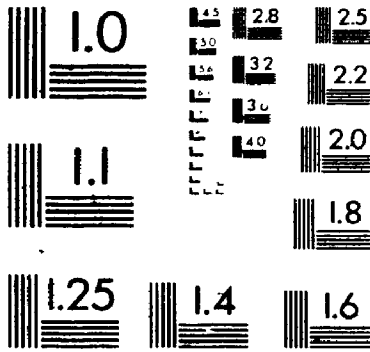


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THE GENESIS OF REFORM POLITICS IN UPPER CANADA:
THE OPPOSITION GROUP OF THE FIFTH PARLIAMENT, 1809-1812

by /

Junko, Kino, B. A., M. A.

A thesis submitted to the Faculty
of Graduate Studies and Research in partial fulfilment
of requirements for the degree
of Master of Arts

Department of History

Carleton University
Ottawa, Ontario

April, 1988

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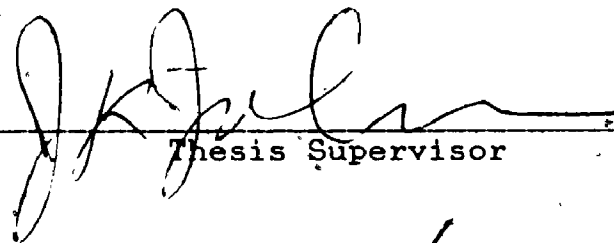
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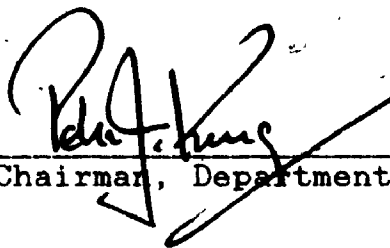
THE GENESIS OF REFORM POLITICS IN UPPER CANADA:
THE OPPOSITION GROUP OF THE FIFTH PARLIAMENT, 1809-1812

submitted by Junko Kino, B.A., M.A.

in partial fulfillment of the requirements for
the degree of Master of Arts



Thesis Supervisor



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April 1988

ABSTRACT

The opposition group in the Fifth Parliament, 1809 to 1812, has been neglected by historians because they have not recognized any group movements in the Assembly before the War of 1812. However, there is evidence that such a group did exist before this time as this thesis will show. Ten opposition-minded members co-operated and effectively worked through the Fifth Parliament. This thesis will primarily examine their activities as a whole in the Fifth Parliament. It will also trace earlier activities of some of these individuals and several of the Irish oppositionists, for by considering these earlier activities, the effectiveness of cohesive action in the Fifth Parliament will become clearer. The result of such action would lay the basis for a more democratic and liberal political and social system in the future.

ACKNOWLEDGEMENTS

This study could not have been completed without the help of my supervisor, Professor J. Keith Johnson. I am most grateful to Professor Johnson for his patient supervision and detailed suggestions. Dr. Robert L. Fraser, Senior Manuscript Editor of Dictionary of Canadian Biography, gave me important advice and generously allowed me to use his article on Peter Howard, one of the oppositionists, which will be published in the forthcoming volume (vol.VII) of DCB.

I also wish to thank Professor Yuko Ohara, University of Tokyo, who first taught me Canadian history in Japan, and Professor Torao Tomita, Rikkyo University, who encouraged me to further study Canadian history.

I would like to express my appreciation to my friends, especially, Ms. Judith Moe, for proofreading my thesis, Mr. Dominique Caouette, for helping me to print it out. Lastly, I also would like to thank my parents and Mr. Yoshihiro Taniguchi who encouraged me to study in Canada, and whom I am looking forward to rejoining in Japan in the near future.

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INTRODUCTION

The reform movement is one of the most important and well-studied topics in Upper Canadian history. Studies of this movement are usually focussed on two major issues: the activities of William Warren and Robert Baldwin to seek responsible government and the rebellion led by William Lyon Mackenzie in 1837. Historians have tended to see reform movements before the War of 1812 as petty and primitive incidents and often they have offered few details. But, in actual fact, the threshold of the reform movement had already been reached before the War of 1812.

Before looking at several works relating to the reform movement and opposition to the administration, it is worth looking at how political parties were conceived of in eighteenth century England. Opposition, especially by "parties" and "factions", which were often used interchangeably, was generally linked with disloyalty. Richard Hofstadter stated that "...in England what was then called a 'formed opposition'—that is, an organized and continuous opposition group...still fell short of respectability, and in the minds of many men was tainted with disloyalty, subversion, or treason." Even as late as 1830 something of this attitude still persisted.

During the eighteenth century, the underlying idea was that political parties were thought of as evils. Political parties were condemned by British political writers on three different but related grounds. Firstly, they assumed that society should be pervaded by concord and governed by consensus. For

¹ R. Hofstadter, The Idea of a Party System: The Rise of Legitimate Opposition in the United States, 1780-1840 (Berkeley and Los Angeles, 1969), p.ix.

² A. S. Foord, His Majesty's Opposition, 1714-1830 (Oxford, 1964), p.7.

them parties served only to create social conflict. Secondly, they considered that the narrow special interests of parties would be negatively imposed upon the whole of society. Thirdly, therefore, party was considered to be a force directly counterpoised to civil virtue.³

There are three prototypal views of party in English thought. The orthodox view, represented by Henry Bolingbroke, was that parties were evils that could be avoided, abolished or suppressed. Bolingbroke laid down the ideal of the anti-party writers of the eighteenth century. He considered that the elimination of organized conflict and the achievement of national unity would be accomplished through a monarch.⁴

The second view was presented by David Hume. Though he also thought that parties were evils, he recognized that their existence was an unavoidable by-product of a free state. Therefore, for Hume, the practical goal of the well-run state was not to eliminate or suppress parties but only to check, control and confine the evils that arose out of their existence.⁵

These two writers both believed that parties were evils. However, Edmund Burke found that parties could be respectable. He went beyond Hume's acceptance of party as a necessary evil to defend it as a necessary good, and beyond Bolingbroke's acceptance of a single temporary crown-centred court party as a transient means of eliminating all parties. Thus, Burke emphasized the merit of party loyalty and the positive role that parties could perform. Yet it took a long time before parties won a certain respectability. For

³ Hofstadter, pp.9-13.

⁴ Ibid., pp.16-20.

⁵ Ibid., pp.24-28.

⁶ Ibid., pp.29-34.

example, Archibald S. Foord wrote that George II habitually referred to Walpole's opponents as rascals and knaves, puppies and scoundrels.⁷ Further, he noted George III's assertion of 1778 that people who had been active in opposition scarcely were useful servants for the crown.⁸

The view that parties were evil, disloyal and against the public good was present in early nineteenth century Upper Canada. Perhaps the word "party" ---signifying an opposition group---was first used in connection with Robert Thorpe and his followers' activities. Lieutenant Governor Francis Gore wrote, with a sense of relief, "the ferment...by what is called Mr. Thorpe's Party, appears to be gradually Subsiding."⁹ In fact the activities of Thorpe and his associates were mostly not conducted within the assembly. Moreover Thorpe and two of his followers, Joseph Willcocks and William Weekes, who all eventually became members of the House of Assembly(M.H.A.s) never sat at the same time in the assembly. Therefore it is not appropriate to use the word "party" for their conduct. Yet its use reflects the irritation and contempt of the men of the government side towards any sort of opposition activities.

Moreover, John Strachan's comment on the election of 1808 clearly indicated the same tendency. "...There has been a new election...and my Friends are all out, indeed the House will be composed of ignorant clowns, for the spirit of levelling seemed to pervade the province."¹⁰ This comment also

⁷ Foord, pp.6-7.

⁸ Ibid., p.7. Cited from British Library, Additional Manuscripts, 37,833, f.216, George III to Pitt, 7 February 1778.

⁹ Great Britain, Colonial Office Records, CO42, Q311, p.32, National Archives of Canada[hereafter NAC], MG11 microfilm, reel C-10760, Francis Gore to Lord Castlereagh, 20 March 1808.

¹⁰ NAC, John Strachan Papers, MG24, J1, microfilm, reel M-539, Strachan to Rev. Dr. James Brown, 9 Oct. 1808.

suggests that the election reflected public criticism of the Lieutenant Governor and his government. Just after the opening of the second session of the Fifth Parliament, Thomas Ridout observed that there was not so much spirit for opposition inside the assembly in 1810 as there had been.¹¹ This indicates that the opposition group had had strong influence during the 1809 session. As a matter of fact, the opposition group of M.H.A.s continued to be active in 1810 as well as the other two sessions of the Fifth Parliament as this thesis will demonstrate in Chapter Three. Ridout's observation suggests a movement towards a more organized group within the assembly. Yet this opposition "party", of course, had not received respectability and was very likely to be seen as disloyal, or, dangerous.

There is no historical account of the activities of the Fifth Parliament. In her Political Unrest in Upper Canada, 1815-1836, Aileen Dunham stated the reason why she decided upon 1815 as the starting-point as follows: "Before the war [of 1812] the province had no real political history."¹² It seems that she did not recognize any indication of earlier attempts for reform. Her comment on the House of Assembly in 1812 was quite critical. "In the early months of the war the assembly itself was lukewarm, and two of its members turned traitor."¹³ Yet her point of view was mainly from the government side. Although the fourth session of the Fifth Parliament in 1812 was "lukewarm" on the issues relating to the militia, it was enthusiastic on other issues, especially relating to the privileges of the House of Assembly (as this

¹¹ Archives of Ontario[hereafter OA], Thomas Ridout Papers, MS537, microfilm, 7-553, Thomas G. Ridout to Thomas Ridout, 8 Feb. 1808.

¹² A. Dunham, Political Unrest in Upper Canada, 1815-1836 (London, 1927, Toronto, 1963), p.18.

¹³ Ibid., p.21.

thesis will describe in Chapter Three.)

Those historians who have looked at earlier movements have mostly focussed on the movement by Judge Robert Thorpe and his fellow Irish. Certainly Thorpe inspired opposition to the administration and was joined by William Weekes, Charles Burton Wyatt, William and Joseph Willcocks who came from Ireland as well as John Mills Jackson from England and William Jarvis, a loyalist. It seems that Thorpe's activities were focussed on by historians because he and his followers who caused trouble were within the official circle and were mainly Irish.

Harry H. Guest defined the activities of Thorpe's group as "Upper Canada's First Political Party".¹⁴ He emphasized the significance of their Irish ethnicity. He stated that "[t]he attitudes of the Irish government, the Irish Whigs and the United Irishmen were reflected in the history of Upper Canadian politics in the early years of the nineteenth century."¹⁵ Guest treated the later movement which involved ten opposition-minded members of the Assembly---including Joseph Willcocks, David McGregor Rogers, Peter Howard, Thomas Dorland, and Benajah Mallory---as merely "an interesting sequel to the story"¹⁶ of previous activities.

Gerald M. Craig basically seemed to agree with Guest's view. He also mainly concentrated on the previous Irish-centred activities in his Upper Canada: The Formative Years, 1784-1841. He was skeptical that the little squabbles of the half-dozen years following 1805 were the beginnings of an

¹⁴ H. H. Guest, "Upper Canada's First Political Party," Ontario History, LIV, no.4 (1962), pp.275-296.

¹⁵ Ibid., p.295.

¹⁶ Ibid., p.293.

authentic political reform movement.¹⁷ Especially in the later movements which this thesis is going to trace, he did not recognize any coherence among the people who had criticized the government before the War of 1812. According to Craig, David McGregor Rogers who was one of the important members through the Fifth Parliament, "had little sympathy with adventurers from overseas like Thorpe and Willcocks, although he occasionally co-operated with them."¹⁸ S. F. Wise also shared this view. "A number of oppositionists were elected to the Fifth Assembly in 1808," however, "...[t]here was no real unity of purpose among such men as Joseph Willcocks, Samuel Sherwood and David McGregor Rogers."¹⁹

The Dictionary of Canadian Biography includes accounts of some of the members of the Fifth Parliament. Since they are biographical, the accounts have unavoidably concentrated on personal conduct. Elwood H. Jones, who wrote on Joseph Willcocks, stated that the Fifth Parliament marked a departure from the usual pattern of assemblymen working as individuals.²⁰ Yet his view on Willcocks' co-operators was rather typical. According to Jones, they were "small farmers on the one hand and petty Loyalists anxious to retain their privileges with respect to land grants on the other."²¹ Perhaps because of the focus of the article, Jones did not recognize members who worked with

¹⁷ G. M. Craig, Upper Canada: The Formative Years, 1784-1841 (Toronto, 1963), p.64.

¹⁸ Ibid.

¹⁹ S. F. Wise, "Upper Canada and the Conservative Tradition", in Profiles of a Province, (Toronto, 1967), p.22.

²⁰ E. H. Jones, "Joseph Willcocks," Dictionary of Canadian Biography, vol.V, p.857.

²¹ Ibid.

Willcocks as part of a co-operative opposition group. He saw them as mere sympathizers, or followers.

Robert Fraser wrote articles on David McGregor Rogers, Benajah Mallory, Thomas Dorland, John Willson And Peter Howard.²² Except in the case of Rogers, Fraser recognized these men's contribution to the activities of the Fifth Parliament. Fraser mentioned the importance of Rogers' concern for the rights and prerogatives of the House of Assembly, but did not appreciate the importance of Rogers' conduct during the Fifth Parliament.

Fraser considered that parliamentary opposition had originated in the Fourth Parliament of 1805-1808²³ and that the opposition group was a loose coalition of interests coming together at different times.²⁴ It is true that several different members--Weekes, Thorpe, and Willcocks---launched protests at various times, however, there was not one opposition group but several opposition-minded members who received temporary support from a few other M.H.A.s at times. Moreover they were joined by other Irish outsiders of the Assembly. Yet the withdrawal of Rogers, Howard and Dorland from the Assembly on the District School Act in the last session of the Fourth Parliament(1808) indicated the beginnings of collective action and marked an important step toward a more organized opposition in the next assembly.(See Chapter Two.)

Paul Romney said that 1824 was a landmark in the political transformation

²² R. L. Fraser, "David McGregor Rogers," DCB, vol.VI, pp.655-658; "Benajah Mallory," DCB, vol.VIII, pp.606-610; "Thomas Dorland," DCB, vol.VI, pp.214-216; "John Willson," DCB, vol.VIII, pp.945-947; "Peter Howard," DCB, vol.VII (Forthcoming).

²³ Fraser, "Ebenezer Washburn," DCB, vol.VI, p.804.

²⁴ Fraser, "Thomas Dorland," DCB, vol.VI, p.215.

from "inert localism" to province wide political awareness. He also stated that for the first three decades Upper Canadian politics were mainly comprised of non-ideological, sectional and personal rivalries.²⁵ None of these writers attached any special significance to the Fifth Parliament. This, it will be argued, has been a serious oversight.

As Fraser stated, there were several members opposed to the Lieutenant Governor and his government during the Fourth Parliament. Yet, these oppositionists were, as already mentioned, strongly connected mainly by their Irish origin. Further, unlike in the Fifth Parliament, there was no leadership figure or figures who consistently led opposition movements, but a series of principal oppositionists in turn.³ Moreover, these oppositionists through the Fourth Parliament period included men outside of the legislature, like Wyatt and Jackson. Therefore their movement was not purely within the assembly. Also it is clear that they had a strong dislike of the Scots, like Robert Hamilton and others who had played a key role in the economy and politics of Upper Canada. Their activities can be seen as the result of kinds of rivalries which Romney considered characteristic of Upper Canadian politics. Moreover, the majority of these oppositionists who were active through 1805 to 1807 went back, or were forced to go back to England. Joseph Willcocks was of the few who stayed in Upper Canada and continued to oppose the government.

Professor J. Keith Johnson has noted the significance of the Fifth Parliament, as well as the Tenth Parliament (1828-1830), in Upper Canada's parliamentary history. In the Fifth Parliament, no government nominee was

²⁵ P. Romney, "The Spanish Freeholder Imbroglia of 1824: Inter-Elite and Intra-Elite Rivalry in Upper Canada," Ontario History, LXXVI, no.1, (1984), pp.43-44.

elected. The proportion of M.H.A.s who held government appointments was also at its lowest point to that date. The members of the Fifth Parliament included fewer Loyalists and even fewer Loyalist half-pay officers than the previous Parliaments. This Parliament contained a much higher number of religious dissenters, especially Methodists. These factors indicate that the Assembly was changing and was now composed of non-administrative members and non-Loyalist immigrants.²⁶

In addition, the members of the Fifth Parliament had a much better record in establishing reform "families" or "heirs" for the future. James Wilson, who was expelled from the assembly as a Methodist preacher and teacher in 1810, came back in the Eighth to Tenth, and Twelfth Parliaments. Peter Howard became the president of the Johnstown District Reformers' Society in his later years.²⁷ His son, Mathew Munsel Howard became an M.H.A. in the Eleventh and Twelfth Parliaments and was an active reformer. The same thing can be said of John Roblin, a member of the Fifth Parliament, and his nephew John Philip, who was elected to the Eleventh and Twelfth Parliaments. Moreover, the areas where the most of the oppositionists of the Fifth Parliament were elected would also choose a majority of reformers as M.H.A.s in later years.

Because of these reasons, the Fifth Parliament deserves special attention. It was here that an anti-government, opposition group originated which would connect to the reform movement of the 1820's and 1830's. This opposition group could not be called a political party in a modern sense; however,

²⁶ J. K. Johnson, Becoming Prominent: Regional Leadership in Upper Canada, 1791-1841 (Forthcoming), chap.5, pp.190, 194.

²⁷ Fraser, "Peter Howard".

there was clearly co-operation among its members. Their motives for being oppositionists were varied. Yet they worked together with consistency under a united core of leaders---Willcocks, Rogers, Mallory and Howard---for issues such as lower salaries for public officials, a more liberal educational system, better electoral procedures, local improvement and the privileges of the House of Assembly.

The purpose of this thesis is to give an account of the political movement in Upper Canada before the War of 1812, a period which has tended to be neglected by historians. The thesis will look at members of the House of Assembly who carried out oppositionist activities in the Fifth Parliament. It will describe what the opposition group accomplished through their activities and how much they were influential in the Assembly. It will also indicate a connection between these earlier movements and the reform movement which clearly and effectively began in the 1820's.

Before looking at this M.H.A.-based opposition movement and its progress, Chapter One will describe the activities of some of the major figures before they began their oppositionist careers. This will indicate what the major figures---Willcocks, Rogers, Howard and Mallory---were doing before the Fifth Parliament, and why the earlier opposition activities failed to organize the opposition group within the Assembly in spite of some active oppositionists.

CHAPTER ONE: THE BACKGROUND TO "A PARTY" IN UPPER CANADA

I. Introduction

Before discussing the Fifth Parliament, it is important to look at the activities of the major opposition figures---Joseph Willcocks, David McGregor Rogers, Benajah Mallory, Peter Howard and Thomas Dorland---and the pre-Fifth Parliament political situation. Some of these men were M.H.A.s even before the Fifth Parliament. Tracing their careers will help to indicate why the oppositionist movement before 1808 did not work effectively in spite of some active oppositionists in the Assembly, like William Weekes and Robert Thorpe. Furthermore it will indicate why the assemblymen did not co-operate with an Irish-centred protest against the administration.

II. Earlier activities of the major Fifth Parliament oppositionists

i. Joseph Willcocks

Of the major Fifth Parliament oppositionists, Joseph Willcocks was the last of them to enter the Assembly. Before becoming an M.H.A., he had for a time enjoyed the favour of the government.

Joseph Willcocks was born in Palmerston, Ireland in 1773. He arrived at York, Upper Canada, on March 20, 1800. Willcocks, who was on the Loyalist side in the rebellion of 1798 in Ireland, considered himself entitled to be recognized for his patriotic efforts by the British Government. But it seems that he was not given the recognition he hoped for, and made up his mind to join his relative, William Willcocks in Upper Canada. As soon as he arrived

¹ See Metro Toronto Library(hereafter MTL), Joseph Willcocks Letters to his brother Richard Willcocks and other relatives in Ireland, S128, Joseph Willcocks to Richard Willcocks, 26 April 1800. He said: "I have every reason

in York, he began to apply for positions under the Lieutenant Governor. He would change his patrons three times and be appointed to several offices--- including sheriff of the Home District---under the influence of his patrons. His first patron was the Receiver General, Peter Russell, who was a first cousin of William Willcocks. Although he did not at first receive a government appointment, Willcocks obtained employment as a private clerk for Russell. Joseph sounded delighted when he wrote to his father about this:

"I mentioned to you in my last letter from this town dated 23 Apr. of the prospect I had from my new acquaintance the Honble Peter Russell by his appointing me his private clerk. I am now fully settled in the appointment and consider myself one of the happiest men in the World."

Moreover, as a result of Russell's influence, Willcocks would later become "receiver and payer of fees" in the Surveyor General's Office.¹ In July and August, 1800, he petitioned successfully and was granted a town lot in York and 1,200 acres of land.² Joseph wrote to his brother Richard about this:

"This I must look upon as an act of very great kindness indeed from a Government who are so little acquainted with either my morals or principals, but I will venture to say that did the[y] know my attachment to the King and Constitution and my zealous exertions to suppress the late Melancholy Rebellion which pervaded my native Country they would at least have doubled their Benevolence."

Some historians believed that Willcocks had been one of the United

to be thankful that I Changed from my native country; for Government were there very dilatory in promoting my interest which in my opinion they ought not..."

² MTL, S128, J. Willcocks to Robert Willcocks, 8 June 1800.

³ Jones, p.854.

⁴ NAC, Joseph Willcocks Papers, MG24, C1, diary, 15 July and 5 Aug. 1800.

⁵ MTL, S128, J. Willcocks to Richard Willcocks, 31 Aug. 1800. Underlined by J. Willcocks. Hereafter underlines are original unless noted.

Irishmen probably because Lieutenant Governor Gore mentioned him as such.⁶

Further, the fact that Willcocks later offered his aid to the Americans during the War of 1812 might have supported this belief in his disloyalty. However, the above letter clearly indicates that Willcocks was not one of the United Irishmen. In fact, in 1800 he considered himself an extremely loyal subject.

Willcocks also moved into the Russell household on August 7, 1800. This meant for him that he was fully able to enjoy Russell's favour. He also noted in his letter to his father and brother that he had met the Lieutenant Governor, Peter Hunter, and "the first Circle", the in Upper Canada. In one letter he said:

"...I have dined several times at the Governors & Speakers. In short I am respected by the first Circle in this province & the Midling[sic.] or lower Circle I have nothing to do with
..."

His comfortable life suddenly came to an end on August 23, 1802, when Peter Russell dismissed him because of his courting of Russell's sister, Elizabeth. The same day Willcocks went to see Chief Justice Henry Allcock, Russell's political rival. He was thus able to change his patron and now through Allcock's influence, he obtained the positions of registrar of the court of probate, marshal of assize^a and sheriff of the Home District.⁹

⁶ See A. H. U. Colquhoun, "The Career of Joseph Willcocks," Canadian Historical Review, vol.7(1926), p.290, and W. R. Riddell, Upper Canada Sketches, (Toronto, 1922), p.65. But Riddell himself recognized that Willcocks was not one of the United Irishmen in his article "Joseph Willcocks," Ontario History, 24(1927), pp.476, 489-490; footnote no.5.

^a MTL, S128, J. Willcocks to Richard Willcocks, 1 July 1800.

⁹ Ibid., 27 March 1803.

⁹ NAC, Russell Family Papers, MG23, H 1 2, microfilm, reel M-747, Henry Allcock to Peter Russell, 4 Sept. 1804.

