Acadiensis

ACADIENSIS

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Volume 7, Number 2, Spring 1978

URI: https://id.erudit.org/iderudit/acad7_2art04

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Publisher(s)

The Department of History of the University of New Brunswick

ISSN

0044-5851 (print)
1712-7432 (digital)

Explore this journal

Cite this article

Bumsted, J. M. (1978). Sir James Montgomery and Prince Edward Island, 1767-1803. *Acadiensis*, *7*(2), 76–102.

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Sir James Montgomery and Prince Edward Island, 1767 - 1803

In 1767 the British government attempted a new experiment in North American colonization when it allocated to private proprietors by lottery the Island of St. John, recently acquired from France, in 67 surveyed townships of about 20,000 acres each.[1] The proprietors were to pay annual quitrents, thus defraying the cost of the administration of the colony, which was separated from Nova Scotia in 1769. To finance the quitrents, the proprietors would be forced to promote settlement. But the government's carefully-conceived plan for the Island was soon in ruins. The proprietors did not successfully populate their lots, the quitrents were not paid, and Parliament was forced to take over financial support of the officers in 1777. The resident settlers became increasingly hostile to leasehold and to the proprietors, whom they viewed as absentee landlords who had put little into the Island and who hoped to reap great profits at the expense of those on the land. Studies of the early history of the Island under British rule have been sketchy and highly critical of both the proprietors and the proprietorial system. The basic source for historians has been the public papers of the province, largely the records of the Island's political and administrative bodies supplemented by official correspondence with the Colonial Office and related supervisory Boards in Britain. In the absence of extensive collections of private papers it has been difficult to construct any alternative perspective on the Island's affairs to that of its own officials, who held the proprietors responsible for their difficulties in obtaining their salaries. The recent acquisition by the Scottish Records Office in Edinburgh of nine substantial bundles of papers documenting the business dealings of Sir James Montgomery with Prince Edward Island between 1767 and the early years of the nineteenth century, which can be supplemented by additional Montgomery material in Scotland and Canada, is thus of inestimable value.

James Montgomery was the most active and considerable of the Island's absentee proprietors in the period before Lord Selkirk. The Montgomery material sheds new light on almost every aspect of the Island's early history,

1 The author wishes to acknowledge the assistance of the Faculty Research funds of Simon Fraser University and the University of Edinburgh in the preparation of this paper.

from the politics of proprietorial policy to the sexual peccadillos of leading local figures. While the manuscripts are thus important in a variety of contexts, this article confines itself to attempting to outline Montgomery's business connections with the Island, in order to see affairs from the perspective of an involved absentee proprietor. It considers politics in Charlottetown and Whitehall only as they impinge upon Montgomery's investments, and principally from his point of view. In the tale which follows, one theme stands out – that settlement of a North American wilderness was simply not a viable *business* proposition for any private entrepreneur. Carefully-laid plans in Whitehall offices or Edinburgh counting-rooms came up against too many obstacles in the execution. Only a private individual with ambitions other than financial profit (like Lord Selkirk), or alternatively, the government itself, could find incentive to carry on in the face of heavy and perennially unanticipated losses. Attempts to recover the losses, moreover, had a tendency to deflect the entrepreneur from the more positive and creative work of development. Like many of his fellow proprietors, Montgomery came to spend his efforts not in improvement of his holdings, but in the morass of the Island's legal and political machinations.

Born in Tweeddale in 1721, James Montgomery was the second son of an advocate and sometime factor to Lord March, the chief landholder in the county.[2] After education at the parish school in West Linton, he went to Edinburgh to study law and was called to the Scottish bar in 1743. In 1747, when as a result of the "Forty-Five" Rebellion the British Parliament abolished the heritable jurisdictions (or inherited offices) of Scotland, Montgomery was the first sheriff depute appointed by the Crown. While nominally worth only £150 a year, the office opened a new world for the young lawyer, and marked him as a rising figure. In 1766 he became Member of Parliament for the Dumfries Burghs, a seat he held until his election from Peeblesshire in 1768; Montgomery and his sons represented the latter constituency almost continually until 1830. Representative of a new emergent ruling group in Scotland – the advocates – Montgomery even before his entrance into the Commons was appointed Joint Soliciter-General for Scotland in 1761 and sole Soliciter-General in 1763. From 1766 to 1775 he served as Lord Advocate for Scotland, and was succeeded by Henry Dundas.

2 The major biographical sources for Montgomery include *The Farmer's Magazine* (August 1803), pp 374 - 5; The Reverend Charles Findlater, *General View of the Agriculture of Peebles* (Edinburgh, 1802), *passim;* William Chambers, *A History of Peeblesshire* (Edinburgh and London, 1864), *passim;* George W. T. Ormond, *The Lord Advocates of Scotland* (Edinburgh, 1883), II, pp. 78 - 81; James Walter Buchan, ed., *A History of Peeblesshire* (Glasgow, 1925), *passim;* Lewis Namier and John Brooke, eds., *The House of Commons 1754 - 1790* (London, 1964), III, pp. 159 - 60.

The office of Lord Advocate was the most important political appointment in the Scotland of George III, for it controlled vast amounts of Scottish patronage. Although Montgomery did not exploit his power as unremittingly as did his successor, he prospered mightily while in office, and was able to retire to the relatively unpolitical post of Lord Chief Baron of the Exchequer of Scotland on the eve of the American Revolution, spending the remainder of his long life administering the Scottish and North American estates he had acquired while active in politics. As Lord Advocate, his chief legislative accomplishment was 10 George III c. 51, always known as the "Montgomery Act", which permitted and encouraged the improvement of Scottish land held in entail.[3] He also took the lead in sponsoring early turnpike legislation for Scotland. In 1801 he resigned his office as Lord Chief Baron in return for a Baronetcy. He died on 2 April 1803.

The growing Montgomery fortune was a largely self-made one, its acquisition based upon Montgomery's legal and political activities, an astute marriage in 1763, and progressive management of landed estates. As early as 1754, Montgomery was introducing turnip cultivation on his Newlands farm in Tweeddale, but it was in the 1760s that his acquisition of estates and their improvement began in earnest. At the time of his marriage in 1763 he purchased the run-down estate at Whim in Peeblesshire from the Duke of Argyle. In 1767 he obtained Peeblesshire estates at Nether Falla and Stanhope and Stobo, paying over £40,000 for the latter. From his wife the family acquired Killern in Stirlingshire, described by one observer in 1777 as the best developed estate in its region.[4] Montgomery was renowned throughout Scotland for his policies of agricultural improvement, including the introduction of horse-hoeing and advanced horse-breeding practices, as well as for his business acumen.

Given his reputation and background, how did a shrewd operator like Montgomery get drawn into extensive activities in such a high risk area as the Island of St. John? And having become involved, why did he not develop and improve his lands there as systematically and successfully as he did in Scotland? The answers to these questions lie in an understanding both of Montgomery's early attitude to the Island and of his subsequent experiences there. In a series of letters in early 1770 to his close friend John Mackenzie of Delven, Montgomery explained that "Having got my Lands by the favor

3 A. Wight, *Present State of Husbandry in Scotland* (Edinburgh, 1778), II, pp. 473 - 4; James Handley, *The Agricultural Revolution in Scotland* (Glasgow, 1963), pp. 36 - 7. For Montgomery in his judicial capacity as Lord Advocate, see William K. Wimsatt, Jr. and Frederick A. Pottle, eds., *Boswell for the Defence 1769 - 1774* (Melbourne, London, Toronto, 1960), esp. pp. 260 - 3 and 307 - 9.

4 Wight, *Present State*, III, pp. 340 - 1.

of the Crown, my doing something to set the affair a going became in some measure a Matter of necessity, and accidental circumstances, attended with a reasonable prospect of Advantage, led me to go further than I intended."[5] A day later, Montgomery proclaimed:

> 80,000 Acres of good land, in an Island of a good Climate, for Grain, fortunately situated for a Market, when by a little discretion in management, it only costs me the Fees of Office in passing the Grants, may be called a Cast of Providence, as no other Person whatever has been favored so much in that Matter.[6]

However, it is probable that Providence had more than a little assistance from one James Montgomery, who pleaded with Delven for secrecy, partly because he was conscious that the landed interests of Scotland were hostile to the emigration of labourers across the Atlantic, and partly because he was more heavily involved than he should have been. Although he quite openly as Lord Advocate put down his name for a lot on the Island in 1767, it seems likely that several other Scots on the Board of Trade lists were also acting for him. In the lottery Montgomery drew lot 7, which he learned had never experienced settlement under the French and was not attractively located for early emigrants. But by 1770 he also possessed lots 30, 34, and 51 (all originally drawn by close friends of Montgomery), and lot 36, a total of over 100,000 acres.[7] In 1775 he added half of lot 12 and two-thirds of lot 59 to his holdings, which by then included a number of important small islands. By the opening of the American War, therefore, the extent of Montgomery's lands clearly challenges Andrew Clark's observation that no proprietor before 1800 held as many as five townships.[8] The process of consolidation had already begun.

