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A STUDY OF THE CIVIL GOVERNMENT OF  
BRITISH EAST FLORIDA

by

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A STUDY OF THE CIVIL GOVERNMENT OF  
BRITISH EAST FLORIDA

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An Abstract of A Thesis  
Presented to  
the Faculty of the Department of Social Studies  
Appalachian State Teachers College

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In Partial Fulfillment  
of the Requirements for the Degree  
Master of Arts in Education

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by  
Howard L. Johnson  
July 1952

## I. THE PROBLEM

The purpose of this study was to investigate the methods and processes of the civil government of the province of British East Florida and (1) to determine whether features of the government were unique and (2) to discover the reasons for any unusual features so discovered.

## II. PROCEDURE

All general works on Florida history which were available in the libraries of the Palm Beach and Miami areas of Florida were examined for relevant material. All issues of the Florida Historical Quarterly were examined and all relevant material was read. Much of the material for the study was taken from transcriptions of microfilms of original British Colonial Office Records for the years 1763 to 1784 which were available in the City of Miami, Florida, Library.

## III. RESULTS

It was found that the government of British East Florida was unique in that the inhabitants were not taxed, that there was no legislative assembly during most of the colony's existence, and that the colonial population was almost completely loyal to the British crown. It appears that the first of the above mentioned items influenced the other two considerably. The careful screening of applicants for land grants and the

personal attitude of the colonial governors was also found to bear considerable import on the same matters.

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H. L. J.

## CHAPTER I

### INTRODUCTION

As one reads, studies, and contemplates the history of Florida it becomes apparent that the period of British occupation has been neglected even more seriously than the brevity of its span of years might justify. In Florida are many evidences of Spanish influence, but very few of British influence, despite a quite commonly accepted idea that evidences of British colonialism are not readily obliterated.

The area including all of the present state of Florida east of the Apalachicola River was known as British East Florida. British West Florida included the portion of the present state of Florida extending westward from the Apalachicola River and other lands westward along the Gulf of Mexico as far as the Mississippi River. These two colonies were separate, not only as governmental units, but also in other aspects such as the nature of the population, soil, climate, and trade interests.

This study is confined to the province of British East Florida.

#### I. THE PROBLEM

Statement of the problem. The purpose of this study was to investigate the methods and processes of the civil



government of the province of British East Florida and (1) to determine whether any features of the government were unique and (2) to discover the reasons for any unusual features so discovered.

Importance of the study. The government of any area, be it colony or independent state, which can maintain itself during times of unrest in adjacent areas to the general satisfaction of the people governed must have many desirable and interesting characteristics. Such a government apparently was in existence in British East Florida during its entire life, from 1763 to 1784.

Through these troublesome years, years which found the thirteen colonies to the north in continual unrest due to such measures as the Stamp Act and the Townshend Acts, and then the violence of the War of Independence, British East Florida remained loyal to its colonial officials and to the home government.

This study of the civil government of the province is intended to determine its nature, with the expectation that an increased understanding of such a government may give some clues concerning the stability and tranquility of the people living under its jurisdiction.

Procedure and sources of data. The literature examined was that available at the following libraries:

West Palm Beach Memorial Library, West Palm Beach, Florida.

Library of the Society of the Four Arts, Palm Beach, Florida.

City of Miami Library, Miami, Florida.

University of Miami Library, Coral Gables, Florida.

Florida Historical Association Library, St. Augustine, Florida.

An interest in the subject had grown over a period of years of general reading of Florida historical material. The gathering of material for this study was begun by examining all available works on Florida history for any relevant material. The bibliographies were closely examined for any clues to further information. It was found that many writers referred to various issues of the Florida Historical Quarterly, a publication of the Florida Historical Association. A complete set of these publications was in the West Palm Beach Memorial Library and this was examined and all relevant material was read.

Further investigation showed that the original sources of most material on the chosen subject were part of British Colonial Office Records for the years 1763 to 1784. The Library of Congress, Washington, D. C., has microfilms of these original documents. Transcriptions of these Colonial Office Records, copied from the Library of Congress microfilms, had been made for the files of the Florida Writer's Project, Works Progress Administration. These transcriptions have been available in the City of Miami Library and have served as a source of much of the material of this study.

## CHAPTER II

### REVIEW OF THE LITERATURE

While general works on Florida are numerous an examination of their contents reveals little material on the period of British occupation. This is due, not so much because of lack of interest, but more because of the lack of available sources of material and the relative insignificance of the period in relation to the over all development of the area.

Abbey<sup>1</sup> in her excellent book on Florida devotes one chapter to "The British Interlude," and emphasizes the military aspects of the colony with related references to the migration of loyalists into the colony during the years of the Revolutionary War. Cabell and Hanna<sup>2</sup> devote one chapter of their book on the St. Johns River to "The Almost Loyal Colony," but here again is found emphasis placed on the border skirmishes, and the activities of the provincial East Florida Rangers, as well as upon the gathering and final dispersal of loyalist refugees and other Floridians at the time of the return of the colony

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<sup>1</sup> Kathryn T. Abbey, Florida, Land of Change. (Chapel Hill: The University of North Carolina Press, 1941) pp. 75-95.

<sup>2</sup> Branch Cabell, and A. J. Hanna, The St. Johns-A Parade of Diversities (New York: Farrar and Rinehart, Inc., 1943) pp. 115-127.

to Spain. Only slight reference to the operation of the civil government can be found in these general works, which, however, in their brief chapters on the British occupation, furnish some worthwhile material for the understanding of the East Florida situation.

John Bartram's work<sup>3</sup> is of great value in gaining an accurate picture of what East Florida was like during the period being studied, but Bartram was a naturalist and his interest in the flora and fauna so occupied him that he did not inquire more than superficially into the nature of the government or its operation.

Works of such writers as Dau,<sup>4</sup> Chapin,<sup>5</sup> and Fairbanks<sup>6</sup> are even more brief in their consideration of the period of British rule and are of little value in gaining an insight into the operation of the government.

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<sup>3</sup> John Bartram, An Account of East Florida (with a Journal), (London: W. Nicoll, 1766) 160 pp.

<sup>4</sup> Frederick W. Dau, Florida Old and New (New York: G. P. Putnam's Sons, 1934) 377 pp.

