself the voyage will have the desired Effect, as I received an extreame Polite Letter from the Governor at Havanna in answer to mine wherein he acquaints me of every Circumstance Relative the Vessel Don Carlos; in a short Time after a Spanish Brigg came in here from that Place bound for Vera Cruz, to take in the Jesuits, who I am told Purchased to the amount of Thirty Thousand Dollars, in Goods Suitable for their Markets, and assured me as this Port was now open to them, and that there were Goods Sufficient among our Merchants here, we might depend on the Spaniards coming Constantly to this Place as it lay so convenient to their Forts.

I hope my Conduct in this as well as in every thing else since I have been honoured with the Command of the Province will always meet with Your Lordships approbation.⁹

In pursuing this line of action Browne was continuing the policy of Johnstone who, immediately after his arrival in the province had written home: "But really it is a doubt, in the fluctuating State of things, who May Stay or who May go, The disposition of all Seems to Lead them to Return if the Spanish Commerce is not Open'd."¹⁰

On the twenty-ninth of September the Lieutenant Governor proposed to a committee of the Council to summon the Assembly to meet forty days after the twenty-first of October. Shortly after a matter of criminal jurisdiction arose when the committee of the council reprieved for thirteen days Jonathan Scott, convicted murderer of John Farrel. The

9. P.R.O., C.O., 5:575.

10. P.R.O., C.O., 5:574.

committee which met ¹¹ under the presidency of Durnford agreed that the sentence must be reviewed by Lieutenant-Governor Browne, who was temporarily absent from Pensacola.

At a meeting of the Council on November sixth Durnford acquainted the committee that he had received a letter from the Honorable James Marsh, Esq., dated the fifth of November, wherein Mr. Marsh informed him that a certain paper, printed at "Charles Town," had accidentally fallen into his hands. Mr. Marsh declared that the paper "contained the most injurious reflections, on the conduct, and behavior, of His Honor the Lieutenant Governor; and tended to Alienate the Minds of the People of this Province from the Respect and Obedience, due to His Majesty's Representative" The committee read Mr. Marsh's letter and the paper. They were of the unanimous opinion that the publication was "a Scandalous infamous and mean Libel ; designed to creat Tumults and disorder in the Province and the highest disregard of His Honor the Lieutenant Governor. They ordered that the paper be burned by the Hands of the Common Hangman, opposite the East Gate of the Fort on Monday the ninth [of November] at eleven o'clock."

The winter session of the Assembly met on December fifteenth. On the twenty-third the House meeting in committee on finance resolved to introduce a bill to apply "several Duties mentioned in an Act Intituled 'an Act for granting Certain Duties to his Majesty to be applied toward Supporting the Government of the Province from the first Day of January 1769'." The Act appointed a treasurer of the province to superintend the collection and disbursement of the funds. It was also resolved that included in the bill there should be a grant of an

11. November 1, 1767.

additional duty of 5 on all negroes or slaves imported into the province from any other of the colonies, provided that such negroes or slaves should have resided for a period of twelve months in any other of his Majesty's colonies. The pounds received from these duties were to be applied specifically to the payment of official salaries and government expenses in part as follows:

- Clerk of the Council 70 a year
- Assembly 70 a year
- Messenger of the Council 50 a year
- Assembly 50 a year
- Contingent Fund of the Council) amount
- to be attested by the Senior)
- Councillor) unspecified
- Contingent Fund of the Assembly) amount
- to be attested by the Speaker) unspecified
- Translator of the laws into French 20 a year
- To the Speaker for each day of actual attendance 7/6
- To the Members for each day of actual attendance 5/-

