John Prince of Sandwich and the payment of rebellion losses claims in the Western District of Upper Canada/Canada West, 1837-1849.

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JOHN PRINCE OF SANDWICH AND THE PAYMENT OF REBELLION LOSSES CLAIMS IN THE WESTERN DISTRICT OF UPPER CANADA/CANADA WEST, 1837 - 1849

by

David W. Ruddin

A thesis
Submitted in partial fulfilment of the requirements for the degree of Master of Arts in the University of Windsor, through the Department of History to the Faculty of Graduate Studies.

October, 1973
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INTRODUCTION

Upper Canada was woefully unprepared for the wave of violent clashes which broke upon the province in the winter of 1837-38. Convinced that those plotting insurrection lacked popular support and anxious to vindicate a somewhat dubious claim that he had matters fully in hand, Lieutenant-Governor Sir Francis Bond Head had left the colony bereft of all but a corporal's guard of regular troops to meet the crisis of early December. Leaving the province thus exposed was not, according to Head, the rash act it appeared to be. Rather it was an expression of confidence in the people of Upper Canada by the lieutenant-governor, who had "deliberately determined that the important contest in which I was about to be engaged should be decided by the Upper Canada militia."

Having thus placed the fate of the province in the hands of the militia, however, he had failed to put in a state of readiness support services, like the commissariat, which would have enabled the provincial force to accomplish its appointed task. Consequently, when the rebellion at Toronto in early December gave way to the occupation of Navy Island later the same month and, subsequently, to the threat of invasion from

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Ohio and Michigan as well as New York, spur-of-the-moment arrangements had to be made locally for the defence of the province. While these measures were devised with little or no regard to form, the provincial government, for want of a better plan, had no alternative but to give them its sanction. In thus bestowing his approval on makeshift defensive arrangements, especially those designed to provide logistical support for the militia, the lieutenant-governor, ipso facto, committed the province to the financial obligations to which the temporary schemes gave rise.

The imperial government, whom Head eventually felt constrained to call upon for assistance, and whose military representatives ultimately took charge of the province's defence, saw no such need to condone the unorthodox arrangements which had been made. Instead, they stubbornly resisted the proposition that they should be bound to honour contracts which had been improperly entered into. Nor did they conceive it to be a responsibility of Her Majesty's government to make restitution to those unfortunate persons whose property had been ravaged by marauding bands from the United States.

Nearly twelve years were to elapse before the losses incurred by Upper Canadians in putting down rebellion and repelling inva-

2 Head to Glenelg, No. 133, 28 December, 1837, in ibid., pp. 150-151.
sion were finally made good. During that time the question of rebellion losses in the upper province, which began as a simple matter of government indebtedness and a source of much local dissatisfaction, became an important issue in imperial-colonial relations.

The progress of claims settlement and the uncertain state of imperial-colonial relations in those years are brought into sharper focus if we follow the career of John Prince of Sandwich, who played a preeminent role in bringing the claims to a final settlement. For the duration of the controversy, Prince was member of the legislative assembly for Essex, a constituency whose inhabitants were deeply affected by the issue of rebellion losses. Personally and politically involved in the losses question from beginning to end, and much embittered by government neglect of it, Prince became the personification of the 'loyal subject spurned. From a staunch supporter of the British colonial governor in Sir Francis Bond Head's day, he passed through various stages of reformist sympathy during the regimes of Sydenham, Bagot and Metcalfe, and finally emerged, under Elgin, as a frustrated constitutionalist who favoured severing imperial ties. His political evolution was, to a considerable extent, the product of his involvement with the issue of rebellion losses claims.
CHAPTER 1: ORIGIN OF THE LOSSES CLAIMS AND EARLY ATTEMPTS AT SETTLEMENT, DECEMBER, 1837 – MARCH, 1838

In December, 1837, with invasion imminent, nowhere was the need for self-help more keenly felt than in the Western District, the sparsely populated area of the province lying between Lakes Erie and Huron and stretching from the Detroit and St. Clair Rivers to the eastern boundaries of present-day Kent and Lambton Counties. Further from the provincial capital of Toronto than practically any other area menaced by the "patriots", and most remote of all from reinforcements which Great Britain or other parts of British North America might send, the settlements along the western frontier were almost completely isolated at this season of the year by near-impassable roads and ice-choked waterways.

Being cut off from military aid was cause for uneasiness for reasons other than the threat posed by hostile forces beyond the borders of the province. Fears of an internal rising were also rife. The border townships of Essex County, namely, Rochester, Maidstone, Sandwich and Malden, were inhabited by a sizeable number of French-

1 Upper Canada, Legislative Assembly. *Journals, 1837-38, Appendix*, p. 252, "General Return of the Population of the Western District for the Year 1837".

The population of the Western District was estimated to be 20,000 persons.
Canadians whose loyalty, following developments in the lower province, was very much open to question. To persons of French descent was added a number of United States citizens, who were likewise believed to favour annexation of the province to the neighbouring republic. Quite apart from the mistrust which "loyal" subjects felt toward these "alien" elements in their midst, there existed, in Western District Sheriff Robert Lachlan's view, "some occasional feeling of jealousy between the old settlers and their descendants & those of more recent importation". Furthermore, discontent had existed for some time among all classes of the Western District over non-payment of war claims dating from the conflict of 1812-1814.

2 Robert Lachlan to Sir George Arthur, 21 April, 1838, Vol. 192, Upper Canada Sundries, Civil Secretary's Correspondence, 1791-1840, Series A. Records of the Civil and Provincial Secretaries' Offices, Canada West, Record Group 5 (RG 5). Public Archives of Canada (PAC).

Lachlan estimated the French-Canadian population of these townships as follows:

<table>
<thead>
<tr>
<th>Township</th>
<th>French Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rochester</td>
<td>224 out of a total population of 360 (62%)</td>
</tr>
<tr>
<td>Maidstone</td>
<td>145 out of a total population of 519 (28%)</td>
</tr>
<tr>
<td>Sandwich</td>
<td>2318 out of a total population of 3277 (71%)</td>
</tr>
<tr>
<td>Malden</td>
<td>672 out of a total population of 1598 (42%)</td>
</tr>
</tbody>
</table>


Amid such disquieting circumstances it was little wonder that, when word was received that the patriots' theatre of operations was shifting from Toronto and the Niagara frontier to nearby Cleveland and Detroit, the civil magistrates should have taken it upon themselves to marshal the district's defences as best they could. Factionsness and petty jealousy among them notwithstanding, they were able to set up a rude security system which was later credited, by the officer commanding in Upper Canada, with having averted a foreign takeover of the western part of the province.

Prominent among the magistrates who had thus seized the initiative was John Prince of Sandwich. Born in England in 1796, he had served as a subaltern in the 1st Regiment of Herefordshire militia. In 1815 he had begun the study of law, serving in the office of Messrs. James and Bodenham, Solicitors, Hereford, and in 1821 had been called to the English bar. In 1833, allegedly at the instance of William Dunlop, whom he had met in the London office of the Canada Company, he had emigrated to Upper Canada where, at Sandwich, he had settled down to the life of a country gentleman. Three years later, his influence was such that he was elected to represent the constituency of Essex in the legislative assembly.  

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the active part he played in the events of 1837-38 were to dog Prince for the next eleven years and were to have a profound effect upon his political career.

The militia called out by order of the local authorities were a wrecked lot. Largely untrained, they lacked weapons, accoutrements, provisions and practically every other commodity that would have given them even the semblance of an effective fighting force. To correct these deficiencies the magistrates of the Western District acted with despatch. Forming themselves into "executive committees", they named individuals from among their number to serve as acting "provincial commissaries" to supply the militia until more permanent arrangements could be made. Commissariat departments were set up at Port Sarnia, Bear Creek (Wallaceburg), Sombra and Moore on the St. Clair frontier, and at Sandwich, Windsor and Amherstburg on the Detroit. Under Customs Collector William Anderson at Sandwich, James Head at Windsor and Robert Reynolds at Amherstburg, these provincial commissary departments became petty bureaucracies in their own right. 6 Whatever the justification for the appointment of these men and however selfless the motives of those who agreed to serve, the fact remained that the appointees were strangers to commissary ways. Unfamiliar with the procedures followed by the commissariat department of the British army and almost

certainly lacking official commissariat forms, they issued, to the persons from whom they requisitioned goods and services, improvised vouchers which often served as the only record of the transaction. It was over the legality of these informal instruments that the claims controversy began.

While the civil Officers in the west were girding their district against impending invasion, the attention of Lieutenant Governor Sir Francis Bond Head was still focused on the Niagara frontier where, at Navy Island, occupation of the province by forces opposing the government was already an accomplished fact. In his efforts to meet the more immediate threat to the security of the province, Head acted with characteristic elan and without scrupulous regard to the consequences of his actions. He embodied the militia on terms that were unusually generous and acceded to Allan Napier MacNab’s demand that he be placed in full command of the force assembled for the defence of that frontier. Furthermore, having at his disposal

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7 Sir Francis Bond Head, Bart. (1793-1875) was born at the Hermitage, Higham, Kent, England and educated at the Royal Military Academy, Woolwich. Obtaining a commission in the Royal Engineers, he saw service at Waterloo. Following an unsuccessful mining venture in South America in 1825, he returned to England where, in 1834, he was appointed assistant poor law commissioner for Kent. On 25 January, 1836, he became lieutenant governor of Upper Canada. He died at Croyden, England on 20 July, 1875.


9 Sir Allan Napier MacNab, Bart. (1798-1862) was born at Niagara, U.C., on 19 February, 1798 and saw service during the campaigns of 1813 and 1814. He was called to the bar of Upper Canada in 1826 and in 1830 was elected to the legislative assembly for Wentworth. A member of the assembly until the Union, he held the post of speaker from 1837 to 1840.

no means with which to finance the Niagara expeditionary force, the lieutenant-governor sought to appropriate to militia purposes the entire resources of the military chest, that fund, under the control of the army commissariat, out of which the British regular forces were maintained. By a militia general order of 15 December, 1837, he appointed James Buchanan Macaulay quarter master general and directed all officers and heads of departments in the province to furnish to the public service, upon Macaulay’s written requisition, public stores and all military supplies. Included among the departments over which the lieutenant-governor thus sought to extend his sway was the army commissariat, represented in Toronto by Assistant Commissary General Francis Robert Foote, and ruled over in British North America by Randolph Isham Routh.


12 Sir James Buchanan Macaulay (1793-1859) was born in Niagara, U.C. on 3 December, 1793. He was educated under John Strachan at Cornwall and served in the War of 1812 as an officer in the Glengarry Fencibles. Called to the bar of Upper Canada in 1822, he was made a puisne judge of the Court of King’s Bench in 1829. A quarrel in 1826 between Macaulay and William Lyon Mackenzie, editor of the Colonial Advocate, was followed by the ravaging of the latter’s printing-office by a gang of nine youths closely connected with the "Family Compact". In December, 1837, Macaulay had command of the militia force remaining in Toronto when forces were despatched by Lieutenant-Governor Head to meet Mackenzie’s threatened attack from the north.

13 Militia General Order, No. 9, 15 December, 1837. IB3, RG 9, PAC.

14 Sir Randolph Isham Routh (1785? - 1858) was born at Poole, Dorset,
Head's attempt to subordinate the army commissariat as a means of enhancing his monetary resources was an egregious error for it inevitably brought about a confrontation between the lieutenant-governor and the commissary general which proved to be Sir Francis's undoing. By the terms of his commission, Head had had conferred on him only the civil administration of the government of Upper Canada. Command of Her Majesty's troops in the province belonged to Lieutenant Colonel Colley Lyons Lucas Foster, who was answerable to Sir John Colborne, commander-in-chief for British North America. Since the commissariat was an ancillary department of the army, the lieutenant-governor, as Commissary General Routh was quick to point out, could exercise no authority over any of its officers. Having been informed by Assistant Commissary General Foote, in letters of 20 and 21 December that he, Foote, had acted in pursuance of the militia general order of 15 December, and others, Routh made no secret of his displeasure.

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England and educated at Eton. Entering the commissariat department of the army in 1805, he served in Jamaica and throughout the Peninsular War. He became deputy commissary general on 9 March, 1812, and was senior commissary officer at Waterloo in 1815. On 15 August, 1826, he was made commissary general and posted to Canada, where his services during the rebellion earned him a knighthood in 1841. He returned to England in February, 1843, and died in London on 29 November, 1858.

Lieutenant Colonel Colley Lyons Lucas Foster (? -1843) entered the army in 1799. In 1813 he came to Canada as aide-de-camp and military secretary to Sir Gordon Drummond, administrator of Upper Canada from 1813 to 1815. He was gazetted assistant adjutant general of the Canadian militia in 1814 and, the following year, assistant adjutant general of the forces in British North America and commander of the troops in Upper Canada.

Sir John Colborne, first Baron Seaton (1778-1863) was born at Lyndhurst, Hants, England on 16 February, 1778. Entering the army in 1794,
"You have", he admonished Foote, "no officer to look to but Colonel Foster, or me as head of the department, and you can pay or issue on no other signature". Under the regulations, any other authority was inadmissible.

I have nothing to do with any militia general order, nor can I recognize any requisition from Colonel McAlay; the whole will be disallowed in your accounts, and referred to the special consideration of the Audit Board and the Lords of the Treasury.

On 5 January, 1838, Foote communicated to Macaulay the substance of his superior's pronouncement, adding that "an Enemy having actually invaded the Province, all the Military arrangements, including the Militia, will naturally ... come under the control of His Excellency the Lieut. Governor (sic) Commanding, and that Colonel Foster will probably receive orders to assume the command".

Thus denied access to funds with which he could compensate the militia and those who rendered it logistical support, Head faced a difficult decision. He could continue to resist what he regarded as an encroachment on his power as lieutenant-governor and run the risk that he served throughout the Napoleonic Wars. In 1825 he was appointed lieutenant-governor of Guernsey and in 1829 lieutenant-governor of Upper Canada. A year prior to his retirement from the latter position in 1836, he was named commander-in-chief of the forces in the Canadas. As such he was called upon to administer the government prior to and following Durham's governorship. Appointed governor-in-chief of British North America in 1839, he was succeeded by Charles Poulett Thomson later the same year and raised to the peerage as the first Baron Seaton. He died on 17 April, 1863.


18 Ibid.

of having the sizeable militia force which had been embodied disband for lack of money. Or he could abdicate his position as militia commander in favour of Colonel Foster of the regular forces and, by so doing, make possible payment of the heavy defence expenditures from the military chest. In the exigency of the moment there could be but one decision. On 8 January, 1838, Head conceded defeat. Writing to Sir John Colborne, who, as commander-in-chief of the forces, had been a party to the commissary general's decision not to recognize Head's authority, the lieutenant-governor yielded with as good grace as his wounded pride would permit.

In the present moment, I think the less fighting that is made about precedence the better; and I have therefore issued a Militia General Order placing Coll. Foster in command of the Mil: and I shall do everything to assist him in carrying into effect the general objects which we have mutually in view ... 20

Anxious, however, lest his successor fail to honour the obligations he had entered into, he wrote Foster the next day, requesting that he "be so good as to authorize the past as well as the present and future expenses of the Militia which I have placed by a general order under your Command". 21

Although he had bowed to pressure exerted on him by Routh's withholding of funds, Head was by no means persuaded of the necessity of Foster's appointment, holding that "it might admit of argument.

20 Head to Colborne, 8 January, 1838. Ibid., pp. 34-36.
21 Head to Foster, 9 January, 1838. Ibid., p. 55
whether a band of pirates could be considered as 'the foreign enemy' which by Colonial regulations transfers the distribution of the troops from the civil Governor to the Senior officer of the troops". 22 Nor was he very happy that he had learned of Routh's decision to refuse him financial backing not from Colborne, with whom Routh had conferred, but through Assistant Commissary General Foote. As for a decision taken by the commander-in-chief arbitrarily to raise several officers to a rank superior to that held by any of the colonels of militia, Sir Francis denounced it as tending "to subvert the authority which it is believed I possess of being the fountain from which promotion in the Militia of Upper Canada naturally flows". 23

As chance would have it, word that Head's resignation, thrice tendered, had finally been accepted by the home government reached him at the very moment when the course of events seemed to be propelling him toward submitting it yet again. 24 On 15 January, three days after the lieutenant-governor had warned that Colborne's high-handedness would have fatal consequences for Upper Canada, the legislative assembly was apprised that Head was stepping down. 25

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22 Head to Colborne, 12 January, 1838. Ibid., pp. 57-63.

23 Ibid.

24 see Sydney Jackman, Galloping Head, the Life of the Right Honourable Sir Francis Bond Head, Bart., P.C., Late Lieutenant-Governor of Upper Canada (London: Phoenix House, 1958), pp. 88-89, 102-103, 112.

Head had pitted himself against the British military establishment in British North America and Colborne and South had prevailed. Military matters, including payment of the costs incurred in supplying, quartering and transporting the troops and militia, would, it seemed, henceforth be the entire responsibility of military men. A final act of defiance by the recalcitrant lieutenant-governor on the very day he had notified Colborne of his decision to step aside, however, ensured that the civil power, for the present at least, would continue to have a voice in the settling of military accounts. On 8 January, 1838, a militia general order issued by the lieutenant-governor announced the appointment of a board "to investigate & report upon all acts against the Government for supplies furnished to the militia while on the march or in Quarters including Billets, Provisions, Transport & for all other claims and incidental expenses incurred in the defence of the Province". The board, to be chaired by Inspector General George Herchmer Markland, was also to include

26 Militia General Order, No. 45, 8 January, 1838. IB3, RG 9. PAC.

27 George Herchmer Markland (ca. 1790-1862) was born in Kingston and educated at Strachan's school in Cornwall. He was appointed to the legislative council in 1820 and became an executive councillor in 1822. He served as inspector general of Upper Canada from 1833 to 1838, his resignation in October of the latter year, under suspicion of malfeasance, following by two years his resignation from the executive council. He died at Kingston in May, 1862.
Surveyor General John Macaulay, 28 Alexander Wood, 29 a Toronto merchant, and Francis Thomas Billings, 30 treasurer of the Home District. It was charged with passing all claims that should appear just in accordance with a scale to be from time to time established. Where no specific rule existed, members were to use their own discretion. The board's decision on the amount to be paid was, in all instances, to be final.

With the authority to draw upon the military chest having officially reverted from an unanswerable civil governor to an officer subject to army and treasury board regulations, the promiscuous piling up of debt began slowly to be arrested. In the matter both of placing restraints on indiscriminate spending and of providing for the settlement of existing accounts, however, Foster showed a propensity to steer a middle course between the profligacy of Head and the punctiliousness of Routhe. His failure to adapt more to the habit of mind of the latter was to bring him into open conflict with the commissary general and lead, ultimately, to his downfall.

28 John Macaulay (1792-1857) was born of Loyalist parents in Kingston, where he lived until 1836, supported by incomes from the post office and a bank agency in addition to private means. In 1836 he was appointed surveyor general by Sir Francis Bond Head and continued in that position until June, 1838, when he became civil secretary to Head's successor, Sir George Arthur. Several months later he was named inspector general of public accounts for Upper Canada. This position he held until 8 June, 1842, when, unwilling to stand for election to the assembly, he was replaced by Francis Hincks. He retired from public life and died at Kingston in 1857.

29 Alexander Wood (1772?-1844) was born near Aberdeen, Scotland, and came to Canada about 1793. A partner first in the Kingston Brewing Company and later in a mercantile venture with William Allan at York, he later became a very successful independent merchant. He was active as a magistrate from 1800 and was prominent in many of York's philanthropic societies.

30 Francis Thomas Billings (d. 1875?) was deputy assistant commissary general at York from 1814 to about 1829 and treasurer of the Home District from May 1829 to about 1841.
For the time being, though, Foster wasted no time in getting down to business and giving the impression that he intended to conduct his affairs in an orderly fashion. On the day that he assumed command, he ordered from Assistant Commissary General Foote a supply of warrants with which to sanction payment of accounts. This instrument he conceived to be "the simplest, though at the same time the most comprehensive method of communicating ... the requisite authority for making the payments". 31 Sent upon exercising firmer control and confident that he had already attained a measure of success, Foster would brook no criticism from subordinates of the efficiency with which militia business was being carried on under his direction.

"The service is now conducted", he expostulated, "... as much as circumstances will permit, in fullest accordance with the Regulations of Her Majesty's Service, and the Commands of the Lords Commissioners of Her Majesty's Treasury". 32 Furthermore, while scrupulously recognizing the overly generous perquisites which Sir Francis Bond Head had offered as an inducement to militia recruits, Foster succeeded in doing away with the anomaly by substituting "a commutation in money at a most moderate rate". 33


33 Foster to A.D.C. Thomas Leigh Goldie, 19 February, 1838. Vol. p. 72. Ibid.
In addition to his use of warrants, his professed adherence to regulations and his attempts to systematize the arrangements covering militia pay and allowances, Foster gave a further indication of his willingness to strive for greater regularity in disbursing public monies. Before approving claims which were laid before him, he referred them to the provincial board of audit presided over by Inspector General Markland. As far as he was concerned, he told Assistant Commissary General Foote, he considered "their investigation and recommendation to be sufficient for me to issue my authority for your payment of the amount so recommended by them." 34

For all his good intentions to bring order out of chaos, however, Colonel Foster was not as diligent as Commissary General Routh would have wished. From the outset the Upper Canadian commander had arrogated to himself powers which were not really his to exercise. In ordering the blank warrants from Foote, he had been forced to admit that he was "fully aware that no officer, but the Commander of the Forces, should, strictly speaking, issue Warrants". He had excused himself on this occasion by representing his usurpation as "a matter of absolute necessity" until Sir John Colborne's pleasure was known. 35

34 Foster to Foote, 31 January, 1838. Vol. , p. 61. Ibid.

Routh, in his eagerness to divest Sir Francis Bond Head of the
power to sign warrants, had already instructed Assistant Commissary
General Foote to recognize Foster's signature instead and so, for
the moment at least, did not challenge Foster's action. The shaky
legal foundation upon which the Upper Canadian commander's authority
rested, however, made it possible for Routh to press for withdrawal
of Foster's privilege of signing as well when it appeared to him that
that officer was likewise abusing it.

Nor did Colonel Foster, in the weeks ahead, leave any doubt in
the commissary general's mind that he could not be trusted to exercise
the power with discretion. Having viewed the lamentable state of affairs
in Upper Canada from a closer vantage point than either the commander-
in-chief or the commissary general, Foster had a greater appreciation
of the difficulties which Head and others had faced in raising and
equipping the militia. Until more satisfactory arrangements could
be made for the defence of the province, Foster saw no reason to aban-
don the "system" already in effect, however defective it might be.
Not only was Colonel Foster willing to sanction present and future
disbursements from military funds in aid of the provincial militia,
therefore, but he also acceded to Head's request of 11 January that
he approve the payments which had been made from the military chest
thus far.

Writing to Sir John Colborne on 15 January, Foster sought to

36 Foster to Foote, 9 January, 1838. Vol. , p. 60 (no. 1). Ibid.
37 Head to Foster, 11 January, 1838. Vol. , p. 91. Ibid.
justify the course he had adopted. Citing Head's own testimony to bear him out, he urged upon the commander of the forces the view that "if I had not taken it on myself to order Provisions, Pay, and Clothing, &c., &c., to be issued to the Militia of the Province, after my having assumed the Command, there being no funds in the Lieutenant Governor's power, from whence to direct the issue, nothing but the excess of misery and distress would have been the result, the dispersion of the loyal portion of the Militia to their homes would necessarily follow, and the ultimate loss of this valuable Province would in all probability be the unavoidable consequence". He had, however, taken on the responsibility of ordering payments to be made by the commissariat for all the necessary expenditures, "both past, and current", on the understanding that the lieutenant-governor would, as soon as possible, attend to the setting up of a fund from which the expenses would eventually be defrayed.\(^3\)

Having carried out virtually the same policy that Sir Francis Bond Head had been censured for following, Foster now began to urge that commissariat regulations inimical to it be waived, and confessed to having disregarded departmental orders himself when circumstances had seemed to warrant it. He shared with Assistant Commissary General Foote, he said, a concern "that all the accounts which are being received from various inhabitants of the Country for Food, accommodation, Forage, &c. &c. afforded to the Militia on their gallant and spirited rush to arms in

defence of the Province, against Rebellion and Invasion, should be furnished with as much accuracy and formality as possible. Recognizing that accuracy and formality could not be expected from the sort of persons furnishing accounts, however, he felt himself bound in duty to my Sovereign to call upon you to relax somewhat in your rigid examination of such documents. Having no reservations about the competence or legitimacy of the provincial board of audit, Foster then exhorted Foote to defer to their judgment. The fact that the board tended to be less niggling than the commissariat was a mark in its favour as far as the Upper Canadian commander was concerned for, he believed, unless greater latitude was allowed in the liquidation of claims, "the Province from one end to the other will be forced into a state of general discontent, which will prove ... highly prejudicial to the Constitutional Cause."  

In view of his impatience with theoretical solutions to practical problems, it is hardly surprising that Foster unequivocally endorsed the "energetic and efficient measures" taken by the "highly creditable" executive committee of magistrates for the defence of the Western District, from its inception in late December, 1837, until its dissolution on 30 January, 1838.  

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41 Foote to Lachlan, 11 February, 1838. Vol. . . , p. 66. Ibid.
His admiration for the work of these men, to whom might "well be attributed the safety and preservation of the Western District from the depredations of the Rebels, and their Piratical Associates from the United States", caused him to take an especial interest in the accounts to which the exertions of the magistrates had given rise. Three such accounts had, on 9 February, 1838, been personally laid before the lieutenant-governor by John Dougall of Windsor, W. L. Whiting of Detroit and William Anderton of Sandwich, in the company of John Prince, the member for Essex, who had arrived in Toronto on 4 February to take his seat in the Assembly.

John Dougall, of the mercantile firm of J. & J. Dougall of Windsor, pointed out in his petition of 5 February how, during the recent emergency on the western frontier, his brother, James, had offered to advance twelve thousand dollars for the support of the forces to be called out. The money had originally been intended for the purchase of the firm's inventory for the coming season. In addition, Dougall had furnished money and goods to the forces on the requisition of William Anderton, who had been appointed acting commissary by the local magistrates and whose appointment had been confirmed by Colonel Thomas Radcliffe, the officer sent to replace James Hamilton as officer commanding the district. It now appeared that no restitution would be made to James Dougall until Anderton's accounts had been made up and submitted to the board of audit sit–

\footnote{Ibid.}

\footnote{John Prince. Diary, 9 February, 1838. Hiram Walker Historical Museum. Windsor, Ontario. Consulted through the kind permission of Mrs. Alan Prince of Detroit, Michigan.}
ting at Toronto. Had this money not been advanced, Dougall main-
tained, and had his brother, John Prince and Colonel Hamilton not
offered to stand surety for any debts incurred, it would have been
exceedingly difficult to obtain from the American side supplies
which were desparately needed for the defence of the frontier. 44
The amount claimed on behalf of Anderton and James Dougall came,
altogether, to £4000. 45 The account of W. L. Whiting, a commis-
sion and forwarding merchant in Detroit, for provisions supplied
to Port Sarnia, amounted to £4989. 7. 8. The accuracy of the ac-
count was attested by William Anderton in his capacity as acting
commissary. 46

On 10 February, Whiting's account was recommended to the
immediate consideration of the board of audit by Sir Francis
Head. On the same day, after conferring with Dougall, Anderton,
Whiting and Prince, Foster issued warrants to Francis Foote to
pay William Anderton the sum of £4000 Halifax currency, the full
amount of his and Dougall's claim against the government. Antici-
pating no objection to Whiting's claim on the part of the board
of audit, Foster also authorized the assistant commissary gener-
al to pay the full amount of that applicant's claim.

Provincial Secretary's Numbered Correspondence, Cl. Records of
the Civil and Provincial Secretaries' Offices, Canada West,
Record Group 5. Public Archives of Canada.

Commissariat, "C" Series. British Military and Naval Records,
Record Group 8. Public Archives of Canada.

46 Account of W. L. Whiting, 10 February, 1838. Ibid., p. 135.
Somewhat disturbed at having been ordered to pay these accounts, especially in view of the reproof he had been administered earlier, Foote immediately sent off a letter reporting the circumstances of the case to Commissary General Routh. Foote was particularly concerned about the precedent that would be set if Anderton's claim were to be paid without first being subjected to the most rigorous scrutiny, especially since he had been informed by Inspector General Markland, chairman of the provincial board of audit, that the amount of claims for supplies furnished to the militia in the Western District alone might be estimated at £50,000. Foote had been unmoved by Foote's suggestion that the matter be referred to Sir John Colborne and, conceiving the case to be an urgent one, had ordered the assistant commissary general to pay Anderton at once. Foote had reluctantly complied.

Even before being confronted with the cases of Anderton and Whiting, Foote had expressed concern over the board of audit's facility in passing claims. Now, notwithstanding the fact that the board had, of its own accord, decided not to consider any claims incurred after the first of February, Foote urged the comissary general to appoint a competent military board to investigate claims.

Foster's authorizing of warrants in favour of Anderton and:

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47 Foote to Routh, 11 February, 1838. Ibid., pp. 130-132.

48 Ibid.
Whiting helped to bring a long-festering issue to a head. Routh had for some time entertained doubts about Foster's sense of thrift and had, in consequence, taken steps to bring military expenditure more directly under commissariat control. If he seemed oversolicitous in enforcing obedience to departmental regulations, Routh had, he was convinced, abundant reason. The suddenness with which the rebellion had broken out had taken the commissariat unawares and caught it, therefore, unprepared. With the outbreak occurring at the close of the navigation season, the commissary general had been unable to replenish his reserves from home. To make matters worse, a depressed market in New York rendered it all but impossible for him to negotiate treasury bills at a profit there, and to take a loss on such bills would be highly prejudicial to the commercial interests of Great Britain. Finally, Routh confessed, he was "not prepared for the heavy expenditure authorized by Col. Foster, and paid on defective Vouchers which I fear will not be admitted on their examination at Home. The funds which I had placed in the Upper Canada Bank for the general Current Service of the Province have thus been exhausted by a blow, and without any notice or any communication that might apprise me of the extent of the demands or enable me to provide for them". The commissariat could no longer cope with the excessive expenditure at Toronto. During a tour of inspection of the Upper Canadian capital in January,

Routh had found the expenses there "shocking" and the financial administration in a most disorderly state. There appeared to be no inclination on the part of the authorities there to reduce the number of men in arms, although there were far more embodied than, in the commissary general's opinion, were required, and they were stationed in what seemed to him the most unlikely places. Colonel Foster he found to be in full command, drawing warrants and making excessive imposts, or advances, of money to pay the militia. Lieutenant-Governor Head, clinging tenaciously to the vestiges of power, was "sensitive in the extreme, & most reluctant to refer any arrangement to the authority of Sir John", preferring instead to "transfer all the duties of the Military to his new Provincial appointments". ⁵⁰ Strongly impressed with the urgency of reforming the defective system of expenditure in Upper Canada, Routh, on the occasion of his Toronto visit, took the first step toward eliminating inefficiency and prodigality in the remote western corner of the province. Learning that a body of regular troops under Majors Townshend and Read had just left for the west, Routh announced his intention of sending a commissariat to London and Amherstburg. ⁵¹

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⁵¹ Ibid.
The decision to regularize disbursements for military purposes in the west was but the harbinger of a major overhaul of the existing system now begun by the commissary general. He had never reposed much confidence in the civilly appointed board of audit, on which Foster had placed so much reliance. To his mind, the board was suspect on at least two counts: it was unfamiliar with the forms required by the home government, being content to recommend schedules of claims without an explanation of its reasons for doing so; and it performed duties which really belonged to the commissariat department. Upon receiving Assistant Commissary General Foote's complaint about the board's facility in passing claims, even before the Anderton-Whiting affair had come to his notice, Routh had tried to impress upon Foster the need for stricter adherence to treasury regulations, since the commissariat department, not the provincial board of audit, was ultimately responsible for accounting for expenditure. While Routh had, he said, no wish to bring the provincial board under the direct control of the commissariat, he thought the board should seek the advice of the commissariat representative in Toronto in any doubtful cases. Questions of liaison aside, however, the commissary general did not consider the board to be a proper tribunal for adjudicating claims. He intended to dispense with it entirely, as soon as was practicable, and place in its stead a review board of his own. He had, therefore, in accordance with a general order of 7 February, appointed Assistant Com-
ommissary General John Leggatt and Deputy Assistant Commissary General Thomas Wilson, as well as a commissary clerk, to proceed to Upper Canada shortly for the purpose of settling doubtful claims. As soon as this new commissariat board could assume their functions, the duties of the provincial board of audit would cease. In the meantime, Foster was asked to bear in mind the depressed state of the province's finances and to suggest to William Markland that he proceed with caution in examining claims and that he not recommend more than Routh had the ability to pay.  