Willcocks continued to enjoy mixing with "the first Circle". After explaining the changes in his life, he wrote to his brother that "I dine frequently at the Governors and always sit at the foot of the Chief Justice[']s Table..."¹⁰

Yet it is also clear from the following letter which Willcocks wrote to Russell, that he was mortified by his dismissal. He stated:

"I can have no hesitation to acknowledge the very many acts of civility and great attention I received both from you and Miss Russell during the time I had the honor of living under your roof; I have ever spoken of it with gratitude and respect; but the sudden manner in which you urged my departure from your House, and the extraordinary treatment which attended that circumstance, has, in my opinion done more than cancel all your former civilties. It would be unnecessary for me to assert here the many evils that were Attempted to be poured upon my Head; they must be too fresh in your recollection and mine, Sir, and have made too great an impression to be ever forgotten..."

He continued; "But Providence who has ever been more kind to me than I deserve, rescued me from the impending danger and raised for me a friend not only had it in his Power but had the inclination to relieve the oppressed."¹² Willcocks wrote to his brother Richard on his appointment as sheriff of the Home District and registrar of the court of probate, as follows; "they are patent offices which cannot be taken from me..."¹³ All this indicates that he was furious about his dismissal, and gives some indication of how furious he would be when years later he would be deprived of the shrievalty by the Lieutenant Governor, Francis Gore.

Elwood Jones has stated that Allcock's appointment as chief justice of

¹⁰ MTL, S128, J. Willcocks to Richard Willcocks, 27 March 1803.

¹¹ NAC, MG23, H 1 2, microfilm, reel M-747, J. Willcocks to Peter Russell, 24 March 1805.

¹² Ibid.

¹³ MTL, S128, J. Willcocks to Richard Willcocks, 1 May 1806.

Lower Canada in 1805 brought an end to Willcocks' position on "the Strongest side".¹⁴ Yet Willcocks himself still felt quite satisfied in 1806; "...my Valuable Friend Mr. Allcock late Chief Justice...who procured me the appointments is removed to the Chief Justiceship of Quebec which grieves me very much... however I must confess that I never felt more at ease in my life than I do now even in my present situation..."¹⁵ He said that "Mr. Thorpe one of our Judges is now my most particular friend since Mr. Allcock left us."¹⁶ And it was this time that he confessed that "I have the good fortune to be always at the strongest side", though the officers of government disagreed very much.¹⁷ Appointed clerk of assize for the Western District by Thorpe,¹⁸ Willcocks seemed to take advantage of his Irish connections during his first six years in Upper Canada.

Willcocks commented briefly on the situation in the assembly in a letter dated January 27, 1801. After claiming that he had no intercourse with the republican party, he mentioned the business in the assembly; "Our parliament will not meet until June. Govt. are in the minority. Last Session the[y] passed an Act appointing all the English Statutes to be in force in this Province..."¹⁹

Since the journal of the Assembly in 1800 is not available, we can not

¹⁴ Jones, p.855.

¹⁵ MTL, S128, J. Willcocks to Richard Willcocks, 1 May 1806.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ NAC, Upper Canada Sundries, RG5, A1, vol.5, pt.2, p.1948, microfilm, C-4503, Willcocks to Alexander Grant, 21 July 1806.

¹⁹ MTL, S128, J. Willcocks to Richard Willcocks, 27 Jan. 1801.

know who brought in or spoke in favour of the act which Willcocks mentioned. One M.H.A. who may have supported it was David McGregor Rogers.

ii. David McGregor Rogers

David McGregor Rogers was certainly an important figure in the Bay of Quinte area, though he never received the respect from the Upper Canadian authorities that he expected as a son of James Rogers, commandant of the King's Rangers, and as a nephew of Robert Rogers who led a company of scouts, known as Rogers' Rangers, during the Seven Years' War.²⁰ Nevertheless, the fact that Rogers became an M.H.A. in 1796 and served as a member until his death in 1824 (excluding the Seventh Parliament, 1816-1820), indicates that he was a popular politician in the Bay of Quinte area.

The Second Parliament, opened on June 1, 1797, in which Rogers was a newly elected member, was, as was the First Parliament, dominated by Loyalists in general and Loyalist half-pay officers in particular. Yet, as Professor J. K. Johnson has pointed out, during the Second Parliament period there were indications of a subtle change. In a by-election in 1799 the Attorney General, John White, was defeated in the riding of Addington and Ontario by "an illiterate young man of their own level & neighborhood."²¹

²⁰ Despite his father and uncle's contributions during the Seven Years' War and the American Revolution the land grants he petitioned for were refused. See NAC, Upper Canada Land Petitions, RG1, L3, petition R3/17, p.423, microfilm, reel C-2740, petition of D. M. G. Rogers, 1797. *Ibid.*, R4/50, p.424, microfilm, reel C-2741, petition of Rogers, 2 June 1798. The reason given for the refusals centred on the fact that Robert Rogers never had settled in the province, his heirs, therefore, were not entitled to claim. See NAC, Upper Canada Land Books, RG1, L1, vol.21, p.213, microfilm, C-101, 1 Sept. 1797, vol.22, p.123, microfilm, C-101, 8 June 1798.

²¹ E. A. Cruikshank and A.F. Hunter, The Correspondence of the Honourable Peter Russell (Toronto, 1936), vol. III, p.217.

This young man was William Fairfield, a second generation Loyalist.²² The Upper Canadian electors decided to choose a candidate who would represent their opinions, not the government's. This indicates that they began to question and challenge the Upper Canadian authorities by the end of the eighteenth century.

The fact that Rogers was elected in 1796 may also have reflected this new tendency. He became an M.H.A. in spite of the anticipation of slander. Moreover he seemed to be an unwelcome member from the point of view of the Upper Canadian government.

In 1795, Rogers wrote to his brother James, on the possibility of being an M.H.A. the following year. After mentioning the situation of the Assembly at that time he said:

"I expected to be nominated for this Riding of Prince Edward. I hardly know whether to accept or refuse the offer. One thing I am resolved not to be sat up unless I am pretty sure of a Majority."

As James went back to Vermont some time after the American Revolution, David's situation seemed to be a little delicate. In the postscript of the same letter he wrote:

"Hagerman says you are a Republican and a[sic.] enemy[sic.] to government. Perhaps as you will not set up in opposition to him this time for the Assembly he will leave you to transfer some of his remarks to me who care as little for his remarks as for his person."

It is unknown whether Hagerman²⁵ slandered Rogers as disloyal or not. Yet

²² Johnson, p.194.

²³ OA, Rogers Family Papers, MS522, microfilm, reel MS522-1, D.M.G. Rogers to James Rogers, 29 July 1795.

²⁴ Ibid.

²⁵ Probably Nicholas Hagerman, U.E., one of Upper Canada's first lawyers.

it seems that if such a slander occurred, the majority of the electorate did not take it seriously. Therefore Rogers was elected and began his political career.

Throughout his career, Rogers' uncompromising concerns were for proper procedure, correct form, and the rights and prerogatives of the House of Assembly. His earlier years as an M.H.A. already demonstrated these characteristics.

Moreover, Rogers did not support anything that might extend the aristocratic tendency in the province. In 1798, he was one of four members who opposed Christopher Robinson's bill that would have allowed immigrants to bring their slaves into Upper Canada.²⁶

Moreover, from his early years as an M.H.A., Rogers was active in attempting both to remedy the reimbursement procedures for M.H.A. expenses and to better define M.H.A. qualifications. In 1793 Upper Canada enacted statutes to pay members a per diem "wage" for attendance at sittings of the Assembly. Yet they put the onus of paying members on the various constituencies. Because of the inconvenience caused by this method of payment, the statutes were amended at various times before the union of the two Canadas in 1840.²⁷ Rogers was one of those who launched an early attempt to amend the reimbursement procedures.

At the Assembly on June 8, 1798, Rogers brought in a "Bill to remedy the inconveniences arising from the present method of levying supplies to defray the expenses of members of the House of Assembly".²⁸ Then Rogers, with

²⁶ OA, Sixth Report, 1909 (Toronto, 1911), pp.70-71.

²⁷ N. Ward, The Canadian House of Commons (Toronto, 1950), pp.98-99.

²⁸ OA, Sixth Report, p.58.

the support of Richard Beasley, moved for consideration of the bill and on June 11 it passed the Assembly. In addition, Rogers was ordered, with Solicitor General Robert Isaac Dey Gray, to set up a committee to carry the bill to the Legislative Council and request their concurrence.²⁹ It is interesting to note Rogers' reaction when amendments were made in the Legislative Council. On Rogers' motion, the Assembly resolved that it did not concur with the amendments. Moreover, the Assembly ordered that Rogers and Samuel Street form a committee to inform the Legislative Council that "this House has not concurred in the Amendments of the Legislative Council in the said Bill."³⁰ Although there is no clear evidence to demonstrate why Rogers opposed these amendments, it is safe to say that he favoured some easier and better system for the reimbursement of members' expenses. Furthermore it seems that Rogers opposed the amendments because they reflected the elitist view of the Legislative Council.

Richard Cartwright, who was also a Loyalist and a member of the Legislative Council, left important documents describing the political situation in early Upper Canada. Cartwright, a typical Loyalist who gave his full loyalty to the king and the British constitution, described his opinion in an 1808 letter to James McGill: "the best way of supporting our own consequence and privileges is certainly not to encroach on the privileges of the Assembly."³¹

In the same letter, he explained what happened during the session of 1800. Since no journal of the Assembly survived for that year, Cartwright's

²⁹ Ibid., p.61.

³⁰ Ibid., p.71.

³¹ C. E. Cartwright, ed., Life and Letters of the late Hon. Richard Cartwright (Toronto, 1876), p.92.

letter provides important information on the Assembly. According to Cartwright, "[t]he Council and the Assembly have parted on very ill terms with each other"³² because of a bill for the appropriations, specifying the salaries of the officers of the two Houses, etc. The Assembly brought up this bill following the example in Lower Canada. In Lower Canada, although the fund was raised by the Legislature in general, the appropriations were voted upon annually by the House of Assembly, and paid in consequence of an address from them to the Governor to issue his warrants." For Cartwright, the attempt by the assembly to exercise the right of the legislative Council to control the expenditures of the Assembly was neither necessary nor proper.³⁴ He noted that "[o]n receiving back the Bill with our amendments, the Commons were all in a flame, and voted that their proceedings relative to it should be expunged from their journals..."³⁵ He even stated that "I must say that I think our House were the aggressors"³⁶ and strongly declared his intent to protect the privileges of the Legislative Council.

Cartwright did not name the "aggressors" in 1800 and as well, he did not mention Rogers' activities in 1798. Yet it is safe to say that Rogers was one of the active members supporting the bill of 1800. In 1801, Cartwright did not fail to pay attention to Rogers.

Regarding the Assembly debate in 1801, Cartwright described some attempts to put forward a bill for a more equal representation in the House of

³² Ibid., p.91.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid., p.92.

Assembly and for a better definition of the qualifications of electors.³⁷ Here, Rogers demonstrated his support for a more democratic way to choose members of the Assembly, though Cartwright believed these attempts to introduce a more democratic electoral system were inefficient. In Rogers' case, he moved that consideration of the bill for a more equal representation be removed from the Assembly to a committee. However, the committee suggested that further consideration be postponed for three months. Although Rogers moved that the House did not concur with the report of the committee, only Beasley, Ralfe Clench and Isaac Swayze agreed with him.³⁸

Then, Rogers brought in a bill for a better system of wage payment for members of the Assembly and this bill passed within two days.³⁹ But when the bill was brought up for concurrence by the Legislative Council, Cartwright himself moved that the bill be read a second time, three months later, and it was so ordered.⁴⁰ Cartwright wrote:

"The measure that was first passed in that House was for paying the wages of the members of the Assembly out of the Provincial fund; and because that Bill was rejected by the Council, they were so highly offended that some of the most violent had nearly prevailed upon the majority of the House to do no more business."

Although he did not mention names, Rogers was certainly included among "some of the most violent".

Robert L. Fraser has pointed out the importance of Rogers' clash in May 1801 with Justice Allcock over the crown's right to dismiss at pleasure an

³⁷ OA, Sixth Report, p.182. Cartwright, p.118.

³⁸ OA, op. cit., p.185.

³⁹ Ibid., pp.194-198.

⁴⁰ OA, Seventh Report, 1910 (Toronto, 1911), pp.129-130.

⁴¹ Cartwright, p.119.

official holding office by patent.⁴² Later Rogers would repeat this opinion for himself when Lieutenant Gore deprived him of his offices in 1808. And if Willcocks, who would also lose his shrievalty, had known what Rogers said, he would have been willing to agree with Rogers. It seems that Rogers vehemently criticized the Upper Canadian authorities from his earliest days as an M.H.A., even though he was not so outspoken a critic as later oppositionists Robert Thorpe and Willcocks.

In October 1801, Rogers was appointed a major in the militia in the County of Northumberland.⁴³ In addition, he received appointments as clerk of the peace, register of the Surrogate Court, and clerk of the District Court each in the District of Newcastle.⁴⁴ He must have been very satisfied in 1804 when he was granted an additional 400 acres of land.⁴⁵ After the session of 1801 until 1807, Rogers did not act in a way to raise, at least, Cartwright's ire.

iii. Thomas Dorland and Peter Howard

Thomas Dorland and Peter Howard were also from families with Loyalist backgrounds, and became members of the Assembly in the Fourth Parliament (1804-1808). Although Dorland's family were Dutch Quakers, he broke with their non-violent doctrines and took up arms in the American Revolutionary War. He came to Upper Canada with Peter Van Alstine's company in June,

⁴² Fraser, "Rogers," p.656.

⁴³ OA, MS522, microfilm, reel MS522-1, Commission, 5 Oct. 1801.

⁴⁴ Ibid., Commissions, 20 July 1802.

⁴⁵ Ibid., Grant to Rogers, 17 March 1804.

1784.⁴⁶ and was elected in 1804 for the riding of Lennox and Addington.⁴⁷

Peter Howard was a son of the Loyalist, Captain Matthew Howard. After the revolutionary war, his family settled in Elizabethtown Township. He was granted land as a son of a Loyalist. However, in 1802 his name had been removed from the United Empire Loyalist list as a result of Lieutenant Governor Peter Hunter's administrative reforms aimed at reducing the numbers eligible for free land grants.⁴⁸ Howard's reaction is unknown, but Loyalists generally were outraged at what seemed to be a violation of the king's intention.⁴⁹ This might have influenced Howard's egalitarian attitude and class consciousness in his later years, as illustrated in the 1808 District School Act dispute which will be discussed in Chapter Two.

Howard was elected as a representative for the County of Leeds in 1804, succeeding William Buell. According to poll records, he received support from important community leaders such as Joel Stone and Levius Peter Sherwood, and won the election against a Loyalist officer, Colonel James Breckenridge.⁵⁰ Howard strongly supported the removal of the district's court-house and jail to the Township of Elizabethtown. This perhaps helped him to win since L. P. Sherwood, his brother Samuel Sherwood, William Buell and Charles Jones

⁴⁶ Fraser, "Dorland," p.214.

⁴⁷ Dorland's brother, Philip, was elected to the First Parliament, but refused to take the requisite oath because he was a Quaker. Instead of him, Van Alstine sat in the First Parliament. Thomas, unlike his brother, did not refuse to take the oath. See F. H. Armstrong, Handbook of Upper Canadian Chronology (revised ed., Toronto and London, 1985), pp.75, 77.

⁴⁸ Fraser, "Howard".

⁴⁹ Ibid.

⁵⁰ NAC, Charles Jones Papers, MG24, B7, Election Papers, p.275, List of the Poll and Candidates for the County of Leeds, 21 June 1804.

also wanted to change the ~~site~~ of the court-house and jail."

iv. Benajah Mallory

Benajah Mallory became an M.H.A. in 1804. He was a post-Loyalist American and settled in Burford Township with his father-in-law, Abraham Dayton and Dayton's associates. After the death of Dayton in 1797, Mallory assumed the leadership of the small community of 21 settlers and went to "much Expense towards opening and settling" the township. By 1798 he was a leader with both ambition and ability."

Surveyor General David William Smith had a dominant influence in the District of London. During the reorganization of the militia, he successfully recommended Mallory for the captaincy of a local company in 1798. Yet Mallory's immediate interest was in land speculation, particularly within Burford Township. His claim to a lease of lands owned by the Six Nations occasioned a complaint to Smith by Joseph Brant early in 1798." In 1803, Lord Serkirk described Mallory as possessing a "good frame house" and "a large stock of Cattle---50 head or more."

In May, 1802, Samuel Ryerse, taking Smith's advice, recommended that Mallory be made a magistrate for the District of London." Yet, by Novem-

⁵¹ G. H. Patterson, "Studies in Elections and Public Opinion in Upper Canada," (Ph. D. thesis, 1969), p.132.

⁵² Fraser, "Mallory," p.606.

⁵³ Ibid.

⁵⁴ Ibid., p.607.

⁵⁵ NAC, RG5, A1, vol.2, p.846, microfilm, C-4502, Samuel Ryerse to James Green, 27 Nov. 1802.

ber, Ryerse was hearing stories which reflected adversely upon his nominee's character. According to Ryerse's letter to James Green, Mallory, on one occasion, demanded ten dollars before he would reveal the name of a thief.⁵⁶ Moreover, in another case, it was alleged that Mallory had even arranged a robbery; when his creditor, the robber's victim, stayed at Mallory's place, the note he had against Mallory and several other papers were missing.⁵⁷

About the same time Ryerse wrote to York to cancel his earlier recommendation, Mallory's hopes for the post of Deputy Lieutenant of the County of Oxford also dimmed due to a reluctance on Colonel Claus' part to recommend Mallory.⁵⁸ Mallory had been the political friend and client of D.W. Smith, as Thomas Welch and Ryerse were the same in Norfolk.⁵⁹ But, even before Smith's retirement in 1804, Mallory had found advancement within the militia and his appointment as a magistrate being blocked. This may have encouraged Mallory to turn his attention to politics.

Before the election of 1804, Smith retired permanently to England and his position in the Assembly became vacant. In the light of Ryerse's accusation, Mallory might not have seemed an appropriate choice for an M.H.A. However, he received strong support from the Methodist community. As well his career as a militia officer gained him more support and in the election of 1804 he defeated Ryerse 166 to 77.⁶⁰

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Patterson, p.12.

⁵⁹ Ibid., p.11.

⁶⁰ MTL. S.P. Jarvis Papers, Election Papers, unsigned letter to S.P. Jarvis, 19 June 1804.

In January 1805, Thomas Welch explained to Peter Russell that the "Methodist Faction" had

"...joined themselves with another description of Man, the most Seditious and abandoned Characters [who] have been Several Weeks past, with unremitting Malice and fury, Stirring up the People to petition Government to Remove the District Judge and Sheriff, alleging divers complaints against those two officers, which they say they will prove, and I have not a doubt, but if that united party are Suffered to come forward...they will swear enough to ruin them."

It appears that the Coroner, the Sheriff and a Magistrate had sworn to certain seditious utterances made by Mallory during the recent election.

Although other "respectable" people would have sworn to the same thing, "Mallory's party"--the Methodists--claimed that they can bring forward "two hundred persons who would...Swear that Mr. Mallory did not utter such words."⁶² Thus, the Methodists strongly backed Mallory.

However, the Methodist's strong support caused trouble for Mallory. In 1806, Ryerse petitioned against Mallory charging him with being a Methodist exhorter or lay preacher. Ryerse stated that Mallory had been "illegally and unduly returned," being "a preacher and teacher of the Religious Society or Sect called Methodists."⁶³ In 1807, however, the charge was dismissed by the Assembly due to lack of evidence since Ryerse had been unable to marshal his witnesses in York.⁶⁴

⁶¹ NAC, MG23, H I 2, microfilm, reel M-747, T. Welch to P. Russell, 31-Jan. 1805.

⁶² Ibid.

⁶³ OA, Eighth Report, 1911 (Toronto, 1912), p.84. Clergy were excluded from the Assembly under clause XXI of the Constitutional Act.

⁶⁴ Ibid., pp.123-124.

III. Irish oppositionists and other members in the Fourth Parliament

During the Fourth Parliament, there were several oppositionists. The Lieutenant Governor and the Upper Canadian government were very worried about the turmoil caused by Irishmen, led by William Weekes and Robert Thorpe.

William Weekes, an Irishman, arrived in Upper Canada about 1801 via New York. There, he was reputed to have served for a time in Aaron Burr's law office.⁶⁵ After being admitted to practise as an attorney, Weekes won a by-election in 1805 and became an M.H.A. He took his seat on February 27, and the following day he gave notice of a motion to consider "the disquietude which prevails in this province by reason of the administration of Public Affairs." When the question was put on March 1, it was defeated by a vote of ten to four.⁶⁶ Rogers seconded this motion and it was supported by Mallory and Ebenezer Washburn.

Rogers himself again demonstrated his concern for the rights of the Assembly in the 1805 session. He had supported a bill entitled "an Act to regulate the trial of Controverted Elections, or return of members to serve in the Parliament".⁶⁷ When the Legislative Council returned down that bill with their amendments, Rogers argued that these amendments be reconsidered by the Assembly. Despite Rogers' protest, in the end those amendments were read as engrossed and passed by the Assembly.⁶⁸ He also brought in a bill for more equal representation in the Assembly and for a better definition of

⁶⁵ Craig, Upper Canada, p.59.

⁶⁶ OA, Eighth Report, pp.47-48.

⁶⁷ Ibid., pp.14-15.

⁶⁸ Ibid., pp.19-20.

elector qualifications.⁶⁹

In the second session of the Fourth Parliament, Rogers worked more closely with Weekes than with Dorland, Mallory and Howard due to the similarity of their concerns. They worked together for a bill to better define elector qualifications and a bill to provide for schools in Upper Canada. As Rogers showed, and would continue to show, his strong interest in the former bill, it was natural that he often supported Weekes.

The others also supported Weekes, but more passively. Dorland supported the bill for equal representation in the Assembly and a bill for a better definition of qualifications of electors along with Weekes and Rogers in 1806.⁷⁰ Yet he was more active in support of a bill "for removing doubts respecting the affirmation of the people called Quakers".⁷¹ In addition, he supported a bill with Howard to revise an act passed in 1803, relative to assessments and rates.⁷²

Howard had worked closely with Washburn until the last session of the Fourth Parliament in 1808. Howard seconded Washburn's District School Bill in 1805.⁷³ In 1806 Howard, one of the province's earliest medical doctors, again seconded Washburn's proposal to form a board to regulate medical practitioners in the Province.⁷⁴ In the same year he introduced and supported the petition headed by William Buell to move the Johnstown District

⁶⁹ Ibid., p.38.

⁷⁰ Ibid., p.63.

⁷¹ Ibid., p.64.

⁷² Ibid.

⁷³ Ibid., p.34.

⁷⁴ Ibid., p.80.

jail and court-house to the Township of Elizabethtown.⁷⁵ Moreover, with Samuel Sherwood, the representative for the neighboring County of Grenville, Howard pressed the government for proper surveys of the back townships of the County of Leeds.⁷⁶

For Mallory, the most important issue during the Fourth Parliament was Ryerse's charge against him as a Methodist preacher and teacher. In 1806 Mallory brought up a petition for the relief of Methodists in their want of full enjoyment of civil and religious rights.⁷⁷ He also brought up a bill with Howard to give relief to Methodists.⁷⁸ Otherwise, his activities in the Assembly were quite limited.

