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PROPRIETARY MISRULE IN SOUTH CAROLINA

1700 to 1720  
^

by

SAMUEL R. SYFERT

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the requirements for the degree of

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S. R. S.

TABLE OF CONTENTS

|  | page |
|--|------|
| INTRODUCTION.....  | 1    |
| Chapter  |      |
| I. CHURCH LEGISLATION.....                               | 3    |
| II. PAPER CURRENCY AND IMPERIAL DISAPPROVAL.....         | 10   |
| III. MILITARY PROTECTION.....                            | 17   |
| IV. ASSEMBLY ELECTIONS AND PROPRIETARY APPOINTMENTS..... | 26   |
| V. AUTOCRATIC JUDICIAL SYSTEM.....                       | 39   |
| VI. TRADE DISCRIMINATION AGAINST ENGLISH SHIPPING.....   | 42   |
| VII. EXCLUSION OF SETTLERS FROM INDIAN LANDS.....        | 48   |
| CONCLUSION.....  | 53   |
| BIBLIOGRAPHY.....  | 57   |

## INTRODUCTION

The first two decades of the eighteenth century might well be described as a critical era in the history of colonial South Carolina. Governed by absentee proprietors who were primarily interested in the income to be derived from the colony, the settlers were obliged to provide for their own safety and economic welfare. The colonials were successful in their efforts to establish a permanent home in the Carolina wilderness with the meager aid sent intermittently by the proprietors, but the expected profits for the owners did not materialize. The proprietors, convinced that the colony could never be made a paying venture, became more unyielding than ever before to the insistent pleas for aid from the Carolinians. Therefore, it is not surprising that the Carolinians became increasingly critical of restrictive proprietary policies.

Colonial resentment to proprietary rule took many forms. There was much dissatisfaction with the colonial government in the colony because of a steady stream of incompetent and unformed administrators. Nicholas Trott, Colonel William Rhett, and Secretary Robert Shelton were considered unworthy of office by a large number of the colonists. Various acts passed by the colonial legislature that were considered essential by the Carolinians were vetoed by the proprietors with little regard

to the needs of the colony. It was difficult for the colonists to accept proprietary disapproval of the Tax Act, the Church Act, the Trade Act, and the elections bill. When the Bank Act of 1712 was vetoed, so essential was it to the economic life of the colony, that it continued in force despite proprietary disapproval. Even more difficult for the Carolinians to accept was the order to evacuate the Yemassee lands so that the area could be diverted to the use of the proprietors. In addition to all of these grievances, the court system was lodged in the hands of one man, Chief Justice Nicholas Trott, or appointees of the said Chief Justice.

As repugnant as these reasons were to the Carolinians, they were not sufficient in themselves to warrant open revolt against proprietary rule. Only when the burden of poverty and continued misfortune overtook the Carolinians, did they renounce the proprietors and appeal for royal protection. The purpose of this paper is to explain in detail the various forms of colonial resentment that finally resulted in the complete overthrow of proprietary control in South Carolina.

## CHAPTER I

### CHURCH LEGISLATION

The Carolina charter provided for the Church of England as the established church in the colony. However, the Fundamental Constitutions, in keeping with the charter, permitted the Carolinians a degree of religious freedom. The single requirement for a dissenter was to worship in public and acknowledge God. Unfortunately this latitude in religious affairs was not acceptable to either side in the controversy. The dissenters lamented that the Fundamental Constitutions were too restrictive and members of the Church of England complained that the degree of religious freedom was repugnant to the establishment of Anglicanism.<sup>1</sup>

The religious controversy became increasingly bitter and finally reached the colonial Assembly. Lord Granville precipitated the legislative struggle when he decided that non-churchmen should not be permitted to hold office in the colony although there was no similar restriction for membership in Parliament. In this endeavor, he had the willing cooperation of Governor

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<sup>1</sup> Edward McCrady, The History of South Carolina under the Proprietary Government, 1670-1719 (New York, The MacMillan Company, 1897), p. 329. Berkeley County was strictly Anglican, while Colleton County strongly dissented.

Nathaniel Johnson, Chief Justice Nicholas Trott, and Colonel William Rhett--all devoted to the high church. The dissenters were now thoroughly alarmed and prepared to fight this threat to their political and religious rights.<sup>2</sup> The issue was drawn at an extraordinary session of the Assembly on May 4, 1704 when Colonel Risbee introduced a bill in keeping with Lord Granville's decree that required all members of that group to worship according to the tenets of Anglicanism.<sup>3</sup> The act provided that every person elected to the Commons had to receive the sacraments according to the Church of England and deliver a witnessed statement to that effect from the minister to the speaker of the House of Commons. If a person did not adhere to the established church, he could declare under oath that he attended church regularly and accepted communion as prescribed by the Anglican Church. Upon said declaration, these people were admitted to their seats in the Assembly.<sup>4</sup>

The act placed a real hardship on the settlers outside of Charles Town. If they attempted to comply with the act, they had to journey to Charles Town or to Pompion Hill, the only other church in the province. Doubtless, the long journey caused many of the members to be infrequent attenders at the services.