Montgomery did not acquire his extensive property on the Island merely to let it sit and appreciate in value. At the time of his acquisition of the St. John lots he was a member of the Board of Trustees for Manufacturers and Fisheries in Scotland, a semi-official agency formed to encourage Scottish economic growth, particularly in the Highlands, by fostering linen manufac-

5 James Montgomery to John Mackenzie, 13 April 1770, Ms. 1399/68 - 9, National Library of Scotland [hereafter NLS].

6 James Montgomery to John Mackenzie, 14 April 1770, *ibid.* 70 - 1.

7 That others were acting for him seems the most likely interpretation of a Montgomery letter of 1767 addressed to a person unknown (NLS 2671/73 - 4), in which he refers to Pringle, the lottery, and "the other Maneuvre, which I beg may be keept a secret from all". Lot 36 was sold for £600 to John MacDonald of Glenaladale in 1771.

8 Andrew Hill Clark, *Three Centuries and the Island: A Historical Geography of Settlement and Agriculture in Prince Edward Island, Canada* (Toronto and Buffalo, 1959), p. 52.

turing and fishing. Not surprisingly, Montgomery's schemes for North America were an extension of his activities in Scotland.[9] In 1769 he initiated two separate but related projects for the development of the Island. Noting the shortage of domestic flax and especially flax seed, which had to be imported to Scotland — often from North America — he projected as his major settlement venture a large flax farm on lot 34, supervised by an experienced farmer and operated by indentured labour recruited in the Highlands. Recognizing that agricultural settlement in a wilderness could not survive without a mercantile link with the outside world, Montgomery became involved in a commercial operation with an American merchant to supply manufactured goods to the Island, in return for shipment to Britain of local products such as flax, fish, and timber. The base of this business was to be on the Island's finest and least ice-bound harbour at Three Rivers, where previous efforts had already constructed some buildings, particularly storehouses and fishing stages. His partner in this venture held the harbour part of lot 59, and Montgomery acquired the buildings on it from their previous owners.[10]

For his agricultural project, the Lord Advocate secured the services of a Perthshire flax farmer, David Lawson of Callendar, a widower with five children. Lawson was empowered to deal with prospective servants on Montgomery's behalf, and procured about fifty males on four-year indentures, who were at the expiration of their terms to have from Montgomery on 1000-year leases two to five hundred acres of uncleared land rent-free for four years, then at low rents rising progressively, as well as stocking and cash advances on four year bonds. Lawson was to depart for the Island with the servants in the spring of 1770, where he would oversee development of the farm (named Stanhope Farm after Montgomery's Peeblesshire estate) for seven years, in return for half of the profits remaining after the Lord Advocate's total advances had been set against the improved value of the proper-

9 For the pattern of thinking on Highland development, see A. J. Youngson, *After the Forty-Five: The Economic Impact on the Scottish Highlands* (Edinburgh, 1973).

10 Montgomery to Edmund Fanning, 30 April 1798, University of British Columbia Special Collections (Macmillan Papers); "Scroll Memorial for Lord Chief Baron of Scotland, about the Quitrents &c of the Island of St. John, 1791", GD 293/2/79/1, Scottish Record Office (Papers of Blackwood & Smith, W. S., Peebles); and "Memorial to the Lord Commissioners of His Majesty's Treasury [1802]," GD 293/2/18/26. The latter differs considerably from the final version submitted by Montgomery to the Treasury in 1803 (GD 293/2/18/29), because John Stewart redrafted the memorial to omit much of the detail. Stewart explained in a letter to Montgomery (26 March 1803, GD 293/2/18/29) that he had departed from the original draft because he thought he could recover more of Montgomery's losses from the quitrents than the petition suggested, but another reason was undoubtedly that Montgomery's narrative was a fierce deadpan indictment of the officials of the Island.

ty.[11] This agreement was based upon Scottish experience rather than North American conditions. While such leases (known as "Kames leases" after that notable improver) were typical between progressive landlords and their chief tenants in Scotland, it was absurd to expect any profits within seven years of beginning an agricultural operation in the total wilderness of America. Lawson would have been much better advised to undertake the assignment on a salaried basis, rather than on a profit-sharing one. To complicate further the arrangement, it was based upon the presupposition of careful bookkeeping which was well beyond Lawson's capabilities. He was a working farmer, not an estate manager.

Almost from the beginning Montgomery was unhappy with the Lawson operation, partly because he was not really comfortable in his role as emigrant contractor, partly because the expenses quickly outran his expectations. As Lord Advocate, Montgomery was uniquely placed among Island proprietors to appreciate the British government's lack of enthusiasm for peopling St. John with workers needed at home. Hence the requirement in the grants to the proprietors that the lands be settled with "foreign Protestants", and later objections raised when Thomas Desbrisay openly advertised in Ireland for settlers.[12] Moreover, Montgomery himself undoubtedly shared the hostility of the landed classes of Britain to North American emigration. He self-consciously referred to his own servants as "White Negroes", and ordered Ludovic Grant, his Edinburgh "man of business", to manage the affair "in such a manner as to incur as little Observation as possible".[13] Lawson succeeded in recruiting more labourers in Perthshire than Montgomery had anticipated — it was the beginning of a period of substantial Scottish emigration to North America, and the labouring poor were anxious to sign on — and, as the Lord Advocate complained to his friend Delven, "the expense is enormous, and above double what it should have been, and I have acted like a good natured Fool, that attends not to his affairs or situation".[14]

According to Montgomery's later calculations, he had advanced over £1200 to get Lawson, the "White Negroes", and a shipload of supporting supplies to the Island in 1770.[15] He would have been astounded had he known that

11 "Contract of Agreement for the Lord Advocate of Scotland and David Lawson, 1769", GD 293/2/79/38; James Montgomery to David Lawson, 20 June 1769, GD 293/2/78/9.

12 John Pownall to Thomas Desbrisay, 9 November 1773, Colonial Office 226/5/69 - 71, Public Record Office.

13 James Montgomery to John Mackenzie, 14 April 1770, NLS 1399/70 - 1.

14 James Montgomery to John Mackenzie, 24 April 1770, NLS 1399/72 - 3.

15 "A General Abstract of the Debit of the Lord Chief Baron Montgomery Account against David Lawson [1793]", GD 293/2/79/25.

James MacGregor would be told twenty years later that Lawson's people "were decoyed out by one of the great proprietors to settle his land. They were to pay a shilling rent per acre, and they thought it cheap till they came out and saw it; but then they found it dear enough".[16] He would have been even more astounded at the remark of a later historian of the Island that despite "much praise for his early interest in the settlement of his lots, it must not be supposed that he himself contributed towards the emigration expenses of the settlers. He merely directed them to his own lands and offered to lease them wilderness land at one shilling per acre".[17] Hostility to the proprietors runs long and deep in Island history.

For his part, David Lawson faced the incredible problems of beginning life in a total wilderness on a virtually uninhabited island. When his vessel put down the party in Stanhope Cove on 8 June 1770, Lawson had no dwelling house, no food except oatmeal and no beverage except salt water, and upwards of fifty servants "who expected better provisions than oat meal and salt water".[18] A shipload of provisions finally arrived from Three Rivers, but Lawson did not receive the bullocks, horses, and farm implements he had been expecting, and was unable to obtain any on the Island. In the end he found livestock, but claimed he was forced to make all his own farming equipment. He could obtain no seed grain for the first two years, and even if he had, lacked sufficient cleared land to plant it. Lawson was quite proud of his achievement in clearing enough land to support his many dependents after the harvest of 1772, and well he might be. In the summer of 1772 he freed a river of debris and built a dam for a grist mill which was in operation in 1773. But both dam and mill burnt in the summer of 1775 when they were engulfed in a runaway fire begun to burn off woods on a tenant's property.[19] Lawson rebuilt the mill in 1776, but it burnt down the very day it was completed. Only on his third attempt in 1777 did he appreciate the value of wide clearing around the millsite to protect it from fire, but at this point he had trouble obtaining millstones, and kept losing the dam to floods.