52 By mid-February, then, Routh had set up a commissariat at Amherstburg to take charge of military expenditure heretofore vested in a provincial commissariat by authority of the civil magistrates. He had also, through the creation of a commissariat board of claims, provided for the early demise of the board of audit constituted by the civil governor of Upper Canada. All that was needed to make commissariat control over military expenditure complete was to repossess Colonel Foster's much abused authority to issue warrants and to restore it to its rightful owner, Sir John Colborne, to whom the commissary general had ready access.

Foster's approval of the claims of Anderton and Whiting was exactly what Routh needed to clinch the already strong case against the Upper Canadian commander which he had been building with Sir

52 Routh to Foster, 13 February, 1838. Vol. 147, pp. 148-152.
"C" Series, RG 8. PAC.
John. At Routh's instance, Foster had already been reminded by his superior that "no expenses that have been incurred can be paid by warrants on the Mily Chests, unless they are previously submitted to His Excellency (i.e., Sir John Colborne) and have received his approval." While neither Foster nor the commander of the forces would be made liable for the expenses which had been incurred by Head and continued, of necessity, by the officer commanding in Upper Canada, every appointment made by Foster since assuming the command "should have been previously referred to the Lt General, and the reasons fully stated for incurring any additional expenses on an emergency". Treasury board would decide whether the explanation was satisfactory or not. The military secretary's letter had closed with this stern reminder:

"The Regulations of the Treasury and the Secretary at War must now be strictly attended to, and you will endeavour to reduce the outlay in the Upper Province in any way in which it can be done with safety to the Public." 

It was here that matters stood when, on 18 February, 1838, four days after Military Secretary Rowan's letter to Foster, Routh transmitted to Colborne the letters and documents connected


\[54\] Ibid.

\[55\] Ibid.
with the cases of Anderton and Whiting, which he had received from Foote. Citing the "irregular and unusual" nature of the payments as his reason for bringing them under the special consideration of the commander of the forces, Routh wished now to "ascertain if it is his pleasure that Colonel Foster should continue to issue such Warrants". The matter, the commissary general intimated, was not one which Sir John could afford to take lightly since it was probable that "the (Imperial) Board of Audit will consider these payments as made under His Excellency's (i.e., Colborne's) responsibility". If Foster were allowed to continue as he had, he would exacerbate a situation already made critical by the commissary general's inability to raise the necessary funds to meet expenses which had now reached alarming proportions. Disbursements at Toronto for the month of January had amounted to £30,000 sterling, while those for the first week of February were in excess of £15,000 sterling and would, in Routh's estimation, continue at the same rate until restraints were applied.

In the light of these conditions, Routh had, pending a reply from Colborne, instructed Assistant Commissary General Foote to suspend any further payment of advances, notwithstanding any warrant from Colonel Foster. As the two commissariat officers comprising the board of claims were on their way to the upper province, he had likewise directed Foote to discontinue payment of the awards of the provincial board of audit at Toronto. 56

56 Routh to Military Secretary, 18 February, 1838. Vol. 147, pp. 137-140. "C" Series, RG 8. PAC.
If Sir John was not quicker to bless, he was at least slower to chide. As commander-in-chief he was ultimately responsible for Foster's actions and was acutely aware that he, as well as Routh, must answer to the home government for them. At the same time, however, with feelings over the army's handling of financial matters running high, it would not be politic to censure Foster's well intentioned efforts to overcome red tape. On 7 February, in response to a request from the House for information regarding militia pay arrangements and for an explanation of the delays attending payment of claims, Sir Francis Bond Head, in his own defence, had tabled his correspondence with Assistant Commissary General Foote. These documents clearly showed how the lieutenant-governor had been shorn of all real authority over the matters in question and how entire responsibility for them had devolved upon the military establishment. Thus exposed to direct criticism over the non-settlement of accounts, Colborne was reluctant to condemn outright the sincere attempts of his subordinate officer to obtain redress for the sufferers. His unwillingness to do so may have been attributable as well to pangs of conscience excited by Head's earlier charge that, by withdrawing the regular forces to Lower Canada without first consulting the lieutenant-governor, the commander-in-chief was largely to blame for the defenceless state of the upper province in the first place. Whatever


the reason, Colborne stopped short of stripping Foster of all authority and instead enjoined upon him the absolute necessity of abiding by regulations.

This continued to be his policy even after he had had time to examine the documents in the Anderton-Whiting affair. He recognized that, under the circumstances of the province's having had to employ the services of all volunteers who had flocked to the areas menaced by the patriots, "it became impossible to preserve order or regularity in the issues of pay & provisions". He was also willing to concede that, while he did not consider Foster, on his appointment as officer commanding in Upper Canada, to be responsible for paying militia and volunteers already embodied, a serious decline in morale would have occurred had he not provided for their payment. Colborne could not, however, "suffer the usual checks to be dispensed with in the issue of public money in all cases where the regulations ordered to be observed in the Commissariat Department can be complied with". Since there appeared to be no reason to set aside any of the regulations recommended by Routh (Head's representations to the contrary notwithstanding), Foster was instructed "not (to) sign any warrants for the pay &c of Troops without demanding the usual Vouchers". 59

Having refused to go along with Routh's implicit suggestion that Foster be relieved entirely of his authority to issue warrants, Sir John offered the commissary general an explanation

59 Goldie to Foster, 20 February, 1838. Vol. 1273, pp. 4-7. "C" Series, RG 8, PAC.
of his failure to comply. In the process, he took care to point out that Routh's own subordinates were not altogether blameless and must, in justice, suffer whatever fate might befall Foster.

... no officer Civil or Military in Upper Canada can legally issue Warrants or Compel the Commissariat Department to pay any sum whatever from the Military Chest and that therefore it would have been his (Colborne's) duty to have superseded Colonel Foster, and the Deputy Commissary General who made issues on his warrants, for disobeying the instructions of the Lords of the Treasury had not the present critical state of the Province rendered it necessary that the expenses occasioned by the sudden calling out of the Militia and the formation of Volunteer Corps by the Lieut Governor should be provided for; and the Warrants (...) t. being ... for the pay and transport of the force actually authorized by the Lieut Governor to be marched to the frontier from their respective Counties, he could not without further information discontinue these payments or disband those Regiments which have been promised pay(), the Country being supposed by the Civil Government to require their services. 60

Although he had not carried his point with Colborne, Routh had attained his prime objective. With the bridling of Colonel Foster, the commissary general's control over military spending was virtually complete. The authority of Upper Canadian officers and officials to incur new expenses or approve unsupported old ones was effectively curtailed by the tight restrictions that had been placed on Foster. The easy scrutinizing of accounts outstanding was brought to an end with the phasing out of the provincial board of audit. With the adoption of these measures, the last trace of civil influence in matters of military expenditure had been eradicated.

60 Goldie to Commissary General, 14 March, 1838. Ibid., pp. 43-44.
Thus denied any voice in the settling of military accounts, the civil government would have to be content henceforth with assisting those persons who were clearly ineligible to receive compensation from the military chest. A beginning had already been made by the lieutenant-governor and the Tories who dominated the provincial parliament to compensate ultra loyal members of the Upper Canadian gentry who had suffered at the hands of Mackenzie and his followers. Head had broached the subject of indemnification in his speech opening the third session of the thirteenth parliament on 28 December, 1837. However, a bill introduced on 17 January that would have established a commission to ascertain rebellion losses failed to proceed beyond second reading and consideration by committee of the whole. Reasons for the assembly's reluctance to make provision for the appointment of losses commissioners at this time can only be a matter of conjecture. The provincial board of audit, appointed by Sir Francis Head on 8 January, had been in existence little over a week and had probably been functioning effectively for an even shorter period of time. The wide terms of reference of the Board may very well have encouraged members of the House to believe that they would be sufficiently comprehensive to obviate any such bill as the one under consideration. Claims not coming within the province of the provincial board would be few in number and easily disposed of by a select committee of the House without resort to a special board of commissioners whose creation would require enabling legislation and entail unnecessary expense. The way in which the assembly dealt with claims actually submitted to it, and
the fact that the committee which had drawn up the abortive bill believed losses would be "inconsiderable" lend credence to this explanation. 61

The first petition received, that of Robert Charles Horne of the County of York, 62 was referred by the House to a select committee which, on 2 February, reported on his claim to indemnity for the loss of his house, outbuildings and their contents. All subsequent petitions pertaining to property loss and damage occasioned by the rebellion received during the session were referred to the same committee, which reported on them, en bloc, on 24 February. 63 Both reports were, in turn, referred to the committee on supply. No resolution, however, issued from the latter committee recommending that the select committee's awards, totalling more than £4,600, be paid. Perhaps the amount of the awards was higher than expected or the view taken that the claims had not been adequately investigated, or both. Whatever the reason, interest in having the claims adjudicated by select committee waned and the alternative of appointing an independent commission of inquiry, which had languished during

61 Upper Canada. Legislative Assembly. Journal, 1837-38, pp. 120-121.

62 Dr. Robert Charles Horne (d. 1845) was born in England and was a surgeon in the Glengarry Light Infantry. He came to York after the War of 1812 and from 1817 to 1821 was King's Printer and editor of the Upper Canada Gazette. He then became the chief teller of the Bank of Upper Canada. His wife was a sister of William Gamble and Mrs. William Allan. In December, 1837, his home on north Yonge street was burned by Mackenzie, allegedly because it had been a meeting place for Toronto Tories.

the latter half of January and throughout most of February, once again gained favour in the assembly. Thus, with the process of adjudication at a standstill, Charles Richardson of the town of Niagara gave notice that he would introduce a bill to provide for the appointment of losses commissioners. The bill he brought in on 1 March limited the scope of the investigating commissioners to the claims of "certain inhabitants" and omitted any mention of a fund out of which losses should be paid. On 6 March, having been passed by both houses of the legislature, the bill received royal assent.64 Along with a bill to provide pensions to widows and orphans of militiamen killed on service during the rebellion.65

A last-minute attempt by the bill's author to have the House vote an amount sufficient to meet the award of the commissioners to be appointed, as well as their expenses, failed. One likely reason for the failure of the motion was a proviso that the commitment of funds for the purposes specified was to be made "in full confidence that any sum or sums advanced will be made good by Her Majesty's Government."66 To attempt, at this time, to foist on the imperial government liability for a handful of claims growing out of a civil disturbance which had gained its impetus from

64 1 Vic. cap. 13
65 1 Vic. cap. 44
within the colony and which had been checked by forces under the command of the civil governor would have been ill-advised. Such a course would, instead, be likely to prejudice the far more cogent argument in favour of British responsibility for claims resulting from foreign aggression, a line of thought then beginning to take shape in the minds of some colonial legislators. The British army, in the person of Colonel Foster, had assumed control of the militia on the pretext that the occupation of Navy Island by Mackenzie's band had constituted an invasion of the province by a foreign power. It could, therefore, be held that the imperial parliament, responsible as it was for defence of the Empire, was liable. Moreover, there was a possibility that the United States, which had affected the role of a disinterested bystander, could be made to admit the part her citizens had played in aiding and abetting the schemes for conquest promoted by emigre Canadians. If so, reparations could be exacted. Reparations if possible; if not, imperial liability. For the moment at least this seemed the most promising avenue for the legislators of the impecunious province to explore. Only when it ended in an impasse were members forced to follow the less agreeable route of providing funds out of the resources of the province.

In early 1838, the prospects of assigning responsibility were bright, and John Prince, who had witnessed first-hand the depredations of the patriots and their American allies, eagerly espoused the cause. It was the duty of the Melbourne government, "that
weakest of all Whig ministries", he had maintained in a letter to Civil Secretary John Joseph of 22 January, either to go to war with the United States "or exact ample pecuniary restitution". In fact, he had assured Joseph, his first act in the House would be to move an address to Her Majesty on the subject of the "connivance of the Governor of Michigan with the enemies of the Province".67

True to his word, on 5 February, his first day in attendance at the new session, Prince gave notice of motion of an address deploring the invasion of the province by citizens of the United States. The address he envisaged would also "beseech Her Majesty to demand from the Government of that country an indemnification for all the expenses of defending the Frontiers of this Province from invasion".68

All of Tuesday, a day fittingly set aside as one of "general Thanksgiving"... for our late deliverance from the Rebels & Invaders of this Province",69 Prince occupied himself in preparing for Wednesday's discussion of the invasion resolutions. On Wednesday he spoke to the resolutions concerning invasion of the Niagara frontier and destruction of the supply ship CAROLINE, and next day, the 8th, introduced and saw passed his own resolutions respecting the incursions of the patriots into the Western District and calling for reparations.

67 Prince to Joseph (Private), 22 January, 1838. Vol. 10, no. 1312. CI, RG 5. PAC.


69 John Prince, Diary, 6 February, 1838. op. cit.
During the next few days, Prince busied himself preparing the documents which were to accompany the appeal and, with Colonel Radcliffe, who had just arrived in Toronto, swore out an affidavit chronicling the events which had taken place on the western frontier during December and January. On 15 February, Solicitor General Henry Sherwood presented a draft address embodying the plea for reparations, supported by copies of the correspondence which had passed between John Prince and Stevens T. Mason, the governor of Michigan, and the affidavit of Prince and Radcliffe. The address was immediately given second and third reading and passed. 70

Here matters rested when Prince received word that an attack by the patriots across the Detroit River was imminent and he decided to return to Sandwich at once. Taking his leave of the lieutenant-governor on the 17th, he set out for home the next morning, proudly bearing the rank of "Colonel". This title, conferred on him on 9 February, but made retroactive to 26 December, 1837, 71 was to cling to Prince—and Prince to it—for the rest of his life. 72


CHAPTER 2: THE SETTLEMENT OF MILITARY CLAIMS, MARCH, 1838 – SEPTEMBER, 1838

Less than a fortnight after Prince's return home on 21 February, Leggatt and Wilson, who together made up the commissariat board of claims, commenced their duties at Sandwich. Leaving Montreal on the 21st of February, they had arrived on the shores of the Detroit in time to open their investigation on 5 March.

They had been warned by Routh to expect "very great irregularities ... in the overissue of Provisions to the militia and in the Tavern charges in the transit of these Corps to their several Stations". While the commissary general was hard-pressed to explain how the unauthorized expenditure would be met, he evinced a genuine concern for those unfortunate individuals who had furnished supplied in ignorance of the military system. In order that the hardship of these persons might be lessened, the commissariat officers were instructed to pay the portion of the claim that could be justified and to refer the remainder to the commissary general for the favourable consideration of the lieutenant general commanding. It appeared to Routh, however, that after the full reimbursement of such claims by the military authorities to the extent of the Army regulations, that the parties should be indemnified for their losses by the Provincial Government, or at all events that their claims should be submitted to the consideration and liberality of the

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1 Routh to A. C. G. Leggatt and D. A. C. G. Wilson, 14 February, 1838. Vol. 147, pp. 142-147. "C" Series, RG 8. PAC.
Legislature.\textsuperscript{2} The commissary general, in his own words, wished "to act in the most liberal manner that our Instructions will sanction", as "at the time, the public danger and the excitement consequent upon it, were the chief impressions on every man's mind, which hurried them on without any recollection of the expense which they were incurring".\textsuperscript{3} It was important that claims should be settled promptly. Not only were the services of Leggatt and Wilson required elsewhere but it was imperative that they act while the transactions were still recent and capable of being investigated. Furthermore, it was desirable that no outstanding claims or old accounts should carry over to spring, when a renewal of hostilities might occasion fresh demands on the commissariat.

The board were forbidden to recognize the appointments of the provincial commissaries, "either in regard to pay and allowances or accounts".\textsuperscript{4} They must base their decisions exclusively on the vouchers presented to them and on the word of the persons who had furnished the supplies. The other matters were sub-

\textsuperscript{2} Ibid.

\textsuperscript{3} Ibid.

\textsuperscript{4} Ibid.
jects of consideration for the provincial legislature which would decide upon what was proper for the province to disburse, and what it might be fit to recommend for payment by the home government. 5

Routh's refusal to permit the commissariat board to recognize the provincial commissariat officers or the transactions executed on their authority proved a major obstacle to the expeditious settling of the claims of the Western District. William Anderton, from the beginning, protested against the denial of the legitimacy of his appointment. In the absence of a commissariat department to provide for the needs of a destitute militia, he had, he averred, been requested by the magistrates to act as commissary, "and themselves and the Colonel Commanding appointed me as such". 6 On his arrival as the officer commanding the Western District, Colonel Radcliffe had asked Anderton to continue to exercise his functions. Colonel Foster, by sanctioning an advance to liquidate certain claims against the commissariat for provisions furnished to the troops, had given tacit consent to the appointment, which had been officially recognized by that officer in a general order of 1 February. 7

5 Ibid.

6 William Anderton to Leggett and Wilson, 7 March, 1838. Ibid., pp. 183-184.

7 see After District Order, No. 3, 1 February, 1838. Ibid., pp. 185-186.
The unimpeachable authority upon which Anderton's appointment appeared to rest caused no small degree of consternation, especially, as Leggatt and Wilson observed, "nearly all the claims against Government have been contracted on his and similar authorities". 8 Unusual, unnecessary and unsupported though most of the claims were, there seemed to be no doubt that the goods and services had been supplied, often under duress, and it was only fair that the accounts should be paid. Unfortunately, under the instructions they had been given, Leggatt and Wilson found themselves "almost unable ... to pay any account that has been presented". 9 Their dismay at the extent and irregularity of the claims imbued them with a sense of futility which did not augur well for the success of their mission from the standpoint of the claimants. After only four days of receiving claims, the commissariat officers glumly reported that they were "almost now assured that they could never be satisfactorily arranged". 10

If the two officers who comprised the commissariat board of claims were willing to concede defeat, the magistrates of the Western District were not. At 5 p.m. on 10 March, two days after

8 Leggatt and Wilson to Commissary General, No. 2, 8 March, 1838. Ibid., pp. 179-182.

9 Ibid.

10 Ibid.
the gloomy assessment of the situation by Routh's deputies, the magistrates, headed by John Prince, met to draw up a memorial to Sir John Colborne. In it they reviewed the circumstances under which the debts of the Western District had been incurred, and complained that Leggatt and Wilson appeared "unwilling to act with that consideration and liberality which the circumstances and exigencies of the Country justify and which your memorialists firmly believe our Most Gracious Queen would gladly sanction". Such a course, if persevered in and approved of by the commissariat at Quebec, would, they claimed, result in certain ruin to Her Majesty's subjects in the Western District. Lest this should be allowed to occur, the magistrates deputed Robert Mercer, one of their fellows, to proceed to Montreal, where he was to present their grievance to His Excellency, Sir John Colborne, giving, at the same time, a full explanation of the circumstances which had inspired the complaint. So important was Mercer's errand thought to be that

11 Memorial of the Magistrates of the Western District to Sir John Colborne, 10 March, 1838. Vol. 191. Upper Canada Sundrys, AL, RG-75. PAC.

12 Robert Mercer (1784-1849) came to Canada with his family in 1833 and settled on farm no. 86, present-day Mercer Street. A gentleman of education and wealth, he had been connected with a large mercantile business in London, England. Soon after his arrival he was named to the magistracy and continued throughout his life to play a prominent part in the public life of the community. He died in Windsor in 1849 and was buried in St. John's churchyard, Sandwich.

13 Memorial of the Magistrates of the Western District to Sir John Colborne, 10 March, 1838. OP. 615.
he was induced to leave for Montreal the very next morning, his hasty departure preventing him from collecting representative accounts to show the commander of the forces.

In the meantime, Leggatt and Wilson continued to draw attention to the difficulties they faced. All manner of items had been furnished on the requisition of persons ostensibly authorized to make such impressments and had been yielded up on the understanding that government would make good the loss. Failure of the provincial commissary officers to document their transactions properly was the crux of the problem and posed a serious dilemma. On the one hand, it would be impossible at that late date to secure proper signatures of the persons who required the goods and who must certify to their having been provided; on the other, it would be unjust to reject altogether the demands of those who had acted in good faith.\footnote{Leggatt and Wilson to Commissary General, No. 3, 11 March, 1838, Vol. 147, pp. 187-192. "G" Series, RG 8, PAC.}

In the light of his subordinates' reports emphasizing the key role played by the provincial commissaries in instigating charges against the government, Routh could not remain steadfast in his refusal to recognize Anderton's works, however much he might resist the idea that Anderton enjoyed any military standing. In his reply to Leggatt's and Wilson's first report, he enlarged on his view that the manner of the Sandwich commissary's appointment pre-
vented him from being considered as anything but a provincial official. As for the accounts which Anderton and his brother commissaries were responsible for, abstracts of all claims outstanding at Sandwich, along with one set of the vouchers, were to be sent to Routh at Montreal. He would, on receipt, immediately lay them before the commander of the forces and notify the commissariat board of Colborne's decision without delay. Funds for payment would not, of course, be provided until the amount required was known.  

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In a second letter, dated 30 March, by which time he must have been in possession of Leggatt's and Wilson's second report, of 11 March, Routh displayed a more accommodating attitude. He now appeared willing to recognize the transactions entered into by the provincial commissaries but insisted on more elaborate controls over the accounts rendered. Laying aside for the moment the question of whether claims incurred before the transfer of the command to the military authorities might be considered a provincial responsibility, he instructed the commissary officers to set an absolute deadline on the submission of claims. Every attempt was to be made to secure supporting documents for the vouchers received so that accounts could be made "as regular and as correct as the circumstances will admit". Vouchers were then to be classified into

15 Routh to (Leggatt and Wilson), 22 March, 1838. Ibid., pp. 179-180.
an abstract and an opinion rendered by the commissary officers
on whether the charges were equitable or not. Charges were to
be considered as equitable if they were "furnished on the requisi-
tions of persons specially appointed for this purpose under the
authority of the Provincial Government". Such a criterion would
prevent the consequences of "mismanagement" by those holding
the appointments from being visited on the innocent tradesman
and shopkeeper. Proof of appointment by the civil government
of persons making purchases, and any evidence of their having
been recognized by the military authorities, were to be sent along
with the abstracts. While Routh did not expect that these arrange-
ments would produce a satisfactory solution to the problem of
claims, it was, he believed, as far as the commander of the
forces could be expected to go. It was only for the reason that
the faith of the government had been pledged that he was involved
at all. It would then be up to the home government to determine
the extent to which the province should be held liable. 16

In the midst of the efforts which were being made to devise
an acceptable means of liquidating claims, Sir George Arthur, the
new lieutenant-governor, arrived in Toronto. A military man with a
distinguished record in the Napoleonic Wars, Arthur had also
rendered noteworthy service as a colonial administrator. He had

16 Routh to (Leggatt and Wilson), 30 March, 1838. Ibid., pp. 187-
191.
held the lieutenant-governorship and military command of British Honduras from 1814 to 1822 and of Van Dieman’s Land from 1824 to 1837. 17

As was the case with his earlier postings, Arthur came to Upper Canada as both lieutenant-governor administering the civil government and major general commanding the troops there. He thus replaced both Sir Francis Bond Head and Colonel C. C. L. Foster, being sworn in as the former’s successor at 2:30 p.m. on March 23, the day he arrived in the capital, and superseding the latter on the same day. Arthur had insisted on the military command as a condition of his accepting the lieutenant-governorship, the better to avoid being drawn into the jurisdictional conflicts in which Sir Francis Bond Head had been caught up and which were so much in evidence on Arthur’s arrival.

The new lieutenant-governor’s involvement in military matters prompted him to take an early and abiding interest in the adjustment of accounts. Having journeyed to Toronto via New York, Albany and Niagara, Arthur had lost an opportunity to discuss the question of military expenditure directly with Colborne, his military superior, and therefore was obliged to form his own opinion on the

17 Sir George Arthur (1784-1854) was born on 21 June, 1784. Entering the army in 1804, he participated in the expeditions to Italy in 1806, Egypt in 1807, Sicily in 1808 and Walcheren in 1809. In 1814 he was appointed lieutenant-governor of Van Dieman’s Land. He returned to England in March, 1837 and at the end of the year was sent to Upper Canada as lieutenant-governor. He later served as governor of Bombay and died on 19 September, 1854.
basis of an empirical assessment of the situation he found. He had noted almost immediately upon his arrival the "effect of clashing authority", which was nowhere more evident than in matters connected with military spending.

Colonel Foster could furnish me with no return of the Militia Force. He could only guess he told me the strength of the force employed. There was a want of cordiality between Sir Francis Head and himself—the Commissary would obey neither—persons were handed from Office to Office with their Pay Lists and accounts and the Military Authorities were half disposed to turn restive. As it is I find many expenses have been incurred partly by the authority of Sir Francis and partly by the Authority of Colonel Foster(1). 19

While it may have been difficult for Arthur to elicit specific information from the officials he found in charge, it is difficult to imagine that these same officials were remiss in acquainting him with the Commissary General's approach to losses and the evils which had ensued. Nor is it unlikely that the aggrieved themselves lost any time in importuning Arthur, as they had his predecessor, for the prompt settlement of claims outstanding. Even in the unlikely event that Arthur was not immediately made aware of the discontent being generated by failure to liquidate the accounts, he did not remain in ignorance for long. On 24 March, Sir John Colborne addressed a private letter to the new lieutenant-governor, informing him on matters which, he would, no doubt, have discussed with Sir George personally.


19 Ibid.
had the latter proceeded to Toronto by way of Montreal. Prominent among these was the information that had been conveyed to the commander of the forces by Colonel Foster, "that much discontent prevails in the Western District, in consequence of the claims on the Military Chest, having remained for some months unsettled".

In this connection, Colborne explained to Arthur how he had been "compelled to attend to the representations of the Commissary General respecting the irregular payments which have been made, and the danger of allowing the issue of warrants, without vouchers(.)."\(^{20}\)

The differences which he had had with Routh over Colonel Foster’s assumption of the authority to issue warrants had, however, failed to nonplus the commander-in-chief. Seeming not to relish fiscal responsibility, Sir John stood ready once more to see the authority in question delegated to the officer commanding in the upper province. He should, he told Arthur, "have no hesitation in conveying to you full authority to issue warrants for the payment of all claims on the Military Chest, without reference to Head Quarters", and suggested that, "by your appointing an experienced Assistant Military Secretary, assisted by an Officer of the Commissariat Department, the outstanding accounts might be examined and audited at Toronto; by your authority, and settled".\(^{21}\)

Taking Colborne at his word, and anticipating that official notification of his power to issue warrants would soon be forthcoming, Arthur set about implementing the measures which the

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21 Ibid.
commander of the forces had intimated would facilitate the processing of claims. Subject to Colborne's approval—which was given in a general order of 11 April—the lieutenant-governor named Captain Frederick Halkett, Coldstream Guards, formerly aide-de-camp to Sir Francis Bond Head, as his assistant military secretary.

At this juncture, Arthur was under the impression that the need for reform of the commissariat was self-evident and that it was recognized by Colborne and Routh as well as himself.22 Sir John had, on his own initiative, expressed a willingness to have the accounts settled locally and proposed the appointment of two officers who would make such an arrangement feasible. The commissary general, whom Arthur might reasonably have supposed to be privy to Colborne's plans, also seemed disposed to work toward that end. "Certain that there is no economy in placing a large and important expenditure under a superintendence too weak in numbers or experience to watch over it",23 Routh had, as early as 12 March, applied to the Treasury for an increase of staff. He required additional personnel to serve the growing number of troops being deployed along the extensive water frontier of the Canadas and also to permit him to place the commis-


sariat at Toronto under a senior officer. Thus Arthur, on being notified of the move, had every reason to believe that "the Commissary General himself was so sensible of the detriment of this state of things to the Public, that he had recommended to the Lords Commissioners of Her Majesty’s Treasury that a Deputy Commissary General should be forthwith despatched to Canada to take charge of the Department in the Upper Province". 24 Any lingering doubts Arthur may have had about the construction he had placed on the information reaching him was dispelled on his being told by the commander of the forces that he, Colborne, intended to see that an efficient commissariat officer had general charge in Upper Canada "as soon as a Deputy Commissary General arrived". 25

Firm in his belief that he, Routh and Colborne were pursuing a common objective with respect to a more autonomous Upper Canadian commissariat, Arthur, in his first despatch to the colonial office on 29 March, recommended that the scheme be carried to its logical conclusion and that the commissariat of Upper Canada be made entirely independent of commissariat headquarters in Quebec. The lieutenant-governor gave as his reasons for proposing such a radical reorganization that present arrangements made it impossible for him to obtain any information on disbursements which had actually been made, the extent of the expenditure incurred each day and the

24 Arthur to Spearman, 2 August, 1838. op. cit.

claims which remained outstanding. The commissariat of Upper Canada as it was presently constituted was responsible, he claimed, for impeding the public service, greatly increasing expenses and contributing to the widespread dissatisfaction in the province. These evils would be obviated by placing at the head of the Upper Canadian branch of the commissariat an officer of rank who was directly accountable to the Treasury. As it was, no principal officer resided in Toronto; the subordinate officer in charge had no authority to act without first submitting every important matter to the commissary general, who was stationed some five to six hundred miles away; and the various officers at the several stations in the upper province were directly accountable to Routh, making it impossible for Arthur to know anything about their work or to obtain essential information or assistance from them. Disavowing any wish to reflect on Routh, Arthur nevertheless maintained that changes were absolutely necessary and cited his Australian experience both as a precedent and as proof of the advantages to be gained from decentralization. 26

In a letter of 5 April, in reply to Colborne's of 24 March, Arthur adduced the same arguments in favour of a separate commissariat for Upper Canada without, however, mentioning the fact that he had, the previous week, written to urge these very points on the colonial secretary. Rather, he confirmed the accuracy of Foster's report of discontent in the Western District and pointed out the great importance of coming to grips with the problem of claims. Much as he sympathized with the difficulty Colborne

faced in ensuring that proper vouchers accompanied all accounts rendered, Arthur strongly implied that, for the sake of future good will, the rigorous application of regulations should be mitigated. A more equitable system of liquidating claims could be brought about by altering the commissariat department, the whole of whose arrangements, it must have occurred to Colborne, were very objectionable. Adoption of the system of two commissariat departments operating within the same military command, such as Arthur had implemented in the Australian colonies, would work to the advantage of the province and would make possible the local settlement of accounts which the commander of the forces seemed to favour. 27

In seeking to have the imperial government alter the structure of a department over which he exercised only limited authority, Arthur had, he learned to his chagrin, clearly overreached himself. He had placed too much stock in the pledges of Sir John Colborne and had reckoned too little with the single-mindedness and pervasive influence of Commissary General Routh. Routh's unswerving devotion to the canons of treasury board orders and army regulations made him a formidable adversary of those whose faith he conceived to be founded on the sands of expediency and self-aggrandizement. Head and Foster had already paid the penalty of apostasy. So Sir George Arthur, once he had betrayed a want of regard for orthodoxy, must be prevented from leading his superiors

into error.

Even before Sir George had broached the subject of a completely separate commissariat for Upper Canada in his letter of 5 April, it was becoming evident that Colborne was having second thoughts about surrendering to the lieutenant-governor the authority to issue warrants. In contrast with his earlier eagerness, he seemed increasingly reluctant to make any permanent arrangements for the settlement of claims without first conferring with the commissary general. Confronted in the meantime with the memorial of the Western District magistrates complaining of the treatment claimants were receiving at the hands of Leggatt and Wilson, the commander of the forces cast about for a temporary solution. On 4 April, Military Secretary Thomas Leigh Goldie wrote Colonel John Maitland, the officer commanding the Western District, explaining the difficulties which had confronted Sir John as a result of the commissariat board’s reluctance to pass extraordinary claims. It was Colborne’s desire, therefore, "in such cases, to prevent the delay which would occur, by transmitting them to Head Quarters, that they may be referred to you for your decision". In response to Maitland’s request for clarification of these instructions, Goldie pointed out, in a letter of 24 April, that it was cases in which the commissariat board could not act without orders which


Colborne had intended to leave to Maitland's discretion. He added:

His Excellency sees no other mode by which the just claims of individuals can be settled, but in cases where the amount claimed is considerable, it may be desirable that they should be referred to Head Quarters with such observations as you may be enabled to offer. Sir John Colborne desires me to say that you will consider this letter sufficient authority to act upon...

Arthur, meanwhile, still expecting confirmation of his authority to issue warrants, remained ignorant of the arrangements being hastily improvised by Colborne. He had, on 30 March, had an hour-long meeting with John Prince and several other persons from the Western District who had been summoned to Toronto to give evidence against Edward Alexander Theller, Thomas Jefferson Sutherland, and other prisoners taken in the west during January and February.

Goldie to Maitland, 24 April, 1838. Ibid., pp. 119-120.

Edward Alexander Theller (1804-1859) was born in Ireland on 13 January, 1804. He emigrated to North America as a young man and, for a time, studied and practised medicine in Montreal. Joining the patriot forces on the border in 1838, he commanded the Schooner Anne, which was captured at Elliott's Point, near Amherstburg, in January, 1838. Tried and originally sentenced to death, he had his sentence commuted to transportation for life. In October, 1838, he escaped from the citadel at Quebec and fled to New York. From there he made his way back to Detroit, where he continued to promote the patriot cause through a newspaper entitled Spirit of '76 and Theller's Weekly Republican Advocate. He died in California in 1859.

