

## Et ego in Acadia

Whatever is, is right.

The Grand Dérangement or Great Upheaval has been an uneasy part of the relationship between Franco-Canadians and the British Crown.

In 2003, Queen Elisabeth, as Queen of both the United Kingdom and Canada, issued a Proclamation “[d]esignating July 28 of Every Year as ‘A Day of Commemoration of the Great Upheaval’”:<sup>1</sup>

“Whereas on July 28, 1755, the Crown, in the course of administering the affairs of the British colony of Nova Scotia, made the decision to deport the Acadian people;

Whereas the deportation of the Acadian people, commonly known as the Great Upheaval, continued until 1763 and had tragic consequences, including the deaths of many thousands of Acadians - from disease, in shipwrecks, in their places of refuge and in prison camps in Nova Scotia and England as well as in the British colonies in America;

Whereas We acknowledge these historical facts and the trials and suffering experienced by the Acadian people during the Great Upheaval;

Whereas We hope that the Acadian people can turn the page on this dark chapter of their history;

Whereas Canada is no longer a British colony but a sovereign state, by and under the Constitution of Canada;

Whereas when Canada became a sovereign state, with regard to Canada, the Crown in right of Canada and of the provinces succeeded to the powers and prerogatives of the Crown in right of the United Kingdom;

Whereas We, in Our role as Queen of Canada, exercise the executive power by and under the Constitution of Canada;

Whereas this Our present Proclamation does not, under any circumstances, constitute a recognition of legal or financial responsibility by the Crown in right of Canada and of the provinces and is not, under any circumstances, a recognition of, and does not have any effect upon, any right or obligation of any person or group of persons;

And Whereas, by Order in Council P.C. 2003-1967 of December 6, 2003, the Governor in Council has directed that a proclamation do issue designating July 28 of every year as ‘A Day of Commemoration of the Great Upheaval’, commencing on July 28, 2005;

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<sup>1</sup> <http://publications.gc.ca/gazette/archives/p2/2003/2003-12-31/pdf/g2-13727.pdf>.

Now Know You that We, by and with the advice of Our Privy Council for Canada, do by this Our Proclamation, effective on September 5, 2004, designate July 28 of every year as ‘A Day of Commemoration of the Great Upheaval’, commencing on July 28, 2005.

Of All Which Our Loving Subjects and all others whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.”<sup>2</sup>

Our Case-Study is set before “Canada became a sovereign state, with regard to Canada, the Crown in right of Canada and of the provinces succeeded to the powers and prerogatives of the Crown in right of the United Kingdom”. Indeed, at the time of the (fictional) dispute, New France (Canada) had just been ceded to Britain in 1763.<sup>3</sup>

The following treaties are historical:<sup>4</sup>

- the Treaty of Union of 1706 of the two Kingdoms England and Scotland (“Treaty of Union”);
- the Treaty of Peace and Friendship of 1713 concluded between Great Britain and France (“Utrecht Treaty”<sup>5</sup>);
- the Treaty of Peace and Friendship of 1713 concluded between Great Britain and Spain;
- the Treaties of 1725, 1752 and 1760/61 concluded between the Mi’kmaq and Great Britain;
- the Treaty of Fontainebleau of 1762 concluded between France and Spain (“Treaty of Fontainebleau”); and
- the Treaty of Paris of 1763 concluded between Great Britain, France and Spain (even though Portugal did not sign the Treaty, it was agreed to be included) (“Treaty of Paris”).

Fictional are the Colonial Economic Trade Agreement (“CETA”), the Opinion of the House of Lords 2/13 as well as the Additional Articles and Protocols to the Treaty of Union of 1706 and the Treaty on the Functioning of the Union of 1706.<sup>6</sup> In this context, we have also taken some liberties with the constitutional and legal system of Great Britain. For purposes of the Moot, participants are to assume that the CETA was signed as an annex to the Treaty of Paris.

Like Evangeline, Cécile Bellefontaine is a fictional character.

Although the facts of the case and the proceedings take place in the 18th century, for purposes of the Moot, participants will assume treaties, customary public international law

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<sup>2</sup> The Proclamation of 2003 does not form part of the record of the arbitration.

<sup>3</sup> Journal of the House of Assembly of Upper Canada, Report of Canadian Parliamentary Committee of 1837, Document No. 65, pp. 1-2, available at: <https://books.google.de/books?id=UI9aAAAYAAJ&printsec=frontcover&hl=de#v=onepage&q&f=false>.

<sup>4</sup> All historical treaties are available on the Moot’s website.

<sup>5</sup> Although also the Treaty between Great Britain and Spain was part of the group of treaties called the Utrecht Treaties, the Case-Study uses “Utrecht Treaty” only with regard to the one between Great Britain and France.

<sup>6</sup> CETA of 1763, the Opinion of the House of Lords 2/13, the Additional Articles and the Treaty on the Functioning of the Union are available on the Moot’s website.

and case law are those of the 21st century.<sup>7</sup> Neither the EU, nor any of its institutions, nor the Euro exist. For purposes of the Moot, participants will also assume that only the first of each the Hague Conventions of 1899 and 1907 exists. Similarly, the Geneva Conventions should not be relied on for purposes of the Moot. The UN and the Genocide Convention exist, both France and Britain are member States.<sup>8</sup>

When citing from original documents, we have preserved the original spelling and grammar.

### **Jacques Cartier – The rose by any other name would smell as sweet**

While Norse explorers established a (short-lived) settlement on New Foundland around 1000 AD in a place later named the L'Anse à la Médée, it was not until the voyages of Jacques Cartier that the name "Canada" was used. Initially, this name only applied to the first French colony on the shores of the St. Lawrence River. It was not until the 19<sup>th</sup> century that it was applied to Canada as we know it today.

### **L'Acadie and the Utrecht Treaty**

By the time of the Utrecht Treaty, Acadia had already changed hands several times. After incursions by the British in the 1620ies, New France (including Acadia) was restored to France in 1632 under the Treaty of Saint-Germain-en-Laye.<sup>9</sup>

The Utrecht Treaty was one of a series of treaties, which are known as the Utrecht Treaties, that ended the War of the Spanish Succession. Despite its name, the War of the Spanish Succession was a global conflict fought not only in Europe but also in North America. There, it was also called Queen Anne's War, after the British queen.

Queen Anne's War raged from Spanish Florida in the South to New Foundland in the North.<sup>10</sup> In the East, the British colonies fought French and Wabanaki.

The overseas theatre of the War of the Spanish Succession also marked the beginning of a new era in British foreign politics and military strategy. Ironically, it began with a disaster: in the summer of 1711, around 800 soldiers, sailors and women perished when their ships sank

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<sup>7</sup> For purposes of the Moot, participants will also assume that the IBA Guidelines on Conflicts of Interest in International Arbitration and the IBA Rules on the Taking of Evidence in International Arbitration were created in 1750.

<sup>8</sup> The Genocide Convention of 1948, an extract from the UN Charter of 1945 and the UN Declaration on the Rights of Indigenous Peoples are available on the Moot's website. For purposes of the Moot, the UN Declaration on the Rights of Indigenous Peoples has not yet been adopted and only exists as a draft. Britain, France, Spain and Portugal as well as a number of other States have indicated their objection to the draft Declaration.

<sup>9</sup> Jean Dumont, *Corps Universel Diplomatique Du Droit Des Gens: Contenant Un Recueil Des Traitez D'Alliance, De Paix, De Trêve, ... qui ont été faits en Europe, depuis le Règne de l'Empereur Charlemagne jusques à présent ...*, 1728, pp. 31-32, Document XXVI, available at: <https://books.google.de/books?id=B1ZLAAAACAAJ&printsec=frontcover#v=onepage&q&f=false>; see also Blanchet Jean Gervais Protais, *Collection de manuscrits, contenant lettres, mémoires, et autres documents historiques relatifs à la Nouvelle-France, 1843-*; Faucher de Saint-Maurice, *Narcisse Henri Edouard, 1844-1897*; Poore, Benjamin Perley, 1820-1887; Archives de la province de Québec, 1883, pp. 86-92, available at: <https://ia802505.us.archive.org/24/items/collectiondemanu01blan/collectiondemanu01blan.pdf>.

<sup>10</sup> With the exception of a smaller skirmish in the Hudson Bay Area in 1709 (see George Bancroft, *History of the Colonization of the United States, Band 2*, C.C. Little & J. Brown (1841), p. 195; see also Verner W. Crane, *The Southern Frontier in Queen Anne's War*, *The American Historical Review*, Vol. 24, No. 3 (Apr., 1919), pp. 379-395).

in the St. Lawrence River. They were part of a naval expedition carrying around 7,500 troops and 6,000 sailors. Despite the disaster, the so-called Quebec expedition marked the beginning of Britain's "blue water" policy and its development to a naval superpower.<sup>11</sup>

The aim of the Utrecht Treaties was not only to solve the dispute concerning the Spanish Succession but ultimately also to secure a balance of power in Europe. Territories both in Europe and North America changed hands. For example, the Treaty of Peace and Friendship concluded between Great Britain and Spain on 2/13 of July 1713 gave Gibraltar (Article X) and Minorca (Article XI) to Britain.<sup>12</sup>

Sweden and the Netherlands lost their role as major European powers as a consequence of the War of the Spanish Succession. Even though the Utrecht Treaties were negotiated in the territory of the Netherlands, the country was seen more of an object than a subject of the negotiations. The French negotiator Cardinal Melchior de Polignac became famous with the quote that they were negotiating "de vous, chez vous, sans vous".<sup>13</sup>

In the Utrecht Treaty, France ceded to Britain a number of North American territories, including the Hudson Bay. In the Caribbean, Britain received St. Kitts. With regard to Nova Scotia or Acadia and New Foundland, the Treaty provided as follows:

"XII. The most Christian King shall take care to have delivered to the Queen of Great Britain, on the same day that the ratifications of this treaty shall be exchanged, solemn and authentic letters, or instrument, by virtue whereof it shall appear, that the island of St. Christopher's is to be possessed alone hereafter by British subjects, likewise all Nova Scotia or Acadie, with its ancient boundaries, as also the city of Port Royal, now called Annapolis Royal, and all other things in those parts, which depend on the said lands and islands, together with the dominion, propriety, and possession of the said islands, lands, and places, and all right whatsoever, by treaties, or by any other way obtained, which the most Christian King, the crown of France, or any the subjects thereof, have hither to had to the said islands, lands, and places, and the inhabitants of the same, are yielded and made over to the Queen of Great Britain, and to her crown, for ever, as the most Christian King doth at present yield and make over all the particulars abovesaid; and that in such ample manner and form, that the subjects of the most Christian King shall hereafter be excluded from all kind of fishing in the said seas, bays, and other places, on the coasts of Nova Scotia, that is to say, on those which lie towards the east, within 30 leagues, beginning from

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<sup>11</sup> Francis Parkman, *A Half-Century of Conflict. France and England in North America. Part Sixth*, Boston, Little, Brown, and Company (1897), Vol. I, pp. 168 *et seq.*, available at: <http://www.gutenberg.org/files/24457/24457-h/24457-h.htm>, gives a vivid account of the expedition. His number is closer to 900 (p. 174). The Canadians regarded the ship wreck as "a marvellous effect of God's love for Canada, which, of all these countries, is the only one that professes the true religion" (Parkman, Vol. I, p. 180, citing Mother Juchereau de Saint-Denis).

<sup>12</sup> See Treaty of Peace and Friendship of 1713 concluded between Great Britain and Spain.

<sup>13</sup> *Encyclopédie du dix-neuvième siècle répertoire universel des sciences, des lettres et des arts, avec la biographie de tous les hommes célèbres: 19.2, Volume 1*, available at: [https://books.google.de/books?redir\\_esc=y&hl=de&id=CpLYNhu81CwC&q=Melchior+de+Polignac+#v=snippet&q=Melchior%20de%20Polignac&f=false](https://books.google.de/books?redir_esc=y&hl=de&id=CpLYNhu81CwC&q=Melchior+de+Polignac+#v=snippet&q=Melchior%20de%20Polignac&f=false), p. 761, quotes him as follows: "Au congrès d'Utrecht, il répondit aux ministres bataves qui menaçaient de le chasser de leur pays: 'Nous n'en sortirons pas ; nous traiterons de vous chez vous et sans vous.'"

the island commonly called Sable, inclusively, and thence stretching along towards the south-west.

XIII. The island called Newfoundland with the adjacent islands, shall from this time forward belong of right wholly to Britain; and to that end the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French, shall be yielded and given up, within seven months from the exchange of the ratifications of this treaty, or sooner, if possible, by the most Christian King, to those who have a commission from the Queen of Great Britain for that purpose. Nor shall the most Christian King, his heirs and successors, or any of their subjects, at any time hereafter, lay claim to any right to the said island and islands, or to any part of it, or them. Moreover, it shall not be lawful for the subjects of France to fortify any place in the said island of Newfoundland, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish; or to resort to the said island, beyond the time necessary for, fishing, and drying of fish. But it shall be allowed to the subjects of France to catch fish, and to dry them on land, in that part only, and in no other besides that, of the said island of Newfoundland, which stretches from the place called Cape Bonavista to the northern point of the said island, and frons thence running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton, as also all others, both in the mouth of the river of St. Lawrence, and in the gulph of the same name, shall hereafter belong of right to the French, and the most Christian King shall have all manner of liberty to fortify any place or places there.”<sup>14</sup>

For those French inhabitants that chose to stay, the Treaty granted freedom of religion:

“XIV. It is expressly provided, that in all the said places and colonies to be yielded and restored by the most Christian King, in pursuance of this treaty, the subjects of the said King may have liberty to remove themselves, within a year, to any other place, as they shall think fit, together with all their moveable effects. But those who are willing to remain there, and to be subject to the kingdom of Great Britain, at to enjoy the free exercise of their religion, according to the usage of the church of Rome, as far as the laws of Great Britain do allow the same.”<sup>15</sup>

Despite its intention to resolve the question of the dominion over Acadia “for ever”, the fault lines from which future conflicts would stem soon became apparent:

- **The Boundaries of Acadia**

Despite (or because) of the Treaty’s reference to “Nova Scotia or Acadie, with its ancient boundaries”, the exact delimitation between Britain’s and France’s territories in what is now New Brunswick eventually became an issue.<sup>16</sup> France claimed the

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<sup>14</sup> Articles XII and XIII of the Utrecht Treaty.

<sup>15</sup> Article XIV of the Utrecht Treaty.

<sup>16</sup> For example, in 1753, T. Jefferys, “Geographer to His Royal Highness the Prince of Wales” published a “Letter to a Member of Parliament” complaining about “The Conduct of the French With Regard to Nova Scotia; From its first Settlement to the present Time. In which are exposed the Falsehood and Absurdity of their

Kennebec River as its border as well as the isthmus between what today is New Brunswick and Nova Scotia. – Britain did not agree.<sup>17</sup>

- **Catholics and Cattle**

While the Treaty stated that those willing to remain in the territory and to be subject to the Kingdom of Great Britain “enjoy the free exercise of their religion, according to the usage of the church of Rome, as far as the laws of Great Britain do allow the same”, religion soon became one point of contention. The French and many Wabenaki were catholic, while the British sovereign was at the same time head of the Anglican Church. The differences were exemplified by the Catholics’ reluctance to swear the Oath of Allegiance.<sup>18</sup>

However, as often is the case, religious conflicts have hard economic realities at their core. The Acadians outnumbered the British and the British as well as the French were dependent on them for food and supplies:

“That rawness was the result of a peculiar kind of imperial competition. At stake, simply enough, was food. The lands farmed by Nova Scotia’s fifteen thousand Acadians, wrote more than one eighteenth-century observer, had the potential to act as a kind of ‘granary;’ enriching and empowering whoever controlled them. For both the French and British empires, securing the fruits of Acadian agriculture, and preventing the enemy from doing so, became the highest priority.”<sup>19</sup>

The Acadians had indeed striking agricultural skills. They adapted techniques that were used in France and built dikes along the outer marsh areas:

“Using sharp diking spades imported from western France, Acadians took to the marshes, harvesting rectangular blocks, or *gazons*, measuring four by ten inches at the surface and a foot in depth. Their durability stunned observers.

[...]

Arranging the sods like bricks, Acadians built smooth-faced dike walls up to ten feet high, then packed the structure’s center with brush, clay, and more ‘odd’ sods. Likely referencing *abotamentum*, the medieval Latin term for dike, and its various iterations in the dialects of western France, the Acadians called their creations *aboiteaux*. Perfected in the marshes near Port Royal, the Acadians’ *aboiteaux* migrated up, the Bay of Fundy as the seventeenth century progressed.”<sup>20</sup>

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Arguments made use of to elude the Force of the Utrecht Treaty, and support their unjust Proceedings” (available at: <https://archive.org/stream/conductoffrenchw01jeff#page/n5>).

<sup>17</sup> See Francis Parkman, Montcalm and Wolfe, France and England in North America. Part Seventh, Boston, Little, Brown, and Company (1885), Vol I, available at: <http://www.gutenberg.org/files/14517/14517-h/14517.htm>, pp. 123 *et seq.*, 212-214, below at p. 26 *et seq.*

<sup>18</sup> See Francis Parkman, Montcalm and Wolfe, Vol I, p. 91 *et seq.*, below at p. 9 *et seq.*

<sup>19</sup> Christopher Hodson, The Acadian Diaspora, An Eighteenth-Century History, Oxford University Press, 2012, p. 20; see also Francis Parkman, A Half-Century of Conflict, Vol I, pp. 192-193, 196-197.

<sup>20</sup> Christopher Hodson, The Acadian Diaspora, pp. 26-27 (internal footnotes omitted).

## French and Mi'kmaq Resistance

Queen Anne's War was not the last war fought in the territory. Whether all of the conflicts would be called a "war" by modern standards (some "battles" were fought with only a few dozen participants) is uncertain. What is certain is that the same war often has many names and that – except between 1725 and 1744 – there was no lasting peace.

There was Dummer's War (aka Father Rale's War, Lovewell's War, Greylock's War, the Three Years War, the 4<sup>th</sup> Anglo-Abenaki War, the Wabenaki-New England War) from 1722 to 1725; King George's War from 1744 to 1748, which was part of the War of the Austrian Succession from 1740 to 1748; Father Le Loutre's War (aka the Indian War, the Micmac War, the Anglo-Micmac War) from 1749 to 1755; and the French and Indian War from 1754 to 1763, which was part of the Seven Years' War from 1756 to 1763.

## Events leading up to the Displacement of the Acadians

Francis Parkman was one of the first to examine historical sources for his extensive treatise of the wars in North America.<sup>21</sup> Parkman sees the result of the conflict as one of the causes that ultimately led to the independence movement of the British colonies and to the creation of the United States of America.<sup>22</sup>

Parkman describes the events in the North-American theatre as follows:<sup>23</sup>

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<sup>21</sup> Parkman is certainly not an entirely neutral source. Participants in the Moot will therefore apply their professional judgement.

<sup>22</sup> Francis Parkman, *Montcalm And Wolfe*, Vol. I, pp. 1-4: "To us of this day, the result of the American part of the war seems a foregone conclusion. It was far from being so; and very far from being so regarded by our forefathers. The numerical superiority of the British colonies was offset by organic weaknesses fatal to vigorous and united action. Nor at the outset did they, or the mother-country, aim at conquering Canada, but only at pushing back her boundaries. Canada—using the name in its restricted sense—was a position of great strength; and even when her dependencies were overcome, she could hold her own against forces far superior. Armies could reach her only by three routes,—the Lower St. Lawrence on the east, the Upper St. Lawrence on the west, and Lake Champlain on the south. The first access was guarded by a fortress almost impregnable by nature, and the second by a long chain of dangerous rapids; while the third offered a series of points easy to defend. During this same war, Frederic of Prussia held his ground triumphantly against greater odds, though his kingdom was open on all sides to attack. It was the fatuity of Louis XV. and his Pompadour that made the conquest of Canada possible. Had they not broken the traditionary policy of France, allied themselves to Austria, her ancient enemy, and plunged needlessly into the European war, the whole force of the kingdom would have been turned, from the first, to the humbling of England and the defence of the French colonies. The French soldiers left dead on inglorious Continental battle-fields could have saved Canada, and perhaps made good her claim to the vast territories of the West. But there were other contingencies. The possession of Canada was a question of diplomacy as well as of war. If England conquered her, she might restore her, as she had lately restored Cape Breton. She had an interest in keeping France alive on the American continent. More than one clear eye saw, at the middle of the last century, that the subjection of Canada would lead to a revolt of the British colonies. So long as an active and enterprising enemy threatened their borders, they could not break with the mother-country, because they needed her help. And if the arms of France had prospered in the other hemisphere; if she had gained in Europe or Asia territories with which to buy back what she had lost in America, then, in all likelihood, Canada would have passed again into her hands.

[...]