Lawson had problems with the indentured servants as well. In his first year on the Island one man was killed when crushed by a large pine he was

16 Reverend George Patterson, *Memoir of the Rev. James MacGregor, D.D.* (Philadelphia, 1859), p. 212.

17 D. C. Harvey, "Early Settlement and Social Conditions in Prince Edward Island", *Dalhousie Review*, 11 (1931/32), p. 449.

18 David Lawson, "A Coppy of the Misfortunes I met with since my landing the 8th of June 1770", GD 293/2/79/5.

19 The most graphic description of runaway fires is in Walter Johnstone, *A Series of Letters, Descriptive of Prince Edward Island*, reprinted in D. C. Harvey, ed., *Journeys to the Island of St. John* (Toronto, 1955), pp. 104 - 7.

falling, and two more were drowned bringing a cargo of rum to the tiny settlement.[20] The first requirement was self-sufficiency, and at the very point where the servants could be fed from the farm and could settle down to the business of a flax plantation, their indentures ran out. Most scattered across the Island and even off it, and those few Perthshire men who took up farms demanded their promised stocking, weakening Lawson's efforts to build up breeding herds. In June 1774 he gave to former servants 16 milch cows, and by August 9 of that year 45 head of cattle were in possession of the tenants, and only 53 remained with Lawson.[21]

Despite all the obstacles, Lawson did remarkably well in his first years at Stanhope Farm. He, his family, and the servants constructed a large 70′ x 20′ dwelling house, cleared over 100 acres, and built a substantial barn and byres with breeding herds of cattle, sheep, horses, and pigs.[22] The farm was not only self-sufficient in terms of foodstuffs, but was even producing a surplus, although Lawson complained he was forced to distribute precious seed grain to needy settlers in 1774, the "year of the mice", when only his carefully watched crop remained unravaged. He had a grain mill in operation, at least after 1777. He had experimented with flax cultivation with some success, and had demonstrated that hemp (another of those raw materials which Britain needed and hence hoped to acquire from every new colony) did not prosper in the soil of the Island.[23] Having shipped one-foot thick samples of soil home to Montgomery in boxes, Lawson had also enabled the Lord Advocate to have the soil carefully analyzed. If Montgomery found it less rich than earlier reports suggested, that was not David Lawson's fault.[24] What Lawson could not do, of course, was to show that his efforts and improvements could be appraised at a figure exceeding James Montgomery's cash advances.

Unlike Lord Selkirk a generation later, Montgomery was a businessman with an accountant's mentality. He insisted on calculating interest at the normal British rate of 5% per annum in every accounting of his outlays, and he refused to build into the balance sheets any monetary value for the unquestioned disadvantages under which his associates operated, particularly in the earliest years of settlement. Had he been prepared in his own mind to

20 For further information on the early days of the settlement, see David Weale, ed., "Diary of William Drummond", *The Island Magazine*, Number 2 (1977), pp. 28 - 31.

21 David Lawson, "Coppy", GD 293/2/79/5; "A List of Cattle in Stanhope Farm 1774", GD 293/2/79/27.

22 The best description of Stanhope Farm's buildings is in James Douglas to James Montgomery, 20 August 1802, GD 293/2/20/8.

23 "Scroll Memorial 1791", GD 293/2/79/1.

24 James Montgomery to Edmund Fanning, 30 April 1798, UBC.

forego charges on the use of his money and to allow for the primitive conditions under which his men worked, he might have discovered that they (and he) had not done so badly. But Montgomery viewed the Island as a place for investment and not as an experiment in imperial development; he was a Scots businessman, not a colonial promoter. Fortunately for Lawson, the warfare of the American Revolution made it impossible for him to account for his stewardship. The only positive action Montgomery took during the years of fighting was to replace David Lawson's expired agreement with a power of attorney (upon Lawson's death devolving upon Attorney-General Phillips Callbeck) to supervise the Montgomery interests on the Island.[25]

The dislocation of the American War is an undervalued factor in the history of the early development of the Island, largely because it is commonly assumed that little positive was happening which the war could upset. On the whole, however, the achievement of the proprietors in the eight years from 1767 to 1775 was — while living up neither to their expectations nor their promises — fairly considerable, certainly in comparison with the first years of other colonial ventures in North America. The failure to finance the charges of government out of the quitrents was a blemish, but an inevitable one which should not detract from the settlement of over 1000 emigrants, and the beginnings of many business ventures.[26] Had those proprietors like Montgomery who had shown an interest in the Island — Robert Stewart, James Richardson, Thomas Desbrisay, John MacDonald of Glenaladale, Robert Clark, and George Tead — been permitted an uninterrupted opportunity to consolidate and build upon their earlier ventures, other proprietors might well have been induced to join them. What happened instead was that the early gains were lost. Not only did new population fail to come from Britain and America in the war years, but the existing population drifted away from the areas of early settlement, either off the Island entirely or into the bush. Peter Stewart calculated that the population in 1779 was less than half of what it had been on his arrival late in 1775, and this seems a reasonable estimate.[27] Some turnaround may have occurred after the stationing of five companies of Loyalist soldiers on the Island late in the war, but any population expansion resulting from the troops was confined largely to the immediate area around Charlottetown.[28] Montgomery's lots 59 and 34, which at the

25 Power of Attorney to David Lawson, 21 April 1777, GD 293/2/80/21.

26 D. C. Harvey computes the number of emigrants settled by the proprietors in these years at over 1000; "Early Settlement", pp. 448 - 61.

27 Peter Stewart to James Montgomery, 1 November 1779, GD 293/2/78/59.

28 For the Independent Companies, as they were called, see Colonial Office 226/7 - 8, and C. J. MacGillivray, *Timothy Hierlihy and his Times* (Antigonish, 1936).

outset of war contained upwards of sixty small tenants, ended it with less than a dozen still in occupancy, most of them clustered on lot 34 around David Lawson's Stanhope Farm at Covehead.

Moreover, the Island failed to grow into its elaborate political structure and began instead to develop its reputation as the home of a small coterie of intermarried officials and leading men who engaged in a constant series of conspiracies to relieve outside investors of any assets they dared to put within reach. The government in Britain was systematically bilked over military expenses, Lieutenant-Governor Desbrisay led the Council in aggrandizing Charlottetown's valuable town and pasture lots (the Board of Trade forced the lots to be returned), and upon his return from England, Governor Walter Patterson assumed leadership of the Council in the biggest raid of all, escheating for failure to pay quitrents and buying at auction a number of proprietors' lots before the disruption of war was over.[29] The circle was vicious. No substantial new investment could occur while the Islanders fought like hungry jackals to snap up every bone of capital which came to their attention, and as new investment dried up, the inhabitants became increasingly hostile to the system — particularly the proprietors — failing to provide it.

The war certainly ruined the second project which Montgomery had begun in 1769, a commercial venture planned in collaboration with David Higgins, an American ship master related by marriage to the Prince family of Boston and a man who claimed experience on the Island in earlier fishing operations in the Gulf of St. Lawrence. Probably as a result of Montgomery's political influence, Higgins was appointed naval officer of the Island and one of its first Councillors. Most of Montgomery's favourable opinion of the potential of St. John undoubtedly came from Higgins, whose unbounded enthusiasm for its possibilities was that of the born promoter. In 1769 Montgomery sent Higgins to the Island to take charge of lots 59 and 51. The terms of the original grants had specified settlement by foreign Protestants, and negotiations were then under way to obtain from the territories of the Prince of Hesse German settlers whom the partners hoped to attract to their lots. Higgins brought with him a shipload of trade goods supplied by Montgomery, and carried an open letter of credit from the Lord Advocate to Job Prince in Boston.[30] The plans for the Hessians fell through, but Higgins kept a store at Georgetown, cleared 30 acres for "St. Andrew's Farm", and built a sawmill

29 *The Criminating Complaint of the Proprietors of the Island of St. John, Whose Lands Were Condemned and Sold in 1781* (London, 1789); "A Return of the Town and Pasture Lots Granted in the Royalty of Charlottetown, and by whom they are Possessed", Colonial Office 226/2/88; Lord George Germain to Phillips Callbeck, 19 May 1780, Colonial Office 226/7/127.