Another oppositionist, Robert Thorpe was also not effective in securing the support of other assemblymen. He was even less successful than Weekes. Thorpe came to Upper Canada from Ireland as a new puisne judge of the Court of King's Bench in 1805. Soon Thorpe began to oppose the administration with Weekes, Charles Burton Wyatt, the Surveyor General, William and Joseph Willcocks, William Jarvis and John Mills Jackson, author of A View of the Political Situation of the Province of Upper Canada, in North America... (1809). Thorpe became an M.H.A. succeeding Weekes, after the latter was killed in a duel on October 10, 1806.

Thorpe was obliged to leave Upper Canada at the end of 1807 and it was in 1808 that Joseph Willcocks was elected to the Assembly. Therefore the

⁷⁵ Ibid., pp.65-66.

⁷⁶ NAC, RG5, A1, vol.7, p.2830, microfilm, reel C-4504, Chewett and Ridout to William Halton, 6 Jan. 1808.

⁷⁷ OA, Eighth Report, p.63.

⁷⁸ Ibid., p.64.

two never sat in the Assembly at the same time. Thorpe's influence in 1807 reached a peak through his activities in the Assembly and with the first anti-government newspaper in Upper Canada, the Upper Canada Guardian; or, Freeman's Journal that Joseph Willcocks founded in 1807.

During the third session of the Fourth Parliament, Rogers, Howard, Dorland and Mallory did not give positive support to Thorpe. However, Rogers, with Thorpe, John Chrysler and Solomon Hill, opposed the passage of the School Act.⁷⁹ The School Act of 1807 established grammar schools and was the first important step toward an Upper Canadian educational system. As already discussed, Rogers was active for the passage of a bill entitled "an Act for the more general dissemination for learning throughout the Province" with Weekes and Hill.⁸⁰ Although the bill passed the Assembly and was carried up to the Legislative Council, the legislature was prorogued before the Council was ready to vote on it. As Rogers attempted consistently to amend the School Act of 1807 in later sessions, it is safe to say that he opposed it because it did not offer wide educational opportunities to the people as a whole.

Among Thorpe's activities in the Assembly, his espousal of the claims of Loyalist and military claimants was welcomed by some members who were mainly Loyalists. Ralfe Clench, Hill, Washburn, Dorland, Rogers and John McGregor (though not a Loyalist) supported Thorpe's resolution to discuss those claims. Although it was defeated by two votes, this appeal garnered the most support among Thorpe's usually unpopular motions.

Yet on March 7, 1807, most of the members in the Assembly clearly denied

⁷⁹ Ibid., p.165.

⁸⁰ Ibid., pp.85-89.

support to Thorpe. On February 28, 1806, a committee of the Assembly for the consideration of the Provincial Public Accounts resolved that a sum of money--617 pounds 13 shillings 7 pence--applied for by the late Lieutenant-Governor Peter Hunter, had been paid out of the provincial treasury "without the authority of Parliament, or a vote of this House". They also resolved that the rights and privileges of the Assembly had been violated by this action.⁸¹ Weekes and D'Arcy Boulton were ordered to form a committee to prepare an address to President Alexander Grant on the resolutions of the House with regard to the public accounts.⁸² At that time, it seemed that the House concurred thinking of it as a violation of their rights and privileges. When the issue was reintroduced by Sherwood in the assembly in 1807, only Thorpe and Washburn opposed Sherwood's motion to drop the matter.⁸³

As Gerald M. Craig wrote, "[d]uring that session he[Thorpe] attempted to form and lead an opposition party, but with indifferent success. On some important questions he stood alone, or almost alone."⁸⁴ The movements Weekes and Thorpe led were supported by their Irish fellows and a few others. Yet they were not able to win support within the Assembly. One of the reasons why Thorpe could not efficiently form "an opposition party" within the Assembly may have been that his supporters were not members of the Assembly. And because Thorpe was an office-holder who was appointed by the British government, the North American born may not have welcomed him as an oppositionist leader. Some of them complained that the government

⁸¹ Ibid., p.101.

⁸² Ibid., p.105.

⁸³ Ibid., pp.174-175.

⁸⁴ Craig, Upper Canada, p.62.

appointed British rather than North American born people to the important offices.⁸⁵

After Thorpe left Upper Canada, Lieutenant Governor Francis Gore reported that "the ferment which has been excited in the Public mind, by what is called Mr. Thorpe's Party, appears to be gradually Subsiding."⁸⁶ Cartwright recognized that:

"The removal of Mr. Thorpe has unquestionably relieved the Government of the Province from an active and indefatigable instrument of mischief; yet...this view of the subject[his appointment at Sierra Leone as an proof of the approbation of his conduct by British Ministers] is industriously obtruded upon the public, through the press of Mr. Wilcox, his bosom friend and most zealous partizan."

Yet Cartwright was wise enough to recognize that "[t]he effects of his residence in this Province, however, will long be felt."⁸⁸

IV. Conclusion

In the early nineteenth century, an Irish-centred oppositionist group attacked the Upper Canadian government. Two of the members, Weekes and Thorpe, were elected to the Assembly as well as Willcocks in the later years. However, they were not usually successful in securing support from other members. Some of the M.H.A.s, like Rogers, gave temporary support dependent upon their own concerns. In the end, however, Weekes and Thorpe never

⁸⁵ OA, MS522, microfilm, MS522-1, Memoranda on the School Bill, 5 March 1808.

⁸⁶ NAC, MG11, CO42, Q311, p.32, microfilm, reel C-10760, Gore to Lord Castlereagh, 20 March 1808.

⁸⁷ Cartwright, p.135.

⁸⁸ Ibid.

succeeded in forming an opposition group within the Assembly.

Among some members who would be oppositionists during the Fifth Parliament, only Rogers had already begun to show his oppositionist tendency in the previous Parliaments. This situation would change through the District School Act dispute of the 1808 session---which was related to amending the 1807 Grammar School Act---and its consequences.

CHAPTER TWO: "THEY WALKED OUT OF THE HOUSE AND CAME BACK NO MORE"; TOWARD FORMING AN OPPOSITION GROUP

"When the [school] bill was ordered for the third reading, three of the members, Rogers, Dorland and Howard who were opposed to it walked out of the House and came back no more and thus put an end not only to this, but all other public business."¹ [Richard Cartwright]

I. Introduction

During the last session of the Fourth Parliament, two incidents occurred which led to the formation of an opposition group in the next Parliament. The first one, Willcocks' imprisonment, has been mentioned by historians as an extraordinary episode. Yet the second one, the School Act dispute which resulted in the withdrawal of Rogers, Dorland and Howard, and their removal from office, had more significance. Because, this incident, "one of the most dramatic parliamentary moments in Upper Canada before the War of 1812",² clearly demonstrates that Assembly members used collective power. Their retirement did not stop the passage of the 1808 School Act which would lengthen the mandate of the 1807 Grammar School Act. Yet, it had a more longlasting effect for it was an important step in the formation of an opposition group in the subsequent Parliament.

On the other hand, Willcocks' imprisonment would mark an end to the Irish-centred opposition. Willcocks received support from several members, such as Rogers, but his behaviour was, in a sense, too contentious for his supporters to oppose his imprisonment. However, his imprisonment would also

¹ OA, Cartwright Papers, MU500, Letterbook, p.289, Cartwright to Strachan, 15 March 1808.

² Fraser, "Howard".

and Cowan and the Solicitor General moved to set the date of Willcocks' trial.²⁵ Then Willcocks himself moved, seconded by Rogers, that he be permitted to remain during his trial in order to question the witnesses as necessary.²⁶

Willcocks' trial was held in the Assembly on February 20, 1808.²⁷ Glennon and Willmott presented evidence against Willcocks. After Willcocks' testimony, Cowan and Sherwood moved to resolve that Willcocks was guilty of the charge against him.²⁸ Rogers had supported Willcocks' motion before the trial. However, he did not oppose the overwhelming conclusion of the members to imprison Willcocks. Willcocks was sent to the jail of the Home District until the end of the session.

During Willcocks' imprisonment, it seems that his newspaper was still in operation. The Upper Canada Guardian, dated February 26, reported the poor treatment of Willcocks in the jail:

"We are informed by a gentleman who visited Mr. Willcocks after his committal that he was closely confined in one of the cells, which was not fit for a pig."

The article assumed that one reason for Willcocks' imprisonment was because some members wanted to pass certain bills which Willcocks opposed.

"[Willcocks] had also given notice [on February 19] that he would

²⁵ Ibid.

²⁶ Ibid. See Craig, Upper Canada, p.63. Craig has stated that Willcocks was imprisoned because of his newspaper; not because of his comments with respect to the Assembly's decision not to prosecute him.

²⁷ In Riddell's "Willcocks," the date of the trial is given incorrectly as February 11, 1808. See Riddell, p.482. See also OA, Eighth Report, p.228.

²⁸ OA, Eighth Report, p.228.

²⁹ OA, n.d. Miscellaneous Collection #54, MU2095, Box 1, Memorandum re Willcocks, undated extract from Upper Canada Guardian, 26 Feb. 1808.,

his office because he supported the Rights of the People." But above all, Gore's termination of Willcocks was decided by the latter's expressed admiration for a republican form of government. Willcocks' attempt to appeal his dismissal to Windham was unsuccessful. Therefore he had to find a new livelihood. It is important to note that his loss of the shrievalty was not just the loss of employment. Now Willcocks was officially excluded from what he called the "first Circle"---the powerful élite---of Upper Canadian society.

Willcocks' new employment was as a newspaper publisher for Thorpe, who was still in the province. After purchasing all the necessary equipment in New York, Willcocks published the first issue of the Upper Canada Guardian; or, Freeman's Journal on July 24, 1807.⁶ The purpose of this paper would be to disseminate Thorpe's political views; Willcocks appears to have recognized this as he openly declared that the newspaper was under Thorpe's "protection and control".¹⁰

The newspaper would also prove to be a most potent weapon for Willcocks. In the Niagara peninsula where communication was extremely limited, Willcocks held a virtual monopoly on the press.¹¹ Except for the official

⁶ Ibid., p.130, Affidavit of Joseph Cheniquy, 12 Feb. 1807.

⁷ Ibid., p.132, Affidavit of John Richardson, 14 Feb. 1807.

⁸ Ibid., Q310, p.126, microfilm, reel C-10760, Willcocks to Windham, 1 April 1807.

⁹ Ibid., Q313, p.328, microfilm, reel C-10761, Willcocks to J. and D. Cozens, 24 July 1807.

¹⁰ Ibid., Q306, p.234, microfilm, reel C-10231, Powell to Gore, 13 Aug. 1807.

¹¹ B. Wilson, The Enterprises of Robert Hamilton, (Ottawa, 1983), p.160.

Upper Canada Gazette, the Upper Canada Guardian was the only newspaper in the province, and for most of the peninsula's settlers it was their only source of news and political opinion.¹²

Some historians have tended to emphasize the newspaper's radical side as evidence that Willcocks would defect to the Americans during the War of 1812.¹³ Yet Willcocks was using a rhetoric of loyalty and loyalism which was acceptable to local sentiment. For example in the Upper Canada Guardian of August 27 1807, Willcocks stated that true loyalty was:

"to be faithful to Your King, to guard his prerogatives, to support him in the preservation of his dominions, to protect inviolately the constitution of which he is head, and to obey and to uphold the law which he has sworn to administer and maintain, but surely it would not be Loyalty to assist a monarch to rendering himself absolute, who would overturn the Constitution, and subvert the Law?"

Given that he was elected as an M.H.A., it seems that he and his paper were widely accepted around the Niagara peninsula.

ii. Willcocks' activities as an M.H.A. and his imprisonment

It was on January 26, 1808, that Willcocks entered the House of Assembly as representative for both the West Riding of the County of York and the first Riding of the Counties of Lincoln and Haldimand.¹⁴

Willcocks' early activity in the 1808 Assembly was somewhat relative to his new occupation. It was a motion to resolve that every member should have

¹² Ibid.

¹³ Colquhoun, p.290, Riddell, "Willcocks," p.480-481.

¹⁴ NAC, MG11, CO42, Q313, pp.353-354, microfilm, reel C-10761, a file of Upper Canada Guardian, 27 Aug. 1807.

¹⁵ NAC, RG5, A1, vol.6, p.2335, microfilm, C-4504, Jarvis to Halton, 27 Jan. 1808.

access to the Journals, and be permitted to take extracts from them.¹⁶ Solicitor General D'Arcy Boulton strongly opposed this motion. He considered the first part "idle", because every member had an unquestionable right to see the Journals. With respect to the second part of the motion, he considered it:

"to be improper for the House to grant [rights to extract from the Journals]. He had understood that the gentleman[Willcocks] who made the motion was a Printer. He might make such extract as suit his own private purposes, and the journals would appear to the public in an imperfect state."

Willcocks replied that his intention was to print the Journals accurately and as completely as possible. When the vote was finished, the motion had been defeated ten to three. Only Mallory and Dorland supported Willcocks.

On January 29, 1808, the day following Willcocks' motion on access to the Journals and the right to extract from them, an article from the Upper Canada Guardian, dated October 1, 1807, was read in the Assembly. Captain David Cowan moved that a committee be formed to study the article which seemed to insult the members of the House. However, on the date of the consideration, Cowan stated that he was inclined to consider that "it would not be reasonable to subject [Willcocks] to a trial by the House; but rather to leave the matter to be decided by the laws of the country," since he was informed that the Attorney General was in process of prosecuting Willcocks over the matter.¹⁷ Therefore, Cowan postponed his original motion. Another member who desired to bring Willcocks to trial, Sherwood, was also satisfied with the postponement of Cowan's motion. He further hoped that

¹⁶ OA, Eighth Report, p.195.

¹⁷ Upper Canada Gazette, 26 Feb. 1808.

¹⁸ Ibid., 2 March 1808.

the matter would end there for "[t]he House was not much in the habit of acting in a judicial capacity, and they should beware of being influenced by resentment."¹⁹

Nevertheless, on February 18, Cowan informed the House of Willcocks' comments which had derogated "the honor and integrity of this Hon. House".²⁰ Perhaps the postponement of Cowan's earlier motion was seen as a great concession by Sherwood and Cowan. For Willcocks it represented an lost opportunity to address the Assembly on the matter:

"[Willcocks] was sorry they did not continue it; it would have given him an opportunity of proving they had been bribed by Governor Hunter; and that he had a Member of the House ready to come forward and give testimony to that effect."²¹

Willcocks is reported to have expressed these regrets in the presence of Titus Simons, Samuel S. Willmott, Surveyor of Lands, and Dr. James Glennon, physician in York.²²

By the motion of Sherwood and Clench, the House resolved into a committee of the whole to consider Cowan's allegation.²³ The committee of privilege, chaired by Isaac Swayze, resolved that the expressions that Willcocks appeared to use were "false, slanderous and highly derogatory to the dignity of this House."²⁴ The committee also resolved to bring Willcocks to trial. Accordingly, the House concurred with the committee's resolutions

¹⁹ Ibid.

²⁰ OA, Eighth Report, p.225.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

and Cowan and the Solicitor General moved to set the date of Willcocks' trial.²⁵ Then Willcocks himself moved, seconded by Rogers, that he be permitted to remain during his trial in order to question the witnesses as necessary.²⁶

Willcocks' trial was held in the Assembly on February 20, 1808.²⁷ Glennon and Willmott presented evidence against Willcocks. After Willcocks' testimony, Cowan and Sherwood moved to resolve that Willcocks was guilty of the charge against him.²⁸ Rogers had supported Willcocks' motion before the trial. However, he did not oppose the overwhelming conclusion of the members to imprison Willcocks. Willcocks was sent to the jail of the Home District until the end of the session.

During Willcocks' imprisonment, it seems that his newspaper was still in operation. The Upper Canada Guardian, dated February 26, reported the poor treatment of Willcocks in the jail:

"We are informed by a gentleman who visited Mr. Willcocks after his committal that he was closely confined in one of the cells, which was not fit for a pig."

The article assumed that one reason for Willcocks' imprisonment was because some members wanted to pass certain bills which Willcocks opposed.

"[Willcocks] had also given notice [on February 19] that he would

²⁵ Ibid.

²⁶ Ibid. See Craig, Upper Canada, p.63. Craig has stated that Willcocks was imprisoned because of his newspaper; not because of his comments with respect to the Assembly's decision not to prosecute him.

²⁷ In Riddell's "Willcocks," the date of the trial is given incorrectly as February 11, 1808. See Riddell, p.482. See also OA, Eighth Report, p.228.

²⁸ OA, Eighth Report, p.228.

²⁹ OA, n.d. Miscellaneous Collection #54, MU2095, Box 1, Memorandum re Willcocks, undated extract from Upper Canada Guardian, 26 Feb. 1808.

on [February 25] bring in a Bill to repeal the ever-to-be detested School Act but strange to tell, the day after he obtained leave to bring in the Bill he was sent to a dungeon in the gaol."

Rev. John Strachan commented on Willcocks' imprisonment in a letter to John Beverley Robinson:

"The imprisonment of Wilcox[sic.] does not surprise me, his conduct, and that of Mr. Thorpe's has been the most foolish imaginable. They seem to have had no other end in view---[but] to destroy the peace of the Province."

During this session of the Fourth Parliament, Willcocks might have simply appeared as any other individual who caused some troubles in the Assembly. Yet, it is interesting to note that Willcocks had been intending to amend the school act, because the debate on the school bill and its consequences would bring about a more cohesive group of opposition members in the Assembly whose influence would continue effectively through the next Parliament. Indeed, the argument relating to the Grammar School Act in 1807 and its consequences was the main issue of the fourth session of the Fourth Parliament.

III. The School Act dispute and its consequences

The School Act dispute contained two separate but interrelated issues. One is related to a local squabble over the school's location. The other was the much broader issue of whether the existing schools were generally useful to the people at large or not. Opinions were divided in all the districts over the last issue. The school act of 1807 provided for a grammar school in each district. However, it is well-known that the grammar schools gave education

¹⁰ Ibid.

¹¹ NAC, Sir John Beverley Robinson Papers, MG24, B9, pp.68-69, microfilm, reel M-203, Strachan to Robinson, 14 March 1808.

to the children of the élites and did not offer wider opportunity to the people as a whole. It seems that some members who considered the school act useful, reflected an élitist view. For them the grammar schools which offered education to the children of rich families were proper and adequate. Yet, other members such as Rogers, Dorland, Mallory and Howard considered that the schools should be more widely available to the public as a whole.

In addition, Rogers especially was angry because Sherwood bypassed normal parliamentary procedures to pass the school bill of 1808. Rogers considered parliamentary procedures significant in general. In this case, he also stated that Sherwood's motion to remove the limitation of the 1807 Grammar School Act would have a great influence upon the people at large. Therefore he strongly opposed Sherwood's disregard of parliamentary procedures in order to pass the bill.

Furthermore, the consequences of the dispute---the removal of Rogers, Howard and Dorland from their offices--- had a great influence upon their careers in the Assembly. Because of their removal and protest they moved more closely towards forming a joint oppositional force. This would be proven when Rogers and Howard, with Willcocks and Mallory, formed a united core amid the loosely grouped oppositionists in the next Parliament.

i. The process of the School Act dispute

On February 17, 1808, a petition from the trustees in the District of London³² was read in the Assembly. It appealed the inconvenience of the school's site, Townsend, decided upon by the 1807 Grammar School Act, and

³² The trustees were Samuel Ryerse, John Cottman, Joseph Ryerse and Thomas Welch.

asked that the act be amended so that the school would be opened in the village of Dover, in the Township of Woodhouse.³¹ Next a bill to change the school's site in the District of London was brought in the Assembly.³²

Moreover, Willcocks and Mallory moved for leave to bring in a bill to amend the 1807 Grammar School Act on February 19.³³ Until February 26 at least there were signs that the House was considering two school bills.³⁴ After February 27 it appears that only the London District School Bill was being discussed. A majority of members at first did not seem to be keen on debating the London District School Bill. On March 1, after the first reading of the bill, Mallory and Howard moved for the second reading to be held the following day. When the speaker put the question, it was defeated ten to three. Voting to support the motion were Mallory, Rogers and Howard.³⁵

Rogers left important, detailed memoranda on the School Act dispute which would come to a climax on March 5, 1808. He described Mallory's opinion of the London District School Bill. Mallory, a member from the District of London, stated that the inhabitants of the London District, in general, were

³¹ OA, Eighth Report, p.221.

³² There are some confusion as to who brought forward the bill. According to the Journals(OA, Eighth Report, p.222), Mallory and Howard moved for leave to bring in the bill. Yet in his memoranda(OA MS522, Memoranda, 5 March 1808), Rogers stated that the Solicitor General brought it forward instead. It is possible the Solicitor General brought it forward since Mallory had the opinion that Townsend was a proper place for the School.

³³ OA, Eighth Report, p.227.

³⁴ Ibid., p.237. Rogers and Sherwood moved for discharge of considering two school bills.

³⁵ Ibid., p.241.

much dissatisfied with the 1807 School Act.³⁸ And he also stated that he had a petition signed by a large number of the inhabitants concerning the public money paid by the public for the school.³⁹ Yet he had:

"no doubt but that the inhabitants of the Township of Townsend would send their children to School if they could do it as cheap as they could hire a Master without being paid by the public that the Township of Townsend was the most central and best inhabited and the intention of the Trustees was to get the School at their own doors."⁴⁰

Clench and another assemblyman⁴¹ opposed Mallory stating that many of the most respectable people from the London District agreed that Townsend was not the proper place for the school. Moreover they stated that the trustees were "respectable persons" and were not biased by private interests as Mallory charged.⁴² Clench clearly represented the élitist opinion that the school were for the children of the élites.

Rogers was in complete agreement with Mallory. In the petition of the trustees of the District of London, the Trustees claimed that although they appointed a school master, "neither School House nor Scholars could be procured in Townsend."⁴³ Therefore the trustees asked that the law which would situate the school in Townsend be amended. Rogers stated his opinion as follows:

³⁸ OA, MS522, microfilm, reel MS522-1, Memoranda on the District School Bill, 5 March 1808.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid. Because there are several missing parts in the memoranda, it is impossible to know who this person was.

⁴² Ibid.

⁴³ OA, Eighth Report, p.221.

"...from what information [Rogers] could get, the reason of no scholars being sent was that the trustees had made the terms of admission so high that people could not send their children and it might be done intentionally by the Trustees to force the legislature to alter the Law when the law was altered to suit the Trustee's [sic.] convenience they might lower the terms, from every information he thought that Townsend was the proper place, if there must be but one he was always of Opinion the law would not be generally liked or be useful to the Districts at large but could not conceive that the inhabitants of Townsend would not send their children if they could do it without incurring very heavy expenses."

Mallory and Rogers expressed their opposition to the 1807 Grammar Act, in general, and to the bill to change the school's location in the District of London, in particular. Rogers' opposition to the former was natural since he had opposed it in the previous session with a few other members.

Rogers' memoranda also gave detailed information of the discussion in the committee held on March 4. After the second reading of the London District School Bill, the House resolved itself into a committee to consider the bill, by motion of the Solicitor General and Cowan.⁴⁴ Dorland was the chairman of the committee. Discussion focussed on two points; one was whether the School Act was useful or not, the other was on parliamentary procedures.