Thomas Jefferson Sutherland, a solicitor and journalist of Buffalo, New York, was appointed by William Lyon Mackenzie to be second-in-command, under Rensselaer Van Rensselaer, of the patriot army on Navy Island. From there he was sent to the Detroit frontier, where he led the band that took possession of Bois Blanc Island in January, 1838. He and a companion were captured by John Prince on the ice of Lake Erie following the expulsion of the patriot force from Pelee Island in March, 1838. His capture and trial were ultimately held to be irregular by the British government and, after several months imprisonment at Quebec under sentence of banishment, he was allowed to return to the United States.
A recapitulation of the matters they had discussed was submitted to the lieutenant-governor a few days later. While unsettled claims figured prominently among the subjects they had felt constrained to bring to Arthur's notice, the delegation declined to press the matter further until they had received a reply to the memorial that had been addressed to Sir John Colborne. 33

Arthur, too, wished to be enlightened. In an effort to obtain more information concerning the matter of claims outstanding, Civil Secretary John Joseph, on behalf of the lieutenant-governor, wrote Assistant Commissary General William Howe of the Toronto commissariat on 9 April. Sir George was, Joseph said, interested in knowing what steps had been taken by the commissary general for the settlement of claims for supplies furnished to the militia during the rebellion. He was also interested in learning whether any general directions could be furnished to the claimants respecting the form in which accounts were to be rendered and the channels through which they were to be submitted. 34 In reply, Howe volunteered only the information that a commissariat board had been appointed for the purpose of settling these claims, that it was currently sitting at Ambersburg, and that it was to proceed

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33 Memorial of John Prince and others to Lt. Gov. Arthur, 1 April, 1838. Vol. 10, no. 1370. Cl, RG 5. PAC.

34 Joseph to Howe, 9 April, 1838. Vol. 44, p. 84. Civil Secretary's Letter Books, Upper Canada, GL6C, RG 7. PAC.
to Toronto once the claims of the London, Western and Gore Districts had been settled.  

The lieutenant-governor could scarcely have taken any comfort from this reply. Such a noncommittal answer suggested either that nothing was being done beyond what had already proven unsatisfactory or that he was being deliberately kept uninformed of new arrangements. Already anxious about the rising tide of discontent which he was powerless to stem, Arthur's concern was heightened by the receipt of a letter, dated 11 April, from Robert Mercer, the emissary of the Western District magistrates. Enclosing copies of the magistrates' memorial to the commander of the forces, his own statement to Sir John Colborne and the reply he had received from Assistant Commissary General J. B. Price, Mercer stated that he had been assured by Colborne that "everything that has been expended necessarily, by the Magistrates for the use of the Militia, and Volunteers, shall be paid for". This statement attributed to Colborne implied, if it did not confirm, that some kind of arrangement for the liquidation of claims had already been made or was at least in the offing.


Unsettled by Mercer's disclosures and unable to learn much locally about plans being formulated for discharging the outstanding claims, Arthur wrote at last directly to Colborne. Borrowing heavily from Mercer's statement in order to make a compelling case for the prompt payment of claims, the lieutenant-governor began by questioning the wisdom of disbanding the former provincial board of audit. The effect of this action was that "a great many very respectable but needy traders have been kept out of their money." His purpose in writing, he hastened to add, was not to reflect on Routh, whose reasons for acting as he had were probably very sound.

... my only wish is earnestly to beg, that as the distress is most urgent, and as the bad feeling in consequence is hourly increasing, your Excellency will have the goodness to give such directions as you may think necessary for the adjustment without further delay, of whatever claims are equitable and just. 39

Two days later, in case there should be any doubt in Colborne's mind about what Arthur thought those directions should be, the lieutenant-governor followed up his communication of 23 April with a letter marked "private". After apologizing for again troubling the commander-in-chief with money matters, Arthur got directly to the point: "As you were so good as to mention in your letter of 24th ultimo, that you would empower me to issue Warrants[,] in the expectation of receiving that authority I put off the complaining parties from day to day until their increasing impolicy.


39 Ibid.
and dissatisfaction obliged me to appeal to you in their behalf. 40

The question had been directly put. Further equivocation was neither possible nor, as it happened, necessary. Colborne, who had been playing for time until he could discuss the settlement of claims with the commissary general, now felt free to state his position with greater precision. Routh, whom Colborne had invited to confer with him in Montreal, had been prevented by illness from leaving Quebec for several weeks. He had arrived, at last, on 29 April, the morning after Colborne had received Arthur's letter of the 23rd of April. Although at the time of writing no arrangements had yet been worked out between the commander of the forces and the commissary general, it was obvious from the tone of Colborne's letter of reply to Arthur that Sir John had undergone a change of heart with respect to the issuing of warrants. In view of the extravagance which was evident in the Western District and of the commissary general's complaints of increasing expenditure throughout the province, Colborne had resolved not to alienate his power to issue warrants after all. "I could not," he wrote, "permit warrants to be issued without enquiry and adopting such means as would justify me in sanctioning the payments in question to be made from the Military Chest." 41

Most likely Sir John had been persuaded to retain the power to


41 Colborne to Arthur, 29 April, 1838, in Ibid., 91-92.
issue warrants by Routh, for his decision was very much in keeping with the plan for paying claims finally outlined by the commissary general on 1 May. Confronted with a variety of accounts which had been submitted to Leggatt and Wilson at Sandwich and Amherstburg, Routh was anxious to determine "the principle, & course, by which these claims shall be collected and paid". To enable him to do so, he wanted the board of claims to sit at Chatham, London and Hamilton before returning to Toronto. Once the board had arrived back in Toronto, he proposed that the accounts received "should be classed into abstracts for each Post, and as they are completed to be submitted to the Major General Commanding (i.e., Arthur) for his approval, & forwarded forthwith to the different Commissariat Posts for payment". An abstract in triplicate of the sums paid would then be sent to the office of the military secretary for the covering warrant of the commander of the forces. In proposing these arrangements, however, Routh wanted it clearly understood that he in no wise countenanced payment of accounts which were inadequately supported. "The only principle upon which this payment is now made", he insisted, "is to redeem the good faith of Her Majesty's Government which has been pledged under the authority of His Excellency Sir Francis Head".

On 2 May, Military Secretary Goldie sent Arthur a copy of the

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42 Routh to Goldie, 1 May, 1838, in ibid., 93-95.
proposals and stated that the arrangements had met with Colborne's approval. 43 Next day, Routh himself was notified that the commander of the forces approved of his plan, 44 and on the 10th of the month Colonel Maitland was informed that, as a new scheme had been devised for the settlement of claims, he was to disregard the instructions he had been given earlier. 45

A slight misunderstanding between Colborne and Routh momentarily threatened to interfere with implementation of the plan but their differences were quickly resolved. In his letter conveying Colborne's approval of the new arrangements, Goldie had inadvertently stated that the commander of the forces concurred in Routh's view that Her Majesty's Government stood pledged to pay such accounts "as may appear just". 46 Routh seized upon the word "just" and maintained that the insufficiency of supporting documents precluded any of the claims from being considered "just" from his point of view. The "justice" of the claims was, in his opinion, a political rather than a financial question. If Colborne deemed it his duty to settle accounts which were "just" from a political standpoint, then it might be desirable "that His Excel-

43 Goldie to Arthur, 2 May, 1838, in ibid., 96.
45 Military Secretary to Maitland, 10 May, 1838. Ibid., p. 151.
lency's authority should be delegated for this special service (with a view to despatch) to His Excellency Major General Sir George Arthur who should be empowered to issue the Warrant in His Excellency's name. Colborne, having been shown a way by which he could delegate responsibility without surrendering authority, was not eager to embrace an alternative under which the reverse would be the case. Goldie, in reply, therefore, found it expedient to explain that the commander of the forces had meant only that, to his mind, Her Majesty's government were pledged to pay even unsupported claims when it could be established that the services had been performed and the articles supplied. Since the proceedings of the comissariat board were to be submitted to Sir George Arthur for approval, he would be the final arbiter of what was "just" in this sense. Under these circumstances, there was no need to deviate from the plan put forward by Routh on 1 May. The plan was accordingly put into effect.

Despite the implementation of a scheme designed to rectify the worst instances of government default, Arthur's complaints continued unabated. He was obviously piqued at not having been invited to participate in drawing up the new arrangements, which seemed to leave him with a good deal less.


49 see Military Secretary Rowan to Arthur, 12 June, 1838; and Rowan to Commissary General, 19 June, 1838. Ibid., pp. 52-53.
authority than he had been led to expect would be his. Replying on 17 May to a petition from Port Sarnia complaining of delays experienced there in the settlement of claims and calling for the appointment of a review board to sit at that place, Joseph accurately reflected the pettish mood of the lieutenant-governor: "His Excellency regrets most sincerely that every effort he has made in behalf of these claimants has been unavailing—the commissariat department not being in any measure under his control".50

If Arthur was irked by the conduct of Routh and Colborne in excluding him from their councils, they were no less annoyed by his own failure to consult with them. His representations to the colonial office on behalf of a separate Upper Canadian commissariat had been made without the knowledge of the two men most vitally concerned. Whatever might have been his opinion of the merits of the proposal, Colborne was persuaded that Arthur, although a colonial governor in his own right, had exceeded his authority as a subordinate military officer in making recommendations for reform of a department which came directly under the commander of the forces. Thus, in the controversy that the lieutenant-governor's suggestion precipitated, the issue of civil versus military jurisdiction tended to obscure the primary question of providing for the expeditions settling of the claims.

outstanding. The criticisms on which Arthur had founded his
case were ultimately held not to be valid since, it was contended
— with some justice — that any inefficiencies which did exist in
commissariat operations had grown directly out of interference
with the regular workings of the department by the civil governor,
Sir Francis Bond Head. With the readmission of military control
over the department, there would be no recurrence of the abuses
complained of by Arthur and, therefore, no changes in the organi-
zation of the department were necessary. As for the debts incurred
under Head's authority, the commissary general had every right to
demand vouchers or other supporting documents as a safeguard against
fraud. 51

51 See the following: Arthur to Glenelg, 24 April, 1838. Vol. 404,
PAC.; A. Y. Spearman, Draft Minute, 18 May, 1838. Ibid.; A. Y. Spear-
185. "Q" Series, MG 11. PAC.; Spearman to Arthur, 30 May, 1838.
Vol. 407, pt. 1, pp. 167-171. Ibid.; Glenelg to Arthur, 1 June,
Stephen, 13 June, 1838. Vol. 252, pt. 2, pp. 298-299. "Q" Series,
MG 11. PAC.; Arthur to Spearman, 2 August, 1838. No. 18800, bun-
dle 8274, pp. 29-38. TL, D, MG 12. PAC.; Arthur to Glenelg,
MG 11. PAC.; Routh to Spearman, 10 August, 1838. No. 18740, bun-
dle 8274, pp. 47-51. TL, D, MG 12. PAC.; Colborne to Spearman,
No. 118, 31 August, 1838. No. 9678 18/5, bundle 8274, Ibid.;
Rowan to Arthur, 5 September, 1838. Vol. 204. Upper Canada
Sundries, AL. RG 5. PAC.; Stephen to Spearman, 15 September,
1838. No. 19760, bundle 8274, p. 52a. TL, D, MG 12. PAC.;
Arthur to Colborne, 20 September, 1838, in C. L. Sanderson,
The Arthur Papers, I, 277-280.; Arthur to Colborne, 24 September,
1838. Vol. 17, pp. 4990-4993, Colborne Papers, AL. MG 22. PAC.;
Arthur to Spearman, 2 October, 1838. Bundle 8274, TL, D, MG 12.
PAC.; Arthur to Colborne, 14 October, 1838, in C. R. Sanderson,
The Arthur Papers, I, 303-305.; Arthur to Colborne, 25 October,
During the time that commissariat reform was before the home government, Colborne made several attempts to placate Arthur but to little avail. The lieutenant-governor refused to be appeased by Sir John's solicitude in hoping that the arrangements would prove satisfactory or by his admission that great allowance should be made for the circumstances under which the debts had been incurred. Nor was he wholly convinced that the possibility of fraudulent accounts being presented justified the commissariat in instituting a strict and protracted inquiry into all claims. In the face of Arthur's persistent complaints, Colborne was, on 6 July, moved to make what he regarded as a major concession to the Lieutenant-governor. He had heard nothing from the commissary general about the conditions which Arthur had alleged were still causing delays in the settlement of accounts, except that Routh had made arrangements for satisfying every claim he could within the limits of regulations. "If however there are still claims which your Excellency would recommend to be discharged", he offered, "it will be better that the Government should not require the usual vouchers and lose by imposition than that the excitement should continue." I will therefore authorize all claims to be settled which Your Excellency may be of opinion ought to be paid." Significantly, the commander of the forces was on a tour of Upper Canada at the time.


53 Colborne to Arthur, 6 July. Ibid., pp. 226-227.
this proposal was made and presumably had had an opportunity of making a first-hand assessment of the situation that existed there. 54

In offering Arthur virtual carte blanche to dispose of the claims, Colborne had, according to the lieutenant-governor, missed the point the latter had been trying to make. Arthur denied that he was advocating that any of the accounts should be passed without question. He was concerned only that they be adjusted equitably and with despatch.

... the delay, resulting in a great degree, ... from constant reference to the Commissary General, who was residing in the Lower Province — and the manner of adjusting the accounts by the Commissariat officers, who struck out whatever items they deemed inadmissible without any arbitration — or, without assigning any reason to the creditor, as the complainants alleged — and, the regulation that provided, unless accounts were rendered in a particular form and at given times and places, they could not be received at all; — it was, I am of opinion, these concurrent causes which were deemed unjust and arbitrary by the Community, that created the sensation ... , and which I so much desired to have removed. 55

It was a conviction that the commissariat department was incapable of conducting its business promptly and with equity that had prompted Arthur to agitate for reform of the department in the first place. Since he had made the suggestion, however, it had become increasingly difficult to argue that accounts were not being adjusted with all possible speed. In the interim, Arthur had been made aware of the existence of the commissariat board whose


55 Ibid.
work Routh was anxious to have completed as soon as possible. Under the commissary general’s plan of 1 May, the lieutenant-governor had been vested with the responsibility, if not of actually issuing warrants, at least of approving abstracts of claims for which covering warrants would not likely be withheld. In fact, abstracts of claims which he had approved for payment were being transmitted for the covering warrant of the commander of the forces by mid-July. Even if legitimate cause for complaint had remained, the chilly reception which had greeted his proposal in London must have convinced Arthur that reorganization of the commissariat as a way of eliminating delays was out of question. Seeing no prospect of expediting the liquidation process, Arthur now sought to secure for those who had furnished supplies and services the full amount of their claims. While he did not cease to decry the length of time it was taking to settle accounts, his real concern was with the manner in which many apparently valid accounts were being disallowed. He continued also to press for commissariat reform, but did so now more with a view to bringing about greater efficiency in the payment of current accounts. In this respect he achieved a measure of success.

The scrupulousness with which Leggatt and Wilson had investigated accounts and the allegedly cavalier fashion in which they had struck down those not explicitly allowable under regulations resulted


in a deluge of complaints from the Western District. The remonstrances had begun to come in very early in Leggatt's and Wilson's mission and they continued to be addressed to the lieutenant-governor long after the commissariat board hearings had been closed out on 4 June. New instructions which Wilson had been summoned to Quebec to receive seem to have made little difference in the commissariat officers' practice of following regulations to the letter. The deputy assistant commissary general's absence on a journey of some seven hundred and seventy-five miles to receive the new directions, far from helping to remedy a grievous situation, had in fact only made it worse by causing a delay of several weeks in the adjudication of claims.

As complaints continued to flood in, Arthur became more and more convinced that a looser construction should be placed on the regulations governing claims. Acting on a suggestion that had come to him from the claimants themselves, he proposed that the board of claims should be replaced, or at least assisted in its deliberations, by persons not connected with the commissariat department.

In this way, he believed, greater allowance would be made for the

58 See, for example, "Resolutions adopted at a Public Meeting of the Inhabitants of the Western District, held at the Court House in Sandwich, on the 9th June 1838". Vol. 406, pp. 100-101. "Q" Series, MG II. PAC.

peculiar circumstances which had resulted in many of the claims being irregular. His own view of how the claims should be dealt with came very close to coinciding with that of Western District Sheriff, Robert Lachlan. In the latter's opinion, the "shortest plan (considering the trivial amount in a National point of view) would be to pass every reasonable vouched account, without deduction, & look sharp out for the future".

Commissary General Routh, seeing that Arthur's solution would virtually negate the work of the commissariat board, emphatically rejected the idea as soon as he received his first intimation of it, and repeated his objections a few weeks later. If Arthur's proposal to set aside the examination of the commissariat board in some cases and to allow the claimant the full amount of his demand were done in one instance, he cautioned, "it would be difficult to avoid in others; for every one entertains a favorable opinion of his own claims, and the objection to a revised or further consideration being overcome, no one would be satisfied, whatever might be the grounds, to be excluded from the benefit".

60 Ibid.


On 14 September, 1838, the work of the commissariat board, appointed under the authority of the commander of the forces and sanctioned by the lords of the treasury, had been completed "in every instance, where there was a certificate or a voucher to authorise the payment". The papers had then been removed to Quebec to be put in proper form for transmittal to the board of audit at home. Since the accounts considered by the two commissariat officers had not been entered into at Routh's behest but on the orders of persons appointed by the provincial authorities, the commissary general's duty, as he saw it, was to see that payment of the expenses involved was assimilated as much as possible to army regulations. That having been done, Routh believed his responsibility was at an end. It was for Sir John Colborne to "judge of the expediency of departing from the course of examination, which has been pursued in this duty, whether such a precedent would be prudent, from its tendency to encourage dissatisfaction in others not deriving benefit from it, and to lead to the inconvenience of resuming all the labor which has been gone through; or whether it might be better to leave the decision with the Board of Audit, or to refer it to My Lords Commissioners of Her Majesty's Treasury". For his own part, Routh was convinced that he had gone as far as regulations would permit and that any decision to break with the adjudication procedure laid down must be taken at a higher level.

64 Ibid.
than his own.

It is indeed rather a political consideration, than one of account. All that could be authorised, as a Commissariat expenditure, on the most liberal scale, has been allowed, & the question now referred to me remains more as a subject of consideration with the Higher Authorities, and for the exercise of the discretion vested in them, rather than with me. 65

65 Ibid.
CHAPTER 3: THE CIVIL SETTLEMENT OF CLAIMS, SEPTEMBER, 1838 - JULY, 1840

With many claims still outstanding, the provincial board of audit dissolved and the all-powerful commissary general firm in his belief that the military was authorized to go no further than it had in dealing with applications for relief, the unsuccessful claimants had indeed no one to look to for redress but the colonial or imperial government. Which of these would ultimately admit liability for the amounts claimed, however, remained to be seen.

Ignoring for the moment the question of final responsibility, the legislature of Upper Canada once more took up the matter of aiding the victims of the recent disturbances. For the duration of the commissariat board of claims, nothing had been done to implement the act respecting the appointment of claims commissioners, which had been passed in the session of the legislature ending on 6 March, 1838.\(^1\) Head, whose resignation had been delivered to the House on 15 January, had been informed only a few days after passage of the act in question of Sir George Arthur's departure for Toronto from New York. In as much as surrender of the government of Upper Canada was close at hand, it is likely that Head had not wished to commit his successor to a course of action that might readily be postponed. That he was desirous of seeing Arthur off to a fresh start was

\(^1\) 1 Vic. cap. 13
indicated by his suggesting that Sir George delay his entry into Toronto to avoid involvement in the politically explosive trial of Thomas Jefferson Sutherland, then drawing to a close in the provincial capital. Arthur's own failure to appoint commissioners under the act might have been prompted by a wish to avoid the confusion that the existence of concurrent boards of claims would almost certainly engender. At the same time, he might have hoped, despite mounting evidence to the contrary, that some of the claims contemplated by the act would be admitted by the commissariat board. Whatever his motives may have been, Arthur took no action until the legislation had been on the books for several months.

Once the work of the commissariat board had been virtually completed, however, the initial steps were taken to provide satisfaction to those who had been excluded from the benefit received by certain military claimants. On 10 September, 1838, Mr. Secretary Macaulay addressed letters to Alexander Wood, Robert Stanton,

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3 Robert Stanton (1794-1866) was born at St. John's, Lower Canada, on 6 June, 1794, the son of William Stanton, later deputy assistant commissary general in Upper Canada. Educated at York, he was appointed King's Printer for Upper Canada on 19 August, 1826 and from 1826 to 1843 was editor and publisher of the Upper Canada Gazette. He died in Toronto on 24 February, 1866.
and Thomas Carflee, inquiring about their willingness to serve as losses commissioners. On the 26th, the appointment of these men was confirmed by letters patent. The board, under the chairmanship of Alexander Wood, were, on 20 October, directed by the lieutenant-governor to hold their sittings in the court house in the city of Toronto and public notice was immediately given that the commissioners were prepared to receive claims for investigation.

During the next few months of its existence, the constraints under which the commission operated became increasingly evident, as did the fact that the Wood commission would be as hamstrung in dealing with civil claims as the commissariat board had been in dealing with military ones. On 27 December, 1838, Attorney General Christopher Alexander Hagerman rendered an opinion that, although

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4 Thomas Carflee (1796-1841) was born in Edinburgh and came with his father to York, where Thomas Sr. opened a general store in 1805. The younger Carflee played a key role in the founding of the York Fire Company, St. Andrew's Church of Scotland, the British Constitutional Society, the York Mechanics Institute, the 1st East York Artillery Company, the St. Andrew's Society, and the St. George Lodge of Freemasonry. An alderman in 1834-35, he was appointed collector of customs at Toronto in 1835 and harbour master in 1838.

5 Macaulay to Wood, Stanton, Carflee, 10 September, 1838. Vol. 46, p. 99, GL6C, RG 7, PAC.

he had hoped and expected it to be otherwise, a strict interpretation of the act, 1 Vic. cap. 13, confined the investigation to claims for losses occasioned by the destruction of dwellings or other buildings only. Furthermore, in the view of Wood, Stanton and Garfray themselves, commissioners were limited by the statute to the investigation of claims for losses sustained up to the date of its becoming law and did not feel authorized under its provisions to consider claims for losses occurring subsequent to that time. The latter point of view, together with the wording of the act itself, which mentioned only claims for losses sustained "during the late unnatural Rebellion", induced the commissioners not to examine any claims resulting from the invasions which had followed the short-lived insurrection.

The decision to exclude invasion losses from the claims the board was empowered to investigate was a very serious matter. Since the suppression of the uprising at Toronto early in December, 1837, and the flight of many of the rebels to the United States, where they had enlisted support, attacks had been made on Upper Canada at a number of points along the extensive frontier. Navy Island in the Niagara River had been occupied by patriot forces.


between 14 December, 1837 and 14 January, 1838, evacuation having finally been prompted by the destruction of the victual-ler CAROLINE at the hands of a small band of British volunteers. For the next few months, the theatre had shifted to the west where a series of incidents had taken place: the brief occupation of Bois Blanc Island in the Detroit River and the capture of the patriot schooner ANNE on 9 January; the defeat of patriot forces at Fighting Island in the Detroit River on 25 February; and their expulsion from Pelee Island in Lake Erie on 3 March. On 30 May, 1838, the Canadian steamship SIR ROBERT PEEL had been freed from her moorings and burned off Wells Island on the American side of the St. Lawrence while, during June, patriot raids had taken place at Short Hills on the Niagara frontier and across the St. Clair River at Nugent's Inn and Bear Creek on the Western frontier. Finally, invading forces had been defeated at Prescott on 16 November, 1838, and at Windsor on 4 December.\footnote{See Edwin C. Quillett, The Lives and Times of the Patriots (Toronto: University of Toronto Press, 1968)} Raids which had occurred prior to March did not noticeably increase the number of civil claims, since the areas invaded were virtually uninhabited, with the exception of Amherstburg where no actual landing had been attempted. The patriot occupation of Pelee Island and subsequent forays into Canadian territory, however, had resulted in considerable loss of or damage to private property, inflicted either by the invaders.
themselves or by ill-disciplined militia and troops. The upshot was that a host of new civilian claims had come to be added to the claims already outstanding. The latter consisted of military claims which had been wholly or partly rejected by the commissariat board, either because they were unsubstantiated or had been submitted after the deadline set for receiving claims; and, lately, because of the circumscribing of the Wood commission's mandate, civilian claims associated with the rebellion but not involving the loss of buildings or their contents.

Claims submitted by aggrieved parties to the Upper Canadian authorities were handled in a variety of ways. From the time that losses were incurred until the provincial legislature met in fourth session on 27 February, 1839, some claims were addressed directly to Assistant Military Secretary Halkett, who had been appointed to process claims upon the military chest, or to the Wood commission. Others were sent to the lieutenant-governor or his civil secretary and were referred by them to whichever investigative agency seemed appropriate. Still others were submitted to the governor-general and the commander-in-chief. Civil claims which met the narrow conditions for acceptance imposed on the Wood commission were retained by that body to be reported on; those not doing so were returned by the commissioners to the lieutenant-governor or his civil secretary. Military claims which Arthur, with the aid of Halkett or specially convened
military boards of officers, found acceptable were approved by the lieutenant-governor and warrants for their payment issued by the commander-in-chief. As a precaution, the advice of the comissary general or commander of the forces was often sought by Arthur in deciding upon the acceptability of a claim. Unacceptable military claims, including those which the lieutenant-governor hesitated to approve for fear of incurring personal liability, simply went unpaid like their civil counterparts, with the claimants being informed that no fund for their payment existed. In exceptional cases, where the claim to remuneration was felt to be a compelling one, but where no funds for satisfying it were available to him, Arthur referred the matter to the home government.

Arthur was genuinely concerned over the non-payment of claims and was convinced that only the provincial legislature could avert further suffering on the part of the victims. In his speech from the throne opening the fourth session of the thirteenth parliament, he noted the "aggregate of extensive loss" which had resulted from the destruction of the SIR ROBERT PEEL and the rapacious attacks on Pelee Island, the St. Clair shores, the Short Hills, Prescott and Windsor, and urged the legislature's early attention to the "earnest applications for relief" to which these deprivations had given birth. He, Arthur, had done what he could to afford assistance; now the provincial parliament must act.
I have applied myself most assiduously to the examination and settlement of the numerous and pressing claims arising out of the late disturbances. Such of them as I was authorised to satisfy from the Military Chest, have been discharged, or are in a course of settlement, through Her Majesty's Commissariat; but there are others, founded on equitable considerations, the payment of which must necessarily depend upon your justice and liberality; and I shall accordingly direct a particular account of them to be laid before you. 10

The assembly reacted favourably to the lieutenant-governor's proposal and, on 6 March, set up a select committee to receive the claims which were to be laid before the House.

With the House once more in session and professedly willing to deal with the matter of claims, new petitions, as well as those for which no satisfaction had been derived from the military authorities or the executive branch of the government, began to be presented through local members of the provincial legislature. Such claims were usually referred, on being read, to the recently formed select committee. Other claims, the ones alluded to in the speech from the throne, were introduced into the House by way of the lieutenant-governor's office. Among these latter were claims in the process of adjudication by the Wood commission.

On 12 March, 1839, Arthur transmitted to the assembly a copy of the first report of the commissioners, which had been addressed to him on 23 February, four days before the session had begun. The claims of only eight persons 11 had, up to the date of the report, survived the winnowing process and been considered consistent with

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11 John Butler, Robert C. Horne, Margaret Washburn, William Burrows, Nicholas Burrows, Michael Murhan, Jane Milligan, Clarke Gamble
the commission's terms of reference. All claims involved the loss by fire of houses and/or their contents at the hands of the insurgents. ¹² A copy of the commission's second report, submitted to the lieutenant-governor on 19 April, was sent down to the House on the 25th. This report added three names ¹³ to the list of Toronto area persons whose houses or chattels had been destroyed by fire. ¹⁴

At intervals during the session, Arthur, as promised, also brought before the House claims which neither the commissariat nor the Wood commission had felt authorized to settle. ¹⁵ On 24 April, it was decided that these claims, as well as those reported on by the Wood commission, should be referred to the existing committee on claims. This course of action was decided upon the day after an unsuccessful bid to divert the documents coming from the lieutenant-governor's office to a new select committee. John Prince, who had been added to the original committee on 27 March, voted with the majority who opposed the effort


¹³ James Stafford; his uncle, Joseph Stafford; and his step-father, John Detchman


to divide the claims between two distinct committees of the House.

On 25 April, the same day as it received the Wood commission's second report, the select committee reported on the claims which had been referred to the assembly by the lieutenant-governor. Their recommendation was that "a Bill be passed authorizing the payment of claims which have been adjudicated by the commissioners appointed under authority of Act of Parliament or by a Committee of this House during its last Session". As a prelude to such legislation, the House, on 26 April, resolved itself into a committee of supply on the report handed down by Alexander Wood and his fellow losses commissioners. Here it was resolved that there should be granted to Her Majesty the sum of £103,135, to be raised by debenture, to pay the claims examined and admitted by the commissioners appointed under 1 Vic. cap. 13. Four days later, the committee to which the resolution was referred presented a bill. The following day, 1 May, the bill passed second reading and committee of the whole, and, on the 2nd, was given third reading, passed and referred to the legislative council. Council's concurrence was given on 6 May and on the 11th, the final day of the session, "An Act to make provision for the payment

16 Malcolm Cameron, Chairman, to House of Assembly, 25 April, 1839. Vol. 17, no. 2051. CI, RG 5. PAC.

of sundry individuals therein named received royal assent.

Under the act, the receiver general was empowered to issue 24-year debentures at 6 per cent in payment of the amounts specified for each successful claimant. On 15 May, Civil Secretary John Macaulay transmitted a copy of the act to Receiver General John Henry Dunn and directed him, in the name of the lieutenant-governor, to issue the debentures called for. Actual payment of the £103.13.5 to the parties concerned took place between 23 May, 1839 and 20 July, 1840.

During the time that efforts were being made by the Upper Canadian legislature to compensate those suffering losses on account of the rebellion, a modicum of relief was afforded the victims at Prescott and Windsor by Her Majesty's subjects resident elsewhere in British North America. Late in January, 1839, John Prince had received and distributed among the sufferers at Windsor £15.15.0, which had been subscribed by some of the inhabitants of Grimsby. On 8 February, Sir John Colborne —since 17 January the governor general of British North America as well as commander of the forces —transmitted to Sir George Arthur a copy of a communica-

18 2 Vic. cap. 68


21 "Paylist of Debentures Issued to sundry individuals for Insurrection Losses under 2 Victoria Chap 60 (sic) and Order from Gov Office dated 15 March 1839. Ibid.

22 Western Herald and Farmers' Magazine (Sandwich), 29 January, 1839, p. 386.
tion, dated 25 January, which he had received from Sir John Harv-
ey, lieutenant-governor of New Brunswick. With his letter, Har-
voy had enclosed £1000 which had been voted by the legislature of New Brunswick for the relief of "the immediate necessities of Upper and Lower Canadian subjects who had suffered from the invasions". 23 Before deciding upon the proportion of the donation to be allotted to the upper province, Colborne wished Arthur to forward him a list of the cases where immediate necessities ought to be provided for. On 2 February, two contributions were also sent to Colborne by Sir Colin Campbell, lieutenant-governor of Nova Scotia. One donation, in the amount of £492.13.8 had been subscribed at Halifax in response to the appeal of a special committee; the other, amounting to £1000 had been voted by the Nova Scotia house of assembly "for the relief of the widows and families of those who have fallen in the Canadian Rebellion". 24

In accordance with the governor general's instructions of the 8th, Civil Secretary Macaulay, on 25 February, wrote Colonel Richard Airey, officer commanding at Amherstburg, asking him to prepare and submit as soon as possible "an accurate Return of the names, Rank, age & former condition of life, and residence of the men belonging to the militia, who were killed or wounded at the


24 Colborne to Sir Colin Campbell, 18 February, 1839. Ibid., p. 7.
recent affair at Windsor, together with information respecting their wives, and the number, age, & sex of their children. A similar return of the sufferers at Prescott was demanded next day of Colonel Flomer Young, Airey's counterpart at that post. Airey responded on 7 March, Young on 2 April.

Having obtained the information sought by Sir John, Arthur, on 22 March, turned over to the assembly the letter and enclosures he had received from Colborne relative to the New Brunswick donations. Five days later, he forwarded to the governor general the returns he had received to date. In reply, Colborne enclosed copies of the communications and enclosures he had received from Nova Scotia and New Brunswick and noted that the subscriptions from all quarters now stood at £2596.8.0. This amount he had decided to divide equally between Upper and Lower Canada and, in consequence of this decision, transmitted to Arthur an order on the Commercial Bank at Toronto for £1298.4.0, "to be appropriated in such a manner as Your Excellency may consider will best meet the wishes of the liberal donors."