30 Job Prince to James Montgomery, 30 December 1788, GD 293/2/78/30.

and gristmill. He managed to send twenty-two shiploads of Island timber to Great Britain in the early 1770s, but because of depressed prices they barely cleared the expenses of preparation and shipment.[31]

David Higgins had no trouble in disposing of trade goods. Indeed, his acquisition of provisions in New England on the strength of the Montgomery letter of credit on several occasions helped to save many newcomers from starvation. The problem was that Higgins dealt with his customers almost exclusively in terms of credit, for from the outset of settlement specie was almost non-existent. Most of those resident on the Island between 1769 and 1775 were on his books — including many Crown officials — but some would leave and others go bankrupt. In 1774 Montgomery stopped payment on Higgins' bills of exchange and called him home for an accounting. On his way, Higgins stopped at Boston to discover an angry Job Prince, who had reluctantly provided goods to a scapegrace son-in-law only because of the Montgomery credit, waving unaccepted bills of exchange. Higgins calmed the old man by deeding over to Prince his interest in lot 59 and sole ownership of the buildings upon it (which belonged to Montgomery).[32]

Back in Britain in the spring of 1775, Higgins turned over his books to the Lord Advocate, who spent hours pouring over them without being able to make much sense of his partner's activities. Montgomery allowed Higgins to evaluate his buildings and improvements at Three Rivers at nearly £2000, and to lease to the newly-appointed Chief Justice of the Island, Peter Stewart, an extensive "improved" house and thousand acres described as immediately adjacent to Charlottetown.[33] Higgins undoubtedly reiterated his earlier written arguments to Montgomery. The Island would not develop and Montgomery would lose his investment if he did not continue to provide fresh capital. Higgins himself had borrowed from friends, spent his wife's "little fortune", and resided for five years on the Island in "not much better a state than slavery". But he insisted conditions were improving, at least for Montgomery's interests. Not only were there extensive buildings at Three Rivers, but 32 small tenants on lot 59, who were contented and writing home to encourage friends to join them.[34]

31 "Scroll Memorial 1791", GD 293/2/79/1.

32 Deed, David Higgins to Job Prince, 18 February 1775, GD 293/2/79/54. Montgomery later would argue that the deed was a forgery; see Montgomery to Phillips Callbeck, 18 March 1785, GD 293/2/79/20.

33 "Inventory of Buildings at Three Rivers delivered by David Higgins Esqr to Lord Chief Baron of Scotland 25 Novr 1774", GD 293/2/79/19, and James Montgomery to Peter Stewart, 27 May 1775, GD 293/2/18/13.

34 David Higgins to James Montgomery, 10 August 1774, GD 293/2/79/51; Patrick M'Robert, *A Tour Through Part of the North Provinces of America* (Edinburgh, 1776), p. 47.

From Montgomery's standpoint, what Higgins claimed had to be set against advances of over £4000 between 1769 and 1774. Against a debit which with interest, legal fees, and freight totalled nearly £5300, Higgins had returned only £1259, including interest. The two men agreed to a settlement. Higgins was to convey his third of lot 59 (already deeded to Job Prince) to Montgomery, who would also acquire for £250 sole possession of Robert Cathcart's shares of lots 59 and 12. Higgins also gave Montgomery a bond for £2400 at five percent per annum, and in return Montgomery leased to Higgins two-thirds of lot 59, half of 12, all of 51, and Panmure Island for a rental beginning at £100 for the first ten years, and gradually rising to £300 per annum.[35] If Higgins were so enthusiastic about the Island's prospects, let him continue its development at his expense, collecting his own debts. But it is worth noting that Montgomery had in effect written off a large part of the debt.

Higgins returned to the Island in the summer of 1775, just as the American continent burst into open warfare. He had managed to scrape together another cargo of goods, but his vessel was taken by privateers and he was able to ransom himself and his goods only at great expense. The key item of his cargo was an elaborate outfit for distilling molasses, for Higgins hoped to use lot 59 for a fishing operation trading with the West Indies. Although he saved the precious equipment once, it was carried off in an American raid on Three Rivers later in the war.[36] In 1782 Higgins gave up and moved his family to Charlottetown, returning to Three Rivers in a schooner upon which he loaded everything movable for sale at the capital. Most of the Island's officials helped Higgins in his distress by taking off his hands at low prices such items as doors, windows, and blacksmith equipment, but according to David Lawson, "Non [sic] will confess any part of it".[37] As the final indignity, a "Mr. Barry" carried off Higgins' wife, and overwhelmed by his debts and "his Wife defiling his Bed", he went on a four month drunk which culminated in a fatal fever in April 1783.[38] David Lawson himself undertook administration of the Higgins estate, selling what remained of its effects in Charlottetown at bargain prices at an auction in May. Lawson apparently also came into possession of the Higgins account books, and despite — or perhaps

35 "Account at Settlement of David Higgins", GD 293/2/79/49.

36 Peter Stewart to James Montgomery, 12 December 1775, GD 293/2/78/45; "Scroll Memorial 1791", GD 293/2/79/1.

37 David Lawson to James Montgomery, 31 May 1784, GD 293/2/78/61. See also Sarah Stewart to James Montgomery, 26 November 1782, GD 293/2/78/47, and Peter Stewart to James Montgomery, 27 April 1783, GD 293/2/79/46.

38 Thomas Desbrisay to James Montgomery, 29 May 1783, GD 293/2/78/23.

because of – the rumours that the largest debtors were the leading officials of the government, particularly Phillips Callbeck, none of Montgomery's efforts to obtain these records were to any avail. Montgomery cancelled Higgins' leases, but the complications of the estate, to which Montgomery regarded himself as the principal creditor, continued for many years.

As the war ground to a gradual close and regular contact was again possible with the Island, Montgomery first turned his attention to the extensive physical plant at Three Rivers. The property may have been abandoned by Higgins, as Montgomery learned late in 1782, but it still seemed ideally suited as the base for a mercantile venture involving a triangular trade of Island herring or timber, West Indian molasses, and British trade goods. The Lord Chief Baron began thinking about Three Rivers even before the definitive peace treaty was signed in 1783, but he was unable to move seriously until the spring of 1784. James Curtis, an Island jack-of-all-trader (former footman to Phillips Callbeck and David Lawson's son-in-law), succeeded in obtaining a cargo of trade goods from Glasgow merchant Patrick Colquhoun, to be shipped to Three Rivers where the vessel would load fish for the return voyage.[39] To convince Colquhoun to chance the venture, Montgomery sent on the boat a tenant farmer, Alexander Macpherson, to take charge of lots 51 and 59. Macpherson brought with him a smith, a carpenter, and two farm servants (all under indenture), plus supplies provided by Montgomery.[40]

The venture of 1784 was a total disaster. As so often happened, the master of the vessel found no fish or anything else usable as a return cargo when he arrived at Three Rivers. Moreover, he learned that the value of British goods on the Island was very depressed, both by overshipment from Britain at the end of the war and by a sort of gray market in goods seized by privateers during the hostilities. He decided to sail on to Quebec with his cargo. Macpherson took one look at the situation at Three Rivers and threw up his hands in despair.[41] The buildings which Higgins had valued at £2000 in 1775 were not only in a state of total disrepair, but had been literally stripped to their shells. How much of the damage had been done by privateers and how much by David Higgins himself was difficult to assess. St. Andrew's Farm existed only in name; little cleared land was visible and no tenants rushed to meet the boat. The Governor and the Chief Justice both attempted to persuade Macpherson to give Three Rivers a year's trial, but the Scot, using the excuse that his shipment was at the bottom of the ship's hold and the master

39 "Copy Mr. Curtis Commission of Goods to Mr. Colquhoun, 17 November 1783", GD 293/2/78/43.

40 "Scroll Memorial 1791", GD 293/2/79/1; Montgomery to Treasury, 1803, GD 293/2/18/29.

41 Peter Stewart to James Montgomery, 16 July 1784, GD 293/2/78/63 - 4.

could not afford the time to unload the entire vessel to get it out, hurriedly continued to Quebec himself.[42] Taking the smith and carpenter with him, Macpherson abandoned the two farm servants to their own devices; they made their way back to Scotland the following spring with the whole sorry story. In Quebec, Macpherson sold Montgomery's goods, and he and his colleagues promptly disappeared. Montgomery revoked Macpherson's power of attorney for Three Rivers and drafted an angry letter, but he could never find an address to which it could be sent.[43] The Three Rivers lots remained unsupervised until 1789.