When the House had passed this act it was sent to the Council which adopted it by a vote of three to two. Elias Durnford and David Hodge dissented. Durnford protested that the appointment of a Treasurer for the province and the appropriation for a specific purpose was an infringement of the king's prerogative. He continued: "I do Dissent to Section 38th in the Money Bill which Grants Salarys to the Members of the Assembly although it is not entirely unprecedented in some Colony's in North America. Yet from the Poverty, Inability and Necessity of this Colony I do think all Money's which can be Raised should be Appropriated to no other Services But those where the Community Cry aloud for Assistance-such as Draining around the Town Building a Goal and making Roads." The

bill was signed by Lieutenant Governor Browne in spite of Durnford's protest, but with the reservation that, in Browne's words to the Assembly, "I consider the appointment of the Treasurer by the Assembly as an Infringement upon the Prerogative of the Crown But as a Compleat Legislative Authority cannot exist without money to support it I have for that Reason only Passed the Bill But I do not give up this Point to any future Session of Assembly or Consent that the same be hereafter. Pleaded as a Precedent."

In February 1768 the Council enacted by ordinance that every person taking lands over his family right should give bond to begin to settle the land within two years of the issuance of the warrant of survey. The stipulated bond was 50 for under five hundred acres and 100 for over that amount. In the same month the Council refused the petition of Francis Monpruille for permission to dispose of his effects by lottery. They ruled that such practices were contrary to the law and introductory of idleness among the people.

On February first Lieutenant Governor Browne wrote to the lords of trade that he had been advised to drink Bath waters and he was therefore compelled to ask six months leave in England.¹²

During the spring of 1768 the new governor, John Eliot, Esq., was at last making preparations to leave for Pensacola, his capital city.¹³ He seemed strangely loath to come. It was in the late spring of that year that trouble which had been brewing between Browne and McClelland and Clark came to a head. On June first the Lieutenant Governor wrote that McClelland and Clark were supporters of former Governor Johnstone and were disturbers. McClelland, a former councillor, had been arrested

12. P.R.O., C.O., 5:585.

13. *Ibid.*

by General Gage. Clarke, wrote Browne, was a bankrupt and the head of the Scottish party in the province. Browne had already dismissed him from the council and intended to dismiss him from his office of receiver-general.¹⁴ This is the first indication of a serious break between the Lieutenant Governor and one of the provincial factions since Governor Johnstone's departure. It had been evident before that time that Browne was unpopular with Johnstone's party, but after the Governor's departure Browne appears to have acted with even more circumspection than before. In spite of this, however, he was forced to leave the colony under a cloud of suspicion a little more than a year later. The later trouble seems to have arisen over Browne's constant misuse of the Indian and contingent funds.¹⁵ Superficially the difficulty appears to have arisen through the Lieutenant Governor's good intention and bad bookkeeping, but the fact that so much trouble arose over the use of the Indian funds not unnaturally gives rise to the suspicion that he was following a policy which was vigorously opposed by the fur-trading interests in the province. It will be recalled that one, and possibly the chief, reason for Johnstone's dismissal was a matter of Indian policy. Probably, as elsewhere, the quarrel reached even to London. Whether this was one of the reasons for Governor Eliot's apparent reluctance to come to the province or whether he merely belonged by preference to the class of absentee office holders can only be a matter of surmise.

In June a new and apparently unexpected catastrophe threatened the colony. In a letter of June twenty-seventh General Gage informed the Lieutenant Governor of the withdrawal from the pro-

14. *Ibid.*

15. *Ibid.*

vince of all save three companies of the troops. This decision immediately provoked a series of remonstrances and petitions from West Florida settlers, traders and merchants, and from London merchants who were interested in the Gulf and the valley trade.¹⁶

On the twenty-third of August, 1768, the second session of the second Assembly met by proclamation in Pensacola. A petition to the Earl of Hillsborough against the withdrawal of the troops and a denuding of the province was adopted and inscribed on the twenty-fourth. The reasons agreed to by both the Council and Assembly for the necessity of the continued defense of the province were grouped under six principal headings:

1. Settlers would be induced to come.
2. The province was a great distance from other colonies.
3. The houses, stores, wharfs, etc. in Pensacola had cost the inhabitants upwards of sixty thousand pounds sterling. There were also valuable settlements around Mobile bay.
4. Large plantations had been laid out at great expense, especially on the Mississippi. Settlers were expected from Virginia, Pennsylvania, and elsewhere.
5. In three years about eighty thousand pounds sterling of British manufacture had been imported into West Florida.
6. The Indian trade of the colony was considerable. There were undoubtedly Indians in

16. As a result of the Falkland Islands incident, Great Britain made a second attempt to hold the great valley and interior lands; its failure, whether due to lack of vision, faulty military strategy or the more fundamental lack of money by the home government and the failure of the colonies to cooperate in any plan of continental defense, foreshadows the success of the American revolution. The plan of General Howe was to hold the seaboard and gradually lead the back country to submission with a minimum of blood shed and hard feeling.

the back country who were hostile to the colony.