By the fourth week in May, Arthur had appointed a five-man board to superintend the distribution of funds which had now been


increased to £1525.3.10 as the result of a contribution from
the people of Kingston. The board consisted of Alexander Wood,
Colonel Frederick Alexander Mackenzie Fraser,28 Robert Stanton,
Thomas Gibbs Ridout,29 and George Monro.30 After investigations
drawn out over some ten months, a report was framed by the
board created to distribute the funds, whose sources were now

28 Frederick Alexander Mackenzie Fraser (d. 1848) had served
as deputy adjutant general at Mauritius before coming to
Canada. A "very clever" man in the view of Sir John Colborne,
he was, on 9 July, 1838, ordered by the commander of the
forces to proceed to Toronto where he was to be attached
to the quarter master general's department. On his arrival
he took charge of the department and supplied both the regu-
lar troops and militia. Disappointed by his failure to secure
a promotion, in spite of Arthur's energetic efforts on his
behalf, he left the service in the early 1840's. In 1844 he
married a daughter of Sir Charles Bagot, a woman several
years his junior, and died in Montreal on 29 October, 1848.

29 Thomas Gibbs Ridout (1792-1861) was born near Sorel, Lower
Canada on 10 October, 1792 and moved with his parents first
to Newark (Niagara) and then to York. He was educated under
John Strachan at Cornwall and became deputy assistant
commissary general for Upper Canada during the War of 1812.
He remained with the commissariat until 1820. In 1822 he
was appointed cashier of the Bank of Upper Canada, a posi-
tion he held until shortly before his death on 29 July, 1861.

30 George Monro (ca. 1800-1878) was born in Scotland and emigrated
to Canada as a child in 1800. In 1815 he came to York from
Niagara, where the family had settled, and became a shopkeeper.
In partnership first with John Young and then with his elder
brother, John, he became an independent businessman in 1824.
He was a member of the city council of Toronto in 1834-1835,
1837-1841 and 1842-1845 and mayor in 1841. In 1844-1845,
he represented the third riding of York in the legislature.
identified as follows: the legislatures of New Brunswick and Nova Scotia; the towns of Halifax and Fredericton; the county of Carleton, New Brunswick; inhabitants of Kingston; and Captain Wilkins' troop of cavalry. The report was submitted to Civil Secretary Samuel Bealey Harrison on 27 April, 1840.\(^{31}\) Documents which accompanied the report served to illustrate the methods employed by the board and the results they had attained. On 10 June, 1839, Alexander Wood had sent advances of L100 and L200 to Airey at Amherstburg and Colonel Lewis Carmichael at Prescott, respectively, for the immediate relief of the most pressing cases. Both officers were, at the same time, requested to complete returns which would facilitate distribution of the remaining funds. The distribution scheme adopted by the commissioners, based on the completed returns, was outlined in letters to Airey and Carmichael of 26 September. The funds, divided into shares of six pounds currency each, were to be apportioned in accordance with the following formula: "To widows or Mothers dependant on the killed four shares, the totally disabled three shares, the severely wounded two shares, nearest relative of those killed leaving no family one share, the wives and children of all the wounded and to the children of the killed, each one share."\(^{32}\)


\(^{32}\) Ibid.
A cheque for L86, enclosed in the letter to Airey of 26 September, closed out the commission's work as far as the Windsor sufferers were concerned. This amount represented the balance of an award of L186 which the commission had fixed upon for the relief of four widows and two disabled veterans in that area. On 11 July, 1840, its work complete, the board of commissioners appointed by the lieutenant-governor to distribute the "bounty" contributed for the relief of invasion sufferers submitted a concluding report on its work to Civil Secretary Harrison.

Toward the end of the fourth session, then, some progress had been made in providing for losses due to the rebellion. Also, thanks to the largesse of concerned British Americans, a modest sum had been made available for the relief of the most needy victims of the invasions. There remained to be dealt with, however, the great bulk of rebellion and invasion claims, claims which were acceptable neither to the commissariat nor to the wood commission. In the search for a solution to the problem they posed, Colonel

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33 Ellen Mantion, widow of Louis Mantion, the proper name Nante; Elizabeth Humber, widow of Thomas Humber; Janett Parey; Mary Mills, widow of.... Mills; William Antherbury; Andrew Deroche (Ibid.)
John Prince was to play a leading role.

Prince, it will be recalled, had left Toronto abruptly, before the close of the third session, when he had received word of an apprehended invasion of the Western District. On service throughout much of the remaining ten months of 1838, he had seen action, in some capacity, in every engagement that had taken place in Essex County. While he had played a minor role at Pelee Island and Fighting Island, he had been in command at Windsor, where he had exhibited a conspicuous lack of military prowess. 34

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As had been the case the previous session, when he had been on militia duty, Prince's attendance at the fourth session of the legislature, which had begun in late February, was delayed. This time, however, it was not to defend the province against foreign aggression that he had remained at home but to defend himself against the accusations of his neighbours and fellow subjects.

During the excitement at Windsor on 4 December, Prince had had five of the patriot prisoners shot upon the spot. Although generally acclaimed throughout the province, the action was a source of much vexation and embarrassment to Lieutenant-Governor Arthur,
who had tried, as best he could, to hush it up. Much to his dismay, however, Colonel Prince had felt not the slightest regret and had become quite intractable. Brushing aside the lieutenant-governor's proffered suggestion that the action was unpremeditated, Prince had not only attempted to justify his conduct before his superiors, but had caused an account of it to be circulated in the United States in the belief that it would serve as a deterrent to further aggression. The matter had been given still more publicity through the efforts of certain of Prince's neighbours, mostly the descendants of the older families on the Western frontier. Apparently jealous of the preferments given Prince, a relative newcomer to the area who had attained early prominence, and angry because he had taken full credit for routing the invaders, his enemies had sought to destroy him through the publication of a defamatory broadsheet entitled "The Battle of Windsor". Thus forced to take cognizance of the case, Arthur had, in February, convened a military board of inquiry under the chairmanship of Lieutenant Colonel Airey. Having, on the one hand, to recognize Prince's popularity and the effect public censure of him would have in the American border states and, on the other, to discourage further recourse to extrajudicial justice, the board had prudently

35 Arthur to Airey, 10 December, 1838. Ibid., I, 431-432.
exculpated Prince without, however, condoning his precipitate action. 36

The inquiry closed and his reputation enhanced, if anything, by the trials he had been subjected to, Prince proceeded triumphantly to Toronto where, on 11 March, he took his seat in the assembly to the cheers of his fellow members. Once having arrived, Prince immediately interested himself in the question of losses claims. On 19 and 20 March, he presented petitions on behalf of constituents and, on the latter date, sought leave to bring in an omnibus bill designed to "indemnify from loss those who have suffered in property by the late unnatural rebellion and invasions of this Province, and to provide for the speedy payment of all just claims for monies expended and services performed, and for all other demands from persons who assisted in the defence of the Province by supplying the troops or otherwise." 37 A week later, the member for Essex was named to the select committee on claims.

The losses bill finally introduced by Prince on 17 April did not proceed beyond first reading, its early demise probably being attributable to its comprehensiveness and its intention of


committing funds whose disbursement had not yet been recommended by committee of supply. Nothing daunted, Prince, on 27 April, renewed his efforts to have the outstanding claims liquidated, this time with due regard to form. Adopting the procedure which had been employed two days earlier in connection with the claims adjudicated by the Wood commission, he gave notice of a motion to have the house resolve itself into a committee of supply for the purpose of granting a sum of money to "indemnify from loss sufferers in property by the late unnatural rebellion and invasions of this province and to provide for the speedy payment of all just claims and demands upon the Province in consequence thereof". 38

On 4 May, the resultant committee of supply reported a resolution calling for the sum of £40,000 to be appropriated to the purpose Prince had outlined, with the proviso that "all such losses, claims and demands ... be ascertained by a proper board of assessors, or commissioners, to be appointed by His Excellency the Lieutenant Governor in the different districts in the manner and with such powers as shall be by law provided". 39 A bill giving effect to this resolution was read the first time on 6 May. With procedural impediments having been removed at Prince's request to hasten its progress, the bill proceeded, that same day, through second reading and amendment by committee of the whole. After third reading, which took place

38 Ibid., p. 250
39 Ibid., p. 295
next day, an attempt was made to recommit the bill for the purpose of removing reference to the sum of £40,000 and amending the bill in such a way "that the several claims might be charged out of the Crown funds". The proposed amendment was defeated by a vote of 23-22, with Prince taking the side of the majority.\(^40\) A subsequent amendment introduced by Prince, limiting the amount of the fund to a maximum of £40,000, was, however, carried.\(^41\) The amended bill was then passed by a majority of five and referred to the legislative council. Council proceeded to make minor changes in the wording of the bill and attached the following conditions to the payment of claims approved by the commissioners: "that any claims arising under this Act may be paid whenever the same shall be practicable, in the whole or in part, in any debentures or public bills of credit which shall or may hereafter be issued in aid of the public service; and such Debentures or Bills of Credit shall be a legal tender for the whole or in part of any such claims."\(^42\)

The assembly having been apprised of these changes, the original bill was allowed to lapse. In its place, Prince, on 8 May, asked leave to bring in a new bill that would embody the changes proposed by council. Once again setting aside procedural restraints, the House gave the bill first and second readings at once and, when it returned unaltered from committee of the whole,

\(^{40}\) Ibid., pp. 319-320

\(^{41}\) Ibid.

\(^{42}\) Ibid., p. 331
rushed it through third reading and passage. Council offered no further suggestions for improvement and passed the new bill on the 10th. Only royal assent was now required to enact the bill into law. After soliciting the opinion of Attorney General Hagerman on the subject, 43 Arthur elected to withhold that assent and to reserve the bill for the signification of the queen’s pleasure. He was taking this action, he explained, because of the “serious doubt expressed by Her Majesty’s Government as to passing any measures calculated to affect and especially to damage the monetary system of the Province.” 44 For the moment at least the legislature had been frustrated in its efforts to obtain redress for the multitude of rebellion and invasion sufferers in the upper province who still remained unpaid.

If the lieutenant-governor’s veto and the reasons he advanced for exercising it were disheartening, there were, in the spring of 1839, some encouraging signs. Not the least of these was that the home government seemed gradually to be accommodating itself to the nearly unanimous view of the colonists, that the expenses of meeting rebellion and invasion in British North America should be borne by the mother country.


Signs of what could be construed as acceptance of this responsibility were evident by March, 1839, when it had been decided that the claims of persons who had been appointed provincial commissaries should be discharged out of the resources of the imperially funded military chest.

The accounts rendered by the provincial commissaries had presented special difficulties from the very beginning. It had been the claim of William Anderton, provincial commissary at Sandwich, which had precipitated Routh's decision to take the settlement of claims out of the hands of Colonel Foster and the provincial board of audit and vest it in a commissariat board of his own choosing. Once that body had come into being, it, too, had nearly come to grief on the matter of claims originating with the provincial commissaries. Since the latter had been appointed by local magistrates, acting on their own initiative, Routh had at first refused to recognize either their personal claims to pay and allowances or the accounts they had entered into with the local citizenry. He had relented on the latter point when Leggatt and Wilson had explained that most of the debts they had been called upon to settle had been incurred on the authority of the temporary commissaries. On pay and allowances, however, the commissary general had refused to yield, stoutly maintaining that the appointments were provincial, not military, and that the commissaries should be paid out of provincial funds. As a result, the claims of those who had acted in this capacity had been left unredressed by the commissariat.
board.

While the claim of William Anderton was destined to go unresolved until the final squaring of accounts, as was that of Peter McGlashan, Anderton’s counterpart at Fort Sarnia, a settlement was reached with Robert Reynolds, who had been in charge at Amherstburg, and with some of the minor officials with whom the provincial commissaries had surrounded themselves.

When first pressed for a decision on these “commissariat” accounts, Sir John Colborne had simply echoed the opinion of Commissary General Routh, that “all demands for remuneration made by persons who held temporary appointments authorized last winter by the Lieutenant Governor of Upper Canada, must be decided on by the local Government, and paid from the proceeds of the Provincial Crown Revenue, or, referred to the Lords Commissioners of Her Majesty’s Treasury, for their Lordships decision”. 45 By the end of March, 1839, however, a significant change of policy seems to have taken place with respect to the treatment of claims for commissary service. These claims, it appears, were now to be disposed of in much the same way as irregular military claims for which no vouchers had been supplied. Thus in commenting upon the case of Robert Reynolds, which Arthur had once more urged on him on 19 March, Colborne again

noted that no reference had been made to the military authorities in connection with the appointment of either the claimant or his assistants. This time, however, the commander-in-chief did not dismiss the claim on that account. Instead of repeating his earlier assertion that such demands should be paid from provincial revenues, he requested Arthur to "authorize such remuneration to be granted to the several persons employed as you may on enquiry think they are entitled to receive under the particular circumstances in which they were engaged." 46

Such authorization was, however, only to be given on condition "that they have satisfactorily accounted for the sums received & expended by them." 47

Colborne's intent was clear. The claims of the provincial commissaries for pay and allowances were to be paid out of the military chest on the recommendation of Sir George Arthur, providing that the appointees had demonstrated their proficiency as commissary officers by satisfactorily accounting for the funds which had been placed at their disposal. Arthur's recommendation would be passed on to Sir John Colborne, who would then authorize the commissary general to pay the amounts approved. Since payment was to be on a scale commensurate with that of officers on


47 Ibid.
the regular establishment performing similar duties, Arthur entered into a lengthy correspondence with Commissary General Routh in an attempt to arrive at an equitable rate of pay for claimants.

Robert Reynolds, whose accounts were found to be in order, was reimbursed for his services as acting commissary at Amherstburg at the rate of 14/3 army sterling per diem, plus allowances, a scale comparable to that of an assistant deputy commissary general on regular service. Richard Abbott and J. T. Gov, temporary employees of the Port Sarnia commissariat, received remuneration of one dollar per day employed, a rate equivalent to that of a writer on the permanent establishment. The claim of Peter McGlashan, who refused to accept payment at the same rate as Abbott and Gov, his subordinates, remained outstanding for several years, as did that of William Anderton, whose shortcomings as an accountant made it impossible for him to satisfy his accounts to the satisfaction of the military authorities.

48 Memorandum of pay and allowances given to Mr. Robert Reynolds as acting Commissary at Amherstburgh during the winter of 1838, n.d. (enclosed with Halkett to Military Secretary O'Donnell, 4 April, 1840.) Vol. 149, p. 57. "C" Series, RG 6, PAC.

49 Halkett to Rowan, 29 August, 1839. Vol. 148, pp. 401-402. Ibid.

50 Anderton to Arthur, 27 December, 1840. Vol. 150, pp. 5-6. Ibid.
CHAPTER 4: THE QUESTION OF RESPONSIBILITY, JANUARY, 1838 – OCTOBER, 1840

By the close of the fourth session of the provincial legislature on 11 May, 1839, some progress had been made toward liquidating the claims generated by the rebellion and invasions. Some claimants had obtained redress from the short-lived provincial board of audit. Others had had their accounts adjusted by the provincial board's successor, the commissariat board of claims. Provision for payment of the claims adjudicated by the commissioners under the act, 1 Vic. cap. 13; the Wood commission, had been made through the act, 2 Vic. cap. 68, while other British North Americans had, through their generous contributions, made possible the relief of those in direst need. Furthermore, the troublesome accounts of the provincial commissaries were now well on their way to final settlement and the house of assembly had demonstrated its readiness to clean up the large number of claims which remained outstanding by enacting legislation calling for commissioners to be appointed and a claims fund to be created.

Notwithstanding all that had been done, however, a basic question remained unanswered: who would bear the ultimate cost of liquidating the claims? From the outset, the British government had been non-committal, preferring to bide their time rather than be saddled with a hastily-arrived-at solution that would stand ever after as a precedent. Indeed, when the matter of compensation for those suffering losses was first broached, there
seemed no need for British intervention. Head's throne speech opening the third session of the provincial parliament, a copy of which he sent home on 28 December, 1837, the day it was delivered, spoke only of its being proper for the legislature to make provision for losses.¹

Not until 26 January, 1838, when the Earl of Gosford² raised the subject in connection with providing relief for Mme Chartrand, whose husband had been murdered by the rebels in Lower Canada, did the question of imperial liability become explicit. Thereafter it was taken up by Gosford's successor, Sir John Colborne, who, in a letter of 22 March, pressed the case of Mme Chartrand and the matter of losses compensation. To these representations Colonial Secretary Glenelg responded on 15 June. The British government, he explained, would not make a decision in isolated cases but would wait, until some general rule could be framed. In the meantime, no demands on the British treasury could be entertained except for articles taken for the use of the troops,³


² Archibald Acheson, second Earl of Gosford (1776-1849) was born on 1 August, 1776. Oxford educated, he represented the constituency of Armagh, first in the Irish parliament and later in the British house of commons. Succeeding to the title of Earl of Gosford in 1807, he was, in 1811, elected a representative peer for Ireland in the house of lords. In 1835 he was appointed by the Melbourne government governor in chief of British North America (except Newfoundland) and a royal commissioner to inquire into the state of affairs in Lower Canada. His efforts at conciliating the patriotes succeeded only in alienating him from the English minority and his resignation was accepted on 14 November, 1837.

The home government had every reason to act circumspectly. All spring alarming letters had been coming to treasury from Commissary General Routh, reporting Canadian defence expenditures, actual and projected, in the hundreds of thousands of pounds. It was with due regard to these that treasury had counselled Glenelg to make the reply he did. The home government's position was stated again in October to Lord Durham, who, seeming not to have seen the despatch addressed to him earlier, had, on 11 September, again made representations on behalf of Mme Chartrand.

The legislature of Upper Canada appeared to have taken for granted that the imperial government must assume the liability and, in its third session, provided in the act of 1 Vic. cap. 13 only for the appointment of commissioners to investigate claims, and only exceptional claims at that. This assumption, at least, was made by the executive council in accounting, on 29 March, for the absence of

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4 John George Lambton, first Earl of Durham (1792-1840) was born in London, England on 12 April, 1792 and educated at Eton. From 1813 to 1828, when he was elevated to the peerage as Baron Durham, he represented the constituency of Durham in parliament. Dubbed "Radical Jack" for his leftist views, he served briefly as lord privy seal in the Grey administration until compelled by ill-health to resign. On his return from Russia, where he served as ambassador at St. Petersburg from 1835 to 1837, he was appointed governor in chief of British North America, with extraordinary powers as lord high commissioner. Disallowance by the Melbourne government of his ordinance concerning the transportation of Canadian political prisoners prompted his resignation and he left Canada on 1 November, 1838. The recommendations contained in his Report on the affairs of British North America (1839) laid the foundation for the union of the Canadian provinces and the introduction of responsible government. He died on 28 July, 1840.
a fund out of which persons who had furnished supplies to the militia could be reimbursed.

...The Legislators have met in session without making any provision for the liquidation of the expenses of the Rebellion, probably because it was thought that Her Majesty's Government would consider that, as the chief expenditure and indeed the whole Revolt, arose from the hopes held out by Foreigners on the frontier, the outlay as a Military one and that it should be borne on the Military Chest. 5

Commission General Routh's opinion, as we have seen, was quite at variance with the view ascribed to the legislature. As far as he was concerned, all debts incurred on any but unmistakably military authority were a provincial responsibility but he was content to let the British government be the final arbiter. That the opinions expressed by Routh were an accurate reflection of provisional British policy became increasingly clear. On 29 September, 1838, the position of the home government with regard to claims on the military chest was expounded by Military Secretary Rowan in reply to Assistant Military Secretary Halkett's inquiry concerning the possibility of reimbursing certain troopers of the Lincoln militia for loss of their horses. "(I)n consequence of instructions from the Treasury", wrote Rowan, "... the Commander of the Forces is precluded from Authorizing any payment whatever

to be made from the Military Chest on account of such claims for
Copies (i.e., replacement in kind) or Casualties, unless they come
within the strict operation of the Regulations prescribed by the
Royal Warrant of the 19th of August 1829 without previously bringing
under the direct and special consideration of that Board, the
whole of the circumstances of every case accompanied by such
observations as may appear to be proper. 6

At the end of 1838, a beginning was made to obtain redress
for one Duncan McGregor of Chatham, whose steamer, the Thames,
had been burned by the patriots during their attack on Windsor
on 4 December. For a year the prosecution of this claim was asso-
ciated with the overall effort to have the home government declare
itself unequivocally on the matter of rebellion and invasion claims.
The steps by which it was adjudicated give a good indication of the
complexity of claims settlement in the absence of a declared policy
and it is instructive, therefore, to follow the progress of the
claim through the several stages leading to its final liquidation.

Recommendations that McGregor's boat be hired for the public
service had been made by the magistrates of the Western District
and others when an invasion of the district from Detroit appeared
imminent in late November, 1838. The burning of the vessel during

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Series, RG 8. PAC.
the attack on 4 December was held to be consequent upon its being in the government employ and an act of revenge for the refusal of the British government to make reparation for the destruction of the CAROLINE the previous December. Almost at once an attempt was made to obtain redress for Duncan McGregor, owner of the ill-fated boat, through the agency of George Wade Foott, a Chatham magistrate. Stopping at Sandwich on 29 December on his way to Toronto, Foott was furnished with a testimonial from Colonel Prince on McGregor's character and the magnitude of his loss, and a pledge of Prince's support. 7 Foott also carried with him a petition of Duncan McGregor and a memorial of the people of Chatham, the latter citing McGregor's role in forwarding volunteers and supplies to the frontier during the crisis of the previous winter and in raising the Kent volunteers who had captured the patriot schooner ANN. 8 Throughout January, additional documents in support of McGregor's claim were submitted. On 4 February, Halkett wrote to Military Secretary Rowan, calling attention to the numerous applications which had been made on McGregor's behalf and urging that, since the boat was apparently in the service of the government at


8 "Memorial of the "Inhabitants of the Town of Chatham in the Western District and its vicinity", n.d. Ibid., pp. 297-299.
the time of its destruction, McGregor be compensated out of the military chest. Because of his instructions from treasury forbidding him to authorize any such payment, Colborne could not comply with the request and so informed Arthur on 16 February. As an alternative, he suggested that, if the provincial legislature should not provide for the loss sustained by McGregor, then a board of officers should be assembled at Windsor or Sandwich to report on the claim, and their findings forwarded by Arthur to the colonial secretary for submission to the treasury.

Probably suspecting that Colborne would take this stand, in view of his letter of the previous September, Arthur had not waited for the reply of the commander of the forces to Halkett's letter of the 4th but had written the very next day to the colonial secretary, strongly recommending that the question of injuries sustained by private persons at Prescott and Windsor be taken up by Her Majesty's government. The parties suffering losses, he explained, were becoming pressing in their demands for redress and looked to the imperial government for compensation.

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As an example, he enclosed Prince’s memorial on behalf of Duncan McGregor and the other documents brought to Toronto by George Foott. At the same time, he promised to forward, as soon as he received them, the claims of proprietors of houses used as barracks which had been destroyed on the same occasion. Demands for reparations which the British government might make of the American would cause delays which would occasion "much additional calamity" to the sufferers. Assuring Glenelg that all claims would be strictly investigated before any restitution was made, he asked the colonial secretary to relay instructions as soon as possible. 12

While the home government were not as active as Lieutenant-Governor Arthur might have wished, they were not entirely oblivious to the question of rebellion-losses. Even before Arthur's despatch of 5 February could have arrived, the Marquis of Normanby, who had replaced Glenelg as colonial secretary on the 20th, was addressing a letter to the lieutenant-governor on the subject. On the day he had taken office, the house of commons had called for a copy of the report of commissioners who had been appointed in Lower Canada, under the ordinance 1 Vic. cap. 7, to inquire into rebellion losses, with the names of claimants and the amount of their claims. 13 Anticipating that he might be asked to furnish


the same information with respect to Upper Canada, Normanby wrote Arthur on the 25th, asking him for a comparable report from the commissioners appointed under the act, 1 Vic. cap. 13. Arthur, who received this request on 4 April, replied to it on the 12th.

In the meantime, the fourth session of the legislature having convened on 27 February, Arthur had an opportunity to follow the advice contained in Colborne's letter of the 16th and seek redress of McGregor's claim in the provincial parliament. In his speech from the throne calling upon the legislature to consider the matter of invasion claims, he made special mention of those growing out of the destruction of the SIR ROBERT PEEL and the burning of the THAMES. While he had alluded to McGregor's claim in his opening address, Arthur delayed presenting it to the assembly until the session was well advanced. Doubtless he was awaiting a definitive statement on the subject from the colonial office before introducing the petition. Normanby, however, did not draft a reply to Arthur's urgent request for instructions until 22 March and the despatch likely did not arrive in Toronto until the end of April or the beginning of May at the earliest. Lacking an up-to-date declaration of British policy, Arthur hesitated to take any action on McGregor's claim beyond informing Foott, McGregor's agent, that he had received an unfavourable reply from Colborne and that he had transmitted a statement of the claim to the colonial.
secretary to be brought to the attention of Her Majesty's govern-
ment. 14

While he waited for a reply, the lieutenant-governor laid
before the house Glenelg's report, dated 31 May, 1838, on the ad-
dress to the crown drawn up in the third session of the legislature
relative to the invasion of the province by Americans. The reply,
read before the assembly on 12 March, stated, not very informative-
ly, that Her Majesty was engaged in communications with the Govern-
ment of the United States on the subject to which it (the address)
refers; and Her Majesty trusts that the questions depending between
the two countries will be adjusted in such a manner as will be
compatible with the honor of Her Majesty's Crown, the just
rights of Her faithful Canadian subjects, and the friendly re-
lations subsisting between the two countries. 15

While he had not, as yet, received any reply to his request
for instructions, Arthur, as he had promised, transmitted to the
colonial office such additional claims for losses brought on by
invading patriots as had come to hand. Among these was a series
of claims for damages sustained by the inhabitants of Pelee Island,
between 26 February and 3 March, 1838. This multiple account, dated
28 January, 1839, had been submitted at the personal invitation of

14 Macaulay to Foott, 6 March, 1839. Vol. 51, pp. 132-133. GLG, RG 7. PAC.

Arthur, who had spoken with the leading claimant, William McCormick, while visiting Amherstburg in early January in an effort to unravel the facts of the Prince affair. These claims were sent to Normanby on 30 March, along with Arthur's explanation that, while there were probably other claims yet to be produced, he did not believe that he should postpone sending these. 16

For all the direction he was to receive from Normanby on how he should proceed in McGregor's case, Arthur might as well not have waited for the colonial secretary's reply at all. Lacking a report of the Wood commission—whose powers he wrongly assumed had been enlarged by the current session of the legislature to include invasion claims—Normanby believed it was "scarcely in my power to comply with your application for immediate instructions". It was impossible, he told Arthur, as his predecessors had answered the representations of three governors before him, "to attempt a decision on isolated cases without the risk of compromising H. M. Government and of establishing precedents which may lead to very inconvenient and possible unforeseen consequences". Under the circumstances, then, he felt "bound to suspend my instructions on this matter until I have before me a full report on all such cases whether from the Commissioners

or from yourself through which the British government could arrive at some general guiding principle. 17

While still not in possession of this reply from Normanby, Arthur received, on 4 April, the colonial secretary's despatch number 3 of 25 February, calling for information on losses claims which had been preferred in Upper Canada. Made aware by this despatch that the matter of rebellion losses was being taken up by the imperial parliament, presumably for the purpose of formulating policy, Arthur might easily have foreseen the answer he would eventually receive relative to McGregor's and similar claims. At any rate, on the day he received the despatch of 25 February, Arthur waited no longer but turned over to his executive council, for their report, the letter he had received from Colborne refusing to pay McGregor's claim out of the military chest. 18 Four days later, on the advice of council, he laid the matter before the assembly.

As to the request contained in Normanby's despatch of 25 February, it was met on 12 April, with the lieutenant-governor transmitting a copy of the first report of the Wood commission, which had been submitted on 23 February. This report, Arthur believed, embodied all the information called for by Normanby and would enable the colonial secretary to comply fully with the application he anticipated from the commons.


18 Minute of Council, 4 April, 1839. Vol. 56, p. 470. El, RG 1. PAC.
For good measure, Arthur also enclosed a "recapitulative statement of such claims as have come before me for Losses, which subsequent to the rebellion, have been sustained by individuals in this Province, from the Acts of Piratical Bands armed and organized within the jurisdiction of the United States of America". The documents connected with most of these claims had been sent in earlier: those on the destruction of the SIR ROBERT PEEL on 27 September; those on the burning of the THAMES on 5 February, 1839; and those on the depredations at Paleo Island on 30 March, 1839. Had he had them in his possession at the time he replied to Normanby's despatch, Arthur would probably also have sent the memorials and documents relating to the claims of two other residents of the Western District, François Janise and Pierre Hector Morin. The memorials had been lately received by the lieutenant-governor through John Prince, to whom they had been addressed on 21 March and 23 March, respectively. These claims in respect of houses burned by the Windsor invaders on 4 December had, however, been forwarded by Halkett to the commander of the forces on 6 April and were not returned.


until the 25th.\textsuperscript{21}

Why Arthur persisted in pressing Colborne to discharge such claims out of the military chest when he knew Sir John had been prohibited from making such disbursements is unclear. If by doing so he had meant to test Colborne's resolve, he soon learned that it had not weakened, however much the commander of the forces was "aware of the distress and inconvenience which the claimants must experience from the delay in bringing their losses before the Lords of the Treasury ... (and) how much it is required that a fund should be placed at the Major Generals disposal for the liquidation of these & similar claims".\textsuperscript{22} Thus, in returning the documents, Military Secretary Rowan was obliged to state once more that "His Excellency regrets very much that the positive instructions of the Lords Commissioners of H M Treasury a copy of which was transmitted to you with my letter of the 29th of September render it impossible to grant the unfortunate Memorialists any relief from the Military Chest without their Lordships sanction".\textsuperscript{23} He did suggest, however, that such sanction might be expedited if Sir George Arthur "should bring under the direct & special consideration of the Lords of the Treasury the whole of the circumstances of these claims, accompanied by such observations as may appear to His Excellency to be proper".\textsuperscript{24}

\begin{itemize}
\item \textsuperscript{21} Rowan to Halkett, 25 April, 1839. Vol. 1294, pp. 66-67. "C" Series, RG 8, PAC.
\item \textsuperscript{22} Ibid.
\item \textsuperscript{23} Ibid.
\item \textsuperscript{24} Ibid.
\end{itemize}
Since this was the very course which Arthur had been pursuing without avail since 27 September when he had reported on the destruction of the SIR ROBERT PEEL, the lieutenant-governor could be forgiven if he greeted this latest suggestion with a wry smile.

Arthur was not alone in trying to effect an expeditious settlement of rebellion and invasion claims. The fourth session of the legislature, as we have seen, did, before it adjourned on 11 May, enact legislation to provide for the investigation and payment of claims. There was no doubt, however, that the legislators expected the province to be reimbursed for any monies which might be paid out of its coffers. Provincial funds were to be the means merely of providing an advance for the immediate relief of the sufferers. Ultimate liability resided with the home government which, whatever the outcome of negotiations with the United States over reparations, must not be allowed to shirk its responsibility. Lest the British government should fail to see the obligations incumbent upon it in the same clear light as the provincial legislators, they should be given the benefit of the latter's acuity through the medium of addresses to the crown.

On 26 April, 1839, the legislative council invited the assembly to subscribe to a joint address, entreatimg Her Majesty to exact reparations on behalf of the SIR ROBERT PEEL victims and "to cause redress to be afforded to those of Your Majesty's loyal subjects who have suffered in their persons and property, in consequence of incursions of armed men into Your Majesty's Province"
from the United States of America. Anticipating an attempt by the home government to portray the invasions as a provincial concern and, therefore, responsibility, the address argued otherwise. Injuries inflicted on Upper Canadians were intended to be, and can only be considered as national wrongs. And we must humbly suggest to your Majesty that private sufferers should first be indemnified by the nation against whom the outrage has been committed ... and redress can ultimately be procured upon the equal terms implied in a demand for public reparation for a public injury.

In passing such an address themselves on 25 April, the legislative council were obviously unaware that the question of seeking reparations from the United States government for those involved in the destruction of the SIR ROBERT PEEL in American waters had already been decided. Papers connected with the incident had been transmitted on 1 June, 1838, to Glenelg, by whom they had been referred to the foreign secretary, Viscount Palmerston, for a decision on the reparations issue. Arthur had followed up the case on 27 September, transmitting a number of papers with respect to claims for damages and urging that the claimants be indemnified. These documents were also forwarded, upon receipt, to the foreign office. On 4 March, 1839, the foreign office transmitted to Colonial Undersecretary James

26 Ibid.
Stephen a copy of the report which had been made to Palmerston on the subject of reparations by Sir John Dodson, queen's advocate, on 27 February. In the latter's opinion, indemnification of British subjects who had suffered loss by the destruction of the SIR ROBERT PEEL should be sought of the American government only if these persons were unable to obtain redress in local United States courts. On 26 March, the foreign office returned, with suggested changes, a week after it had been sent up by Stephen, the draft of a reply to Arthur's despatch of 27 September. 27

Next day, Normanby wrote Arthur, enclosing a copy of Dodson's report and its covering letter from the foreign office, and advising the lieutenant-governor that, before reference would be made to the United States government, injured parties should take their cases before the proper American courts.

