

THE CUMBERLAND GLEBE DISPUTE AND THE BACKGROUND TO THE AMERICAN REVOLUTION IN NOVA SCOTIA, 1771-1774

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A protracted dispute over the glebe property in Cumberland township on the isthmus of Chignecto, along the boundary between present day New Brunswick and Nova Scotia, between 1771 and 1774, entangled law, religion, politics and government. This was a singular event that illustrated characteristics of planter society in 18th century Nova Scotia and helped shape local response to the American Revolution. The contemporary importance attached to this dispute can be measured by its mention in both a critical review of the colonial justice system and in a special report on instances of friction between established and dissenting churches.¹ Religious partisanship heightened the level of intrigue, and the sensitive issue of township rights versus provincial prerogatives intensified the controversy. A vestige of New England-style local government was also at stake.

The importation of radical politics and strong kindred ties with New England has often been cited as important factors in the rebellion that culminated in the attack on Fort Cumberland in November 1776. Actually, the republican rhetoric of John Allan and Jonathan Eddy, the two leading "Patriots" of the district, sounded strangely affected and out of place in colonial Nova Scotia after more than a decade of political experiment that diverged from the path of New England; as for those kindred ties, consanguinity, after all, is the essence of civil strife. Against the dramatic backdrop of continental upheaval, it was local circumstance that inspired the insurrection at Cumberland.²

Before examining the glebe dispute it is necessary to mention two principal characteristics of Nova Scotia society in the early 1770s on the eve of the American Revolution. The first is that although the colony in this period has been

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¹The review of the justice system by Richard Gibbons is in *Dartmouth Papers: MG 23 A 1*, p. 2740, National Archives of Canada (hereinafter NAC), and is reproduced in B. Cahill, "Richard Gibbons' Review of the Administration of Justice in Nova Scotia, 1774" (1988) 37 *U.N.B.L.J.* 34. The ecclesiastical report by Caleb Gannett is referred to and quoted in "Sketch of the Life and Character of Caleb Gannett, Esq." *Massachusetts Historical Society (hereinafter MHS) Collections 2nd Series, VIII*, pp. 282-3. Further reference is made to these two reports under the section "The Consequences."

²The Cumberland insurrection and events leading up to it are described in the author's forthcoming book on Nova Scotia and the American Revolution.

described appropriately as “a society of remarkable ethnic complexity,”³ comprising Micmac and Maliseet natives, Acadians, Swiss-Germans, Huguenots, English speaking peoples from America and Britain, as well as free and enslaved blacks, the fact remains that a substantial majority of the population, perhaps three quarters, were relatively recent immigrants from colonies to the south. These “Planter” settlers, so called to distinguish them from the later Loyalists, made pre-revolutionary Nova Scotia essentially a New England colony in population and social structure if not in forms of government. The Planters arrived in large numbers in the early 1760s, after the Acadian expulsion, to occupy the vacated lands and take advantage of other economic opportunities. They settled throughout the colony, founding farming and fishing communities along the coasts and in the lower St. John River valley. In religion they were “Dissenters” – protestants who dissented from the Church of England, including in Nova Scotia Congregationalists, Presbyterians, Baptists and Quakers; in politics they favoured township forms of government. Both of these factors resulted in tensions between the scattered outsettlements and the central administration at Halifax.

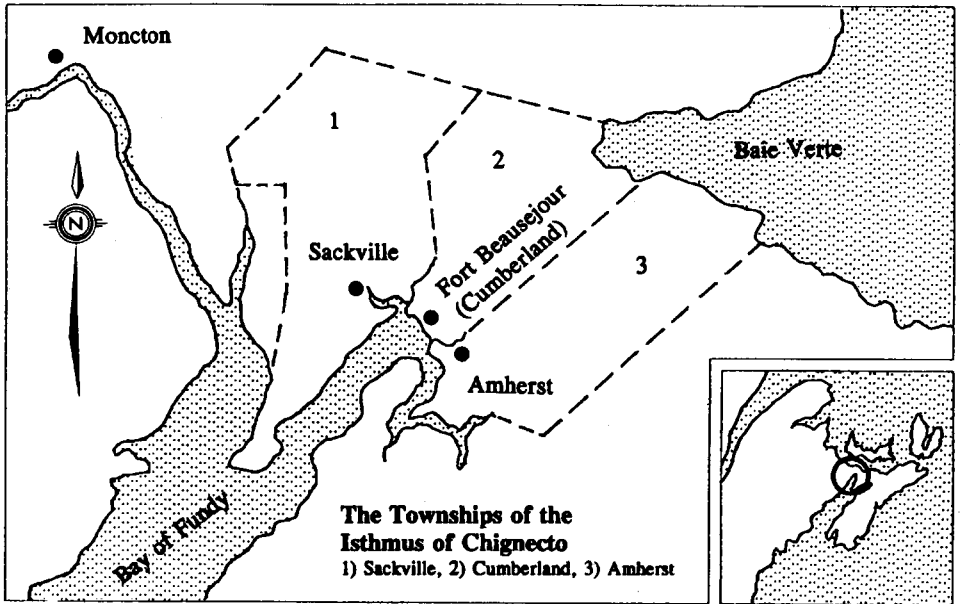
This division between the Halifax establishment and the planter outsettlements was the second principal characteristic of Nova Scotia society in the early 1770s. The division reflected the unusual history of the colony. The capital of Halifax was founded in 1749 for strategic military reasons, as a counterweight to the French fortress of Louisbourg, and its role as a major naval station remained for Britain the chief reason for the colony’s existence throughout the 18th century. The ruling class and merchant élite of Halifax, often indistinguishable, looked eastward across the Atlantic or southward to Boston and generally ignored the growing number of outsettlers. Conducted by transient Englishmen and residents with British merchant connections, the colonial administration showed relatively little concern, even after the establishment of a representative assembly in 1758, for the political aspirations of the outsettlers.

“Particular encouragement” was considered necessary to attract New Englanders to Nova Scotia in large numbers. Therefore, Governor Lawrence proclaimed in January 1759 a promise of representative government and religious freedom to all dissenters.⁴ Townships of 100,000 acres each were surveyed for the

³B. Bailyn, *Voyages to the West: A Passage in the Peopling of America on the Eve of the Revolution*, (New York, 1986), p. 373.