Montgomery's failure to take advantage of peace to settle and develop his lands was not a result of the Macpherson fiasco. The Lawson affair, which was far more protracted and complicated, was responsible for bringing the Lord Chief Baron's positive involvement with the Island to a standstill. David Lawson's tangled financial dealings came increasingly to dominate Montgomery's relations with the Island to the exclusion of everything else. Moreover, Lawson was inextricably connected with David Higgins, since he was the late naval officer's apparently self-appointed administrator (no record of a formal appointment could ever be found in the Island's Probate Court files). Montgomery was not involved in the proprietorial struggle with Governor Patterson over the sale of the escheated lots in 1781, which consumed the energy of most of the active proprietors throughout the 1780s.[44] But his experiences seemed to point in the same direction. In all, Montgomery spent twelve frustrating years pursuing David Lawson for an accounting of his stewardship. Unwilling to spend money on new initiatives until he had assessed his previous dealings, Montgomery found each step in the process offered additional evidence against undertaking any fresh investment on the Island while fuelling his increasing obsession with bringing Lawson to book. Montgomery needed pay no attention to the conflict with Walter Patterson. He had his own private struggle.

Beginning in 1781, Montgomery attempted to employ Chief Justice Peter Stewart as an intermediary to assist Lawson in preparing his accounts. Stewart, a brother of one of the original proprietors, was an unsuccessful Scots law clerk who owed his judicial appointment to Montgomery's influence in London, and he was in the early years profuse in his expressions of

42 Alexander Macpherson to David Lawson, 22 July 1784, GD 293/2/78/35.

43 James Montgomery to Alexander Macpherson, 18 March 1785 (draft), GD 293/2/78/37.

44 For a proprietor's account of the struggle, see the letters of Captain John MacDonald in Public Archives of Prince Edward Island 2664.

gratitude and offers of assistance on the Island.[45] Recognizing that Lawson was not skilled at making up books, Montgomery thought that his overseer might welcome some outside advice.[46] However, it gradually became apparent that Lawson, a fervent supporter of Governor Walter Patterson, was a declared political enemy of the Chief Justice, leader of the anti-Patterson forces on the Island in the early 1780s. Stewart's animus to Patterson was not only political but personal, since the Governor had alienated the affections of (the contemporary trenchant term was "stolen") the Chief Justice's second wife Sarah, more than twenty years his junior.[47] Thus did Island politics creep into Montgomery's business dealings. But there were other reasons for Lawson's refusal to co-operate. In 1784 Montgomery sent his overseer a set of careful directions for the statement he desired, based upon the agreement of 1769 and the power of attorney of 1777. Against the money advanced to Lawson (with interest at 5% per annum), the Lord Chief Baron wanted an evaluation of his Island assets and a careful accounting of all expenditures to show "what I have lost or gained, without putting any value upon the lands originally".[48]

Unfortunately, Lawson had kept no accounts. As he wrote plaintively in 1788, "to state Every day's labour for 18 year back with Every thing purchased for the farm and Every thing sold of the farm to this day and to whom sold it will be the longest account Ever on the Island".[49] In 1789 Lawson expostulated that had he thought careful accounting was necessary he would have hired a clerk to do it.[50] He also conceived that the sort of account which Montgomery sought could not properly reward his efforts. Lawson kept insisting, first to the Chief Justice and later to others, that a proper evaluation of his improvements could not be made in a survey of a few days. Such a process, he wrote Montgomery in 1789, "could give you no satisfaction what you had for your money".[51] What Montgomery had received for his money was

45 For Stewart, see Thomas Curtis, "Voyage to the Island of St. John's", in D. C. Harvey, ed., *Journeys to the Island of St. John,* esp. pp. 66 - 7; Peter Stewart to James Montgomery, 21 March 1775, GD 293/2/78/46; Peter Stewart to James Montgomery, 1 November 1779, GD 293/2/78/59.

46 James Montgomery to Peter Stewart, 23 April 1781, GD 293/2/78/57.

47 Peter Stewart to James Montgomery, 27 April 1783, GD 293/2/79/46; David Lawson to James Montgomery, 31 May 1784, GD 293/2/78/61; Peter Stewart to James Montgomery, 10 September 1784, GD 293/2/78/48.

48 "Lord Chief Baron's directions for Stating Accounts", GD 293/2/79/31.

49 David Lawson to William Montgomery, n.d., but 1788, GD 293/2/79/16.

50 David Lawson to James Montgomery, n.d., GD 293/2/79/10.

51 *Ibid.*

almost two decades of hard labour by himself and his family under conditions of pioneer hardship. From Lawson's perspective, the legal papers might show that Stanhope Farm and its improvements belonged to his Lordship, but all Montgomery had ever put into the Island was money, while Lawson had invested his life. Not a dishonest man, Lawson struggled desperately against a careful accounting which he knew full well would expose him legally as the "villain" he so often denied he had been.

Considerable evidence demonstrates Lawson's assumption of *de facto* ownership of Montgomery's Island property in the years after 1775. The few rents he collected from lots 30 and 34 went into his own pocket, often not in the form of cash always in short supply on the Island, but in goods and services employed on his behalf.[52] Little income from rentals, the produce of the farm, or exploitation of the vacant lots, was applied by him to the quitrents; if Montgomery's quitrents were in arrears, it was less the proprietor's fault than his agent's.[53] Lawson and his son-in-law built ships on their own account with timber cut from Montgomery's lots. If Peter Stewart, hardly an impartial reporter, was to be credited, Lawson had been victimized by acting Governor Callbeck during the war. The two men had agreed to ship timber, and although the wood was never cut and no vessel appeared to collect it, Callbeck as the Island's only attorney insisted on enforcing a penalty clause for non-delivery, threatening legal action. Lawson settled out of court by permitting Callbeck to cut timber at will on Montgomery's lots, which had thus been cleared of most of the best pine and spruce. The Lord Chief Baron, Stewart grimly asserted, had "been sold by one of your Trustees, and bought by the other".[54] Such charges seemed credible given the reluctance of Lawson to render an accounting and his curious behaviour in the Higgins business, and increased Montgomery's desire to see his agent's affairs stated thoroughly on paper.[55]

Lawson succeeded in stalling off any action by Montgomery until 1788. The Lord Chief Baron was forced by the political situation to take the Chief Justice off the case, and letters to Governor Patterson elicited no response.[56] In 1787, however, Montgomery's eldest son William was posted to Halifax

52 "Account of Hay Cut on Rustico Island since 1775", GD 293/2/79/13; "Account of hay sold to the Settlers round Stanhope Bay since 1775 to 1788 at 6/ per ton", GD 293/2/79/11.

53 "A state of the quit rents due by the Right Honourable JM LC Baron &c", GD 293/2/79/40.

54 Peter Stewart to James Montgomery, 27 April 1783, GD 293/2/79/46.

55 Montgomery refused to release his claim on David Higgins' back salary in London; Montgomery to Alexander Anderson, April 1785, GD 293/2/79/45.

56 James Montgomery to Governor Patterson, 28 February 1786, GD 293/2/78/6.

with his regiment, and managed to obtain four months leave in 1788 to attend to his father's business on the Island. By this point the Montgomerys were understandably far too suspicious of Lawson's motives to accept anything less than a full and detailed accounting. William rejected several offers from Lawson to settle the business short of a full statement of his fiscal situation. Had Lawson made any of these offers at the outset, they probably would have been readily accepted. But William undoubtedly recognized Lawson's clumsy attempts to compromise as the efforts of a desperate man finally confronted with someone on the spot to take action against him. Under the circumstances, Lawson's complaint to William that "you have been misled by some that is not your friends only to grasp at your money" seemed more than a trifle ironic.[57]

Operating under a severe time constraint, William Montgomery could not remain on the Island beyond his leave and, as the end of his stay drew near, decided on positive and drastic steps to deal with Lawson. The young officer appeared in late October 1788 at Stanhope Farm with three assessors, who proceeded to take an inventory of its improvements, stock, and crops. The assessment, as Lawson had long feared, demonstrated that the value of the Farm did not begin to approach that of the advances from James Montgomery.[58] Lawson was summarily evicted, and the Farm rerented to an American Loyalist family named Bovyer at a rent commencing at £50 per annum.[59] Taking some goods with him, Lawson subsequently returned to Stanhope for more on the grounds that they were his and not the Lord Chief Baron's.[60] No one ever seemed able to make him appreciate that while he may have purchased items over the years with the income of the Farm, that income legally belonged to Montgomery. In any case, pleased with the assistance of one of the assessors, Comptroller of Customs James Douglas, William Montgomery recommended to his father that Douglas be appointed agent for most of the Montgomery interests on the Island.