The Council, meeting at Pensacola on the twentieth of October, ordered that the Reverend Mr. Nathaniel Cotton be given his choice of lands for residence and glebe, in accordance with his Majesty's primary Instructions to his governors. The Council also resolved to consult MacGillivray and Maclean concerning the Indian troubles. The Lieutenant Governor said that the removal of the troops and of the Indian Commissaries had rendered the situation dangerous.

On January 25, 1769, the Lieutenant Governor called a new Assembly. The members for Pensacola were George Urquhart, Dr. John Lorimer, George Gauld, James Ross, Valens Stephen Comyn, David Waugh, William Aird and John Blommart. James Ross had been elected for both Mobile and Pensacola, but he decided to take his seat for Pensacola. Browne informed them that he had called them because he was "daily expecting Gov. Eliot." At a meeting of the Council on the thirtieth of January the Lieutenant Governor informed the Council that he had received a letter from Admiral Parry at Jamaica, informing him that the Admiral would order his Majesty's sloop *Tryal*, which he daily expected would touch at Jamaica with Governor Eliot (Parry spelled it Elliot), to remain at Pensacola until the pleasure of the lords commissioners of the Admiralty should be known. This service the Admiral hoped would relieve the people of West Florida from the fears and apprehensions which they then daily suffered from the Indians. Browne then adjourned the Assembly until the tenth of March to await the arrival of the Governor. Also at this January 30 meeting of the Council Chief Justice Clifton laid before the council a petition from the

debtors setting forth the miserable state of the debtor's prison of the colony.

The Council minutes for the third of April (1769) present the first record of the presence of Governor Eliot in the province. The new Governor appointed Elias Durnford, David Hodge, Alexander Moore, James Neale, James Jones and William Gadby members of the Council.

The Governor told the Council that he had decided to repair the fort and also the house which had been occupied by former Governor Johnstone and Lieutenant Governor Browne and to turn over the house taken from General Haldimand for the Governor's use to be used for divine worship, sessions of the court and the Assembly, and to house the Secretary's office and such other government offices as might be necessary.

The Governor proposed that a commission of the peace be made out and that members of the Council and the attorney-general should act as justices of the peace for the time being. It was agreed that there should be added to the commission Francois Pousset, Peter Innis, Edward Crofton, the Reverend Mr. Cotton as justices for the province. Benjamin Ward, George Gauld, John Allen Martin, Valens T - - - Comyn, Joseph Jurrow, David Waugh, Arthur Struthur, and George Urquhart were appointed justices for the town and district of Pensacola.

The Governor and Council decided that the Assembly should be dissolved and a new one called. It was agreed that every freeholder should have a vote; that every house-holder paying an annual rent of 10 or more could vote after six months residence and that all candidates must be freeholders. Eight members were allotted to Pensacola, eight to Mobile and two to Campbelltown. The writs were returnable within forty days.

At its meeting on the twentieth of April the Council considered and advised against Governor Eliot's proposal to abolish the quarter session courts. Many of the laws were directed in their execution to the justices in quarter sessions such as levying of forfeitures and penalties, recommending proper persons for licenses, clearing of the woods about Pensacola and Mobile, and appeals in controversies concerning indentured servants. The power of holding quarter session courts had been given to the justices from the time of the establishment of civil government in the colony, and many laws could be executed only through these courts. They were acknowledged to furnish a speedy and cheap legal procedure and were a virtual necessity in Charlotte county to care for cases of petty crime; otherwise the residents of that county would be (the Council felt) practically deprived of justice if they had to attend Pensacola for a very small case.