In the committee, Sherwood moved to amend several clauses of the 1807 Grammar School Act relating to the problems of the London District. His third motion was to repeal the last clause which limited the mandate of the act to four years.⁴⁶ Sherwood said that "the Bill[the 1807 Grammar School act] had been passed [for] one year and it had been found very useful to the province and from experience that we had we ought to make the Bill perpe-

⁴⁴ OA, MS522, microfilm, reel MS522-1, Memoranda, 5 March 1808.

⁴⁵ OA, Eighth Report, p,245..

⁴⁶ OA, MU522, microfilm, reel MS522-1, Memoranda, 5 March 1808.

tual."⁴⁷ He also stated that the inhabitants of the Johnstown District where he lived, approved the act and the school had been of great benefit to the District.⁴⁸

Firstly, Rogers' attack on Sherwood's motion was from the point of view of parliamentary procedures. The London District School Bill was a private bill which was presented by a petition. Rogers argued that the house was then in committee to consider a private bill and they ought to strictly keep to the matter referred to them by the House.⁴⁹ He considered that Sherwood's third motion was unparliamentary and irregular, and:

"...it was establishing a precedent that would be attended...the worst consequences in a thin House [without] any notice to introduce a clause of such consequence to the Province in General the Rule of the House required a member intending to move any Question to give one day[']s notice he allowed the Rule might be done away by nine members voting to dispense with it but there was not that number even in the committee for the present Motion."

Thus Rogers expressed a strong inclination to keep within the parliamentary procedures.

Opposing Rogers, the Solicitor General stated that the motion was proper and since the School Act was found generally useful, according to him, it was proper to remove the limitation. Further he asserted that if some members who were absent were present, they would have voted for the motion.⁵¹

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid. The number of the members was reduced to thirteen because of the absence of three members, death of Wilkinson, "running away" of Thorpe and the imprisonment of Willcocks. See NAC, MG24, B7, p.5, Sherwood to Jones, 5 March 1808.

Rogers replied that, from his knowledge, the School Act was not popular.

He had heard:

"the opinion of a Great many persons from York to Kingston and Never found any person who did not condemn the School Bill as far as he was acquainted with the Opinion of the People in this Province. [They] thought the money improperly laid out that the Public school was not generally useful nor could it be by the present law, that [Rogers] was always of Opinion that where the public money was expended it should be done so that the public should generally benefit by it..."

The following may suggest Rogers' connection with Willcocks. After stating his opinion that the act was not popular in the District of the Prince Edward and Newcastle, Rogers mentioned that "he had been informed by a Member from Niagara that the country there [was] disappointed of the Bill and that it was not useful to them."⁵³

McLean and Washburn argued that the people of the District of Midland and Prince Edward were satisfied with the act. Yet again an opposing opinion was voiced. Dorland opposed the act for using public money for a school which was not widely useful to the inhabitants of the Midland District. He stressed that the people in the District were "universally against the payment of the public money in the manner that it was paid that the School was not useful to the District in general" and he was against removing the limitation.⁵⁴

Nonetheless, the committee carried the clause to remove the limitation of the London District School Bill. When Dorland, chairman of the committee

⁵² OA, MS522, microfilm, reel MS522-1, Memoranda, 5 March 1808.

⁵³ Ibid. However, opposing Rogers, Clench stated that the inhabitants of the District of Niagara were pleased with the act, and "after last session at a dinner [of the respectable people included the Grand Jury] the name of the Gentleman who brought in the Bill was asked for and his health drank."

⁵⁴ Ibid.

brought the report with amendments to the House, a vote was taken to receive the report. The result favoured the report eight to four: Yeas-- Solicitor General, Cowan, Sherwood, McLean, McGregor, Clench, Washburn and Crysler; Nays--Mallory, Howard, Dorland and Rogers. Accordingly the report was received and accepted.⁵⁵ By the motion of the Solicitor General and Sherwood, it was ordered that the school bill be engrossed and read a third time the following day.

On March 5, Rogers, chairman of the select committee appointed to consider public accounts, reported the state of the province's revenues. Then the school bill was called to be read a third time. Rogers, who considered parliamentary procedures significant, objected because the public accounts were first on the order of the day.⁵⁶

It was Sherwood who moved that the contingent accounts of both Houses of Parliament for the present session be first on the order of March 5.⁵⁷ However, Sherwood challenged Rogers stating that if the school bill was not first on the order they would soon make it first. Then Sherwood and the Solicitor General moved that the school bill be first on the order of the day.⁵⁸

Rogers again repeated his opinion that calling the school bill for third reading was contrary to all the rules of proceedings of the assembly, for this private bill contained a clause which should be taken into deliberation. The method introduced by Sherwood would prevent the House:

⁵⁵ Ibid. OA, Eighth Report, p.245.

⁵⁶ OA, MS522, microfilm, reel MS522-1, Memoranda, 5 March 1808.

⁵⁷ Ibid. OA, Eighth Report, p.246.

⁵⁸ OA, MS522, microfilm, reel MS522-1, Memoranda, 5 March 1808.

"acting with that deliberation which the subject required a Bill by the rules of the House must be read three times but by the present mode of proceeding they were deprived of all deliberation the clause of so much consequence to the Province could only be read once and eight hundred Pounds of the public money was to be annual paid by this law, which was brought in without any notice..."

He continued:

"...had the Bill to continue the School Bill been brought into the House in the usual manner and had the regular readings that it ought to have had; should have thought [t] it his duty, to oppose it but to remain in his seat..."⁶⁰

Rogers declared that if a majority of the House changed the order of the day previously decided, he should not remain in the House because "his remaining there was not for the public good."⁶¹ But no answer was made and the question for the third reading of the school bill was called. When the speaker put the question, Rogers, as he had declared, Dorland and Howard retired from their seats.⁶²

In Rogers' memoranda, both Rogers and Dorland had expressed their opposition to removing the limitation on the school act. Yet there was no sign in them that Howard would also leave the House with Rogers and Dorland. It seems that Howard's retirement gave quite a shock to Sherwood.

Sherwood resentfully wrote to Charles Jones on Howard's behaviour on the very same day, March 5. He said that "I flattered myself that the business of the Session would have terminated this day, but a singular transaction has taken place that regards your member of which I think it proper to inform

⁶⁰ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Ibid. OA, Eighth Report, p.248.

you."⁶³ Sherwood did not seem to expect the withdrawal of Howard. He stated as follows:

"The Johnstown Court House Bill has passed the Upper House, wholly by your influence; Notwithstanding Howard's eagerness for this measure which has occupied his mind for three years past, yet he could allow his perverse & obstinate disposition to govern him & lead him into an act the most violent & disorderly that can be, and which, for ought he knows may destroy the bill which he has so long supported."

Sherwood considered that if one of the three had remained or consented to return to the Assembly, the quorum of the House would have been enough. Therefore he sent for Howard "to my Quarters and endeavoured to convince him of his error but in vain."⁶⁴ He also stated that "I wish this matter to be painted in true colours to the People of Your County, without mentioning my name however..."⁶⁵

Their withdrawal was extraordinary in the history of the Assembly in Upper Canada before the ~~War of~~ 1812. It was the first time that some members used collective power. However, their retirement was not able to stop the passage of the bill. On March 8, Sherwood and Clench moved again for the third reading of it.⁶⁷ This time Robert Nelles who had been called and "on hearing of this extraordinary circumstance returned to his duty,"⁶⁸ did not fail to support the motion. The motion passed by the support of the

⁶³ NAC, MG24, B7, p.5, Sherwood to Jones, 5 March 1808.

⁶⁴ Ibid., p.6.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ OA, Eighth Report, p. 249.

⁶⁸ Upper Canada Gazette, 16 March 1808.

nine members, and only Mallory stood for the opposition.⁶⁹

ii. Consequences

Nonetheless, the withdrawal of Rogers, Dorland and Howard made a strong impact on the Upper Canadian authorities. The Lieutenant Governor decided to dismiss them from the offices they had held. After mentioning their retirement, the Upper Canada Gazette, reported as follows:

"the Lieutenant Governor has deprived Mr. Rogers of the Situations he held under the Crown, and issued new Commissions of the Peace for the Midland and Johnstown Districts in which the names of Messrs. Dorland and Howard are omitted."

The Lieutenant Governor did not expect perhaps the result. The dismissals would help to drive them together and to form an opposition group in the next Parliament.

Because of the limited primary sources, it is difficult to trace how Dorland reacted to his dismissal as a magistrate. Howard effectively used the School Act dispute for his election campaign. Rogers who seemed to be the most active in his opposition to the school act, was again most active in protesting his dismissal.

As already mentioned, Howard and Dorland were deprived of the magistracy, their only appointment under the crown. In addition, it was ordered that Rogers be stripped of all his posts. On March 18, 1808, Thomas Ward was appointed clerk of the peace, register of the Surrogate Court and register of the Counties for the District of Newcastle, and Elias Jones to be

⁶⁹ OA, Eighth Report, p.249.

⁷⁰ Upper Canada Gazette, 16 March 1808.

clerk of the District Court of the District of Newcastle.⁷¹

Rogers reacted against this in two ways. On the one hand, he did not deliver to Ward, Register of the Counties of Northumberland and Durham, all documents belonging to that office. This developed into the case the King versus Rogers. Also he wrote a statement of the services performed by himself, and his family. It was incomplete and there is no reference to show to whom he submitted it.

His reaction indicates several things. Firstly it clearly showed his criticism of the Upper Canadian government. For Rogers considered that his family had not been treated well enough by the Upper Canadian authorities despite the contributions made by his famous uncle Robert and his father during the French-Indian War and the American Revolution.

Moreover, Rogers strongly protested his dismissal because of its connection to his censured conduct in the Assembly. Rogers considered that he should lose his office only due to his incapacity or misconduct in office. Rogers was fired because of his withdrawal from the Assembly. But he believed that his conduct was to be faithful to his constituents, and the people in general, as an M.H.A. Therefore he concluded that his dismissal was inappropriate.

One of Rogers' grievances against the government was his belief that North Americans including himself were not well-treated by the Upper Canadian government. However, through his troubles with the Upper Canadian authorities, Rogers came strongly to believe that an M.H.A. was a representative of the people. He insisted that the conduct of Rogers, Howard and Dorland was for the sake of the people. His strong belief that

⁷¹ NAC, Governor General's Office, Civil Secretary's Letterbooks, RG7, G16C, vpl.4, p.136, microfilm, reel C-10788, Halton to Ward, Halton to Jones, 18 March 1808.

He had been working for the people also drove him to be more anti-government.

In the summer of 1808, Rogers received a letter written by William Halton, the Lieutenant Governor's Secretary, from Ward in the presence of James Fulton. The letter read:

Sir,

The Lieut. Governor having been pleased to appoint Mr. Thomas Ward Register of the Counties of Northumberland and Durham, you are hereby required to deliver to him, all Books, Papers and other Documents belonging to that office.

On August 26, Ward reported to Halton that "[I] have to inform you (although it is with much regret) that Mr. Rogers refuses giving up the papers and books belonging to my Office."⁷² As Rogers did not give up those documents, the Lieutenant Governor directed Halton to tell William Firth, Attorney General, to proceed with legal actions against Rogers in order to compel him to surrender the documents to Ward.⁷³ Gore also asked Firth's opinion about the legal mode to be pursued to compel Rogers to deliver the material.⁷⁴ The case began on the following day, November 18, 1808, and it was ordered that a writ of mandamus be issued on the motion of the Attorney General.⁷⁵

On July 3, 1809, Gore again asked Firth to pursue the necessary measures

⁷² Ibid., p.157, Halton to Rogers, 27 July 1808.

⁷³ NAC, RG5, A1, vol.8, p.3326, microfilm, reel C-4505, Ward to Halton, 26 Aug. 1808.

⁷⁴ NAC, RG7, G16C, vol.4, p.176, microfilm, reel C-10788, Halton to Firth, 1 Nov. 1808.

⁷⁵ Ibid., p.163, same to same, 13 Oct. 1808.

⁷⁶ OA, Termbook from the Court of King's Bench, RG22, Series 125, vol.2, p.110, 18 Nov. 1808.

to bring the trial to a conclusion. A week later, the Attorney General and Solicitor General argued "in support of the Mandamus D. M. Rogers in person against".⁷⁸ After considering it, the Court ordered that a peremptory mandamus should not be issued.⁷⁹ The Lieutenant Governor directed that the Attorney and Solicitor Generals "cause...the King versus David McGregor Rogers to [come to] a Speedy conclusion".⁸⁰

It was Judge William Dummer Powell who turned down the application of a mandamus. Powell who was also a Loyalist, accepted Rogers' contention that although his patent appointed him during pleasure, it was overruled by the provincial statute that had created his office terminable only because of the holder's incapacity or misconduct in office, for the office provided that it be filled a life appointment "during good behaviour".⁸¹

On October 6, 1809, Gore, a confused Lieutenant Governor, wrote to Lord Castlereagh asking the opinion of the British Attorney General and Solicitor General on Rogers' case.⁸² Their reply was in complete agreement with Powell. They considered that the Court acted legally in refusing a peremptory mandamus to Rogers to give up the documents in question to Ward. They also considered that Rogers' appointment was for life. Therefore

⁷⁷ NAC, RG5, A1, vol.10, p.4063, microfilm, reel C-4505, Halton to Firth, 3 July 1809.

⁷⁸ OA, RG22, Series 125, vol.2, p.142, 10 July 1809.

⁷⁹ Ibid., p.148, 15 July 1809.

⁸⁰ NAC, RG5, A1, vol.10, p.4108, microfilm, reel C-4505, Halton to Firth, 20 July 1809.

⁸¹ P. Romney, Mr. Attorney, (Toronto, 1986), p.45.

⁸² NAC, MG11, CO42, Q312, p.240, microfilm, C-10760, Gore to Castlereagh, 6 Oct. 1809.

they did not conceive that the Court should have directed by a mandamus to deliver the papers to an officer who was not appointed by a manner prescribed by law.⁸³

Rogers was fired as registrar of Durham County. However, he kept the job as the registrar of Northumberland County until his death.⁸⁴ It is easy to imagine that his behaviour caused irritation to Ward and Gore for quite a long time. Also a series of other events drove Rogers towards more the anti-government side.

In his statement, Rogers protested the termination of his offices by Gore. Firstly, he stressed the contributions of his father James and uncle Robert during the French-Indian War and the American Revolution. By using the same method in his land petitions, David asserted the services of the Rogers family to the king. "...[T]here is few Americans who have not heard of Major[James] Rogers and very few who exerted themselves more in the service of their King and support of the Constitution than this family."⁸⁵ And "David M. Rogers is the only (Male) descendant in His Majesty's Dominions"⁸⁶ because his brother James was in Vermont, the United States.

He considered that while he did his duty in his office, he was not accountable for his behaviour as a member of the assembly to any person but his constituents. He emphasized that although he suffered for it he could

⁸³ Ibid., Q313, pp.518-519, microfilm, C-10761, Attorney General and Solicitor General to Liverpool, 15 March 1810.

⁸⁴ Armstrong, pp.155-156.

⁸⁵ MTL, David McGregor Rogers, Statement of the service..., p.2, 1808.

⁸⁶ Ibid., p.2.

⁸⁷ Ibid., p.3.

not support measures that he thought injurious to them.⁸⁸ Moreover, he argued that he had never been disturbed or called to an account by the late administration⁸⁹ and indirectly criticized the conduct of Lieutenant Governor Gore.

His brother James successfully recovered his father's properties in Vermont,⁹⁰ perhaps because Rogers family had been remembered by Americans as David mentioned. But David might not have gotten the same result in Upper Canada. "[I]t is certain," he complained, "that unless a person is supported by powerful Friends he stands but a poor chance indeed to receive any compensation for his services."⁹¹ His statement was ended by a quotation from an English writer who argued that they should not plant "the numerous employments and sinecures in America created chiefly for the purpose of obligation and dependance..."⁹² Probably Rogers found much in common with Willcocks here. For, in 1807, Willcocks also was dismissed as sheriff of the Home District.

Rogers also stated his complaint in his memoranda that the government tended to prefer to appoint British people--or "Europeans" as Rogers put it--who had strong connection with London, but not North Americans. He said that "all appointments of consequence are made and given to persons favorite of those in power in Europe..."⁹³ He continued:

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ E.M. Chadwick, Ontarian Families, (Toronto, 1972),p.10.

⁹¹ MTL, Rogers, Statement of the service..., p.4.

⁹² Ibid.

⁹³ OA, MS522, microfilm, reel MS522-1, Memoranda, 5 March 1808.

"The natives of the Colony have a very little chance of an equal share in the employments of profit, their connections (unless very remote) are all in the country they live in, and without power of influence what can they^o expect to receive, upon any vacancy do we not always see..."

G. M. Craig has considered that the Loyalists were jealous of intruders and Rogers had little sympathy with "adventurers from overseas like Thorpe and Willcocks".^o Rogers perhaps did not have sympathy with Thorpe, but his attitude might be different towards Willcocks. Willcocks was, by 1808, also a sort of loser who was not able to get government favour any more.

Yet his statement of services also indicates Rogers could not act together with Willcocks after the outbreak of the 1812 War. Rogers showed his persistence in holding offices. Further, he argued that the M.H.A. was the representative of the people, or at least, of the constituents, and should work for their sake. At the same time he thought that this was related to service to the King and support of the constitution. He protested Gore's interference and expressed his opposition to delivering office by the obligation of the Government. But he seemed to accept the British constitution completely. Anyway Rogers became increasingly active in the oppositionist group through these incidents.

Howard effectively used the issue of the school act in his election campaign in 1808. This also suggests that the School Act dispute and its consequences---his removal as magistrate---drove him further toward the opposition side.

Howard stated in his political address that he did not mind sacrificing himself in order to protect the people's right. He wrote as follows:

^o Ibid.

^o Craig, Upper Canada, p.64.

"...I will not sell your rights and privileges for any Office that may be conferred[sic.] upon me, and that nothing is too valuable for me to sacrifice[sic.], rather than betray that sacred trust Committed[sic.] to my charge by my friends and Constituents..."

He continued:

"Gentlemen I find the York handbills are in Circulation, Stateing [sic.] that Howard Dorland and Rogers are displaced from all Offices they held under the Lieutenant Governor, this Gentlemen[sic.] is nothing unexpected, for we had our choice, to stay and wrong our people, or Come away and lose our offices, and for my own part I did not engage to legislate to gratify the Governor, But to support your right, and endeavour to have such Laws Enacted as would best tend to promote your welfare."

Howard thus strongly stated his intention to protect the people's rights.

Another anonymous political address emphasized that Howard was the right man for the people. The writer of the address expressed a strong doubt about electing "Gentlemen of the Barr[sic.]" as M.H.A.s.

"...We have heretofore had a considerable number of Law characters in the house---Although they are entitled to respect in their proper places; yet we should Examine well whether they Can Consistently[sic.] with their own interest Serve us Faithfully!... Would it be uncharitable to suppose, would it not be reasonable to suppos[sic.], that they would Enact such Laws As would best Suit themselves, And express them in such an ambigueous[sic.] manner [as to] admit of a variety of interpretations which would render it impossible for Common people to comprehend their True meaning..."

The writer of the address argued that if the people chose a "Law character", they would sacrifice the people's rights and privileges, for the interest of the "Law characters" was to ignore them. The School Act dispute was the best, or worst example of their attitude.

"Can we have a more glaring[sic.] proof of the Prostitution of the sacred Trust reposed in our Representatives, than a majority of them in

⁹⁶ NAC, MG24, B7, p.217, undated political addresses.

⁹⁷ Ibid.

⁹⁸ Ibid., p.203.

our Present Parliament have given, in the pernicious[sic.] School Act!"⁹⁹

Howard, Dorland and Rogers were described as faithful members for the people since they broke up the assembly in order to prevent the school act, which was "of no benefit to any,"¹⁰⁰ from being made perpetual. The address declared that:

"Let us endeavour[sic.] to discover which of our members have served us with Fidelity and a single Eye to our prosperity:--- Whenever we can find one of that Description, Let us by all means send him again and again even as often as he will go!"

The address claimed that Howard was the "POOR MANS FRIEND".¹⁰¹ Moreover, it stated that Howard was a good representative for farmers as follows:

"...every Community ought to be represented by Members of their own body. Farmers should by all means be represented by farmers. No Class of men have a more honourable employment or Support them the farmers...it is natural for them[any other description of men] to oppress the Poor. ---Let us for the future---assert our Right by choosing Representatives whose main interest is inseparable connection ...with that of the People at Large."

Thus, using the School Act dispute Howard made a successful appeal to the constituents and won the election of 1808.

IV. Conclusion

The School Act dispute contains several important factors. Firstly, it indicated the opposition of some members to the School Act because they considered it was of no use to the public as a whole. Willcocks, already

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Ibid., p.204.

imprisoned at that time, had showed his dissatisfaction toward it by bringing up another school bill. Although he did not join in the withdrawal, Mallory stood until the last minute against it.

Therefore, it is possible to say that this dispute helped to form the core of an opposition group, which would be active in the next Parliament. Especially for the members who retired from the Assembly, it drove them to make up their mind to work together as an anti-government force. By his imprisonment Willcocks may have learned to act effectively while staying in the Assembly.

The last session of the Fourth Parliament was a departure point toward a first, more organized opposition group within the Assembly compared to previous opposition.

CHAPTER THREE: "THE HOUSE APPEARS DIVIDED BETWEEN
BLACKGUARDS AND GENTLEMEN"; THE OPPOSITIONISTS
IN THE FIFTH PARLIAMENT

"There has been a new election...and my Friends are all out, indeed the House will be composed of ignorant clowns, for the spirit of levelling seemed to pervade the province." [John Strachan]

I. Introduction

Rev. John Strachan unpleasantly reported the result of the 1808 election because the Fifth Parliament would not include any individuals, such as the Attorney General or Solicitor General, who would represent government opinion. Moreover, Willcocks, Rogers, Howard and Dorland who had caused trouble in the last session of the Fourth Parliament were returned to the Assembly along with Mallory. As Strachan recognized, due to "the spirit of levelling" among the people, members who had an opposition spirit had been elected again.

In fact there would be a loose group of ten opposition-minded members during the Fifth Parliament; David Secord, Philip Sovereign, Dorland, John Willson,² John Philip Roblin and James Wilson (after the third session of 1811, Roblin and James Wilson were replaced by Willet Casey and John Stinson), and four core members, Willcocks, Rogers, Howard and Mallory. Moreover, Thomas Gough who acted quite independently in the Assembly often joined the opposition group, though he was strongly opposed to them on some issues.

¹ NAC, MG24, J1, microfilm, reel M-539, Strachan to Rev. Dr. James Brown, 9 Oct. 1808.

² John Willson won a by-election for the West Riding of York in 1809 and was seated on February 1, 1810.

Thanks to temporary support from some other members, the opposition group was active on issues such as religious matters, school bills, a more democratic electoral system, rights and privileges of the Assembly and bills which reflected the constituents' wishes.

II. Opposition begins

After the 1808 election, John R. Small wrote that the Assembly "will consist (except a few characters) of a Motley Group..."³ The Fifth Parliament played an important role in Upper Canada's parliamentary history along with the Tenth Parliament (1828-1830). Both Parliaments shared similar characteristics; they contained more religious dissenters, fewer office holders, fewer members from Loyalist families than other Parliaments. As already mentioned, in the Fifth Parliament no government nominee was elected. In addition, the proportion of M.H.A.s who held government appointment was also at its lowest point to that date. There were several Loyalist members but their numbers were less while the number of Loyalist half-pay officers was much reduced.⁴ Instead, this Parliament included non-Loyalist immigrants; Willcocks and Gough from Ireland, David Cowan and James Wilson from England, and Mallory, Thomas Mears, Philip Sovereign and John Willson who were post-Loyalist Americans.⁵ Therefore, the members of the opposition group, except for Willcocks and James Wilson, mainly consisted of North Americans.