⁴Gov. Charles Lawrence’s first proclamation of 12 October 1758 required a second, supplementary proclamation on 11 January 1759. Both are reproduced in W.O. Raymond, “Colonel Alexander McNutt and the Pre-Loyalist Settlements of Nova Scotia” *The Royal Society of Canada (RSC)*, II (1911), pp. 104-6.

influx of settlers that followed.⁵ The form of land granting, the use of the term “township” with its New England connotation of local autonomy, and the tenor of Lawrence’s second proclamation led the grantees or “proprietors” of these township lands to believe they could act collectively in town meetings to choose local officials and appoint committees to assign common lands such as glebes and school reserves. The entrenched regime at Halifax, which had functioned for a full decade before the arrival of the Planters, held a different vision of representative government. From the first sessions of the legislature there were objections to having local officials elected in township meetings, and through a series of legislative acts over the next nine years, township powers were circumscribed and gradually transferred to Halifax.⁶



⁵Of the 20 or more townships laid out in Nova Scotia in the 1760s, three were on the isthmus of Chignecto: Cumberland township granted in 1759-60 and 1763-4; Sackville and Amherst townships both granted in 1763. Three other townships, also part of old Cumberland County, were granted in 1765: Hopewell, Hillsborough and Moncton. These were the so called outer townships.

⁶A 1759 act provided much of what the planters had expected but this act was disallowed in 1760. Thereafter, a 1765 act repudiated the New England form of township government, and a 1767 act ended any ability that township proprietors had to apportion land. These acts are: *An Act to enable Proprietors to divide their lands held in Common*, (1759) 33 Geo 2, Cap 5; *An Act for the Choice of Town Officers and Regulating of Townships*, (1765) 5 Geo 3, Cap 1; and *An Act for Partition of Lands*, (1767) 7 Geo 3, Cap 2. This process is described in D.C. Harvey, “The Struggle for the New England Form of Township Government in Nova Scotia” *Canadian Historical Association (hereinafter CHA) Report*, (1935), pp. 15-22.

By 1775, when the American Revolution began, Nova Scotians had evolved a form of government that clearly differed from the New England model. Equally important, by emigrating to Nova Scotia, the planters avoided the radical politics of the 1760s and early 1770s which propelled New England towards revolution; indeed this was the period in New England that American Patriot John Adams believed was "the real Revolution."⁷ Consequently, the reaction of Nova Scotia to the military events of 1775 and 1776 was dramatically different from that of New England. Whereas, for example, continental patriots from several colonies besieged the British garrison at Boston immediately after the first shots of the revolution were fired at Lexington and Concord, Nova Scotians proceeded spontaneously to supply and nurture that same British garrison. The province demonstrated loyalty from the outset of hostilities. The exception was the isthmus of Chignecto where no less than six current and former members of the House of Assembly led that district in a violent rebellion. The rebellion was crushed in late 1776 when a provincial military force lifted the month long siege of Fort Cumberland and drove the patriots into exile in the United States. Those who failed to escape were subjected to treason proceedings which resulted in the first treason convictions in Canadian history.⁸

On the isthmus of Chignecto, a series of four events occurred in the decade preceding the American Revolution which, when considered together and in their peculiar juxtaposition, created conditions that were favourable to rebellion: (i) withdrawal in 1768 of the garrison of Fort Cumberland upon which the community depended fundamentally; (ii) the economic recession of 1770 which caused some settlers to return to New England; (iii) the glebe dispute from 1771 to 1774; and (iv) the reaction to Governor Francis Legge's militia legislation of 1775. This series of events combined to alienate the township's planter majority from an increasingly centralised government at Halifax and, in the end, made open rebellion possible. Examination of one of these events – the glebe dispute – reveals the indigenous roots of the Cumberland rebellion.

Two Ministers of the Gospel

To both the Society for the Propagation of the Gospel (SPG) in London and the Congregational Church at Boston, Nova Scotia appeared, in the 1760s, to be a vast mission field from which was heard the biblical Macedonian call as paraphrased by the Rev. Ebenezer Gay of Boston "saying, we beseech you to come over into

⁷Adams to Niles, 13 February 1818, Adams, *The Works of John Adams*, pp. 282-3.

⁸A forthcoming series on state trials in Canada will include in volume one a chapter by the author and Jim Phillips on the treason proceedings that followed the Cumberland rebellion.

Nova Scotia and help us.”⁹ Many clerics did just that and by the late 1760s the province was well served both by dissenting ministers and missionaries of the established church.¹⁰

One New England Congregationalist who heeded the call from Nova Scotia was Caleb Gannett of Boston. This graduate of Harvard was engaged by the settlers of the Chignecto isthmus who defrayed his transportation costs to Cumberland where he arrived by ship in June 1768, a little before his 23th birthday.¹¹ His salary of about £80 a year was paid by the “Exertions of a small number of generous people there.”¹² After labouring that autumn and through the winter, reportedly without complaint, and after returning briefly to Boston to be ordained (travel expenses again paid by those Cumberland Macedonians), Gannett received a more substantial reward from a grateful community.¹³

The proprietors of Cumberland, the majority of whom were religious dissenters, met on 2 March 1769 and voted unanimously to assign Gannett the tract of land reserved for the first ordained minister to settle in the township. As was common in Nova Scotia townships, a large glebe – 1000 acres in the case of Cumberland – was reserved for the use of the clergy in two separate properties, one known generally as the glebe or parsonage property and the other known as the ministerial right.¹⁴ Each of the two properties was a complex of five separate

⁹Nova Scotians who were former New Englanders had an advantage over the Macedonians as the Rev. Gay explained. “The people there [Nova Scotia] know better than those of Macedonia, how great a blessing the preached gospel is, having formerly enjoyed it” in New England. E. Gay, “A Call to Macedonia.” *A Sermon preached at Hingham in New England, 12 October 1768, at the Ordination of the Reverend Mr. Caleb Gannett to the work of the Ministry and Pastoral Care of a Society of Protestant Christians in the Town of Cumberland, in the Province of Nova Scotia*, (Boston, 1768), pp. 31-3.