The Seven Years War made England what she is. It crippled the commerce of her rival, ruined France in two continents, and blighted her as a colonial power. It gave England the control of the seas and the mastery of North America and India, made her the first of commercial nations, and prepared that vast colonial system that has planted new Englands in every quarter of the globe. And while it made England what she is, it supplied to the United States the indispensable condition of their greatness, if not of their national existence. [...]."

<sup>23</sup> The footnotes are in the original. Their numbering has been changed.

“CHAPTER IV.

1710-1754.

CONFLICT FOR ACADIA.

ACADIA CEDED TO ENGLAND • ACADIANS SWEAR FIDELITY • HALIFAX FOUNDED •  
FRENCH INTRIGUE • ACADIAN PRIESTS • MILDNESS OF ENGLISH RULE • COVERT HOSTILITY OF  
ACADIANS • THE NEW OATH • TREACHERY OF VERSAILLES • INDIANS INCITED TO WAR •  
CLERICAL AGENTS OF REVOLT • ABBÉ LE LOUTRE • ACADIANS IMPELLED TO EMIGRATE •  
MISERY OF THE EMIGRANTS • HUMANITY OF CORNWALLIS AND HOPSON • FANATICISM AND  
VIOLENCE OF LE LOUTRE • CAPTURE OF THE "ST. FRANÇOIS" • THE ENGLISH AT BEAUBASSIN •  
LE LOUTRE DRIVES OUT THE INHABITANTS • MURDER OF HOWE • BEAUSÉJOUR • INSOLENCE OF  
LE LOUTRE • HIS HARSHNESS TO THE ACADIANS • THE BOUNDARY COMMISSION • ITS FAILURE  
• APPROACHING WAR

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WHILE in the West all the signs of the sky foreboded storm, another tempest was gathering the East, less in extent, but not less in peril. The conflict in Acadia has a melancholy interest, since it ended in a catastrophe which prose and verse have joined to commemorate, but of which the causes have not been understood.

Acadia – that is to say, the peninsula of Nova Scotia, with the addition, as the English claimed, of the present New Brunswick and some adjacent country – was conquered by General Nicholson in 1710, and formally transferred by France to the British Crown, three years later, by the treaty of Utrecht. By that treaty it was “expressly provided” that such of the French inhabitants as [PAGE 91] “are willing to remain there and to be subject to the Kingdom of Great Britain, are to enjoy the free exercise of their religion according to the usage of the Church of Rome, as far as the laws of Great Britain do allow the same;” but that any who choose may remove, with their effects, if they do so within a year. Very few availed themselves of this right; and after the end of the year those who remained were required to take an oath of allegiance to King George. There is no doubt that in a little time they would have complied, had they been let alone; but the French authorities of Canada and Cape Breton did their utmost to prevent them, and employed agents to keep them hostile to England. Of these the most efficient were the French priests, who, in spite of the treaty, persuaded their flocks that they were still subjects of King Louis. Hence rose endless



perplexity to the English commanders at Annapolis, who more than suspected that the Indian attacks with which they were harassed were due mainly to French instigation.<sup>24</sup> It was not till seventeen years after the treaty that the Acadians could be brought to take the oath without qualifications which made it almost useless. The English authorities seem to have shown throughout an unusual patience and forbearance. At length, about 1730, nearly all the inhabitants signed by crosses, since few of them could write, an oath [PAGE 92] recognizing George II. as sovereign of Acadia, and promising fidelity and obedience to him.<sup>25</sup> This restored comparative quiet till the war of 1745, when some of the Acadians remained neutral, while some took arms against the English, and many others aided the enemy with information and supplies.

English power in Acadia, hitherto limited to a feeble garrison at Annapolis and a feebler one at Canseau, received at this time a great accession. The fortress of Louisbourg, taken by the English during the war, had been restored by the treaty; and the French at once prepared to make it a military and naval station more formidable than ever. Upon this the British Ministry resolved to establish another station as a counterpoise; and the harbor of Chebucto, on the south coast of Acadia, was chosen as the site of it. Thither in June, 1749, came a fleet of transports loaded with emigrants, tempted by offers of land and a home in the New World. Some were mechanics, tradesmen, farmers, and laborers; others were sailors, soldiers, and subaltern officers thrown out of employment by the peace. Including women and children, they counted in all about twenty-five hundred. Alone of all the British colonies on the continent, this new settlement was the offspring, not of private enterprise, but of royal authority.

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Yet it was free like the rest, with the same popular representation and local self-government. Edward Cornwallis, uncle of Lord Cornwallis of the Revolutionary War, was made governor and commander-in-chief. Wolfe calls him “a man of approved courage and fidelity;” and even the caustic Horace Walpole speaks of him as “a brave, sensible young man, of great temper and good nature.”

Before summer was over, the streets were laid out, and the building-lot of each settler was assigned to him; before winter closed, the whole were under shelter, the village was

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<sup>24</sup> See the numerous papers in *Selections from the Public Documents of the Province of Nova Scotia* (Halifax, 1869), pp. 1-165; a Government publication of great value.

<sup>25</sup> The oath was *litteratim* as follows: “Je Promets et Jure Sincèrement en Foi de Chrétien que Je serai entièrement Fidele, et Obeierai Vraiment Sa Majesté Le Roy George Second, qui (sic) Je reconnoi pour Le Souverain Seigneur de l'Accadie ou Nouvelle Ecosse. Ainsi Dieu me Soit en Aide.”

fenced with palisades and defended by redoubts of timber, and the battalions lately in garrison at Louisbourg manned the wooden ramparts. Succeeding years brought more emigrants, till in 1752 the population was above four thousand. Thus was born into the world the city of Halifax. Along with the crumbling old fort and miserably disciplined garrison at Annapolis, besides six or seven small detached posts to watch the Indians and Acadians, it comprised the whole British force on the peninsula; for Canseau had been destroyed by the French.

The French had never reconciled themselves to the loss of Acadia, and were resolved, by diplomacy or force, to win it back again; but the building of Halifax showed that this was to be no easy task, and filled them at the same time with alarm for the safety of Louisbourg. On one point, at least, they saw their policy clear. The Acadians, though those of them who were not above thirty-five [PAGE 94] had been born under the British flag, must be kept French at heart, and taught that they were still French subjects. In 1748 they numbered eighty-eight hundred and fifty communicants, or from twelve to thirteen thousand souls; but an emigration, of which the causes will soon appear, had reduced them in 1752 to but little more than nine thousand.<sup>26</sup> These were divided into six principal parishes, one of the largest being that of Annapolis. Other centres of population were Grand Pré, on the basin of Mines; Beaubassin, at the head of Chignecto Bay; Pisiquid, now Windsor; and Cobequid, now Truro. Their priests, who were missionaries controlled by the diocese of Quebec, acted also as their magistrates, ruling them for this world and the next. Being subject to a French superior, and being, moreover, wholly French at heart, they formed in this British province a wheel within a wheel, the inner movement always opposing the outer.

Although, by the twelfth article of the treaty of Utrecht, France had solemnly declared the Acadians to be British subjects, the Government of Louis XV. intrigued continually to turn them from subjects into enemies. Before me is a mass of English documents on Acadian affairs from the peace of Aix-la-Chapelle to the catastrophe of 1755, and above a thousand pages of French official [PAGE 95] papers from the archives of Paris, memorials, reports, and secret correspondence, relating to the same matters. With the help of these and some collateral lights, it is not difficult to make a correct diagnosis of the political disease that ravaged this miserable country. Of a multitude of proofs, only a few can be given here; but these will suffice.

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<sup>26</sup> Description de l'Acadie, avec le Nom des Paroisses et le Nombre des Habitants, 1748. Mémoire à présenter à la Cour sur la Nécessité de fixer les Limites de l'Acadie, par l'Abbé de l'Isle-Dieu, 1753 (1754?). Compare the estimates in Censuses of Canada (Ottawa, 1876.)

It was not that the Acadians had been ill-used by the English; the reverse was the case. They had been left in free exercise of their worship, as stipulated by treaty. It is true that, from time to time, there were loud complaints from French officials that religion was in danger, because certain priests had been rebuked, arrested, brought before the Council at Halifax, suspended from their functions, or required, on pain of banishment, to swear that they would do nothing against the interests of King George. Yet such action on the part of the provincial authorities seems, without a single exception, to have been the consequence of misconduct on the part of the priest, in opposing the Government and stirring his flock to disaffection. La Jonquière, the determined adversary of the English, reported to the bishop that they did not oppose the ecclesiastics in the exercise of their functions, and an order of Louis XV. admits that the Acadians have enjoyed liberty of religion.<sup>27</sup> In a long document addressed in 1750 to [PAGE 96] the Colonial Minister at Versailles, Roma, an officer at Louisbourg, testifies thus to the mildness of British rule, though he ascribes it to interested motives. "The fear that the Acadians have of the Indians is the controlling motive which makes them side with the French. The English, having in view the conquest of Canada, wished to give the French of that colony, in their conduct towards the Acadians, a striking example of the mildness of their government. Without raising the fortune of any of the inhabitants, they have supplied them for more than thirty-five years with the necessaries of life, often on credit and with an excess of confidence, without troubling their debtors, without pressing them, without wishing to force them to pay. They have left them an appearance of liberty so excessive that they have not intervened in their disputes or even punished their crimes. They have allowed them to refuse with insolence certain moderate rents payable in grain and lawfully due. They have passed over in silence the contemptuous refusal of the Acadians to take titles from them for the new lands which they chose to occupy."<sup>28</sup>

"We know very well," pursues Roma, "the fruits of this conduct in the last war; and the English know it also. Judge then what will be the wrath and vengeance of this cruel nation." The fruits to which Roma alludes were the hostilities, open or secret, committed by the Acadians against the English. He now ventures the [PAGE 97] prediction that the enraged conquerors will take their revenge by drafting all the young Acadians on board their ships of war, and there destroying them by slow starvation. He proved, however, a false prophet. The

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<sup>27</sup> La Jonquière à l'Évêque de Québec, 14 Juin, 1750. Mémoire du Roy pour servir d'Instruction au Comte de Raymond, commandant pour Sa Majesté à l'Isle Royale [Cape Breton], 24 Avril, 1751.

<sup>28</sup> See Appendix B.

English Governor merely required the inhabitants to renew their oath of allegiance, without qualification or evasion.

It was twenty years since the Acadians had taken such an oath; and meanwhile a new generation had grown up. The old oath pledged them to fidelity and obedience; but they averred that Phillips, then governor of the province, had given them, at the same time, assurance that they should not be required to bear arms against either French or Indians. In fact, such service had not been demanded of them, and they would have lived in virtual neutrality, had not many of them broken their oaths and joined the French war-parties. For this reason Cornwallis thought it necessary that, in renewing the pledge, they should bind themselves to an allegiance as complete as that required of other British subjects. This spread general consternation. Deputies from the Acadian settlements appeared at Halifax, bringing a paper signed with the marks of a thousand persons. The following passage contains the pith of it. "The inhabitants in general, sir, over the whole extent of this country are resolved not to take the oath which your Excellency requires of us; but if your Excellency will grant us our old oath, with an exemption for ourselves and our heirs from taking up arms, we [PAGE 98] will accept it."<sup>29</sup> The answer of Cornwallis was by no means so stern as it has been represented.<sup>30</sup> After the formal reception he talked in private with the deputies; and "they went home in good humor, promising great things."<sup>31</sup>

The refusal of the Acadians to take the required oath was not wholly spontaneous, but was mainly due to influence from without. The French officials of Cape Breton and Isle St. Jean, now Prince Edward Island, exerted themselves to the utmost, chiefly through the agency of the priests, to excite the people to refuse any oath that should commit them fully to British allegiance. At the same time means were used to induce them to migrate to the neighboring islands under French rule, and efforts were also made to set on the Indians to attack the English. But the plans of the French will best appear in a despatch sent by La Jonquière to the Colonial Minister in the autumn of 1749.

"Monsieur Cornwallis issued an order on the tenth of the said month [August], to the effect that if the inhabitants will remain faithful subjects of the King of Great Britain, he will allow them priests and public exercise of their religion, with the understanding that no priest shall officiate without his permission or before taking an oath of fidelity to the King of Great Britain. Secondly, that the inhabitants shall not be [PAGE 99] exempted from defending their

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<sup>29</sup> Public Documents of Nova Scotia, 173.

<sup>30</sup> See *Ibid.*, 174, where the answer is printed.

<sup>31</sup> Cornwallis to the Board of Trade, 11 Sept. 1749.

houses, their lands, and the Government. Thirdly, that they shall take an oath of fidelity to the King of Great Britain, on the twenty-sixth of this month, before officers sent them for that purpose.”

La Jonquière proceeds to say that on hearing these conditions the Acadians were filled with perplexity and alarm, and that he, the governor, had directed Boishébert, his chief officer on the Acadian frontier, to encourage them to leave their homes and seek asylum on French soil. He thus recounts the steps he has taken to harass the English of Halifax by means of their Indian neighbors. As peace had been declared, the operation was delicate; and when three of these Indians came to him from their missionary, Le Loutre, with letters on the subject, La Jonquière was discreetly reticent. “I did not care to give them any advice upon the matter, and confined myself to a promise that I would on no account abandon them; and I have provided for supplying them with everything, whether arms, ammunition, food, or other necessaries. It is to be desired that these savages should succeed in thwarting the designs of the English, and even their settlement at Halifax. They are bent on doing so; and if they can carry out their plans, it is certain that they will give the English great trouble, and so harass them that they will be a great obstacle in their path. These savages are to act alone; neither soldier nor French inhabitant is to join them; everything will be done of [PAGE 100] their own motion, and without showing that I had any knowledge of the matter. This is very essential; therefore I have written to the Sieur de Boishébert to observe great prudence in his measures, and to act very secretly, in order that the English may not perceive that we are providing for the needs of the said savages.

“It will be the missionaries who will manage all the negotiation, and direct the movements of the savages, who are in excellent hands, as the Reverend Father Germain and Monsieur l’Abbé Le Loutre are very capable of making the most of them, and using them to the greatest advantage for our interests. They will manage their intrigue in such a way as not to appear in it.”

La Jonquière then recounts the good results which he expects from these measures: first, the English will be prevented from making any new settlements; secondly, we shall gradually get the Acadians out of their hands; and lastly, they will be so discouraged by constant Indian attacks that they will renounce their pretensions to the parts of the country belonging to the King of France. “I feel, Monseigneur,” – thus the Governor concludes his

despatch, – “all the delicacy of this negotiation; be assured that I will conduct it with such precaution that the English will not be able to say that my orders had any part in it.”<sup>32</sup>

He kept his word, and so did the missionaries. The Indians gave great trouble on the outskirts of Halifax, and murdered many harmless settlers; [PAGE 101] yet the English authorities did not at first suspect that they were hounded on by their priests, under the direction of the Governor of Canada, and with the privity of the Minister at Versailles. More than this; for, looking across the sea, we find royalty itself lending its august countenance to the machination. Among the letters read before the King in his cabinet in May, 1750, was one from Desherbiers, then commanding at Louisbourg, saying that he was advising the Acadians not to take the oath of allegiance to the King of England; another from Le Loutre, declaring that he and Father Germain were consulting together how to disgust the English with their enterprise of Halifax; and a third from the Intendant, Bigot, announcing that Le Loutre was using the Indians to harass the new settlement, and that he himself was sending them powder, lead, and merchandise, “to confirm them in their good designs.”<sup>33</sup>

To this the Minister replies in a letter to Desherbiers: “His Majesty is well satisfied with all you have done to thwart the English in their new establishment. If the dispositions of the savages are such as they seem, there is reason to hope that in the course of the winter they will succeed in so harassing the settlers that some of them will become disheartened.” Desherbiers is then told that His Majesty desires him to aid English deserters in escaping from Halifax.<sup>34</sup> Supplies for the [PAGE 102] Indians are also promised; and he is informed that twelve medals are sent him by the frigate “La Mutine,” to be given to the chiefs who shall most distinguish themselves. In another letter Desherbiers is enjoined to treat the English authorities with great politeness.<sup>35</sup>

When Count Raymond took command at Louisbourg, he was instructed, under the royal hand, to give particular attention to the affairs of Acadia, especially in two points, – the management of the Indians, and the encouraging of Acadian emigration to countries under French rule. “His Majesty,” says the document, “has already remarked that the savages have been most favorably disposed. It is of the utmost importance that no means be neglected to keep them so. The missionaries among them are in a better position than anybody to contribute to this end, and His Majesty has reason to be satisfied with the pains they take

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<sup>32</sup> La Jonquière au Ministre, 9 Oct. 1749. See Appendix B.

<sup>33</sup> Resumé des Lettres lues au Travail du Roy, Mai, 1750.

<sup>34</sup> In 1750 nine captured deserters from Phillips's regiment declared on their trial that the French had aided them and supplied them all with money. Public Documents of Nova Scotia, 193.

<sup>35</sup> Le Ministre à Desherbiers, 23 Mai, 1750; Ibid., 31 Mai, 1750.

therein. The Sieur de Raymond will excite these missionaries not to slacken their efforts; but he will warn them at the same time so to contain their zeal as not to compromise themselves with the English, and give just occasion of complaint.”<sup>36</sup> That is, the King orders his representative to encourage the missionaries in instigating their flocks to butcher English settlers, but to see that they take care not to be found out. The injunction was hardly needed. “Monsieur Desherbiers,” says a [PAGE 103] letter of earlier date, “has engaged Abbé Le Loutre to distribute the usual presents among the savages, and Monsieur Bigot has placed in his hands an additional gift of cloth, blankets, powder, and ball, to be given them in case they harass the English at Halifax. This missionary is to induce them to do so.”<sup>37</sup> In spite of these efforts, the Indians began to relent in their hostilities; and when Longueuil became provisional governor of Canada, he complained to the Minister that it was very difficult to prevent them from making peace with the English, though Father Germain was doing his best to keep them on the war-path.<sup>38</sup> La Jonquière, too, had done his best, even to the point of departing from his original policy of allowing no soldier or Acadian to take part with them. He had sent a body of troops under La Corne, an able partisan officer, to watch the English frontier; and in the same vessel was sent a supply of “merchandise, guns, and munitions for the savages and the Acadians who may take up arms with them; and the whole is sent under pretext of trading in furs with the savages.”<sup>39</sup> On another occasion La Jonquière wrote: “In order that the savages may do their part courageously, a few Acadians, dressed and painted in their way, could join them to strike the English. I cannot help consenting to what these savages do, because we have our hands tied [by the peace], and [PAGE 104] so can do nothing ourselves. Besides, I do not think that any inconvenience will come of letting the Acadians mingle among them, because if they [the Acadians] are captured, we shall say that they acted of their own accord.”<sup>40</sup> In other words, he will encourage them to break the peace; and then, by means of a falsehood, have them punished as felons. Many disguised Acadians did in fact join the Indian war-parties; and their doing so was no secret to the English. “What we call here an Indian war,” wrote Hopson, successor of Cornwallis, “is no other than a pretence for the French to commit hostilities on His Majesty's subjects.”

At length the Indians made peace, or pretended to do so. The chief of Le Loutre's mission, who called himself Major Jean-Baptiste Cope, came to Halifax with a deputation of

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<sup>36</sup> Mémoire du Roy pour servir d'Instruction au Comte de Raymond, 24 Avril, 1751.

<sup>37</sup> Lettre commune de Desherbiers et Bigot au Ministre, 15 Août, 1749.

<sup>38</sup> Longueuil au Ministre, 26 Avril, 1752.

<sup>39</sup> Bigot au Ministre, 1749.

<sup>40</sup> Dépêches de la Jonquière, 1 Mai, 1751. See Appendix B.

his tribe, and they all affixed their totems to a solemn treaty. In the next summer they returned with ninety or a hundred warriors, were well entertained, presented with gifts, and sent homeward in a schooner. On the way they seized the vessel and murdered the crew. This is told by Prévost, intendant at Louisbourg, who does not say that French instigation had any part in the treachery.<sup>41</sup> It is nevertheless certain that the Indians were paid for this or some contemporary murder; for Prévost, writing just four weeks later, says: “Last month the savages [PAGE 105] took eighteen English scalps, and Monsieur Le Loutre was obliged to pay them eighteen hundred livres, Acadian money, which I have reimbursed him.”<sup>42</sup>

From the first, the services of this zealous missionary had been beyond price. Prévost testifies that, though Cornwallis does his best to induce the Acadians to swear fidelity to King George, Le Loutre keeps them in allegiance to King Louis, and threatens to set his Indians upon them unless they declare against the English. “I have already,” adds Prévost, “paid him 11,183 livres for his daily expenses; and I never cease advising him to be as economical as possible, and always to take care not to compromise himself with the English Government.”<sup>43</sup> In consequence of “good service to religion and the state,” Le Loutre received a pension of eight hundred livres, as did also Maillard, his brother missionary on Cape Breton. “The fear is,” writes the Colonial Minister to the Governor of Louisbourg, “that their zeal may carry them too far. Excite them to keep the Indians in our interests, but do not let them compromise us. Act always so as to make the English appear as aggressors.”<sup>44</sup>

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All the Acadian clergy, in one degree or another, seem to have used their influence to prevent the inhabitants from taking the oath, and to persuade them that they were still French subjects. Some were noisy, turbulent, and defiant; others were too tranquil to please the officers of the Crown. A missionary at Annapolis is mentioned as old, and therefore inefficient; while the curé at Grand Pré, also an elderly man, was too much inclined to confine himself to his spiritual functions. It is everywhere apparent that those who chose these priests, and sent them as missionaries into a British province, expected them to act as

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<sup>41</sup> Prévost au Ministre, 12 Mars, 1753; *Ibid.*, 17 July, 1753. Prévost was ordonnateur, or intendant, at Louisbourg. The treaty will be found in full in Public Documents of Nova Scotia, 683.