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<sup>2</sup> McCrady, History of South Carolina, p. 406.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid., p. 409.



During the five years that the Reverend Mr. Marston was pastor of St. Philip's Church, eleven members of the Commons had never received the sacrament.

Some of the chief dissenters in the House, where the bill met with stubborn opposition, were Thomas Jones, William Edwards, James Cochran, and Charles Colleton. Jones and Edwards declared, "that King Charles II having granted a liberty in his charter to the people for the settling of this colony, we think the above bill too great an infringement on the liege subjects of His Majesty".<sup>5</sup> In the opinion of James Cochran, many people had crossed the ocean to gain religious freedom only to have their new found liberties revoked. Charles Colleton objected to the bill as not being right for the Carolinians at this time, but checking documentary evidence, he concluded that the royal charter did not allow all persons to participate in government. Furthermore, there could be no appeal to the Fundamental Constitutions, because the Church of England was declared to be "the only true and orthodox and the national religion of all the king's dominions."<sup>6</sup>

An additional act for religious conformity, introduced by Ralph Izard in 1704, provided that each lawful church must

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<sup>5</sup> McCrady, History of South Carolina, p. 409.

<sup>6</sup> Ibid., p. 410. The royal charter provided religious freedom to all dissenters who did not disturb the peace while worshipping.

recognize the Book of Common Prayer, administration of the sacraments according to the Anglican ritual, and the Psalter. Other provisions were for the erection of churches for public worship, the maintenance of ministers, and the building of homes for the ministers. A Lay Board was established to judge ministers and ascertain their fitness for office.<sup>7</sup>

The wrath of the dissenters was more vehement than ever before. The Attorney General and the local officers, interested only in politics, stated in their briefs that the laws of the Assembly must be as nearly like those of England as possible. Governor Johnson proposed a new act of establishment omitting the section opposing the dissenters. But the Assembly refused to act on the Governor's proposal and passed a new measure against the dissenters.<sup>8</sup>

Mr. Joseph Boone, representing the dissenters, traveled to England with a memorial to the proprietors that requested the repeal of portions of the Church Act. Boone asked for the continuation of the jurisdiction of the Bishop of London, and the revocation of the Lay Board's power to remove ministers. The dissenters charged that the board was "an high ecclesiastical commission court destructive to the very being and essence of the Church of England."<sup>9</sup>

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<sup>7</sup> McCrady, History of South Carolina, p. 416. Conformity to the Church of England originated in the mother country, but it was more readily adopted by the churchmen of Carolina.

<sup>8</sup> Ibid., p. 446.

<sup>9</sup> Ibid., p. 434.

The efforts of the dissenters had the desired results. Adverse publicity in England caused the proprietors, on March 6, 1705, to order Governor Johnson and the Assembly to repeal the act.<sup>10</sup> However, the Assembly refused to take immediate action and the matter was brought before the Board of Trade in London. The Board requested a ruling on the bill from the Bishop of London. On December 20, 1705 the bishop recommended that the act be passed, but that the portion concerning the dissenters be repealed.<sup>11</sup>

The House of Lords entered the controversy on March 12, 1706. In a report to Queen Anne, the Lords stated that the act was unwarranted by the proprietary charter. The law was regarded as unreasonable, repugnant to the statutes of England, and destructive to the constitution of the established church. It was believed that the act would foster atheism throughout the province.<sup>12</sup> After consultation, the Lords ordered the proprietors to repeal the act.

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<sup>10</sup> A. S. Salley, editor, Commissions and Instructions from the Lords Proprietors of Carolina to Public Officials of South Carolina, 1685-1715 (5 vols., Historical Commission of South Carolina, Columbia, 1916), I, 152. Hereafter cited as Collections.

<sup>11</sup> Transcripts of Records in Public Records Office Relating to the Province of South Carolina, 1663-1782 (36 vols., Historical Commission of South Carolina, Columbia), IV, 140. Hereafter cited as Transcripts of Records. The bishop did not want to lose funds for building churches provided by the act.

<sup>12</sup> McCrady, History of South Carolina, p. 445.