¹⁰Eight dissenting clergymen were settled in Nova Scotia by 1770; see letter of Benjamin Gerrish and Malachi Salter of Halifax to the Rev. Andrew Elliot of Boston, 18 January 1770, MHS *Proceedings* 2nd Series, IV, pp. 69-71. For the Anglican presence in the province, see E. Hawkins, *Historical Notices of the Missions of the Church of England in the North American Colonies*, (London, 1845), c. 16. For the overall situation see I. F. Mackinnon, *Settlements and Churches in Nova Scotia 1749-1776*, (Montreal, 1930).

¹¹Caleb Gannett, class of 1763, *Sibley's Harvard Graduates*, XV, 1761-3, pp. 392-9.

¹²Gerrish and Salter to Elliot, 18 January 1770, MHS *supra*, note 10, pp. 69-71.

¹³For the early history of this community see E.C. Wright, “Cumberland Township: A Focal Point of Early Settlement on the Bay of Fundy” *Canadian Historical Review*, XXVII, 27, (1946), pp. 27-32; J.D. Snowdon, “Footprints in the Marsh Mud: Politics and Land Settlement in the Township of Sackville, 1760-1800” MA thesis, University of New Brunswick, 1975; and E. Clarke, “Cumberland Planters and the Aftermath of the Attack on Fort Cumberland” M. Conrad, ed., *They Planted Well: New England Planters in Maritime Canada*, (Fredericton, 1988), pp. 42-60.

¹⁴The ministerial right was number 5 in division B of the township grant, and the glebe or parsonage property was number 8 in the same division. See “A State of the Township of Cumberland”: RG 20 C, vol 86, no.1, Public Archives of Nova Scotia (hereinafter PANS).

parcels totalling 500 acres. The glebe or parsonage property was intended for the established church and remained in the church's possession for the use of its ministers whereas the ministerial right was reserved for the first settled minister, regardless of denomination, and could be retained by that minister for his personal benefit. It was the ministerial right that was assigned to Caleb Gannett by the Cumberland proprietors.¹⁵ A special committee prepared a deed that was presented to the young minister on 4 April 1769.¹⁶ The property was occupied and a house was built on one of the five lots for Gannett's use. "An example of Piety and Virtue," Cumberland's bachelor minister was "esteemed an Ornament to his Profession" by his parishioners,¹⁷ and he was pronounced "serious and good" by a fellow dissenting minister of the province.¹⁸ With their own minister settled on land granted for his sole use, and with a majority of inhabitants of dissenting persuasion, the Congregational society of Cumberland, Amherst and Sackville seemed secure.¹⁹

The Congregational cause thrived in Cumberland until July 1770 when the Rev. John Eagleson appeared in the district, or rather reappeared, having previously served there as an unordained Presbyterian missionary for one year before Gannett.²⁰ However, before his second Tantramar winter, Eagleson forsook the dissenters' camp to join the established church, and being "strongly recommended to the Society by the principal Gentlemen of Nova Scotia," he sailed to London to be ordained as an SPG missionary.²¹ On his return Eagleson

¹⁵The 500-acre ministerial right was composed of five parcels: (i) Town Lot - 1 acre; (ii) Building Lot - 80 acres; (iii) Marsh Lot - 54 acres; (iv) Wood Lot - 100 acres; (v) and Wilderness Lot - 265 acres: Supreme Court: RG 39 J, vol 5, 249, 256, PANS. The glebe or parsonage property had the same composition of lots and likewise totalled 500 acres.

¹⁶The members of this committee were William Allan, Benoni Danks and Thomas Dixson, see Gannett's deed, 4 April 1769, registry of deeds, Cumberland County, Nova Scotia.

¹⁷"Extract of a letter from Cumberland" 28 February 1772, *Massachusetts Gazette Supplement*, 16 April 1772.

¹⁸Nehemiah Porter to Elliot, 16 November 1770, MHS *supra*, note 10, pp. 70-1. Porter ministered at Yarmouth from 1767 to 1771.

¹⁹For an outline of Gannett's ministry in Cumberland see his "Preaching Book" Gannett Papers: HUG 1411.8, Harvard University Archives, Pusey Library, a combined account book and diary.

²⁰For Eagleson's Presbyterian phase see E.C. Wright, *The Petitcodiac*, (Sackville, 1945), pp. 44-5; and by the same author, *Samphire Greens: The Story of the Steeves* (1961), pp. 8-17. See also G. Tratt, "John Eagleson" *Dictionary of Canadian Biography*, IV.

²¹Burton to the Bishop of London, 2 March 1768, SPG Papers: MG 17 B5, vol 23, 114 NAC. The "principal Gentlemen" were the Chief Justice, the Lieutenant Governor, the Provincial Secretary and the Rector of St. Paul's. For their recommendations see SPG Papers: nos.118, 119, 120 and 121. Lest it be speculated that Eagleson joined the Anglicans for the sake of a steady salary, the Rev. John Breynton, Rector of St. Paul's assured the SPG that Eagleson had "not quit his former profession through ... sinister motives, but from real Conviction and regard for the Ordination, Doctrines and Discipline of the Church of England." Eagleson was ordained in March 1768, SPG Papers: MG 17

became a rising star in the established firmament and a promising future was prophesied for him. After a brief delay during which he acted as “a missionary at large” for the SPG at Cornwallis and on St. John’s (Prince Edward) Island, a new mission field was created for him at Cumberland in the summer of 1770.²² And so it was that John Eagleson, who had left Nova Scotia a frontier Presbyterian missionary, returned an Anglican priest – an exemplar, as it were, of liturgical re-cycling.

A comparison of preaching styles is as good a way as any to gain insight into the characters of Cumberland’s first two ordained ministers. In describing Caleb Gannett’s preaching, a contemporary observed that “he had a very extreme delivery, a worse style, and little Theological skill.”²³ Gannett’s own children would later admit he had “a slow dignity ... and momentous manners; exact, not fluent.”²⁴ On the other hand, John Eagleson’s preaching was authoritative and articulate. According to the Rev. John Breynton of Halifax, “his Sermon ... a well-connected, sensible, Catholic discourse delivered extempore without Hesitation or Repetition.”²⁵ In style and personality these two men of God were exact opposites – Gannett: studious, methodical, a plodder, or as one observer noted, “a man of slow powers,”²⁶ and Eagleson: extravagant, mercurial and competitive.