<sup>5</sup> George M. Chapin, Florida, Past, Present, and Future. 2 vols. (Chicago: S. J. Clarke Publishing Company, 1914)

<sup>6</sup> George R. Fairbanks, History of Florida (Philadelphia: J. B. Lippincott and Company, 1871) 350 pp.

Cash<sup>7</sup> devoted two chapters of his four volume work to "Twenty Years of British Rule," and was of some value in interpreting the personalities of certain officials, and attempting to account for their actions in this light, rather than by just recounting the more apparent buffets of circumstance and fate. Campbell's Historical Sketches of Colonial Florida,<sup>8</sup> devotes more of its one brief chapter on British rule to West Florida than to East Florida, but mentions the operation of representative government in both colonies.

Carita Doggett,<sup>9</sup> in her book concerning the New Smyrna colony, includes some very valuable material on certain intrigues within the government, and gives one an insight into the nature of the opposition to the established order.

More specialized works on the period being studied

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<sup>7</sup> William T. Cash, The Story of Florida (New York: The American Historical Society, Inc., 1938) I:138-180.

<sup>8</sup> Richard L. Campbell, Historical Sketches of Colonial Florida (Cleveland: The Williams Publishing Company, 1892) 294 pp.

<sup>9</sup> Carita Doggett, Dr. Andrew Turnbull and The New Smyrna Colony of Florida (Florida: The Drew Press, 1919) 212 pp.

include those of Siebert,<sup>10</sup> Mowat,<sup>11</sup> and Barrs.<sup>12</sup> Siebert's<sup>13</sup> work is very extensive but is concerned mostly with the land grants, and the settlement of land claims of the Floridians who were evacuated when the colony was returned to Spain. The first volume of his work gives considerable insight into many aspects of the civil government, as well as a good account of events of general interest.

Mowat's<sup>14</sup> book is probably of as great value as any single secondary source of material on the subject of British East Florida. Although the greater portion of the book is concerned with the land holdings of the population, the agricultural and commercial growth of the province, and the conduct of Indian and military affairs, there is a great amount of very valuable and well documented material on the various aspects of the colonial

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<sup>10</sup> Wilbur H. Siebert, Loyalists in East Florida, 2 vols.; (Deland: Florida State Historical Society, 1929)

<sup>11</sup> Charles L. Mowat, East Florida as a British Province 1763-1784 (Berkeley, University of California Press, 1943) 237 pp.

<sup>12</sup> Burton Barrs, East Florida in the American Revolution (Jacksonville, Guild Press, 1932) 42 pp.

<sup>13</sup> Siebert, op. cit.

<sup>14</sup> Mowat, op. cit.

government. If a single book were to be recommended as a secondary source of material this would be the choice of one especially interested in a study of this sort.

Barr's<sup>15</sup> book deals almost exclusively with military activity, although there are included some figures on population growth and its nature.

In the field of periodical literature the publication of the Florida Historical Association, The Florida Historical Quarterly, serves as a source of much worthwhile material. However, even in this publication, the amount of material on the period and specific subject being investigated is comparatively meager. An examination of the bibliography of this thesis will indicate that several of the authors of general and specialized works on Florida history have contributed to the publication some more detailed information than would be possible to include in the usual book. Among these authors will be found Siebert, Carita Doggett Corse,<sup>16</sup> and Mowat, as well as other contributors and editors of worthwhile material.

The most important source of material for this study has been certain British Colonial Office Records, some

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<sup>15</sup> Barr, op. cit.

<sup>16</sup> Carita Doggett Corse has been previously cited as Carita Doggett, the latter being her name at the time of publication of her book on the New Smyrna Colony.

references to which may be found in many of the publications previously mentioned. The originals of the records are in the Public Record Office, in London, and are made up largely of official papers and correspondence sent from East Florida to the home office in London. Included are Board of Trade papers, correspondence between the governors and the secretaries of state, and the journal of the council, as well as other papers concerning shipping, land grants, and loyalist claims which were not of value to this study. The Colonial Office papers available, in transcript form, and used considerably in this study are classified by the Public Record Office as Class 5, volumes 540-573.



## CHAPTER III

### THE LAND AND THE PEOPLE

The final treaty bringing to a formal close the Seven Years' War was signed at Paris on February 10, 1763. Article 20 of the treaty provided for the cession by Spain to Great Britain of Florida.

King George III of Great Britain, in a proclamation dated October 7, 1763,<sup>1</sup> gave notice, among other items, that letters patent had been issued to establish a government for East Florida. The boundaries for the province of East Florida were defined as: "the Gulf of Mexico and the Apalachicola River on the west; on the north a line from the Apalachicola River at the point where the <sup>Chal</sup> Chatahouchee and Flint rivers meet to the source of the Saint Mary's River, and then following the Saint Mary's River to the Atlantic Ocean and the Gulf of Florida, including all islands within six leagues of the coast."<sup>2</sup>

The lands included in the province were generally believed to be of little value although there were some glowing and rather contradictory reports of the great

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<sup>1</sup> "By the King, a Proclamation, George, Rex," Florida Historical Quarterly, 3:36-42, April, 1925.

<sup>2</sup> Ibid., p. 38-39.

natural resources and potentialities of the area. A popular British magazine gave an encouraging report on Florida soon after its acquisition but followed up in the same issue with the statement that all lands in southern and maritime North America were of little value.<sup>3</sup>

The population of the area at the time of cession to Great Britain having been about three thousand<sup>4</sup> indicates that conditions for settlement must have been difficult. The desire of the Spanish colonists to leave the area despite the fact that the Treaty of Paris had guaranteed them freedom to exercise their Catholic religious preferences further indicates that a bountiful life was not possible. The difficulty of maintaining life in the area is further demonstrated when one considers that even this meager population had built up only after a period of about two hundred years of Spanish rule.

The Spanish population for these, and possibly for other reasons, left the colony and when Governor Filiiu departed on January 21, 1764, only eight Spaniards remained and they only to dispose of property.<sup>5</sup>

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<sup>3</sup> Gentleman's Magazine, 33:283ff., June, 1763.

<sup>4</sup> Wilbur H. Siebert, "Slavery and White Servitude in East Florida, 1726-1776," Florida Historical Quarterly 10:5, July, 1931.

<sup>5</sup> Ibid., p. 7.