While the house, for reasons not disclosed, chose not to participate in the legislative council's address, it did not do so because it quarrelled with the idea of imperial responsibility. Thus, on 10 May, having just passed Prince's bill to provide for the payment of losses, the house judged the time an appropriate one at which to express its own collective opinion on who should be responsible for invasion costs of this type. The address that was accepted called Her Majesty's attention to the "Very numerous petitions" which have been presented during the

current session. Because of the urgency of the demands, the house had done everything it could to provide for their speedy payment, "notwithstanding the embarrassed state of our finances, and the conviction that they are charges which, to a great extent, are not such as should be made upon our Provincial Revenue". It was only compassion, the address emphasized, which had moved the assembly to take on the claims which, by rights, "should, for the greater part, be paid by the Imperial Government, which alone has the power to compel Foreign nations to indemnify those who may suffer from the aggressions of their subjects". Having under extraordinary circumstances assumed a responsibility properly belonging to the home government, the assembly felt certain "that when we shall have ascertained the amount and character of the various demands that we may be called upon to satisfy, Your Majesty will be graciously pleased to cause the same to be reimbursed to us from the Imperial Treasury". 28

Between 11 May, 1839, when the legislature adjourned, and 3 December, when it met in fifth session, the question of liability was effectively resolved. Yielding to the importunity of the lieutenant-governor and both houses of the provincial legislature, the home government at last saw fit to delimit the degree of liability it was prepared to accept.

On the matter of reparations, a foreign office decision that

the British government would intervene only if actions instituted by claimants in United States courts should prove unsatisfactory was passed on to a sceptical Sir George Arthur on 27 March. Because the legislative council had not known the matter was under discussion at home and had submitted an address to the crown on the subject, it was necessary to restate the British position a few months later. On 27 June, Normanby reported having laid before the queen the legislative council's address, which had been sent to him by Arthur on 11 May. At Her Majesty's behest, the address was referred to the foreign secretary for an opinion and report. In the meantime, Normanby assured Arthur that an explicit answer to the address could not be made until the close of pending negotiations with the United States. Nearly seven weeks passed before the foreign office reminded the colonial office that Arthur had already been instructed, as far back as March, that aggrieved parties must first seek redress in the courts of the United States. Normanby sent on this rather stale piece of news to Arthur on 25 August. 29

Having renounced any attempt to hold the United States to account for certain of the losses suffered as a result of the rebellion and invasions, the British government had yet to absolve itself of liability. Faced with a provincial bill predi-

icated upon a belief in such liability, and an address—this
time from the provincial assembly—whose assumptions of imperial
responsibility could not be left unchallenged, the home govern-
ment could put off a decision no longer. Even before these crea-
tures of the provincial legislature had arrived in England,
however, efforts were underway to settle the matter of respon-
sibility once and for all. On 31 May, James Stephen of the
colonial office had sought the advice of both the treasury and
the foreign office on how claims were to be paid. In his communi-
cations to both of these departments he enclosed copies of Arthur's
despatches forwarding the claims of McGregor and the Pelee Island
residents, and the report of the Wood commission. He also sent
a copy of the reply Normanby had made on 22 March to Arthur's
request for immediate information. In view of these repeated
representations, to which, Stephen was forced to admit, the
colonial secretary had been able to provide no satisfactory
reply, treasury was asked how these claims were to be dealt
with and from what fund the indemnity ought to be drawn. As
Arthur was still awaiting a decision, it was important that
the information be furnished as soon as possible. 30 Thus,
by the time the assembly's address on losses claims was pre-
sented to the queen in late June, the cabinet had had the
matter under review for nearly a month and could at last give

30 (Stephen) to Francis Baring, Secretary to the Treasury,
MG 11. PAC.
a definite reply. "The Queen commands me", Normany wrote
Arthur on 27 June, "to instruct you to express to the Assembly.
Her Majesty's regret that she cannot hold out any prospect that
Parliament will grant the indemnity to the Provincial Treasury
proposed in this Address. In undertaking the whole charge of the
military defence of the Province, Parliament has subjected the
revenue of this kingdom to a burthen of very great extent and
pressure; and it does not appear to the Queen probable that
the House of Commons would think it just towards the people of
this country to subject them to the additional charge contem-
plated by the House of Assembly". 31 The ruling confirmed the
wisdom of Arthur's decision to reserve the provincial act on
rebellion and invasion losses, which he had denied approval, be
explained in a despatch to Normany of 8 June, "because, as from
the preamble it is expected that the charge will be ultimately
borne by Her Majesty's Government, I think it would be improper
in me to have assented to it under an implied pledge which I had
no authority to give". 32

It was not for the lieutenant-governor, however, to break
the news of the bill's rejection to the legislature. With a
view to implementing certain of the recommendations contained
in Lord Durham's controversial report on the affairs of British
North America, especially that calling for union of the Canadas,

31 Normany to Arthur, No. 69, 27 June, 1839. Vol. 416, pt. 1,
pp. 135-136. Ibid.

32 Arthur to Normany, No. 131, 8 June, 1839. Vol. 417, pt. 1,
p. 82. Ibid.
the Whig government of Lord Melbourne nominated Charles Poulett Thomson\textsuperscript{33} to succeed Sir John Colborne as governor in chief. Since union of the provinces was to be given the appearance, at least, of a popular decision, Thomson was to secure approval of the measure in the legislatures of both Upper and Lower Canada. In the latter, where legislative authority had, since December 1837, been vested in an appointive special council, no great difficulty was anticipated. In the upper province, however, where constitutional forms had been retained and where there was considerable opposition to the idea of union, the task was expected to be more onerous.\textsuperscript{34} Responsibility for bringing off such a coup was not to be entrusted to Lieutenant-Governor Arthur, who was sceptical of Durham's "solutions" anyway, but to the more politically astute Thomson. For that reason, the new governor general's commission

\textsuperscript{33} Charles Poulett Thomson, first Baron Sydenham (1799-1841) was born at Wimbledon, England on 13 September, 1799. From 1826 to 1830 he represented Dover in the house of commons and from 1830 to 1839 was returned for Manchester. He served as vice-president of the board of trade and treasurer of the navy in Earl Grey's administration and as president of the board of trade from 1834 to 1839. In 1839 he was appointed to succeed Lord Durham as governor general of Canada.

\textsuperscript{34} Gerald M. Craig, Upper Canada: The Formative Years, 1784-1841 (Toronto: McClelland and Stewart, 1963), p. 270
like Durham's, empowered him to assume the government of Upper Canada whenever he should visit that province. 35

The familiarity with Canadian affairs which Thomson had gained as a member of the cabinet made it unnecessary for him to be instructed at length on the subject. However, in preparation for his eventually supplanting Arthur, it was thought advisable that he should have on record a statement of the imperial government's policy with respect to a number of issues then pending in Upper Canada, including the question of rebellion losses. The bill providing for the indemnification of persons who had suffered by hostile attacks from the United States, Thomson was told, was not to be assented to by the queen. "The objection", the new colonial secretary, Lord John Russell, explained, "is not to the measure itself, in the propriety of which Her Majesty's Government entirely concur. But we think it impossible to advise the Queen to assent to an Act, which if so sanctioned, would by the terms of the preamble, convey a pledge from Her Majesty that the charge for this indemnity should be ultimately borne by the British Treasury. The principle involved in this declaration is of too much importance to be thus incidentally recognized, even supposing it to be right that it should be admitted at all. Neither could Her Majesty properly affirm in so solemn a manner,

Her acquiescence in this claim on the Revenue of this Country unless it had been previously sanctioned by Parliament; a sanction which has not been, and which could not hitherto have been obtained". 36 If, however, the legislature should pass a similar bill without the objectionable preamble, Thomson was to "readily concur in the enactment of it". 37

Word of Thomson's appointment and the scope of his powers was communicated to Arthur by circular on 31 August. In succeeding despatches to the lieutenant-governor, the colonial secretary dwelt at greater length on the prospect of the new governor general's temporarily displacing Arthur and expressed his confidence that the latter would render Thomson every assistance if this should occur. Meanwhile, since Thomson was in possession of the British government's views on the important subjects mentioned in several of Arthur's recent despatches home and would take them up with the legislature himself, the colonial secretary did not think it necessary to reply to the lieutenant-governor's communications. 38 Instead, Arthur was directed to confer with the governor general on his arrival in order that Thomson could avail himself of the lieutenant-governor's "clear and experienced judgment". 39

36 Russell to Thomson, No. 1, 7 September, 1839. Vol. 43, pp. 78-81. Ibid.

37 Ibid.

38 Russell to Arthur (Private), 9 September, 1839. Vol. 94, pp. 7-9. Ibid.

39 Ibid.
In compliance with these instructions, Arthur met with Thomson in Montreal between 25 and 30 October, at which time it was decided that Arthur should call the Upper Canadian legislature, to be presided over by the governor general, for the first week in December. In a despatch of 30 October, marked "Confidential", intended as a follow-up to the discussions between the two men, the governor general spelled out the action the British government had elected to take on the Upper Canadian rebellion losses bill which the lieutenant-governor had reserved.\(^4\) A despatch to Arthur from the colonial office, dated 12 October, conveyed the same information.\(^4\)

On 18 November, Thomson left Montreal for Toronto, and on the 22nd was reported by Arthur to have taken over the government of Upper Canada.\(^4\) At the governor general's request, Arthur was to continue to conduct the routine business of the province. The fifth session of the legislature, presided over by Governor General Thomson, met on 3 December and wasted no time in coming to grips with the question of rebellion and invasion losses. On the 6th preparation was begun on an address to the governor general inquiring about the fate of the reserved bill of last session. Passed on the 19th, the address was replied

\(^4\) Thomson to Arthur (Confidential), 30 October, 1839. Vol. 231, Upper Canada Sundry. A1, RG 5, PAC.


to on the 31st. The response, read to the house on 2 January, 1840, was, except for a change of person and tense, essentially the message which Russell had communicated to Thomson on 7 September. The governor general also took this opportunity to table the despatch which Arthur had received from Normanby, instructing him to inform the Assembly, in reply to their address, that the queen could not "hold out any prospect that Parliament will grant the indemnity to the Provincial Treasury, Proposed in this address".  

Undaunted by these setbacks to their hopes for a quick and painless settlement of the losses question, the assembly immediately took up the cause once more. On 3 January, the day after the governor general's gloomy announcements had been received, John Prince gave notice that he would move for leave to bring in a new bill to ascertain and provide for the payment of claims arising from the rebellion and invasions of the province. Next day, following proper procedure, he served notice that he intended to move that the house resolve itself into a committee of the whole on supply "to grant a sum of money sufficient for indemnifying from loss all sufferers by the late rebellion and invasions of this Province". Some three weeks later, the bill to which Prince's

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44 Ibid., p. 113.
motion had given rise was read a third time by the assembly and referred to the legislative council.

On the same day as the bill passed the house, Colonel Prince proposed that the queen be addressed once more on the subject of liability. The message announcing rejection of the previous rebellion losses' bill had not, after all, taken a firm position on the subject. According to what the house had been told, royal assent had been refused more on a procedural than on a substantive point. It had been denied, according to Her Majesty's representative, not because the imperial parliament necessarily disagreed with the proposition that it was ultimately responsible for losses, but because, under the terms of the bill's preamble, that government would be bound by a decision taken elsewhere. On the acceptability of the bill's implied pledge of imperial indebtedness, the message received from the governor general had been ambiguous, saying only that such a principle should not be incidentally recognized, "even supposing it to be right that it should be admitted at all." Furthermore, it had been stated that a claim of this nature on the revenues of Great Britain would not be acquiesced in by the queen "unless it had been previously sanctioned by Parliament". The assembly had not yet explored that possibility. Although the queen's reply to the address

45 Ibid., p. 102
46 Ibid.
which had accompanied the earlier bill was far from encouraging, saying that she could hold out no prospect that parliament would grant the indemnity, yet the fact remained that parliament itself had not yet had the opportunity to decide. There was still some hope, then, that the province could avoid the irrecoverable expenditure of tens of thousands of pounds of provincial monies.

On 4 February, Prince moved his address, which passed first and second readings and scrutiny by committee of the whole in quick succession. Later the same day it received third reading and was passed. The address noted the reasons which had been cited in Thomson's message for rejection of the losses bill of the previous session. Imperial liability was not to be incidentally admitted and its admission by the queen would have to be preceded by parliamentary sanction. It also noted the assurance that royal assent would be immediately given to a provincial bill from which the compromising preamble was omitted. The pressing nature of the claims, the address continued, had induced the legislature to pass such an act. At the same time, however, the assembly had felt it to be their "bounden duty, humbly to address Your Majesty, on the justice and propriety of relieving Your Majesty's dutiful and loyal subjects in Upper Canada, from the burden thus incurred".\footnote{Ibid., pp. 302-303.} The address went on to explain why, in the opinion of the house, responsibility
rested with the imperial government. The withdrawal of British forces from Upper Canada for the defence of the lower province had greatly encouraged the hopes of the invaders. The rebellion, which the defenceless state of the province had occasioned, had been suppressed by the Upper Canadians themselves and they had also been entirely responsible for repulsing the early invasions. The losses incurred and sacrifices made in connection with the rebellion and invasions arose out of defence of the empire, by whom they should be repaid. In short, "the people whose zeal and loyalty alone exposed them to such hazard and loss should not also be taxed to relieve the sufferers". 48 Finally, the province had done its part by providing pensions to the wounded and to the dependents of those killed. The population which had cheerfully borne "both the danger and loss arising from personal exertion" should "not ... be left unassisted with regard to property". 49 Parliament should authorize payment to be made to the sufferers from the invasions as they had following the late war with the United States, and Her Majesty was entreated to urge them to do so. 50

In the meantime, word had been received that the legislative council had concurred in the rebellion and invasion losses bill from which all implicit obligation had been stricken. Once again,

48 Ibid.

49 Ibid.

50 Ibid.
however, notwithstanding the pledge given in his message of
2 January, the bill was reserved by Governor General Thomson,
who offered the following explanation of his action:

To this bill I should have been ready to assent, but
as I observe that the House of Assembly have addressed
Her Majesty, praying that the losses may be defrayed by
the Imperial Treasury, I have considered it to be more for
the interest of the parties concerned, that the bill should
be reserved, in order that the address may be considered
by Her Majesty's government, before the provincial funds
are finally charged with this payment. 51

Thus the fifth session ended with the losses question only
slightly nearer a solution. For lack of any formal machinery for
processing them, unredressed claims had, before and during the
session, continued to be dealt with in a manner that was becoming
distressingly familiar. Before the legislature met in December,
1839, claims had been directed to the lieutenant-governor's office
where they collected until such time as they could be laid before
the assembly. Once the session opened, claims in the form of
petitions presented through the claimant's local member of the
legislature supplemented those sent down in "messages" from the
lieutenant-governor's office. The fifth session was marked by the
introduction of several novel petitions, these being for losses
inflicted by persons employing arson as an instrument of revenge
and intimidation against their political foes. Two such petitions
had been tabled and read by 3 January, 1840, when Thomson sent

51 Ibid., p. 385
down the losses claims which had accumulated since the fourth session of the legislature.\textsuperscript{52} Among those sent down on the 3rd, seven of which were from the Western District,\textsuperscript{53} were the claims of Francois Janise and P. E. Morin, which Colborne had returned to Arthur after declining to pay them out of the military chest. A third, that of Henry Banwell of Sandwich Township, also claimed damages in respect of a house which had been burned to the ground by the "brigands" at Windsor on 4 December.\textsuperscript{54}

On 18 January, first reading was given to a bill to provide remuneration to the victims of political arson. Before the house proceeded further with the bill, however, it was decided that the claims of Janise, Morin and Banwell, as well as the other claims sent down by the governor general, should be referred to a select committee. To this committee, of which John Primm was a member, were also referred the two original arson claims. A third was added a short time later after an unsuccessful attempt had been made to have it dealt with separately.\textsuperscript{55}

\textsuperscript{52} that of John Newburn, J.P., of the Niagara District and of Malcolm Laing of the town of Niagara

\textsuperscript{53} Francois Janise, township of Sandwich; Peter Hector Morin, town of Sandwich; John Sales, Sombre township; Robert Brown, Moore township; Mrs. Sayer, Moore township; Rowland H. Alison, Warwick township; and Henry Banwell, township of Sandwich.


\textsuperscript{55} that of Sheldon Hawley of the Newcastle District
Having now had the opportunity to study all arson claims which had been submitted to the house, the select committee drafted a new bill to supersede the one which had been put forward on 18 January and which had been stalled in committee of the whole following second reading on 29 January. In doing so, however, they made a distinction between claims resulting from partisan animosity and those stemming from foreign aggression, the last instance of which had been at Windsor on 4 December, 1838. Such a distinction was probably made because it was considered that losses attributable to the degradations of the patriots were part and parcel of rebellion losses and would, therefore, be eligible for payment under the terms of the revised rebellion and invasion losses bill which the legislature had passed on 30 January.

On 4 February, the new bill was introduced and given first reading, and by the 10th had cleared both houses. The "Act to make provision to indemnify persons for losses occasioned by the acts of incendiaries, between the fourth day of December, in the year of Our Lord one thousand eight hundred and thirty eight, and the first day of January, one thousand eight hundred and forty" was, however, not enacted into law. On 10 May, along with the modified rebellion and invasion losses bill, it was reserved by the governor general for the signification of the queen's pleasure.56

During the time that efforts were being made to liquidate

rebellion losses claims generally, George Foott continued to press for settlement of Duncan McGregor's account against the government for the destruction of the THAMES. McGregor's claim, it will be recalled, had been referred to the assembly on 8 April, 1839, when it appeared doubtful that the imperial government would take any action on it. Arthur's interpretation of Normanby's despatch of 25 February, 1839, was borne out by the colonial secretary's communication of 22 March, acknowledging receipt of McGregor's claim and informing the lieutenant-governor that the home government was not prepared to settle individual claims but would wait until some general principle could be formulated. During the fourth session of the thirteenth parliament, the assembly had likewise shown a disposition to deal with claims in general rather than with particular ones, and had passed a rebellion losses act and addressed the queen on the subject of liability without settling any of the individual claims laid before it.

While it now appeared that the claim in respect of the THAMES was dooped to receive the same treatment as any other account for losses, efforts on McGregor's behalf continued to be made and were ultimately successful in securing for the Chatham shipowner a modicum of relief from the military chest. 57 Although sympathetic, Arthur was reluctant to recommend further payments to be made

from this or any other source. The executive council, which
had earlier recommended that McGregor's claim be referred to
the assembly, hesitated to authorize any relief for him out of
provincial funds, pending a decision by the home government.
Instead, they advised the lieutenant-governor to take no further
action until he could consult with Charles Poulett Thomson. The
new governor general, they understood, was bringing with him the
reserved bills of the last session in order to inquire into and
report on them. Since McGregor's case came within the scope of
one of these bills, council recommended that consideration of
his claim be postponed until the lieutenant-governor could
ascertain Thomson's position on the subject. 58

Thomson's news that the rebellion losses bill of the fourth
session had been disallowed would, it seemed, rule out any settle-
ment of McGregor's account. The Chathamite's friends, however,
were not easily deterred, and their perseverance at length paid
off. No sooner had the new governor general set foot in Upper
Canada than McGregor's case was thrust before him. Once put in
possession of the facts of the case, which indicated that the
ship was indeed on government service at the time of its destruc-
tion, Thomson wasted no time in pressing the home government
for a prompt settlement of the claim. 59 In the meantime, in order

K2, RG 1. PAC.

"R" Series, MG 11. PAC.
to afford McGregor sorely needed relief, he arranged for him to be advanced £2000 out of the provincial crown revenues. The governor general's strong advocacy of the claim, and his assurance that its uniqueness would prevent any inconvenient precedent from being established, were sufficient to convince treasury that payment should be made from imperial funds. Early in 1841, after a final review by the home government of the evidence adduced in support of the claim, Duncan McGregor was at last paid the balance of the £4000 settlement which had been agreed upon.

The settlement by the imperial government of McGregor's claim, which had, at one time, been represented as a fairly typical one, was not to be indicative of things to come. Only when Thomson had persuaded the authorities at home that McGregor had a special claim to their bounty and that his was a singular case did they give it their attention.

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60 McGregor's property had been seized by the sheriff and was to be sold at sheriff's sale unless he could pay his debts. McGregor, understandably upset over the treatment he had received, was threatening to leave the province.

61 see Civil Secretary T. W. G. Murdoch to Provincial Secretary R. A. Tucker, 7 January, 1840. Vol. 55, p. 63. G16C, RG 7. PAC.

62 Treasury Assistant Secretary C. E. Trevelyan to Stephen, 10 April, 1840. Vol. 429, pt. 1, p. 198. Q Series, MG 11. PAC.

less success in his efforts to convince the British government that they should afford the same satisfaction to other rebellion losses claimants.

Soon after the fifth session of the thirteenth parliament of Upper Canada had ended on 10 February, 1840, Thomson transmitted to the colonial secretary the address respecting British liability, which had been passed during the session by the assembly, promising, at the same time, to write at greater length on the subject at a later date. This he did on 26 May.

The governor general explained how, despite the explicit directions he had been given to assent to a rebellion losses act which contained no reference to British liability, he had reserved the act of the fifth session. He had done so, first, in order to give Her Majesty's government an opportunity to consider the assembly's address and, secondly, on account of the financial state of the province. To give royal assent to the bill under the present circumstances would, to Thomson's mind, be most imprudent.

Although the Legislature have voted a sum of £40,000, I have reason to believe that these claims, if properly sifted, might be covered by actual payment of not more than half their demand; whether greater or less however, it is clear that if the Queen's assent be given to the Act passed last Session, the amount whatever it be can only be raised by adding to the debt of the Province. This I should think highly objectionable; the debt has been stated as it existed at the time the Union was agreed to, and I should be very unwilling to add to it any fresh charge not absolutely called for. But in the present state of the Credit of the province it would, I believe besides, be impossible to raise any such sum by debentures except at an enormous sacrifice; I cannot, therefore, recommend to Her Majesty's Government to assent.

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to the Bill. 65

And yet, if the bill were to be disallowed, the only
alternative means of upholding the faith of the government,
which had been "undoubtedly pledged", was to afford relief out
of the imperial treasury. The answer given to the assembly in re-
sponse to their earlier address had not ruled out that course.
While the principle of making good such losses might be objection-
able, yet, in view of the severe and irremediable sufferings
and the great sacrifices undergone by the Upper Canadians,
"the expense seems more justly to belong to the Mother Country
whose dominions were invaded and whose power was threatened
than to the Colony itself." 66 Thomson then made his final appeal.

Under the circumstances - the pledge given by the
Crown; the impossibility of providing the means from the
Provincial funds or from Provincial credit; and the peculiar
nature of the claims, I beg earnestly to recommend to the
consideration of the government the propriety of adopting
this charge. If that be done, I would then take measures for
securing the strictest scrutiny into the validity of the claims;
and I entertain no doubt that if the investigation
were properly conducted, under persons altogether unconnected
with the Province, the amount might be reduced to
a very moderate sum, whilst the Act of grace and generosity
on the part of Parliament would be highly felt & appreciated
throughout Upper Canada. 67

In a confidential despatch to Russell next day, Thomson reaffirmed
his belief that, if the rebellion losses act were approved, it
would place a heavy debt on the province and open the way to
abuse. 68

In the meantime, the address of the assembly, enclosed in

65 Thomson to Russell; No. 115, 26 May, 1840. Vol. 310, pp. 197-
205. Ibid.

66 Ibid.

67 Ibid. 68 Thomson to Russell (Confidential), 27 May,
1840. Vol. 272, pt. 1, p. 221. "Q" Series,
MG 11. PAC.
Thomson's despatch of 15 February, had been referred to treasury, as had a copy of the rebellion losses bill which the governor general had reserved. With respect to the latter, treasury reported to the colonial office on 20 June. Their decision almost certainly came too early to have been influenced by the arguments against approval of the act set forth in Thomson's despatch of 26 May, which Russell did not acknowledge until 1 July. At any rate, the apparent lack of concern for the financial state of the province, the matter which had so exercised the governor general, suggested that his views had not obtruded themselves upon the deliberations of treasury. Treasury's stand on the bill was simply that, "as it appears to have been passed in accordance with the suggestions in a Despatch addressed by his Lordship to Lieut. Governor Sir George Arthur on the 12th October last, and does not contain the reference to obligation on the part of Her Majesty's Government to provide from the funds of this Country for the satisfaction of the claims to which it relates, which had been objected to in the previous Act, My Lords have not seen reason to object to the allowance and confirmation of it." 69

Having acted contrary to the as-yet-unknown wishes of the governor general in this regard, treasury, on 9 July, took a position with respect to imperial liability which was consciously opposed to the views expressed by Thomson in his letter of 26 May, which had been referred to them by the colonial secretary on or

before 1 July. Treasury, it was announced, did not conceive that the "circumstances under which the losses arising from the rebellion were incurred were such as to warrant an application to Parliament for the means of indemnifying the sufferers at the expense of this country". 70

Russell apprised Thomson on 15 July of the decision handed down by treasury with respect to the reserved losses bill and the address on liability. On the 24th, he also asked the governor general for his comments on the Upper Canadian reserved bill regarding arson claims, which treasury were disposed to disallow. 71 Thomson, who had received the despatch of 24 July before that of the 15th, replied to both on 9 October. He very much regretted the British government's decision not to propose to parliament that rebellion losses be paid from imperial funds. Their failure to do so had, of course, made it necessary for them to recommend that royal assent be given to the provincial rebellion losses act, the result of which would be that the debt of Upper Canada, and United Canada when it came into existence, would be increased between £20,000 and £40,000. With so substantial an addition to the province's debt in store, the governor general understandably had no objection to disallowance of the act to


71 Russell to Thomson, No. 189, 24 July, 1840. Ibid., pp. 280-282.
indemnify the victims of arson and it was, consequently, set aside.

72 Sydenham to Russell, No. 175, 9 October, 1840. Vol. 311, pp. 371-373. C.O. 42, RG II. PAC.

CHAPTER 5: THE PERIOD OF ABYANCE, OCTOBER, 1840 – FEBRUARY, 1845

On 6 March, 1840, Colonel Prince arrived home. Apparently discouraged over his political prospects, he intended, he said, "to retire altogether from public life". On his return to the western frontier, however, he found plans already underway for securing his re-election and, four days after his arrival in their midst, he was presented with a requisition signed by three hundred and fifty-three of his constituents urging him to run again. This manifestation of local support, together with signs that his political fortunes might be improving, soon encouraged Prince to abandon all talk of retirement.

On 1 September, Lord Sydenham –as Charles Poulett Thomson had become –visited Windsor and Sandwich as part of a general tour of western Upper Canada. It would have been difficult for Prince to interpret the attention paid him by the governor general on this occasion as anything but a mark of vice-regal favour. Prior to debarking, Sydenham had received Prince and Colonel Young of the 2nd battalion of militia in private audience aboard the steamer TORONTO. Later in the day, he had responded to Prince's welcoming address urging his intervention in favour of rebellion losses payment by disclosing that "I have within these few days received information that Her Majesty will be advised to

1 Western Herald and Farmers' Magazine, 14 March, 1845.

2 Ibid.
assent to it (i.e., Prince's reserved rebellion losses bill) and that "so soon ... as the final ratification arrives in this country it will be my duty to cause steps to be taken for giving effect to it". Finally, the governor general had paid Prince the highest possible compliment by visiting his Sandwich estate, the Park Farm.

By early fall, 1840, therefore, the future prospects for Colonel Prince seemed very promising indeed. His aggrieved constituents also had grounds for optimism for, at long last, settlement of the losses claims seemed near at hand. The question of liability which had been a major factor in delaying settlement had now been unequivocally resolved in favour of the provincial government. The latter were empowered to act by a provincial statute which had originally been reserved but which, as Sydenham had promised, was subsequently confirmed by imperial order-in-council of 10 August and proclaimed on 22 October.

Almost as soon as the proclamation appeared, steps were taken to implement the terms of the act. From a list drawn up by Harrison, in accordance with what he thought to be Sydenham's wishes, the civil secretary, with Arthur's approval, wrote a number of persons in the province inquiring of their willingness

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3 British Colonist, 16 September, 1840.


to serve as rebellion losses commissioners. Among those singled out were John Prince, Francis Caldwell and Charles Baby, whose services, they were told, the lieutenant-governor would be pleased to avail himself of "should it suit ... (their) inclination & convenience to undertake the duties of a Commissioner in the Western Distr". 6

News of Arthur's initiative came as a distinct surprise to the governor general. Notwithstanding his statement at Sandwich, he did not believe the time was yet propitious for the appointment of commissioners. Nor was he sure that Arthur was being careful to engage only disinterested men. Thus his secretary, T. W. C. Murdoch, responded quickly to Harrison's letter of the 23rd, asking him to have Sir George Arthur inform the governor general of what exactly had been done with respect to the appointing of commissioners. As to the type of men to be appointed, "His Excellency would beg to suggest for the consideration of Sir George Arthur the propriety of naming two Commissioners who should act generally for the whole Province in conjunction with a local commissioner for each district - For this service gentlemen might be selected who have been in the Commissariat Department or who are otherwise well qualified to examine strictly into the claims put forward." 7

6 Harrison to Prince, Caldwell and Baby, respectively, 24 November, 1840. Vol. 58, p. 279. G16C, RG 7. PAC.

7 Murdoch to Harrison, 30 November, 1840. Vol. 45, no. 2558. G1, RG 5. PAC.
The day after this letter had been received in Toronto, Arthur addressed to Sydenham a private and confidential letter on the subject. The lieutenant-governor was apologetic. He had, he explained, "given ... (his) consent to what had been done entirely on the understanding that it was in accordance with your wish". The persons approached to be losses commissioners were not of his choosing either but were men whose nomination, he believed, had been sanctioned by the governor general. Arthur had no doubt that the course which Sydenham had suggested was the proper one and questioned whether it would not be better to leave the whole matter for the governor general's disposal. Harrison responded officially on Arthur's behalf on the 10th, addressing himself more specifically to the question of what steps had thus far been taken. "Nothing has been done", he wrote, "beyond writing to three individuals in each District to ascertain whether they would take upon themselves the duties of Comrs. under the statute - If however the Govr. Genl. thinks it a more judicious plan to appoint two Comrs. who shall act generally for the whole Province in conjunction with a local Commissioner for each District, there is nothing which has yet been done which would prevent such a course being taken. Indeed no further steps need at present be taken at all", since "everything has been done to show that the Govt. has been alive to the interests of the

sufferers who have claims, & the matter therefore may rest until
the funds have been realized for the payment. 9

The governor general was noticeably relieved by this news.
On the eve of a critical election which he was unabashedly to
manipulate for the purpose of seating an acquiescent majority in
the assembly, he had no desire to afford appointees of questionable
political loyalties such ready-made sources of patronage. He was,
therefore, "very glad to find that nothing final has been done in
appointing the Commission of Indemnity, for I am satisfied that the
people of the Country cannot be trusted, and that our only chance
of getting the claims well sifted will be, to have two out of the
three Commissioners, Commissariat Officers or something of that kind,
who will keep the third who I believe cannot be a resident in the
district, in order". 10 For the time being, there could be no harm
in waiting. On 18 December, Murdoch officially notified Harrison
that "His Excellency would suggest that under the present circum-
stances of the Province it would be more convenient for the present
to postpone any further proceedings in this matter." 11

Since Arthur had acted in the first place only because he
thought he was carrying out the wishes of the governor general,

Cl6C, RG 7. PAC.

10 Sydenham to Arthur (Private), 15 December, 1840, in C. R. Sand-

11 Murdoch to Harrison, 18 December, 1840. Vol. 48, no. 2714.
Cl, RG 5. PAC.
there was no need for him to proceed further now that Sydenham's true position was known. In addition, the reply which Harrison had received in response to his exploratory letter to John Prince of 24 November, probably did much to confirm the lieutenant-governor in the wisdom of letting the appointment of commissioners quietly lapse. While Francis Caldwell and Charles Baby had eagerly accepted Harrison's offer of a commissionership, John Prince had respectfully declined, citing the press of business as his reason for doing so. From his gratuitous remarks on the suitability of the other two candidates, however, it was readily apparent that this was not his real reason for refusing the offer.

As far as Prince was concerned, the system of local appointments which the lieutenant-governor had adopted frustrated the intent of the act of which he, Prince, had been both author and sponsor.