The new SPG missionary competed well against the young Congregational minister, both in and out of the pulpit. Anglicans who had been in the habit of attending Gannett’s services returned to the established fold, and withdrew “their subscriptions for the support of the dissenting ministry,” as Eagleson reported with satisfaction.²⁷ Soon he was also attracting dissenters to his services. A competitive spirit in religious affairs surprised Gannett. “The cry is the Church, the Church,” he complained, “a party spirit is raised and industriously

B5, vol 33, 298 and vol 38, 11, NAC.

²²SPG proceedings, 26 January 1770, SPG Papers: no 147, 392. One may follow Eagleson’s activities from his return to Nova Scotia in the summer of 1768 until his appointment to Cumberland and his arrival there two years later in letters from Eagleson to SPG, 4 July 1768: no 126, 325-6; same to SPG, 28 December 1769, SPG Papers: no 146, 387-9; and same to SPG, 15 September 1770, SPG Papers: no 158, 460-2.

²³*Supra*, note 11, p. 395.

²⁴W.C. Gannett, *Ezra Stiles Gannett*, (Boston, 1875), p. 10. A likeness of Caleb Gannett is on page 9.

²⁵Breynton to SPG, 23 October 1767, SPG Papers: no.121, 318.

²⁶*Supra*, note 11, p. 394.

²⁷SPG proceedings, 5 October 1770, SPG Papers: no. 152, 427.

fomented.”²⁸ At least one local Congregationalist agreed that “upon the whole his [Eagleson’s] coming amongst us appears to be more to proselytise Dissenters to the Established Church than to promote true Religion, Peace and good Order.”²⁹ Cumberlanders were familiar with Eagleson from the year he had spent in their midst as a Presbyterian missionary, and his gregarious conviviality seemed to suit their frontier temperament.³⁰ Personable, popular and vigorous in his efforts, particularly in the early years of his ministry, Eagleson quickly built up the new Anglican mission, aided by defections from Gannett’s congregation. He turned next to the ministerial property deeded to Gannett.

The Dispute

John Eagleson had made no attempt to improve the portion of the Cumberland glebe reserved for the use of the established church, which he admitted as late as 1775 was still “in a State of Nature.”³¹ Instead, he resided within Fort Cumberland itself where he held services in a renovated barracks room. Yet he had coveted the ministerial right of the Congregationalists (upon which Caleb Gannett resided) almost from the day of his return. When the proprietors of Cumberland deeded this 500-acre property to Gannett they did so in the New England fashion, by presuming to have the collective legal authority to assign it. No regard was taken of recent legislative changes; no reference whatever was made to Halifax. In his usual abrupt manner, Eagleson decided to contend for this property on behalf of the Church of England by the simple expedient of petitioning the Governor and Council to grant him the land. In November 1770 the entire ministerial right was duly granted to Eagleson to the apparent surprise and utter consternation of nearly everyone in Cumberland.³² Two ministers now claimed the same land. Two churches competed for one glebe. A most unholy dispute was joined.

²⁸MHS *supra*, note 1, p. 282. These comments are in a letter from Gannett to Malachi Salter of Halifax, June 1771.

²⁹Cumberland letter, 28 February 1772, *Massachusetts Gazette*, 16 April 1772. Eagleson had gained a reputation for conducting an open, competitive ministry while at Cornwallis where, because of his activities, a committee of the local Congregational church exclaimed that “in a few years [we] shall all be Churchmen or nothing.” See “the Memorial of the Congregational Church in Cornwallis” MHS *supra*, note 10, p. 68.

³⁰The perceptive Michael Francklin noted that Eagleson’s talents “are adapted to the general temper and disposition of our settlers.” This could not have been said of all SPG missionaries. Francklin to SPG, 22 October 1767, SPG Papers: no. 118, 312-3.

³¹Eagleson to SPG, 16 January 1775, SPG Papers: no. 186, 548-52.

³²Council minutes, 30 November 1770: RG 1, vol 212, PANS. The grant was issued to Eagleson on 6 June 1771, see *Eagleson v. Gannett and Patton*, Supreme Court: RG 39 C, (Halifax, 1773) box 12, PANS.

When Eagleson received his grant and tried to occupy the ministerial right on 6 June 1771, he was ejected with force of arms by Gannett and Mark Patton, a proprietor and father-in-law of future Patriot John Allan. There followed a year-long effort by Eagleson to assert his claim amid community strife and more violence.³³ The first casualty of the dispute was Caleb Gannett. This unassuming cleric was not prepared for the "Divisions and Animosities" aroused in the community, and his natural pessimism deepened.³⁴ While Eagleson exulted in the "Considerable Number of Hearers" at his services, that included "several of the Dissenters," Gannett lamented the decline of his own congregation, "their number, though small at greatest, hath already been reduced almost half."³⁵ After barely three years his ministry was in ruins, and while a number of reasons might be cited – a lacklustre preaching style, a recession which had driven some of his strongest supporters back to New England – for Gannett there was only one reason: "[Eagleson]'s coming here has been our ruin," he complained. By June 1771, with his salary payments in arrears, a discouraged Gannett predicted that "my stay here, I believe, will be but short."³⁶ True to this dire prediction, he left Cumberland just three months later and never returned. Unsited by nature for frontier mission work in any event, he took his dismissal from the local Congregational Society in September and returned to Boston where he entered the gentler world of academia, and spent the rest of his life at Harvard University.³⁷ In the meantime, the glebe dispute grew immensely, encompassing the Cumberland proprietors and those of adjacent townships, and drawing out the full panoply of Halifax officialdom.