³ OA, MS537, microfilm, reel 7-553, John R. Small to Samuel Ridout, 28 June 1808.

⁴ Johnson, p.190.

⁵ Ibid., pp.194-195.

In terms of religious affiliation, the oppositionists were indeed "a Motley Group". There were at least five known Methodists. In addition, the Fifth Parliament included a Quaker and a Lutheran. In all, there were even more (known) Methodists in this Parliament than (known) Anglicans.

John Willson, one of the oppositionists during the Fifth Parliament stated later that the opposition group in the Fifth Parliament mainly consisted of religious dissenters. He explained that he had been called for at a by-election for the West Riding of York in 1809 by the oppositionist group:

"The parties in politics known at that time, were the 'Government' and the 'Opposition.' I was called by the latter, which was chiefly composed of dissenting religious people..."

Indeed John Willson was one of the Methodist members in this Parliament. Other Methodists were Mallory, Secord, Roblin and James Wilson. Roblin and James Wilson would be charged as Methodist preachers and teachers and, as such, would be forced out of the Assembly during the 1810 session. Casey was another dissenter, a Quaker. Willcocks, Rogers, Sovereign, Howard and Stinson's religious backgrounds are unknown. However it seems that the opposition group was mainly composed of religious dissenters except for Dorland who was an Anglican, though his family were Quakers.

John Beverley Robinson also recognized the existence of two groups, the oppositionists and non-oppositionists, in the Assembly. In a letter to John Macaulay, Robinson wrote as follows:

⁶ John Willson, Address to the inhabitants of the District of Gore... (Hamilton, 1840), p.3.

John Willson wrote in his Address... that the "dissenting religious people", who were oppositionists, were "particular Presbyterians, Methodists, Baptists, Menonists[sic.], & Tunkers". (See John Willson, Address..., p.4) It is possible that these five members whose religious backgrounds are unknown belonged to the above mentioned religious denominations.

"Tomorrow is [the] first day of this Session of Parlt. and it will then I suppose be determined upon whom the honour of your speakership will fall. It is yet quite a matter of uncertainty whether McDonell or Rogers will carry it...the house appears nearly equally divided between Blackguards and Gentlemen..."

Although neither Alexander Macdonell nor Rogers became speaker during the Fifth Parliament, this letter indicates that Rogers was such an influential member that he could be one of the candidates for speaker along with the former speaker, Macdonell. Moreover, it suggests that there were two groups which had different interests in the Assembly. Samuel Street became the speaker for the Fifth Parliament instead, but it is impossible to know more about the process leading to the Assembly's choice of speaker due to the lack of the journal of 1809.

Despite this lack of information, a letter from Gore to Lord Castlereagh indicates that the oppositionists were quite active during the first session of the Fifth Parliament in 1809. In his letter dated March 20, 1809, Gore explained the necessity of appointing new Legislative Councillors because of the reduction in their number from nine to five.⁹

"Under such circumstances the Legislative Council, thus reduced in Number, has too frequently the unpopular Task of resisting measures brought forward in the House of Assembly which are inexpedient."

Gore wished that the Legislative Council should be strengthened by the addition of some new members "[i]n order to give to this Body, which forms

⁸ OA, John Macaulay Papers, MS78, microfilm, reel 7-447, J.B. Robinson to Macaulay, 1 Feb. 1809.

⁹ NAC, MG11, CO42, Q312, p.34, microfilm, reel C-10760, Gore to Castlereagh, 20 March 1809.

¹⁰ Ibid.

so useful a counterpoise to the Rashness of the House of Assembly".¹¹

It is clear that the Lieutenant Governor and his government had a difficult time dealing with the oppositionist group in 1809. A letter from Thomas G. Ridout to his father also suggests the strong influence of the oppositionists during the first session of the Fifth Parliament. In February, 1810, he explained the situation in Upper Canada to his father in England:

"The House of Assembly met here on the 1st inst. There does not seem to be so much spirit for opposition in them as there has been. J. Willcocks is greatly curbed by the watch which is kept over both his publications & Speeches."

Perhaps, the opening of the second session of the Fifth Parliament was, at least, quiet in contrast to the first session. However, it would soon demonstrate that the opposition group would be again active through the rest of the Fifth Parliament as well as the first session. In the next section a statistical approach will indicate their strength and coherence.

III. A statistical approach to the Fifth Parliament

Before considering each specific issue in the Fifth Parliament, this section will demonstrate the strength and coherence of the opposition group during the Fifth Parliament through statistical analysis. Such an analysis will aid subsequent discussion of specific issues that arose.

Tables 1-(a), (b), and (c) indicate the names of those who moved, and seconded for leave to bring forward a bill, and how many bills they brought forward. These tables clearly show that the core members of the oppositionists were also central in bringing bills into the Assembly. Though Rogers was

¹¹ Ibid.

¹² OA, MS537, microfilm, reel 7-553, T.G. Ridout to T. Ridout, 8 Feb. 1810.

not among the top members, Willcocks, Mallory and Howard shared top position with Gough and Allan McLean among the members who moved for leave to present bills. These tables also indicate that Gough was as active as the core members of the opposition group. He was an independent figure who often supported the activities of the oppositionists. However, Gough could also strongly oppose them. He did not consistently represent any side, but his position would be crucial to the success of the oppositionists on some issues such as the rights and privileges of the Assembly.

Tables 2-(a), (b), and (c) give each member two points for a motion, one for seconding a motion. This indicates which members were more active in terms of presenting bills. Those four core members, as well as Gough, again scored highly, while McLean during the second and third sessions, and McNabb during the last session, also scored highly. The percentage of oppositionist participation in bringing forward bills was always over 50%. In the second session of 1810, 67.9% of motions and seconds were put forward by this group. Although in the third session their participation decreased to 58.8%, it jumped up to 72.0% in the last session.

These tables show that the ten oppositionists were actively involved in presenting new bills. Moreover, Table 3 and Graph 1 indicate the consistency of this opposition group in the process of passing the bills.

Table 3 and Graph 1 indicate the number and percentage of bills passed in the Assembly from 1810 to 1812, by different types of supporters. Table 3 and Graph 1 will aid in understanding whether a bill was supported by oppositionists or non-oppositionists. There are five categories for bills depending upon the different types of supporters: category 1) bills supported to passage only by the ten oppositionists---and no nonoppositionists,

Table 1-a) Bills Brought in in the Second Session
of the Fifth Parliament

motion by	number of bills	seconded by	number of bills
Willcocks	12	Mallory	4
		Rogers	3
		Sovereign	3
		James Wilson	1
		Gough	1
Gough	8	Willcocks	3
		Rogers	2
		Sovereign	2
		Dorland	1
Mallory	6	Willcocks	3
		Sovereign	2
		Howard	1
Howard	4	Sovereign	2
		McLean	1
		John Willson	1
McLean	4	James Wilson	1
		Howard	1
		Dorland	1
		Merkley	1
McNabb	3	Burritt	1
		Dorland	1
Burritt	1	Secord	1
Roblin	1	Rogers	1
Rogers	1	Howard	1
Sovereign	1	Willcocks	1
C. Willson	1	Secord	1
total	42		

Source: OA, Eighth Report, "the Journal of Assembly, 1810".

Table 1-b) Bills Brought in in the Third Session
of the Fifth Parliament

motion by	number of bills	seconded by	number of bills
Mallory	9	Willcocks	2
		C. Willson	2
		John Willson	2
		Baby	1
		Elliott	1
		McLean	1
Willcocks	8	Rogers	3
		Secord	2
		Gough	1
		Mallory	1
		Sovereign	1
McLean	7	Gough	2
		Dorland	2
		Baby	1
		Elliott	1
		Fraser	1
Gough	6	Dorland	3
		Howard	1
		Lewis	1
		C. Willson	1
Howard	4	Elliott	1
		Rogers	1
		Secord	1
		John Willson	1
Burritt	2	McNabb	1
		Merkley	1
McNabb	2	Fraser	1
		C. Willson	1
Rogers	1	Willcocks	1
total	39		

Source: OA, Eighth Report, "the Journal of Assembly, 1811".

Table 1-c) Bills Brought in in the Fourth Session
of the Fifth Parliament

motion by	number of bills	seconded by	number of bills
Willcocks	9	Sovereign	3
		Rogers	2
		Casey	1
		Howard	1
		Mallory	1
		Secord	1
Gough	6	Fraser	2
		Rogers	2
		Dorland	1
		Lewis	1
Howard	5	Stinson	2
		Burritt	1
		Rogers	1
		Secord	1
Mallory	5	Dorland	1
		McGregor	1
		Sovereign	1
		Willcocks	1
		C. Willson	1
Rogers	4	Elliott	2
		Casey	1
		Gough	1
McNabb	2	Dorland	1
		Elliott	1
total	31		

Source: OA, Ninth Report, "the Journal of Assembly, 1812".

Table 2 Bills Brought in in the Fifth Parliament

a) the 1810 session

motions/ seconds	number of bills	% value of total
Willcocks	29	24.0%
Gough	17	14.0
Mallory	16	13.2
Howard	11	9.1
Sovereign	11	9.1
McLean	9	7.4
Rogers	8	6.6
McNabb	6	4.9
Burritt	4	3.3
Roblin	2	1.7
Secord	2	1.7
C. Willson	2	1.7
Jas. Wilson	2	1.7
Merkley	1	0.8
Jo. Willson	1	0.8
total	121	100.0

b) the 1811 session

motions/ seconds	number of bills	% value of total
Mallory	20	16.8%
Willcocks	20	16.8
McLean	16	13.5
Gough	15	12.6
Howard	9	7.6
Jo. Willson	7	5.9
Rogers	6	5.0
McNabb	5	4.2
Dorland	5	4.2
Burritt	4	3.4
Secord	3	2.5
Elliott	3	2.5
Baby	2	1.7
Fraser	2	1.7
Merkley	1	0.8
Sovereign	1	0.8
total	113	100.0

c) the 1812 session

motions/ seconds	number of bills	% value of total
Willcocks	19	20.4%
Gough	13	13.9
Rogers	13	13.9
Howard	11	11.8
Mallory	11	11.8
McNabb	4	4.3
Sovereign	4	4.3
Dorland	3	3.2
Elliott	3	3.2
Casey	2	2.2
Fraser	2	2.2
Secord	2	2.2
Stinson	2	2.2
Burritt	1	1.1
Lewis	1	1.1
McGregor	1	1.1
C. Willson	1	1.1
total	93	100.0

*Motions were accorded 2 points, seconds, 1 points, then converted to a percentage of the total of all motions and seconds recorded during the Fifth Parliament.

Sources: OA, Eighth Report and Ninth Report.

category 2) bills supported by a majority of oppositionists with a minority of non-oppositionists, category 3) bills supported by a near equal number of oppositionists and non-oppositionists, category 4) bills supported by a minority of oppositionists with a majority of non-oppositionists, and category 5) bills supported by the non-oppositionists alone. Table 3 indicates that the oppositional force was quite coherent and succeeded in passing the bills that they strongly supported.

In 1811 the oppositionists were less successful in passing their bills (categories 1 and 2) than in 1810, though the number of these bills were more than half of the total number of bills passed during that year. The Lieutenant Governor gave his approval to more non-oppositionist bills than oppositionist bills. However, in 1812 the oppositionists again held the initiative. 61% of bills passed were supported by the oppositionists and about two-thirds of the approved bills were mainly supported by them.(See also Graph 1)

Despite the decrease of the 1811 session, the oppositionists were always successful in passing more than half of the entire bills passed in the Assembly. Graph 1 clearly demonstrates that bills supported by a majority of the oppositionists were about two-thirds during the Fifth Parliament. Moreover, it can be said that during the third and last sessions, more members joined the opposition group in supporting bills than in the second session.

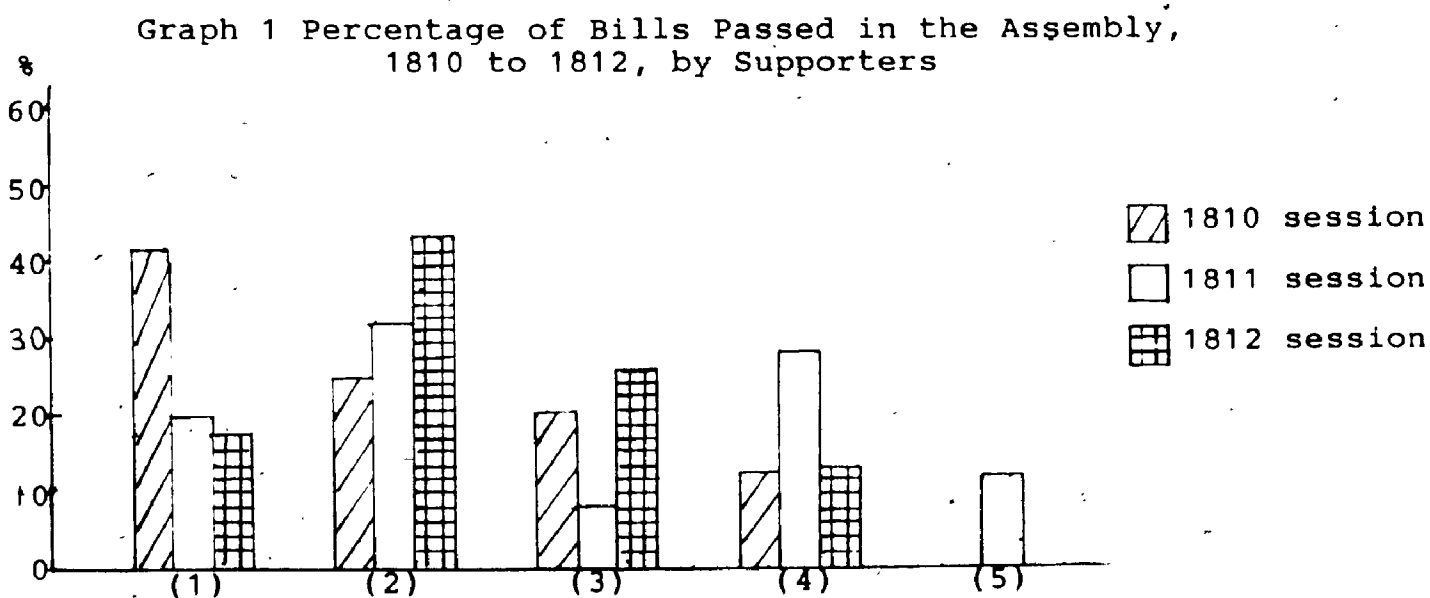
To analyze the recorded divisions in the journals will also help to indicate the consistency of the opposition group. Elwood Jones has analyzed the divisions during the Fifth Parliament in his article on Willcocks in an effort to demonstrate Willcocks' leadership.¹³ Therefore, he looked at who had sided with Willcocks. However, as already shown in Tables 1-(a), (b), and (c),

¹³ Jones, p.857.

Table 3 Bills Passed in the Assembly during the Fifth Parliament by Supporters

category	1810			1811			1812		
	a number of bills	b the Lieut. Governor's approval	c %	a	(b)	c	a	(b)	c
1 oppositionists	10	(4)	41.7	5	(2)	20.0	4	(1)	17.4
2 majority of oppositionists/ minority of non- oppositionists	6	(1)	25.0	8	(1)	32.0	10	(6)	43.5
3 equal	5	(3)	20.8	2	(1)	8.0	6	(4)	26.1
4 minority of oppositionists/ majority of non- oppositionists	3	(2)	12.5	7	(3)	28.0	3	(0)	13.0
5 non- oppositionists	0	(0)	0.0	3	(2)	12.0	0	(0)	0.0
total	24		100.0	25		100.0	23		100.0

Sources: OA, Eighth Report and Ninth Report.



1. oppositionists 2. majority of oppositionists/minority of non-oppositionists 3. equal 4. minority of oppositionists/majority of non-oppositionists 5. non-oppositionists

Sources: OA, Eighth Report and Ninth Report.

Willcocks was not the sole leading figure of the oppositionists in the Fifth Parliament. Mallory, Howard and Rogers also shared that position with him. The recorded divisions showed for which side the members cast a vote on different questions. The divisions will indicate the consistency of the opposition group if we look at the conduct of the entire opposition group.

Table 4-(a) shows the consistency of the opposition group. Here, the number of the majority of the oppositionists who voted for the same side has been converted to a percentage. 100% means that all the oppositionists voted for the same side in a recorded division, and 50% means that the oppositionists split equally in it. In 1810, they showed over 70% of consistency for fifteen of all divisions, and the fifteen divisions occupy 54% of all divisions in 1810. In 1811, it was thirteen divisions(68% of all divisions), and in 1812 it amazingly increased to 26 divisions(96% of all divisions). Then how many divisions did they win when they were in co-operation? In 1810, the number of divisions they won was ten, 36% of all divisions. It increased to 42%, eight divisions, in 1811, and again in 1812 it jumped up to 93%, counting twenty-five divisions of twenty-seven.(See table 4-(b))

Perhaps the reason why the 1810 session scores less than the other two sessions is because Roblin and James Wilson were driven out of the House due to the charge against them as Methodist preachers and teachers. After they left the Assembly, there were four divisions but the oppositionists lost all of them.¹⁴ Moreover, not all the divisions contained the same number of M.H.A.s and the issues for which the division occurred were also different. It is, therefore, difficult to judge precisely the strength of the oppositionist group.

¹⁴ OA, Eighth Report, pp.370, 373, 375, 376.

4-a) Percentage of the Opposition Group
in Co-operation on divisions

%	number of divisions in 1810	1811	1812
100 %	6	8	23
90-99	1	1	0
80-89	5	1	2
70-79	3	3	1
60-69	11	2	0
50-59	2	4	1
total	28	19	27

4-b) Number of Divisions

	1810	1811	1812
oppositionists won	10	8	25
oppositionists lost though in co-operation	4	5	1
oppositionists split	14	6	1

Sources: OA, Eighth Report and Ninth Report.

Yet these tables and the graph are still useful in indicating tendencies in the Fifth Parliament. It is clear from Tables 1 and 2 that the oppositionists were much more active than other members in initiating bills. They seemed to have a set of goals that they wanted to achieve which we will look at some examples of in the next two sections. Moreover, they were active not only in initiating, but also in proceeding with their bills. Through the process of passing bills, ten oppositionists, as well as Gough, were strikingly and consistently active compared to other members. (See Appendix B, pp. 114-124.) In addition, some of their bills were passed in both Houses and given Royal Assent. Especially in the 1812 session, seven out of ten bills which were given Royal Assent were the opposition group's bills. This indicates that the opposition group was, to a certain degree, a ruling group who was running the province, or at least taking a major share in the running of the province through successfully enacting their bills.

IV. The activities of the opposition group during the Fifth Parliament

In this section and the next one, this thesis will look closely at each issue supported by the opposition forces. Firstly, the discharge of Roblin and James Wilson from the Assembly in 1810 will demonstrate the concern of the oppositionists over access to the Assembly. The school bills continued to be a key issue. Their attempt to pass bills to reduce the salary of office holders was another important issue. Moreover the oppositionists successfully reacted to the wishes of their constituents on local improvement. Lastly they were active in support of more democratic methods of electing M.H.A.s, as well as for the rights and privileges of the Assembly, which will be considered in section V.

i. The religious issues

During the Fifth Parliament, an important issue was that of Roblin and James Wilson's discharge from the Assembly. The opposition group tried to avoid their discharge as much as possible, because Roblin and James Wilson were charged as Methodist preachers and teachers. The opposition group were generally concerned with the problems related to religious dissenters. Some of them, as already mentioned, were dissenters themselves. Other members, like Rogers, though his religion is unknown, had been concerned with the rights of dissenters since his earlier political career.¹⁵ This incident in 1810 demonstrates the opinion of the opposition group that anyone, regardless of religious affiliation, should be able to become a member of the Assembly.

On February 10, 1810, Gough and Willcocks brought forward a bill "for the relief of minors[sic.] of the Religious Societies of Mennonists and Tunkers".¹⁶ This bill was passed in the Assembly with the support of Gough, Willcocks, Mallory, Secord and McNabb.

However, it was Gough who moved for the reading of the petition from the inhabitants of Lennox and Addington, and Prince Edward.¹⁷ The petition alleged that Roblin and James Wilson:

"have not been duly and lawfully elected and chosen...as [they]...were
...and still are public Preachers and teachers in that Society or

¹⁵ In 1801 Rogers supported a bill for granting equal rights to "the people called Quakers, Mennonists and Tunkers". (See OA, Sixth Report, 1909, (Toronto, 1911), pp.202, 214.) In the next year he also supported the same sort of bill for Methodists. (Ibid., p.265)

¹⁶ OA, Eighth Report, p.302.

¹⁷ Ibid., p.293.

Community of people called Methodists."¹⁸

Gough was continuously active on this matter and the trial dates for James Wilson and Roblin were set on February 26 and 27 respectively.¹⁹ On the contrary, the opposition group tried to postpone it, hoping to stop the charge against Roblin and James Wilson. On one occasion it appears that the oppositionists had planned something to stop Roblin and Wilson's discharge. After the appeal of the contested election of James Wilson had been considered several times, Willcocks and Rogers moved to postpone it until the next day, March 1.²⁰ On March 1, 1810, the consideration of the issue did not take place. Moreover, the next day, on March 2, Willcocks, Mallory, Sovereign, Roblin, James Wilson and John Willson were absent from the House. Their absence meant that the Assembly was not able to proceed with James Wilson's trial. Therefore McLean and Gough moved that the speaker be directed to order medical assistance immediately to attend on those six members and report the state of their health to the House. When the speaker put the question, a division occurred. Howard and Rogers, with Lewis, opposed the motion, but Secord was included among the eleven members who supported the motion.²¹ According to the report of the same day of the motion by doctors R. Richardson and W. Lee, all of the six absent members would be able to attend the next day.²² Their absence postponed Wilson's trial just one day. It is unknown whether their absence was a mere coincidence or

¹⁸ Ibid.

¹⁹ Ibid., p.303.

²⁰ Ibid., p.343.

²¹ Ibid., p.349.

²² Ibid., p.350.

something planned.

Even if their absence was planned to postpone or stop the trial of Roblin and James Wilson, it was not able to change the situation. On March 3, 1810, the trial of James Wilson was held again. Gough and McGregor moved that the House resolve that "it appears...that the Petitioners complaining of the undue election and return of James Wilson...have proved the allegations of their petition"²³ and they moved to vacate Wilson's seat.²⁴ The result of the division was eleven to six. Although John Willson, Howard, Willcocks, Rogers, and Roblin, along with Lewis, opposed the motion, Secord again supported Gough's motion.²⁵

On March 5 the trial of Roblin began and two days later again Gough and McGregor moved that Roblin was ineligible to sit in the Assembly. The division was twelve to six and the members who opposed the motion were John Willson, Howard, Willcocks, Rogers, Mallory, and Lewis. The opposition group was not able to stop the charge of the undue election of Roblin and James Wilson because of the absence of some opposition-minded members and a few members---Secord and Sovereign---who voted in favour of Gough's motion.

The main reason why the oppositionists failed to prevent Roblin and James Wilson from being expelled was, probably because the vote took place on almost purely denominational lines and the Methodists and other dissenters were outnumbered by others. However, it seems that there were different opinions on this issue among the oppositionists. The co-leaders of the

²³ Ibid., p.351.