The Lord Chief Baron was initially more cautious than his son about James Douglas. Having been burned so badly in the past, Montgomery wrote letters to his friends to find out more about his son's recommendation, and

57 David Lawson to William Montgomery, 1788, GD 293/2/79/16.

58 "Appraisement of John Clark & Thom Haszard & Mr Douglas as Umpire of the Stock &c at Stanhope Farm 22 October 1788", GD 293/2/79/30; "Inventory of moveables remaining at Stanhope Farm, and not valued to the Mess'rs Bovyers 23 October 1788 — Mr. William Montgomery present at the taking of the Inventory", GD 293/2/17/4.

59 For information on the Bovyer family, see PAPEI 2810.

60 "Inventory of moveables", GD 293/2/17/4; Joseph Aplin to David Lawson, 28 November 1788, GD 293/2/79/2; David Lawson to James Douglas, 1789, GD 293/2/79/8.

he hedged his bets in appointing Douglas, putting him in charge of lots 30, 34, 12, and 7, while David Irving (virtually the only tenant at Three Rivers) was to run lots 51 and 59.[61] Both men were to be under the general superintendancy of Lieutenant-Governor Edmund Fanning, who had only recently emerged triumphant from a power struggle with Walter Patterson. Montgomery's strategy was partly to protect himself against agents about whom he knew very little, but also to gain the Governor's co-operation in settling the Lord Chief Baron's tangled affairs on the Island. In James Douglas. however, Montgomery had discovered that *rara avis* in colonial North America, a scrupulously honest man, and after a visit to Scotland in 1795 when the two men talked at great length, Douglas became a most trusted servant of Montgomery and his interests.

A younger brother of John Douglas, an Edinburgh lawyer, James had emigrated to the Canadian frontier and clerked for a firm of Indian traders working the territory between Niagara and Detroit. In 1781 he had complained to Governor Haldimand of Quebec of a huge fraud over Indian presents being practised by the Niagara merchants who employed him, and he assisted Haldimand in a successful prosecution of the offenders.[62] Thereafter Douglas found himself harassed by the sullen resentment of most of the merchants of the region, and with Haldimand's assistance he petitioned the British government for relief. Instead of a pecuniary reimbursement, Douglas found himself appointed Comptroller of Customs on the Island of St. John at £40 per annum, and he moved to the Island in 1787 to take up his post. Badly underpaid even by Island standards and with a large family to support, Douglas was quite willing to take on the Montgomery agency, although he never compromised his own high standards by taking financial advantage of his position. James Douglas brought to the Island the finest traditions of eighteenth-century Scottish estate management: loyalty, integrity, tenacity, and attention to detail. He instituted a system of regular accounting (although it was so unusual that Montgomery himself offered instructions on proper methods and this researcher has often been temporarily perplexed by his entries) and regular reports on both rentals and other affairs. He collected rents and put Montgomery's Island interests — despite some heavy legal fees — upon a self-sustaining basis. Within a few years Montgomery was even re-

61 James Montgomery to John Spottiswood, 2 February 1789, SRO RH4/56 (Correspondence of Sir James Montgomery . . . with John Spottiswood, barrister, London, 1767 - 1803); Power of Attorney to Governor Fanning, James Douglas, and David Irving, GD 293/2/80/22.

62 "Petition of James Douglas Comptroller of PEI to the Lords of the Treasury", GD 293/2/19/2; Bruce Wilson, "The Struggle for Wealth and Power at Fort Niagara, 1775 - 1783", *Ontario History,* LXVIII (1976), p. 146.

ceiving a small regular income from his lands, which did not begin to reimburse him for earlier losses but certainly was more satisfactory than the previous situation. Indeed, Douglas' remittances of Island bills of exchange brought a new problem, for many of them, originally issued by leading officials on their London bankers, were refused.[63]

While the success of Douglas in collecting rentals and back rentals was limited, he regularly recorded the payments and the mounting arrears on most of the leases for Montgomery's information. In 1790, for example, Douglas collected £52 in rents and arrearages amounted to £169.[64] In 1792 arrears totalled £531, but by 1802 had shot up to nearly £3400, the rapid increase a result of the progressive rents on most leases. The number of tenants on Montgomery's lots did not appreciably increase during Douglas' agency (from 30 in 1790 to 39 in 1802), but the number of those actually paying some rent rose from 7 in 1790 to 20 in 1802.[65] The largest single arrearage was on Stanhope Farm, where the Bovyer family found it increasingly impossible to meet their substantial rental because of the absence of sufficient markets for their produce and the endemic lack of cash on the Island. Douglas and Montgomery were agreed that rent should not be paid in kind, for the Lord Chief Baron had no means of marketing goods himself. But Montgomery came to recognize the problem faced by the Bovyers (and indeed, by all his tenants), and in the short run preferred occupancy to eviction for failure to pay full rentals.

In the early years of his agency, Douglas enjoyed the hearty co-operation of Lieutenant-Governor Fanning, and Montgomery's ambitions to resolve the Higgins/Lawson affair moved forward relatively smoothly. Soon after the new powers of attorney were issued in 1789, Montgomery was awarded a judgment of £3813 plus costs in the Island's Supreme Court against David Lawson as administrator of the Higgins estate. The award was a pleasant surprise, since the suit had been initially undertaken to force Lawson to produce the notorious Higgins account book, but Lawson failed to contest the action and lost it by default.[66] Fanning's co-operation was further assured by

63 James Montgomery to James Douglas, 27 July 1796, GD 293/2/21/11; Montgomery to Douglas, 16 November 1796, GD 293/2/21/4.

64 "A Return of the Tennants of the Right Honourable James Montgomery . . . on Lot no 30, 34&c in the Island of Saint John, with the Rents now payable, received this year, now due, and the Terms of their Encrease", 15 November 1790, GD 293/2/17/2.

65 *Ibid.;* "A Return of the Tenents of Sir James Montgomery Baronet on Lot 30 34 12&c in Prince Edward Island . . . with the Rents now Payable, received since 10th October 1798 and 10th October 1802 and now due", GD 293/2/17/7.

66 "Certificate of Judgment, the Chief Baron Ag't David Lawson 1789", GD 293/2/79/33. Montgomery received Rustico Island in partial payment of this judgment.

Montgomery's behind-the-scenes support of the Lieutenant-Governor in his defense before the Privy Council in 1792 against a host of charges brought by the heirs of the Patterson party.[67] James Douglas later maintained that Fanning (with the aid of the Stewart faction) had a fully developed plan in 1791 to force the forfeiture of most of the proprietorial lots for arrears of quitrent, but had been forced to abandon it in favour of alliance with the British proprietors to protect his appointment.[68] In any event, Fanning survived in 1792, and gratefully repaid Montgomery's assistance by pressing David Lawson to arbitration of his accounts with the Lord Chief Baron early in 1793.

Once Lawson and James Douglas had agreed to mutually acceptable arbitrators, the case was quickly settled in May 1793. Lawson provided what little documentary evidence he could, dealing with his business affairs on the Island only with a narrative of his misfortunes and a bill for the services of himself and his family. Douglas supplied additional material, including a statement of Lawson's total debt to Montgomery of £11914.16.7½ and evidence that Lawson had been applying lot 34 rentals to the general operation of Stanhope Farm.[69] Lawson acknowledged all the debits except the judgment in the Higgins case, which he attempted to explain away, and provided himself the written evidence of the terms of the agreement of 1769 and the power of attorney of 1777. He really had no legal case, for he had sold effects from the Higgins estate, and thus was liable to claims against it. Having presented their evidence, he and Douglas withdrew, and the arbitrators unanimously found for James Montgomery. Lawson's charges for labour were rejected, on the grounds that the Farm had been committed on a profit-sharing basis, although he was allowed over £1100 for his work as overseer and agent, a reduction of interest charges, and a generous allowance for Rustico Island, which Montgomery had taken as a result of the earlier judgment. The total awarded to Montgomery was £9219.12.2½, and Lawson accepted the decision by signing a release freeing the Lord Chief Baron from any disabilities which might result from his agency.[70]

67 Edmund Fanning to James Montgomery, 20 November 1792, GD 293/2/79/23.

68 James Douglas to James Montgomery, 26 November 1797, GD 293/2/19/9.

69 David Lawson, "A Coppy of the Misfortunes", GD 293/2/79/5; David Lawson to Edmund Fanning, 1793, GD 293/2/79/6; "Account the Chief Baron Due to David Lawson 1788 for self and Family", GD 293/2/79/7; "A General Abstract of the Debt of the Lord Chief Baron's Acct against David Lawson", GD 293/2/79/36; "Account of hay", GD 293/2/79/11.