The royal land policy had been set up by the Proclamation of 1763 and promised land to ex-soldiers and other settlers on easy terms. The Board of Trade began advertising for settlers in London, in November, 1763. Any Protestant person from foreign countries and other British colonies, and from Great Britain itself until 1767, might petition the Privy Council and, if the petition were acted on favorably, to the Board of Trade. Petitions were finally returned to the Privy Council and only then were Orders in Council made for the granting of land.<sup>6</sup> Also, reduced officers of the army and navy and disbanded soldiers might apply directly to the governor and council for a grant on family right.<sup>7</sup>

Large grants of land to men such as Denys Rolles, near present day Palatka,<sup>8</sup> and Andrew Turnbull, at New Smyrna,<sup>9</sup> brought in colonists who were located away from

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<sup>6</sup> Charles L. Mowat, East Florida as a British Province, 1763-1784. Los Angeles: University of California Press, 1943, p. 54.

<sup>7</sup> Colonial Office, 5-540, p. 285.

<sup>8</sup> Carl Bohnenberger, "The Settlement of Charlotta (Rollestown), 1765," Florida Historical Quarterly, 4:43-49, July, 1925.

<sup>9</sup> Carita Doggett, Dr. Andrew Turnbull and The New Smyrna Colony of Florida. Jacksonville: The Drew Press, 1919, 212 pp.

the only real town, St. Augustine. Quit rents were to be charged on these grants but were so small as to be insignificant, half penny per acre per year. Even these nominal rents were rarely collected.<sup>10</sup> The screening of applicants for land grants made it almost certain that those who finally were granted land were loyal to the British crown.

The population grew slowly to an approximate total of three thousand by the year 1771, according to De Brahm's reports.<sup>11</sup> This figure excluded soldiers and Indians.

As the Revolutionary War inflamed the colonies to the north, loyalists from these colonies, particularly Georgia, moved into East Florida in increasing numbers. The loyalists did not arrive as a steady flow but rather erratically as the fortunes of war changed in the Southern colonies.

When the British met reversals and began to evacuate their conquered cities, particularly Savannah and Charleston, in the summer and fall of 1782, loyalist refugees swelled the population to a high of 17,375 in 1783 when the evacuation of East Florida began.<sup>12</sup>

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<sup>10</sup> Mowat, loc. cit.

<sup>11</sup> Carita Doggett Corse, "De Brahm's Report on East Florida," Florida Historical Quarterly, 17:224, January, 1939.

<sup>12</sup> Wilbur H. Siebert, "Loyalists in East Florida, Vol. 1," DeLand: Florida State Historical Society, 1929, p. 131.

Although East Florida was returned to Spain by the treaty ratified on September 19, 1783, and Spanish rule was resumed July 12, 1784, many British subjects remained after this date and even as late as 1786 a Spanish census revealed twenty-three foreign families remaining in the province.<sup>13</sup>

The British province of East Florida existed for a period of slightly more than twenty years and had jurisdiction over an area of approximately fifty thousand square miles, in the northeastern corner of which were located practically all of the population which did not exceed six thousand people prior to 1782 when a great influx of loyalist refugees swelled the population to nearly three times that number.

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<sup>13</sup> Joseph B. Lockey, "The St. Augustine Census of 1786," Florida Historical Quarterly, 18:21, July, 1939.

## CHAPTER IV

### CIVIL GOVERNMENT ESTABLISHED

1763-1771

Occupation of East Florida by British authorities began on July 20, 1763, when four companies of the First Royal Regiment, commanded by a Captain Hedges, arrived in St. Augustine from Havana, Cuba.<sup>1</sup> Only a few days later, July 30, 1763, the Ninth Royal Regiment arrived from Havana and its commander Major Francis Ogilvie superseded Hedges, who soon left for England.<sup>2</sup>

Major Ogilvie, as commanding officer at St. Augustine, was virtual governor of the province until the inauguration of the first civil governor, James Grant, on October 31, 1764.<sup>3</sup> Ogilvie, during this time, styled himself "commander-in-chief of East Florida for the time being"<sup>4</sup> on the authority of his superior officer, Lord Jeffrey Amherst, commander-in-chief of British forces in North America, who had informed him that, "It is the King's

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<sup>1</sup> Mark F. Boyd, editor, "From a Remote Frontier (Letters and Documents pertaining to San Marcos de Apalache, 1763-1769, During the British Occupation of Florida)," Florida Historical Quarterly, 19:179-212, January, 1941.

<sup>2</sup> Colonial Office, 5-548, p. 13.

<sup>3</sup> Ibid., 570, p. 1.

<sup>4</sup> Ibid., 549, p. 317.

pleasure that you do properly exert that authority under which you at present act to punish such persons as shall disregard His Majesty's orders."<sup>5</sup> Ogilvie's letter to the Board of Trade after his receipt of the Proclamation of 1763 stated that there were at that time insufficient inhabitants for the calling of an assembly or the formation of a council.<sup>6</sup>

The new governor, James Grant, arrived in St. Augustine on August 29, 1764.<sup>7</sup> He was in possession of a commission from King George III which gave him:

Full power and authority, with the advice and consent of our said council.....as soon as the situation and circumstances of our Province will admit thereof.. ...to summon and call General Assemblies of the Free Holders and Planters.....(and) by and with the advice and consent of our said Council and Assembly.....to make, constitute, and ordain Laws, Statutes, and Ordinances.....as near as may be agreeable to the Laws and Statutes of this Our Kingdom of Great Britain.<sup>8</sup>

No mention was made of any legislative power of the governor and council in the absence of an assembly and the representation accompanying the Board of Trade's draft

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<sup>5</sup> Charles L. Mowat, East Florida as a British Province, 1763-1784. Los Angeles: University of California Press, 1943, p. 9.

<sup>6</sup> Colonial Office, 5-540, p. 135.

<sup>7</sup> Ibid., p. 159.

<sup>8</sup> Ibid., 563, pp. 12-14.

of the commission stated that this had been purposely omitted since it was felt that an immediate public declaration of the permanent constitution, including the provision for an assembly, would be an encouragement to settlers.<sup>9</sup> However, Grant's general instructions authorized him, if the calling of an assembly was impractical for a time, to make meanwhile such rules and regulations, by advice of the Council, as should appear necessary for the order and good government of the province. Such regulations were not to interfere with the life, limb, or liberty of the subject, or to impose duties or taxes, and must be transmitted to the King for approval.<sup>10</sup>

In this manner a situation existed in which, due to the absence of an assembly, the power of legislation rested with the council. The council also shared executive and, to some extent, judicial powers with the governor. The question of the right of the council to make regulations and ordinances raised a problem which later became controversial.