<sup>42</sup> Prévost au Ministre, 16 Août, 1753.

<sup>43</sup> *Ibid.*, 22 Juillet, 1750.

<sup>44</sup> Le Ministre au Comte de Raymond, 21 Juillet, 1752. It is curious to compare these secret instructions, given by the Minister to the colonial officials, with a letter which the same Minister, Rouillé, wrote ostensibly to La Jonquière, but which was really meant for the eye of the British Minister at Versailles, Lord Albemarle, to whom it was shown in proof of French good faith. It was afterwards printed, along with other papers, in a small volume called *Précis des Faits, avec leurs Pièces justificatives* which was sent by the French Government to all the courts of Europe to show that the English alone were answerable for the war. The letter, it is needless to say, breathes the highest sentiments of international honor.



enemies of the British Crown. The maxim is often repeated that duty to religion is inseparable from the duty to the King of France. The Bishop of Quebec desired the Abbé de l'Isle-Dieu to represent to the Court the need of more missionaries to keep the Acadians Catholic and French; but, he adds, there is danger that they (the missionaries) will be required to take an oath to do nothing contrary to the interests of the King of Great Britain.<sup>45</sup> It is a wonder that such a pledge was not always demanded. It was exacted in a few cases, notably in that of Girard, priest at Cobequid, who, on charges of instigating his flock to disaffection, had been sent prisoner to Halifax, but released on taking an oath in the above terms.

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Thereupon he wrote to Longueuil at Quebec that his parishioners wanted to submit to the English, and that he, having sworn to be true to the British King, could not prevent them. "Though I don't pretend to be a casuist," writes Longueuil, "I could not help answering him that he is not obliged to keep such an oath, and that he ought to labor in all zeal to preserve and increase the number of the faithful." Girard, to his credit, preferred to leave the colony, and retired to Isle St. Jean.<sup>46</sup>

Cornwallis soon discovered to what extent the clergy stirred their flocks to revolt; and he wrote angrily to the Bishop of Quebec: "Was it you who sent Le Loutre as a missionary to the Micmacs? and is it for their good that he excites these wretches to practise their cruelties against those who have shown them every kindness? The conduct of the priests of Acadia has been such that by command of his Majesty I have published an Order declaring that if any one of them presumes to exercise his functions without my express permission he shall be dealt with according to the laws of England."<sup>47</sup>

The English, bound by treaty to allow the Acadians the exercise of their religion, at length conceived the idea of replacing the French priests by others to be named by the Pope at the request of the British Government. This, becoming known to the French, greatly alarmed them, and the Intendant at Louisbourg wrote to the Minister that the [PAGE 108] matter required serious attention.<sup>48</sup> It threatened, in fact, to rob them of their chief agents of intrigue; but their alarm proved needless, as the plan was not carried into execution.

The French officials would have been better pleased had the conduct of Cornwallis been such as to aid their efforts to alienate the Acadians; and one writer, while confessing the

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<sup>45</sup> L'Isle-Dieu, *Mémoire sur l'État actuel des Missions*, 1753 (1754?).

<sup>46</sup> Longueuil au Ministre, 27 Avril, 1752.

<sup>47</sup> Cornwallis to the Bishop of Quebec, 1 Dec. 1749.

<sup>48</sup> Daudin, prêtre, à Prévost, 23 Oct. 1753. Prévost au Ministre, 24 Nov. 1753.

“favorable treatment” of the English towards the inhabitants, denounces it as a snare.<sup>49</sup> If so, it was a snare intended simply to reconcile them to English rule. Nor was it without effect. “We must give up altogether the idea of an insurrection in Acadia,” writes an officer of Cape Breton. “The Acadians cannot be trusted; they are controlled by fear of the Indians, which leads them to breathe French sentiments, even when their inclinations are English. They will yield to their interests; and the English will make it impossible that they should either hurt them or serve us, unless we take measures different from those we have hitherto pursued.”<sup>50</sup>

During all this time, constant efforts were made to stimulate Acadian emigration to French territory, and thus to strengthen the French frontier. In this work the chief agent was Le Loutre. “This priest,” says a French writer of the time, “urged the people of Les Mines, Port Royal [Annapolis], and other places, to come and join the French, and promised to all, in the name of the Governor, to [PAGE 109] settle and support them for three years, and even indemnify them for any losses they might incur; threatening if they did not do as he advised, to abandon them, deprive them of their priests, have their wives and children carried off, and their property laid waste by the Indians.”<sup>51</sup> Some passed over the isthmus to the shores of the gulf, and others made their way to the Strait of Canseau. Vessels were provided to convey them, in the one case to Isle St. Jean, now Prince Edward Island, and in the other to Isle Royale, called by the English, Cape Breton. Some were eager to go; some went with reluctance; some would scarcely be persuaded to go at all. “They leave their homes with great regret,” reports the Governor of Isle St. Jean, speaking of the people of Cobequid, “and they began to move their luggage only when the savages compelled them.”<sup>52</sup> These savages were the flock of Abbé Le Loutre, who was on the spot to direct the emigration. Two thousand Acadians are reported to have left the peninsula before the end of 1751, and many more followed within the next two years. Nothing could exceed the misery of a great part of these emigrants, who had left perforce most of their effects behind. They became disheartened and apathetic. The Intendant at Louisbourg says that they will not take the trouble to clear the land, and that some of them live, like Indians, under huts of spruce-branches.<sup>53</sup> The Governor of [PAGE 110] Isle St. Jean declares that they are dying of hunger.<sup>54</sup> Girard, the priest who had withdrawn to this island rather than break his oath to the English, writes: “Many of them cannot protect themselves day or night from the severity of the cold. Most of the children are

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<sup>49</sup> Mémoire à présenter à la Cour, 1753.

<sup>50</sup> Roma au Ministre, 11 Mars, 1750.

<sup>51</sup> Mémoires sur le Canada, 1749-1760.

<sup>52</sup> Bonaventure à Desherbiers, 26 Juin, 1751.

<sup>53</sup> Prévost au Ministre, 25 Nov. 1750.

<sup>54</sup> Bonaventure, ut supra.

entirely naked; and when I go into a house they are all crouched in the ashes, close to the fire. They run off and hide themselves, without shoes, stockings, or shirts. They are not all reduced to this extremity but nearly all are in want.”<sup>55</sup> Mortality among them was great, and would have been greater but for rations supplied by the French Government.

During these proceedings, the English Governor, Cornwallis, seems to have justified the character of good temper given him by Horace Walpole. His attitude towards the Acadians remained on the whole patient and conciliatory. “My friends,” he replied to a deputation of them asking a general permission to leave the province, “I am not ignorant of the fact that every means has been used to alienate the hearts of the French subjects of His Britannic Majesty. Great advantages have been promised you elsewhere, and you have been made to imagine that your religion was in danger. Threats even have been resorted to in order to induce you to remove to French territory. The savages are made use of to molest you; they are to cut the throats of all who remain in their native country, attached to their own interests and [PAGE 111] faithful to the Government. You know that certain officers and missionaries, who came from Canada last autumn, have been the cause of all our trouble during the winter. Their conduct has been horrible, without honor, probity, or conscience. Their aim is to embroil you with the Government. I will not believe that they are authorized to do so by the Court of France, that being contrary to good faith and the friendship established between the two Crowns.”

What foundation there was for this amiable confidence in the Court of Versailles has been seen already. “When you declared your desire to submit yourselves to another Government,” pursues Cornwallis, “our determination was to hinder nobody from following what he imagined to be his interest. We know that a forced service is worth nothing, and that a subject compelled to be so against his will is not far from being an enemy. We confess, however, that your determination to go gives us pain. We are aware of your industry and temperance, and that you are not addicted to any vice or debauchery. This province is your country. You and your fathers have cultivated it; naturally you ought yourselves to enjoy the fruits of your labor. Such was the design of the King, our master. You know that we have followed his orders. You know that we have done everything to secure to you not only the occupation of your lands, but the ownership of them forever. We have given you also every possible assurance of the free and [PAGE 112] public exercise of the Roman Catholic religion. But I declare to you frankly that, according to our laws, nobody can possess lands or houses

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<sup>55</sup> Girard à (Bonaventure?), 27 Oct. 1753.

in the province who shall refuse to take the oath of allegiance to his King when required to do so. You know very well that there are ill-disposed and mischievous persons among you who corrupt the others. Your inexperience, your ignorance of the affairs of government, and your habit of following the counsels of those who have not your real interests at heart, make it an easy matter to seduce you. In your petitions you ask for a general leave to quit the province. The only manner in which you can do so is to follow the regulations already established, and provide yourselves with our passport. And we declare that nothing shall prevent us from giving such passports to all who ask for them, the moment peace and tranquillity are re-established.”<sup>56</sup> He declares as his reason for not giving them at once, that on crossing the frontier “you will have to pass the French detachments and savages assembled there, and that they compel all the inhabitants who go there to take up arms” against the English. How well this reason was founded will soon appear.

Hopson, the next governor, described by the French themselves as a “mild and peaceable officer,” was no less considerate in his treatment of the Acadians; and at the end of 1752 he issued [PAGE 113] the following order to his military subordinates: “You are to look on the French inhabitants in the same light as the rest of His Majesty’s subjects, as to the protection of the laws and government; for which reason nothing is to be taken from them by force, or any price set upon their goods but what they themselves agree to. And if at any time the inhabitants should obstinately refuse to comply with what His Majesty’s service may require of them, you are not to redress yourself by military force or in any unlawful manner, but to lay the case before the Governor and wait his orders thereon.”<sup>57</sup> Unfortunately, the mild rule of Cornwallis and Hopson was not always maintained under their successor, Lawrence.

Louis Joseph Le Loutre, vicar-general of Acadia and missionary to the Micmacs, was the most conspicuous person in the province, and more than any other man was answerable for the miseries that overwhelmed it. The sheep of which he was the shepherd dwelt, at a day’s journey from Halifax, by the banks of the River Shubenacadie, in small cabins of logs, mixed with wigwams of birch-bark. They were not a docile flock; and to manage them needed address, energy, and money, – with all of which the missionary was provided. He fed their traditional dislike of the English, and fanned their fanaticism, born of the villanous counterfeit of Christianity which he and his predecessors had imposed on them. Thus he

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<sup>56</sup> The above passages are from two address of Cornwallis, read to the Acadian deputies in April and May, 1750. The combined extracts here given convey the spirit of the whole. See Public Documents of Nova Scotia, 185-190.

<sup>57</sup> Public Documents of Nova Scotia, 197.

contrived to use them on the one hand to murder the English, and on [PAGE 114] the other to terrify the Acadians; yet not without cost to the French Government; for they had learned the value of money, and, except when their blood was up, were slow to take scalps without pay. Le Loutre was a man of boundless egotism, a violent spirit of domination, an intense hatred of the English, and a fanaticism that stopped at nothing. Towards the Acadians he was a despot; and this simple and superstitious people, extremely susceptible to the influence of their priests, trembled before him. He was scarcely less masterful in his dealings with the Acadian clergy; and, aided by his quality of the Bishop's vicar-general, he dragooned even the unwilling into aiding his schemes. Three successive governors of New France thought him invaluable, yet feared the impetuosity of his zeal, and vainly tried to restrain it within safe bounds. The Bishop, while approving his objects, thought his medicines too violent, and asked in a tone of reproof: "Is it right for you to refuse the Acadians the sacraments, to threaten that they shall be deprived of the services of a priest, and that the savages shall treat them as enemies?"<sup>58</sup> "Nobody," says a French Catholic contemporary, "was more fit than he to carry discord and desolation into a country."<sup>59</sup> Cornwallis called him "a good-for-nothing scoundrel," and offered a hundred pounds for his head.<sup>60</sup> [PAGE 115] The authorities at Halifax, while exasperated by the perfidy practised on them, were themselves not always models of international virtue. They seized a French vessel in the Gulf of St. Lawrence, on the charge – probably true – that she was carrying arms and ammunition to the Acadians and Indians. A less defensible act was the capture of the armed brig "St. François," laden with supplies for a fort lately re-established by the French, at the mouth of the River St. John, on ground claimed by both nations. Captain Rous, a New England officer commanding a frigate in the Royal Navy, opened fire on the "St. François," took her after a short cannonade, and carried her into Halifax, where she was condemned by the court. Several captures of small craft, accused of illegal acts, were also made by the English. These proceedings, being all of an overt nature, gave the officers of Louis XV. precisely what they wanted, – an occasion for uttering loud complaints, and denouncing the English as breakers of the peace.

But the movement most alarming to the French was the English occupation of Beaubassin, – an act perfectly lawful in itself, since, without reasonable doubt, the place was

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<sup>58</sup> L'Évêque de Québec à Le Loutre; translation in Public Documents of Nova Scotia, 240.

<sup>59</sup> Mémoires sur le Canada, 1749-1760.

<sup>60</sup> On Le Loutre, compare Public Documents of Nova Scotia, 178-180, note, with authorities there cited; N. Y. Col. Docs., X. 11; Mémoires sur le Canada, 1749-1760 (Quebec, 1838).

within the limits of Acadia, and therefore on English ground.<sup>61</sup> Beaubassin was a considerable settlement on the isthmus that joins the Acadian peninsula to the mainland. Northwest of the settlement lay a wide marsh, through which ran a stream called [PAGE 116] the Missaguash, some two miles beyond which rose a hill called Beauséjour. On and near this hill were stationed the troops and Canadians sent under Boishébert and La Corne to watch the English frontier. This French force excited disaffection among the Acadians through all the neighboring districts, and constantly helped them to emigrate. Cornwallis therefore resolved to send an English force to the spot; and accordingly, towards the end of April, 1750, Major Lawrence landed at Beaubassin with four hundred men. News of their approach had come before them, and Le Loutre was here with his Micmacs, mixed with some Acadians whom he had persuaded or bullied to join him. Resolved that the people of Beaubassin should not live under English influence, he now with his own hand set fire to the parish church, while his white and red adherents burned the houses of the inhabitants, and thus compelled them to cross to the French side of the river.<sup>62</sup> This was the first forcible removal of the Acadians. It was as premature as it was violent; since Lawrence, being threatened by La Corne, whose force was several times greater than his own, presently reembarked. In the following September he returned with seventeen small vessels and about seven hundred men, and again attempted [PAGE 117] to land on the strand of Beaubassin. La Jonquière says that he could only be resisted indirectly, because he was on the English side of the river. This indirect resistance was undertaken by Le Loutre, who had thrown up a breastwork along the shore and manned it with his Indians and his painted and be-feathered Acadians. Nevertheless the English landed, and, with some loss, drove out the defenders. Le Loutre himself seems not to have been among them; but they kept up for a time a helter-skelter fight, encouraged by two other missionaries, Germain and Lalerne, who were near being caught by the English.<sup>63</sup> Lawrence quickly routed them, took possession of the cemetery, and prepared to fortify himself. The village of Beaubassin, consisting, it is said, of a hundred and forty houses, had been burned in the spring; but there were still in the neighborhood, on the English side, many hamlets and farms, with barns full of grain and hay. Le Loutre's Indians now threatened to

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<sup>61</sup> La Jonquière himself admits that he thought so. "Cette partie là étant, à ce que je crois, dépendante de l'Acadie." La Jonquière au Ministre, 3 Oct. 1750.

<sup>62</sup> It has been erroneously stated that Beaubassin was burned by its own inhabitants. "Laloutre, ayant vu que les Acadiens ne paroissent pas fort pressés d'abandonner leurs biens, avoit lui-même mis le feu à l'Église, et l'avoit fait mettre aux maisons des habitants par quelques-uns de ceux qu'il avoit gagnés," etc. Mémoires sur le Canada, 1749-1760. "Les sauvages y mirent le feu." Précis des Faits, 85. "Les sauvages mirent le feu aux maisons." Prévost au Ministre, 22 Juillet, 1750.

<sup>63</sup> La Vallière, Journal de ce qui s'est passé à Chenitou [Chignecto] et autres parties des Frontières de l'Acadie, 1750-1751. La Vallière was an officer on the spot to the footnote written.

plunder and kill the inhabitants if they did not take arms against the English. Few complied, and the greater part fled to the woods.<sup>64</sup> On this the Indians and their Acadian allies set the houses and barns on fire, and laid waste the whole district, leaving the inhabitants no choice but to seek food and shelter with the French.<sup>65</sup>

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The English fortified themselves on a low hill by the edge of the marsh, planted palisades, built barracks, and named the new work Fort Lawrence. Slight skirmishes between them and the French were frequent. Neither party respected the dividing line of the Missaguash, and a petty warfare of aggression and reprisal began, and became chronic. Before the end of the autumn there was an atrocious act of treachery. Among the English officers was Captain Edward Howe, an intelligent and agreeable person, who spoke French fluently, and had been long stationed in the province. Le Loutre detested him; dreading his influence over the Acadians, by many of whom he was known and liked. One morning, at about eight o'clock, the inmates of Fort Lawrence saw what seemed an officer from Beauséjour, carrying a flag, and followed by several men in uniform, wading through the sea of grass that stretched beyond the Missaguash. When the tide was out, this river was but an ugly trench of reddish mud gashed across the face of the marsh, with a thread of half-fluid slime lazily crawling along the bottom; but at high tide it was filled to the brim with an opaque torrent that would have overflowed, but for the dikes thrown up to confine it. Behind the dike on the farther bank stood the seeming officer, waving his flag in sign that he desired a parley. He was in reality no officer, but one of Le Loutre's Indians in disguise, Étienne Le Bâtard, or, as others say, the great chief, Jean-Baptiste Cope. Howe, carrying a white flag, and accompanied by [PAGE 119] a few officers and men, went towards the river to hear what he had to say. As they drew near, his looks and language excited their suspicion. But it was too late; for a number of Indians, who had hidden behind the dike during the night, fired upon Howe across the stream, and mortally wounded him. They continued their fire on his companions, but could not prevent them from carrying the dying man to the fort. The French officers, indignant at this villany, did not hesitate to charge it upon Le Loutre; "for," says one of them, "what is not a wicked priest capable of doing?" But Le Loutre's brother missionary, Maillard, declares that it was purely an effect of religious zeal on the part of the Micmacs, who, according to him, bore a deadly grudge against Howe because, fourteen years before, he

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<sup>64</sup> Prévost au Ministre, 27 Sept. 1750.

<sup>65</sup> "Les sauvages et Accadiens mirent le feu dans toutes les maisons et granges, pleines de bled et de fourrages, ce qui a causé une grande disette." La Vallière, ut supra.

had spoken words disrespectful to the Holy Virgin.<sup>66</sup> Maillard adds that the Indians were much pleased with what they had done. Finding, however, that they could effect little against the English troops, they changed their field of action, repaired to the outskirts of Halifax, murdered about thirty settlers, and carried off eight or ten prisoners.

Strong reinforcements came from Canada. The French began a fort on the hill of Beauséjour, and the Acadians were required to work at it with no [PAGE 120] compensation but rations. They were thinly clad, some had neither shoes nor stockings, and winter was begun. They became so dejected that it was found absolutely necessary to give them wages enough to supply their most pressing needs. In the following season Fort Beauséjour was in a state to receive a garrison. It stood on the crown of the hill, and a vast panorama stretched below and around it. In front lay the Bay of Chignecto, winding along the fertile shores of Chipody and Memeramcook. Far on the right spread the great Tantemar marsh; on the left lay the marsh of the Missaguash; and on a knoll beyond it, not three miles distant, the red flag of England waved over the palisades of Fort Lawrence, while hills wrapped in dark forests bounded the horizon.