Instead of easing after Gannett's departure, the glebe dispute escalated. Eagleson contracted with a builder to erect a structure of his own on the ministerial right and occupied the land briefly, only to be thrown off again. In

³³Such use of firearms by a minister of the gospel and a leading land owner was evidently not that unusual on the Cumberland frontier. The treasurer of the Congregational society also bore arms and once threatened to kill a community official with a loaded gun; see: RG 1, vol 170, 206-7, PANS. John Eagleson also kept a case of pistols in his home, see *Eagleson v. Oulton*, Supreme Court: RG 39 C, Box 20, 1779, PANS.

³⁴*Supra*, note 29.

³⁵Eagleson to SPG, 15 September 1770, SPG Papers: no 158, 460-2; and Gannett to Seccombe, 21 September 1771, MHS *supra*, note 1, p. 283. The contrast between these two preachers was remarkable: Eagleson was optimistic despite estimates that as few as four local families were of the established church whereas, with a majority of dissenters at his doorstep, Gannett remained steadfastly pessimistic.

³⁶MHS *supra*, note 1, p. 282.

³⁷For something of Gannett's life immediately after he returned to Boston, see A.M. Earle, *Diary of Anna Green Winslow*, (Cambridge, 1896) in which diary for 1771, Gannett is mentioned nine times. See also Gannett's own diary for 1776-7 (which mentions meetings with Jonathan Eddy in Boston), Houghton Library, Harvard University. Excerpts of this diary (not the portions that bear on Nova Scotia) are in M. Armstrong, *William and Mary Quarterly*, 3rd Series, III (1946), pp. 117-22.

February 1772 Jotham Gay, a proprietor and member of the Congregational Society, the senior justice of the Cumberland inferior court and also Caleb Gannett's attorney, "took forcible Possession" of the property, again evicting Eagleson. Also in retaliation, and on Justice Gay's authority, Mark Patton began fencing not only the ministerial right but the glebe property as well.³⁸ By this move Eagleson was barred from the entire Cumberland glebe.

Far from being dismayed at this turn of events John Eagleson appears to have relished the challenge, nor did he hesitate at this critical point in being controversial in other ways now that he was the sole cleric in the district.³⁹ Nevertheless, dissenters continued to be attracted to his services in increasing numbers.⁴⁰ Although a source of enmity for some, Eagleson seems to have maintained cordial relations with others in the community, even dissenters.⁴¹ Through it all he remained diligent and extremely active in his far-flung mission field.⁴² And he was also careful to enlist the aid of Halifax. In the summer of 1772 he petitioned the Governor and Council again, this time to complain of being unable to occupy the glebe which they had granted him. As a result the Attorney General was directed to enquire into any proceedings at Cumberland "which may Effect the Rights of Government."⁴³

In an effort to resolve the dispute and "avoid Litigation ... and at the same time assert my right," Eagleson made an offer to the Congregationalists: "I told them I would make them a present of it, provided they would as Gentlemen request it of me." But in their opinion, Eagleson could hardly offer something he

³⁸Council minutes, 2 July 1772: RG 1, vol 212, PANS.

³⁹Eagleson accused the local magistrates of infringing on the priest's office by solemnising marriages which he, as the only ordained minister of the district, should have performed. Publicly he posted "Notifications, charging the Magistrates with a Violation of the Law." His threats of prosecution, according to one Cumberlander, "has given Umbrage not only to the Magistrates but to the Inhabitants in general." *supra*, note 29.

⁴⁰It was reported of Eagleson that "since the departure of Mr. Gannett, the Dissenting Minister, his audience has gradually increased, the number of Dissenters who attend being nearly equal to his own people," SPG Journal with reference to an Eagleson letter of 30 December 1772, SPG Papers: vol 19, 404.

⁴¹The presence of dissenters in his services is an indication of Eagleson's appeal despite the controversy, and in August 1771 he was still on sufficiently good terms with Samuel Wethered, a leading Congregationalist (who is listed in Gannett's preaching book), to accompany him to Baie Verte. For an account of this trip see the Calhoun diary in the *Chignecto Post*, 30 November 1876.

⁴²Eagleson preached at Cumberland and throughout the district at Amherst, Fort Lawrence, Sackville and Tanramar, and occasionally at Baie Verte, Shepody, Hillsborough and Moncton. In the summer of 1771, for example, at the height of the glebe dispute, Eagleson travelled to Shepody and held Sunday service at Petitcodiac on 28 July before returning to Cumberland by canoe "though there was a high sea." For an account of this trip see the Calhoun diary, *ibid*.

⁴³Council minutes, 2 July 1772: RG 1, vol 212. PANS.

had no right to, much less to them when it was already theirs and “they in an Insolent and haughty manner refused.” The dispute had reached an impasse. Gannett owned the land, insisted the Congregationalists, and Eagleson “had no right to it!” Those “Dissenting Fanaticks,” retorted Eagleson, “laid me under the disagreeable necessity of supporting my Title to it by a Course of Law!”⁴⁴

Legal Proceedings

Egleson commenced his lawsuit in the summer of 1772, charging trespass and suing the dissenters for ejecting him from the glebe. The suit was “brought and laid” in Cumberland County, as Jotham Gay was quick to point out, and since the issue concerned property, the cause might have been heard there by a special commission with a supreme court justice and one or two local justices of the inferior court. Unfortunately but not surprisingly, two of the three local justices were also proprietors: James Law and Jotham Gay. Gay also happened to be Gannett’s attorney and both were members of the Congregational Society. There was also the problem of finding an impartial jury since the cause concerned all the township’s proprietors. An impartial jury might have been impanelled from the adjacent townships of Sackville and Amherst; Jotham Gay certainly thought so. However, the dispute had aroused such indignation throughout the district that a defence fund was raised to defray Gannett’s legal costs and the proprietors of adjacent townships were thus involved. In fact, as Eagleson observed, some Cumberland freeholders “had been among them Soliciting a Subscription to raise money to assist the Defendants,” and he was aware of a proprietor of Amherst who “had agreed to Contribute for that purpose.”⁴⁵ For these reasons, argued Eagleson through his solicitor Richard Gibbons, the venue of the trial should be changed.