Grant had arrived on August 29, 1764<sup>11</sup> but he was obliged to delay the carrying out of his instructions to

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<sup>9</sup> Loc. cit.

<sup>10</sup> Mowat, op. cit., p. 41.

<sup>11</sup> Supra., p. 16.



proclaim his commission and establish his council from among "the most considerable inhabitants" because aside from the officers and men of the garrison there were only a few humble settlers and two or three Spaniards and gentleman adventurers in the colony. It was necessary for Grant to invite from Georgia and South Carolina men to whom he promised seats in the council if they would come and settle in East Florida.<sup>12</sup>

On October 31, 1764 the civil government was actually established.<sup>13</sup> Grant and the council were sworn in. The chief justice and the attorney-general were given their commissions.<sup>14</sup> At the first meeting of the council a deputy clerk, David Yeats, was appointed. Yeats held this office throughout the existence of the colony, and at times held other positions.<sup>15</sup>

The members of the first council were appointed by the governor, with the exception of two members who held council seats ex-officio. These two members were the superintendent of Indiana affairs in the Southern District

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<sup>12</sup> Colonial Office, 5-540, p. 159.

<sup>13</sup> supra., p. 15.

<sup>14</sup> Colonial Office, 5-570, p. 12.

<sup>15</sup> Ibid., et passim.

of America,<sup>16</sup> and the surveyor-general of the customs in America for the Southern District.<sup>17</sup>

As the council was intended to be made up of twelve members and five was a quorum the membership of two ex-officio members did nothing to affect the position of the council as a tool of the governor.<sup>18</sup>

Governor Grant wrote to the Board of Trade regarding the establishment of the government,

Your Lordships will see by the enclosed List of Counsellors that there are only nine appointed, including the Chief Justice and Surveyor General. But as soon as it is in my Power to find proper People His Majesty's Instructions with regard to the Number shall be carried in Execution. Your Lordships will be pleased to impute the Delay of forming the Civil Government, after my Arrival, to the impossibility I found of making a Quorum of the Council.<sup>19</sup>

The council was aristocratic in nature because the governor had been directed by the Board of Trade to select

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<sup>16</sup> The Southern District included all British lands on the North American continent south of the Potomac River.

<sup>17</sup> Colonial Office, 5-540, p. 281.

<sup>18</sup> Ibid., p. 229.

<sup>19</sup> Ibid., p. 235.

its members from among "the most considerable inhabitants."<sup>20</sup> The governor's appointments to the council needed confirmation in London. His appointments were communicated to the Board of Trade and that body recommended the appointments to the Privy Council. The Board of Trade and the Privy Council could also make appointments of its own, without the approval of the governor, by issuing a mandamus. Such a mandamus, when presented to the governor made the bearer a member of the council.<sup>21</sup> However, the governor was able, in certain cases,<sup>22</sup> to ignore the bearer of a mandamus or to persuade him to abandon it. So the council was a closed corporation, not only because of the previously mentioned reasons, but also due to the governor's power to suspend councilors. This power seldom needed to be used but it was an ever present threat to those members who might, even after such careful screening before appointment, have some ideas which did not coincide with the governor's.

During the month of November, 1764, more appointments were made and a court system was set up to administer the laws of England. The Court of Common Pleas had jurisdiction

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<sup>20</sup> Supra., p. 18.

<sup>21</sup> Mowat, op. cit., p. 43

<sup>22</sup> As in the cases of Martin Jollie, who yielded to persuasion in 1767, or Arthur Gordon, who was ignored in 1775.

in all suits and actions, civil and real, where the sum involved exceeded forty shillings. This court exercised the powers belonging to King's Bench, Common Pleas, and Exchequer in England. Court of Common Pleas met in St. Augustine on the second Tuesday of January, April, July and October.

The Court of General Sessions of the Peace, Oyer and Terminer, Assize and General Gaol Delivery had jurisdiction over criminal cases. Its jurisdiction corresponded to that of King's Bench, the Justices of the Assizes, and the General and Quarter Sessions of the Peace in England. This court was convened at St. Augustine on the third Wednesday of June and December.

The judicial bench of each court was the same and consisted of the chief justice and two unsalaried assistant judges who were also appointed by the governor.<sup>23</sup>

The Commission of the Peace, made up of the councilors and four other appointees of the governor, was also set up in November, 1764. The members were qualified to act as justices of the peace and to hear cases of a minor nature.<sup>24</sup>

A Court of Chancery was not established until October, 1768. In this court the governor acted as chancellor. The

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<sup>23</sup> Colonial Office, 5-540, pp. 257 ff.

<sup>24</sup> Ibid., p. 265.

other officials of this court were a master in chancery, an examiner, and a register.<sup>25</sup>

A Court of Vice-Admiralty was created in April, 1771, and had its own judge, register, marshall, and advocate-general.<sup>26</sup>

The complement of officials was the usual one for British colonies of the eighteenth century. These officials were divided into two groups. The more important ones were included as part of the "civil establishment. Such official's salaries were provided for in the annual parliamentary grant for the province. Officials who were part of the civil establishment were the chief justice, the secretary and clerk of the council, the attorney-general, the surveyor-general, the register, the crown agent, the pilot, the provost-marshall, the receiver-general of the quit-rents, two clergymen, and two school teachers.

Lesser officials were provided with salaries from the contingent fund of the province. Included in this group were the coroner, jailer, cryer of the courts, clerk of the public accounts and keeper of Indian presents, clerk of the markets, the public vendue master, the messenger of the council, and possibly other petty officials.

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<sup>25</sup> Ibid., 570, pp. 99-101.

<sup>26</sup> Ibid., 571, pp. 58-60.