How the homeless Acadians from Beaubassin lived through the winter is not very clear. They probably found shelter at Chipody and its neighborhood, where there were thriving settlements of their countrymen. Le Loutre, fearing that they would return to their lands and submit to the English, sent some of them to Isle St. Jean. "They refused to go," says a French writer; "but he compelled them at last, by threatening to make the Indians pillage them, carry off their wives and children, and even kill them before their eyes. Nevertheless he kept about him such as were most submissive to his will."<sup>67</sup> In the spring after the English occupied Beaubassin, La Jonquière issued a strange proclamation. It commanded [PAGE 121] all Acadians to take forthwith an oath of fidelity to the King of France, and to enroll themselves in the French militia, on pain of being treated as rebels.<sup>68</sup> Three years after, Lawrence, who then governed the province, proclaimed in his turn that all Acadians who had at any time sworn fidelity to the King of England, and who should be found in arms against him, would be treated as criminals.<sup>69</sup> Thus were these unfortunates ground between the upper and nether millstones. Le Loutre replied to this proclamation of Lawrence by a letter in which

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<sup>66</sup> Maillard, *Les Missions Micmaques*. On the murder of Howe, *Public Documents of Nova Scotia*, 194, 195, 210; *Mémoires sur le Canada, 1749-1760*, where it is said that Le Loutre was present at the deed; La Vallière, *Journal*, who says that some Acadians took part in it; *Dépêches de la Jonquière*, who says "les sauvages de l'Abbé le Loutre l'ont tué par trahison;" and *Prévost au Ministre*, 27 Oct. 1750.

<sup>67</sup> *Mémoires sur le Canada, 1749-1760*.

<sup>68</sup> *Ordonnance du 12 Avril, 1751*.

<sup>69</sup> *Écrit donné aux Habitants réfugiés à Beauséjour, 10 Août, 1754*.



he outdid himself. He declared that any of the inhabitants who had crossed to the French side of the line, and who should presume to return to the English, would be treated as enemies by his Micmacs; and in the name of these, his Indian adherents, he demanded that the entire eastern half of the Acadian peninsula, including the ground on which Fort Lawrence stood, should be at once made over to their sole use and sovereign ownership,<sup>70</sup> – which being read and considered,” says the record of the Halifax Council, “the contents appeared too insolent and absurd to be answered.”

The number of Acadians who had crossed the line and were collected about Beauséjour was now large. Their countrymen of Chipody began to find them a burden, and they lived chiefly on [PAGE 122] Government rations. Le Loutre had obtained fifty thousand livres from the Court in order to dike in, for their use, the fertile marshes of Memeramcook; but the relief was distant, and the misery pressing. They complained that they had been lured over the line by false assurances, and they applied secretly to the English authorities to learn if they would be allowed to return to their homes. The answer was that they might do so with full enjoyment of religion and property, if they would take a simple oath of fidelity and loyalty to the King of Great Britain, qualified by an oral intimation that they would not be required for the present to bear arms.<sup>71</sup> When Le Loutre heard this, he mounted the pulpit, broke into fierce invectives, threatened the terrified people with excommunication, and preached himself into a state of exhaustion.<sup>72</sup> The military commandant at Beauséjour used gentler means of prevention; and the Acadians, unused for generations to think or act for themselves, remained restless, but indecisive, waiting till fate should settle for them the question, under which king?

Meanwhile, for the past three years, the commissioners appointed under the treaty of Aix-la-Chapelle to settle the question of boundaries between France and England in America had been in session at Paris, waging interminable war on paper; La Galissonnière and Silhouette for France,

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Shirley and Mildmay for England. By the treaty of Utrecht, Acadia belonged to England; but what was Acadia? According to the English commissioners, it comprised not only the peninsula now called Nova Scotia, but all the immense tract of land between the River St. Lawrence on the north, the Gulf of the same name on the east, the Atlantic on the

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<sup>70</sup> Copie de la Lettre de M. l'Abbé Le Loutre, Prêtre Missionnaire des Sauvages de l'Accadie, à M. Lawrence à Halifax, 26 Août, 1754. There is a translation in Public Documents of Nova Scotia.

<sup>71</sup> Public Documents of Nova Scotia, 205, 209.

<sup>72</sup> Compare Mémoires, 1749-1760, and Public Documents of Nova Scotia, 229, 230.

south, and New England on the west.<sup>73</sup> The French commissioners, on their part, maintained that the name Acadia belonged of right only to about a twentieth part of this territory, and that it did not even cover the whole of the Acadian peninsula, but only its southern coast, with an adjoining belt of barren wilderness. When the French owned Acadia, they gave it boundaries as comprehensive as those claimed for it by the English commissioners; now that it belonged to a rival, they cut it down to a paring of its former self. The denial that Acadia included the whole peninsula was dictated by the need of a winter communication between Quebec and Cape Breton, which was possible only with the eastern portions in French hands. So new was this denial that even La Galissonière himself, the foremost in making it, had declared without reservation two years before that Acadia was the entire peninsula.<sup>74</sup> “If,” says a writer on the question, “we [PAGE 124] had to do with a nation more tractable, less grasping, and more conciliatory, it would be well to insist also that Halifax should be given up to us.” He thinks that, on the whole, it would be well to make the demand in any case, in order to gain some other point by yielding this one.<sup>75</sup> It is curious that while denying that the country was Acadia, the French invariably called the inhabitants Acadians. Innumerable public documents, commissions, grants, treaties, edicts, signed by French kings and ministers, had recognized Acadia as extending over New Brunswick and a part of Maine. Four censuses of Acadia while it belonged to the French had recognized the mainland as included in it; and so do also the early French maps. Its prodigious shrinkage was simply the consequence of its possession by an alien.

Other questions of limits, more important and equally perilous, called loudly for solution. What line should separate Canada and her western dependencies from the British colonies? Various principles of demarcation were suggested, of which the most prominent on the French side was a geographical one. All countries watered by streams falling into the St. Lawrence, the Great Lakes, and the Mississippi were to belong to her. This would have planted her in the heart of New York and along the crests of the Alleghanies, giving her all the interior of the continent, and leaving nothing to England but a strip of sea-coast. Yet in view of what France had achieved; of the patient gallantry [PAGE 125] of her explorers, the zeal of her missionaries, the adventurous hardihood of her bushrangers, revealing to civilized mankind the existence of this wilderness world, while her rivals plodded at their workshops,

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<sup>73</sup> The commission of De Monts, in 1603, defines Acadia as extending from the fortieth to the forty-sixth degrees of latitude, – that is, from central New Brunswick to southern Pennsylvania. Neither party cared to produce the document.

<sup>74</sup> “L’Acadie suivant ses anciennes limites est la presqu’isle bornée par son isthme.” La Galissonière au Ministre, 25 Juillet, 1749. The English commissioners were, of course, ignorant of this admission.

<sup>75</sup> Mémoire de l’Abbé de l’Isle-Dieu, 1753 (1754?).

their farms, or their fisheries, – in view of all this, her pretensions were moderate and reasonable compared with those of England. The treaty of Utrecht had declared the Iroquois, or Five Nations, to be British subjects; therefore it was insisted that all countries conquered by them belonged to the British Crown. But what was an Iroquois conquest? The Iroquois rarely occupied the countries they overran. Their military expeditions were mere raids, great or small. Sometimes, as in the case of the Hurons, they made a solitude and called it peace; again, as in the case of the Illinois, they drove off the occupants of the soil, who returned after the invaders were gone. But the range of their war-parties was prodigious; and the English laid claim to every mountain, forest, or prairie where an Iroquois had taken a scalp. This would give them not only the country between the Alleghanies and the Mississippi, but also that between Lake Huron and the Ottawa, thus reducing Canada to the patch on the American map now represented by the province of Quebec, – or rather, by a part of it, since the extension of Acadia to the St. Lawrence would cut off the present counties of Gaspé, Rimouski, and Bonaventure. Indeed among the advocates of British claims there were those who denied that France had any rights whatever on the south side of the St. [PAGE 126] Lawrence.<sup>76</sup> Such being the attitude of the two contestants, it was plain that there was no resort but the last argument of kings. Peace must be won with the sword.

The commissioners at Paris broke up their sessions, leaving as the monument of their toils four quarto volumes of allegations, arguments, and documentary proofs.<sup>77</sup> Out of the discussion rose also a swarm of fugitive publications in French, English, and Spanish; for the question of American boundaries had become European. There was one among them worth notice from its amusing absurdity. It is an elaborate disquisition, under the title of *Roman politique*, by an author faithful to the traditions of European diplomacy, and inspired at the same time by the new philosophy of the school of Rousseau. He insists that the balance of power must be preserved in America as well as in Europe, because “Nature,” “the aggrandizement of the human soul,” and the “felicity of man” are unanimous in demanding it. The English colonies are more populous and wealthy than the French; therefore [PAGE 127]

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<sup>76</sup> The extent of British claims is best shown on two maps of the time, Mitchell’s Map of the British and French Dominions in North America and Huske’s New and Accurate Map of North America; both are in the British Museum. Dr. John Mitchell, in his *Contest in America* (London, 1757) pushes the English claim to its utmost extreme, and denies that the French were rightful owners of anything in North America except the town of Quebec and the trading-post of Tadoussac. Besides the claim founded on the subjection of the Iroquois to the British Crown, the English somewhat inconsistently advanced others founded on titles obtained by treaty from these same tribes, and others still, founded on the original grants of some of the colonies, which ran indefinitely westward across the continent.

<sup>77</sup> *Mémoires des Commissaires de Sa Majesté Très Chrétienne et de ceux de Sa Majesté Britannique*. Paris, 1755. Several editions appeared.

the French should have more land, to keep the balance. Nature, the human soul, and the felicity of man require that France should own all the country beyond the Alleghanies and all Acadia but a strip of the south coast, according to the “sublime negotiations” of the French commissioners, of which the writer declares himself a “religious admirer.”<sup>78</sup>

We know already that France had used means sharper than negotiation to vindicate her claim to the interior of the continent; had marched to the sources of the Ohio to entrench herself there, and hold the passes of the West against all comers. It remains to see how she fared in her bold enterprise.”<sup>79</sup>

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<sup>78</sup> Roman politique sur l'État présent des Affaires de l'Amérique (Amsterdam, 1756). For extracts from French Documents, see Appendix B.

<sup>79</sup> Francis Parkman, *op.cit.*, pp. 90 – 127.

## The Seven Years War and the Le Grand Dérangement

The Seven Years War had begun. Or as Voltaire put it: “La guerre est donc sérieuse. Je voudrais que le tremblement de terre eût englouti cette misérable Acadie plutôt que Lisbonne et Méquines.”<sup>80</sup>

Parkman describes the events in Acadia:<sup>81</sup>

### “CHAPTER VIII.

1755-1763.

#### REMOVAL OF THE ACADIANS.

STATE OF ACADIA • THREATENED INVASION • PERIL OF THE ENGLISH • THEIR PLANS • FRENCH FORTS TO BE ATTACKED • BEAUSÉJOUR AND ITS OCCUPANTS • FRENCH TREATMENT OF THE ACADIANS • JOHN WINSLOW • SIEGE AND CAPTURE OF BEAUSÉJOUR • ATTITUDE OF ACADIANS • INFLUENCE OF THEIR PRIESTS • THEY REFUSE THE OATH OF ALLEGIANCE • THEIR CONDITION AND CHARACTER • PRETENDED NEUTRALS • MODERATION OF ENGLISH AUTHORITIES • THE ACADIANS PERSIST IN THEIR REFUSAL • ENEMIES OR SUBJECTS? • CHOICE OF THE ACADIANS • THE CONSEQUENCE • THEIR REMOVAL DETERMINED • WINSLOW AT GRAND PRÉ • CONFERENCE WITH MURRAY • SUMMONS TO THE INHABITANTS • THEIR SEIZURE • THEIR EMBARKATION • THEIR FATE • THEIR TREATMENT IN CANADA • MISAPPREHENSION CONCERNING THEM.

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By the plan which the Duke of Cumberland had ordained and Braddock had announced in the Council at Alexandria, four blows were to be struck at once to force back the French boundaries, lop off the dependencies of Canada, and reduce her from a vast territory to a petty province. The first stroke had failed, and had shattered the hand of the striker; it remains to see what fortune awaited the others.

It was long since a project of purging Acadia of French influence had germinated in the fertile mind of Shirley. We have seen in a former chapter the condition of that afflicted province. Several thousands of its inhabitants, wrought upon [PAGE 235] by intriguing agents of the French Government; taught by their priests that fidelity to King Louis was inseparable from fidelity to God, and that to swear allegiance to the British Crown was eternal perdition; threatened with plunder and death at the hands of the savages whom the ferocious missionary, Le Loutre, held over them in terror, – had abandoned, sometimes willingly, but

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<sup>80</sup> I The Voltaire Foundation, The complete works of Voltaire, vol. 101, Correspondance XVII, 1968, lettre D6708.

<sup>81</sup> The footnotes are in the original. Their numbering has been changed.

oftener under constraint, the fields which they and their fathers had tilled, and crossing the boundary line of the Missaguash, had placed themselves under the French flag planted on the hill of Beauséjour.<sup>82</sup> Here, or in the neighborhood, many of them had remained, wretched and half starved; while others had been transported to Cape Breton, Isle St. Jean, or the coasts of the Gulf, – not so far, however, that they could not on occasion be used to aid in an invasion of British Acadia.<sup>83</sup> Those of their countrymen who still lived under the British flag were chiefly the inhabitants of the district of Mines and of the valley of the River Annapolis, who, with other less important settlements, numbered a little more than nine thousand souls. We have shown already, by the evidence of the French themselves, that neither they nor their [PAGE 236] emigrant countrymen had been oppressed or molested in matters temporal or spiritual, but that the English authorities, recognizing their value as an industrious population, had labored to reconcile them to a change of rulers which on the whole was to their advantage. It has been shown also how, with a heartless perfidy and a reckless disregard of their welfare and safety, the French Government and its agents labored to keep them hostile to the Crown of which it had acknowledged them to be subjects. The result was, that though they did not, like their emigrant countrymen, abandon their homes, they remained in a state of restless disaffection, refused to supply English garrisons with provisions, except at most exorbitant rates, smuggled their produce to the French across the line, gave them aid and intelligence, and sometimes, disguised as Indians, robbed and murdered English settlers. By the new-fangled construction of the treaty of Utrecht which the French boundary commissioners had devised,<sup>84</sup> more than half the Acadian peninsula, including nearly all the cultivated land and nearly all the population of French descent, was claimed as belonging to France, though England had held possession of it more than forty years. Hence, according to the political ethics adopted at the time by both nations, it would be lawful for France to reclaim it by force. England, on her part, it will be remembered, claimed vast tracts beyond the isthmus; and, on the same pretext, held that [PAGE 237] she might rightfully seize them and capture Beauséjour, with the other French garrisons that guarded them.

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<sup>82</sup> See ante, Chapter IV.

<sup>83</sup> Rameau (*La France aux Colonies*, I. 63), estimates the total emigration from 1748 to 1755 at 8,600 souls,—which number seems much too large. This writer, though vehemently anti-English, gives the following passage from a letter of a high French official: “que les Acadiens émigrés et en grande misère comptaient se retirer à Québec et demander des terres, mais il conviendrait mieux qu'ils restent où ils sont, afin d'avoir le voisinage de l'Acadie bien peuplé et défriché, pour approvisionner l'Isle Royale [Cape Breton] et tomber en cas de guerre sur l'Acadie.” Rameau, I. 133.

<sup>84</sup> *Supra*, p. 123.

On the part of France, an invasion of the Acadian peninsula seemed more than likely. Honor demanded of her that, having incited the Acadians to disaffection, and so brought on them the indignation of the English authorities, she should intervene to save them from the consequences. Moreover the loss of the Acadian peninsula had been gall and wormwood to her; and in losing it she had lost great material advantages. Its possession was necessary to connect Canada with the Island of Cape Breton and the fortress of Louisbourg. Its fertile fields and agricultural people would furnish subsistence to the troops and garrisons in the French maritime provinces, now dependent on supplies illicitly brought by New England traders, and liable to be cut off in time of war when they were needed most. The harbors of Acadia, too, would be invaluable as naval stations from which to curb and threaten the northern English colonies. Hence the intrigues so assiduously practised to keep the Acadians French at heart, and ready to throw off British rule at any favorable moment. British officers believed that should a French squadron with a sufficient force of troops on board appear in the Bay of Fundy, the whole population on the Basin of Mines and along the Annapolis would rise in arms, and that the emigrants beyond the isthmus, armed and trained by French officers, [PAGE 238] would come to their aid. This emigrant population, famishing in exile, looked back with regret to the farms they had abandoned; and, prevented as they were by Le Loutre and his colleagues from making their peace with the English, they would, if confident of success, have gladly joined an invading force to regain their homes by reconquering Acadia for Louis XV. In other parts of the continent it was the interest of France to put off hostilities; if Acadia alone had been in question, it would have been her interest to precipitate them.

Her chances of success were good. The French could at any time send troops from Louisbourg or Quebec to join those maintained upon the isthmus; and they had on their side of the lines a force of militia and Indians amounting to about two thousand, while the Acadians within the peninsula had about an equal number of fighting men who, while calling themselves neutrals, might be counted on to join the invaders. The English were in no condition to withstand such an attack. Their regular troops were scattered far and wide through the province, and were nowhere more than equal to the local requirement; while of militia, except those of Halifax, they had few or none whom they dared to trust. Their fort at Annapolis was weak and dilapidated, and their other posts were mere stockades. The strongest place in Acadia was the French fort of Beauséjour, in which the English saw a continual menace.

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Their apprehensions were well grounded. Duquesne, governor of Canada, wrote to Le Loutre, who virtually shared the control of Beauséjour with Vergor, its commandant: "I invite both yourself and M. Vergor to devise a plausible pretext for attacking them [the English] vigorously."<sup>85</sup> Three weeks after this letter was written, Lawrence, governor of Nova Scotia, wrote to Shirley from Halifax: "Being well informed that the French have designs of encroaching still farther upon His Majesty's rights in this province, and that they propose, the moment they have repaired the fortifications of Louisbourg, to attack our fort at Chignecto [Fort Lawrence], I think it high time to make some effort to drive them from the north side of the Bay of Fundy."<sup>86</sup> This letter was brought to Boston by Lieutenant-Colonel Monckton, who was charged by Lawrence to propose to Shirley the raising of two thousand men in New England for the attack of Beauséjour and its dependent forts. Almost at the moment when Lawrence was writing these proposals to Shirley, Shirley was writing with the same object to Lawrence, enclosing a letter from Sir Thomas Robinson, concerning which he said: "I construe the contents to be orders to us to act in concert for taking any advantages to drive the French of Canada out of Nova Scotia. If that is your sense of them, and your honor will be pleased to let [PAGE 240] me know whether you want any and what assistance to enable you to execute the orders, I will endeavor to send you such assistance from this province as you shall want."<sup>87</sup>

The letter of Sir Thomas Robinson, of which a duplicate had already been sent to Lawrence, was written in answer to one of Shirley informing the Minister that the Indians of Nova Scotia, prompted by the French, were about to make an attack on all the English settlements east of the Kennebec; whereupon Robinson wrote: "You will without doubt have given immediate intelligence thereof to Colonel Lawrence, and will have concerted the properest measures with him for taking all possible advantage in Nova Scotia itself from the absence of those Indians, in case Mr. Lawrence shall have force enough to attack the forts erected by the French in those parts, without exposing the English settlements; and I am particularly to acquaint you that if you have not already entered into such a concert with Colonel Lawrence, it is His Majesty's pleasure that you should immediately proceed thereupon."<sup>88</sup>

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<sup>85</sup> Duquesne à Le Loutre, 15 Oct. 1754; extract in Public Documents of Nova Scotia, 239.

<sup>86</sup> Lawrence to Shirley, 5 Nov. 1754. Instructions of Lawrence to Monckton, 7 Nov. 1754.

<sup>87</sup> Shirley to Lawrence, 7 Nov. 1754.

<sup>88</sup> Robinson to Shirley, 5 July, 1754.



The Indian raid did not take place; but not the less did Shirley and Lawrence find in the Minister's letter their authorization for the attack of Beauséjour. Shirley wrote to Robinson that the expulsion of the French from the forts on the isthmus was a necessary measure of self-defence; that they meant to seize the whole country as far as Mines [PAGE 241] Basin, and probably as far as Annapolis, to supply their Acadian rebels with land; that of these they had, without reckoning Indians, fourteen hundred fighting men on or near the isthmus, and two hundred and fifty more on the St. John, with whom, aided by the garrison of Beauséjour, they could easily take Fort Lawrence; that should they succeed in this, the whole Acadian population would rise in arms, and the King would lose Nova Scotia. We should anticipate them, concludes Shirley, and strike the first blow.<sup>89</sup>

He opened his plans to his Assembly in secret session, and found them of one mind with himself. Preparation was nearly complete, and the men raised for the expedition, before the Council at Alexandria, recognized it as a part of a plan of the summer campaign.