... during the debate it was urged, and generally acquiesced in, that His Excellency should appoint two commissioners from Toronto or some distant place who were totally disinterested and unacquainted with the claimants, and that the third commissioner should be a gentleman resident in the District where the sittings were held, such gentleman being likely to afford the commission solid information respecting the character and claims of the several claimants in his District. 12

Both Francis Caldwell and Charles Baby were, in Prince's opinion, inappropriate choices; the former by reason of his circumstances, the latter by reason of his being susceptible to malfeasance.

Caldwell was insolvent, his property about to be disposed of at

12 Prince to Harrison, 4 December, 1840. Vol. 46, no. 2606. Ibid.
sheriff’s sale, while Baby was a pettifogging country lawyer, certainly not the “independent Country gentleman ... (which) the Parliament and the People expected to be named in the Commission”.  

Political and personal reasons also militated against Prince’s agreeing to serve with such men.

... Mr. C. Baby is the leading supporter of Mr. Caldwell against my pretension to represent this County in the United Parliament; and it is generally understood by the constituency that the opposition is got up merely to put me to expense. Mr. Baby was one of my most active agents in the last election; and he and others then put me to £1000 expense & upwards! He now opposes me because he hates me and he has ever done so since the Report of the Court of Inquiry (upon my conduct on this day two years) came out. The supposed reconciliation which was, in some degree brought about by Sir Allan MacNab had no seat in his bosom. ‘Hocet lateri lethalia arundo’—and so it ever will. He hates an English gentleman & so does his brother Canadian Mr. Caldwell. They expect (and Mr. Baby has mentioned his expectations) that this commission will give them electioneering influence; and I think it will. I cannot sit with two such persons.  

Whoever should eventually be appointed as commissioners, however, the present time was not apt, and Prince begged to suggest “the propriety & expediency of withholding the Commissions until the elections are over. Such a measure cannot prejudice the Country, as it is perfectly clear that the sums allowed cannot be paid until next summer if indeed, so soon”.

Prince, therefore, could scarcely have been disappointed with the temporizing reply addressed to him by Harrison on 30 December, informing him with respect to the act, that “no definitive arrangements have yet been made; what has been done being merely a step
preparatory to the wishes of the Legislature being carried into effect by the Executive Govt. In doing which it will always afford, His Excellency great pleasure to adopt a course, which may meet the concurrence of the House of Assembly."

Had he been able to foresee that Harrison's reply would hold good for the next four years and that another election would have to intervene before steps were taken to implement the act, Prince would have derived less satisfaction from the decision. The coming into effect of the union on 10 February, 1841, gave rise to circumstances which made it more difficult than ever to carry out the terms of the rebellion losses act. The Upper Canadian legacy to the united province of heavy debt and poor credit, although ameliorated by a £1,500,000 guaranteed loan from the British treasury, could still be cited as a valid reason for not taking on the additional expense of rebellion losses. Furthermore, Canada East, as Lower Canada now came to be known, naturally resented any addition to the public debt that would benefit inhabitants of the other section of the province only. The untimely death of Governor General Sydenham, who had manifested some concern for the plight of the sufferers, and the ascendancy of largely indifferent reformers and French-Canadians as advisers to less purposeful governors ensured that little or no action would be taken for some time. For the remainder of Sydenham's governorship, however,

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16 Harrison to Prince, 30 December, 1840. Vol. 58, p. 394.
G16C, RG 7, PAC.
claimants and their champions continued to nurture a hope that rebellion losses would soon be dealt with. The optimism excited by Sir George Arthur's inopportune selection of losses commissioners was kept alive by Civil Secretary Harrison's encouraging replies to inquirers, despite Sydenham's having quietly put a stop to the lieutenant-governor's attempt to implement the act.

On 3 June, John Prince, who had been returned for Essex in the election of 1841, left Sandwich for Kingston, the new seat of government where the first parliament under the Union was scheduled to open on the 14th. In many respects Prince, like the newly united Canadas was making a fresh start. The "English gentleman" who had remained firm in his attachment to his sovereign and the "glorious constitution" she symbolised had found, to his chagrin, that common professions of loyalty were not enough to admit him to the select fraternity that had ruled Upper Canada. He had arrived in the colony only in 1833, albeit with assets reputed to be in the neighbourhood of three hundred thousand dollars.

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17 A rumour that Prince had been shot during the campaign and his residence set afire was dismissed by the lieutenant-governor as "an Electioneering move". "Nor", he added, "would I have it confirmed on any account.-- Thomas a Becket's Shrine would be a desert compared to the assemblage around the Tomb of this patriot". (Arthur to Sydenham (Private and Confidential), 15 February, 1841, in C. R. Sanderson, The Arthur Papers, III, 321.

While this wealth had bought him considerable prominence in the rural community where he had settled—enough to secure his election to the assembly three years later—it had failed to gain him acceptance among many of the area's old families. The plot to discredit him after the battle of Windsor had made that plain enough. Nor, despite the sacrifices he had made during the "troubles" of 1837–38 as testimony of his loyalty, had he been able to ingratiate himself with the tory ruling class and the lieutenant-governor who befriended them. Certainly his services had not been recognized in any tangible way and Prince was very sensible of having been ill-used.

By February, 1841, however, the tide had turned. The unsympathetic Arthur had been replaced by Sydenham, whose pragmatism and belief in progress struck a responsive chord in Colonel Prince.

19 On 23 January, 1841, in reply to a questionnaire designed to gather information for prospective immigrants, Prince wrote with characteristic acerbity: "He (the immigrant) ought also to be informed that in the Country society is of the worst description. If he be a man richer than his neighbours, or a man of attainments and energy, and natural intellect superior to them, he is sure to become the victim of their hatred, malice, and persecution; and their only aim will be to drive him from the Country—especially if he is an English 'Foreigner' as they think he is and generally so style him". (Return to questionnaire, 23 January, 1841, in C. R. Sanderson, The Arthur Papers, III, 266–267.

20 see Prince's comments in the house on 23 June, 1841, when, in obvious reference to himself, he complained of having been "coldly received and even treated with disdain by the late Governor" (Chatham Journal, 3 July, 1841.)
This same governor general, for his part, evidently felt that Prince, too, would be an asset, and had done what he could to see that the member for Essex was re-elected. Not only had he made a point of honouring Prince during his day-long visit to Sandwich the previous summer, but he had taken the precaution of having Robert Mercer named as returning officer for Essex constituency. 21 Mercer, a magistrate and one-time antagonist with whom Prince had become reconciled, had served during the campaign as chairman of the Windsor committee to secure Prince’s return. 22 With such encouraging signs of vice-regal favour and the exclusive old tory aristocracy now in eclipse, Prince’s star once more seemed to be rising.

Very early in the life of the new parliament, Prince pledged his support for Sydenham and "her Majesty’s Colonial Ministers". The policies enunciated by the new governor general in his opening address were, he believed, "calculated to promote the best interests of Canada". 23 On immigration, government and the rights of French-Canadians, Prince’s views were at one with those the governor general had seemed to espouse. Where Sydenham had con-

21 Western Herald and Farmers’ Magazine, 31 March, 1841.

22 Ibid., 14 March, 1841.

23 Chatham Journal, 3 July, 1841.
demanded the practice of throwing "starving and diseased paupers under the rock at Quebec" and come out in favour of "good stout English peasants" or some yeomen with a few hundred pounds each, 24 Prince did not want to see "the refuse of the Mother Country cast upon our shores" and favoured instead the influx of persons of wealth and intelligence. 25 Capitalists could be induced to come out, however, only if an atmosphere of confidence prevailed in the colony. As under Sydenham's "harmony-concept", this confidence would only be promoted if all members of the house put aside their differences and worked toward good government, as he himself intended to do. 26 Prince also took up Sydenham's theme that the Union "must be founded upon principles of equal justice to all Her Majesty's Subjects". 27 Finding the Union bill that had emerged unfair to the French-speaking population, Prince assured the members for Lower Canada "that he would be ready at any time to assist them in reclaiming their rights and privileges, of which they


25 Chatham Journal, 3 July, 1841.

26 Ibid.

had been abridged to an alarming extent.\footnote{28}

Rebellion losses, however, remained Prince's dominant interest and here, too, he believed that he and Sydenham were of one mind. Both, he was convinced, were eager to liquidate the claims as quickly as possible. Anticipating that the delay in implementing the rebellion losses act was but a temporary one now that the election was over and that the commissioners it provided for would soon be appointed, Prince was anxious to correct what he considered to be a defect in the legislation of 1840. On 2 July, at Prince's instigation, the house resolved to go into committee of the whole on the 6th to consider the expediency of extending the time allowed for the sittings of commissioners beyond the six-day maximum laid down in section V of the act. The amending bill which the committee authorized Prince to bring in was thereupon given first and second readings and referred to committee of the whole. Here it became evident that others besides Prince were conscious of defects in the legislation of 1840 and were prepared to take advantage of the opportunity he had inadvertently provided to alter not only the "mechanics" of the act but its very intent. Robert Baldwin, the reformer from Hastings,\footnote{29} sought to enlarge the scope of the bill.

\footnote{28} Chatham Journal, 3 July, 1841.

\footnote{29} Baldwin, who had been named solicitor-general by Thomson in February, had resigned the position in mid-June. His resignation had come when the governor general had refused to concede the principle of responsible government by forming a ministry which would reflect what Baldwin held was overwhelming public support for the reformers.
not only with respect to the sittings of commissioners but also with regard to the types of claims commissioners should be empowered to investigate. The losses, he maintained, should be divided into three categories: those resulting from impressment of arms; those occasioned by the violence of soldiers and militiamen; and those associated with property which had been taken possession of by regular troops or others, with or without the consent of the owners. 30 The proposed delineation of eligible claims was in all likelihood put forward as a means of obviating strict construction of the act by the commissioners eventually to be named. Such an interpretation had already rendered practically nugatory the only previous losses act of the upper province which had been put into effect. As a result, the act 1 Vic. cap. 13 had given satisfaction only to a few Toronto-area claimants, most, it was charged, arch-tories.

Debate on the amendment in committee centred around whether such claims were or were not already comprehended in the existing legislation. Those who believed that claims for losses suffered at the hands of Upper Canada’s defenders were excluded from the act of 1840 were themselves divided on whether the amendment should be approved or not. On the one hand, supporters of the amendment contended that all sufferers by the rebellion and invasions, from whatever cause, should share in the £40,000 authorized to be raised under the existing legislation. If that sum should not prove sufficient,

30 Kingston Chronicle and Gazette, 24 July, 1841.
then more money ought to be appropriated. On the other hand, those who opposed the amendment maintained that claims of the type that Baldwin had described were not contemplated by the assembly when they had passed the act appropriating the £40,000 to remunerate sufferers. Rather than increase the number of claimants and scale down the proportion of the appropriation that could be awarded to each, as Baldwin's amendment would do, a separate bill should be enacted to provide for the new classes of claims. Prince, who had drawn up the original bill, took a position somewhere between. While he opposed the amendment, he did so, he said, not because he disagreed with the principle of extending benefits to persons who had been aggrieved in the ways outlined by Baldwin, but because he believed that such persons were already eligible for remuneration under the provisions of his act. As far as he was concerned, all sufferers were entitled to be reimbursed for losses and should be compensated if they were to be expected to remain loyal. He was disturbed, he said, having in mind the delays which had attended his earlier bill, because adoption of the amendment would hold up implementation of the bill for months while royal assent was being secured. Such a further postponement would only heighten the discontent that already existed over the government's failure to settle claims which should have been paid long ago. 31

The objections of Prince and others notwithstanding, Baldwin's

31 Ibid.
amendment was carried and, as a result, the commissioners
to be appointed were empowered and directed
to inquire into all losses sustained by Her Majesty's
subjects and others resident within that part of this
Province to which the said Act extends, from the first
breaking out of the said Rebellion to the passing of the
said Act; and the several claims and demands which have
accrued to any such persons by such losses in respect
of any loss, destruction, or damage of property occasioned
by violence on the part of persons acting, or assuming
to act, on behalf of Her Majesty, in the suppression
of the said Rebellion, or for the prevention of further dis-
turbances; and all claims arising under or in respect
of the occupation of any houses or other premises, by
Her Majesty's Forces, either Imperial or Provincial. 32

The amended bill was then approved. On 23 July the bill received
third reading and was referred to the legislative council. Notice
of that body's concurrence was communicated to the house on 5 August
and, on the 17th, royal assent was given to the act, officially
styled "An Act to amend and enlarge an Act of the Legislature of
the late Province of Upper Canada, intitled, 'An Act to ascer-
tain and provide for the payment of all just claims arising from
the late Rebellion and Invasions of this Province'. 33

The act revised, appointment of the losses commissioners
now appeared imminent. Three days after royal assent had been
given to the amending bill, James Hopkirk, assistant provincial
secretary of Canada West, notified a petitioner that "... steps
will shortly be taken for the appointment of Commissioners under

33 4 & 5 Vic. cap. 39
the act of the last session of the late Province of Upper Canada for investigating claims arising out of the late Rebellion, of which, due public notice will be given and you will then have an opportunity of bringing your claim before them. 34 The house evidently shared this belief and, on 10 September, adopted a resolution calling for the appropriation of $500 currency "to defray the expenses of Commissioners to be appointed to ascertain claims for losses during the late rebellion, of that part of this Province heretofore Upper Canada from the 10th day of February 1841 to 31 December 1841 both days inclusive." 35

The untimely death of Lord Sydenham on 19 September, 1841, dashed whatever hopes had been held out for a prompt settlement of the rebellion claims. With the governor general's passing, John Prince's own hopes and aspirations also seemed to vanish once more. 36 In his efforts to make himself more acceptable to Sydenham, Prince had acted in ways which had seemed entirely out of character for a man who had consistently condemned disloyalty and who had gained considerable fame—indeed, notoriety—from suppressing the attempts of those who had taken up arms against the established order. With an eye both to his heterogeneous constituency and to the governor general whose esteem he sought,


36 The day before the governor general's death, Prince was mentioned as a leading candidate for the position of warden of the Western District under the provisions of the newly passed District Councils Act. The appointment, however, ultimately went to John Dolsen of Dover. (Chatham Journal, 18 September, 1841)
Prince had, on 17 June, advertised himself as a "moderate reformer" and subsequently spoken out in favour of an amnesty for political refugees, an end to discrimination against American immigrants, and the restoration of language rights to French-Canadians. This seeming volte-face had succeeded in alienating Prince from the affections not only of distant tory newspapers like the Montreal Herald, but also of the local Western Herald, whose editor, Henry C. Grant, had been a staunch supporter of Prince from the very beginning. The death of the governor general, therefore, left Prince "caught out", and the grief he expressed over Sydenham's passing was all too real. "In that event", he wrote Provincial Secretary Harrison on 14 October, "Canada has, I think, lost the best, and most sincere and ablest friend — and I believe I have lost the only friend to me who ever appeared on this continent as representative of the Crown of England. Peace to his ashes! The subject is, alas, too sad an one to dwell upon".

37 Western Herald and Farmers' Magazine, 24 June, 1841

38 Chatham Journal, 24 July, 1841 and 31 July, 1841

39 Ibid., 14 August, 1841.

40 Ibid., 7 August, 1841.

41 Western Herald and Farmers' Magazine, 24 March, 1840 and 25 August, 1841.

For his temerity in questioning Prince's conduct on this and other occasions during the next year, Grant was relieved of government advertising, successfully sued for libel by Prince and finally forced to cease publication of the Western Herald altogether. He thereupon removed to London where he began the London Herald.

42 Prince to Harrison, 14 October, 1841. Vol. 88, no. 3474. Cl., RG 5, PAC.
Having committed himself to Sydenham's programme, there was little Prince could do but bide his time and hope that the new governor general would follow his predecessor's lead. Happily for Prince, that seemed precisely what Sir Charles Bagot intended to do. Despite a change of government at home, where the whig administration of Melbourne had been replaced by the conservative Peel government, there appeared to be no desire to tamper with the concept of "harmony" which Sydenham had so vigorously advocated and to which Prince had so readily accommodated himself. As long as he had a solid base of support in Essex, Prince could align himself with whatever faction Bagot might call upon to keep the union functioning. On one issue alone were his constituents united: that of prompt payment of the rebellion losses. It is not surprising, therefore, that the member for Essex recognized that the key to his future success lay in continuing to champion this popular cause.

Bagot had scarcely arrived when Prince, anxious to discover where the new governor general stood on the matter of rebellion

43 Sir Charles Bagot (1781-1843) was born in Staffordshire, England, on 23 September, 1781. Educated at Rugby and Oxford, he entered parliament in 1807 and became under-secretary of state for foreign affairs in the conservative administration of the Duke of Portland. Appointed British minister to Washington in 1815, he was instrumental, in 1818, in concluding the Rush-Bagot agreement. Serving thereafter as ambassador to St. Petersburg and the Hague, he was, on 27 September, 1841, appointed governor general of Canada where, it was thought, his diplomatic experience would be advantageous in his dealings with the United States. He died at Kingston on 19 May; 1843.
losses-claims, inquired of James Hopkirk "whether it is the intention of the Executive to appoint forthwith the Commission for carrying into effect the Provincial Statute of Upper Canada for the Indemnity of Sufferers by the late Rebellion", adding, for emphasis, that "the country (at least this District) cries aloud for that measure of Law and Justice, and I trust it will not be long delayed". Bagot's response, as intimated by the assistant provincial secretary west on 12 February, finally put an end to speculation and defined government policy for some time to come. The governor general, Hopkirk informed Prince, "does not think it would be expedient to appoint Comms. under the Act for investigating losses during the late Insurrection until the arrangement for raising the money to meet the amount authorized by the Statute shall have been obtained, but that as soon as the negotiations now in progress for that purpose shall have been completed, His Excellency will immediately appoint the Comms." A similar reply had been given three days earlier to one John Wilson, a commissioner-designate, who had suggested that, in view of Arthur's initiative and the recent amendment of the rebellion losses act, "it may be reasonably expected that the appointments will take place at no very distant period".

44 Prince to Hopkirk, 29 January, 1842. Vol. 81, no. 2749. Cl, RG 5. PAC.


46 John Wilson to Capt. Jones, Military Secretary, Kingston, 9 February, 1842. Vol. 82, no. 2862. Cl, RG 5. PAC.
The answer also became the stock reply to subsequent inquiries, including that of Charles Baby, the commissioner designate of the Western District with whom Prince had refused to serve.\textsuperscript{47}

The government's position on rebellion losses claims was broadcast to a wider audience of interested persons when the Chatham Journal, at Prince's instance, published, "for the information of the many who are continually applying to him on the subject", the substance of the reply he had received from Hopkirk.\textsuperscript{48}

Notwithstanding the unencouraging response his query had elicited and his wish to free himself from bothersome claimants, Prince was not prepared to abandon his efforts to secure redress for the sufferers. The legislative council had, after all, amended his original bill in such a way that payment in cash was not the only alternative open to the government for discharging its obligation. On 28 April, therefore, Prince wrote to Provincial Secretary Harrison, pressing for the early appointment of losses commissioners authorized by the rebellion losses act, "which act having been drawn and introduced by me the people are naturally pressing me on all sides to have its provisions carried into effect".\textsuperscript{49}

Hopkirk's reply that it was not expedient to appoint commissioners until the funds for discharging the claims had been raised,

\textsuperscript{47} Harrison to Baby, 15 March, 1842. Vol. 8, p. 47, C17C, RG 7, PAC.

\textsuperscript{48} "The Rebellion Claims", Chatham Weekly Journal, 5 March, 1842.

\textsuperscript{49} Prince to Harrison, 28 April, 1842. Vol. 88, no. 3474, Cl, RG 5, PAC.
Prince went on, failed to take cognizance of the fact that claimants could, under the terms of the act, be paid in provincial debentures. Indeed, "to almost all of my Constituents ... such Provincial Debentures would be almost acceptable (sic) as Cash".  

At this point, Prince felt obliged to disavow any personal interest in the matter as one who had, in 1840, been approached to serve as a commissioner. He had, he reminded the provincial secretary, declined the honour and furthermore was now of the opinion that he could render greater service to his former comrades-in-arms "by explaining and to a great extent proving their losses by ocular demonstration, than I could by sitting on the commission".  

Further delay could only aggravate an already grievous situation.

The Governor General can have no idea of the dissatisfaction, annoyance and discontent experienced and constantly expressed by the People in this District at the long long delay to which they have been subjected in having their just claims inquired into; and I do hope His Excellency will see fit to issue the Commission in June so that the Commissioners may sit in July which is a leisure time for claimants to attend before them, that being the interval between the Hay and grain Harvest; and moreover the roads are then tolerably good.

The early appointment of these Commissioners will do more to allay the spirit of discontent prevailing in these parts and which few besides myself who am so intimately connected with the whole of a Constituency naturally somewhat mercurial can have any idea of; and I submit with confidence that no harm or inconvenience can result from the appointments being made forthwith, while I know that further delay will add much to the sufferings already endured by a deserving Population who have already suffered very very much - more than any other population in this Upper Province.  

50 Ibid.  

51 Ibid.  

52 Ibid.
On 11 May, after seeking Bagot's approval of the course of action he proposed to take with respect to Prince's letter, Harrison notified Prince that the question he had raised of issuing debentures in payment of rebellion losses had been referred to the executive council. A copy of the relevant portion of Prince's letter was not, in fact, submitted to council until next day.

The day after that, the 13th, a committee of council, chaired by Robert Baldwin Sullivan, reported their decision. It might be very true, the committee allowed, that claimants would, as Prince had alleged, prefer taking payment in undervalued debentures to having liquidation of their claims delayed further.

But the ruinous policy of issuing Provincial Debentures at a period when the public finances were not equal to meet the Interest upon those already issued, the injury which such an issue would inflict upon the holders of outstanding public securities and the remonstrances on this subject from England, showing that the public debt there was seriously affected by the fresh issue of debentures in the Province, while those for disposal in England were found unsalable were of sufficient weight to make it incumbent on the Government to wait until the contemplated measures for improving the public finances, and restoring the Provincial Credit should take effect, before any fresh issue of debentures...

To have proceeded with the appointment of commissioners under these circumstances "would give false hope of immediate relief to the sufferers, while it could have been of no possible benefit to them." To continue to defer implementation of the act,


54 Ibid.
however, was, in the committee's view, not desirable. Thus, while rejecting the mode of payment proposed by Prince, the committee of council did go on record as favouring the immediate appointment of commissioners, authorizing them to commence proceedings and, if practicable, paying in cash the claims they approved. 55

To Bagot the moment was not a convenient one for naming commissioners. At a time when he was bending every effort to conciliate restive factions and hold together the tenuous coalition which had been fashioned by Sydenham, no good purpose would be served by bringing to the fore so potentially divisive an issue as rebellion losses. Less than a month after, the committee of the executive council had made their recommendation, Francis Hincks, an advanced reformer, agreed to serve as inspector general in a reconstituted council. 56 From this position, for which he had been marked by Bagot's predecessor, Hincks could effectively control the destiny of the rebellion losses claims. More concerned with restoring the province's prosperity and credit than with discharging its internal debts, the new inspector general soon made it apparent that he did not consider the liquidation of rebellion losses claims one of his priorities.

55 Ibid.

Developments during the early part of the second session of the first Canadian parliament, which began on 8 September, practically ensured that the matter of rebellion losses would continue to be neglected. Bagot, appreciating that his ministry could not command a majority in the new house and that French-Canadian support was necessary to the continuance of his government, entered into negotiations with Louis-Hippolyte LaFontaine as the spokesman for his people. As a result of these talks, the governor general was obliged to admit to his council, not only LaFontaine, but also Robert Baldwin and two other reformers, Augustin-Norbert Morin and Thomas Cushing Aylwin. While the inclusion of these four left the council a mixed coalition of party representatives rather than a single-party ministry, their presence did alter the complexion of the government.

To all intents, this reconstructed council was a reform-dominated ministry. It became more so as Baldwin and Hincks gradually healed their rift, as Harrison and Dunn acted more as reformers than moderates, and the highly adaptable Sullivan quite readily took on a liberal coloration. A crisis averted, the remainder of the session, which concluded on 12 October, was short and businesslike. While the matter of Upper Canadian rebellion losses was not taken up, a measure having important implications for their future payment was adopted when Inspector General Hincks, acting on instructions from the

57 Ibid., p. 69
58 Ibid.
imperial government, brought in a bill providing that the imperial guaranteed loan of $1,500,000 be used directly for public works instead of first being applied to the reduction of Canadian debt.\(^{59}\) As a result, recourse could still be had to the argument that the province's debt was prohibitively large and ought not to be added to by raising funds from which to pay rebellion losses claims.

For nearly a year, until the next session of the provincial parliament, the Upper Canadian rebellion losses issue lay dormant, the lack of correspondence on the subject apparently indicating that even the pertinacious Colonel Prince had, for the moment, despaired of success. If Prince could do little to bring about the implementation of the losses act, he could at least do something about furthering his own career, which the death of Sydenham had left in considerable doubt. Governor General Bagot's enforced recognition of the demands of French Canada had led to what, in fact, was a reform ministry. Such a development was not without promise for the member for Essex who had, by this time, publicly repudiated the ungrateful Tories and committed himself to the cause of moderate reform. Prince had some reason to think that he had a claim to the new ministry's favour. Besides being a confessed reformer, he had, under Sydenham, pressed for the removal of penalties against the former enemies of the government and for more equitable treatment of

\(^{59}\) *Ibid.*, p. 72; *Ormsby, op. cit.*, p. 105
the French-speaking population. Under the new dispensation, he could ingratiating himself further by appearing as the champion of that substantial body of French-Canadians in the Western District who had, since the conquest, become cut off from their compatriots beyond the Ottawa. With the rebellion losses in abeyance and incapable, therefore, of being invoked to galvanize local support behind him, Prince was only too happy to have the language issue to appeal to. For the remainder of Bagot’s administration, then, Prince relied heavily on French-Canadian support at home and identified himself with the reform ministry.

Mortally ill and his end near, Governor General Bagot was, in March, 1843, replaced by Sir Charles Theophilus Metcalfe, an experienced colonial administrator whom Edward Gibbon Wakefield enthusiastically hailed as “the perfect Governor General”. This judgment, from a reform standpoint at least, proved premature. Metcalfe felt less than comfortable with the reform ministry he had inherited from Bagot, believing it to consist of republicans and anglophobic French who governed to the detriment of those who could be accounted true friends of the mother country. By the time the provincial parliament met in third session on 28 September, a

60 Sir Charles Theophilus Metcalfe, first Baron Metcalfe (1785–1846) was born in Calcutta, India on 30 January, 1785. Educated at Eton, he served in the India civil service from 1801 to 1838. In 1839 he was appointed governor general of Jamaica and, in 1843, governor general of Canada. He died in England on 5 September, 1846.

61 Careless, op. cit., p. 79
confrontation was shaping up between the governor general and the Baldwin-LaFontaine ministry over the distribution of patronage, a dispute that was to reach its climax in late November.

From the time of Metcalfe's arrival in March, 1843, until the ministerial crisis in November, little noticeable progress was made in the settlement of losses claims. There was small need, therefore, for John Prince to alter his position vis-à-vis the reform administration. While the Baldwin-LaFontaine ministry evinced scant interest in the losses question, the matter appeared impossible of solution at this time in any case. As long as he kept the issue alive, Prince would seem to be looking out for the interests of his constituents regardless of the language they spoke. Meanwhile he could hope to advance his own interests by supporting the party in power. In doing so, he could be confident of the support of at least the French-speaking portion of his home constituency.

Metcalfe's views on the losses issue were not immediately apparent. He had been necessarily non-committal in his reply to a welcoming address from the Western District, which inevitably raised the question of losses payment. His speech from the throne at the end of September, 1843, omitted any mention of the subject. Prince and others, however, were not content to let the matter be ignored. In the debate which followed the

62 Chatham Journal, 24 June, 1843 and 8 July, 1843
throne speech on 3 October, two Tories with whom Prince had remained on good terms, William Dunlop (Huron) and Henry Sherwood (Toronto), deplored the fact that those who had remained loyal during the rebellion and suffered losses in consequence should be thus neglected, while former rebel leaders, who had been the authors of their distress, were having pardons and preferments bestowed upon them. 63 Ten days later, Samuel Crane, a reformer from Grenville, put the question directly and inquired whether the government intended to adopt any plan to adjust the rebellion claims in Upper Canada. Baldwin himself replied, reminding the house that the £46,000 appropriated to the Upper Canadian losses had not been raised because of the state of bankruptcy in which the upper province found itself. "Were this sum to be raised at the present time", the Kingston Chronicle and Gazette reported him as saying, "a like sum, proportionate to the losses in Lower Canada, would have to be raised also, which taken together, would probably amount to £120,000, a demand upon the public purse, which, in the present state of affairs, would be found most embarrassing". 64

The government were thus not prepared with any measure for remunerating sufferers. Furthermore, the appointment of commissioners would only have been productive of still greater embarrassment.

Should the population of the western section of the province sin-

63 Kingston Chronicle and Gazette, 7 October, 1843

64 Ibid., 21 October, 1843
cerely wish to liquidate the debt, they could manifest their con-
cern in some practical way.

If, through their representatives, the people of Upper Canada should evince a desire to submit to local taxation to pay off these claims, then, the object might be effected. In no other way, however, could the proposition be entertained, the government being decidedly averse to making any addition to the public debt, that could possibly be avoided. 65

Dr. Dunlop, anxious that some action be taken, moved that a committee be appointed to inquire into the question of rebellion losses. Debate on the motion resulted in heated exchanges between reform and tory factions, although there was general agreement that the debt should not be renounced and that taxation was a viable alternative to the issuing of debentures as a means of liquidating it. Inspector General Hincks made his position abundantly clear. Although as desirous as anyone to liquidate all just claims, he would, he stated, never consent to issue debentures when there was no possibility of meeting them. The imperial guaranteed loan of £1,500,000 had originally been intended to pay off the old provincial debt, including the £40,000 appropriated to rebellion losses claims in Upper Canada. The new conservative government in Britain, however, had refused to sanction such an application of the money and had agreed to become responsible for the loan only on the express condition that it be used to promote public works exclusively. Taxation, which he viewed as the only feasible alternative remaining for raising the means

65 Ibid.
with which to discharge the debt, he was not prepared to advocate. Nor did he think the appointment of commissioners would be wise. Old enmities would be rekindled by bringing into being a commission which would have to investigate not only claims arising from injuries inflicted by sympathisers from the neighbouring states, but also those for losses sustained at the hands of the regular troops and militia of the province. The attorney general east, L.-H. LaFontaine, saw no obligation incumbent on Lower Canada for Upper Canadian losses. The only debt which the eastern section of the province should be called upon to share was that incurred in connection with public works which benefited the province as a whole, and it was obvious that the £40,000 in question was not an obligation of this sort. With that, Dunlop's motion was withdrawn. 66

Debate on rebellion losses, however, did not end there. On 18 October, the petition of John A. Wilkinson and others of the Western District, urging implementation of the rebellion losses act, was tabled and two days later read. On the 30th, Prince, who had evidently been absent from the house on the 13th, again asked what action the administration planned to take with respect to the £40,000 voted by the Upper Canadian legislature for the indemnification of rebellion sufferers, and was told that the question had already been answered. 67 A week later, Prince re-

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66 Ibid.
67 Ibid., 1 November, 1843
gained the initiative. On 6 November he moved that the house resolve itself into a committee of the whole "to inquire into the best means to raise the necessary amount for paying the rebellion losses in Upper Canada by taxing that section of the province only, or otherwise". In doing so, Prince disclaimed any wish to involve Lower Canada but said that the amount should be levied in Upper Canada by assessment or the money raised by any other plan that could be carried into effect.

Opposition to the motion came, for the most part, not from persons who resisted the principle of paying rebellion losses, but from those who believed a committee of the whole was not the best way of dealing with the question. A select committee, it was suggested, should look into the matter instead. This view eventually prevailed and debate on the motion ended with the appointment of a select committee, to which the member for Essex was named. Comprising, in addition to Prince, William Hamilton Merritt (Lincoln North), Sir Allan Napier MacNab (Hamilton), Henry Sherwood (Toronto) and Samuel Crane (Grenville), the committee were to "ascertain whether any, and if so, what plan can be devised to indemnify the losses and satisfy the claims sustained and made by individuals during the late Rebellion and Invasions of the late Province of Upper Canada, and for carrying into effect the provisions of certain Acts of the Province of Upper Canada, and of this Province passed in the

68 Ibid., 18 November, 1843

69 Ibid.
third, fourth, and fifth Victoria, to report thereon with all convenient speed, with power to send for persons, papers and records. 70 The house, however, adjourned without the committee's having submitted a report.

On 26 November, the governor general's repeated refusal to surrender to the reformist ministry the crown's prerogative to distribute patronage was made the occasion of the resignation of all executive councillors but Dominick Daly, the provincial secretary. 71 Less than two weeks later, on 9 December, the third, and as it turned out, final, session of the third parliament was prorogued. In the crisis that followed, the question of rebellion losses compensation was all but submerged, although its advocacy by those who remained loyal to the governor general made it an issue that Metcalfe felt duty-bound to keep afloat.