Customs officials and a naval officer were not considered part of the civil government and their salaries were provided for in other manners.<sup>27</sup>

As in the case of the councilors, most of the other major officials and usually all of the minor officials were appointed by the governor, although the major appointments required confirmation by the Privy Council in London before becoming permanent. Appointments of officials could be made in England, in the name of the King, and such appointments were signified by a mandamus ordering the governor to commission the person named, or, in a few cases, by a warrant naming a person to a position outright. Officials named by warrant were called patent officers and enjoyed the privilege of being allowed to send a deputy to exercise the duties of their office while they remained at home in England.<sup>28</sup>

Duties of the above mentioned officials are indicated by their titles, with the exception of the crown agent. This official had the task of receiving and disbursing the funds voted by Parliament for the operation and maintenance of the province, and to cooperate with the Board of Trade in its control over the province's

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<sup>27</sup> Mowat, op. cit., p. 19.

<sup>28</sup> Colonial Office, 5-552, pp. 369-371.  
Thomas Wooldridge was such a patent officer, receiving salary as provost-marshal and later as receiver-general of the quit rents while remaining in England.

funds. He was specifically forbidden to correspond with the governor, or to act for the province except where parliamentary grants were involved.<sup>29</sup> It is well to note that except for the quit-rents, no taxes were paid by the residents of East Florida and the province was supported by funds voted by Parliament.<sup>30</sup> Thus the crown agent held an important position.

The absence of taxation and the non-collection of quit-rents seem to have helped make the colonists complacent about their government in the early years. While the small population may have been a contributing factor, it seems apparent that the complacency of the people coupled with the attitude of Governor Grant, who evidently had dictatorial, or at least paternalistic ideas, prevented any serious demand for the calling of an assembly.

Although there is no evidence of any general feeling of unrest among the people there was a growing feeling of dissatisfaction among certain officials of the province. The first chief justice, John Moultrie, died in 1765, and a William Drayton was appointed to the position.<sup>31</sup> Drayton

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<sup>29</sup> Ibid., 563, pp. 171-172.

<sup>30</sup> Ibid., pp. 165-170

<sup>31</sup> Ibid., 548, p. 103.

was the only person who ever lodged an effective protest against the actions of the governor and the council. In 1768 he protested against proclamations regulating taverns in St. Augustine and declared that such proclamations were not valid, although they might remain in force until more substantial regulations were enacted by a general assembly.<sup>32</sup> Drayton also stated that if any cases of violation of the regulations in question came before him as chief justice he would be forced to declare against the government.<sup>32</sup> This protest apparently had no effect on the governor and council as more proclamations were made, but there is no evidence to indicate that any case concerning the tavern regulations was ever brought before the courts.

In June, 1770, the grand jury presented to the Court of General Sessions a grievance complaining of the lack of a general assembly and the resulting insecurity of property because of the lack of proper laws.<sup>33</sup> This protest also resulted in no change in government policy.

No other challenging action was taken during this period because Grant and his council apparently occupied a practically unassailable position. The situation soon changed, however. Governor Grant inherited a Scotch

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<sup>32</sup> Ibid., 554, p. 27.

<sup>33</sup> Ibid., 571, pp. 61-62



estate and left East Florida, on leave of absence, May 9, 1771.<sup>34</sup> Although he did not resign from his position as governor until April 22, 1773, he did not again visit the province.<sup>35</sup> His departure ended the tranquility which the governmental agencies had enjoyed during his tenure and presence in the province.

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<sup>34</sup> Ibid., 552, p. 77.

<sup>35</sup> Ibid., 553, p. 37.

## CHAPTER V.

### DISTURBANCES DURING INTERIM GOVERNMENT

1771-1774

Upon the departure of Grant on leave of absence, May 9, 1771,<sup>1</sup> the governor's powers were exercised by John Moultrie, as President of the Council.<sup>2</sup> Moultrie was made Lieutenant-Governor later in 1771,<sup>3</sup> and continued to be acting governor until March, 1774.<sup>4</sup> Grant did not formally resign as governor until April 22, 1773,<sup>5</sup> and a new governor was not sworn in until March 9, 1774.<sup>6</sup> During this period of nearly three years considerable difficulty arose within the government.

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<sup>1</sup> Supra., p. 26.

<sup>2</sup> Colonial Office, 5-571, p. 62.

<sup>3</sup> Ibid., pp. 65-66.

<sup>4</sup> Ibid., 551, pp. 15-17.

<sup>5</sup> Supra., p. 26.

<sup>6</sup> Colonial Office, op. cit.

Soon after Grant's departure Moultrie was presented with an address expressing the hope that governmental policy might be changed, and stating a desire that representatives of the people be chosen for the purpose of enacting legislation to better conditions.<sup>7</sup> This address was not acted on. This lack of action caused some of the dissatisfaction which soon became even more apparent when two members of the council, Drayton, who was also Chief Justice, and Dr. Andrew Turnbull, made clear to the acting governor and to the council majority that they would actively oppose them. Drayton and Turnbull were both personally ambitious, and Turnbull had apparently expected to be named the next governor.<sup>8</sup> At any rate the differences of opinion between these two men and the rest of the council made for the first time what amounted to two opposing parties in the council.

In the fall of 1771 Drayton and Turnbull resigned as members of the council, although Drayton chose to remain as chief justice.<sup>9</sup> The resignation of these men made it difficult for Moultrie to get a quorum in the council.<sup>10</sup>

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<sup>7</sup> Ibid., 558, pp. 177-178.

<sup>8</sup> Ibid., 556, pp. 495-498.

<sup>9</sup> Ibid., 552, pp. 135-141.

<sup>10</sup> Two members of the council had been suspended, De-Brahms, by Grant in 1770, and Wooldridge by Moultrie in 1771. Also Moultrie, upon becoming acting governor, no longer held a council seat. The vacant seats were not filled during Moultrie's regime.

Drayton's resignation was not accepted by the home office and the secretary of state wrote Moultrie to tell him that he must advise Drayton that the King had not accepted his resignation and that Moultrie must ask Drayton to return to the council.<sup>11</sup> Drayton did so, and the arguments and bickering started again.<sup>12</sup>

This condition of unrest continued until the summer of 1773, when Moultrie accused Drayton of undue delay in presenting him with the calendar of the June meeting of the Court of General Sessions.<sup>13</sup> Although Moultrie complained formally only in regard to the delay he was also irritated by the nature of the grand jury presentment. The need of a sea wall in St. Augustine was presented and Moultrie believed that the desired sea wall would improve the value of some privately held lots, and would not be of benefit to the general public.<sup>14</sup> Moultrie also felt that Drayton had delayed the delivery of the presentments solely to annoy him and to demonstrate his ability to oppose him. Moultrie's anger increased when Drayton proposed, before the council,

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<sup>11</sup> Colonial Office, op. cit., p. 259.