The French fort of Beauséjour, mounted on its hill between the marshes of Missaguash and Tantemar, was a regular work, pentagonal in form, with solid earthen ramparts, bomb-proofs, and an armament of twenty-four cannon and one mortar. The commandant, Duchambon de Vergor, a captain in the colony regulars, was a dull man of no education, of stuttering speech, unpleasing countenance, [PAGE 242] and doubtful character. He owed his place to the notorious Intendant, Bigot, who, it is said, was in his debt for disreputable service in an affair of gallantry, and who had ample means of enabling his friends to enrich themselves by defrauding the King. Beauséjour was one of those plague-spots of official corruption which dotted the whole surface of New France. Bigot, sailing for Europe in the summer of 1754, wrote thus to his confederate: "Profit by your place, my dear Vergor; clip and cut – you are free to do what you please – so that you can come soon to join me in France and buy an estate near me."<sup>90</sup> Vergor did not neglect his opportunities. Supplies in great quantities were sent from Quebec for the garrison and the emigrant Acadians. These last got but a small part of them. Vergor and his confederates sent the rest back to Quebec, or

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<sup>89</sup> Shirley to Robinson, 8 Dec. 1754. *Ibid.*, 24 Jan. 1755. The Record Office contains numerous other letters of Shirley on the subject. "I am obliged to your Honor for communicating to me the French Mémoire, which, with other reasons, puts it out of doubt that the French are determined to begin an offensive war on the peninsula as soon as ever they shall think themselves strengthened enough to venture up it, and that they have thoughts of attempting it in the ensuing spring. I enclose your Honor extracts from two letters from Annapolis Royal, which show that the French inhabitants are in expectation of its being begun in the spring." Shirley to Lawrence, 6 Jan. 1755.

<sup>90</sup> *Mémoires sur le Canada, 1749-1760*. This letter is also mentioned in another contemporary document, *Mémoire sur les Fraudes commises dans la Colonie*.

else to Louisbourg, and sold them for their own profit to the King's agents there, who were also in collusion with him.

Vergor, however, did not reign alone. Le Loutre, by force of energy, capacity, and passionate vehemence, held him in some awe, and divided his authority. The priest could count on the support of Duquesne, who had found, says a contemporary, that “he promised more than he could perform, and that he was a knave,” but who nevertheless felt compelled to rely upon him for keeping the [PAGE 243] Acadians on the side of France. There was another person in the fort worthy of notice. This was Thomas Pichon, commissary of stores, a man of education and intelligence, born in France of an English mother. He was now acting the part of a traitor, carrying on a secret correspondence with the commandant of Fort Lawrence, and acquainting him with all that passed at Beauséjour. It was partly from this source that the hostile designs of the French became known to the authorities of Halifax, and more especially the proceedings of “Moses,” by which name Pichon always designated Le Loutre, because he pretended to have led the Acadians from the land of bondage.<sup>91</sup>

These exiles, who cannot be called self-exiled, in view of the outrageous means used to force most of them from their homes, were in a deplorable condition. They lived in constant dread of Le Loutre, backed by Vergor and his soldiers. The savage missionary, bad as he was, had in him an ingredient of honest fanaticism, both national and religious; though hatred of the English held a large share in it. He would gladly, if he could, have forced the Acadians into a permanent settlement on the French side of the line, not out of love for them, but in the interest of the cause with which he had identified his own ambition. His efforts had failed. There was not land enough for their subsistence and that of the older settlers; [PAGE 244] and the suffering emigrants pined more and more for their deserted farms. Thither he was resolved that they should not return. “If you go,” he told them, “you will have neither priests nor sacraments, but will die like miserable wretches.”<sup>92</sup> The assertion was false. Priests and sacraments had never been denied them. It is true that Daudin, priest of Pisiquid, had lately been sent to Halifax for using insolent language to the commandant, threatening him with an insurrection of the inhabitants, and exciting them to sedition; but on his promise to change conduct, he was sent back to his parishioners.<sup>93</sup> Vergor sustained Le Loutre, and threatened to put in irons any of the exiles who talked of going back to the English. Some of

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<sup>91</sup> Pichon, called also Tyrrell from the name of his mother, was author of *Genuine Letters and Memoirs relating to Cape Breton*, – a book of some value. His papers are preserved at Halifax, and some of them are printed in the *Public Documents of Nova Scotia*.

<sup>92</sup> Pichon to Captain Scott, 14 Oct. 1754, in *Public Documents of Nova Scotia*, 229.

<sup>93</sup> *Public Documents of Nova Scotia*, 223, 224, 226, 227, 238.

them bethought themselves of an appeal to Duquesne, and drew up a petition asking leave to return home. Le Loutre told the signers that if they did not efface their marks from the paper they should have neither sacraments in this life nor heaven in the next. He nevertheless allowed two of them to go to Quebec as deputies, writing at the same time to the Governor, that his mind might be duly prepared. Duquesne replied: "I think that the two rascals of deputies whom you sent me will not soon recover from the fright I gave them, notwithstanding the emollient I administered after my reprimand; and since I told them that they [PAGE 245] were indebted to you for not being allowed to rot in a dungeon, they have promised me to comply with your wishes."<sup>94</sup>

An entire heartlessness marked the dealings of the French authorities with the Acadians. They were treated as mere tools of policy, to be used, broken, and flung away. Yet, in using them, the sole condition of their efficiency was neglected. The French Government, cheated of enormous sums by its own ravenous agents, grudged the cost of sending a single regiment to the Acadian border. Thus unsupported, the Acadians remained in fear and vacillation, aiding the French but feebly, though a ceaseless annoyance and menace to the English.

This was the state of affairs at Beauséjour while Shirley and Lawrence were planning its destruction. Lawrence had empowered his agent, Monckton, to draw without limit on two Boston merchants, Apthorp and Hancock. Shirley, as commander-in-chief of the province of Massachusetts, commissioned John Winslow to raise two thousand volunteers. Winslow was sprung from the early governors of Plymouth colony; but, though well-born, he was ill-educated, which did not prevent him from being both popular and influential. He had strong military inclinations, had led a company of his own raising in the luckless attack on Carthage, had commanded the force sent in the preceding summer to occupy the Kennebec, and on various other occasions had left his Marshfield [PAGE 246] farm to serve his country. The men enlisted readily at his call, and were formed into a regiment, of which Shirley made himself the nominal colonel. It had two battalions, of which Winslow, as lieutenant-colonel, commanded the first, and George Scott the second, both under the orders of Monckton. Country villages far and near, from the western borders of the Connecticut to uttermost Cape Cod, lent soldiers to the new regiment. The muster-rolls preserve their names, vocations, birthplaces, and abode. Obadiah, Nehemiah, Jedediah, Jonathan, Ebenezer, Joshua, and the like Old Testament names abound upon the list. Some are set down as "farmers," "yeomen,"

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<sup>94</sup> Public Documents of Nova Scotia, 239.

or “husbandmen;” others as “shopkeepers,” others as “fishermen,” and many as “laborers;” while a great number were handicraftsmen of various trades, from blacksmiths to wig-makers. They mustered at Boston early in April, where clothing, haversacks, and blankets were served out to them at the charge of the King; and the crooked streets of the New England capital were filled with staring young rustics. On the next Saturday the following mandate went forth: “The men will behave very orderly on the Sabbath Day, and either stay on board their transports, or else go to church, and not stroll up and down the streets.” The transports, consisting of about forty sloops and schooners, lay at Long Wharf; and here on Monday a grand review took place, – to the gratification, no doubt, of a populace whose amusements were few. All was ready except the [PAGE 247] muskets, which were expected from England, but did not come. Hence the delay of a month, threatening to ruin the enterprise. When Shirley returned from Alexandria he found, to his disgust, that the transports still lay at the wharf where he had left them on his departure.<sup>95</sup> The muskets arrived at length, and the fleet sailed on the twenty-second of May. Three small frigates, the “Success,” the “Mermaid,” and the “Siren,” commanded by the ex-privateersman, Captain Rous, acted as convoy; and on the twenty-sixth the whole force safely reached Annapolis. Thence after some delay they sailed up the Bay of Fundy, and at sunset on the first of June anchored within five miles of the hill of Beauséjour.

At two o’clock on the next morning a party of Acadians from Chipody roused Vergor with the news. In great alarm, he sent a messenger to Louisbourg to beg for help, and ordered all the fighting men of the neighborhood to repair to the fort. They counted in all between twelve and fifteen hundred;<sup>96</sup> but they had no appetite for war. The force of the invaders daunted them; and the hundred and sixty regulars who formed the garrison of Beauséjour were too few to revive their confidence. Those of them who had crossed from the English side dreaded what might ensue should they be caught in arms; and, to prepare an excuse beforehand, they begged Vergor to threaten them [PAGE 248] with punishment if they disobeyed his order. He willingly complied, promised to have them killed if they did not fight, and assured them at the same time that the English could never take the fort.<sup>97</sup> Three hundred of them thereupon joined the garrison, and the rest, hiding their families in the woods, prepared to wage guerilla war against the invaders.

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<sup>95</sup> Shirley to Robinson, 20 June, 1755.

<sup>96</sup> Mémoires sur le Canada, 1749-1760. An English document, State of the English and French Forts in Nova Scotia, says 1,200 to 1,400.

<sup>97</sup> Mémoires sur le Canada, 1749-1760.

Monckton, with all his force, landed unopposed, and encamped at night on the fields around Fort Lawrence, whence he could contemplate Fort Beauséjour at his ease. The regulars of the English garrison joined the New England men; and then, on the morning of the fourth, they marched to the attack. Their course lay along the south bank of the Missaguash to where it was crossed by a bridge called Pont-à-Buot. This bridge had been destroyed; and on the farther bank there was a large blockhouse and a breastwork of timber defended by four hundred regulars, Acadians, and Indians. They lay silent and unseen till the head of the column reached the opposite bank; then raised a yell and opened fire, causing some loss. Three field-pieces were brought up, the defenders were driven out, and a bridge was laid under a spattering fusillade from behind bushes, which continued till the English had crossed the stream. Without further opposition, they marched along the road to Beauséjour, and, turning to the right, encamped among the woody hills half a league from the fort. That night there was a grand illumination, for [PAGE 249] Vergor set fire to the church and all the houses outside the ramparts.<sup>98</sup>

The English spent some days in preparing their camp and reconnoitring the ground. Then Scott, with five hundred provincials, seized upon a ridge within easy range of the works. An officer named Vannes came out to oppose him with a hundred and eighty men, boasting that he would do great things; but on seeing the enemy, quietly returned, to become the laughing-stock of the garrison. The fort fired furiously, but with little effect. In the night of the thirteenth, Winslow, with a part of his own battalion, relieved Scott, and planted in the trenches two small mortars, brought to the camp on carts. On the next day they opened fire. One of them was disabled by the French cannon, but Captain Hazen brought up two more, of larger size, on ox-wagons; and, in spite of heavy rain, the fire was brisk on both sides.

Captain Rous, on board his ship in the harbor, watched the bombardment with great interest. Having occasion to write to Winslow, he closed his letter in a facetious strain. "I often hear of your success in plunder, particularly a coach.<sup>99</sup> I hope you have some fine horses for it, at least four, to draw it, that it may be said a New England colonel [rode in] his coach and four in Nova Scotia. If [PAGE 250] you have any good saddle-horses in your stable, I should be obliged to you for one to ride round the ship's deck on for exercise, for I am not likely to have any other."

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<sup>98</sup> Winslow, Journal and Letter Book. Mémoires sur le Canada, 1749-1760. Letters from officers on the spot in Boston Evening Post and Boston News Letter. Journal of Surgeon John Thomas.

<sup>99</sup> "11 June. Capt. Adams went with a Company of Raingers, and Returned at 11 Clock with a Coach and Sum other Plunder." Journal of John Thomas.

Within the fort there was little promise of a strong defence. Le Loutre, it is true, was to be seen in his shirt-sleeves, with a pipe in his mouth, directing the Acadians in their work of strengthening the fortifications.<sup>100</sup> They, on their part, thought more of escape than of fighting. Some of them vainly begged to be allowed to go home; others went off without leave, – which was not difficult, as only one side of the place was attacked. Even among the officers there were some in whom interest was stronger than honor, and who would rather rob the King than die for him. The general discouragement was redoubled when, on the fourteenth, a letter came from the commandant of Louisbourg to say that he could send no help, as British ships blocked the way. On the morning of the sixteenth, a mischance befell, recorded in these words in the diary of Surgeon John Thomas: “One of our large shells fell through what they called their bomb-proof, where a number of their officers were sitting, killed six of them dead, and one Ensign Hay, which the Indians had took prisoner a few days ago and carried to the fort.” The party was at breakfast when the unwelcome visitor burst in. Just opposite was a second bomb-proof, where was Vergor himself, with Le Loutre, another priest, and several [PAGE 251] officers, who felt that they might at any time share the same fate. The effect was immediate. The English, who had not yet got a single cannon into position, saw to their surprise a white flag raised on the rampart. Some officers of the garrison protested against surrender; and Le Loutre, who thought that he had everything to fear at the hands of the victors, exclaimed that it was better to be buried under the ruins of the fort than to give it up; but all was in vain, and the valiant Vannes was sent out to propose terms of capitulation. They were rejected, and others offered, to the following effect: the garrison to march out with the honors of war and to be sent to Louisbourg at the charge of the King of England, but not to bear arms in America for the space of six months. The Acadians to be pardoned the part they had just borne in the defence, “seeing that they had been compelled to take arms on pain of death.” Confusion reigned all day at Beauséjour. The Acadians went home loaded with plunder. The French officers were so busy in drinking and pillaging that they could hardly be got away to sign the capitulation. At the appointed hour, seven in the evening, Scott marched in with a body of provincials, raised the British flag on the ramparts, and saluted it by a general discharge of the French cannon, while Vergor as a last act of hospitality gave a supper to the officers.<sup>101</sup>

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<sup>100</sup> Journal of Pichon, cited by Beamish Murdoch.

<sup>101</sup> On the capture of Beauséjour, *Mémoires sur le Canada, 1749-1760*; Pichon, *Cape Breton*, 318; Journal of Pichon, cited by Murdoch; and the English accounts already mentioned.

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Le Loutre was not to be found; he had escaped in disguise with his box of papers, and fled to Baye Verte to join his brother missionary, Manach. Thence he made his way to Quebec, where the Bishop received him with reproaches. He soon embarked for France; but the English captured him on the way, and kept him eight years in Elizabeth Castle, on the Island of Jersey. Here on one occasion a soldier on guard made a dash at the father, tried to stab him with his bayonet, and was prevented with great difficulty. He declared that, when he was with his regiment in Acadia, he had fallen into the hands of Le Loutre, and narrowly escaped being scalped alive, the missionary having doomed him to this fate, and with his own hand drawn a knife round his head as a beginning of the operation. The man swore so fiercely that he would have his revenge, that the officer in command transferred him to another post.<sup>102</sup>

Throughout the siege, the Acadians outside the fort, aided by Indians, had constantly attacked the English, but were always beaten off with loss. There was an affair of this kind on the morning of the surrender, during which a noted Micmac chief was shot, and being brought into the camp, recounted the losses of his tribe; “after which, and taking a dram or two, he quickly died,” writes Winslow in his Journal.

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Fort Gaspereau, at Baye Verte, twelve miles distant, was summoned by letter to surrender. Villeray, its commandant, at once complied; and Winslow went with a detachment to take possession.<sup>103</sup> Nothing remained but to occupy the French post at the mouth of the St. John. Captain Rous, relieved at last from inactivity, was charged with the task; and on the thirtieth he appeared off the harbor, manned his boats, and rowed for shore. The French burned their fort, and withdrew beyond his reach.<sup>104</sup> A hundred and fifty Indians, suddenly converted from enemies to pretended friends, stood on the strand, firing their guns into the air as a salute, and declaring themselves brothers of the English. All Acadia was now in British hands. Fort Beauséjour became Fort Cumberland, – the second fort in America that bore the name of the royal Duke.

The defence had been of the feeblest. Two years later, on pressing demands from Versailles, Vergor was brought to trial, as was also Villeray. The Governor, Vaudreuil, and the Intendant, Bigot, who had returned to Canada, were in the interest of the chief defendant.

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<sup>102</sup> Knox, *Campaigns in North America*, I. 114, note. Knox, who was stationed in Nova Scotia, says that Le Loutre left behind him “a most remarkable character for inhumanity.”

<sup>103</sup> Winslow, *Journal*. Villeray au Ministre, 20 Sept. 1755.

<sup>104</sup> Drucour au Ministre, 1 Déc. 1755.

The court-martial was packed; adverse evidence was shuffled out of sight; and Vergor, acquitted and restored to his rank, lived to inflict on New France another and a greater injury.<sup>105</sup>

Now began the first act of a deplorable drama.

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Monckton, with his small body of regulars, had pitched their tents under the walls of Beauséjour. Winslow and Scott, with the New England troops, lay not far off. There was little intercourse between the two camps. The British officers bore themselves towards those of the provincials with a supercilious coldness common enough on their part throughout the war. July had passed in what Winslow calls “an indolent manner,” with prayers every day in the Puritan camp, when, early in August, Monckton sent for him, and made an ominous declaration. “The said Monckton was so free as to acquaint me that it was determined to remove all the French inhabitants out of the province, and that he should send for all the adult males from Tantemar, Chipody, Aulac, Beauséjour, and Baye Verte to read the Governor’s orders; and when that was done, was determined to retain them all prisoners in the fort. And this is the first conference of a public nature I have had with the colonel since the reduction of Beauséjour; and I apprehend that no officer of either corps has been made more free with.”

Monckton sent accordingly to all the neighboring settlements, commanding the male inhabitants to meet him at Beauséjour. Scarcely a third part of their number obeyed. These arrived on the tenth, and were told to stay all night under the guns of the fort. What then befell them will appear from an entry in the diary of Winslow under date of August eleventh: “This day was one extraordinary to the inhabitants of Tantemar, [PAGE 255] Oueskak, Aulac, Baye Verte, Beauséjour, and places adjacent; the male inhabitants, or the principal of them, being collected together in Fort Cumberland to hear the sentence, which determined their property, from the Governor and Council of Halifax; which was that they were declared rebels, their lands, goods, and chattels forfeited to the Crown, and their bodies to be imprisoned. Upon which the gates of the fort were shut, and they all confined, to the amount of four hundred men and upwards.” Parties were sent to gather more, but caught very few, the rest escaping to the woods.

Some of the prisoners were no doubt among those who had joined the garrison at Beauséjour, and had been pardoned for doing so by the terms of the capitulation. It was held, however, that, though forgiven this special offence, they were not exempted from the doom

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<sup>105</sup> Mémoire sur les Fraudes commises dans la Colonie, 1759. Mémoires sur le Canada, 1749-1760.



that had gone forth against the great body of their countrymen. We must look closely at the motives and execution of this stern sentence.

At any time up to the spring of 1755 the emigrant Acadians were free to return to their homes on taking the ordinary oath of allegiance required of British subjects. The English authorities of Halifax used every means to persuade them to do so; yet the greater part refused. This was due not only to Le Loutre and his brother priests, backed by the military power, but also to the Bishop of Quebec, who enjoined the Acadians to demand of the English certain concessions, the [PAGE 256] chief of which were that the priests should exercise their functions without being required to ask leave of the Governor, and that the inhabitants should not be called upon for military service of any kind. The Bishop added that the provisions of the treaty of Utrecht were insufficient, and that others ought to be exacted.<sup>106</sup> The oral declaration of the English authorities, that for the present the Acadians should not be required to bear arms, was not thought enough. They, or rather their prompters, demanded a written pledge.

The refusal to take the oath without reservation was not confined to the emigrants. Those who remained in the peninsula equally refused it, though most of them were born and had always lived under the British flag. Far from pledging themselves to complete allegiance, they showed continual signs of hostility. In May three pretended French deserters were detected among them inciting them to take arms against the English.<sup>107</sup>

On the capture of Beauséjour the British authorities found themselves in a position of great difficulty. The New England troops were enlisted for the year only, and could not be kept in Acadia. It was likely that the French would make a strong effort to recover the province, sure as they were of support from the great body of its people. The presence of this disaffected population was for the French commanders a continual inducement to invasion; and Lawrence was not strong enough [PAGE 257] to cope at once with attack from without and insurrection from within.

Shirley had held for some time that there was no safety for Acadia but in ridding it of the Acadians. He had lately proposed that the lands of the district of Chignecto, abandoned by their emigrant owners, should be given to English settlers, who would act as a check and a counterpoise to the neighboring French population. This advice had not been acted upon. Nevertheless Shirley and his brother Governor of Nova Scotia were kindred spirits, and inclined to similar measures. Colonel Charles Lawrence had not the good-nature and

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<sup>106</sup> L'Évêque de Québec à Le Loutre, Nov. 1754, in Public Documents of Nova Scotia, 240.