Justice Jotham Gay disagreed, nor as a proprietor of the township could he “consent to a trial of this Cause out of the County of Cumberland.” He argued that the matter should be settled locally with a jury selected from adjacent townships. “The Venue of this suit is local,” he argued, “and being a Real Action for Land” in Cumberland, “the same ought to be tried” there.⁴⁶ His argument

⁴⁴Egleson to SPG, 16 January 1775, SPG Papers: no. 186, 548-52.

⁴⁵Affidavit of John Eagleson, 17 July 1773, the case of *Egleson v. Gannett and Patton*, Supreme Court: RG 39 C (Halifax, 1773), box 12, no.28, PANS. Other sources of the legal proceedings are *Egleson v. Gannett and Patton*: RG 39 C (Cumberland, 1773), vol 1A; *Egleson v. Gannett and Patton*: RG 39 C (Halifax, 1773), box 16; *Holdfast v. Thrustout*: RG 39 C (Halifax, 1773), box 12; *Holdfast v. Thrustout*: RG 39 C (Halifax, 1774), box 13; and *Egleson v. Gannett and Patton*: Rg 39 J, vol 5, pp. 249 and 256.

⁴⁶Affidavit of Jotham Gay, sworn at Halifax before Charles Morris, 19 July 1773, Supreme Court: RG 39 C, box 12, no.1, PANS.

failed and the venue was shifted to the Supreme Court sitting in the capital. The symbolism of this decision was hardly lost on Cumberlanders, ever wary of the centralizing tendency of the administration.

By becoming a party to the cause and by contending for bringing the cause to trial in Cumberland, the frustrated Justice Jotham Gay was found incompetent and would later concede "that he was ignorant of the tendency of such Conduct."⁴⁷ In this respect, he fit nicely into the pattern of Nova Scotia's inferior court justices who had no legal training and who critics described as both incompetent and ignorant.

The glebe dispute went to trial at Halifax in October 1773 before Justices Charles Morris and Isaac Deschamps, with Chief Justice Jonathan Belcher presiding. A jury was selected among the freeholders of Halifax County. Representing the defendants, attorney Daniel Wood explained how the proprietors had assigned the Cumberland glebe to Gannett as the first ordained minister of the district, and went on to argue that the wording of the original township grant could be interpreted to enable the proprietors to proceed as they had. Proof of Gannett's ordination was offered in evidence as well as the inhabitants' acceptance of him as their minister. Also produced was Gannett's deed signed by the committee of proprietors but these items offered in evidence by the defence were "all objected and refused."⁴⁸ Wood also suggested that two of the Supreme Court justices should not hear the case because both grants in evidence, he argued, namely the original township grant and Eagleson's grant of 1770, were made at times when these two justices were members of Executive Council; indeed, they were still members. This reference to a conflict of interest could have been extended to Chief Justice Belcher himself who was a member of the corresponding committee of the SPG which stood to gain by acquisition of the glebe. No matter, Wood's objection was ruled irrelevant. The only material point as argued by Richard Gibbons for the plaintiff was that Eagleson's grant be proved in due form to have passed the Great Seal of the province. This point was verified to the court's satisfaction and the verdict rendered in favour of Eagleson who recovered with costs. The defence appealed by writ of error to the governor and council who confirmed the verdict, and that, according to Eagleson, "finally determined the Matter."⁴⁹

⁴⁷Council minutes, 19 July 1774: RG 1, vol 212, PANS.

⁴⁸"Reasons and Exceptions offered" by D. Wood, 26 October 1773, Supreme Court: RG 39 C, vol 1A, no.1, PANS. Interestingly, the bogus deed, signed by the committee of proprietors and dated 4 April 1769, can still be seen in the registry of deeds of Cumberland County, Nova Scotia.

⁴⁹Eagleson to SPG, 16 January 1775, SPG Papers: no. 186, 548-52; and SPG proceedings, 11 April 1775: no 194, 569-70. Eagleson was generous in victory. Instead of retaining the land for his own use as was his right, he annexed it to the glebe or parsonage property to form a valuable, combined glebe of 1000 acres for the continued use of the established church. Several years later Bishop Charles

The Consequences

The glebe dispute had obvious consequences in religion, but these consequences overlapped readily into the law, politics and government. The dispute was an archetype of friction between established and dissenting churches. Unable after Gannett's departure and loss of their glebe to attract another settled minister, the Cumberland Congregational Society never recovered. Gannett himself explained the religious consequences in a major report on the ecclesiastical state of Nova Scotia in which he described instances of friction between established and dissenting churches. This report, which Gannett wrote in Boston for the Rev. Dr. Chauncy had as its centrepiece the Cumberland glebe dispute.⁵⁰ "The law of the province respecting contracts between Dissenters and their ministers is frustrated,"⁵¹ wrote Gannett, with reference to a legislative act of 1758 regarding religious worship and also to Governor Lawrence's second proclamation.⁵² Quoting a section common to both documents to the effect that all contracts made between dissenting congregations and their ministers would be valid, Gannett charged that this commitment was not honoured in the case of his contract with the Congregational Society of Cumberland. Evidently, Gannett's contract included conditions under which he would be deeded the ministerial right. The township proprietors supposedly were free to offer this land as an encouragement to ministers to settle with them. Where this was done in his case, said Gannett, "it is plain that a posterior grant from the Governor and Council" to Eagleson invalidates the contract between the incumbent minister and the people.⁵³

As the legalistic Gannett explained, the Congregationalists had been frustrated by Nova Scotia's legal system which itself was skewed by the glebe dispute. The most obvious effect was the removal from the bench of Jotham Gay, senior justice of the Inferior Court of Common Pleas. The Executive Council, after hearing representations by the Supreme Court Justices, considered Gay's "conduct and

Inglis of Nova Scotia declared the Cumberland glebe an "excellent" property. Inglis to Dr. Morice, 28 June 1788: Inglis Papers, C-23.

⁵⁰MHS *supra*, note 1, pp. 282-3. The author has searched in several institutions in Boston for this report but in vain. It was not just an airing of Gannett's complaints, but "a full account ... of the ecclesiastical state of the province." The excerpts quoted in the MHS article make it clear that the document is important to the early history of Nova Scotia.

⁵¹*Ibid.*, p. 283.