<sup>12</sup> Ibid., 553, p. 21.

<sup>13</sup> Ibid., pp. 197-204.

<sup>14</sup> Colonial Office, 5-553, pp. 197-204.

that Moultrie should set a date to consider the presentments.<sup>15</sup>

On August 2, 1773 Moultrie accused Drayton of obstructing public business due to the delay. Drayton's defense was that he had not received a copy of the calendar from the clerk of the court until June 22, and that as he had expected the council to meet within a short time he delayed presenting the calendar until such a time.<sup>16</sup> In the course of the ensuing arguments Drayton made, to one of the council members, an insulting remark concerning the council as a group.<sup>17</sup> Drayton was called upon by the council to explain the supposed insult, and he refused to retract his statement. This action resulted in his suspension from the council, and he never rejoined that body after the date of his suspension, August 20, 1773.<sup>18</sup>

Another dispute arose almost immediately concerning the power of the council to issue ordinances. An ordinance had been adopted regulating the operation of taverns in

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<sup>15</sup> Ibid.

<sup>16</sup> Ibid., pp. 59-61.

<sup>17</sup> Mowat, op. cit., p. 47, says without stating his source, that Drayton's remark was, "Judge Owen you are a Damn'd Dirty Sett, or House."

<sup>18</sup> Colonial Office, 5-571, pp. 91-93.

St. Augustine,<sup>19</sup> and, in December, 1773, several persons were indicted for violation of certain of these ordinances. Drayton, who was still chief justice, published a court order stating that his court was the proper authority to issue licenses, and that the governor or council had no right to do so. He justified his position by citing English law and by the terms of the original proclamation of 1763, from which the governing authority was devolved.<sup>20</sup> The real basis for Drayton's opinion was that since the King himself could not grant licenses then he could not grant such a power to any other official or governing body.

Moultrie countered with an order, in which the council concurred, stating that the court must not issue such licenses, or any licenses. This problem was appealed by both Moultrie and Drayton to the home office and had not been settled at the end of Moultrie's troublesome tenure as acting governor.

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<sup>19</sup> Supra., p. 25.

<sup>20</sup> Colonial Office, loc. cit., pp. 95-97.

## CHAPTER VI.

### TONYN GOVERNS WITHOUT ASSEMBLY

1774-1781

A new governor, Patrick Tonyn, was appointed on July 2, 1773.<sup>1</sup> Tonyn arrived at St. Augustine March 1, 1774,<sup>2</sup> and was inaugurated March 9, 1774.<sup>3</sup> John Moultrie remained as lieutenant-governor and member of the council.

The new governor was immediately faced with many problems. The troubles which had been brought into the open during Moultrie's regime remained and more trouble was brewing in the British colonies to the north. Tonyn soon indicated his sympathy for Moultrie and declared that Moultrie's opponents, Turnbull and Drayton, as well as all outspoken advocates of a general assembly, were "inflamed factions."<sup>4</sup>

Early in 1776 Tonyn wrote to his superiors in London explaining that he was unwilling to summon a general

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<sup>1</sup> Colonial Office, 5-554, pp. 15-17.

<sup>2</sup> Ibid.

<sup>3</sup> Supra., p. 27.

<sup>4</sup> Colonial Office, 5-556, p. 293, et. passim.

assembly because he feared that it would only increase the influence of the "inflamed factions" and tend to subvert and overthrow the government, as was the case in the rebellious colonies to the north.<sup>5</sup> Actually there was really no organized opposition to Tonym and his government, only the personal antagonism felt by Drayton and Turnbull, and a few of their friends. Opposition never approached the point of threatening the loyalty of the colony. The lack of opposition was due to the fact that the leading citizens were office holders. There was no merchant class to influence popular opinion and the absence of taxation caused the people to have no grievance on that score. Even the very nominal quit-rents were not being collected, and indeed had not been and were not to be during the colony's entire existence.

Such opposition as was present was directed towards the demand for an assembly. Tonym struck against his opposition, with the concurrence of the council, by suspending Drayton from his position as chief justice, February 13, 1776,<sup>6</sup> and, when he was reinstated by the Home Office, suspending him again, December 16, 1777,<sup>7</sup> and then

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<sup>5</sup> Ibid., 559, p. 446.

<sup>6</sup> Colonial Office, 5-556, p. 175.

<sup>7</sup> Ibid., 558, pp. 603-614.



forcing his resignation in June 1778.<sup>8</sup> Dr. Turnbull was also suspended from his position as secretary of the council, March 30, 1776,<sup>9</sup> and although later reinstated, he was finally harried out of the colony by the governor.<sup>10</sup>

Much of the attentions of the colony and its officials were directed towards the War of Independence and particularly to the several minor incidents along the Georgia border and off the Florida coast. Continued interest in an assembly is indicated by the fact that in June, 1776, a grand jury presented the Court of General Sessions a grievance based on the lack of an assembly.<sup>11</sup> When the presentments of the grand jury were laid before the council that body, and the governor, claimed that the grand jury had been hand picked by Drayton, and Drayton was censured by the council for not having caused the grand jury to soften its language and its demands. It was further charged that he should not have published the presentments because they indicated a feeling of disloyalty.<sup>12</sup>

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<sup>8</sup> Ibid., 557, pp. 325-328.

<sup>9</sup> Ibid., 556, pp. 505-512.

<sup>10</sup> Colonial Office, 5-556, pp. 289-290.

<sup>11</sup> Ibid., p. 44.

<sup>12</sup> Ibid., pp. 125-128.

Drayton asked for a hearing before the council, but Tonym denied him that privilege.<sup>13</sup> When the grand jury was called for December sessions Drayton informed it of the action taken against him.<sup>14</sup> The argument resulted in Drayton's suspension and even though Drayton was reinstated Tonym demonstrated his power by causing his final suspension and departure from the colony.<sup>15</sup>

A further demonstration of the governor's power was shown by the manner in which he disposed of Dr. Turnbull.<sup>16</sup> Tonym encouraged Turnbull's settlers at New Symrna to desert and come to St. Augustine. Then in 1780, he demanded that Turnbull post a 4,000 pound bail to guarantee his remaining in the province, alleging that he intended to default on some debts incurred in connection with the New Symrna colony.<sup>17</sup> Tonym was able to do this through his position as chancellor of the court of chancery. When Turnbull could not post the bail, he was held in custody

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<sup>13</sup> Ibid., 571, pp. 186-188.