Between April third and twenty-eighth the minutes of the Council record seven meetings over which Governor Eliot presided. We must rely, in lieu of other evidence, upon the Lieutenant Governor's statement that Eliot died on May second. A meeting of the Council was called by the Lieutenant Governor on the third at which "His Honor acquainted the Council that in Consequence of the Sudden Death of his Excellency Governor Eliot yesterday morning that the administration of the Government did Divolve upon him. . . " ¹⁷ The minutes of this meeting also record that the Lieutenant Governor and Council ordered the provincial arms

17. The circumstances of Eliot's death apparently unknown. It might have been caused by malaria or yellow fever, by an accident or even by factional strife in the colony eventuating in a duel which all parties found it expedient to conceal. The manner of his death would obviously make considerable difference in the interpretation of the events surrounding it, but with no further information at hand we are helpless.

and ammunition to be distributed to the inhabitants. Apparently this action was caused by the revival of the fear of an attack by the Indians. Johnstone had been dismissed for starting with the Creek Indians a war which the imperial government regarded as unjustifiable. In the early months of his interim administration Montfort Browne seems to have become involved in the question of Indian policy and perhaps he even became convinced of the danger. Whether a real danger ever existed, especially as late as 1769, is difficult to say. In any event it never matured as did Pontiac's war in the north. There is very little known on the part which may have been played in this question by commercial interest in the colony or in England, and opinions differ very sharply on the issue.

The Council meeting of May ninth was largely devoted to expenditures. A bill for 144-18-5 for the repair of the Governor's house was audited and ordered paid. The Council also heard the petition of the Indian agent at Pensacola stating that he received one dollar and one ration a day. The petitioner stated that the Lieutenant Governor had told him that he was to have five shillings and two rations a day and that he, the Lieutenant Governor, would pay him after the first of November, 1768, but that for any outstanding wages before that date he was to look to Superintendent Stuart. He stated that since November 1, 1768, he had received no pay and only one hundred and seventy rations instead of three hundred and sixty-two. He also stated that the former interpreter had had a house granted him and he hoped this would be continued to him. The Council ordered the rations given and the question of pay postponed until Superintendent Stuart's arrival.

Mr. Durnford informed the Council at this meeting that he had his Majesty's leave and proposed

to go to England by Mr. Comyn's brig. Benjamin Ward and John Allen Martin were added to the quorum of the Council and John Campbell was added to the commission of the peace.

The Assembly met in June. Little of importance seems to have occurred at this session. The Assembly authorized the treasurer's report of monies spent for assemblymen's wages, 15 for printing the provincial laws and certain books necessary for the government offices and a sum spent for charitable purposes, including a gift to the hospital at Pensacola, some money to provide "Passage of a Poor Object to Carolina," and some money spent in support of an orphan.

August saw some excitement in Pensacola over the long-expected arrival of the Spanish governor, Don Alexandro O'Reilly, at The Balize with eighteen transports. Three more transports followed him from Havana and he brought with him 4500 troops. The news of his arrival reached Pensacola on July twenty-third. The Council agreed that the Spanish governor's arrival furnished the desired impetus to the French to seek British protection. They ordered Lieutenant Campbell to the Mississippi to encourage migration.

At its meeting on the eighteenth of August the Council had read a letter from Deputy Superintendent of Indian Affairs Charles Stuart. Stuart wrote from Mobile: "The Mad Warrior . . . told me that many of the Indians who had been at Havana . . . ;" an allusion which caused Charles Stuart to suggest a policing of the Florida waters by the navy. The Council also heard a letter from Superintendent John Stuart dated from Lady's Island, South Carolina, on the thirtieth of June: "I think it beyond doubt the Spaniards were tampering with the Creeks." He also said that he was sending to his brother, Charles Stuart, a treaty and ratifica-

tion of the boundary lines behind the provinces in the southern department. The Indian trouble continued and the Council decided on October first to appeal to the navy. Apparently relations between the English and the Spanish on the Mississippi boundary were not intended by some persons to remain peaceful. The economic rivalry on such a borderland as the mouth of the Mississippi river was too sharp to permit of any such likelihood. Lieutenant Campbell wrote to the Council to protest the "Cruel and ungentle treatment" of himself by Governor O'Reilly.