⁵²*An Act for the establishment of religious public Worship in this Province*, (1758) 32 Geo 2, Cap 5. Lawrence's second proclamation quotes from this act but Gannett was clear that he was referring to both documents.

⁵³MHS *supra*, note 1, p. 283.

behaviour very unbecoming a person intrusted with the Administration of Justice."⁵⁴ Ten months later Gay's personal apology for his conduct in the glebe dispute was accepted by the councillors, but "for the sake of the Impartial Administration of Justice," they held to their decision and refused to reinstate him.⁵⁵

The legal implications of the glebe dispute went further than the removal of one judge. In a major review of the legal system written in 1774 by Richard Gibbons (Eagleson's lawyer), the "Weakness and Ignorance" of inferior court justices was decried, and the case of Eagleson and Gannett was cited as a prime example of their misconduct and tendency to misuse judicial power by publicly opposing laws, which, because of public opinion, prejudice, ignorance, or their own private interest, they disapproved of.⁵⁶ The lay person's opinion of the legal system was similar to that of Gibbons and more succinctly put by a Yorkshire resident of Cumberland: "As to the Sivil Law, it is very unsivily handled, especially in the Country places."⁵⁷ Gibbons recommended abolition of the Inferior Court of Common Pleas and transferral of its jurisdiction to the Supreme Court. He also recommended that the Supreme Court go on circuit. His first recommendation was not implemented, but a bill to establish a Supreme Court circuit was introduced soon after the completion of his review.⁵⁸ It is likely that the glebe dispute influenced the assembly debate on the bill as well as the decision to include Cumberland in the circuit, especially in view of the recent and unusual spectacle of the removal from the bench of the senior justice of the Cumberland inferior court.

Another report, written the following year, was also critical of the justice system.⁵⁹ The inferior courts, wrote Solicitor General James Monk, "become places of Entertainment and pernicious pastime," where justices take every opportunity "to ingratiate themselves with the numerous." Monk gave voice to the Halifax regime's suspicion that the inferior courts such as the one presided over

⁵⁴Executive Council removed Gay from the bench a few weeks before the trial and appointed Samuel Wethered in his place. Council minutes, 24 September 1773: RG 1, vol 212, PANS.

⁵⁵Council minutes, 19 July 1774: RG 1, vol 212, PANS.

⁵⁶B. Cahill, "Richard Gibbons' Review of the Administration of Justice in Nova Scotia, 1774" (1988) 37 U.N.B.L.J. 34. Cahill notes that Gibbons' review was the earliest work of its kind, and also the most substantial for nearly sixty years.

⁵⁷Nathaniel Smith to his brother and sister, 13 April 1780, A.A. Calabresi, "Letters Home: The Experience of an Emigrant in 18th Century Nova Scotia" thesis, Yale University, 1986.

⁵⁸*An Act for establishing the Times of Holding the Supreme Court, (1774)* 14 Geo 3, Cap 6. Under this bill, which was introduced in the October-December 1774 session, the Supreme Court was to travel to Kings, Annapolis and Cumberland Counties.

⁵⁹B. Cahill, "James Monk's Observations on the Courts of Law in Nova Scotia, 1775" (1987) 36 U.N.B.L.J. 131.

by Jotham Gay afforded a platform and breeding ground for radical politics. "The Inferior Courts collect the People," he went on, "and improve a disposition for public declamation, and in a short process of Time many a New England Character has been seen to rise from the Plough, and bear the Laurel of 'a smart, Cute, Clever, Man' who understands the Liberties of the People, and fit to become a Speaker, or Moderator of a Town meeting."⁶⁰ All too easily in Monk's view, legal proceedings might lapse into radical politics.

Monk's apprehension was well founded. The "Difficulties and Troubles that arose" from the glebe dispute overlapped most readily from law into politics.⁶¹ The political issue was double-edged: the Supreme Court decision upheld by Executive Council emphasised the centralising impulse of Halifax even as it extinguished a residue of New England-style local government by denying Cumberland proprietors a hand in assigning their own ministerial land. Loss of control of this land to Halifax interests was a powerful object lesson to the people of Cumberland. It reinforced the legislative acts of 1765 and 1767 which had already transferred to Halifax whatever powers township committees may have enjoyed.⁶² But formal statutes are one thing and actual practice sometimes quite another, especially in frontier districts not as closely supervised as those in proximity to the capital.⁶³ Public opposition to laws, based on misunderstanding and ignorance of them, was a weakness of inferior court justices cited by Richard Gibbons, who was intimately familiar with the glebe case. There was obvious ignorance in Cumberland, wilful or otherwise, about the impact of recent legislation on township rights. The evidence of Jotham Gay and William Allan, the former a justice of the inferior court and the latter a prominent businessman, neither of whom then or later indulged in radical politics, is clear. Both appeared unaware of their error in assigning the ministerial right to Gannett, and later both were overtly apologetic to government.⁶⁴ But there were many others ready to exploit the furore over the glebe and to portray the decision of government and

⁶⁰*Ibid.*

⁶¹*Supra*, note 29.

⁶²Harvey, "The Struggle for the New England Form of Township Government in Nova Scotia" *CHA supra*, note 6, pp. 15-22.

⁶³Harvey makes the point that the townships on the south shore and in Chignecto were not as closely supervised as those of Kings and Annapolis. *Ibid.*, p. 19.

⁶⁴Gay's apology has been noted already. William Allan asked to speak to Chief Justice Belcher about the case on 24 July 1773 before it went to trial. On being presented to the Chief Justice and Attorney General William Nesbitt and being asked why he was there, Allan said "that he came to express his hopes that Government would not be displeased with him for having been one of the Committee who granted to Mr. Gannett the land in Dispute," whereupon he "was immediately prevented from uttering himself further on the subject," and was reproved "for presuming to apply to the Chief Justice in any manner concerning a cause depending before him." *Eagleson v. Gannett and Patton*, Supreme Court: RG 39 C, vol 1A, no 1, PANS.

the courts as a slight on the freeholders of Cumberland. These other Cumberlanders had become political dissenters in the venue of the local courts and were susceptible to radical influence by the effects of a local issue. The simple outsettler had undergone a transformation – “a great perversion of Character” was the way an administration official described this change – “In place of the industrious husbandman, the subordinate subject, there too frequently appears a litigious artful, ‘Law and Liberty’ declaimer.”⁶⁵ The times very much favoured political dissent.