When the Assembly convened, Governor Johnson requested immediate repeal of the repugnant act. To replace the various church acts, Johnson proposed one general act without the clause that gave the Assembly power to remove the clergy.<sup>13</sup> On November 30, 1706 all statutes previously authorized by the Assembly were repealed. However, on the same day another act was passed. This act, known as the Act of 1706, divided the province into ten parishes.<sup>14</sup> There were provisions made for six churches and six homes for the parish rectors. The residents of each parish, belonging to the established church, were to choose the rectors, seven vestrymen, and two church wardens. These men, elected on Easter Monday of each year, were to take an oath of allegiance to the established church and subscribe to the test against transubstantiation. When appointed, the local church officials were required to serve the parish under a penalty of law.<sup>15</sup> In 1712 during Governor Craven's administration, the Assembly passed an act that created a commission to hear and settle all differences with regard to the election of ministers.<sup>16</sup>

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<sup>13</sup> McCrady, History of South Carolina, p. 445.

<sup>14</sup> Ibid., p. 447.

<sup>15</sup> Ibid., p. 449.

<sup>16</sup> Ibid., p. 508. This was a new innovation. In England this right was given to the bishop and in the other colonies the power was given to the governor.

The Church of England, from the very beginning, was not aware of her duties to the colonists. The people were dependent upon the proprietors and the church in England for the services that were carried on in Carolina. Failure of the church to carry out its assigned tasks caused much of the discontent.<sup>17</sup>

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<sup>17</sup> McCrady, History of South Carolina, p. 698.

## CHAPTER II

### PAPER CURRENCY AND IMPERIAL DISAPPROVAL

The Carolina settlers faced many serious problems during the colonial period but none were more onerous than the shortage of money. Although the Lords Proprietors were interested in the income derived from the colony, they refused to provide the necessary funds for the protection and preservation of the colonists. Left to themselves, the colonials were forced to provide for their own safety. The shortage of specie in the colony resulted from the Act of 6 Queen Anne that prohibited the exportation of specie from England. This act was necessitated by mercantilistic theory, but it created a serious problem for the American colonists. Obviously, an acceptable substitute for specie had to be found if the Carolinians were to succeed in establishing a flourishing economy. Paper bills of credit came into use to pay for the St. Augustine expedition and continued to serve the colony well throughout the remainder of the colonial period. Without paper currency, the colonists had no means of providing for their defense--trade was decreasing at a rapid rate. However, only during the Yemassee War was the decrease in trade harmful to the colonists. The valuable shipments of furs, received from the Indian traders,

were not available for shipment to England, thus causing a deficit in the colonial treasury.

The financial conditions of Carolina reached the crisis stage as early as 1701. To partially alleviate the problem, the Assembly passed an act that provided for the devaluation of specie. The English merchants were very critical of the act. The merchants brought the matter before the Board of Trade who later referred the act to the Lords Proprietors. The Board requested an immediate explanation from the proprietors. The proprietors responded and ordered the Assembly to repeal the devaluation act, but the act was never repealed.<sup>1</sup>

The first bills of credit were issued in 1703 to discharge the indebtedness incurred during the St. Augustine expedition of the previous year. These bills were to be retired in three years by a tax on liquors, furs, and skins.<sup>2</sup> However, the tax revenue was not enough to meet the needs of the Carolinians. Thus, when the Carolinians were attacked by the French in 1707, it cost the province £20,000 and no help came from the king or the Lords Proprietors.

Most of the bills of credit issued between 1703 and 1711 were to pay for military expenses: the St. Augustine expedition, the French attack, the fortification of Charles Town, and the construction of Johnson's Fort. Furthermore, there was a need

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<sup>1</sup> Collections, I, 218.

<sup>2</sup> McCrady, History of South Carolina, p. 523.

for immediate money to insure the continued safety of the colony against the Spanish and French. With specie almost non-existent, the paper money facilitated business affairs.

The Bank Act, passed in 1712, marked a new policy with regard to paper currency. The South Carolinians attempted to eliminate the confusion that resulted from the previous tax acts, and place their money on a sound footing. Each previous tax act was passed to retire one specific emission of bills of credit. The result was utter confusion. The new act called for the emission of £52,000, colonial currency of which £16,000 was to retire all of the old bills still in circulation. Thirty-two thousand pounds sterling were to be issued as interest-bearing notes payable in twelve years at  $12\frac{1}{2}\%$ ; this sum was to be used to retire the principal and interest at the end of the term. The remaining £4,000 was to be used for current government expenses. The act also stated that all the bills of credit should be retired at regular intervals.<sup>3</sup>

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<sup>3</sup> Transcripts of Records, VI, 69. Colonial currency was increased in value by one third the value of the regular sterling or proclamation money with regard to the Act of 6 Queen Anne: for example, £133 colonial currency was equal to £100 sterling. This valuation was allowed by England as an equalizer. The colonies previously had tried to value their money higher than the other colonies: for example, if South Carolina valued a shilling at four; North Carolina would then raise hers above that of South Carolina.