<sup>107</sup> Ibid., 242.

conciliatory temper which marked his predecessors, Cornwallis and Hopson. His energetic will was not apt to relent under the softer sentiments, and the behavior of the Acadians was fast exhausting his patience. More than a year before, the Lords of Trade had instructed him that they had no right to their lands if they persisted in refusing the oath.<sup>108</sup> Lawrence replied, enlarging on their obstinacy, treachery, and “ingratitude for the favor, indulgence, and protection they have at all times so undeservedly received from His Majesty's Government;” declaring at the same time that, “while they remain without taking the oaths, and have incendiary French priests among them, there are no hopes of their amendment;” and that “it would be much better, if they refuse the oaths, that they were away.”<sup>109</sup> “We were in [PAGE 258] hopes,” again wrote the Lords of Trade, “that the lenity which had been shown to those people by indulging them in the free exercise of their religion and the quiet possession of their lands, would by degrees have gained their friendship and assistance, and weaned their affections from the French; but we are sorry to find that this lenity has had so little effect, and that they still hold the same conduct, furnishing them with labor, provisions, and intelligence, and concealing their designs from us.” In fact, the Acadians, while calling themselves neutrals, were an enemy encamped in the heart of the province. These are the reasons which explain and palliate a measure too harsh and indiscriminate to be wholly justified.

Abbé Raynal, who never saw the Acadians, has made an ideal picture of them,<sup>110</sup> since copied and improved in prose and verse, till Acadia has become Arcadia. The plain realities of their condition and fate are touching enough to need no exaggeration. They were a simple and very ignorant peasantry, industrious and frugal till evil days came to discourage them; living aloof from the world, with little of that spirit of adventure which an easy access to the vast fur-bearing interior had developed in their Canadian kindred; having few wants, and those of the rudest; fishing a little and hunting in the winter, but chiefly employed in cultivating the meadows along the River Annapolis, or rich marshes reclaimed by dikes from the tides of the Bay of Fundy. The British Government left [PAGE 259] them entirely free of taxation. They made clothing of flax and wool of their own raising, hats of similar materials, and shoes or moccasins of moose and seal skin. They bred cattle, sheep, hogs, and horses in abundance; and the valley of the Annapolis, then as now, was known for the profusion and excellence of its apples. For drink, they made cider or brewed spruce-beer. French officials describe their dwellings as wretched wooden boxes, without ornaments or conveniences, and

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<sup>108</sup> Lords of Trade to Lawrence, 4 March, 1754.

<sup>109</sup> Lawrence to Lords of Trade, 1 Aug. 1754.

<sup>110</sup> *Histoire philosophique et politique*, VI. 242 (ed. 1772).

scarcely supplied with the most necessary furniture.<sup>111</sup> Two or more families often occupied the same house; and their way of life, though simple and virtuous, was by no means remarkable for cleanliness. Such as it was, contentment reigned among them, undisturbed by what modern America calls progress. Marriages were early, and population grew apace. This humble society had its disturbing elements; for the Acadians, like the Canadians, were a litigious race, and neighbors often quarrelled about their boundaries. Nor were they without a bountiful share of jealousy, gossip, and backbiting, to relieve the monotony of their lives; and every village had its turbulent spirits, sometimes by fits, though rarely long, contumacious even toward the curé, the guide, counsellor, and ruler of his flock. Enfeebled by hereditary mental subjection, and too long kept in leading-strings to walk alone, they needed him, not for the next world only, but for this; and their submission, compounded of love and fear, was commonly without bounds. He was their [PAGE 260] true government; to him they gave a frank and full allegiance, and dared not disobey him if they would. Of knowledge he gave them nothing; but he taught them to be true to their wives and constant at confession and Mass, to stand fast for the Church and King Louis, and to resist heresy and King George; for, in one degree or another, the Acadian priest was always the agent of a double-headed foreign power, – the Bishop of Quebec allied with the Governor of Canada.<sup>112</sup>

When Monckton and the Massachusetts men laid siege to Beauséjour, Governor Lawrence thought the moment favorable for exacting an unqualified oath of allegiance from the Acadians. The presence of a superior and victorious force would help, he thought, to bring them to reason; and there were some indications that this would be the result. A number of Acadian families, who at the promptings of Le Loutre had emigrated to Cape Breton, had lately returned to Halifax, promising to be true subjects of King George if they could be allowed to repossess their lands. They cheerfully took the oath; on which they were reinstated in their old homes, and supplied with food for the winter.<sup>113</sup> Their example unfortunately found few imitators.

Early in June the principal inhabitants of Grand Pré and other settlements about the Basin [PAGE 261] of Mines brought a memorial, signed with their crosses, to Captain Murray, the military commandant in their district, and desired him to send it to Governor Lawrence, to whom it was addressed. Murray reported that when they brought it to him they behaved with

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<sup>111</sup> Beauharnois et Hocquart au Comte de Maurepas, 12 Sept. 1745.

<sup>112</sup> Franquet, Journal, 1751, says of the Acadians: “Ils aiment l'argent, n'ont dans toute leur conduite que leur intérêt pour objet, sont, indifféremment des deux sexes, d'une inconsidération dans leurs discours qui dénote de la méchanceté.” Another observer, Dieréville, gives a more favorable picture.

<sup>113</sup> Public Documents of Nova Scotia, 228.

the greatest insolence, though just before they had been unusually submissive. He thought that this change of demeanor was caused by a report which had lately got among them of a French fleet in the Bay of Fundy; for it had been observed that any rumor of an approaching French force always had a similar effect. The deputies who brought the memorial were sent with it to Halifax, where they laid it before the Governor and Council. It declared that the signers had kept the qualified oath they had taken, “in spite of the solicitations and dreadful threats of another power,” and that they would continue to prove “an unshaken fidelity to His Majesty, provided that His Majesty shall allow us the same liberty that he has [hitherto] granted us.” Their memorial then demanded, in terms highly offensive to the Council, that the guns, pistols, and other weapons, which they had lately been required to give up, should be returned to them. They were told in reply that they had been protected for many years in the enjoyment of their lands, though they had not complied with the terms on which the lands were granted; “that they had always been treated by the Government with the greatest lenity and tenderness, had enjoyed more privileges than other English [PAGE 262] subjects, and had been indulged in the free exercise of their religion;” all which they acknowledged to be true. The Governor then told them that their conduct had been undutiful and ungrateful; “that they had discovered a constant disposition to assist His Majesty’s enemies and to distress his subjects; that they had not only furnished the enemy with provisions and ammunition, but had refused to supply the [English] inhabitants or Government, and when they did supply them, had exacted three times the price for which they were sold at other markets.” The hope was then expressed that they would no longer obstruct the settlement of the province by aiding the Indians to molest and kill English settlers; and they were rebuked for saying in their memorial that they would be faithful to the King only on certain conditions. The Governor added that they had some secret reason for demanding their weapons, and flattered themselves that French troops were at hand to support their insolence. In conclusion, they were told that now was a good opportunity to prove their sincerity by taking the oath of allegiance, in the usual form, before the Council. They replied that they had not made up their minds on that point, and could do nothing till they had consulted their constituents. Being reminded that the oath was personal to themselves, and that six years had already been given them to think about it, they asked leave to retire and confer together. This was granted, and at the end of an hour they came back with the same [PAGE 263] answer as before; whereupon they were allowed till ten o'clock on the next morning for a final decision.<sup>114</sup>

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<sup>114</sup> Minutes of Council at Halifax, 3 July, 1755, in Public Documents of Nova Scotia, 247-255.

At the appointed time the Council again met, and the deputies were brought in. They persisted stubbornly in the same refusal. “They were then informed,” says the record, “that the Council could no longer look on them as subjects to His Britannic Majesty, but as subjects to the King of France, and as such they must hereafter be treated; and they were ordered to withdraw.” A discussion followed in the Council. It was determined that the Acadians should be ordered to send new deputies to Halifax, who should answer for them, once for all, whether they would accept the oath or not; that such as refused it should not thereafter be permitted to take it; and “that effectual measures ought to be taken to remove all such recusants out of the province.”

The deputies, being then called in and told this decision, became alarmed, and offered to swear allegiance in the terms required. The answer was that it was too late; that as they had refused the oath under persuasion, they could not be trusted when they took it under compulsion. It remained to see whether the people at large would profit by their example.

“I am determined,” wrote Lawrence to the Lords of Trade, “to bring the inhabitants to a compliance, or rid the province of such perfidious [PAGE 264] subjects.”<sup>115</sup> First, in answer to the summons of the Council, the deputies from Annapolis appeared, declaring that they had always been faithful to the British Crown, but flatly refusing the oath. They were told that, far from having been faithful subjects, they had always secretly aided the Indians, and that many of them had been in arms against the English; that the French were threatening the province; and that its affairs had reached a crisis when its inhabitants must either pledge themselves without equivocation to be true to the British Crown, or else must leave the country. They all declared that they would lose their lands rather than take the oath. The Council urged them to consider the matter seriously, warning them that, if they now persisted in refusal, no farther choice would be allowed them; and they were given till ten o'clock on the following Monday to make their final answer.

When that day came, another body of deputies had arrived from Grand Pré and the other settlements of the Basin of Mines; and being called before the Council, both they and the former deputation absolutely refused to take the oath of allegiance. These two bodies represented nine tenths of the Acadian population within the peninsula. “Nothing,” pursues the record of the Council, “now remained to be considered but what measures should be taken to send the inhabitants away, and where they should be sent to.” If they were sent to Canada, Cape Breton, [PAGE 265] or the neighboring islands, they would strengthen the

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<sup>115</sup> Lawrence to Lords of Trade, 18 July, 1755.

enemy, and still threaten the province. It was therefore resolved to distribute them among the various English colonies, and to hire vessels for the purpose with all despatch.<sup>116</sup>

The oath, the refusal of which had brought such consequences, was a simple pledge of fidelity and allegiance to King George II. and his successors. Many of the Acadians had already taken an oath of fidelity, though with the omission of the word “allegiance,” and, as they insisted, with a saving clause exempting them from bearing arms. The effect of this was that they did not regard themselves as British subjects, and claimed, falsely as regards most of them, the character of neutrals. It was to put an end to this anomalous state of things that the oath without reserve had been demanded of them. Their rejection of it, reiterated in full view of the consequences, is to be ascribed partly to a fixed belief that the English would not execute their threats, partly to ties of race and kin, but mainly to superstition. They feared to take part with heretics against the King of France, whose cause, as already stated, they had been taught to regard as one with the cause of God; they were constrained by the dread of perdition. “If the Acadians are miserable, remember that the priests are the cause of it,” writes [PAGE 266] the French officer Boishébert to the missionary Manach.<sup>117</sup>

The Council having come to a decision, Lawrence acquainted Monckton with the result, and ordered him to seize all the adult males in the neighborhood of Beauséjour; and this, as we have seen, he promptly did. It remains to observe how the rest of the sentence was carried into effect.

Instructions were sent to Winslow to secure the inhabitants on or near the Basin of Mines and place them on board transports, which, he was told, would soon arrive from

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<sup>116</sup> Minutes of Council, 4 July—28 July, in Public Documents of Nova Scotia, 255-267. Copies of these and other parts of the record were sent at the time to England, and are now in the Public Record Office, along with the letters of Lawrence.

<sup>117</sup> On the oath and its history, compare a long note by Mr. Akin in Public Documents of Nova Scotia, 263-267. Winslow in his Journal gives an abstract of a memorial sent him by the Acadians, in which they say that they had refused the oath, and so forfeited their lands, from motives of religion. I have shown in a former chapter that the priests had been the chief instruments in preventing them from accepting the English government. Add the following:—

“Les malheurs des Accadiens sont beaucoup moins leur ouvrage que le fruit des sollicitations et des démarches des missionnaires.” Vaudreuil au Ministre, 6 Mai, 1760.

“Si nous avons la guerre, et si les Accadiens sont misérables, souvenez-vous que ce sont les prêtres qui en sont la cause.” Boishébert à Manach, 21 Fév. 1760. Both these writers had encouraged the priests in their intrigues so long as there were likely to profit the French Government, and only blamed them after they failed to accomplish what was expected of them.

“Nous avons six missionnaires dont l'occupation perpetuelle est de porter les esprits au fanatisme et à la vengeance.... Je ne puis supporter dans nos prêtres ces odieuses déclamations qu'ils font tous les jours aux sauvages: 'Les Anglois sont les ennemis de Dieu, les compagnons du Diable.'” Pichon, Lettres et Mémoires pour servir à l'Histoire du Cap-Breton, 160, 161. (La Haye, 1760.)

Boston. His orders were stringent: "If you find that fair means will not do with them, you must proceed by the most vigorous measures possible, not only in compelling them to embark, but in depriving those who shall [PAGE 267] escape of all means of shelter or support, by burning their houses and by destroying everything that may afford them the means of subsistence in the country." Similar orders were given to Major Handfield, the regular officer in command at Annapolis.

On the fourteenth of August Winslow set out from his camp at Fort Beauséjour, or Cumberland, on his unenviable errand. He had with him but two hundred and ninety-seven men. His mood of mind was not serene. He was chafed because the regulars had charged his men with stealing sheep; and he was doubly vexed by an untoward incident that happened on the morning of his departure. He had sent forward his detachment under Adams, the senior captain, and they were marching by the fort with drums beating and colors flying, when Monckton sent out his aide-de-camp with a curt demand that the colors should be given up, on the ground that they ought to remain with the regiment. Whatever the soundness of the reason, there was no courtesy in the manner of enforcing it. "This transaction raised my temper some," writes Winslow in his Diary; and he proceeds to record his opinion that "it is the most ungentle, ill-natured thing that ever I saw." He sent Monckton a quaintly indignant note, in which he observed that the affair "looks odd, and will appear so in future history;" but his commander, reckless of the judgments of posterity, gave him little satisfaction.

Thus ruffled in spirit, he embarked with his men and sailed down Chignecto Channel to the Bay of [PAGE 268] Fundy. Here, while they waited the turn of the tide to enter the Basin of Mines, the shores of Cumberland lay before them dim in the hot and hazy air, and the promontory of Cape Split, like some misshapen monster of primeval chaos, stretched its portentous length along the glimmering sea, with head of yawning rock, and ridgy back bristled with forests. Borne on the rushing flood, they soon drifted through the inlet, glided under the rival promontory of Cape Blomedon, passed the red sandstone cliffs of Lyon's Cove, and descried the mouths of the rivers Canard and Des Habitants, where fertile marshes, diked against the tide, sustained a numerous and thriving population. Before them spread the boundless meadows of Grand Pré, waving with harvests or alive with grazing cattle; the green slopes behind were dotted with the simple dwellings of the Acadian farmers, and the spire of the village church rose against a background of woody hills. It was a peaceful, rural scene, soon to become one of the most wretched spots on earth. Winslow did not land for the present, but held his course to the estuary of the River Pisiquid, since called the Avon. Here, where the town of Windsor now stands, there was a stockade called Fort Edward, where a

garrison of regulars under Captain Alexander Murray kept watch over the surrounding settlements. The New England men pitched their tents on shore, while the sloops that had brought them slept on the soft bed of tawny mud left by the fallen tide.

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Winslow found a warm reception, for Murray and his officers had been reduced too long to their own society not to welcome the coming of strangers. The two commanders conferred together. Both had been ordered by Lawrence to “clear the whole country of such bad subjects;” and the methods of doing so had been outlined for their guidance. Having come to some understanding with his brother officer concerning the duties imposed on both, and begun an acquaintance which soon grew cordial on both sides, Winslow embarked again and retraced his course to Grand Pré, the station which the Governor had assigned him. “Am pleased,” he wrote to Lawrence, “with the place proposed by your Excellency for our reception [the village church]. I have sent for the elders to remove all sacred things, to prevent their being defiled by heretics.” The church was used as a storehouse and place of arms; the men pitched their tents between it and the graveyard; while Winslow took up his quarters in the house of the priest, where he could look from his window on a tranquil scene. Beyond the vast tract of grassland to which Grand Pré owed its name, spread the blue glistening breast of the Basin of Mines; beyond this again, the distant mountains of Cobequid basked in the summer sun; and nearer, on the left, Cape Blomedon reared its bluff head of rock and forest above the sleeping waves.

As the men of the settlement greatly outnumbered his own, Winslow set his followers to surrounding the camp with a stockade. Card-playing [PAGE 270] was forbidden, because it encouraged idleness, and pitching quoits in camp, because it spoiled the grass. Presently there came a letter from Lawrence expressing a fear that the fortifying of the camp might alarm the inhabitants. To which Winslow replied that the making of the stockade had not alarmed them in the least, since they took it as a proof that the detachment was to spend the winter with them; and he added, that as the harvest was not yet got in, he and Murray had agreed not to publish the Governor's commands till the next Friday. He concludes: “Although it is a disagreeable part of duty we are put upon, I am sensible it is a necessary one, and shall endeavor strictly to obey your Excellency's orders.”

On the thirtieth, Murray, whose post was not many miles distant, made him a visit. They agreed that Winslow should summon all the male inhabitants about Grand Pré to meet him at the church and hear the King's orders, and that Murray should do the same for those around Fort Edward. Winslow then called in his three captains, – Adams, Hobbs, and



Osgood, – made them swear secrecy, and laid before them his instructions and plans; which latter they approved. Murray then returned to his post, and on the next day sent Winslow a note containing the following: “I think the sooner we strike the stroke the better, therefore will be glad to see you here as soon as conveniently you can. I shall have the orders for assembling ready written for your approbation, only the day blank, and am hopeful everything will [PAGE 271] succeed according to our wishes. The gentlemen join me in our best compliments to you and the Doctor.”

On the next day, Sunday, Winslow and the Doctor, whose name was Whitworth, made the tour of the neighborhood, with an escort of fifty men, and found a great quantity of wheat still on the fields. On Tuesday Winslow “set out in a whale-boat with Dr. Whitworth and Adjutant Kennedy, to consult with Captain Murray in this critical conjuncture.” They agreed that three in the afternoon of Friday should be the time of assembling; then between them they drew up a summons to the inhabitants, and got one Beauchamp, a merchant, to “put it into French.” It ran as follows:—

BY John Winslow, Esquire, Lieutenant-Colonel and Commander of His Majesty’s troops at Grand Pré, Mines, River Canard, and places adjacent.

To the inhabitants of the districts above named, as well ancients as young men and lads.

Whereas His Excellency the Governor has instructed us of his last resolution respecting the matters proposed lately to the inhabitants, and has ordered us to communicate the same to the inhabitants in general in person, His Excellency being desirous that each of them should be fully satisfied of His Majesty's intentions, which he has also ordered us to communicate to you, such as they have been given him.

We therefore order and strictly enjoin by these presents to all the inhabitants, as well of the above-named districts as of all the other districts, both old men and young men, as well as all the lads of ten years of age, to attend at the church in Grand Pré on Friday, the fifth instant, at three of the clock in the afternoon, that we may impart what we are ordered to communicate to them; declaring that no [PAGE 272] excuse will be admitted on any pretence whatsoever, on pain of forfeiting goods and chattels in default.

Given at Grand Pré, the second of September, in the twenty-ninth year of His Majesty's reign, A.D. 1755.

A similar summons was drawn up in the name of Murray for the inhabitants of the district of Fort Edward.

Captain Adams made a reconnoissance of the rivers Canard and Des Habitants, and reported “a fine country and full of inhabitants, a beautiful church, and abundance of the goods of the world.” Another reconnoissance by Captains Hobbs and Osgood among the settlements behind Grand Pré brought reports equally favorable. On the fourth, another letter came from Murray: “All the people quiet, and very busy at their harvest; if this day keeps fair, all will be in here in their barns. I hope to-morrow will crown all our wishes.” The Acadians, like the bees, were to gather a harvest for others to enjoy. The summons was sent out that afternoon. Powder and ball were served to the men, and all were ordered to keep within the lines.

On the next day the inhabitants appeared at the hour appointed, to the number of four hundred and eighteen men. Winslow ordered a table to be set in the middle of the church, and placed on it his instructions and the address he had prepared. Here he took his stand in his laced uniform, with one or two subalterns from the regulars at Fort Edward, and such of the Massachusetts officers as were not on guard duty; strong, [PAGE 273] sinewy figures, bearing, no doubt, more or less distinctly, the peculiar stamp with which toil, trade, and Puritanism had imprinted the features of New England. Their commander was not of the prevailing type. He was fifty-three years of age, with double chin, smooth forehead, arched eyebrows, close powdered wig, and round, rubicund face, from which the weight of an odious duty had probably banished the smirk of self-satisfaction that dwelt there at other times.<sup>118</sup> Nevertheless, he had manly and estimable qualities. The congregation of peasants, clad in rough homespun, turned their sunburned faces upon him, anxious and intent; and Winslow “delivered them by interpreters the King’s orders in the following words,” which, retouched in orthography and syntax, ran thus:—

GENTLEMEN,—I have received from His Excellency, Governor Lawrence, the King’s instructions, which I have in my hand. By his orders you are called together to hear His Majesty’s final resolution concerning the French inhabitants of this his province of Nova Scotia, who for almost half a century have had more indulgence granted them than any of his subjects in any part of his dominions. What use you have made of it you yourselves best know.