The year 1774 was a period of general political unrest, with radical politicians emerging in many parts of North America. In Nova Scotia town meetings and other political gatherings proliferated in 1774, and Governor Legge felt compelled to proclaim against them. There “have been Meetings and Assemblies of the People at different times in several of the townships,” he noted. These meetings “have been unwarranted by Law, and called without Authority and greatly tend to disturb the peace and to promote illegal Confederacies, Combinations, Publick disorders and the highest Contempt for Government.”⁶⁶ Government was under pressure and felt vulnerable in 1774.

As discontent grew in the countryside then and through 1775, government worried that the effects of the dispute in Cumberland might aggravate the situation. A clear indication of the government’s concern is a letter sent by Lieutenant Governor Michael Francklin to the corresponding committee of the SPG in Halifax at the same time that body was considering Eagleson’s report on the court victory. Francklin warned the SPG committee to take steps “in avoiding all Controversy with the inhabitants of different [religious] persuasions, and provoking them to disgust and Animosities.”⁶⁷ Caleb Gannett also drew a connection between government and religion, in particular that it was necessary for proprietors to dispose of ministerial lands in order to attract a settled clergy. He argued in essence that township government supported religious freedom for dissenters, as promised by Governor Lawrence in 1759. He seemed unaware of the subsequent legislative changes to which many Nova Scotia townships had already adjusted, but in Cumberland the old grievance of township rights was still fresh in the early 1770s, because of the glebe dispute.

The process of having gone from religion to law, politics and government, and back to religion emphasises the interrelation of these elements as they applied to the glebe dispute. So closely interlocked were these various elements that they were sometimes found in the activities of a single person. An important example

⁶⁵*Supra*, note 59, p. 138.

⁶⁶Legge proclamation, 19 September 1774: Dartmouth Papers, p. 177-8.

⁶⁷SPG proceedings, April-June 1775, SPG Papers: no. 194, 576.

is Jonathan Eddy, in 1774 the member for Cumberland township in the provincial Assembly, and a deputy provost marshal. It was Eddy, ironically, who was called on to execute the court order that took the ministerial right away from his fellow Congregationalists and gave it to the Anglicans. What for Eddy was an onerous duty was delayed as long as possible before he eventually and reluctantly carried it out, referring afterwards to John Eagleson as "the Pest of Society."⁶⁸

Conclusion

The lengthy controversy over the glebe lands provided a convenient bridge to the climactic event that led to the Cumberland rebellion. From late 1770, when Eagleson was granted the ministerial right, to 1775 when the Lieutenant Governor warned the SPG, was a period of more than four years during which the dispute was a discussion topic among all elements of Cumberland society. Only a few short months separated the prolonged glebe dispute from Governor Legge's militia bill of late 1775. This ill-considered legislation raised a furore across Nova Scotia at a very critical time, but in Cumberland where the legislation was the climax to a series of events provoking political dissent, open rebellion ensued. Radical politicians abandoned the governmental process. One of these was Samuel Rogers, who walked home from Halifax to his Sackville constituency after the Assembly prorogued in November 1775. Having left the Assembly in disgust, Rogers spoke for the radicals of Cumberland when he said: "As I had long been weary of this Tyrannical Government, I came to a full resolution to leave it in order to form a Revolution."⁶⁹ When Colonel Jonathan Eddy returned to the district in the fall of 1776 to attack Fort Cumberland, one of the first properties visited and homes destroyed by his band of armed patriots was Eagleson's disputed glebe.

Loss of the ministerial right was not so much a defeat for Caleb Gannett, who had left Cumberland even before Eagleson commenced his lawsuit, as it was the defeat of an entire Planter community. Equally, the trial was less a victory for John Eagleson, who never seemed able to gauge the consequences of his actions, than an affirmation of the Halifax establishment. If the Congregationalists had only deferred to Halifax and proceeded in compliance with the 1767 Act,⁷⁰ in all likelihood the land would have been granted to Gannett. Possibly if no one as audacious as Eagleson had shown up to challenge the proprietors, their error might have been rectified and the ministerial right might have remained with the

⁶⁸Eddy to Massachusetts Council, 5 January 1777, Joseph W. Porter, *Memoir of Col. Jonathan Eddy* (Augusta, 1877), p. 13. The writ was issued 17 January 1774; Eddy was ordered to execute it on 19 February, and finally did so on 28 June.

⁶⁹"Extracts of the proceedings, Sufferings, etc. of Sam'l Rogers of Nova Scotia" 10 April 1779: (Manuscript) Papers of the Continental Congress 41, VIII.

⁷⁰*An Act for Partition of Lands*, (1767) 7 Geo 3, Cap 2.

Congregationalists. Either way the Cumberland outsettlers would have had fewer grievances against Halifax, perhaps insufficient to support rebellion. It is certain, however, that Gannett would not have been an advocate for republicanism had he remained in the district during the revolutionary period.⁷¹ In this regard he was different from many of his Congregational colleagues, notably the Rev. James Lyon at Machias, Maine (who had previously been in Nova Scotia) and the Rev. Seth Noble at Maugerville, Sunbury County, both of whom inspired their parishioners to rebellion.

The glebe dispute had several results, remarkable in their variety. It caused the collapse of the Congregational Society of Cumberland; it provided exceptional grist for abuse of the structurally flawed legal system; it spawned Nova Scotia's largest concentration of political zealots, not only Jonathan Eddy and John Allan but Samuel Rogers, Robert Foster, Josiah Throop, Benoni Danks and many others. The dispute served to alienate large numbers of outsettlers from the colonial administration, and finally it helped to create a last, easy step to rebellion. Ethnic New England majorities and a natural empathy with New Englanders were common to the seven counties of Nova Scotia, but in the one county that crossed the line into open and violent rebellion, local circumstance was the critical ingredient.

⁷¹For his coolness to the patriot cause which nearly cost him his position at Harvard see *supra*, note 11, pp. 396-8.