Claims and petitions relating to rebellion losses which were not presented in the house during the session continued to be sent to the executive council in the hope that some means of paying the losses could be devised. Metcalfe himself was sympathetic to the claimants in both sections of the province. "It is to be regretted", he wrote Colonial Secretary Stanley on 7 March, 1844, "that so much delay has taken place in doing justice to loyal subjects, who have perilled both property and life in the defence of the Crown, and still more to be lamented that there is

70 Canada. Legislative Assembly. Journal, 1842, p. 102
71 Careless, op. cit., p. 83
little prospect of any better result, owing to a disinclination in influential parties in the Colony to provide the requisite funds.\textsuperscript{72} Much as he regretted the predicament in which he found himself, his hands were tied.

I am aware that Her Majesty's Government have replied to former applications that they have no means of complying with them; and, as there are no funds under the control of the Provincial Government out of which these claims can be satisfied, I am reluctantly compelled to defer their settlement, in the faint hope, bordering on despair, that the local Legislature may hereafter be moved to make the necessary appropriation. \textsuperscript{73}

In reply, Stanley passed on a suggestion that, if the claims of both Upper and Lower Canada were submitted to the assembly "in one application", they might receive favourable consideration and be paid by debenture. Not knowing whether this course was practicable, and even if it were, whether it would be acceptable to the parties concerned, the colonial secretary refrained from urging it as a solution. Nevertheless, he added, "as I perceive no other mode of procuring them redress, and there are no hopes of relief from Imperial Funds, I think it right to offer you the suggestion, leaving it entirely to your discretion to act upon as you may think proper."\textsuperscript{74}


\textsuperscript{73} Ibid.

Notations on the despatch indicate that the proposal was laid before the executive council; however, probably because the matter was considered too important to be decided by the mere three men whom Metcalfe had succeeded in attracting to his council, no action was taken on the suggestion. Thus, on 16 July, 1844, Hopkirk could scribble the following memorandum on a petition addressed to the governor general on 29 June by Robert Forbes of Windsor:

The whole subject of this act (3 Vic cap 7, amended 4 & 5 Vic cap 39) & all the claims under it were long ago by your Excys desire referred to the ... Council, but I understand nothing has yet been done in it or in taking steps to raise the necessary finances. 76

On 19 July, Metcalfe approved of Forbes being told that "...it will be necessary for you to prove it (i.e., the claim) before Courts who may be appointed under the acts of U.C. 3d Vict C76 and of the Province 4 & 5 Vict C.39 should the requisite steps be taken for carrying these acts into effect which has not yet been done". 77

Throughout the first eight months of 1844, while Metcalfe worked assiduously to put together an acceptable ministry, he was assailed by reformist charges of having subverted the consti-

75 Dominick Daly, William Henry Draper and Denis-Benjamin Papineau

76 Forbes to Metcalfe, 29 June, 1844. Vol. 132, no. 8012, C1, RG 5. PAC.

77 Ibid. (annotation)
tution. In the Western District, John Prince, who had aligned himself with Baldwin and LaFontaine, was busy drumming up support for those who had refused to accept what he conceived to be Metcalfe's retrograde view of the governor's role in the colony. On 23 January, he reported to LaFontaine on a rally held at Sandwich the previous Saturday. The "immense County meeting" which had been convened at his suggestion, Prince boasted, had overwhelmingly endorsed the stand he had taken. 78 Several months later, Prince again expressed to LaFontaine his exasperation with the policies of the governor general. He hoped, he wrote on 30 August, "(but I doubt it) that Sir Charles Metcalfe has at length formed an administration which the country will support. What a strange position are we in, and how tamely do the People submit to be treated as they have been! But they will not endure it much longer; and they have a right to ask and they will demand why their Constitution has been suspended; and I presume that Parliament (if it does again assemble) will ask and demand the same." 79

Prince's fears that parliament would be dissolved before it had an opportunity to hold the governor general accountable for his questionable conduct were well founded. On 23 September dissolution was ordered and a general election called.


79 Prince to LaFontaine, 30 August, 1844. Ibid.
The results of the rancorous contest which followed fell far short of the indictment of the governor general's policies that the reformers had hoped for. Instead, while the reformers won an overwhelming majority in Canada East, they were decisively beaten in the western section. As a result, Metcalfe's supporters emerged with a small overall majority in the province.

John Prince escaped the fate of many other advocates of reform in Canada West and was again returned by the electors of Essex. What his future course would be, however, remained a mystery. His return had come only after a most extraordinary campaign. With what was becoming typical Prince strategy, he had, prior to dissolution, announced that he would not seek re-election. Instead, he was alleged to have given his support, in equal measure, to Robert Lachlan, "a constitutional reformer and supporter of the governor general", and Rowland Wingfield, who was "on the radical ticket". Upon dissolution of parliament, however, Prince had once again been talked out of retirement, this time by "an address numerously signed by French Canadians". This document, about which the Chatham Gleaner noted sarcastically, Prince "of course had no foreknowledge", caused Prince to enter the field "as an advocate of responsible government 'as applicable to a colony'" that is,

80 Chatham Gleaner, 12 October, 1844
as a supporter of the governor general. As a result, Lachlan was reported to have stepped aside in favour of J. G. Watson, a conservative, while Wingfield, unable to decide where Prince stood on the issue of responsible government, vacillated between standing and withdrawing. The Gleaner had no sympathy for the discomfited candidates, both of whom, in the end, took the field against Prince:

... they both knew Colonel Prince's political character, and yet they trusted him; richly have they deserved to be deceived; and we hope every one who acts like them, will like them have occasion to exclaim, with the disgraced Wolsey, 'Oh, how wretched is that poor man who hangs on PRINCE'S favors!'

Notwithstanding the clamour he had created at the polls, Prince emerged triumphant and immediately lashed out against the "tories" who had attempted to engineer his defeat. This scathing attack brought a quick rejoinder from the hostile Gleaner. Neither of his opponents, Lachlan nor Wingfield, it pointed out, could by any stretch of the imagination be considered

81 In a letter to Stanley of 11 December, 1843, Metcalfe had asserted that his administration had always followed the responsibility principle and had added as a postscript, on 25 February, 1844, that "I have avowed my adherence to Responsible Government vis-à-vis the fullest extent which it can be avowed in a Colony, and it must be either Blindness or Disaffection that can desire to get further". (see Careless, op. cit., p. 87)

82 Chatham Gleaner, 12 October, 1844

83 John Prince. Copy of a printed address, "To The Liberal & Independant Electors of the County of Essex", enclosed in Pierre-Hector Morin to LaFontaine, 15 November, 1844. Lafontaines Papers. BL4, MG 24, PAC.
"stories", and Prince was using the epithet simply to arouse the passions of unthinking people. The virulence of the attack suggested to the Gleaner that Prince's fulminations were really an attempt to assuage the guilt he felt over his own political perfidy. 84

Where Prince stood on the issues of the day was still not certain. On 26 October, in reporting on the number of the governor general's supporters and opponents elected, the Gleaner made special mention of Prince, who, it said, "will vote with the majority". 85 The British Canadian had an equally low opinion of the member for Essex. While reporting that the "radicals" had claimed Prince as their own, it was, in the editor's view, a question of whether Prince thought his interests would be served "by linking on to them".

... Colonel Prince is adapted for anything he pleases, we suppose; but as he does not know his own mind from one day to another, it is not to be expected that any body else should— 86

By 19 November, the Gleaner had "placed Col. Prince amongst those who will support Mr. Baldwin, although no one who knows anything of that rather eccentric person, seriously supposes that he has any sympathy with the Radical party, or that he will long act with them". 87

84 Chatham Gleaner, 12 November, 1844
85 Ibid., 26 October, 1844
86 British Canadian, 2 November, 1844
87 Chatham Gleaner, 19 November, 1844
The hostile press which was quick to brand Prince a political opportunist were soon to see their charges vindicated. For the moment, though, Prince continued to support the "late ministry" and the principles for which they stood, as his French-Canadian constituents had expected. Indeed one of them, Pierre-Hector Morin, even went so far as to suggest to Lafontaine "que le Col: Prince peut être considéré comme Membre Canadien français, car en tous temps il s'est montré le défenseur des Canadiens du District de L'Ouest -et aujourd'hui se sont les Canadiens d'origine française qui le député au Parlement pour défendre leurs droits, advocasser le Gouvernement Responsable tel qu'entendu par l'ex-Ministere et conformément aux resolutions de 1841". Increasingly, however, it became apparent that no good purpose would be served by Prince's continued adherence to the reform party. Being no longer in power, they could bestow on him none of the spoils of office. Being only nominally interested in rebellion losses compensation, they would do little to promote a cause upon which so much of Prince's popularity at home depended. In one respect only did supporting them offer any advantages. They alone had seemed concerned with overcoming the disabilities which the Union had imposed upon French-Canadians and had, therefore, gained the sympathy of a substantial portion of Prince's constituents. For Prince to repudiate them now would be to risk alienating the Western District

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83 P.-H. Morin to Lafontaine, 15 November, 1844. Lafontaine Papers, B14, M6 24, PAC.
French-Canadians upon whose support he had counted so heavily in the recent election.

Happily for Prince, events of the 1844-45 session were to show him a way out of his dilemma. Although Metcalfe had all but abandoned the policy of assimilation, one of the original goals of the Union, he had been unable to persuade the French-Canadians of his sincerity. Instead, they remained convinced that "la survivance was dependent upon responsible government as personified by Baldwin and LaFontaine". 89 A way had to be found, therefore, to impress upon French-Canadians that an alternative existed and that support for the governor general by such people as Denis-Benjamin Papineau, the commissioner of crown lands, was not tantamount to selling out.

In an effort to outmanoeuvre LaFontaine and gain French-Canadian support, therefore, Metcalfe allowed Papineau to take the initiative in moving repeal of the language restrictions. 91 While nothing concrete was to come of the motion for another three years, the

89 Ormsby, op. cit., p. 117

90 Denis-Benjamin Papineau (1789-1854) was born in Montreal on 13 November, 1789, the younger brother of Louis-Joseph Papineau, the patriote leader. Holding different political views from the latter, he took no part in the rebellions of 1837-38. In 1842 he was elected to represent Ottawa county in the legislative assembly and in 1844, at the invitation of Sir Charles Metcalfe, entered the executive council as commissioner of crown lands. In 1847 he retired from this office and in 1848 withdrew from the assembly. He died on 20 January, 1854.

91 Ormsby, op. cit., pp. 118-119
gesture at least demonstrated that the governor general was not bent upon effacing the French-Canadian identity. For Colonel Prince, the implications of this action were clear. No longer would it be necessary for him to support the reformers in order to pose as a champion of French-Canadian rights.

Even more important in weaning Prince away from the reformers, however, was the governor general's decision to make provision for the payment of rebellion losses. Prince would find it difficult to dissociate himself from such a programme if he wished to regain some of the prestige his political inconstancy had lost him at home. Despite his self-proclaimed reformist tendencies, Prince had remained steadfast in his support of rebellion losses compensation, as indeed he must if he were to make any pretence of representing the interests of his constituents. This measure, whose chief proponents were tories, however, was one that Prince seemed to advocate as much from a personal conviction that indemnification was a matter of simple justice as from an awareness than many in his Essex constituency, French and British alike, were interested parties. While undecided about which political party to support, therefore, Prince continued to press for the settlement of claims.

On 16 November, he sent Provincial Secretary Daly a petition on the subject, signed by P.-H. Morin and fourteen other inhabitants of the town and township of Sandwich whose claims remained unsettled.² Prince asked that the petition be laid immediately

² "Petition of certain inhabitants of the town and township of Sandwich to Sir Charles Metcalfe", 13 November, 1844. Vol. 140, no. 8903. C1, RG 5, PAC.
before the governor general. He would discuss the matter with Metcalfe in person when he arrived in Montreal the following week, "the Petitioners being desirous if it please His Excellency that the reply should be committed to me as their representative, and as one who feels great interest for them in this matter". 93 The petition, urging the governor general to recommend to the new parliament that the provisions of the rebellion losses act and its amendment be carried into effect, was, by Metcalfe's command, referred to the executive council on 23 November.

Whether Prince spoke to Metcalfe as planned is not clear. Whatever may have transpired, it soon became obvious that Prince wished to have on record an unequivocal statement of the government's position with respect to claims. On 2 December, he introduced the petition of P.-H. Morin et al into the assembly and served notice that he would "enquire of the present administration whether it was the intention of government to take any, and if so what steps; for the relief of the sufferers during the troubles of 1837-8; and whether they meant to carry out the provisions of the Statute of Upper Canada which granted £40,000 for that purpose, which Statute was afterwards recognized by an act of the united parliament". 94 Two days later the member for Essex got the reply he had been waiting for for more than three years. Denis-Benjamin

93 Prince to Daly, 16 November, 1844. Ibid.

94 Montreal Courier, 6 December, 1844
Papineau announced that the government of which he was a member would bring in a bill on 25 December for the relief of the long-suffering victims of the Upper Canadian rebellion. With the promise of this long-awaited Christmas present, the triumphant Colonel Prince "expressed himself satisfied".  

95 Ibid.
96 Ibid.
CHAPTER 6: FINAL SETTLEMENT OF THE UPPER CANADIAN CLAIMS, FEBRUARY, 1845 - MARCH, 1849

Not until 4 February, 1845, did the Draper-Viger ministry put forward a proposal for settling rebellion claims in Upper Canada. On that day, Denis-Benjamin Papineau moved, with John Prince seconding the motion, the following resolutions:

That this House will, tomorrow, resolve itself into a Committee of the whole House, to consider the expediency of making provision for giving effect to a certain act of the legislature of Upper Canada, as amended by the Act of the legislature of this Province, and relating to the payment of claims arising out of the late Rebellion and Invasions of Upper Canada, -and of appropriating the moneys arising from Tavern licences for local purposes, applying such portion thereof as may belong to localities in Upper Canada, to the payment of the said claims until the same be fully paid, or the money to be advanced to pay them, be reimbursed to the Province. 1

The idea of coupling rebellion losses with local improvements was an astute move. While members of all parties had expressed a desire to see rebellion claims liquidated as soon as possible, tories, who believed compensation of the victims to be a matter of honour, in general assigned it a higher priority than did reformers. The latter were more disposed to believe that available monies should be diverted into revenue-producing development projects which would restore the economic health of the province than that they should be siphoned off to pay the province's fixed debt. A bill which contemplated both the dis-

charging of a debt incurred in defending Upper Canada's political institutions and the rendering of financial assistance to municipalities hard-pressed for development capital provided a means by which the seemingly incompatible ends of Tories and reformers could be accomplished simultaneously.

The proposal to finance these measures out of tavern licence revenues was also a clever move, likely born of an unsuccessful motion made by William Hamilton Merritt toward the end of the last session of the previous parliament. On 21 November, 1843, the member for Lincoln had urged that a select committee be formed to consider a petition from the Niagara District calling for duties on tavern licences and fees on marriage licences to be given to the respective districts for local improvements and the payment of the administration of justice in Upper Canada. According to the reporter from the Kingston Chronicle and Gazette, "the principal thing elicited by the discussion was the declaration from the Treasury Benches that this subject had engaged the attention of the Ministers and that before another session some arrangements would be made satisfactory to both provinces." In advancing this solution to the rebellion losses question, then, it appears that the conservative Draper-Viger ministry had seized upon an idea originally

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2 Kingston Chronicle and Gazette, 22 November, 1843.

3 Ibid.
conceived by the reformers and reshaped it to suit their own purposes. In doing so, however, they were careful to leave intact the principle of providing aid to municipalities, which would make the bill attractive to reformers. They thus sought to win general support for the bill by making it all but impossible for the reformers to reject payment of rebellion losses without, at the same time, denying financial assistance to local projects once the losses claims had been disposed of.

The question of providing for rebellion losses was considered in committee of the whole on 25 and 26 February and, on the 28th, a resolution in favour of raising the necessary money in the way proposed by Papineau was presented to the house. Two objections to the principle of paying the claims out of tavern licence revenues were raised by reformers. John Sandfield Macdonald (Glengarry) proposed, in amendment, that Her Majesty again be addressed on the desirability of having the claimants provided for by the imperial government. The proposed amendment was voted down 41-23, with Prince, apparently now accepting the futility of further appeals to the crown, taking the side of the majority against a solid phalanx of reformers. Louis-Hippolyte LaFontaine then moved that the resolution be reworded in such a way as to make the measure rendering possible the payment of Upper Canadian losses contingent upon provision for the payment

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of those of Lower Canada. Again the motion was defeated and again Prince voted with the conservative majority. Objection to the proposed scheme for dealing with rebellion losses having been overcome, the motion for adoption of the resolution was carried and a bill giving effect to its principles was given first reading. On 7 March the bill received second reading and was referred to committee of the whole. Alterations made in the bill there were agreed to on the 10th and on the 11th the bill cleared the assembly and was referred to the legislative council. Notice of council's concurrence was received two days later.

One week after the bill had passed both houses of the legislature, John Prince offered his services as a rebellion losses commissioner. He did so, he said, cognizant that "much care will be required in appointing persons, as such commissioners, who are disinterested and have a knowledge of the inhabitants of the District for which they are appointed, and of the facts and circumstances which gave rise to their losses and their claims". While reminding Provincial Secretary Daly that he had declined to serve when approached earlier by Sir George Arthur, he gave an impending election as his reason for turning down the lieutenant-governor. He conveniently neglected to mention his political differences with Messrs. Baby and Caldwell, the other commissioners

5 Ibid.

6 Prince to Daly, 20 March, 1845. Vol. 151, no. 10093. Cl, RG 5. PAC.
designate, which at the time had played an important part in his decision not to serve. In recommending the appointment of two other residents of the Detroit River frontier besides himself, Prince also found it expedient to set aside his earlier contention that the rebellion losses act contemplated the appointment of "two Commissioners from Toronto or some distant place who were wholly disinterested and unacquainted with the claimants, and that the third commissioner should be a gentleman resident in the District where the sittings were held." The commissions, Prince believed, should be issued before 1 May and the hearings themselves should take place in June, "which is a Convenient month for that purpose, being just before Hay making & Harvest".

On 29 March, royal assent was given to the "Act to provide for the payment of Claims arising out of the Rebellion and Invasions in Upper Canada, and to appropriate the duties on Tavern Licences to local purposes." The appropriation of tavern licence revenues to local purposes under the municipal authorities where the revenues were collected Governor General Metcalfe considered "a very popular one". As for the simultaneous provision for the settlement of rebellion losses claims, "this part of the act is very important, and has settled a question which has excited great discussion & created great difficulty."

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7 Robert Mercer of Windsor and Joseph Provencher of Sandwich
8 Prince to Harrison, 4 December, 1840. Vol. 46, no. 2606. Cl, RG 5. PAC.
10 8 Vic. cap 72
Notwithstanding Prince's opinions and the governor general's satisfaction with the general tenor of the recent act, no action to implement the provisions of the rebellion losses acts of 1840 and 1841 were taken for several months. On 20 July, Prince inquired of Civil Secretary J. M. Higginson "whether the commission for inquiring into the Rebellion claims will soon come out?", adding that "the disappointment occasioned to many in this District by so long a delay in a matter which they thought would be so quickly disposed of, is indescribable.\(^{12}\) Two days earlier, an inquiry about when losses would be paid elicited from Provincial Secretary Daly the response that "it is the intention of H.E. immediately to appoint Comr\(^{12}\) to investigate such claims, and that due notice of such appt will be given in the Public Prints, as well as the times and places in which the Comr\(^{13}\) will meet, and that when such notice is given it will be necessary for you to prefer & prove your claim before such Comr\(^{13}\).\(^{13}\)

At last, on 15 August, 1845, commissions appointing John


Harris, John Prince and Robert Mercer rebellion losses commissioners for the Western District were issued. These were transmitted to Harris on the 30th, the same day as the appointments were gazetted. On 8 September, notice was given in the Canada Gazette that the Western District commissioners would hold their first meeting at the court house in the town of Sandwich on Tuesday the 14th of October at 9 a.m., and their second meeting at Ebert's Tavern in the town of Chatham on Friday the 7th of November, also at 9 a.m. All persons having claims against the government—farmers, merchants, tavern-keepers, teamsters—were to attend, bringing with them whatever accounts, papers and witnesses might be required to substantiate their claims. No further recourse would be available.

On Tuesday, 14 October, hearings of the rebellion losses commissioners for the Western District began, as scheduled, at Sandwich, with Prince, Harris and Mercer taking their oaths as commissioners before justice of the peace J. A. Wilkinson. In thirteen sittings which took place between that date and 29 October, when hearings at Sandwich were adjourned, 298 claims

14 treasurer of the London District

15 Commission of John Harris, John Prince and Robert Mercer as Rebellion Losses Commissioners, 15 August, 1845. Vol. AS, pp. 94-95. RG 68. PAC.

16 "Rebellion Losses", 8 September, 1845. Canada Gazette. 27 September, 1845, p. 2069.

17 Western District. Minutes of the Rebellion Losses Commissioners; 1845. Harris Family Papers; vol. l. Collection 144. Regional History Collection. University of Western Ontario.
for losses were heard. At Ebert's Tavern in Chatham, where
the commissioners sat from 7 November until 15 November, an
additional 199 claims were received, making the total number
of claims for the Western District 497. The claims amounted
in all to £17,394.4.1, those presented at Sandwich totalling
£11,225.19.3, and those at Chatham, £6,168.4.10. While one third
of all claims, that is, 166 claims, were allowed in full,
13%, or 66 claims, were entirely disallowed. The average
amount of a claim was £35 and the average award (inclusive
of those rejected entirely), £20 or 57% of the amount claimed.

Most of the claims, and even more of the awards, were
modest, 73% of the former and 83% of the latter amounting to
no more than £25. Within this category, 47% of the claims and
64% of the awards did not exceed £5. The smallest award made by
the commissioners was £7.6, awarded to Pierre Rochefold, Joseph
Coveyen, and Alexis Anglois, respectively.

Only nine claims amounted to more than £300, the largest
being that of Pierre-Hector Morin for £956.15.0. Of claims of
this magnitude, however, only three were recommended for awards
greater than £300. The commissioners' maximum allowance of
£36.16.0 was made to Morin, while awards of £340.0.0 and
£326.3.10 were approved for Thomas L. Ritter and George Scott,
respectively. Five per cent of the claimants were allotted
nearly 50% of the total award.18

18 Canada. Legislative Assembly. Journal, 1849, Appendix P.P.
"Western District".
Loss of a gun was the most common item specified by persons submitting claims of less than £1 and was the largest single item in claims of £1 to £5. Billets and miscellaneous services performed in aid of the troops and Upper Canadian militia bulked large in claims of £1 to £10. Claims in respect of two or more goods and services provided made up the greatest part of demands in the £1 to £300 range. Billets and horses were the commonest single items among claims ranging between £10, £25 and £25. Pillage and wanton damage was the basis of a substantial number of claims between £25 and £300, while loss of or damage to houses ranked as the chief source of claims over £100.  

Returns of the amounts claimed, allowed and rejected in the western District were sent in by the commissioners on 17 November and the long wait for payment began. Until returns were received from all the districts where commissioners had been appointed and the government could make some assessment of the total amount owing, no steps could be taken to pay the awards in a particular district. The better part of a year was to elapse before the government of the day moved to meet the obligation which had been placed upon it.

The government -now administered by Lord Cathcart, who had

19 Harris Family Papers, op. cit.

20 "Commissioners for investigating Rebellion Claims, Western District", 17 November, 1845. Vol. 441, no. 664, F12196. Cl. RG 5. PAC.

21 Charles Murray Cathcart, second Earl Cathcart (1783-1859) was
taken over from the dying Metcalfe in late November—was under no illusion that the matter of making good the claims would be anything but a slow process. James Hopkirk, the assistant provincial secretary, admitted as much when he replied to a letter of inquiry on 10 December that the awards of the commissioners had not yet been received and that the governor general (i.e., the administrator of the government) did not expect to receive them for some time. By early February, 1846, with the reports of several commissioners in, a final decision on the amounts to be allotted each district was at hand. Before making a final apportionment, however, the government wished to satisfy itself that no one with a claim against the province was overlooked.

On 3 February, therefore, a circular letter was addressed to the wardens of those districts from which no claims had been received and for which, therefore, no rebellion losses commissioners had been appointed, that is, the Eastern, Ottawa, Bathurst, Dalhousie,

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born at Walton, Essex, England on 21 December, 1783. He entered the army in 1799 and served throughout the Napoleonic Wars. Promoted to colonel in 1819, he was commander-in-chief of the forces in Canada from 1845 to 1847 and administered the government from 26 November, 1845 to 23 April, 1846. He was governor general from 24 April, 1846 to 29 January, 1847. He died on 16 July, 1859.

22 Hopkirk to W. N. Crawford, Montreal, 10 December, 1845. Vol. 11 (1845-6), p. 130. C2, RG 5. PAC.
Prince Edward, Midland, Colborne, Wellington and Talbot Districts. The wardens were asked to notify the provincial secretary as soon as possible whether they had reason to believe there were any losses claims in their respective districts.\(^{23}\) The delay occasioned by the failure of certain commissioners to remit their returns promptly and by the government's concern that all eligible claims be heard was particularly disconcerting to the inhabitants of the Western District. Also disquieting was the rumour that the £40,000 allowed by the provincial legislature would not be adequate to meet the claims which had been admitted. In a petition carrying the signatures of twenty-two successful Western District claimants, Lord Cathcart was entreated "to recommend the Provincial Parliament, to provide for full payment of such sums as were allowed the Claimants, by the Commissioners in Upper Canada, at their late sittings, by such ways and means as Your Lordship and the said Parliament may seem meet."\(^{24}\) John Prince also took up their cause, joining a plea on behalf of his constituents to one expressing the hope that "the Commissioners' charges will be paid forthwith, because it is really hard that they should be dunned by printers, messengers, &c.; and the Pound per diem

\(^{23}\) "Circular to the Wardens of all the Districts in U.C. in which no Rebellion Commissions have yet issued", 3 February, 1846. Ibid., p. 202.

\(^{24}\) "Petition of Inhabitants of Sandwich and its neighbourhood in West. Dist.", 14 March, 1846. Vol. 178, no. 13428. Cl, RG 5. PAC.
barely covered their expenses. As for those who had been injured by the tardiness of losses commissioners, the situation was critical and steps must be taken immediately to avert utter tragedy.

Would it not be well to address a line to Mr. Rykert and any other Comrs who have not yet made their returns, and to press them to do so before the Legislature is pro-rogued? If delay beyond that period arises the consequences will be ruinous to many poor persons who relied on having their debentures in the ensuing spring, but who would, I fear, not get them until after the next session, thereby losing, perhaps, a year's interest into the bargain. 25

While Prince's representations brought the payment of rebellion losses claims no closer to reality, he did succeed in obtaining approval for early remuneration of himself and his fellow commissioners. As a result of his letter to Hopkirk and a subsequent conversation with the assistant provincial secretary, Prince's recommendation that losses commissioners whose accounts had been received, examined and passed should be paid was submitted to the executive council in a memorandum of 24 March.

On the 27th, the recommendation was endorsed by a committee of council. Hopkirk immediately informed the member for Essex of the order-in-council and notified the inspector general that the accounts of the expenses which have been received from the various Rebellion Commissioners of U.C. shall be examined and passed, and on their being examined and passed, they are to be

25 Prince to Hopkirk, 25 March, 1846., Vol. 175, no. 13159. Ibid.
paid at once without waiting the returns from Commiss. who have not yet reported. The account of the Western District commissioners for expenses totalling £126.7.7 was not approved by the audit committee of the executive council until 15 April, 1847, however, and then a warrant for only £117.17.11 was recommended.

On 15 April, 1846, with no decision having yet been made on when the adjudicated claims would be paid, Prince shifted his campaign for government action to the house of assembly, which had convened on 20 March. However, the petition of Samuel Gardiner and other inhabitants of Sandwich and vicinity, which he introduced on that date, was read two days later and dropped, without any action's having been taken to effect its object of having the rebellion losses sufferers indemnified. Nor did the petition submitted earlier by P.-H. Morin et al draw a response which was any more heartening. Until all awards of the commissioners appointed to investigate rebellion losses in the various districts had been received, Morin was told by the provincial secretary, the legislation did not authorize the administrator of the government to pay them. Neither could Cathcart ascertain, until all returns were in, whether the

26 Hopkirk to Inspector General, 1 April, 1846. Vol. 11 (1845-6), p. 315. C2, RG 5. PAC.

amount appropriated by the legislature would be sufficient. 28

Despite these setbacks, Prince kept up the pressure for immediate payment of the claims of the Western District, where "the success or ruin of not a few is involved in the question of a speedy or a prolonged settlement of the business". 29

On 7 July, in a letter to the provincial secretary west, Prince enclosed a petition to Lord Cathcart, now governor general of the province, entreating the latter to order his executive council to adopt whatever measures were necessary to ensure a speedy settlement of rebellion losses claims in Upper Canada.

... the delay now complained of has absolutely ruined many persons whose claims were allowed by the Commissioners, and ... many others will be ruined, unless these claims are forthwith settled according to law. ... hundreds have been compelled by necessity and disappointed hopes to assign their claims for less than half their real value to speculators, and discontent, if not dissatisfaction to the government of your Excellency, and certainly the utmost universal dissatisfaction prevail throughout this western Frontier by reason of the injustice (as the People believe) being done to them in the delay which occurs in settling their just demands". 30

So urgent were these demands in his view, Prince informed Daly, and so insistent were those seeking redress, that he intended


29 Prince to Daly, 9 June; 1846. Vol. 185, no. 14159. Cl, RG 5. PAC.

to "put myself to the inconvenience and expense of taking a Journey to Montreal next week to see Lord Cathcart upon the subject, and to endeavour to get Justice done before any more persons are ruined by the delay".  

If Prince did in fact meet with Cathcart as planned—and there is reason to believe that he did—he derived no lasting satisfaction from the interview. On 20 August, in the postscript of a letter to Daly, he recurred to his theme of the "necessity and Justice of issuing Debentures on account of The Rebellion claims". That same day, in anticipation, he submitted the form of a power of attorney for the approval of Receiver General William Morris, suggesting as his reason for going so that hundreds of persons in the Western District would have to sign such instruments because they could not afford to journey to Montreal in order to receive their monies or debentures in person.  

31 Prince to Provincial Secretary West, 7 July, 1846. Ibid.  

32 Prince's petition to Cathcart of 7 July, 1846, was endorsed as follows: "This was answered verbally to Col. Prince".  

33 Prince to Daly, 20 August, 1846. Vol. 190, no. 14808. Cl, RG 5. PAC.  

He also expressed to the receiver general his hope that the government would pay the claims in full, his concern in this regard probably growing out of an awareness that the amount of the awards made by the commissioners throughout the province was in excess of the £40,000 provided by law. This information was likely communicated to Prince by P. E. Verhoeff, a Sandwich area merchant whom Prince had asked Daly to apprise of the "amount of claims actually allowed in U.C." so that he could "see what proportion of the £40,000 granted bears to the gross sum allowed". The letter in which Prince requested this favour was endorsed to the effect that Verhoeff had been given a verbal reply.

At long last, on 17 September, 1846, Daly wrote the despairing Colonel Prince that, "all the awards having now been received H E will lose no time in making the necessary arrangements for their payment". Five days later, notice was given by the receiver general that payment of allowable claims would be made in cash on 2 January, 1848 in the districts where the claimants resided. The good news, however, was not unalloyed.

"As the aggregate of the allowed claims exceeds the Parliamentary

35 Prince to Daly, 9 June, 1846. Vol. 185. no. 14159. C1, RG 5. PAC.
36 Ibid.
37 Daly to Prince (draft), 17 September, 1846. Vol. 190, no. 14808. Ibid.
grant of £40,000 by £3463.3s.9d., the announcement went on, "there will be a proportionate deduction from the amount of each claim". 38 Thus, while meeting one of Prince's criticisms by providing for payment of claims in the districts rather than in the provincial capital, Receiver General Morris was prevented by the terms of the act, 8 Vic. cap. 72, ironically as the result of an amendment moved by Prince himself during debate on the original losses act, 39 from acceding to Prince's request for payment of the claims in full. Prince's memorial calling for payment without diminution was categorically rejected by a committee of the executive council on 14 October on the grounds that the proposal was expressly forbidden by clause 12 of the act, 3 Vic. cap. 76. 40 In adhering to this view, the committee refused to admit the validity of Prince's claim that allowable claims surpassed the statutory apportionment only because the amendment introduced by Robert Baldwin had "subjected the £40,000 to claims which the original Act never contemplated, viz, Injuries done to Property by Her Majesty's

38 "Notice to Claimants for Rebellion Losses in Upper Canada", 22 September, 1846. Canada Gazette, 26 September, 1846, p. 3294.