The duty I am now upon, though necessary, is very disagreeable to my natural make and temper, as I know it must be grievous to you, who are of the same species. But

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<sup>118</sup> See his portrait, at the rooms of the Massachusetts Historical Society.

it is not my business to animadvert on the orders I have received, but to obey them; and therefore without hesitation I shall deliver to you His Majesty's instructions and commands, which are that your lands and tenements and cattle and live-stock of all kinds are forfeited to the Crown, with all your other effects, except money and household goods, and that you yourselves are to be removed from this his province.

The peremptory orders of His Majesty are that all the French inhabitants of these districts be removed; and through His Majesty's goodness I am directed to allow you the liberty of carrying with you your money and as many of your household [PAGE 274] goods as you can take without overloading the vessels you go in. I shall do everything in my power that all these goods be secured to you, and that you be not molested in carrying them away, and also that whole families shall go in the same vessel; so that this removal, which I am sensible must give you a great deal of trouble, may be made as easy as His Majesty's service will admit; and I hope that in whatever part of the world your lot may fall, you may be faithful subjects, and a peaceable and happy people.

I must also inform you that it is His Majesty's pleasure that you remain in security under the inspection and direction of the troops that I have the honor to command.

He then declared them prisoners of the King. "They were greatly struck," he says, "at this determination, though I believe they did not imagine that they were actually to be removed." After delivering the address, he returned to his quarters at the priest's house, whither he was followed by some of the elder prisoners, who begged leave to tell their families what had happened, "since they were fearful that the surprise of their detention would quite overcome them." Winslow consulted with his officers, and it was arranged that the Acadians should choose twenty of their number each day to revisit their homes, the rest being held answerable for their return.

A letter, dated some days before, now came from Major Handfield at Annapolis, saying that [PAGE 275] he had tried to secure the men of that neighborhood, but that many of them had escaped to the woods. Murray's report from Fort Edward came soon after, and was more favorable: "I have succeeded finely, and have got a hundred and eighty-three men into my possession." To which Winslow replies: "I have the favor of yours of this day, and rejoice at your success, and also for the smiles that have attended the party here." But he adds mournfully: "Things are now very heavy on my heart and hands." The prisoners were lodged in the church, and notice was sent to their families to bring them food. "Thus," says the Diary

of the commander, “ended the memorable fifth of September, a day of great fatigue and trouble.”

There was one quarter where fortune did not always smile. Major Jedediah Preble, of Winslow’s battalion, wrote to him that Major Frye had just returned from Chipody, whither he had gone with a party of men to destroy the settlements and bring off the women and children. After burning two hundred and fifty-three buildings he had reembarked, leaving fifty men on shore at a place called Peticodiac to give a finishing stroke to the work by burning the “Mass House,” or church. While thus engaged, they were set upon by three hundred Indians and Acadians, led by the partisan officer Boishébert. More than half their number were killed, wounded, or taken. The rest ensconced themselves behind the neighboring dikes, and Frye, hastily landing [PAGE 276] with the rest of his men, engaged the assailants for three hours, but was forced at last to reembark.<sup>119</sup> Captain Speakman, who took part in the affair, also sent Winslow an account of it, and added: “The people here are much concerned for fear your party should meet with the same fate (being in the heart of a numerous devilish crew), which I pray God avert.”

Winslow had indeed some cause for anxiety. He had captured more Acadians since the fifth; and had now in charge nearly five hundred able-bodied men, with scarcely three hundred to guard them. As they were allowed daily exercise in the open air, they might by a sudden rush get possession of arms and make serious trouble. On the Wednesday after the scene in the church some unusual movements were observed among them, and Winslow and his officers became convinced that they could not safely be kept in one body. Five vessels, lately arrived from Boston, were lying within the mouth of the neighboring river. It was resolved to place fifty of the prisoners on board each of these, and keep them anchored in the Basin. The soldiers were all ordered under arms, and posted on an open space beside the church and behind the priest's house. The prisoners were then drawn up before them, ranked six deep, – the young unmarried men, as the most dangerous, being told off and placed on the left, to the number of a hundred and forty-one. Captain Adams, [PAGE 277] with eighty men, was then ordered to guard them to the vessels. Though the object of the movement had been explained to them, they were possessed with the idea that they were to be torn from their families and sent away at once; and they all, in great excitement, refused to go. Winslow told them that there must be no parley or delay; and as they still refused, a squad of soldiers advanced towards them with fixed bayonets; while he himself, laying hold of the foremost

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<sup>119</sup> Also Boishébert à Drucourt, 10 Oct. 1755, an exaggerated account. Vaudreuil au Ministre, 18 Oct. 1755, sets Boishébert's force at one hundred and twenty-five men.

young man, commanded him to move forward. “He obeyed; and the rest followed, though slowly, and went off praying, singing, and crying, being met by the women and children all the way (which is a mile and a half) with great lamentation, upon their knees, praying.” When the escort returned, about a hundred of the married men were ordered to follow the first party; and, “the ice being broken,” they readily complied. The vessels were anchored at a little distance from shore, and six soldiers were placed on board each of them as a guard. The prisoners were offered the King’s rations, but preferred to be supplied by their families, who, it was arranged, should go in boats to visit them every day; “and thus,” says Winslow, “ended this troublesome job.” He was not given to effusions of feeling, but he wrote to Major Handfield: “This affair is more grievous to me than any service I was ever employed in.”<sup>120</sup>

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Murray sent him a note of congratulation: “I am extremely pleased that things are so clever at Grand Pré, and that the poor devils are so resigned. Here they are more patient than I could have expected for people in their circumstances; and what surprises me still more is the indifference of the women, who really are, or seem, quite unconcerned. I long much to see the poor wretches embarked and our affair a little settled; and then I will do myself the pleasure of meeting you and drinking their good voyage.”

This agreeable consummation was still distant. There was a long and painful delay. The provisions for the vessels which were to carry the prisoners did not come; nor did the vessels themselves, excepting the five already at Grand Pré. In vain Winslow wrote urgent letters to George Saul, the commissary, to bring the supplies at once. Murray, at Fort Edward, though with less feeling than his brother officer, was quite as impatient of the burden of suffering humanity on his hands. “I am amazed what can keep the transports and Saul. Surely our friend at Chignecto is willing to give us as much of our neighbors’ company as he well can.”<sup>121</sup> Saul came at last with a shipload of provisions; but the lagging transports did not appear. Winslow grew heartsick at the daily sight of miseries which he himself had occasioned, and wrote to a friend at Halifax: “I know they deserve all and more than they feel; yet it hurts me to hear their weeping and wailing [PAGE 279] and gnashing of teeth. I am in hopes our affairs will soon put on another face, and we get transports, and I rid of the worst piece of service that ever I was in.”

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<sup>120</sup> Haliburton, who knew Winslow’s Journal only by imperfect extracts, erroneously states that the men put on board the vessels were sent away immediately. They remained at Grand Pré several weeks, and were then sent off at intervals with their families.

<sup>121</sup> Murray to Winslow, 26 Sept. 1755.

After weeks of delay, seven transports came from Annapolis; and Winslow sent three of them to Murray, who joyfully responded: "Thank God, the transports are come at last. So soon as I have shipped off my rascals, I will come down and settle matters with you, and enjoy ourselves a little."

Winslow prepared for the embarkation. The Acadian prisoners and their families were divided into groups answering to their several villages, in order that those of the same village might, as far as possible, go in the same vessel. It was also provided that the members of each family should remain together; and notice was given them to hold themselves in readiness. "But even now," he writes, "I could not persuade the people I was in earnest." Their doubts were soon ended. The first embarkation took place on the eighth of October, under which date the Diary contains this entry: "Began to embark the inhabitants who went off very solentarily [sic] and unwillingly, the women in great distress, carrying off their children in their arms; others carrying their decrepit parents in their carts, with all their goods; moving in great confusion, and appeared a scene of woe and distress."<sup>122</sup>

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Though a large number were embarked on this occasion, still more remained; and as the transports slowly arrived, the dismal scene was repeated at intervals, with more order than at first, as the Acadians had learned to accept their fate as a certainty. So far as Winslow was concerned, their treatment seems to have been as humane as was possible under the circumstances; but they complained of the men, who disliked and despised them. One soldier received thirty lashes for stealing fowls from them; and an order was issued forbidding soldiers or sailors, on pain of summary punishment, to leave their quarters without permission, "that an end may be put to distressing this distressed people." Two of the prisoners, however, while trying to escape, were shot by a reconnoitring party.

At the beginning of November Winslow reported that he had sent off fifteen hundred and ten persons, in nine vessels, and that more than six hundred still remained in his district.<sup>123</sup> The last of these were not embarked till late in December. Murray finished his part of the work at the end of October, having sent from the district of Fort Edward eleven hundred persons in four frightfully crowded transports.<sup>124</sup> At the close of that month sixteen hundred and sixty-four had been sent from the district of Annapolis, where many others

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<sup>122</sup> In spite of Winslow's care, some cases of separation of families occurred; but they were not numerous.

<sup>123</sup> Winslow to Monckton, 3 Nov. 1755.

<sup>124</sup> Ibid.

escaped to the woods.<sup>125</sup> A detachment [PAGE 281] which was ordered to seize the inhabitants of the district of Cobequid failed entirely, finding the settlements abandoned. In the country about Fort Cumberland, Monckton, who directed the operation in person, had very indifferent success, catching in all but little more than a thousand.<sup>126</sup> Le Guerne, missionary priest in this neighborhood, gives a characteristic and affecting incident of the embarkation. “Many unhappy women, carried away by excessive attachment to their husbands, whom they had been allowed to see too often, and closing their ears to the voice of religion and their missionary, threw themselves blindly and despairingly into the English vessels. And now was seen the saddest of spectacles; for some of these women, solely from a religious motive, refused to take with them their grown-up sons and daughters.”<sup>127</sup> They would expose their own souls to perdition among heretics, but not those of their children.

When all, or nearly all, had been sent off from the various points of departure, such of the houses and barns as remained standing were burned, in obedience to the orders of Lawrence, that those who had escaped might be forced to come in and surrender themselves. The whole number removed from the province, men, women, and children, was a little above six thousand. Many remained behind; and while some of these withdrew to Canada, Isle St. Jean, and other distant retreats, the rest lurked in the woods or returned to their old [PAGE 282] haunts, whence they waged, for several years a guerilla warfare against the English. Yet their strength was broken, and they were no longer a danger to the province.

Of their exiled countrymen, one party overpowered the crew of the vessel that carried them, ran her ashore at the mouth of the St. John, and escaped.<sup>128</sup> The rest were distributed among the colonies from Massachusetts to Georgia, the master of each transport having been provided with a letter from Lawrence addressed to the Governor of the province to which he was bound, and desiring him to receive the unwelcome strangers. The provincials were vexed at the burden imposed upon them; and though the Acadians were not in general ill-treated, their lot was a hard one. Still more so was that of those among them who escaped to Canada. The chronicle of the Ursulines of Quebec, speaking of these last, says that their misery was indescribable, and attributes it to the poverty of the colony. But there were other causes. The exiles found less pity from kindred and fellow Catholics than from the heretics of the English colonies. Some of them who had made their way to Canada from Boston, whither they had

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<sup>125</sup> Captain Adams to Winslow, 29 Nov. 1755; see also Knox, I. 85, who exactly confirms Adams's figures.

<sup>126</sup> Monckton to Winslow, 7 Oct. 1755.

<sup>127</sup> Le Guerne à Prévost, 10 Mars, 1756.

<sup>128</sup> Lettre commune de Druour et Prévost au Ministre, 6 Avril, 1756. Vaudreuil au Ministre, 1 Juin, 1756.

been transported, sent word to a gentleman of that place who had befriended them, that they wished to return.<sup>129</sup> Bougainville, the celebrated navigator, then aide-de-camp to Montcalm, says concerning them:

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“They are dying by wholesale. Their past and present misery, joined to the rapacity of the Canadians, who seek only to squeeze out of them all the money they can, and then refuse them the help so dearly bought, are the cause of this mortality.” “A citizen of Quebec,” he says farther on, “was in debt to one of the partners of the Great Company [Government officials leagued for plunder]. He had no means of paying. They gave him a great number of Acadians to board and lodge. He starved them with hunger and cold, got out of them what money they had, and paid the extortioner. *Quel pays! Quels mœurs!*”<sup>130</sup>

Many of the exiles eventually reached Louisiana, where their descendants now form a numerous and distinct population. Some, after incredible hardship, made their way back to Acadia, where, after the peace, they remained unmolested, and, with those who had escaped seizure, became the progenitors of the present Acadians, now settled in various parts of the British maritime provinces, notably at Madawaska, on the upper St. John, and at Clare, in Nova Scotia. Others were sent from Virginia to England; and others again, after the complete conquest of the country, found refuge in France.

In one particular the authors of the deportation were disappointed in its results. They had hoped to substitute a loyal population for a disaffected one; but they failed for some time to [PAGE 284] find settlers for the vacated lands. The Massachusetts soldiers, to whom they were offered, would not stay in the province; and it was not till five years later that families of British stock began to occupy the waste fields of the Acadians. This goes far to show that a longing to become their heirs had not, as has been alleged, any considerable part in the motives for their removal.

New England humanitarianism, melting into sentimentality at a tale of woe, has been unjust to its own. Whatever judgment may be passed on the cruel measure of wholesale expatriation, it was not put in execution till every resource of patience and persuasion had been tried in vain. The agents of the French Court, civil, military, and ecclesiastical, had made some act of force a necessity. We have seen by what vile practices they produced in Acadia a state of things intolerable, and impossible of continuance. They conjured up the

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<sup>129</sup> Hutchinson, *Hist. Mass.*, III. 42, note.

<sup>130</sup> Bougainville, *Journal*, 1756-1758. His statements are sustained by *Mémoires sur le Canada*, 1749-1760.



tempest; and when it burst on the heads of the unhappy people, they gave no help. The Government of Louis XV. began with making the Acadians its tools, and ended with making them its victims.<sup>131,132</sup>

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<sup>131</sup> It may not be remembered that the predecessor of Louis XV., without the slightest provocation or the pretence of any, gave orders that the whole Protestant population of the colony of New York, amounting to about eighteen thousand, should be seized, despoiled of their property, placed on board his ships, and dispersed among the other British colonies in such a way that they could not reunite. Want of power alone prevented the execution of the order. See Frontenac and New France under Louis XIV., 189, 190.

<sup>132</sup> Parkman, *op.cit.*, pp. 234 - 284.

## The Treaty of Paris

The Treaty of Paris was concluded on 10 February 1763 between the Kingdoms of Great Britain, France and Spain. While Portugal did not sign the Treaty, it was formally included as a Contracting Party.

The Treaty ended the Seven Years' War. Great Britain gained most of France's territories in North America. According to Article IV of the Treaty, for instance, France ceded Canada to Great Britain and renounced its claims to Nova Scotia or Acadia:

“IV. His Most Christian Majesty renounces all pretensions which he has heretofore formed or might have formed to Nova Scotia or Acadia in all its parts, and guaranties the whole of it, and with all its dependencies, to the King of Great Britain: Moreover, his Most Christian Majesty cedes and guaranties to his said Britannick Majesty, in full right, Canada, with all its dependencies, as well as the island of Cape Breton, and all the other islands and coasts in the gulph and river of St. Lawrence, and in general, every thing that depends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession, and all rights acquired by treaty, or otherwise, which the Most Christian King and the Crown of France have had till now over the said countries, lands, islands, places, coasts, and their inhabitants, so that the Most Christian King cedes and makes over the whole to the said King, and to the Crown of Great Britain, and that in the most ample manner and form, without restriction, and without any liberty to depart from the said cession and guaranty under any pretence, or to disturb Great Britain in the possessions above mentioned. His Britannick Majesty, on his side, agrees to grant the liberty of the Catholick religion to the inhabitants of Canada: he will, in consequence, give the most precise and most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion according to the rites of the Romish church, as far as the laws of Great Britain permit. His Britannick Majesty farther agrees, that the French inhabitants, or others who had been subjects of the Most Christian King in Canada, may retire with all safety and freedom wherever they shall think proper, and may sell their estates, provided it be to the subjects of his Britannick Majesty, and bring away their effects as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except that of debts or of criminal prosecutions: The term limited for this emigration shall be fixed to the space of eighteen months, to be computed from the day of the exchange of the ratification of the present treaty.”<sup>133</sup>

In addition, pursuant to Article VII of the Treaty, France ceded the east side of the Mississippi to Great Britain, except for Nouvelle-Orléans, which (at least seemingly) remained French at that time:

“VII. In order to re-establish peace on solid and durable foundations, and to remove for ever all subject of dispute with regard to the limits of the British and French territories on the continent of America; it is agreed, that, for the future, the confines between the dominions of his Britannick Majesty and those of his Most Christian Majesty, in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the River Mississippi, from its source to the river Iberville, and from thence, by a line drawn along the middle of this river, and the lakes Maurepas and

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<sup>133</sup> Article IV of the Treaty of Paris.

Pontchartrain to the sea; and for this purpose, the Most Christian King cedes in full right, and guaranties to his Britannick Majesty the river and port of the Mobile, and every thing which he possesses, or ought to possess, on the left side of the river Mississippi, except the town of New Orleans and the island in which it is situated, which shall remain to France, provided that the navigation of the river Mississippi shall be equally free, as well to the subjects of Great Britain as to those of France, in its whole breadth and length, from its source to the sea, and expressly that part which is between the said island of New Orleans and the right bank of that river, as well as the passage both in and out of its mouth: It is farther stipulated, that the vessels belonging to the subjects of either nation shall not be stopped, visited, or subjected to the payment of any duty whatsoever. The stipulations inserted in the IVth article, in favour of the inhabitants of Canada shall also take place with regard to the inhabitants of the countries ceded by this article.”<sup>134</sup>

With the Treaty of Paris, Great Britain extended its possessions in North America and confirmed its conquest of Canada. To the great satisfaction of the British, the threat of a French invasion into British territories in North America no longer existed.

### **The Dispute – Vain was the hope of escape**

When British troops and New England militia raided Chipody,<sup>135</sup> Cécile Bellefontaine had the good fortune of not being there. She had been living with her uncle, a Jesuit priest and missionary, in Quebec for most of her life. After Cécile’s mother died in childbirth, her father had sent her to be raised by her uncle in Quebec in a French, cultured and good catholic environment.

Cécile’s father died in the raid. The fate of her brother Gabriel would never be discovered.<sup>136</sup>

According to reports that reached Cécile in Quebec, her father had taken refuge in a wooden church and died when it was set on fire by the British. According to a report by British officer Major Jedediah Frye, the two Bellefontaines had taken up arms and died in combat. The British commander also reported that a number of scalps had been found in the Bellefontaine house (“two blondes, three brown haired and one red-haired”) as well as “a musket or a rifle, and cartouche box capable of containing eighteen rounds of ball cartridge, and a bayonet or

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<sup>134</sup> Article VII of the Treaty of Paris.

<sup>135</sup> While the attack on Chipody is historical and reported in Parkman, the fate of, and - indeed - the Bellefontaine family itself, are fictional. Even though the Bellefontaines are fictional, our story is based on real examples. Many Acadians shared the fate of the Bellefontaine family. In the fall of 1755, British troops separated Acadian families and many of them were in relentless search of their loved ones. (see *The Acadian Diaspora*, pp. 49-50: “Out of malice, carelessness, and the complexity of a massive operation, British troops had separated dozens of Acadians from spouses, children, and other relatives in the fall of 1755. Upon the refugees’ arrival in British North America, many worked relentlessly to find their loved ones. Some, such as brothers Pierre and Michel Bastarache, escaped through thousands of miles of American backcountry, reaching their friends and family who had found refuge in Canada. Others used newspapers. The March 1, 1756, edition of the *Boston Gazette*, for example, sought the whereabouts of Alexis Breau, Joseph Vincent, and three other men whose wives had landed in Massachusetts, but who had themselves ‘been sent to some of His Majesty’s Colonies to the Southward.’ Others made do with the virtual communion of letters. In September of 1757, Joseph Leblanc wrote from Liverpool, England, to his brother Charles in Southampton. Joseph’s ‘dear wife’ had ‘left this world to go to the other’ after a long illness. ‘In tears,’ he reminded Charles to say hello to his uncle Charles Richard, his aunt Marguerite Comeau, his friend Jean-Jaques Thériot, and ‘all the Neutral French in general’’”).

<sup>136</sup> Gabriel Bellefontaine was unmarried and had no children. There are no other living members of the family.

sword suitable for such musket or rifle, with proper belts for the same powder”<sup>137</sup> and “six casks of good brandy bearing the markings of His Majesty’s army and hence identified as contrabande”.