²⁴ Ibid., p.352.

²⁵ Ibid.

opposition group and John Willson seemed to consider the discharge of the two Methodists as a violation of the rights of the religious dissenters as well as a serious loss of the members of the opposition group. Yet, Secord, one of the oppositionists as well as a Methodist, was among the members who voted to force the other two Methodists out of the Assembly. Secord was of course active in protecting the rights of the dissenters. However, as a Loyalist, Secord perhaps considered that it was important to approve the provision of the Constitutional Act---an imperial statute---under which the expulsions of Roblin and James Wilson were carried out.

However after Roblin's discharge, the united core of the opposition group still tried to do something for them. In 1809, Richard Beasley and William Applegarth had protested against the by-election that John Willson won for the West Riding of the County of York.²⁶ They appealed to the returning officer, William G. Hepburn, on the grounds that John Willson "is a Teacher and Preacher, according to the Faith of Religious Worship called Methodism."²⁷ Moreover, John Willson was said to have refused to take the oath of qualification when offered it by two magistrates and the returning officer for that riding.²⁸ Since the journal of 1809 is not available, we cannot know what happened to John Willson with respect to this charge by Beasley and Applegarth. We do know, however, that John Willson was not forced out of the House as were the two other Methodist members.

On March 10, 1810, Rogers and Willcocks brought this issue into the

²⁶ NAC, RG5, A1, vol.9, p.3868, microfilm, reel C-4505, Beasley and Applegarth to Hepburn, 11 April 1809.

²⁷ Ibid.

²⁸ Ibid.

Assembly. They moved that John Willson be furnished with the journal of the Assembly in 1809 to enable him "prove" resolutions relating to the petition of John Willson and the freeholders of the West Riding of County of York in which presumably Willson and the electors protested against Beasley and Applegarth's letter.²⁹ The House was ordered to supply John Willson with copies of the journal. Although nothing came out of the motion perhaps because of the close of the 1810 session, Rogers, Willcocks, and John Willson seemed to be attempting to challenge the resolutions of the House on the contested election of Roblin and James Wilson.

The oppositionist group was not able to stop the charge against Roblin and James Wilson in spite of their endeavours. This indicates that there were certainly limits to the oppositionists' influence in the Assembly. Anti-Methodists' prejudice was clearly too strong to be overcome. They lost two opposition-minded members. Yet after the by-elections, the newly elected members replacing Roblin and James Wilson, Willet Casey and John Stinson would work closely with the opposition group.

ii. The school bills

The school's issue which caused the most serious dispute during the 1808 session was still important in the Fifth Parliament. Willcocks took the initiative by bringing forward a school bill in each session in this Parliament for which journals are available. Willcocks presented school bills which would make schools more widely available to the people at large.

On February 2, 1810, Willcocks and Rogers brought forward a bill to repeal

²⁹ OA, Eighth Report, p.375.

the 1807 Grammar School Act.³⁰ On February 12, the committee on the bill, chaired by Levi Lewis, reported the committee's resolution that the school bill not be adopted.³¹ When the report was put to the vote, it was a tie, ten to ten. Nine of the opposition group³² opposed the report with Gough's support. Yet the speaker cast his vote in favour of the report and the report was received.³³

Meanwhile, C. Willson and Secord brought forward another school bill on February 3, 1810. The bill was to appropriate certain money for establishing "Common Schools" in each district in order to alter and amend the 1807 Grammar School Act.³⁴ At first, the bill seemed to be supported by the non-oppositionists. C. Willson and Lewis moved for second reading of the bill, and also consideration in committee.³⁵ The committee made several amendments to the bill, and it seems that the changes were accepted by the oppositionists. When the vote was cast for receiving the committee's report, all of the oppositionists, as well as Gough, McNabb and Burritt, supported the report.³⁶ C. Willson who initiated this bill, opposed it with five other members. Although Gough and Rogers moved for third reading of C. Willson's

³⁰ Ibid., pp.284-285.

³¹ Ibid., p.304.

³² Rogers was absent because of the death of his wife, Sarah. At the end of the same day, February 12, Gough and Willcocks moved that the House adjourn on February 14, in order that the members of the Assembly attend the funeral. See ibid., p.306.

³³ Ibid., p.304. See also Jones, p.857. Jones stated that Street, the speaker, had never cast a vote, though Street had.

³⁴ Ibid., p.287.

³⁵ Ibid., pp.302, 309.

³⁶ Ibid., p.327.

school bill,³⁷ there is no record of third reading. Instead, Willcocks and Gough moved to re-commit the school bill presented by Willcocks and Rogers.³⁸ The committee's report, which had made several amendments to the bill was received in the House. On February 24, 1810, the bill for limiting the duration of the 1808 school act which amended the 1807 Grammar School Act, was passed by the motion of Willcocks and Sovereign.³⁹

Since this bill was not able to pass the Legislative Council,⁴⁰ Willcocks again presented a bill to repeal the 1807 Grammar School Act with Gough in the third session of the Fifth Parliament in 1811.⁴¹ This bill which would have offered the educational system to the people at large, was again strongly supported by the opposition forces. Their strength was shown in the two divisions on that bill. When the vote was cast whether to receive the report of the committee, the ten oppositionists, sticking together, supported the report with Gough, Marsh, Lewis, and C. Willson.⁴² On February 18, 1811, they also voted for the passage of the bill and accordingly the bill passed the Assembly.⁴³

³⁷ Ibid.

³⁸ Ibid., pp.332-333.

³⁹ Ibid., pp.334-335.

⁴⁰ OA, Seventh Report, 1909, (Toronto, 1911), pp.348. There is no record relating to this bill after the first reading on February 19, 1810.

⁴¹ OA, Eighth Report, p.397.

⁴² Ibid., p.416.

⁴³ Ibid., p.419. See also OA, Seventh Report, p.378. In the Legislative Council, it was ordered that the school bill from the Assembly be read a second time "this day three month".

Willcocks again presented the same kind of bill in the 1812 session.⁴⁴ With the support of Sovereign, Rogers, Casey and Gough, the school bill passed the Assembly on February 26, 1812.⁴⁵

Two petitions relative to the school act were read in the House during the last session of the Fifth Parliament. In a petition of the inhabitants of the District of Newcastle, they asked the House to repeal the 1807 Grammar School Act and to make other provisions to encourage common schools throughout the district.⁴⁶ The other petition from the inhabitants of the Midland District clearly pointed out the problems of the 1807 school act:

"By reason of the place of instruction being established at one end of the District, and the sum demanded for tuition in addition to the annual compensation received from the public, most of the people are unable to avail themselves of the advantages contemplated by the Institution. A few wealthy inhabitants, and those of the Town of Kingston reap exclusively the benefit of it in this District. The institution, instead of aiding the middling and poorer class of His Majesty's subjects, casts money into the lap of the rich, who are sufficiently able, without public assistance, to support a school in every respect equal to the one established by law."

The opposition group, reacting to those complaints, continuously tried to repeal the 1807 Grammar School Act and to enact a new act which would provide wider educational opportunities to the people as a whole. Although they were not able to enact such a bill, it is important to note their endeavours, because this issue clearly demonstrates that the opposition group

⁴⁴ OA, Ninth Report, 1912, (Toronto, 1913), p.10.

⁴⁵ Ibid., p.54. See also OA, Seventh Report, pp.422, 427. The Legislative Council considered the bill in committee. The committee asked for leave to sit again the next day, March 3, 1811, but there is no record that they sat again for the rest of the session.

⁴⁶ Ibid., p.16.

Ibid.

preferred more liberal and democratic methods of education in Upper Canada. Moreover, it was a member of the opposition group, John Willson, who drafted the 1816 Common School Act which was passed by the Assembly mainly through his influence.⁴⁸ The activities of the opposition group during the Fifth Parliament would produce fruit in 1816 by way of the passage of the Common School Act which would widen educational opportunities in Upper Canada.

iii. The bills to reduce the salaries of office holders

The opposition group was active in presenting bills to reduce office holders' salaries, though they only accomplished partial success. However, their attempts foreshadowed later attempts by the Reformers. There would later be a general feeling among reformers in Upper Canada that the government was too elaborate and expensive, and that the salaries of leading officials were too high.⁴⁹ In the 1830's the extreme Reformers, especially William Lyon Mackenzie actively attacked the high cost of government compared to that of the United States.⁵⁰ The opposition group of the Fifth Parliament had launched an earlier attempt to achieve cheap government.

Their first attempt was a bill to reduce the salary of the Adjutant General initiated by Willcocks and Sovereign on February 2, 1810.⁵¹ Until the passage of this bill, it was supported by the members of the opposition group.

⁴⁸ NAC, George Coventry Papers, MG24, K2, vol.13, p.72, memorandum of John Willson. See also John Willson, Address..., p.6.

⁴⁹ G. M. Craig, "The American Impact on the Upper Canadian Reform Movement before 1837," Canadian Historical Review, 29(1948), p.340.

⁵⁰ Ibid.

⁵¹ OA, Eighth Report, p.285.

When the vote was cast on receiving the report of the committee, eight members among nine present oppositionists supported the report with Gough and Lewis.⁵² When Willcocks and Roblin moved for the passage of the bill on February 19, another division occurred. This time none of the ten oppositionists failed to support its passage. With the support of Gough and Lewis, this bill passed the Assembly.⁵³ However, this bill did not pass the Legislative Council.⁵⁴

In 1811, Willcocks and Sovereign again brought forward a bill to reduce the Adjutant General's salary.⁵⁵ The three divisions involved in the passage of this bill also indicated the coherence of the opposition group. The first division occurred on second reading of the bill moved by Willcocks and Mallory. The vote was eleven to nine. Thanks to support from Marsh and Lewis, nine oppositionists won the division.⁵⁶ The other two divisions which took place on receiving the report of the committee and passing the bill, indicated that all the oppositionists strongly supported the bill. They won the divisions twelve to eight, and thirteen to seven, respectively.

The other two attempts to reduce office holders' salaries were less successful. On February 8, 1810, Willcocks and James Wilson presented a bill to

⁵² Ibid., p.299.

⁵³ Ibid., p.322.

⁵⁴ OA, Seventh Report, p.348. On February 19, 1810, the Legislative Council read the bill first time, however, the bill was never discussed there after that.

⁵⁵ OA, Eighth Report, p.398.

⁵⁶ Ibid., p.402. Secord's name did not appear in this division.

⁵⁷ Ibid., pp.405, 410.

reduce the salary of the speaker of the House of Assembly.⁵⁸ However, the oppositionists' opinions were split on this matter. When the vote was cast, John Willson, Howard, Rogers, James Wilson, Roblin and Willcocks supported the motion. But Sovereign, Dorland, Mallory and Secord with eight other members defeated Willcocks' motion.⁵⁹

In 1811 when Willcocks and Mallory again tried to present this bill, the vote was cast and the motion was defeated.⁶⁰ Seven oppositionists---John Willson, Howard, Sovereign, Willcocks, Rogers, Mallory and Secord---supported this motion, but three other oppositionists did not agree with the majority of the opposition group. This motion was again defeated seven to thirteen.⁶¹

In 1812, Willcocks, John Willson and Sovereign managed to bring the bill to second reading.⁶² However, when Willcocks and Sovereign moved for consideration in a committee, the motion was defeated seven to eleven.⁶³ Mallory, Casey, Howard, Sovereign, Rogers, Willcocks, and Secord supported the motion, but this bill failed to attract not only the non-oppositionists but also some opposition-minded members.

The bill to reduce the salary of the clerks in both the Legislative Council and the House of Assembly went further than the bill for the speaker. Although only six of the opposition group supported the motion to bring

⁵⁸ Ibid., p.298.

⁵⁹ Ibid., p.299.

⁶⁰ Ibid., p.403.

⁶¹ Ibid.

⁶² OA, Ninth Report, pp.15, 20.

⁶³ Ibid., p.32.

forward this bill by Willcocks and Rogers in 1810,⁶⁴ in a second attempt during the 1812 session, the oppositionists were more united. Willcocks and Mallory initiated the bill on February 10, 1812. Three divisions took place until the bill passed the House. In all the divisions, none of the oppositionists voted against the bill.⁶⁵ Willcocks and Rogers moved for the passage of the bill. The vote was quite close, nine to eight. Thanks to support from McNabb, eight present oppositionists won the division.⁶⁶

Their movement to pass bills to reduce office-holders' salaries was a less successful one than the others. However, since office holders' salaries were paid from public money, the bills to reduce them would have had a strong appeal to the people in Upper Canada. These attempts indicate the oppositionist' opinion that public money should be used for the people's sake. Moreover, their attempts marked the earliest endeavour to achieve "cheap government" which would be seriously sought by the Reformers in later years.

iv. Bills for local improvements.

Bills for local improvements reflected the needs and wishes of the constituents. Many bills were presented from both the oppositionists and non-oppositionists. However, it seems that the bills, presented and moved by the oppositionists, counted more than the ones by the other members. Some examples follow.

In the 1810 session, Willcocks and Sovereign brought forward a bill to alter and amend an act for granting money to build a bridge across the Grand

⁶⁴ OA, Eighth Report, p.289.

⁶⁵ OA, Ninth Report, pp.32, 33, 35.

⁶⁶ Ibid., p.35.

River.⁶⁷ This bill passed the Assembly with the support of Willcocks, Sovereign, Mallory and Howard,⁶⁸ but the Legislative Council sent it back with several amendments.⁶⁹ After second reading of these amendments, Willcocks and Mallory moved for consideration of the amendments in a committee. When the vote was cast, the motion was defeated six to thirteen.⁷⁰ Just after the result of the vote, Willcocks and Mallory moved for leave to present the same bill again.⁷¹ On February 22, Rogers and Roblin moved for the first reading of the bill. Then, Willcocks and Mallory moved that the rules of the House which required one day's previous notice be dispensed with, so far as they related to this bill. In addition, Willcocks and Sovereign moved for second reading of the bill the same day. After second reading, the same members moved again for consideration in a committee.⁷² The bill was read a third time in the Assembly the next day, February 23. And by the motion of Willcocks and Sovereign, the bill passed the Assembly.⁷³ This time the bill passed the Legislative Council without any amendment⁷⁴ and was approved by the Lieutenant Governor.⁷⁵

Bills related to roads are other examples of bills that the opposition group

⁶⁷ OA, Eighth Report, p.285.

⁶⁸ Ibid., pp.292, 295, 298, 301.

⁶⁹ Ibid., p.321.

⁷⁰ Ibid., p.325.

⁷¹ Ibid.

⁷² Ibid., p.330.

⁷³ Ibid., p.333.

⁷⁴ Ibid., p.341.

⁷⁵ Ibid., p.379.

were successful in passing. On February 5, 1810, Rogers and Howard presented a bill "to alter the mode of laying out, opening and keeping in repair the Public Highways" in Upper Canada.⁷⁶ The bill was supported by Rogers, Howard, Mallory, Secord and Sovereign, and passed the Assembly on February 14, 1810.⁷⁷ After the Assembly received amendments to the bill made by the Legislative Council, Howard, Dorland, Rogers and Sovereign moved for reading and consideration of the amendments to the said bill.⁷⁸ This bill was approved by the Lieutenant Governor in 1810.⁷⁹

In 1811, Howard and Mathew Elliott presented a bill to appropriate money for roads throughout the Province.⁸⁰ Although this bill was initiated by members from both sides, the process to pass it was supported by the members of the opposition group.⁸¹ The bill to lay out, amend and keep in repair the public highways and roads in 1812 was also initiated by the members from both sides, Mallory and C. Willson, and supported by the opposition-minded members.⁸² During the 1812 session, another bill related to roads was introduced by Howard and Rogers. With support from Gough, this bill was approved by the Lieutenant Governor as well as two other bills on roads in 1811 and 1812.⁸³

⁷⁶ Ibid., p.290.

⁷⁷ Ibid., pp.290, 295, 298, 304, 309.

⁷⁸ Ibid., pp.339, 343, 346, 358-359.

⁷⁹ Ibid., p.379.

⁸⁰ Ibid., pp.440.

⁸¹ Ibid., pp.443, 464, 474, 475, 476.

⁸² OA, Ninth Report, pp.18-19, 32, 43, 49, 53.

⁸³ OA, Eighth Report, p.486, Ninth Report, pp.51, 52, 62, 75, 91.

A bill to form part of the Niagara and Home Districts into a separate district was also supported by the opposition group through several sessions, though not enacted. Several petitions had been forwarded to the Assembly in the 1809 session for the creation of a new district from a part of the Niagara District, the West Riding of the County of York, and the County of Haldimand.⁸⁴ In 1810, several other petitions were presented to the Assembly on the place of the district town. A petition from the inhabitants of the District of Niagara and the West Riding of the County of York prayed that the site of the intended town may be at Coote's Paradise.⁸⁵ However, the south side of Burlington Bay was recommended instead in another petition from the inhabitants of the Townships of Nelson, East and West Flamboro', Beverley, Blocks Nos. 1, 2 and 3 on the Grand River, Saltfleet, Barton, Ancaster, Glanford, and Binbrook, including part of the County of Haldimand.⁸⁶

McLean initiated a bill for the creation of a new district with James Wilson on February 14, 1810.⁸⁷ Thanks to support from James Wilson, Howard and John Willson, McLean successfully moved the passage of the bill.⁸⁸ However, this bill which named Coote's Paradise as appropriate for the county town did not pass the Legislative Council.⁸⁹

Therefore, a petition from the townships of Trafalgar, Nelson, Flamboro';

⁸⁴ OA, Eighth Report, p.315.

⁸⁵ Ibid.

⁸⁶ Ibid., p.317.

⁸⁷ Ibid., p.311.

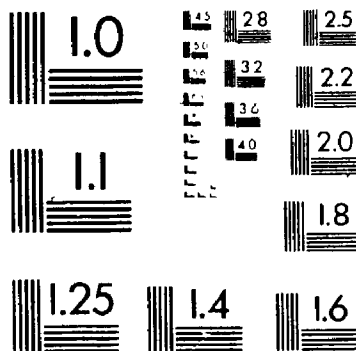
⁸⁸ Ibid., pp.324, 345, 347, 348, 352.

⁸⁹ Ibid., p.412.

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Beverley, Blocks Nos.1, 2 and 3 on the Grand River, County of Haldimand, Ancaster, Glanford, Barton and Saltfleet requested that the Assembly revive the bill passed in the 1810 session and that Coote's Paradise again be named as the district town.⁹⁰ Accordingly John Willson and Willcocks presented the bill to form a new district.⁹¹ The committee, after considering this bill, resolved that it be read three months later which practically terminated taking into consideration of the bill.⁹² The vote was cast, but the resolution was supported, eleven to eight. Although six of the oppositionists---John Willson, Mallory, Rogers, Willcocks, Secord and Casey--- opposed the resolution, Stinson and Dorland joined nine other members in support of it.⁹³

Again, in 1812, the bill to form a new district was presented to the House by Mallory and Willcocks.⁹⁴ By Mallory's initiative, the bill passed the Assembly on February 17, 1812. In spite of the enthusiasm of the oppositionists the bill did not pass the Legislative Council, for they considered that the bill lacked sufficient proof as to whether the bill reflected local wishes or not.⁹⁵ The opposition group repeatedly tried to pass the bill to create a new district which was strongly requested by the inhabitants of the Niagara and Home Districts. The new district(Gore) was finally established in 1816.

These bills related to local improvement indicate how the opposition group attempted to react to the wishes of their constituents. And with a few other

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Ibid., p.446.

⁹³ Ibid., p.447.

⁹⁴ OA, Ninth Report, p.22.

⁹⁵ OA, Seventh Report, p.415.

examples,⁹⁶ they show that the oppositionists were enthusiastic and more successful to satisfy the constituents'---in general, the people's--- wishes.

v. The bills for more democratic methods of electing M.H.A.s

As we already saw, bills to change the definition of electors and the qualifications of M.H.A.s had been brought forward in the Assembly by the opposition-minded members, like Rogers, before the Fifth Parliament. Bills related to the electoral system were presented by the oppositionists during this Parliament. Although they were not able to have those bills enacted, the opposition group's attempts were important. Their attempts to change the system involving the election of M.H.A.s and their status were most intensively made before the War of 1812.

On February 2, 1810, Willcocks and Mallory presented a bill to alter and amend the act for more equal representation in the House of Assembly and for better definition of the qualifications of electors.⁹⁷ This bill was totally supported by the opposition group and passed the Assembly on February 9, 1810.⁹⁸

⁹⁶ In 1810, Mallory, with support from the opposition group, presented and succeeded in passing a bill to authorize the inhabitants of the County of Haldimand to hold annual meetings for the purpose of electing Parish and Town Officers. (OA, Eighth Report, pp.285, 290, 298, 301, 308, 312, 318.) Also Gough and the oppositionists successfully moved for the passage of a bill to amend an act for the preservation of salmon. (Ibid., pp.320, 322-323, 327, 333, 335, 341-342, 345, 347.) These two bills were enacted. In 1810, Howard and McLean presented a bill to grant relief to the poor in the province. This was also supported by the oppositionists, however, it was not enacted. (Ibid., pp.299, 305, 311, 318, 325, 331.)

⁹⁷ OA, Eighth Report, p.284.

⁹⁸ Ibid., pp.294, 297, 300. See also OA, Seventh Report, p.342. This bill was read a first time in the Legislative Council on February 10, 1810, but ordered to be read a second time "this day three months."

The same day when Willcocks brought in the bill for the equal representation of M.H.A.s, Mallory and Willcocks brought forward another bill, related to the payment of M.H.A.s.⁹⁹ However, the committee, after consideration of this bill, resolved to consider it again three months later. There is no record of whether a division occurred or not, and the resolution was ordered.¹⁰⁰

Yet, Mallory and Sovereign again presented the bill to repeal parts of an act to provide for the payment of wages to the members of the Assembly on February 12, 1810.¹⁰¹ They successfully promoted the bill to consider in a committee.¹⁰² The report of the committee was supported by the opposition group and a few other members, and accordingly the bill passed the Assembly on February ~~20~~¹⁰³

Another bill related to the electoral system was presented by Howard and Sovereign on February 15, 1810.¹⁰⁴ When the bill to prevent irregularity at elections in future was moved for third reading, the vote was cast. The result was ten to four, and six of the seven oppositionists present supported the motion.¹⁰⁵ The vote was again cast for the passage of the bill. Seven among the eight oppositionists present supported the motion and with the aid

⁹⁹ Ibid., p.285.

¹⁰⁰ Ibid., p.300.

¹⁰¹ Ibid., pp.305-306.

¹⁰² Ibid., pp.310, 312.

¹⁰³ Ibid., pp.312, 325.

¹⁰⁴ Ibid., p.313.

¹⁰⁵ Ibid., p.342.

of five other members this bill passed the Assembly.¹⁰⁶

In the 1811 and 1812 sessions, Howard again took the initiative in support of a bill to prevent bribery at election. Looking at the process of passing the bill and the divisions which occurred on it, it is clear that the opposition group strongly supported this bill. In 1811, nine oppositionists (except Sovereign) strongly supported it and succeeded in passing the bill.¹⁰⁷ In 1812, the passage of the bill was smooth and the bill passed on February 15, 1812; after three days from first reading.¹⁰⁸

Another initiative by the united core members of the opposition group was, though unsuccessful, important. In 1811, Willcocks and Rogers brought forward a bill to prevent any person who had been appointed to an office by the king or the Lieutenant Governor, except for County Registrars, from sitting in the Assembly.¹⁰⁹ The purpose of this bill was to choose M.H.A.s more widely from the people. Members who did not have any office under the government would not be subject to influence by the Upper Canadian authorities. However, most of the members seemed to consider the bill too radical or democratic. Although their attempt to elect M.H.A.s more openly among the people was important, this bill also indicates the limits of the co-leaders' influence over the other members. For many members who held

¹⁰⁶ Ibid. See also OA, Seventh Report, p.356. The Legislative Council considered the bill in a committee on March 3, 1810, and the chairman requested leave to sit again. But there is no record that they sat again.