70 "Copy of Award ag't David Lawson finding him due to C. Baron in £9209.12.2½", 1 May 1793, GD 293/3/81/2.

His claims justified, Montgomery promptly laid Lawson's enormous debt aside. The old man obviously had few assets, and the Lord Chief Baron was not vindictive. Indeed, in 1794 Montgomery wrote Douglas that since Lawson should not become altogether dependent upon his family, some regular allowance must be made to him, and he told Fanning in 1798 that he did not feel Lawson had dishonest intentions.[71] Until the end of his agency, Douglas continued to pay Lawson £12 a year.[72] The only practical value of the arbitration award was to enable Montgomery and his heirs to cite an authenticated figure for his losses in various petitions to the British government defending the Montgomery holdings from various attacks upon the proprietors. In these petitions the Montgomerys invariably doublecounted, stating the Higgins losses separately despite their inclusion in the Lawson award.

Gradually Montgomery began swinging back towards an active involvement on the Island. By 1796 the Lord Chief Baron, undoubtedly influenced by the financial stability James Douglas had brought to his affairs, came to recognize that his own earlier investment strategy was still viable. Indentured servants and a manager would have to be brought from Scotland to operate Stanhope Farm, and Montgomery himself would have to take the lead in marketing Island produce, either to provide cash to pay rentals or to dispose of rents paid in commodities. War and old age made it impossible for him to implement his plans, but the tone of his correspondence from 1796 to his death in 1803 was forward-looking. He closely queried all correspondents about the produce of the Island and its possible markets, and made clear that when peace came the Montgomery family would take the lead.[73]

While the Lord Chief Baron was contemplating activity, a number of developments coalesced in the last years of the eighteenth century to drag him into the middle of the Island's political imbroglios. Probably the central factor was the re-emergence of the movement for escheat in 1796, this time as a popular issue among ordinary Island residents instead of merely among the leading officials. In a lengthy letter to Fanning in 1798, Montgomery set forth his own position on escheat. Admitting that most proprietors had failed to live up to their promises, he favoured a fresh start based on a composition payment for quitrent arrearages, a plan subsequently adopted by the British government. Montgomery pointed out the unlikelihood of govern-

71 James Montgomery to James Douglas, 25 March 1794, GD 293/2/21/7; James Montgomery to Edmund Fanning, 30 April 1798, UBC.

72 See, for example, "Sir James Montgomery . . . in account Current with James Douglas, 10 October 1802", GD 293/2/17/8.

73 See, for example, Montgomery to Fanning, 30 April 1798, UBC.

ment support of total escheat for failure to bring settlers to the Island in the midst of a war when all available manpower was needed at home. Continued uncertainty over the escheat question would be disastrous for the Island, since no proprietor would ever invest money while tenants refused to pay their rents. He put his finger on a critical problem when he asked how the Island would finance new emigration without the aid of the proprietors. Without outside capital to assist in emigration and commerce, he warned, the Island could only grow slowly in population through natural increase and would continue to retain its subsistence economy. His shrewd observations were ignored.[74]

Montgomery himself might have managed to remain aloof from Island politics, but his local agent found such a position much more difficult. For James Douglas, the issues of escheat, annexation to Nova Scotia and the Island's judicial system became inextricably intertwined with his efforts to collect backrents and to defend himself from charges of malfeasance. Douglas had turned from the Lawson settlement to those tenants on Montgomery's rentrolls who had never paid any rentals, including the Reverend Theophilus Desbrisay, ex-Governor Walter Patterson, Councillor Joseph Robinson, co-agent David Irving, and Chief Justice Peter Stewart, certainly an all-star cast of culprits. Although the agent managed to force the sale of the bankrupt Patterson's Island holdings to satisfy backrents owed Montgomery, his other proceedings were complicated both by the escheat rumours and by the increasing judicial problems on the Island, the latter becoming particularly obvious when he attempted to move against Chief Justice Stewart.[75] Douglas gradually became convinced that Fanning and Stewart were in collaboration to defraud the proprietors and to drive him off the Island.

Peter Stewart had leased 1000 acres of lot 34 from Montgomery in 1775. He eventually became dissatisfied with his holding and maintained that it had been misrepresented by David Higgins, although by his own account he had continually attempted to settle the land and indeed in 1796 had subtenants occupying 300 acres.[76] Proposing initially to deed Montgomery 1500 acres of equal land in fee simple to be relieved of the lease, Stewart added in

74 *Ibid.*

75 James Douglas to James Montgomery, 27 June 1799, GD 293/2/17/10.

76 David Lawson to Peter Stewart, 16 August 1785, GD 293/2/78/53; Peter Stewart to James Montgomery, 1 November 1779, GD 293/2/78/59; Attestation of David Lawson, 9 October 1798, GD 293/2/78/67; Peter Stewart to James Montgomery, 25 November 1788, GD 293/2/78/41. One of Stewart's subsequent arguments, that Montgomery had ordered Lawson to give the Chief Justice "every reasonable accomodation", was really in response to Stewart's overtures to rent more land for his son; see Montgomery to Stewart, 23 April 1781, GD 293/2/78/57.

a later postscript that he had offered to Douglas to pay the backrents by granting Montgomery his salary arrears.[77] Douglas quite properly responded that such an arrangement must be made with Montgomery, and in 1797 began legal action to recover the backrents.[78] The problem was that the only place to prosecute the Chief Justice was on the Island in his own court staffed almost entirely by his sons and relatives. Moreover, shortly after Douglas initiated court proceedings against Stewart, the Island's Collector of Customs, Stewart's son-in-law William Townshend, submitted a complaint to the Customs Commissioners in London that Douglas had illegally entered a schooner at Three Rivers which was smuggling goods from the United States. Douglas admitted entering the schooner (upon which he was travelling) at Three Rivers rather than the Charlottetown Customs House, but insisted that such procedure was common during the bad weather of winter. Only Captain John MacDonald was prepared to assist him and to accompany him to Fanning with a petition for relief, which was refused.[79] The MacDonald-Douglas alliance in the Customs matter was the beginning of a larger political pattern, for these two men (with Attorney-General Joseph Aplin, a Loyalist from Rhode Island) came to represent the major Island opposition to Fanning's government. Douglas wrote Montgomery for testimonials to his honesty and added that he expected to be "attacked by the party with the Governor either underhandedly or openly till such time as I shall be wearied out and obliged to leave the Country, or ruined by them".[80]

In his next letter to Montgomery, Douglas provided further details on the byzantine intricacies of Island politics at the close of the eighteenth century.[81] The court action against Stewart had been postponed on the strength of the Chief Justice's unsupported affadavit that Montgomery's lawyer (Aplin) had agreed to stay proceedings while awaiting Montgomery's response to Stewart's offers of 1796; Aplin denied any such agreement in a counter-affadavit. Immediately after Aplin had requested a "good jury" in the case, the Attorney-General had been confronted with a charge by one of Fanning's supporters of receiving a quarter of beef as a fee and then taking the opponent's case, although the complaint referred to an incident three years old. Douglas was convinced that the fine hand of Fanning could be

77 Peter Stewart to James Montgomery, 10 May 1796, GD 293/2/78/52a.

78 James Douglas to James Montgomery, 28 June 1797, GD 293/2/19/4.

79 James Douglas to James Montgomery, 26 November 1797, GD 293/2/19/9. For MacDonald, see Allan F. MacDonald, "Captain John MacDonald, 'Glenaladale' ", *Canadian Catholic Historical Association Annual Report,* 1964, pp. 21 - 37.

80 Douglas to Montgomery, 26 November 1797, GD 293/2/19/9.

81 James Douglas to James Montgomery, 26 April 1798, GD 293/2/19/6.

detected in all this manoeuvring. Aplin was soon on his way to Britain to "get some other office anywhere else than on this Island" — the parting sentiment of a whole series of judicial officers — and Douglas saw his departure as the end to "the remaining Shadow of Justice in our Courts". His chief offense, Montgomery's agent insisted, had been to remain independent of the "combination", but Fanning later maintained that Aplin was a tool of the MacDonald-Douglas faction promoting annexation to Nova Scotia as the cure to the Island's political ills.[82] Douglas freely acknowledged his support for annexation. Under the present conditions, he maintained, the Island could never prosper. The Island (and its proprietors) needed merchants and immigrants, but "Persons of any enterprize or property will no more come to this island than they would go to the States of Algiers". A change of officers was insufficient. Given "the small number of People and the insignificance of the Place, Government at Home might not be able to furnish us with Men of sufficient ability or integrity at the small Salaries allowed" to prevent a reoccurrence of the same situation in a few years time.