The Council next met on the seventh of November. It is at this meeting that there is the last record of Montfort Browne as lieutenant governor of West Florida. At this meeting the Council considered the charge that the surveyor-general and his deputy had been charging exorbitant fees.

The events of the next, two months in the province are unknown, at least until further research is completed. The minute books of the Council display a gap between the seventh of November and a meeting sometime in December. The latter minutes are unreadable because of damage.¹⁸ The next readable date is December twenty-ninth. Something however is known from other sources. A letter from Elias Durnford to Lord George Germain speaks of his appointment, on July 31, 1769, to be lieutenant governor of West Florida, and of his being ordered almost immediately thereafter to

18. The Minutes of the Council for this period are extraordinarily fragmentary, so that one must make what one can of the damaged Minute Book or of the cleaner duplicates which are by no means complete. All of these records of the Council or copies of them are to be found under the dates mentioned in P.R.O., C.O., 5:626. The complete copies of the damaged records are to be found in Part II of the same volume. This division into parts is a purely arbitrary arrangement caused by rebinding of the records in the Public Record Office. The parts need not be cited in the ordinary way as a calling reference.

take charge of the province.¹⁹ At the meeting on December twenty-ninth Durnford presided as lieutenant governor.

On the eighteenth of January, 1770, the Council met under Durnford's presidency to continue its inquiry into Mr. Browne's handling of the public monies. Browne accused Durnford of dealing double-facedly with him.

At a meeting of the Council on the nineteenth of January Superintendent Stuart presented a letter (which is partly illegible) from Daniel Murphy, Indian agent for the Creek country, telling of Spanish operations (?) among the Creeks and of the suggestion by the governor of Havana, subject to approval of the Spanish crown, of an Indian rendezvous at Santa Rosa.²⁰ At a meeting of the Council on the twentieth Durnford reinstated Mr. Pousset in his offices and ordered him to write Mr. Browne for his Majesty's instructions. Pousset did this and Browne replied: "Sir, my Secretary is now totally engaged in my office that he neither can nor shall attend you, this founded upon the opinion of the Chief Justice in Council, Montfort Browne."

The Council met on the eleventh of February in Pensacola and heard the deposition made by Cromley Borrowe, before John Lorimer, Alexander Moore and James Allen Martin, justices of the peace, on the fifth of February. Borrowe deposed "That he being called upon by David Doig, Esquire, Provost Marshall of the Province of West Florida to attend him, as he had been informed by a Magistrate that a Duel was to be fought that he, this Deponent, and he said David Doig walked up Gage Hill as fast as possible, where they saw four men---- together, the minute he this Deponent and the said David Doig came in sight they the said men sepa-

19. P.R.O., C.O., 5:581.

20. Murphy's letter was dated December 30, 1769.

rated some little distance and David Doig immediately Commanded Peace in the King's Name, that he this Deponent saw Mr. Evan Jones present a Pistol at Montfort Browne, Esquire and saw it flash in the Pan about three second after he saw Montfort Browne fire a pistol at the said Evan Jones." The Council ordered Mr. Browne committed to the care of the Provost Marshall, but when Evan Jones recovered, his brother, James, replied to an inquiry of Alexander Moore, provincial secretary, as to whether Evan Jones intended to prosecute Montfort Browne that Mr. Browne could go where he pleased so far as Evan Jones was concerned for the latter had no charge against Mr. Browne. Moore ordered Doig to release Browne. The Chief Justice then memorialized the Council against Moore's action but it seemed that the attorney-general had already told the provost marshall that magistrates could release prisoners but at their own peril.