<sup>14</sup> Colonial Office, 5-556, pp. 53-59.

<sup>15</sup> Supra., p. 34.

<sup>16</sup> Supra., p. 34.

<sup>17</sup> Colonial Office, 5-558, pp. 484-485.

for a year, and, when released, then left the colony for good. Thus Tonym's opposition was eliminated.

As loyalist migrants came into the province and were dissatisfied with the lack of representative government, Tonym apparently realized that something must be done and so in July, 1779, he wrote to Lord George Germain, in London, stating that whereas previously he had opposed the summoning of an assembly because he feared the troubles commonly caused by American assemblies would likewise appear in an East Florida assembly he now felt that such danger was diminished and that an assembly might now be beneficial to the colony.<sup>18</sup>

Lord Germain approved as did the Board of Trade. The Board of Trade noted in its reply that Tonym already had the necessary authority to call an assembly.<sup>19</sup> Tonym, however, postponed summoning an assembly as he claimed that the presence of American prisoners in St. Augustine made such a move undesirable.<sup>20</sup> Whether this was the real

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<sup>18</sup> Colonial Office, 5-559, pp. 445-450.

<sup>19</sup> Ibid., pp. 482-495.

<sup>20</sup> Ibid., 560, pp. 101-102.

reason for the delay is not clearly indicated.

Through to the beginning of the year 1781 the colony remained without an assembly despite the fact that the danger from internal dissent seemed to have passed, and the shifting tides of war had apparently removed any danger of invasion from land or sea.

## CHAPTER VII.

### REPRESENTATIVE GOVERNMENT AND THE FINAL YEARS 1781-1785

In February, 1781, Governor Tonyn issued a writ for the election of members of a general assembly.<sup>1</sup> There appears to have been no further agitation in favor of an assembly among the inhabitants, and no pressure applied from London. The war was going well and the British had control of the more important southern seaports, such as Savannah, Georgia, and Charleston, South Carolina. There is no indication of any suspicion of the possibility that the rebels might gain the upper hand.

The writ was addressed to the provost-marshal, and it ordered him to summon all persons, except Popish recusants, over twenty-one years of age, and possessing fifty or more acres of land, to appear at the courthouse in St. Augustine on the thirteenth, fourteenth, fifteenth, or sixteenth of March, 1781, to elect nineteen persons to the assembly, each of whom must possess five hundred or more acres of land.<sup>2</sup>

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<sup>1</sup> Colonial Office, 5-572, p. 67.

<sup>2</sup> Ibid., pp. 1-3.

The qualifications set up by Tonyn for both electors and members made certain that the general assembly would be selected from the upper strata of the colonial society.

The first General Assembly of East Florida convened at St. Augustine on March 27, 1781.<sup>3</sup> The upper house was the council as already constituted. The lower, or commons, house was made up of nineteen men who, Tonyn stated in a letter to the Board of Trade, were "the most respectable of inhabitants."<sup>4</sup>

The general assembly passed several bills of a minor nature, and cooperation between the governor and the upper and commons houses seemed assured, when a controversy arose over a bill originating in the lower house concerning the regulation of Negro slaves. The commons proposed that negroes charged with capital crimes should be tried in their own districts by local justices of the peace and a local jury. The council considered this to be oppressive and indicated that it felt that such cases should be tried before the Court of General Sessions. The commons objected because

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<sup>3</sup> Ibid., 560, pp. 247-249.

<sup>4</sup> Ibid., pp. 379-380. Tonyn later complained that there was not a single government official among them.

of the delay involved and decided that it would act on no other business until the Negro bill became law.<sup>5</sup> The council took offense at this action and stated that the commons were disrupting the previously existing harmony. It was further decided by the council that when the two houses could not agree on a bill it should be dropped. The matter was referred to the governor and he adjourned the assembly from August 1 to August 28, 1781.<sup>6</sup>

When the assembly returned to session the arguments continued and as the wrangling went on with no apparent conciliation of the two houses Tonyn, who sided with the upper house, summoned the commons to the upper house and dissolved the assembly, November 12, 1781.<sup>7</sup> Tonyn reported the matter to the Board of Trade and was rebuked by that body. It was pointed out to Tonyn that the lower house advocated the method used in other provinces and was basically right. The Board of Trade was quite specific in stating its opinion on the handling of the matter, as is indicated in the following quotation from their communication to Tonyn.

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<sup>5</sup> Ibid., 572, pp. 109-114.

<sup>6</sup> Ibid., 571, pp. 81-92.

<sup>7</sup> Ibid., 572, pp. 111-124.

On this ground we cannot think the Council well founded in their Opposition to the Bill, and of course that the Dissolution of the Assembly is a measure by no means likely to bring about a Coincidence of Sentiment in the two Branches of the Legislature: more especially as you seem to think, the same Members will in general be re-elected...Dissolutions of Assemblies, unless upon wellfounded Principles, have rarely answered any other purpose than that of encreasing the disagreement which gave rise to them.<sup>8</sup>

As thirteen of the nineteen members of the lower house had come into East Florida from other Southern colonies since the beginning of the war it appears that they were trying to establish a system already proved workable in their former surroundings.<sup>9</sup>

The second General Assembly of East Florida was convened at St. Augustine, January 7, 1782,<sup>10</sup> and was dissolved March 25, 1784.<sup>11</sup> During this period of time the inhabitants of the colony were first depressed by the news of Cornwallis' surrender, then exhilarated by the thoughts of East Florida as a loyalist stronghold and

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<sup>8</sup> Mowat, *op. cit.*, pp. 133-134. Mowat used this quotation as found in the Journal of the Board of Trade, 1776-1782, pp. 454-455. This journal was not available to the writer.

<sup>9</sup> Colonial Office, 5-560, pp. 379-380.

<sup>10</sup> Ibid., 547, p. 25.