The annexation movement and his agent's support for it clearly distressed Montgomery, who was caught on the horns of several dilemmas. He did not fear escheat, which he knew that the British government would not support. He recognized that annexation to Nova Scotia was hardly in the best interests of the proprietors, since such a government would be harder to control and even less sympathetic to their interests; Montgomery and Fanning thus had a common concern in maintaining a separate Island establishment.[83] At the same time, Douglas was an honest agent seeking to administer the Lord Chief Baron's business interests on the Island. The inability to deal with the Chief Justice was symptomatic of the overall problem. Although proprietorial interests were in general best served by the present separate government, the price of that government was obstruction by its officials when their interests were threatened. Since the Island's officials in both their public and private capacities were the main people with whom a proprietor had to deal, the problem seemed insoluble. If Montgomery behaved like a typical absentee proprietor, he risked condemnation for inactivity. If he sought to develop his holdings and operate in a businesslike manner, he soon came up against the local system.

In June 1798 Chief Justice Stewart sidestepped the suit in his own court by bringing a bill against Montgomery into the Chancery Court of the Island. The move gave Stewart an opportunity to present his version of the case, but his recitation was not designed to give Montgomery much confidence in

82 Edmund Fanning to James Montgomery, 27 November 1800, GD 293/2/78/22.

83 *Ibid.*

the Chief Justice's integrity, full as it was of evasions, half-truths, and total fabrications.[84] While Stewart maintained the Chancery move was necessary to bring Montgomery under oath, it looked to the Lord Chief Baron very much like the familiar Island pattern of putting off the day of reckoning. Despite Stewart's prevarications, Montgomery wrote to Douglas complaining that his agent had become a "violent party man", and reminding him that when in Scotland Montgomery had "suggested the propriety of your taking no concern in the Politics of the Island".[85] Agreeing that Douglas had been provoked. Montgomery again urged him to avoid "the Political contests in the Island, if they deserve the name". Douglas responded that Montgomery's disputes with Peter Stewart were "very high political concerns".[86] Such concerns were to remain unresolved, caught up in the rapid turnover of Attorneys-General and Chief Justices at the turn of the century. Douglas was unable to move forward, although Stewart was now openly collecting rentals on the disputed land, for judicial proceedings were in a state of suspension for some years.

In 1801, Montgomery wrote in exasperation to Fanning that Stewart "most likely thinks his power and Influence will prevent any Decree being recovered against him, and that he will tire me out, and make me drop my Action". In a masterpiece of understatement, Montgomery observed, "This is not a good Idea in a Chief Justice". He threatened to bring the proceedings to England, where "they will exhibit a Picture, if the same System is continued, that never before Appeared in any English Judicature".[87] Tired of covering for him, Stewart's relations had already induced the old man to resign in 1800 before he brought down the whole family. John Stewart came to Britain in 1801 and attempted to make peace with Montgomery.[88] The complicated proceedings of escheat with which Stewart was involved at this time lie beyond the scope of this paper, for in 1802 Montgomery turned over his affairs to his heir. He died soon after, the Island "being the last subject on which he spoke".[89] Five months later James Douglas too was dead.[90] Between the deaths of employer and agent, the Earl of Selkirk had obtained large acreage on the Island at bargain prices and had moved over 800 Highlanders to his

84 "Stewart v. Montgomery, Copy Bill in Chancery, 20 June 1798", GD 293/2/78/32 - 4; Attestation of David Lawson, GD 293/2/78/67; James Douglas to James Montgomery, 27 June 1799, GD 293/2/17/10.

85 James Montgomery to James Douglas, n.d., GD 293/2/21/9.

86 James Douglas to James Montgomery, 15 September 1800, GD 293/2/19/10.

87 James Montgomery to Edmund Fanning, 18 September 1801, GD 293/2/17/12.

88 John Stewart to James Montgomery, 26 March 1802, GD 293/2/18/29.

89 James Montgomery II to Edmund Fanning, 10 June 1803, GD 293/2/20/7.

90 William Haszard to James Montgomery II, 30 September 1803, GD 293/2/18/19.

lots.[91] Fanning was finally replaced in 1805, and in 1806 Sir James Montgomery II married a sister of Selkirk, thus uniting the Island interests of its two largest proprietors. All these sudden developments combined with the new escheat proceedings to move the Island into a new era. New proprietors became actively involved in settlement proceedings and timbering, land prices increased dramatically, and the Island entered a brief period of prosperity and expansion.

In his lengthy involvement with the Island, Sir James Montgomery's chief accomplishment was to acquire and preserve relatively intact a substantial inheritance for his family, thanks largely to his persistence against obstructions which might have deflected a less stubborn personality. In an age in which one principal — perhaps *the* principal — goal of most men was to expand their landed patrimony and provide for their heirs, Montgomery would have felt no need to be apologetic about this achievement. But from the standpoint of the development and settlement of the Island, his contribution was surprisingly small, particularly given the special status among proprietors which contemporaries always accorded him. Fifty settlers had been transported and supplied, a large (by Island standards) but unprofitable farm had been created, a series of unsuccessful business ventures had been attempted — and the losses put on someone else's account. Montgomery could not recover the debts from associates like David Higgins and David Lawson, so that he was in practice out of pocket, but in principle he had ventured little solely on his own account. Perhaps most critically, he had not turned his widely-acknowledged talents for estate management and improvement to the Island. Montgomery always remained a canny businessman rather than a developer.

Montgomery can be relatively easily, and not altogether unfittingly, dismissed as merely another absentee proprietor. But before doing so, the nagging question remains: why did not Montgomery manage his lands on the Island more constructively? The answers to this question, as this paper has indicated, are complex, but they illuminate the many difficulties which the Island faced in its early years under British rule. From the outset, the Island's first years of settlement coincided with troublesome times for Britain; there were few "normal" years between 1770 and 1815, and no protracted periods of stability and peace so vital for the expansion of overseas investment. The mother country was always gearing up to fight a war, engaged in one, or picking up the pieces after a peace treaty. The Island was not of sufficient strategic importance to feel much of the direct impact, either positively or

91 See my "Settlement by Chance: Lord Selkirk and Prince Edward Island", *Canadian Historical Review*, forthcoming.

negatively, of the endemic warfare, but it suffered indirectly. The American Rebellion cut off one possible source of settlers, apart from the Loyalists, and the needs of the British army and navy were held by most Britons to come ahead of the expansion of British North America. The main impact of war upon the Island was to increase its isolation and to permit its officialdom and inhabitants to go their own way.

Montgomery was limited in his actions by his own attitude toward investment and by his recognition of the hostility shared by government and the landed classes of Britain to emigration to North America. But he was also constrained by the difficulty of finding dependable associates and agents. Once on the Island, men seemed to change. The absentee investor not only lost control over expenditure, but found it increasingly difficult to maintain contact with those in charge of his affairs. The Lawson case, involving as it did ever more infrequent contact between agent and proprietor as well as the frustration of being unable to obtain decent financial reports, was hardly unique. Lord Selkirk had the same difficulty with his agent a generation later. And perhaps significantly, Selkirk's response was very similar to Montgomery's, although the Earl had not entered into Island investment primarily to turn a monetary profit. Like Montgomery, Selkirk became obsessed with getting some accounting from his agent, to the exclusion of more constructive Island activity.[92] The problem with agents merged into that of Island politics. Montgomery attempted to keep his affairs on the Island apart from the local political struggles. To some extent, such a policy was impossible because conflict between proprietors and officials was a major component of Island politics. The conflict was less over issues, however, than over the acquisition of the few assets available on the Island. Not surprisingly, Montgomery found his affairs enmeshed with Island factionalism in direct proportion to the extent of his activity.

The Montgomery example certainly illustrates the failure of the proprietors to fulfill their promises. But it also provides a good deal of evidence that the Island was simply not an attractive place for private investment, except in unsettled lots, which might someday appreciate in value. The only wise investor was the real estate speculator, and he was all too common a breed. In many ways, the wonder was not that the proprietors failed, but that so many of them, like Montgomery, ever attempted to do anything at all.

92 Selkirk's problems can be followed in the Selkirk Papers, vol. 56, Public Archives of Canada.