The case came before the Council again on the eighteenth of February. The clerk of the Council laid before it letters from Dr. Lorimer. These were read. The Council gave its fullest consideration to the objections of the Chief Justice as to the singularity of the case and his doubts of his being justified at home in permitting Mr. Browne to depart until Mr. Jones was absolutely cleared of danger. Durnford and the Council were of the opinion that no difficulties at present should be put in the way of Mr. Browne's going to England, first, because there were no symptoms of the Jones being in any danger, but rather the contrary, the most favorable hopes of his recovery. Secondly, because the detention of Mr. Browne at this juncture when he was going home to endeavor to clear up his accounts might be misconstrued as purposely intended to prevent his doing himself the justice that his situation required. His Honor and the Council therefore re-

solved. that Mr. Browne might be at liberty to depart in the ship *British King*.

Meanwhile the second session of the fourth Assembly convened on the first of March in accordance with the prorogation. On the eleventh of March the Council considered the proposal of Captain McKensie to employ two companies which were now on the route to Mobile to open a new road on the way. Captain McKensie estimated the work would employ about ninety men for twelve. days, if the lieutenant governor and Council would give about one hundred dollars to provide baggage horses, tools, a guide, a boat for a ferry, and a half pint of rum a day for each man. The Council summoned the Speaker to attend and he informed them that the Commons had authorized him to inform the Council that there was some money in the Church wardens' hands which had been appropriated for this service and that whatever it fell short they would find a means of supplying it.

At the opening meeting of the Assembly the House ordered read a letter from former governor George Johnstone to the Assembly. It was dated from London, May 3, 1769.

"Sir. It was with the Greatest Satisfaction I received the Thanks of the Assembly of West Florida in return for the Service I endeavoured to Render to that Colony.

"I am very sorry my power in this respect has not been Equal to my Inclinations, the Distracted State of this Metropolis and the False Accounts from that part of the World have rendered it very Difficult for me (Single and alone) even to obtain a Patient hearing on this Subject.

"As I am Conscious of the Importance of the Province and of the numerous advantages it

offers to Great Britain these, together with the Friendships I feel for many of the inhabitants whom I know to merit much better Treatment will Ensure my perserverance to the last, in doing every Good office in my power of which I beg you will acquaint the assembly together with the Strongest assurances of my acknowledgments and Respect.”

The House ordered Johnstone’s letter sent to Charleston to be published.

Apparently the project suggested by Major McKensie and accepted by the legislature to use the troops in the construction of the road between Pensacola and Mobile had been successfully carried out. The Assembly on the third of May returned public thanks to Major McKensie and the troops for aiding more speedy communication between the two towns. At its meeting on the twenty-ninth of May the Council heard a request from Brigadier General Haldimand desiring the return of his boat which he had sold for a ferry. It seems that he now needed it. The Council agreed if Haldimand would pay for the repairs. Haldimand agreed to this. He also agreed to send a party to complete the Mobile road, filling up holes and so forth in return for which he asked the Council to provide a half a pint of rum a day for each member of the work party. The Council consented to do this.

At this time an epidemic of smallpox broke out in the colony. The lieutenant governor with the advice of the Council issued a proclamation that all poor persons suffering from the disease might apply to the lieutenant governor to be taken to Rose Island and there given medicines, provisions, and attendance until their recovery. This service was to be paid for out of the contingency fund.

The Assembly at its meeting on the twenty-ninth of May received a petition from Joseph de Palac-

cios stating that he had been in the debtor's prison for upwards of two years on the charge of M. Montberant; that gentleman had recently removed with his family to "Old France" and had left no orders with his attorney concerning the petitioner. The Assembly resolved that it could do nothing to help M. de Palaccios, but that it would pass a bill to maintain insolvent debtors in confinement. At its meeting on the fifth of June the Council accepted Mr. Aird's proposition to build a combined criminal and debtor's jail for two hundred and fifty pounds. The jail then existing cost 40 pounds sterling a year and the attendance of two jailors for its maintenance, whereas the new jail would cost 50 a year for a period of ten years and would save the cost of two jailors by being a double jail.

(The third and last part of this series, relating to the administration of Governor Chester, will appear in the next issue.)