Troops. Instead, the executive council upheld a minute of council of 23 September when, having received a report from the deputy inspector general which showed the excess of claims allowed by the losses commissioners over the legal apportionment, and having ascertained that no claims could be expected from the Bathurst, Dalhousie, Wellington and Ottawa Districts, council had recommended that the receiver general be authorized to issue the requisite debentures or raise the necessary $40,000 cash. Hopkirk informed Prince of the executive council's decision on 17 October.

Thwarted in his attempt to secure full compensation for the claimants, Prince discovered still more injustices in the administration of the rebellion losses acts which were bound to affect his long-suffering constituents. While council had conceded that claims should be paid in the various districts instead of at Montreal, Chatham rather than Sandwich had been designated as the place where rebellion losses claims of the Western District were to be paid. Prince was incensed.

"Sandwich", he complained angrily to Receiver General Morris, "is the District Town, and ... in its immediate neighbourhood, the Majority of losses were sustained, and consequently the


majority of claimants live there and thereabouts. It is distant more than 50 miles from Chatham, and many, very many of the sufferers, would prefer losing their awards altogether (for there a great many small sums awarded) than to be dragged to Chatham in the month of January, through roads of the worst kind. 43 Claims proved at Sandwich, be contended, should be paid at Sandwich, while those proved at Chatham should be paid at that place.

The member for Essex also found it difficult to imagine how John Fraser, the agent of the Bank of Montreal, would, as indicated, be able to pay the claims at Chatham and London on the same day, that is, 2 January, and took issue with the requirement that powers of attorney signed by individuals who would not be able to collect their monies in person must be in duplicate. The latter requirement would, in a number of instances, be impossible to comply with now, since many of the claimants who had given these powers had temporarily or permanently quit the province. Prince urged that the stipulation be dropped and promised that "I shall attend the payments, because I know Every Claimants (sic) (having myself been one of the Commissioners) and I will see that no Fraud be practised". 44 These criticisms and recommendations were

43 Prince to Morris, 8 December, 1846. Vol. 6, pt. 4. Bl, RG 19. PAC.

44 Ibid.
taken to heart by Morris who replied, on 19 December, to inform
Prince that the Bank of Montreal's agent would attend at Chatham
on 2 January as advertised, but would make arrangements with
Prince to pay at Sandwich on the 7th, the Thursday following.\(^{45}\)

On 22 December, having been furnished by the cashier of
the Bank of Montreal with "the duplicate lists and notices
connected with the payment of the Rebellion Losses, and all
the relative instruction I can require", agent John Fraser
was ready to proceed from London to the Western District.\(^{46}\)

During the next several days, £9,324.5.6 was paid on
the 431 claims which had not been rejected outright by the
Western District losses commissioners. This sum amounted to
92% of the £10,135 which had been allowed district claimants,
the insufficiency of the parliamentary appropriation having
made necessary a scaling down of the awards. Only one third
of the successful claimants appeared in person to collect
their monies, the remaining two-thirds having delegated this
task to others by means of powers of attorney. Eleven claims,
amounting to some £20 altogether, went unpaid at this time,
although two, together worth about £6 were paid at a later date.\(^{47}\)

\(^{45}\) Ibid. (endorsement)

\(^{46}\) Fraser to Morris, 22 December, 1866. Ibid.

\(^{47}\) Western District. List of Persons to whom sums have been awar-ded as indemnification for Losses arising out of the late Rebel-lion and invasions of the Western parts of this Province by the Commissioners appointed for the purpose, in the Western District with the sums payable to each opposite their respective names— (ca. January, 1847). Vol. 24. D3-2, RG 19. PAC.
Despite the partial success which his efforts had now achieved, John Prince had not yet become an adherent of the conservative government of Draper and Papineau. Since the early part of the session of 1844-45, when he had been characterized as a nominal supporter of Baldwin and LaFontaine, however, he had all but abandoned his former colleagues. The defeat of the reform ministry in the election of 1844 had brought not a reaction to their policies but rather a continuation of them. Recognizing that it must win French-Canadian support away from LaFontaine if it were to remain viable, the Draper-Viger government had seized the initiative in seeking a restoration of French language rights in the legislature and a general amnesty for political exiles—both of which measures had been vigorously advocated by Colonel Prince. Moreover, the patronage issue on which the election had been fought had helped to polarize public opinion and Metcalfe had emerged with more support from the moderates than before.

... without intending it, the Governor had actually helped an incipient conservative party to take shape, as supporters rallied about him: one that was no longer the old tory compact in essence, based on oligarchy, but which was based instead on the acceptance of at least a qualified form of responsible government. 49

Finally, it had been the Draper-Viger ministry which, after innumerable delays, had begun the final implementation of the rebellion losses act.

With the altered state of affairs now obtaining, it was

48 see Ormsby, op. cit., pp. 114-115

49 Careless, op. cit., pp. 94-95
evident that Prince could accomplish as much for his constituents by supporting the Draper-Viger ministry as he could by remaining faithful to Baldwin and LaFontaine. Personally, he could accomplish much more since they, and not the reformers, had now been confirmed in power.

The process of reconciliation was, in fact, begun immediately after the reactivation of the dormant losses bill, as Prince responded favourably to the blandishments of the conservative ministry. His advice was taken with regard to the appointment of the Western District board of surgeons and grammar school trustees, as well as justices of the peace. He himself was made a losses commissioner, along with Robert Mercer, his political aide and nominee, and he was granted potentially valuable mining rights on Lake Superior. In return, Prince initiated the address congratulating Metcalfe on his elevation to the peerage and eulogized the latter—over Baldwin's objections—on Metcalfe's surrendering the government to Lord Cathcart. Under Cathcart, Prince was

50 Hopkirk to Prince, 12 February, 1845. Vol. 1, p. 162. CL70, RG 7. PAC; Same to same, 15 February, 1845. Ibid., p. 162.

51 Chatham Gleaner, 19 August, 1845

52 Ibid., 9 September, 1845 and 28 April, 1846

53 Ibid., 11 March, 1845

54 Ibid., 6 April, 1845
 sharply critical of LaFontaine's policies and denounced the unreasonableness of French-Canadian demands.\textsuperscript{55} So markedly, in fact, did Prince change his political coloration that he was described by the editor of the reformist Globe as Essex's "chameleon-like representative".\textsuperscript{56}

The fallen Prince, however, had not yet been fully restored to conservative grace. Late in 1846, after openly seeking the position, he was passed over for the judgeship of the London District. Once again support of a conservative ministry had failed to gain Prince any tangible reward and he made no effort to conceal his bitterness. "A Report was current here the other day", he wrote Samuel Gerrard of Montreal on 16 March, 1847, "that 'The Ministry' had resigned: I hope it is not true, and for this simple reason, that it will disappoint me of my anticipated pleasure of lending a helping hand, at the coming session, to turn them out". He added: "I believe a more imbecile set as regards the country, or a more ungrateful crew towards their Friends, never existed in this Province".\textsuperscript{58}

\textsuperscript{55} \textit{Ibid.}, 21 April, 1846

\textsuperscript{56} \textit{Ibid.}, 25 May, 1846

\textsuperscript{57} \textit{Western Globe}, 18 September, 1846

\textsuperscript{58} Prince to Samuel Gerrard, 16 March, 1847. \textit{Baby Papers}. Universite de Montreal.
Developments during the next few months, however, were to reveal that Prince's hostility was not as implacable as might have been supposed. The addition to the executive council by Governor General Elgin in May 1847 of such moderate conservatives as John Hillyard Cameron and John Alexander Macdonald, and the replacement of William Henry Draper with Prince's old friend, Henry Sherwood, may have played a part in bringing Prince, the "moderate reformer" back to the conservative fold. A factor of equal importance in persuading Prince to turn his back on the reformers was his increasing disenchantment with the policies of Baldwin and LaFontaine and their apparent unwillingness to allow the member for Essex to reap personal or political gain from his affiliation with them. However much he may have subscribed to the constitutional views of his erstwhile colleagues, it was obvious that Prince was continually at odds with the reformers over the issue of rebellion losses compensation in Canada West. Hincks had mouthed platitudes but had remained indifferent.

59 James Bruce, eighth Earl of Elgin (1811-1863) was born in London, England on 20 July, 1811, and educated at Eton and Oxford. In 1841, he was elected to the house of commons for Southampton but was obliged to resign his seat when he succeeded his father to the peerage later that same year. He was appointed governor of Jamaica in 1842 and, in 1846, governor general of British North America, where he had been assigned the task of establishing true responsible government in Canada.

to the plight of the sufferers. LaFontaine had striven to prevent settlement of the claims in Upper Canada until those in Lower Canada could also be adjusted. Baldwin, by subjecting the $40,000 claims fund to greater pressures than supposedly had been envisioned, had made it impossible for successful claimants to be paid the full amount of their awards. Given now the acceptable alternative of a ministry comprising fellow moderates and Tory friends of long standing, one which evidently shared his concern for the hapless victims of 1837-38, it is not surprising that Prince should finally abandon his six-year flirtation with reform.

Significantly, Prince did not cross the floor until July, the month when, on the recommendation of the Executive Council, Attorney General Sherwood introduced a motion calling for a committee of the whole to consider payment of the balances due to rebellion losses claimants. Sherwood's motion, made on 12 July and seconded by the reconstructed Colonel Prince, was adopted and the report of the committee of the whole received the next day.

61 Ibid., p. 99


Up until the end of June, Prince had consistently supported reformist motions, including one of 23 June for an address to the governor general urging him to "take such measures as will enable him under the present circumstances of the Province, to form a strong and efficient Administration".

Criticism of his defection from the ranks of the reformers, which appeared in the pages of the Western Globe, prompted Prince to institute a successful libel suit against that journal's publisher, George Brown (Alexander Mackenzie, Life and Speeches of the Hon. George Brown (Toronto: Globe, 1882), pp. 16-17).

63 Canada. Legislative Assembly. Journal, 1847, p. 130
The report recommended that the sum of £3613.8.9 be appropriated out of the tavern licence revenues of the western part of the province to pay the balance of the losses claims and that the monies be distributed by the district treasurers, who would receive a small percentage for their trouble. On division, the resolution put forward by the committee of the whole passed 38-16, and the house gave first reading to Sherwood's bill to implement the recommendation. 64 Second reading took place on the 20th and third reading and referral to the legislative council the next day. Notice of council's concurrence was received on the 23rd and, on the 28th, royal assent was given to "An Act to authorize the issuing of Debentures to pay the balance due to claimants for losses during the Rebellion and Invasion in Upper Canada". 65

Persons who regarded passage of the act as an invitation to reopen claims which had been disallowed earlier were quickly disabused of the notion, being informed "that the only object of the act ... is to provide funds for the payment of those parties, whose claims were admitted by the Comrs, but who could not be paid the full amt of their claims, in consequence of the Sum of £40,000 provided by the act 8 Vic. Ch. 72, not being sufficient for that purpose". 66 A fuller explanation of the intent of the

64 Ibid., p. 136
65 10 & 11 Vic. cap. 33
66 Daly to John Newburn, Stamford, 2 September, 1847. Vol. 13, pp. 621-622. C2, RG 5, PAC.
act was given by Governor General Elgin to the colonial secretary.

The sole effect of this Act is to appropriate L3613.8.9
Currency, to be raised by debentures, to pay the balance of
sums awarded under the Act of Upper Canada 3 V.C. 76 — as
extended by 4 and 5 V.C. 79, — over and above the sum of
L40,000 appropriated by 8 Vic. C.72, to claimants for
losses during the Rebellion and Invasion in Upper Canada,
and the per centage of the District Treasurers by whom
the same are to be paid; — the amount of the said awards
being L3,463.3.9 and the remainder being the said per
centage. 67

The provision that the balances were to be paid by the
district treasurers rather than by the agents of the Bank of
Montreal was a source of some concern to claimants. In a
report of 24 February, 1848, a committee of the executive council
turned aside a suggestion, made by the deputy inspector general
at the instance of petitioners from Willoughby and Stamford
townships, that payment be made, as before, through the bank’s
agents. The act authorizing payment of the balances, the com-
mittee observed, stated specifically that payment was to be made
through the district treasurers. At the same time, however, the
committee did recommend "that the Receiver General be instructed
forthwith to furnish the Treasurers of the respective Districts
in Upper Canada with the means of paying such claimants their
respective balances". 68 This latter recommendation was acted upon

67 Elgin to Grey, No. 83, 6 September, 1847. Vol. 543,
pp. 55-56. C.O. 42, RG 11. PAC.

68 Minutes of Council, 24 February, 1848. Vol. 70, pp. 283-
284. El, RG 1. PAC.
at once by the governor general. 69

Despite the committee's unfavourable response to his suggestion, Deputy Inspector General Joseph Cary put it forward again on 18 March, this time accompanied by a letter from a Mr. Street of Niagara. While not questioning the reasons given by the committee for rejecting his suggestion earlier, Cary simply "submitted whether the terms of the Act 10 & 11 Vic. cap 33. preclude the adoption of a more convenient course of making these payments, than that by means of the District Treasurers-" and asked council to reconsider their decision of 24 March. 70

This the committee did and on 1 April came to the conclusion that, "inasmuch as the mode of payment of these small balances (the greater portion of which amount to but a few shillings) specified in the Act, would in effect materially defeat the object of the Act, they conceive it expedient to adopt the course recommended by the Deputy Inspector General as that which will most satisfactorily carry the intention of the Legislature into effect". 71

They thereupon recommended that Cary's suggestion be approved and adopted and the governor general concurred.

69 see Daly to John Ussher, Chippawa, 28 February, 1848. Vol. 15, p. 383. C2, RG 5. PAC; Canada. Legislative Assembly. Journal, 1848, Appendix M


71 Minute of Council, 1 April, 1848. Vol. 70, pp. 343-344. E1, RG 1. PAC.
The vehicle through which payment would be made having now been decided, it remained for council to specify the mode and time. Impatient with the government's delay in implementing the act 10 & 11 Vic. cap. 33, now several months old, John Prince, on 25 May, forwarded to the provincial secretary, for the attention of Lord Elgin, a petition signed by himself and twenty-five other inhabitants of Sandwich, urging prompt government action. The petition was referred to the executive council on 31 May and, by council, to the deputy inspector general on 1 June. On 3 June, the latter reported that, while it was his understanding "that the Recr. Genl has taken some measures for making payment of these Balances through the means of the Bank of Montreal & its branches, in conformity with the order in council of 1st April last ... it is believed that money has not yet been received by the issue of Debentures as provided by the Act 10 & 11 Vic Cap 33". On the basis of this report, council recommended that the receiver general pay into the hands of the cashier of the Bank of Montreal, "on account", £2000 of the £3613.8.9 balance outstanding, for the purpose of carrying the provisions of the act into effect. On 9 June,


73 Minute of Council, 7 June, 1848. Vol. 70, p. 540. El, RG 1. PAC.
John Prince was notified that the governor general had sanctioned this action. Prince was less than pleased with this response. It mentioned only that Lord Elgin had signed a warrant for $2000 "in part payment of the U.C. Rebellion claims", but neglected to state "when and where they (the sufferers) will receive this Dividend: and when the balance of their claims will be paid." 74

In reply to Prince's inquiry of 4 August respecting these oversights, C. A. Meredith, assistant provincial secretary west, gave the following explanation. It had been supposed, at the time of the provincial secretary's letter to Prince of 10 June, from information provided by the inspector general's department, that the agencies of the Bank of Montreal were prepared to pay claimants in the districts they served "the amount of the entire balance due to them respectively, on application to them". 75 A subsequent inquiry, however, had revealed that, in the absence of the deputy receiver general, owing to a serious and protracted illness, the receiver general's department had neglected to furnish the bank with the necessary lists of claimants' names. These lists, which were currently in preparation, would be made available to the bank "in the course of one or two days".


75 Meredith to Prince, 9 August, 1848. Vol. 17, p. 79. C2, RG 5. PAC.
whereupon, Meredith had no doubt, "the different agencies of the Bank will be prepared within a week or ten days to pay the amount of the claims in question in full." 76

The list of Western District claimants was ready by 15 August. On the 19th, notice appeared in the Canada Gazette that arrangements for payment of the 8% balance due on rebellion losses claims through the agencies of the Bank of Montreal had been completed. Parties who would be applying for payment, however, were warned that they must furnish sufficient identification, while persons collecting on behalf of others must produce duplicate powers of attorney if they had not done so previously. 77

Once again John Prince found cause for complaint. The London agency of the Bank of Montreal, he grumbled, had not yet been sent the original powers of attorney and paylists which had provided the foundation for Western District payments at Chatham and Sandwich in January, 1847. These he urged the provincial secretary to transmit forthwith. The member for Essex was also annoyed that his constituents should be obliged to travel all the way to London, some one hundred and twenty miles from Sandwich, to collect their "trifling Balances", and recalled that, on the previous occasion, a bank agent had attended at Chatham and Sandwich. Finally, he was upset because the Bank of Montreal agent

76 Ibid.

at London had refused to pay without new powers of attorney being presented. Not only could these not be obtained in many cases, Prince testily explained, but the government advertisement certainly implied that the old powers would suffice.78 Receiver General Louis-Michel Viger, to whom Prince’s letter had been referred on the 14th by the provincial secretary’s office, replied personally two days later. Previous powers of attorney, he assured Prince, would be recognized in all but very special cases. The previous lists and powers of attorney, which had never been in the possession of government and were supposed to be in the keeping of the several agencies of the Bank of Montreal, had now been forwarded to its agents by the bank’s head office. Furthermore, to spare Western District claimants the inconvenience of journeying to London, the Bank of Montreal had been instructed to employ the agents of other banks when necessity required, as it did in the case of Prince’s constituents. The additional expense entailed by these arrangements would be defrayed by the government.79 The Chatham Gleaner at Prince’s behest, published the receiver general’s reply for the information of claimants in the Western District,80 and the way was at last

78 Prince to Provincial Secretary, 9 September, 1848. Vol. 233, no. 490. Cl, RG 5. PAC.

79 L.-M. Viger to Prince, 16 September, 1848, in Chatham Gleaner, 26 September, 1848.

80 Ibid.
clear for a final liquidation of the government's long-standing debt.

Of the 431 eligible claimants, only 30% took the trouble to collect the balance of their claims. Eleven of these did not collect at the same time as the rest but received payment at a later date. From a monetary standpoint, uncollected claims amounted to £73, or 9% of the £810 allocated to the Western District. 81

By mid-December, 1848, the provincial secretary could finally state, in reply to a petition from the Western District, that the matter of the rebellion claims was closed.

... the Comrs who were appointed to investigate all claims of this nature arising in the Western Dt. having made their final Report, & the funds, which were appropriated by the Legislature for their payment, having been expended, H.R. has no funds at his disposal from which he could direct the payment of your claim ... 82

On 19 March, 1849, with the production in the house of a return showing the amounts claimed, paid out and rejected in the various districts, 83 the Upper Canadian rebellion losses question came quietly to an end, a brief ray of sunshine before the tempest over Lower Canadian losses burst upon the provincial legislature.

81 Western District. List of Claimants, showing the amount of Balances due to each individual, being the remaining 8 pc. upon their original awards made them in pursuance of the Divers Acts of the Provincial Legislature for the Losses sustained during the Rebellions in Upper Canada and now directed to be paid under the Act 10 & 11 Vic. Cap. 33, and order of Council of the first day of April one thousand Eight Hundred and forty-eight", n.d. (blank list drawn up 15 August, 1848). Vol. 24, D8-2, RG 19. PAC.

82 Provincial Secretary to Duncan McQuaig, Dawn township (draft), 15 December, 1848. Vol. 242, no. 997. Cl, RG 5. PAC.

CONCLUSION

With the final liquidation of Upper Canadian rebellion losses claims, there was closed out an important chapter in the life of John Prince. From those trying days twelve years before when he and his fellow magistrates had hastily ordered the defences of the Western District, the issue of losses claims had never ceased to occupy his attention. Sharing the responsibility for the appointment of provincial commissaries, whose irregular accounts had precipitated the claims controversy, he had exposed himself to personal loss by guaranteeing a loan that was urgently needed to purchase supplies for the militia. A witness to the bodily and material sufferings of his neighbours and comrades-in-arms, he had carried the fight for compensation to the provincial legislature, where he had left no procedure untried in his efforts to obtain redress. He had moved addresses to the crown on the subject of reparations and imperial liability; introduced petitions on behalf of injured constituents; served on select committees appointed to investigate the claims question; and finally, brought in or seconded bills setting up a claims fund and providing for the appointment of losses commissioners, an amendment to improve upon this legislation, and bills authorizing payment of 92% and 8% of the awards, respectively.

Between sessions, he had convoked meetings of disgruntled Western District claimants, drawn petitions on their behalf, dis-
tributed donations of relief money, bombarded the provincial offices with letters decrying the injustice of leaving the claims unpaid and made personal representations right up to the Queen's representative himself. When at last his persistence won out, he had volunteered his services as a losses commissioner and had not rested until the awards which he and his colleagues had made were paid in full, in a manner and at a place which were convenient to the Western District sufferers.

If Prince's efforts had had an effect on the outcome of the claims controversy, his exertions on behalf of his constituents had also wrought a noticeable change in Colonel Prince. Prince had come to Upper Canada in 1833, for the purpose, his contemporaries alleged, of establishing himself as a country squire.\(^1\) In many ways he was well suited to the part. Trained in the law and legal counsel to Whig politicians in England,\(^2\) Prince had grown to manhood in the era of social and political upheaval that had followed the Napoleonic Wars. A period which had seen Catholic emancipation, abolition of the Combination Acts, the first Reform Bill and the abolition of slavery could scarcely have failed to leave its imprint upon a man of Prince's cast, however much his independence of mind might have kept him

\(^1\) W. Notman and Fennings Taylor, Portraits of British North Americans with Biographical Sketches, Vol. 2 (Montreal: Notman and Lovell, 1865-68), p. 159

\(^2\) Ibid.
from unswerving allegiance to any particular political party.

Prince's emigration to Upper Canada at the age of thirty-seven gave him a rare opportunity to play out a role he had evidently come to admire: that of the enlightened aristocrat who, by good example and often at great personal sacrifice, sought to ameliorate the condition of those of lesser station. Besides his early formation and natural inclinations, an abiding interest in scientific farming and love of the chase tended to fit Prince for his new role in the society of his adopted land. So, too, did membership in the colonial assembly, to which he had dutifully allowed himself to be elected in 1836.

Much to Prince's chagrin, his pretensions to being an "English gentleman" on the Old Country model were accepted neither by his less civilized neighbours, who regarded him as an "English 'Foreigner'", nor by the Compact Tories who refused to accept him as one of their own. Thus, while a consistently popular figure, he was not paid the obeisance to which he seemed to feel his good breeding and higher attainments entitled him. This slight Prince repaid by generally heaping scorn on everything Canadian, from the weather to the whiskey, and by drawing invincibly comparisons between the English and Canadian ways of doing things. It also led him to reserve


4 Ibid.
the epithet "tory" for those he held in greatest contempt.

"The distinctness of being an English gentleman" which
was "caressed by Colonel Prince with an almost fatiguing ten-
derness", did not, however, go unnoticed. He was regarded by
the press and much of the population of the province as the
archetype of an Englishman. He was saluted at public gatherings
by the playing of the air, "The Fine Old English Gentleman",
while he was described by the Kingston correspondent of the
Montréal Times as the leader of the "Native European Aristocracy".

While Prince's acting out the part of the English country
gentleman might have flattered his ego and been instrumental
in bringing him social prominence, it was more of a liability
to him politically. In fact, in political terms, Prince was
something of a misfit, not really comfortable with either of
the coalescing parties which vied for control of the assembly
and domination of the executive council. The Compact tories
stood for a colonial version of high birth and privilege, both
of which, thanks to Whig reforms, were in retreat "at home".
Furthermore, their obsession with maintaining the status quo
discouraged enterprise and stood in the way of that great nineteenth

5 Notman and Taylor, op. cit.
6 Chatham Journal, 24 July, 1841
7 Ibid., 14 August, 1841
century panaceas, material progress. The reformers, on the other hand, were tainted with notions of democracy and republicanism and threatened to rend asunder the very fabric of British constitutional government. Such desecration of the "Glorious Constitution" was anathema to Colonel Prince. Although progressive in his thinking, Prince was firm in his attachment to the principles of constitutional government and vigorously opposed recourse to means of affecting change which were not sanctioned by law. He therefore sympathized with the efforts of Lieutenant-Governor Head and the tory establishment to frustrate the attempts of those who sought, by force of arms, to replace monarchical government with American "mobocracy".

At home in neither the tory nor the reformist camp, Prince followed an independent course, forming temporary alliances with first the one and then the other as it suited principle, his self-interest or political expediency. A vociferous upholder of principle, Prince seems to have been able to persuade a good number of his followers—but, more importantly, himself—that he acted always from selfless and non-partisan motives. Not surprisingly, Prince's lack of commitment to anything more substantial than "principle" was viewed with suspicion by the parties with which

8 In the opinion of one journalist, Prince would, in his native England, have been "a Radical Reformer of the first water". (Ibid.)
he entered into *marriages de convenance* and, while they welcomed Prince's support, they were reluctant to show their appreciation in any tangible way. While it was frequently suggested that Prince did not seek public office out of personal ambition—an impression Prince himself did his best to foster—there can be little doubt that he coveted it and was deeply disappointed that those who had patronage in their gift failed to recognize his superior talents or valuable services. Thus he turned against Lieutenant-Governor Arthur and his tory advisers when, instead of being given some kind of recognition for his meritorious services during the rebellion and invasions of the province, he had received only a rebuke for his peremptory treatment of patriot prisoners. For a brief time under Sydenham, a kindred spirit who had come to implement the enlightened constitutional reforms of Lord Durham, Prince's prospects had seemed to improve. With Sydenham's death and the subsequent demise of the "harmony" concept, however, went any hope that a "maverick" like himself would be elevated to a position of public responsibility.

Having already turned his back on the ungrateful tories, Prince now threw in his lot with the reformers, but fared no better. He finally broke with them, too, when he came to believe

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9 Years later, in writing to Attorney General John A. Macdonald, Prince spoke of "growing somewhat bald", a condition he attributed to "so many Lawyers and men-styled Lawyers, having passed over my head". (Prince to Macdonald, 20 August, 1864. *Op. cit.*)
they were serving only French-Canadian interests and had no
intention of dealing with the Upper Canadian rebellion losses
issue. Better prospects, it seemed, were offered by the conser-
vative Sherwood-Papineau ministry then in power. Unhappily for
Prince, this administration was defeated in the election of
1847-48, only a few months after he had come out in support
of them, and he was once more cast into the political wilderness.

His claim to gentility unacknowledged for all practical
purposes and his political ambitions thwarted, Prince faced one
final disillusionment which was to change the course of his
career. There now seemed no doubt that the home government wished
to abandon her North American colonies. Recognition of this fact
had been growing for several years. The failure of the Melbourne
Whig administration to support Head and the shameful "trickling"
to the United States during the rebellion period had given Prince
his first intimation that the imperial government could not be
relied upon to pursue the best interests of the colony. This
doubt was reinforced by the home government's seeming reluctance
to allow the patriot prisoners to be brought to justice. Prince
himself had played an important part in the capture of some of
the patriot leaders and had been subjected to renewed harassment
and threats to his life by certain of them who had managed to
escape confinement. Furthermore, after years of equivocation,
the British government had finally absolved itself of all respon-
sibility for Upper Canadian rebellion losses claims, in spite of the personal efforts of John Prince to persuade them that it was their bounden duty to recompense sufferers. Not only were imperial funds not forthcoming for this purpose, but Canada West, which could ill-afford the expense, had been obliged to raise the more than £40,000 required to reimburse the victims from revenues generated wholly within the borders of the old province of Upper Canada. Repeal of the Corn Laws and the end of imperial preference were conclusive proof of British indifference, especially as the British North American colonies were almost completely agricultural.

After sixteen years residence in his new country, more than eleven of which he had spent in pursuit of losses compensation, Prince was a changed man. His attempt to recreate an English estate on Canadian soil had been a travesty. The concept of the gentleman in Parliament, so much a part of English tradition, was alien to the more egalitarian Canadian way of life. Here practical politics was the order of the day and eloquence and skill in debate mere ornaments. With only his attachment for things English to sustain him, Prince watched helplessly as the feelings of filial affection he had worked so assiduously to nurture in his fellow colonists were spurned by an increasingly indifferent mother country. By refusing to reserve the Lower Canadian losses bill and giving it royal assent immediately, Governor General Elgin evidently demonstrated to Prince's satisfaction
that the British government were prepared to divest themselves of Canada. They were willing to do so, it appeared, even if it meant conceding responsible government without qualification and delivering the colony into the hands of a French-Canadian minority who would tyrannize the loyal British majority and subvert the constitution. The Losses Bill itself was the first step in the tyrannizing process for it was a blatant example of special privilege. The Upper Canadian claimants, whose loyalty was unquestioned, had, over eleven long years, received only a fraction of the amount of their claims. Furthermore, the funds out of which they were ultimately compensated were paid in two instalments and had been derived from revenues raised exclusively in Upper Canada. By contrast, the Lower Canadian claimants, loyal subjects and rebel sympathizers alike, were to be reimbursed out of the Consolidated Revenue Fund of the United Province.

After the years of agony and frustration, Prince could regard the bill as nothing less than an affront to him personally and as an Englishman. Upon its successful passage, he renounced his past and began life anew as a vigorous advocate of Canadian independence.10

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   C. Civil Secretary's Letter Books, 1840-1849

   Letter Books, 1842-1849

G20. Civil Secretary's Correspondence, 1841-1849

Record Group 8: British Military and Naval Records

I. C Series

A. Correspondence of the Military Secretary of the Commander of the Forces

1. Subject Files -
   Financial Records: Commissariat, 1837-1849
   Militia, 1837-1849
   Rebellion, 1837-1838
   Regiments, Infantry of the Line.

2. Letter Books
   English correspondence, 1837-1849
   Canadian correspondence, 1837-1849
   Letters written by Aide-de-Camp Thomas L. Goldie, 1837-1838
   Letters written by Sir John Colborne, 1837-1838
   Letters written by Sir George Arthur, 1838-1841

B. Records of the Canadian Command

5. Militia Rolls and Pay Lists, 1838-1843

D. Miscellaneous Records

2. Order Books, 1837-1849
Manuscript Sources: Public Archives of Canada (cont'd)

Record Group 9: Department of Militia and Defence, 1772-1922

I. Pre-Confederation Records

B Adjutant General's Office, Upper Canada

1. Correspondence
   Letters received, 1837-1846
   Letter books, 1837-1847
   Letters sent and memoranda, 1837-1846

2. Returns
   Weekly returns, Embodied Militia, 1837-1843
   Nominal rolls, 1837-1844

3. General Orders, 1837-1849

5. Registers of Officers
   Registers of officers, Embodied Militia, 1837-1838
   Register of officers of the Incorporated and
   Provisional Battalions and independent troops
   and companies, 1838-1840

Record Group 19: Department of Finance

A. Minister of Finance

1. Correspondence
   Letters Received, 1840-1849
   Letter Books, 1840-1849
   Provincial Secretary, C.W., 1843-1849

B. Receiver General

1. Correspondence
   Letters Received, 1837-1849
   Letter Books, 1837-1849

C. General Records

2. Rebellion Losses, 1839-1854
   Correspondence, 1839-1854
   Claims, 1849-1854
   Miscellaneous Records, 1840-1854

D. Treasury Board

8-2 Rebellion Losses Correspondence, 1839-1854
Manuscript Sources: Public Archives of Canada (cont'd)

Manuscript Group 11: Public Record Office, London; Colonial Office Papers

C.O. 42. Canada, Original Correspondence
   (microfilm and "Q" Series transcripts for 1837-1841;
    microfilm for 1842-1849)

C.O. 537. Supplementary Correspondence
   Vol. 25 Defence, 1837, 1839-1841
   Vol. 139 Destruction of the steamer Carolina, 1838
   Vol. 140 Despatches and private correspondence of
    Sir Charles Bagot, 1842
   Vol. 141- Despatches and private correspondence of
    143 Sir Charles Metcalfe, 1842-1845

Manuscript Group 12: British Public Records

D. Treasury
   T1 Treasury Board In Letters

Manuscript Group 24: Nineteenth Century Pre-Confederation Papers

A. 40 Colborne Papers

B. 14 LaFontaine Papers

Manuscript Group 26: Prime Ministers' Papers

A. Macdonald Papers, 1832-1891
Manuscript Sources: Hiram Walker Historical Museum, Windsor, Ont.
John Prince Diary, 1837-1839

Manuscript Sources: Regional History Collection, Weldon Library, University of Western Ontario, London, Ontario
Harris Family Papers (Accession No. 144)
Rebellion Losses Claims, 1845

Manuscript Sources: Baldwin Room, Toronto Central Reference Library
Hamilton Papers (U.L.M. 18-138)

Manuscript Sources: Universite de Montreal
Baby Papers
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