¹⁰⁷ Ibid., pp.409, 415.

¹⁰⁸ OA, Ninth Report, pp.15, 22, 27, 28. See also OA, Seventh Report, p.376. For the 1811 session, the committee on the bill asked to consider it three months later. For the 1812 session, there is only a record of first reading of the bill. Ibid., p.413.

¹⁰⁹ OA, Eighth Report, p.398.

office, or hoped to do, this bill meant that they would have been excluded either from the Assembly or from appointments. Also, some members might have considered that Rogers, who held the office of County Registrar, tried to make an exception for himself since the bill excluded that office. When Willcocks and Mallory moved for its second reading, the vote was cast, six to fifteen. Although the united core members---Willcocks, Rogers, Mallory and Howard---received support from Gough and McLean, six other oppositionists refused to support the motion.¹¹⁰

Yet, the opposition group was united against bills that non-oppositionists brought forward in the 1812 session. On February 7, 1812, Gough and Fraser presented a bill to amend an act "to ascertain the eligibility of persons to be returned to the House of Assembly."¹¹¹ On the motion for second reading of the bill by Gough and C. Willson, the vote was cast. All the oppositionists present---seven of them---strongly opposed this motion. The result was six to eight, and the motion was defeated.¹¹² The oppositionists perhaps opposed this bill because it may have encouraged actions like Roblin and James Willson's discharge from the Assembly due to the charge against them as Methodist teachers and preachers.

They also opposed a bill presented by McNabb and Elliott in 1812. They moved for leave to bring forward a bill to reduce the wages of M.H.A.s.¹¹³ Rogers and Willcocks immediately moved that McNabb's motion be considered three months later. When the vote was cast, the result was affirmative to

¹¹⁰ Ibid., p.408.

¹¹¹ OA, Ninth Report, p.12.

¹¹² Ibid., pp.13-14.

¹¹³ Ibid., p.43.

Rogers' motion, thirteen to three.¹¹⁴ Not only all the oppositionists¹¹⁵ but also four other members supported Rogers' motion. This bill to reduce the salary of M.H.A.s would be naturally unpopular with ordinary members. If this bill had been enacted, it would have made running as a M.H.A. more difficult for ordinary people who were not wealthy. The opposition group demonstrated their wish to retain the M.H.A.'s status, as well as to keep the post of assemblymen open to ordinary people.

Moreover, it is important to note that the opposition group introduced the first petitions for a secret ballot. In 1812, Howard and Dorland introduced a petition from the inhabitants of the Townships of Elizabethtown, Augusta, and Yonge which asked for the voting system of election by ballot, instead of viva-voce.¹¹⁶ Willcocks and Casey brought forward another petition from the free holders and inhabitants of the Township of Kingston, which asked for the same thing.¹¹⁷

Their attempts to introduce a more democratic method of choosing M.H.A.s and to retain the M.H.A.s status were, to a certain degree, successful. Although their bills were not enacted, they were able to pass the bills in the Assembly. Moreover, it indicated that they possessed liberal values which were also shown in their attitude to the school act.

vi. Other important activities by the oppositionists

One of the most important activities of the opposition forces concerned

¹¹⁴ Ibid.

¹¹⁵ Dorland seemed to be absent.

¹¹⁶ OA, Ninth Report, p.35.

¹¹⁷ Ibid., p.59.

the privileges of the Assembly which will be explained in the next section. Aside from this issue, there are still a few more matters which should be noted. One is related to the pamphlet written by John M. Jackson, and the other to the situation of the Loyalist and military land claimants.

Jackson, who had been active with Thorpe, went back to England and published a pamphlet entitled A View of the Political Situation of Upper Canada (1809) in London. In this pamphlet Jackson alleged inefficiency and oppression by the Upper Canadian government, favouritism in land-granting and so on. When a copy of the pamphlet reached in Upper Canada, it was brought forward in the Assembly by C. Willson and McNabb. They moved that the House resolve that the pamphlet:

"contains a false, scandalous and seditious libel, comprising expressions of the most unexampled insolence and contumely towards His Majesty's aspersions upon the House of Assembly...and most manifestly tending to alienate the affections of the people from His Majesty's Government of this Province, to withdraw them from their obedience to the laws of the Country, and to excite them to insurrection."¹¹⁸

Willcocks and Rogers were "the only two dissenting members," but when the vote was cast, they seemed to think proper to rise.¹¹⁹ The House unanimously condemned Jackson's pamphlet as a libel.

Gough and McNabb moved to present an address to the Lieutenant Governor expressing the "abhorrence and detestation" of the Assembly against the pamphlet.¹²⁰ When a committee to consider a draft of the address gave a report on that, a division occurred. John Willson, Howard, Willcocks and

¹¹⁸ OA, Eighth Report, p.369.

¹¹⁹ OA, MS537, microfilm, reel 7-553, George Ridout to Thomas Ridout, 11 March 1810.

¹²⁰ OA, Eighth Report, p.370.

Rogers were a minority opposing the report. Because Roblin and James Wilson had already been forced out of the House, there were only six oppositionists in attendance. Secord and Sovereign were among thirteen who supported the report.¹²¹ It is unknown why they opposed the report on the address to the Lieutenant Governor. Perhaps they partly agreed with Jackson's complaints against the Upper Canadian government.

However, a comment on this matter is more important. On March 12, Thomas Gibbs Ridout wrote to his father, Thomas Ridout, as follows:

"There has been a Severe Stroke given to Mr. Willcocks & his party this Session, as Mr. Jackson[']s Pamphlet was brought before the House of Assembly by Mr. McLean of Kingston, And considered a gross libel against this Country Government & People..."

We should not underestimate a view of the opposition group as a "party". Although this group was not a party in a modern sense, it is important that contemporaries considered the activities of the oppositionists as a group movement. Moreover, this movement was carried on within the Assembly, unlike Thorpe's "party".

On February 24, 1812, Willcocks and Mallory moved that the House resolve itself into a committee to consider the state of the United Empire Loyalists and military claimants in Upper Canada.¹²³ This resolution concerned the United Empire Loyalists and military claimants who had not received the bounty---free land---for their service during the American Revolution.¹²⁴ Every U.E. Loyalist and his descendants of the first generation were supposed

¹²¹ Ibid.

¹²² OA, MS537, microfilm, reel 7-553, T.G. Ridout to T. Ridout. 12 March 1810.

¹²³ OA, Ninth Report, p.50.

¹²⁴ Ibid., p.84.

to receive two hundred acres of free land and every military claimant was supposed to receive lands according to his rank. However, in order to receive the lands, they had to have been in Upper Canada before July 23, 1798.¹²⁵ Because of this regulation, the Loyalists who arrived after that date were not able to receive free lands. The opposition group, which included not a few North Americans---both Loyalists and post-Loyalist Americans---tried to improve the situation of the Loyalists, or people who claimed themselves as Loyalists, who had arrived in Upper Canada after July 23, 1798. When the division occurred on consideration of this matter in a committee, all the oppositionists united to support Willcocks' motion. With support from Burritt, Mears, McNabb and Marsh, the opposition forces successfully obtained agreement to send an address to the Prince Regent on this matter.¹²⁶ Their co-operation was especially significant, because at the same time the core members were dealing with the issue of an accusation by the House against Robert Nichol and Thomas Scott, Chief Justice, of a breach of the privileges of the Assembly.(This issue related to Nichol will be considered in the next section of this chapter.) It is noteworthy that when the core members were dealing with a serious issue---breach of privileges of the Assembly---they were also proceeding on a matter which would appeal widely to the members. Perhaps this helped to keep the opposition group in co-operation.

In the 1812 session, the militia bill was one of the important issues, especially for General Isaac Brock, on the eve of war against the United States. The first attempt to strengthen the militia was an act passed in 1793

¹²⁵ Ibid.

¹²⁶ Ibid., pp.51-52.

reacting to the news on the war between Britain and France. Since the United States were still in alliance with France, the legislature passed a bill placing each lieutenant at the head of the militia in his county, and providing that male inhabitants from 16 to 50 were liable for service anywhere in the province.¹²⁷ After that, many statutes were enacted in order to make the militia efficient.

However, Brock's intention to strengthen the militia in 1812 was obstructed by the opposition group. He wrote unpleasantly as follows:

"The Militia Law was so defective in some essential points, that my first care was to recommend several additional clauses to the Legislature, which appeared to be received with general concurrence, when a sudden and unexpected clamour arose, that ultimately produced such changes as to defeat very materially my original views."

His comment indicated that the opposition group disturbed him and the Upper Canadian government very much on the eve of the War of 1812, and well as that they strongly held the Assembly in their hands. But perhaps the most uneasy issue for the government was the issue of a breach of the privileges of the Assembly in 1812 which was caused by Nichol's conduct.

V. The opposition group and the privileges of the Assembly

There were several issues related to the privileges of the Assembly during the Fifth Parliament. Among them the issue involving Robert Nichol and the Chief Justice, Thomas Scott, has a significant meaning, for the opposition group most strongly asserted the rights and privileges of the House of Assembly.

¹²⁷ Craig, Upper Canada, p.29.

¹²⁸ NAC, MG11, CO42 Q315, pp.4-5, microfilm, reel C-10761, Brock to Liverpool, 23 March 1812.

The issue related to Nichol began in 1810 when Willcocks and Rogers made a motion on money paid for the repair of the roads from 1803 to 1809. They moved that the House address the Lieutenant Governor requesting him to direct that the commissioners of public highways submit reports respecting the disbursement of the money. The money had been appropriated to them by the Legislature of Upper Canada for mending and keeping in repair of the public highways and roads.¹²⁹

Nichol, one of the Road Commissioners, perhaps received the same letter which Robert Nelles, also Road Commissioner, received from William Halton, Secretary, of the Lieutenant Governor. This circular from the Lieutenant Governor directed that:

"you prepare, to be laid before the House, a full Statement of the several sums of Money you have received subsequent to the year 1803 for amending, and repairing the Public Highways and Roads, and laying out and opening new Roads and building of Bridges...and the manner in which such Monies received by you, have been applied.

However, a problem arose regarding the money paid to the commissioners in 1810.

On March 4, 1811, Rogers, a member of the select committee for public accounts, reported the proceedings of the committee.¹³⁰ He reported that the committee had received no account from Nichol for the application of 300 pounds, appropriated in 1810.¹³¹ Moreover on March 11, the House resolved that:

¹²⁹ OA, Eighth Report, p.296.

¹³⁰ NAC, Robert Nelles Papers, MG24, D108, file. 5, p.182, Halton to Nelles(circular), 1 May 1810.

¹³¹ OA, Eighth Report, p.450.

¹³² Ibid., p.456.

"the Commissioners of Highways for the London District have abused their Office by the misapplication of the moneys committed to their care, and that the Three Hundred Pounds rest in the hands of Mr. R. Nichols[sic.], a Commissioner, no part of which appears to have been applied to public uses."

It is possible that the major oppositionists picked up Nichol's trivial misconduct as a chance to attack him, because Nichol had been associated with Robert Hamilton and Hamilton's mercantile elite network which Thorpe and Willcocks had attacked. In Hamilton's last years Nichol was given the management of Hamiltons' and his network's political interests from the ailing Hamilton.¹³⁴ Nichol, a Scot, did not have any sympathy for the oppositionists. In fact, Nichol actually opposed them.¹³⁵ He had planned to run for the 1808 election as an anti-Willcocks candidate in the London District, though he did not.¹³⁶ It is possible that Nichol's hostility against the oppositionists was the cause of this issue.

On February 20, 1812, Nichol's letter to Halton on the resolution of the Assembly in 1811 was read in the House.¹³⁷ In his letter, Nichol repeatedly stated how he was dutiful as a Road Commissioner. He stated that:

"It was my intention to have transmitted to your Office the accounts in time to have had them audited and laid before the House of Assembly at its last session, but I did not receive them from either Mr. Springer or Mr. Yeigh [other road commissioners] till the latter end of January, and then the vouchers were so informal, and in many instances so incorrect, that I could not

¹³³ Ibid., p.477.

¹³⁴ Wilson, p.161.

¹³⁵ Fraser, "Robert Nichol," Dictionary of Canadian Biography, vol.VI, p.540.

¹³⁶ Wilson, pp.161-162.

¹³⁷ OA, Ninth Report, pp.39-41.

consistently bring them forward in that state."¹³⁸

At the end of the letter, he stated that "I have not been benefited either directly or indirectly by one shilling of the Public money."¹³⁹ However, before this closing sentence, Nichol could not help writing as follows:

"Throughout the whole of this business I have endeavoured to discharge the duties of a Commissioner in such a manner as to prove that His Excellency's confidence has not been misplaced. Experience has, however, convinced me, that no integrity of heart nor rectitude of conduct are a defence against malevolence and detraction; and that actions the most upright, and disinterested, may be misrepresented when individual characters are to be sacrificed, and party purposes are to be gained."

Against this comment, Rogers, with Gough, immediately moved that Nichol had been guilty of a breach of the privileges of the House:

"by making a false, malicious, and scandalous representation to the person administering the Government, relative to the proceedings of this House, contained in his letter [to Halton]...and also by words used in the presence of a Member of this House."

When the vote was cast, the result was twelve to six, in which nine oppositionists (Dorland was absent) and three other members strongly supported Rogers' motion.¹⁴² Rogers and Gough again moved that the speaker issue his warrant to the Serjeant at Arms to apprehend Nichol and bring him to the House to answer for the said contempt.¹⁴¹

On February 26, 1812, Nichol appeared at the bar of the House. Sovereign

¹³⁸ Ibid., p.41. For Nichol's letter, see also NAC, Upper Canada State Submissions, RG1, E3, vol.56, pp.93-98, microfilm, reel C-1197.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Ibid., pp.41-42.

¹⁴² Ibid., p.42.

¹⁴³ Ibid.

and Willcocks gave evidence of the disrespectful words used by Nichol related to the Assembly.¹⁴⁴ After hearing Nichol's defence, Rogers and Howard moved that Nichol had been guilty of a breach of privilege, in addition to his former offence, "in denying that this House have the privilege of committing an offender who by them has been found guilty of a breach of privilege."¹⁴⁵ Although Secord opposed the motion, nine oppositionists and four other members won the division. Rogers and Howard again moved to imprison Nichol to the common jail of the Home District "during the pleasure of the House". They also moved that the speaker issue his warrant for that purpose.¹⁴⁶ Another division occurred, and the result was twelve to ten. All the oppositionists, with support from Gough and Marsh, supported Rogers' motion.¹⁴⁷

When the House was informed that Thomas Scott, Chief Justice, had liberated Nichol out of his custody, the opposition group was furious.¹⁴⁸ Willcocks and Rogers immediately moved that the Chief Justice had been guilty of a "violent" breach of the privileges of the House by discharging Nichol from the jail. The opposition group, with Gough and Marsh, again won the division.¹⁴⁹ Moreover, Rogers and Gough moved to send a message to the Legislative Council informing them of the resolution of the Assembly, respecting the Chief Justice's conduct and requesting them to proceed in that

¹⁴⁴ Ibid., p.57.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid., p.69.

¹⁴⁹ Ibid., p.70.

case as the nature of the offence required.¹⁵⁰

The Assembly received an answer from the Legislative Council on March 2, 1812. The Legislative Council disclaimed any right to interfere with the proceedings of the Chief Justice in the exercise of his judicial functions. They also included an explanation on this matter by the Chief Justice, who was also the speaker of the Legislative Council. Thomas Scott explained that every warrant of commitment should clearly contain the cause:

"...all warrants of commitment by the House of Commons do specify the cause and recite the particular privilege (breach of) whereof the party has by the House been adjudged guilty, and also the specific order of the House for his imprisonment.

Without such adjudication and order by the House the Speaker has no authority, and his authority must be shown in order to render his warrant valid."

And in Nichol's case:

"...it does not appear of what nature was the breach of privilege charged, how, when, or where he had been adjudged guilty, or that his imprisonment was ordered by the House.

The warrant under which Mr. Nichol was detained appeared in all respects as the personal act of Mr. Street, under his seal, supposing authority vested in him personally by the House of Assembly."¹⁵¹

According to Scott, such an authority was not able to be delegated. "Whatever power the House of Assembly may have to decide upon their own privileges, it must be exercised by the House itself as a House, and not by their Speaker in his own person."¹⁵⁴

¹⁵⁰. Ibid.

¹⁵¹ Ibid., p.74.

¹⁵² Ibid. For the answer from the Legislative Council, see also NAC, RG1, E3, vol.56, pp.84-86, microfilm, reel C-1197.

¹⁵³ Ibid.

¹⁵⁴ Ibid., pp.74-75.

The next step the opposition group took was to present a petition to the Prince Regent against Scott. On March 4, 1812, on motion of Gough and Willcocks, the Assembly resolved that they should vindicate the rights and privileges of the Assembly in the manner which would appear to it best calculated to preserve them. The method was, moved by Gough and Willcocks, to present a petition to the Prince Regent:

"representing the breach of its privileges by the unconstitutional interference of the Hon. Thomas Scott...by liberating Robert Nichol, a prisoner...for a breach of the privileges of this House; and ...to beseech His Royal Highness to adopt such measures to prevent a recurrence of the like..."

Five divisions occurred involving the address to the Prince Regent on this matter. In each, the entire opposition group supported the motions with support from Gough and Marsh.¹⁵⁶ The address was thus sent through the President, Brock.

On May 2, 1812, Scott wrote on this issue to Gore, who was already in England to avoid the possible war against the United States. After explaining the issue and the reason he had liberated Nichol out of custody, Scott stated his opinion as follows:

"This much I may say that if the House of Assembly have power to commit in all cases similar to the House of Commons at Home, the Consequences will be fatal to this province. We are not, as yet in point of Understanding fit to be trusted with such Authority."

This comment indicates the significance of this issue. Although it probably began somewhat from personal hostility, the issue developed into a strong assertion of the rights and privileges of the Assembly. To preserve what the

¹⁵⁵ Ibid., p.79.

¹⁵⁶ Ibid., pp.80-81, 83.

¹⁵⁷ NAC, MG11, CO42, Q316, p.287, microfilm, reel C-10761, Scott to Gore, 2 May 1812.

opposition group considered the rights and privileges of the Assembly, they opposed interference by the Chief Justice and the opinion of the Legislative Council disclaiming any right to interfere with the proceedings of the Chief Justice. The opposition group strongly protested the limited power which the Assembly had in Upper Canada, compared to the House of Commons in England.

This was the first clear cut complaint against the limited power of the Assembly. The issue involving Nichol and Scott showed that the group protest included more than half of the M.H.A.s against the attempt of the Chief Justice and the Legislative Council to limit the rights of the Assembly. It would take a long time for the Assembly to exercise perfectly its rights and privileges, but the attempts by the oppositionists of the Fifth Parliament would mark one of the earliest to preserve the rights and privileges of the Assembly.

VI. Conclusion

During the Fifth Parliament, ten oppositionists co-operated on various issues ranging from local improvements to the rights and privileges of the Assembly. The ten oppositionists were occasionally split on some issues and a few members of the opposition group sometimes did not agree with the majority of them. However the percentage of their activities in co-operation was quite high. It is clear that this group during the Fifth Parliament, for the first time in Upper Canada, though not in a modern sense, was a very primitive form of a political party, or faction.

Moreover, their activities indicate that the leader of the opposition group was not only Willcocks. The group was led by the co-leaders---the united

core of the oppositionists, Willcocks, Howard, Mallory and Rogers. Through the Fifth Parliament, the influence of the oppositionists increased more and more, and at last Brock dissolved parliament on May 5, 1812, and called an election in order to try to get a loyal assembly on the eve of the War of 1812. Among the oppositionists, only three of them---Willcocks, Rogers and Stinson---were returned to the Assembly. Though Willcocks, with newly elected Abraham Markle, tried to refuse to grant Brock partial suspension of habeas corpus, there was no group activity in the Sixth Parliament as in the Fifth one.

This opposition group was short-lived, for just one Parliament, but it marked the first collective action to take place in the Assembly of Upper Canada.

CHAPTER FOUR: CONCLUSION

The political movements before the War of 1812, especially the activities by the opposition group in the Fifth Parliament, have tended to be neglected by historians. For Aileen Dunham, there was no recognizable indications of earlier reform attempts before the War of 1812. Some other historians, though recognizing opposition movements before the War of 1812 period, have mainly concentrated on the Irish-centred activities led by Robert Thorpe from 1805 to ~~1807~~.

H. H. Guest who considered these movements led by Thorpe and his Irish followers as representing the first political party in Upper Canada, regarded the opposition activities which followed as a mere "sequel". However, the Irish oppositionists included people outside the Assembly and failed to organize an opposition group within the Assembly. Moreover, concentrating his attention upon the Irish, Guest only looked at Willcocks' activities after Thorpe had left Upper Canada, and did not recognize the group opposition in the Fifth Parliament which was mainly composed of religious dissenters and North Americans.

G. M. Craig doubted that the political movements from 1805 to 1812 signified the beginnings of an authentic political reform movement. He, as well as S. F. Wise, did not recognize any coherent opposition movement before the War of 1812 which, in actual fact, had developed in the Fifth Parliament.

R. L. Fraser recognized that parliamentary opposition had begun before the War of 1812. However, he considered that it had originated in the Fourth Parliament, not in the Fifth. It is true that during the Fourth Parliament

several different members launched protests against the Lieutenant Governor and his government at different times. However, the opposition-minded members---Weekes, Thorpe and Willcocks---did not succeed in organizing a coherent opposition group, though they received temporary support from a few other members of the Assembly at times.

It was during the Fifth Parliament that the first organized opposition within the Assembly took place. E. H. Jones did consider that the Fifth Parliament marked a departure from the usual pattern of assemblymen working as individuals. He considered Willcocks to be the sole leader of the opposition group. However the ten opposition-minded members were connected under the co-leadership of four members: Willcocks, Howard, Mallory and Rogers.

Upper Canadian society shared with eighteenth century England the point of view that group opposition was improper and disloyal. The group opposition in the Fifth Parliament was regarded with contempt and it certainly caused some irritation among the Upper Canadian élite. For Strachan, ten oppositionists were the "ignorant clowns" who were not qualified to sit in the Assembly in Strachan's opinion. Despite this view in Upper Canada that such factional opposition was improper and disloyal, a group opposition developed in the Fifth Parliament.

An important step toward forming an opposition group was the school act dispute of the last session of the Fourth Parliament in 1808. Howard, Dorland and Rogers withdrew from the Assembly as a way of opposing the passage of the school bill which removed the limitation on the duration of the controversial 1807 Grammar School Act. These members expressed a general objection against the school act for the reason that the act did not

provide schools for the people as a whole. For them, their withdrawal was to protect the people's right. Therefore, the removal from their offices by the Lieutenant Governor because of their withdrawal spurred them to launch an opposition against the government in the next Parliament.

Their argument explaining the reasons for their objection against the school bill indicates the purpose of the oppositionists of the Fifth Parliament. Rogers, Howard and Dorland, who would be in the opposition group, as well as Mallory (though he did not withdraw from the Assembly), repeatedly stated that public money should be used for the people as a whole and that the schools should offer educational opportunity widely to the people. Their attempts to seek more democratic methods in general and to work for the people's sake was clearly evident in the oppositionist activities in the Fifth Parliament.