<sup>11</sup> Ibid., p. 30.



refuge filled with evacuees from Savannah and Charleston, and finally started towards total destruction by the news of the restoration of the colony to Spain and the subsequent removal of troops and inhabitants.

The second assembly passed the bill which had caused so much controversy in the first assembly.<sup>12</sup> The council apparently was influenced by the rebuke Tonyn had received from the Board of Trade. A revenue act was passed providing for the support of the civil government of the province. The amount to be raised was specified as three thousand pounds. This was the first and only general revenue act designed to contribute to the support of the government. As this act was not passed until January 25, 1783, no funds were raised by it.<sup>13</sup> There is no record of any action taken by the general assembly after October 4, 1783, and it is not known how many members remained in the colony until the final dissolution of the assembly, March 25, 1784.<sup>14</sup>

The treaty ratified on September 19, 1783 between Great Britain, France, and Spain provided, in its fifth article, for the cession of East Florida to Spain. Eighteen months were allowed for British subjects to sell

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<sup>12</sup> Ibid., 624, pp. 44-53.

<sup>13</sup> Ibid., pp. 54-63.

<sup>14</sup> Supra., p. 41.

their estates and remove themselves and their families from the province.

Many British subjects were still in East Florida when the Spanish governor, Zespedes, arrived in St. Augustine, June 27, 1784. He was received by Tonym and on July 14, 1784 he proclaimed the establishment of Spanish government.<sup>15</sup> Evacuation of British subjects continued and Tonym reported in April, 1785, that no British planters remained in the province. He further stated that about ten thousand people had left by transport and about four thousand people had gone "into the interior parts of America."<sup>16</sup> Tonym himself left St. Augustine in November, 1785, accompanied by the last of the civil officials.<sup>17</sup> His final letter, from this side of the Atlantic Ocean, to the home office was dated, St. Mary's, Georgia, November 10, 1785.<sup>18</sup>

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<sup>15</sup> Colonial Office, 5-561, pp. 576-585.

<sup>16</sup> Ibid., p. 353 et passim.

<sup>17</sup> Ibid., p. 473.

<sup>18</sup> Ibid., p. 779.

## CHAPTER VIII

### SUMMARY

This study of the civil government of British East Florida indicates that it differed considerably from the pattern set up for and operating in other British colonial possessions during the same period of time.

The absence of organized opposition to the established government may be partly attributed to the absence of taxation and the non-collection of quit-rents. There is no evidence of any other colony where such a situation existed.<sup>1</sup> In Georgia and in Nova Scotia, both of which had been established partly to form semi-military buffer colonies, the governments were aided by parliamentary grants, but there was also taxation of the inhabitants.

The fact that prospective settlers were carefully screened before being given grants of land or permission to enter the colony, at least from Great Britain, tended to insure a population which had been favored by the British government and was therefore not likely to oppose it. When the colony had established a reputation as a loyalist stronghold it attracted only loyalists from the adjacent southern colonies.

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<sup>1</sup> Lawrence H. Gipson, The British Empire Before The American Revolution: Provincial Characteristics and Sectional Tendencies in The Era Preceding The American Crisis. 3 vols.; New York: Alfred A. Knopf, 1939.

The absence of an assembly during most of the colony's life is not quite so readily explained. General lack of interest may have been caused, in part, by the absence of taxation and the loyalist nature of the colonists, but these reasons do not seem sufficient when it is realized that almost every British colony of that time had an assembly whose members were elected by freeholders of the colony.

The royal proclamation of October 7, 1763, ordered the issuance of letters patent for the establishment of the governments of East Florida, West Florida, Quebec, and Grenada. The instructions to the first governors of each of these provinces contained definite instructions concerning the establishment of assemblies and were in this, as well as in other, respects alike in nature.

In West Florida, the province most similar to East Florida, an assembly met in 1766. In Grenada the first assembly met in 1766, despite <sup>the</sup> ~~that~~ fact that the population was largely Roman Catholic. There was no such deterrent in East Florida as almost all the Spaniards had left the province. The government of Quebec seems to most closely parallel that of East Florida in general, and in the lack of an assembly.<sup>2</sup> However, the early British governors of

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<sup>2</sup> Charles L. Mowat, op. cit. p. 42.

Quebec appear to have had some justification in ignoring their instructions to provide for an assembly because they were dealing with an almost exclusively French Catholic population. In Quebec the governors and their advisors were able to persuade the home office that an assembly would be inadvisable and to stop a further clamor for representative government the Quebec Act of 1774 gave definite, but limited, legislative powers to the governor and the council. In East Florida there was no such population problem, nor can the small population be considered a deciding factor as the colony of St. John (Prince Edward Island) had a much smaller population but had an assembly from the year 1773.

The need for an assembly was recognized in other colonies and by the British government. In the neighboring colony of Georgia an assembly was set up as soon as the trustee form of government was replaced by a royal government. Indeed, the only British colony, excepting Quebec, which shared with East Florida the lack of an assembly was the province of Senegambia, whose population consisted almost entirely of African natives.

It appears that the attitude of the first governor, James Grant, was an important factor in establishing the tradition of no assembly. Grant's military career had

made him something of an autocrat, and the situation in East Florida was one which must have been conducive to the further growth of such an attitude. He was practically on his own, far removed from the seat of authority in London. He could pick his council members as he wished, and if he could find no suitable members within the colony he could encourage people to come in from other colonies and make them council members. His power to suspend council members who did not cooperate with him and his power to bring pressure to bear upon any inhabitant who did not conform to the established pattern tended to make him regard East Florida as something of a personal property. As he did not have to depend on the inhabitants for his own income or for funds to operate the government he was himself immune to public pressure.

Moultrie, while acting governor, probably did not feel that he should break the precedent established by Grant. When Tonyn arrived there was sufficient reason, due to the rebellion in the north, to suppress any possible outlet for rebellious thoughts or actions.

The altercations which came about between the two houses of the general assembly when it finally was convened may indicate that the governors had saved themselves considerable difficulty by procrastinating for a period of

eighteen years on the calling of an assembly.

The span of years of British occupation was short and this too is unique, in that the Floridas were colonies which the British were ready to relinquish without a struggle and almost without an argument. The British government, probably with considerable justification, did not consider either British East Florida or British West Florida to be worth keeping.

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Colonial Office, 5:548-561.

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