While, obviously, Cécile was heartbroken, there was nothing she could do but deepen her hatred against the British.

When the Treaty of Paris decreed that New France should become British, she knew she could not afford to repatriate under Article IV of the Treaty. Hence, in the spring of 1763 (when the news of the Treaty reached Canada) she wandered south to the lowlands of Louisiana, which she thought remained French, and where she hoped to find news on the fate of her brother Gabriel. Cécile eventually settled in Nouvelle-Orléans.

Unbeknownst to her – and the people of Louisiana – France had ceded the entirety of Louisiana to Spain under the then secret Treaty of Fontainebleau. On 3 November 1762, King Louis XV offered Louisiana to Charles III and he (somewhat reluctantly) accepted the gift on 13 November of the same year.<sup>138</sup>

This was only made known in 1764.<sup>139</sup>

Cécile was shocked. Was she now Spanish? Better than English for sure, at least Spain was a Catholic nation. No, she was French! – In her despair, she contacted an attorney, a fellow Acadian, who had emigrated to Nouvelle-Orléans in 1755.

But, he said, there was a glimmer of hope, or as he said “faint streaks of the morning”! – Did not the Protocol annexed to the Treaty of Paris provide a possibility for international arbitration?

On behalf of his client, the attorney submits a Request for Consultations under Article 8.19 of CETA to Attorney General Fletcher Norton. With that Request, he includes the following proposal: „Given that the High Contracting Parties of CETA have not made any appointments to the panel under Article 8.27 of CETA, Claimant proposes to adopt the appointment process foreseen in the UNCITRAL Arbitration Rules<sup>140</sup>, to wit, that each Party appoints one arbitrator with the two party-appointed arbitrators seeking to agree on a President, failing which the ICSID Secretary General shall make the necessary appointments.”

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<sup>137</sup> Compare Sir William Young, *The revised statutes of Nova Scotia*, 1851, p. 101, available at: <https://archive.org/details/cu31924016981445>.

<sup>138</sup> *The Cession of Louisiana to Spain*, Author(s): William R. Shepherd Source: *Political Science Quarterly*, Vol. 19, No. 3 (Sep., 1904), pp. 439-458, available at: <https://www.jstor.org/stable/pdf/2140737.pdf>.

<sup>139</sup> On 21 April 1764, King Louis XV informed the governor of Louisiana Jean-Jacques Blaise d’Abbadie (who was tasked with preparing the handovers to Britain and Spain respectively): Hoping, moreover, that His Catholic Majesty will be pleased to give his subjects of Louisiana the marks of protection and good will which only the misfortunes of war have prevented from being more effectual. (see Order from the King of France to the Governor of Louisiana to deliver up that province to the Spaniards, translated by Robert Greenhow, in *A new Collection of Laws, Charters and local ordinances of the Governments of Great Britain, France and Spain*, Volume 2, pp. 534-536, available at: [https://books.google.bf/books?id=UYkVAAAAYAAJ&printsec=frontcover&hl=fr&source=gbg\\_summary\\_r&cad=0#v=onepage&q&f=false](https://books.google.bf/books?id=UYkVAAAAYAAJ&printsec=frontcover&hl=fr&source=gbg_summary_r&cad=0#v=onepage&q&f=false)).

<sup>140</sup> The UNCITRAL Arbitration Rules of 1760 and the UNCITRAL Transparency Rules of 1762 are available on the Moot’s website.

In the following consultations, Britain replies on the proposal for the formation of the tribunal: “We agree with Claimant’s proposal, it being understood that the Parties shall make the appointments adopting CETA’s principles regarding their nationalities. Britain also proposes the adoption of the UNCITRAL Transparency Rules.”

When no result is reached in the consultations (other than Claimant’s acceptance of Britain’s modified proposal regarding the formation of the tribunal and transparency), Cécile’s attorney submits a Claim under Article 8.23 of CETA stating that Britain has breached its obligations under Sections C and D of said Treaty as well as of Article XIV of the Utrecht Treaty and the Genocide Convention. The Claim states that Claimant has suffered considerable damage by reason of the killing of her family, the seizure and subsequent destruction of her family’s home, the robbery of the cattle of the family as well as its mobile possessions to which Mlle Cécile Bellefontaine is the rightful heir. She, represented by counsel, appoints Henri Léonard Jean Baptiste Bertin as arbitrator.

Britain (representing itself – in the person of the Attorney General, Fletcher Norton) raises the following preliminary objections under Article 8.33 of CETA.

“His Britannick Majesty, George III, objects to the claims raised by Miss Bellefontaine since they are unfounded as a matter of law. They are not claims for which an award in favor of Claimant may be made, even if the facts alleged were assumed to be true.

**1. No Jurisdiction *ratione temporis*:** Many of the alleged actions giving rise to the purported claim took place well before the entry into force of the Treaty of Paris and CETA. In addition, much more time than the three year time period referred to in Chapter 8 Article 8.19.6 of CETA has lapsed since the alleged events. The dispute is filed out of time.

**2. No Jurisdiction *ratione personae*:** Miss Cécile Bellefontaine was a British subject at the time of the alleged events (whether she stayed in Quebec or elsewhere), so were her father and brother as they (or as the case may be their ancestors) decided to stay in Acadia after the transfer to Britain in 1713. What matters is the nationality at the time of the alleged breach, not the nationality at the time of the submission of the Claim. Even if for purposes of jurisdiction, the time of submission were relevant, the case would be unfounded as a matter of law as a British subject would not have any rights against Britain under CETA. It goes without saying that a Spanish subject cannot raise any claims against Britain under CETA.

**3. No Jurisdiction *ratione materiae*:** There is also no foreign investment within the meaning of Articles 9.1 of CETA. While obviously, Chipody is British territory under the Utrecht Treaty, the “investments” were made when the territory was still French. A simple change of territory, or of the nationality of the Claimant does not make the investment “foreign”.<sup>141</sup>

**4. No Case to Answer – *Lex Specialis*:** Article 8.10.2 of CETA does not apply to acts such as the ones alleged by the Claimant. Only Article 8.11 of CETA would apply to such situations as *lex specialis*.

**5. No Case to Answer – MFN:** Article 8.7 of CETA explicitly disallows raisin picking by trying to rope in other treaties, such as the Utrecht Treaty, or the Genocide Convention.

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<sup>141</sup> It is undisputed between the Parties that the Bellefontaine family already had resided on the farm in Chipody before the Utrecht Treaty.

Alleged violations of these treaties need to be litigated between the two States under the proper mechanisms foreseen.

**6. No Case to Answer – Utrecht Treaty:** Moreover, the Utrecht Treaty is a treaty concluded between France and Britain creating only *inter se* obligations. Nothing in this Treaty gives rise to individual rights of British subjects against Britain. Only France is entitled. Moreover, individual rights against the sovereign, in particular the right to access an international court, are explicitly forbidden. As the House of Lords held in Opinion 2/13 with regard to the Human Rights Convention, entering into such an agreement would be in violation of Additional Article 6(2) of the Treaty of Union, Protocol No. 8 of the Treaty of Union as well as Articles 267 and 344 of the Treaty on the Functioning of the Union. Such intrusion of international law into the internal affairs of a sovereign nation would violate British *domaine réservé*.

**7. No Case to Answer – Art. 8.10.2:** The two Messr. Bellefontaine were traitors and irregular fighters in a guerilla war against their lawful sovereign. They were killed with arms in their hands. Such action does not violate Article 8.10.2 of CETA as the acts were mandated by the proper public purpose of suppressing an illegal uprising. The acts of the British troops were neither manifestly arbitrary, nor were they a targeted discrimination of Catholics. The same reasoning applies with regard to the alleged violation of the Genocide Convention.

His Britannick Majesty asks for these objections to be considered first under Article 8.33 of CETA by the tribunal. In the alternative, his Britannick Majesty requests a bifurcation of the proceedings on its objections.

On behalf of His Britannick Majesty we have the honour of appointing Charles Pratt as our arbitrator.

Signed, Fletcher Norton”.

### **The Presiding Arbitrator**

As the two party-appointed arbitrators fail to agree on a president of the tribunal, Claimant’s counsel requests ICSID to appoint the presiding arbitrator. ICSID appoints Friedrich II, King in Prussia and Prince Elector of Brandenburg, as presiding arbitrator. He – having consulted the Parties – appoints Friedrich Wilhelm von Thulemeyer as assistant to the President of the Tribunal.

The Tribunal suspends the proceedings on the merits and establishes a schedule for considering the objections of Respondent as a preliminary question.

### **Claimant’s Reply**

**1. Jurisdiction *ratione temporis*:** While the horrific event took place in 1755, it was not until 1763 that the Treaty of Paris and CETA were concluded. As crimes against humanity they do not fall under a statute of limitation. Indeed, Britain’s continued persecution of Acadians, their continued displacement and exile, from which only now Acadians return under the renewed guarantees of the Treaty of Paris, even though no compensation has ever been paid or excuse made for their suffering, also gives rise to a cause of action and demonstrates that this is all a case of continued and composite act.

In addition, the interpretation of the three years period in Article 8.19.6 of CETA proposed by Britain is clearly manifestly absurd and unreasonable. The period cannot be said to have started running before the entry into force of CETA.

**2. No Jurisdiction *ratione personae*:** Mlle Cécile Bellefontaine does not dispute that she, her father and brother were regarded as British subjects by Britain at the time of the ethnic cleansing and the murders. As such they were protected under the Utrecht Treaty, which Britain violated. Those are questions for the merits. For jurisdiction, what now matters is that Mlle Bellefontaine is a French subject and therefore has access to arbitration under CETA and to the MFN clause under the said treaty. Britain cannot argue that she is British. British nationality would be an imposed nationality and hence not opposable.

Similarly, Mlle Bellefontaine is not Spanish. First of all, it is not acceptable under international law that a change of territory results in a change of nationality. The Treaty of Fontainebleau is completely silent on the issue (unlike, for example, the Utrecht Treaty and the Treaty of Paris). Indeed, Mlle Bellefontaine left Quebec in order not to become British by staying there. Also the notion that the nationality of a subject could be changed without that persons knowledge by a secret treaty is absolutely inconceivable. Such a secret treaty does not comply with the notion of law.

**3. No jurisdiction *ratione materiae*:** First of all, it is not uncommon or impossible for an investment to become foreign through a change of nationality of the territory, or the change of nationality of the Claimant. The relevant time for being a French national is the beginning of the arbitration.

**4. No case to answer – *Lex Specialis*:** There is no *lex specialis* relationship between different rights under CETA.

**5. No case to answer – MFN:** CETA does not exclude reliance on other treaties that do not provide for dispute resolution between an individual and the State.

**6. No case to answer – Utrecht Treaty:** It is not true that the Utrecht Treaty does not create individual rights. Moreover, Britain cannot rely on its internal law to invalidate international subjective rights under treaties. Indeed, it has been long established that with regard to human rights and human rights type international rights that a State, or group of States cannot rely on *domaine réservé*.

**7. No Case to Answer – Art. 8.10.2:** The expulsion of the Acadians amounted to an ethnic cleansing and genocide, which are outlawed not just by treaty law but also by customary international law of a *ius cogens* nature. That Britain argues that the standards in CETA fall short of those standards (as the wording of CETA suggests) is not only despicable but cannot be heard by the Tribunal. “Targeted” in CETA must therefore be interpreted correctively to realign with international law.

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A few months later, after the Parties’ submissions have been made public under the transparency regime, a letter is received by both Parties as well as the members of the

Tribunal from Agoiuda Membertou, Grand Chief of the Mi'kmaq and Chief of the Holy Gathering Sante Mawio'mi seeking to intervene in the arbitration.<sup>142</sup>

The Tribunal asks the Parties for their comments:

Claimant makes the following submission:

**8.** The Mi'kmaq should be allowed to intervene as they offer a relevant and different perspective to the arbitration. The treatment of the Mi'kmaq by Britain also illustrates the bad faith conduct of Britain in this whole affair. Indeed, were the Tribunal to decide that the territory belongs to the Mi'kmaq, the old allies of the Acadians, Mlle Bellefontaine could not be happier, provided that the Tribunal would award damages for wrongful occupation to the Mi'kmaq and damages for the expulsion to the Acadians. Because of the *erga omnes* importance of the matter, the Tribunal is obliged to address this issue.

Britain submits the following comment:

**8.** Acadia is and remains British territory, as is the whole of Canada and the other British colonies on North American soil. Acadia is British by the right of occupation and the Utrecht Treaty. The Mi'kmaq are not a Contracting Party to the Utrecht Treaty and CETA and have no right to intervene in this arbitration. They are not even a State. Also, the Mi'kmaq conspired with the Acadians against Britain despite their signing of several peace treaties and are traitors! If they now claim that they did not understand said treaties, this is ridiculous. Moreover, what France and Britain concluded in treaties *inter se* is not any business of the

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<sup>142</sup> The letter from Agoiuda Membertou, Grand Chief of the Mi'kmaq and Chief of the Holy Gathering Sante Mawio'mi is available on the Moot's website. For further information on the Mi'kmaq see Parkman, Montcalm and Wolfe, Vol. I, pp. 23-24; Parkman, A Half-Century of Conflict, Vol I, pp. 220-223; see also Christopher Hodson, The Acadian Diaspora, pp. 20-21, 33: "The first accounts of the Mi'kmaq date to July 1534, when Jacques Cartier came across two 'fleets' totaling 'forty or fifty canoes' in Chaleur Bay off present-day New Brunswick. Eager for 'iron wares,' the Mi'kmaq first offered strips of seal meat, but ended up stark naked after trading away their clothes. By the time the Rouen fur trader Etienne Bellenger visited Acadia in 1583, the Mi'kmaq had learned well how to deal with Europeans. As Bellenger told Richard Hakluyt, then a secretary to England's ambassador to France, the Mi'kmaq cut quite a figure. 'They wear their hayre hanging downe long before and behynde as long as their Navells,' he remembered, revealing that 'they go all naked saving for their privates which they cover with an Apron of some Beastes skynn.' They were experts in intercultural commerce. In exchange for metal goods, the Mi'kmaq offered Bellenger 'hides reddie dressed upon both sides bigger than an Oxe,' along with deer, seal, marten, and otter skins, enough beaver pelts to make six hundred hats, and foot-long chunks of venison – any explorer's wish list. But Bellenger also lost two of his men and a small boat in the Bay of Fundy to a group of 'cruell and subtil' Mi'kmaq, prompting him to warn others of his 'follye in trusting the salvadges to farr.' The Mi'kmaq would remain one of the more stable indigenous societies in North America, experiencing no great collapse like the mound builders of the Southeast and no cyclical wars like those that devastated the Iroquoian and Algonquian peoples of the Saint Lawrence Valley. 'While they lived and migrated as clans, the Mi'kmaq also retained an overarching political structure called the Sante Mawi'omi, which translates to 'Grand Council' or 'Holy Gathering.' Legendarily founded hundreds of years earlier in response to Iroquois raids from the east, the council brought together the 'captains' of seven Mi'kmaq districts for talks on 'peace and war, treaties of friendship, and treaties for the common good.' Although the Holy Gathering was transformed by the European presence in Acadia, it endured into the eighteenth century. During the winter of 1728, the French governor of Ile Royale fretted over 'a considerable gathering of Indians ... for which I have not been able to discover the reason.' Numerically strong and politically sophisticated, the Mi'kmaq proved willing participants in colonial economies while remaining blasé about the colonizers. Pierre Biard, a French Jesuit who did his best to minister to the Mi'kmaq in 1611, complained that 'they think they are better, more valiant and more ingenious' than any European. [...] For their part, the Mi'kmaq rejected the idea that a treaty between the monarchs of Great Britain and France had any relevance to them. 'I have my land that I gave to no one and will never give,' one sagamore told a delegation from Massachusetts in 1713. 'I know the limits and when someone wishes to live there, he will pay.'"



Mi'kmaq. The Tribunal has no competence to rule on the validity of the transfer of territory under the Utrecht and Paris Treaties. First, Britain never consented to such a thing. Second, such an investigation (let alone ruling!) could not be made in the absence of France as Contracting Party. Obviously, Miss Bellefontaine – even if she were French! – could not represent France, only its sovereign can do so. Any occupation of the Tribunal with this issue would violate both British and French sovereignty.

The Parties also write to the Tribunal proposing a site visit. Claimant in addition proposes that a hearing of evidence (notably of the Mi'kmaq) should take place there. The Parties agree that the place of arbitration would remain in Potsdam, Prussia.<sup>143</sup> Hearing this, the President becomes decidedly aggravated: “I regard an on-site visit to a miserable region such as Acadia as a personal affront! Can you imagine my poor greyhounds in this horrible land covered with snow and ice eight months of the year? [...] If they decide to go there, I am sending Thulemeyer. He will have to summarise everything for the award in any event.” – Unfortunately, Friedrich repeats this remark in a letter to Voltaire, which – along with Voltaire's reply – is intercepted by British intelligence.<sup>144</sup>

**9. Challenge** – Respondent challenges the President of the Tribunal, attaching the letter together with an English translation.

Respondent argues that not only the President's remarks about the British colonies in North-America as well as the treaties are a cause for concern. Even more problematic is the admission by the President that not him, but the assistant to the President would be writing the award.

Moreover, this Tribunal is not even properly constituted as the method for appointing the Tribunal was that prescribed by the UNCITRAL Arbitration Rules rather than CETA. While Britain may have agreed initially, the method for the constitution of the Tribunal is mandatorily prescribed in CETA and may not be changed by Party agreement. Britain was not entitled to agree to this in the absence of a formal amendment to CETA agreed with France.

**9. Challenge** – Claimant submits its comment on the challenge stating that it was established State practice that heads of State who are appointed as arbitrators rely heavily on experts for the preparation of the award. Indeed, as can be seen from the Pig War Award of 21 October 1872, here, the emperor in his one page award just referred to an expert report which contained the reasoning.<sup>145</sup> Even in cases where not a head of State but an experienced lawyer is appointed as president it is customary for him/her<sup>146</sup> to be assisted by a junior lawyer who drafts under the direction of the president. In other words, if the chef de cuisine tells the kitchen boy to peel the potatoes, the recipe is still the chef's. Moreover, the letter by the President is not admissible. It was obtained illegally. It is also a private letter between two very close friends and was not written by the President either in his capacity as President, nor in his capacity as King in Prussia.

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<sup>143</sup> The 10<sup>th</sup> Book of the Codex Fridericianus of 4 April 1748 is available on the Moot's website.

<sup>144</sup> The letters exchanged between Friedrich II and Voltaire are available on the Moot's website.

<sup>145</sup> The award was rendered in 1872 by the German Emperor Wilhelm I and is available on the Moot's website. Participants in the Moot will ignore the anachronism.

<sup>146</sup> Participants in the Moot will also ignore this anachronism.

The Tribunal overrules the Parties' agreement and decides against a site visit to Acadia, given that the question of the admissibility of the Mi'kmaq (and other things) have to be decided first.

The President and his co-arbitrators meet for dinner at Sanssouci on the evening before the hearing.

Friedrich is quite unconcerned about the challenge. – After all, it is the Kammergericht that would ultimately hear any challenge or set aside application. He quipped:

“Where the Judicial Colleges do not go through with justice without any regard for the person and the status, but put the natural equity aside, then they should deal with Sr.K.M. For a Judicial College that practices injustice is more dangerous and worse than a gang of thieves, you can protect yourself from them, but against rogues who use the mantle of justice to carry out their wicked evil passions, no one can guard themselves from that. They are worse than the biggest rascals in the world and deserve a double punishment.”<sup>147</sup>

On the way back to their quarters, Charles Pratt asks Henri Bertin whether they are under any obligation to the Parties to disclose what had just been said. Bertin shrugs.<sup>148</sup>

In the week of 4 March [2019], the Tribunal commences the hearing on jurisdiction and admissibility.

The Tribunal further requests the Parties to reserve 9 March [2019] for an evidentiary hearing, should the need arise.

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<sup>147</sup> English translation by the author. The original reads as follows: “Wo die Justiz-Collegia nicht mit der Justiz ohne alles Ansehen der Person und des Standes gerade durch gehen, sondern die natürliche Billigkeit bei Seite setzen, so sollen sie es mit Sr.K.M. zu thun kriegen. Denn ein Justiz-Collegium, das Ungerechtigkeiten ausübt, ist gefährlicher und schlimmer, wie eine Diebesbande, vor die kann man sich schützen, aber vor Schelme, die den Mantel der Justiz gebrauchen, um ihre üblen Passiones auszuführen, vor die kann sich kein Mensch hüten. Die sind ärger, wie die größten Spitzbuben, die in der Welt sind, und meritiren eine doppelte Bestrafung.”

<sup>148</sup> The deliberations of the arbitrators are unknown to the Parties (and also to the participants of the Moot) unless a disclosure is made by the Tribunal.