The school bill supported by the opposition group which tried to introduce an educational system more available to the people at large is perhaps the best example which demonstrates the oppositionists' preference for more liberal and democratic methods. Moreover, the opposition group was more successful in reacting to the wishes of the people in Upper Canada. The bills the oppositionists presented for local improvements passed the Assembly by their influence. Their attempts to reduce office holder's salaries would be also popular with the people, since the salaries were paid from public money. These attempts also indicate the oppositionists' opinion that public money should be used for the sake of the people as a whole.

It is important to note that the opposition group tried to introduce more democratic methods to elect M.H.A.s. Although the bills to change the definition of electors and the qualifications of M.H.A.s were not enacted, the

oppositionists' influence was strong enough to have these bills passed in the Assembly. The oppositionists' belief that anyone could be a member of the Assembly clearly appeared in their strong protest to the discharge of Roblin and James Wilson as Methodist preachers and teachers, as well as in their objection to the bill to ascertain the eligibility of the members of the Assembly which was presented by the non-oppositionists.

The issue arising from Nichol's conduct developed into a intense protest by the opposition forces against the limited power of the Assembly in Upper Canada compared to that of the House of Commons in England. The oppositionists appealed to the Prince Regent over the breach of the rights and privileges of the Assembly, because of Nichol's conduct and the Chief Justice's interference to the Assembly's decision to imprison Nichol. Their appeal was the first real complaint against the limited power of the Assembly. This appeal which included more than half of M.H.A.s, marked one of the earliest attempts to preserve the rights and privileges of the Assembly.

Through the Fifth Parliament, the opposition group showed its coherence in proceeding the passage of bills presented by this group. The co-leaders of the opposition group were especially active in presenting bills and the whole oppositionist group participated in bringing forward more than half of all the bills in each session of the Fifth Parliament.

Moreover, the oppositionists were successful in passing the bills they supported which were always more than half of the entire bills passed in the Assembly. In addition, the consistency of the oppositional force was clearly demonstrated in the recorded divisions. They were highly consistent in more than half of the divisions in the 1810 session and became more and more consistent in the next two sessions. The fact that the opposition group had

strong influence in the Fifth Parliament can also be seen in the numbers of bills passed through both the Assembly and Legislative Council, and Royal Assent. Although in 1811 the number of enacted bills supported by the oppositionists was less than those by the non-oppositionists, the number of enacted bills supported by the majority of the oppositionists exceeded the number of those supported by the majority of non-oppositionists in both 1810 and 1812. This suggests that the opposition group was even successful, to a certain degree, in enacting the bills which they initiated and supported. Therefore, at times, the opposition group was in a sense a ruling group of Upper Canada and was to some extent running the province through successfully enacting their bills.

However, the opposition activities did not last long. The main reason for this was the War of 1812 which entirely changed the political trend in Upper Canada. The war against the United States naturally produced a definite anti-democratic, pro-establishment reaction which was most marked in the first two post-war Parliaments of 1816-1820 and 1820-1824.¹ The influence of the Loyalist families which had been declining before the war strongly recovered in the Seventh Parliament, 1816-1820, and was also well represented in the Eighth Parliament.² Moreover the proportion of M.H.A.s who were magistrates also demonstrated the same tendency. The candidates who were from the Loyalist families, as well as government officers, received increasing support from voters for about ten years after the war.

On the other hand, the Methodists and the post-Loyalist Americans who had been "under a cloud immediately after the war", went into a not

¹ Johnson, p.200.

² Ibid.

surprising post war decline in the Sixth and Seventh Parliaments. There was no known Methodist in the Sixth Parliament and only one known Methodist in the Seventh, though the number of Methodists increased steadily from the Eighth Parliament to a high point at the election for the Tenth Parliament in 1828. Post-Loyalist Americans who had begun to be visible in the Fifth Parliament, decreased their numbers to three in both the Sixth and Seventh Parliaments.

The most important change was the high rate of participation in the Assembly by members of a military bent. From the Sixth Parliament to 1841, the members who were serving or had served in a military capacity never fell below 70%. This indicates that military service came to be seen as a critically important virtue and almost indispensable requirement by the voters of Upper Canada, who were considering present or future dangers from the United States.

These tendencies caused by the War of 1812 unquestionably stalled the opposition movement. The war made opposition, which sought more liberal and democratic methods in general, much less loyal, workable and popular. The fact that in the Sixth Parliament only three of the oppositionists of the Fifth Parliament were returned indicates that the opposition group, which included religious dissenters and North Americans and demonstrated their liberal values, inevitably became unpopular among the people under the dangers from the United States.

During the first decade of the nineteenth century, an organized opposition

¹ Ibid., p.201.

² Ibid., p.202.

³ Ibid., p.206.

group in the Assembly also occurred in Lower Canada. The group Pierre Bédard and Louis Bourdages led differed over a land tax and taxes on trade against the group led by the English members.⁶ The French Canadian group composed of the professional circle in the city of Quebec effectively used the first French newspaper, Le Canadien to teach urban and rural electors not only a more aggressive patriotism, but also their constitutional rights.

In fact, one of the leaders, Bédard was a student of British constitutional history. He realized very well how little of the mechanism of English government had been transferred across the ocean. - Therefore, the purpose of the "French party" was to enjoy the British constitution.

However, the Governor General James Craig did not approve of the conduct of the "French party" and Le Canadien. In 1810, Craig imprisoned Charles Le François, a printer of Le Canadien, Thomas Taschereau, Bédard, and Dr. François Blanchet, who were proprietors of and contributors to the newspaper, on charges of circulating a handbill criticizing the Governor.⁹

The Upper Canada Guardian, under date of April 21, 1810, reported on this matter:

"Quebec March 22nd

On Saturday afternoon the printer of the Canadian[sic.], Mr. Charles Lafrancois[sic.], was arrested and committed to gaol under a warrant from the Executive Council on a charge of Treasonable practices; on Monday Evening Dr. Blanchet and Mr. Bédard, and last evening Mr. T. Taschereau were also arrested, and committed by the same authority on

⁶ H. T. Manning, Revolt of French Canada, 1800-1835, (London, 1962), pp.60, 64.

⁷ Ibid., p.61.

⁸ Ibid., pp.58, 68.

⁹ Ibid., p.88.

the same charges."¹⁰

This article suggests that the oppositionists were aware of similar movements elsewhere. The article mentioned that the newspaper would report further information on this matter in the next issue and this also suggests that the oppositionists were quite concerned about the opposition movements in Lower Canada. Although there is no indication that the French Canadian oppositionists and the oppositionists in Upper Canada had any direct contact or relationship, the article suggests that possibly the opposition forces in Upper Canada considered themselves as part of a general struggle for a more liberal political and social system within the British Empire.

The "inheritance" of the opposition group in the Fifth Parliament reflected in the later reform movement was both individual and geographical. The next generation of some oppositionist's families would also become M.H.A.s, as active reformers, like the case of Peter Howard and his son, Mathew, and John Roblin and his nephew, Philip. Moreover, James Wilson who had been forced out of the Assembly in 1810, personally came back in the Eighth, Ninth, Tenth and Twelfth Parliaments. In addition, the areas represented by most of the oppositionists were to be some of the areas, such as Lincoln First and Second Ridings, Norfolk, Oxford and Middlesex, Leeds and Prince Edward, where the greatest Reform strength would occur in the later years. Earlier activities by the Fifth Parliament oppositionists established a basis of support in areas which would later elect reformers.

Although the activities of the opposition group of the Fifth Parliament did not have much uninterrupted relationship with the reform movement after the 1820's, it was the first time that the M.H.A.s co-operated within the Assembly

¹⁰ Upper Canada Guardian, 21 April 1810.

and effectively worked together to seek a more liberal and democratic society. Moreover, the reform movement received a certain inheritance from this earlier attempts. The oppositionists of the Fifth Parliament thus mark the threshold of the reform movement which would clearly and effectively begin in the 1820's.

Appendix A

The Members of the Fifth Parliament

<u>Ridings</u>	<u>Representatives</u>
Dundas	Henry Merkley (absent first session)
Essex	Mathew Elliott Jean Baptiste Baby
Frontenac	Allan McLean
Glengarry	Alexander Macdonell Thomas Fraser
Grenville	Stephen Burritt
Hastings and Ameliasburg Township	James McNabb
Kent	John McGregor
Leeds	Peter Howard
Lennox and Addington	John Philip Roblin (unseated, 7 Mar., 1810) -Willet Casey (seated, 1 Feb., 1811) Thomas Dorland
Lincoln, 1st Riding and Haldimand	Joseph Willcocks Levi Lewis
Lincoln, 2nd Riding	David Secord

Lincoln, 3rd Riding	Samuel Street
Lincoln, 4th Riding	Crowell Willson
Norfolk	Philip Sovereign
Northumberland and Durham	David McGregor Rogers
Oxford and Middlesex	Benajah Mallory (absent first session)
Prescott	Thomas Mears
Prince Edward, except Ameliasburg Township	James Wilson (unseated, 3 Mar., 1810) -John Stinson, (seated, 1 Feb., 1811)
Stormont and Russell	John Brownell (died, Dec., 1809) -Abraham Marsh (elected, 18 Sept., 1810)
York, East Riding and Simcoe County	Thomas B. Gough
York, West Riding	Richard Beasley (unseated, 1809) -John Willson (seated, 1 Feb. 1810)

Source: F.H. Armstrong, Handbook of Upper Canadian Chronology,
pp.77-79.

APPENDIX B

BILLS PASSED IN THE ASSEMBLY,
1810 TO 1812, BY SUPPORTERS

This Appendix indicates bills passed in the Fifth Parliament by different supporters. Names of members indicate who moved and seconded for leave to bring in a bill, or for second reading of a bill, etc.

1. 1810 Session

name of bills	motions			
	leave to bring in	second reading	committee° third reading	passage
bill to amend an act for equal representation of assembly	Willcocks Mallory	Willcocks Rogers	Willcocks Rogers Sovereign	Willcocks Sovereign Roblin
school bill	Willcocks Rogers	Willcocks Rogers	Willcocks Sovereign (RC)Willcocks Gough	Willcocks Sovereign
bill for applying a certain sum of money through the Lieutenant Governor (passed)	Gough Rogers	Rogers Gough	McLean Howard (P)Willcocks(C)Gough Mallory (negative)	Gough Gough * Elliott Burritt (P)Rogers(3R)Gough Gough Merkley

Notes: * mark indicates that there were some other motions between the usual step of passing a bill, that is, first and second reading, consideration in a committee° (abbreviated as "committee"), third reading and lastly passage of a bill. The abbreviations for other motions are as follows; (P) postpone the previous motion, (C) consider in a committee, (RC) recommit, (D) discharge the rules of Assembly, (1R) or (2R) first or second reading.

Sources are; OA, Eighth Report, 1911, (Toronto, 1912), "Journals of Assembly, 1810, 1811," and Ninth Report, 1912, (Toronto, 1913), "Journal of Assembly, 1812".

name of bills	leave to bring in	second reading	committee	third reading	passage
Grand River bill	Willcocks Sovereign	Willcocks Mallory	Willcocks Mallory	Willcocks Sovereign	Willcocks Howard
Parish and Town Officer bill (passed)	Mallory Willcocks	Mallory Willcocks	Mallory Howard	Mallory Willcocks	Mallory Willcocks
bill to reduce the salary of Adjutant General	Willcocks Sovereign * (P)Willcocks Jo. Willson	Willcocks Rogers Willcocks	Willcocks Roblin	Willcocks * Jas. Wilson * (P)Willcocks (P) Second * Roblin	Willcocks Roblin (P)Willcocks (P) Roblin
bill for easier barring of dower (passed)	Roblin Rogers	Roblin Rogers	Roblin Second	Roblin Jas. Wilson	Roblin Willcocks
bill for easier recovery of debts	Gough Sovereign	Gough Rogers	Gough Sovereign * (P)Gough Second	Gough C. Willson	Gough Willcocks
bill to prevent the fraudulent sale and transfer of lands	Gough Rogers	Gough Roblin	Gough Rogers	Gough McNabb	Gough Sovereign
road bill (passed)	Rogers Howard	Rogers Mallory	Rogers * Mallory * (P)Mallory C. Willson Second	Howard Jas. Wilson (C)Howard Second	Howard Sovereign
bill to extend the jurisdiction of the Court of Requests	Willcocks * Rogers (P)Willcocks Sovereign	Willcocks * Sovereign (P)Willcocks (P) Sovereign	Willcocks Second Willcocks Sovereign	Willcocks Mallory	Howard Gough
bill to lay a duty on license to public billiard tables	Willcocks Mallory	Willcocks Sovereign	Willcocks Roblin	Willcocks Roblin	Willcocks Jas. Wilson

name of bills	leave to bring in	second reading	committee	third reading	passage
bill for the poor	Howard McLean * (P)Howard Mallory	Howard Willcocks	Howard Mallory	Howard Jas. Wilson	Howard McGregor
bill for the relief of Mennonists and Tunkers (passed)	Gough Willcocks	Gough Sovereign	Gough Willcocks	Gough McNabb	Gough Sovereign
bill to repeal certain parts of an act to provide wages to M.H.A.s	Mallory Sovereign	Mallory Sovereign	Mallory Sovereign (RC)Willcocks(P) Sovereign Roblin	Mallory * Secord ** Willcocks(3R) Mallory Roblin Rogers	Mallory Roblin Rogers
bill for repairing roads and bridges from Cornwall to the border of Lower Canada (passed)	McLean Howard * (P)McLean Howard	McLean Jas. Wilson	McLean Jas. Wilson	McLean Jas. Wilson	McLean Fraser
bill for creation of a new district	McLean Jas. Wilson	McLean Howard	McLean Howard	McLean * Jo. Willson * (RC)McLean(D) Howard	McLean * Jas. Wilson McLean(3R) Howard
bill to prevent irregular- ity at elections in future	Howard Sovereign * (P)Howard Sovereign	Howard Jas. Wilson	Howard Gough	Howard Rogers	Howard Willcocks
bill for the discouragement of public plays and shows	Howard Sovereign	Howard Jas. Wilson	Howard Roblin * (C)Howard Jas. Wilson	Howard Willcocks	Howard Roblin

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2. 1811 Session

name of bills	motions				
	leave to bring in	second reading	committee	third reading	passage
bill for applying a certain sum of money through the Lieutenant Governor (passed)	Gough C. Willson	Gough Elliott	Gough Fraser	Gough Elliott	Gough. Elliott
bill to continue the provincial agreement with Lower Canada	Gough Lewis	Gough Secord	Gough Dorland	Gough Elliott	Gough Lewis
militia bill	Gough Dorland	Gough Secord	Gough C. Willson	Gough C. Willson	Gough Sovereign
school bill	Willcocks Gough (P) Willcocks Sovereign	Willcocks * Dorland Willcocks Sovereign	Willcocks Rogers	Willcocks Rogers	Willcocks. Sovereign
bill to reduce the salary of Adjutant General	Willcocks Sovereign	Willcocks Mallory	Willcocks Rogers	Willcocks Rogers	Willcocks Rogers
bill to prevent bribery at any future election	Howard Secord	Howard Rogers	Howard Willcocks	Howard Rogers	Howard Rogers
bill to regulate the duty of sheriffs	Mallory Baby (P) Mallory Dorland	Mallory * Dorland Mallory Dorland	Mallory Rogers	Mallory Howard	Mallory C. Willson
bill to raise the duty upon licenses to hawkers, pedlars and petty chapmen (passed)	McNabb Fraser	McNabb Fraser	McNabb Burritt	McLean McNabb (P) McNabb Baby	McNabb * Burritt (P) McNabb Baby

NB: for abbreviations, see p. 114

name of bills	leave to bring in	second reading	committee	third reading	passage
bill to repeal the laws of the Province of Quebec now in force in Upper Canada	Mallory McLean	Mallory Willcocks	Mallory Stinson	Mallory Jo. Willson	Mallory Sovereign
bill relative to assessments and rates (passed)	Howard Rogers	Howard Willcocks	Howard Mallory * (P)Howard Willcocks	Howard Gough amended by (C)Mallory C. Willson (affirmative)	Howard Dorland
bill to extend the jurisdiction of the Court of Requests	Willcocks Rogers	Willcocks Rogers	Willcocks Rogers	Willcocks Rogers	Willcocks Casey
bill for ascertaining the boundaries of lands	Gough Howard	Gough Secord	Gough Howard	Howard * Mallory * (RC)Willcocks (3R)Howard Secord Rogers	Howard Rogers
bill to obviate doubts arisen in the practice of the Court of King's Bench (passed)	Rogers Willcocks	Rogers Dorland	Rogers Dorland	Rogers Burrill	Rogers Gough
bill relative to the authorities of magistrates	Mallory C. Willson	Mallory Rogers	Mallory Willcocks	Mallory Dorland	Mallory Dorland
bill to amend an act for the public registering of deeds, conveyances, wills and other incumbrances	McLean Gough	McLean Gough	McLean Rogers	McLean * Burrill * (RC)McLean (3R) Rogers	McLean Gough Gough

name of bills	leave to bring in	second reading	committee	third reading	passage
bill for ascertaining damages on protested bills of exchange, and fixing the rate of interest (passed)	Gough Dorland	Gough Dorland	Gough McGregor	Gough Rogers	Gough C. Willson
militia fine bill (passed)	Willcocks Secord	Willcocks Secord	Willcocks Howard	Willcocks Mallory (P) Willcocks Jo. Willson	Willcocks Rogers Willcocks
road bill	McLean Dorland	McLean Fraser	McLean McGregor	McLean Rogers	McLean Elliott
bill to amend parts of an act for the better regulation of special juries	Mallory Willcocks	Mallory Willcocks	Mallory Dorland	Willcocks Mallory	Rogers Elliott
bill to repeal an act of Quebec to prevent persons practising physic and surgery within the Province of Quebec, without license	Willcocks Secord	Willcocks Secord	Willcocks Lewis	Willcocks Elliott	Willcocks Rogers
bill for the relief of creditors against absconding debtors	McLean Baby	McLean McGregor	McLean Elliott	McLean Gough	McLean Elliott
road bill (passed)	Howard Elliott	Howard Sovereign	Howard Mallory	Howard Gough (RC) McNabb McLean (negative)	Mallory Dorland Howard Rogers

° Howard and Rogers moved to add a clause to the road bill, which passed in negative.

name of bills	leave to bring in	second reading	committee	third reading	passage
bill to repeal and act relative to rates and assessments	McLean Elliott	McLean Gough	Mallory McLean	McLean Gough	McLean McNabb
bill to repeal an act for granting duties on licenses to hawkers, pedlars and petty chapmen (passed)	McLean Dorland	McNabb McLean	McNabb Burrill	McNabb Dorland	McNabb Fraser
bill to continue the provincial agreement with Lower Canada (passed)	Gough Dorland * (P)Gough Rogers	Gough Elliott	Gough McLean	Gough McLean	Gough McLean

3. 1812 Session

name of bills	motions			passage
	leave to bring in	second reading	committee	
hemp bill (passed)	Mallory McGregor	Mallory Secord	Mallory Howard	Mallory Merkley Gough Mallory
bill for authorizing the purchase of the Statutes at Large, and other books (passed)	Willcocks Secord	Willcocks Elliott	Rogers C. Willson	Willcocks Mallory Rogers
bill to continue for a limited time the land commission act (passed)	Gough Dorland	Gough Secord	Gough C. Willson	Gough Secord C. Willson
militia bill (passed)	Willcocks Rogers	Gough Rogers	Willcocks Rogers	Rogers Howard * Rogers McGregor

* Rogers and McGregor moved for changing the fifth clause of the bill (one pound of

name of bills	leave to bring in	second reading	committee	third reading	passage
bill to continue an act to provide for the appointment of returning officers of several counties (passed)	Rogers Gough	Rogers Dorland	Willcocks Sovereign	Rogers Fraser	Rogers Dorland
school bill	Willcocks Sovereign	Willcocks Sovereign	Willcocks Rogers	Willcocks Casey	Willcocks Gough
bill to encourage the apprehending deserters from His Majesty's Forces in Upper Canada	Gough Fraser	Gough Rogers	Gough Mallory	Gough Burrutt	Gough Rogers
bill to amend an act to extend personal arrest to the sum of forty shillings	Gough Rogers	Gough Rogers	Gough Elliott	Gough McNabb	Gough Fraser
bill to amend and explain an act for the better regulation of special juries	Mallory Dorland	Mallory Sovereign	Mallory Willcocks	Mallory Willcocks	Mallory Willcocks
bill to amend and extend the jurisdiction of the Court of Requests	McNabb Dorland	McNabb C. Willson	McNabb Rogers	McNabb Dorland	McNabb Burrutt
bill to regulate the practice of surveying throughout Upper Canada	Howard Stinson	Howard Burrutt	Howard Jo. Willson	Howard C. Willson	Howard Gough
bill to reduce salaries of clerks of both Assemy and Legislative Council	Willcocks Mallory	Willcocks Second	Willcocks Mallory	Willcocks Rogers	Willcocks Rogers

name of bills	leave to bring in	second reading	committee	third reading	passage
bill to prevent charge and expense at any future election in Upper Canada	Howard Stinson	Howard Rogers	Howard Mallery	Howard Elliott	Howard Gough
bill for establishing regulations of travellers on the roads (passed)	Howard Burrirt	Howard Mallery	Howard Fraser	Howard Cough	Rogers Howard
bill to repeal the eighth clause of an act directing surveyors to be paid out of the district funds (passed)	Mallery C. Willson	Mallery C. Willson	Mallery Howard	Mallery Howard	Mallery Howard
bill to form a new district from part of the Home and Niagara Districts	Mallery Willcocks	Mallery Willcocks	Mallery Willcocks	Mallery Sovereign	Mallery C. Willson
bill for encouraging the apprehension of deserters from His Majesty's regular forces (passed)	Gough Rogers	Gough Rogers	Gough Burrirt	Gough Rogers	Gough Rogers
bill to appropriate money for training, exercising and arming the militia of Upper Canada (passed)	Howard Secord	Howard Rogers	Howard Willcocks	Rogers Stinson	Rogers Willcocks
bill for replacing certain sum of money advanced by the Lieut. Gov., last session of the Legislature (passed)	Rogers Elliott	Rogers Lewis	Willcocks Rogers	Rogers Gough	Rogers Willcocks

name of bills	leave to bring in	second reading	committee	third reading	passage
bill to appropriate money for roads (passed)	Howard Rogers	Howard Gough	Howard Willcocks	Howard Mears	Howard Gough
bill to repeal an act for enrolment of bargains and sales, and to make further provision for the enregistering of deeds and conveyances	Gough Lewis	Gough Willcocks	Gough Howard * (D)Gough McGregor	Gough McGregor	Gough Howard
bill to authorize the person administering the Government to license practitioners	Rogers Casey * (D)Rogers Casey		Rogers Willcocks	Rogers Casey	Rogers Howard
bill to alter the present practice of giving notice for the sale of lands under execution	Willcocks Howard	Willcocks Jo. Willson	Willcocks Merkley	Willcocks Sovereign	Willcocks Howard

° Rogers and Casey moved for dispense the rules of Assembly for first reading of the bill at the same day. the bill was read first time and ordered to be read second time the next day. There is no record who moved for second reading of the bill. See OA, Ninth Report, p.61.

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