The large increase in money that resulted from the Bank Act brought about the first serious depreciation in the paper money. The merchants trading with Carolina viewed the depreciation with alarm and began to demand that the Board of Trade take action to restrain the South Carolinians from continuing a policy which hurt the commercial interests. The memorialists were not successful at this time in bringing about a change of policy. The exchange rate rose from three to one, immediately after the passage of the act, to five to one in 1720. The memorials of the merchants became more and more insistent. They claimed that the paper currency was extremely prejudicial to trade.<sup>4</sup>

The Yemassee War of 1715 interfered with the annual retirement of the bills emitted in 1712 and necessitated two additional issues totaling £50,000. Additional bills of credit were issued, in 1715 and 1716, before the war ended. The Yemassee War, alone, cost the colonists £95,000. From the year 1701 through the Indian War of 1715-16, the colonists had expended £184,035 for the defense and support of the province.<sup>5</sup>

When Governor Robert Johnson received his instructions, the Lords Proprietors requested that he reduce the number of bills of credit and work for their retirement as quickly as possible. Governor Johnson recommended that a study be made

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<sup>4</sup> Herbert L. Osgood, The American Colonies in the Eighteenth Century (4 vols., New York, New York University Press, 1924), II, 372.

<sup>5</sup> Collections, II, 228.

concerning the effects of paper currency upon the public credit and the trade of the province. Instead of repealing the Bank Act, another act was passed in 1717 for the retirement of all bills issued during the Yemassee War. These emissions were used for military expenses, even though the merchants charged that the Assembly was attempting to reduce its indebtedness through depreciation.<sup>6</sup> The merchants claimed the colonists acted in bad faith when the act was repealed before all the bills were retired. Actually the colonists could do nothing else. Excluding the Yemassee War, the Carolinians had spent a total of £84,035 for their defense. They saw the new emission as a grant of additional time to discharge their indebtedness. Nearly all groups in the colony, excepting the British merchants, agreed that the new emission was necessary. True, the new emissions did hurt the merchants. Again, the proprietors displayed their complete indifference to the needs of the colony by requesting that all bills be retired immediately. It was an unfortunate proprietary policy that refused aid while at the same time curtailing the schemes the colonists devised to help themselves.

On December 17, 1717, the Assembly passed an act to cancel all bills of credit issued during the Yemassee War by March 1718.

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Transcripts of Records, VII, 31-35.

A tax of £47,000 was to be paid, of which £24,000 was to sink the bills and the remaining £27,000 was to pay sundry orders and debts contracted by the public. In March 1718 an additional tax was to be paid, of which £30,000 would be used to retire the bills. Within a year, £54,000 worth of bills were to have been cancelled.<sup>7</sup>

In September 1718, Governor Johnson was enjoined by the proprietors to again work for the reduction of paper credit. The proprietors praised the passage of the tax act for the sinking of the bills of credit, but they feared that the act would be bypassed. The governor and council were ordered not to give their consent to any act which would evade the tax act and further increase paper credit.<sup>8</sup>

Failing to receive aid from the proprietors, in February 1719, the Assembly passed an act providing sufficient funds to pay the debts incurred by the equipment of two expeditions against the pirates.

After the proprietary government was overthrown, the Commons again demanded an expansion of paper money. The needs were centered upon commerce and internal improvements. The paper money advocates argued that a large circulating medium was essential because of the increase in population and trade.<sup>9</sup>

Even though the proprietors called for the repeal of the Bank Act, so essential was it to the colonists that it remained

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<sup>7</sup> Transcripts of Records, VII, 71-73.

<sup>8</sup> Ibid., pp. 156-157.

<sup>9</sup> Ibid., VIII, 28-33.

in force throughout the proprietary period. South Carolina became one of the most flourishing British colonies in America owing largely to the use of the colonial bills of credit. Therefore, the conflict over paper currency was a very important issue leading to the overthrow of the proprietary system.

## CHAPTER III

### MILITARY PROTECTION

The South Carolinians were constantly in jeopardy from three sources: the Indians on the frontier, the Spanish and their Indian allies in Florida, and the French along the Mississippi Valley. In addition pirates appeared sporadically on the Carolina coast and attacked all colonial shipping to and from the province. Inefficiency and indifference on the part of the proprietors forced the Carolinians to work out their own defenses. Sufficient funds and manpower were not available in the colony to provide for the defense of the coast and, at the same time, the wilderness frontier.

The House of Lords ordered an investigation to determine whether or not the proprietors were supplying the colony with sufficient arms and ammunition. In 1701 the colonial Assembly presented evidence to the Board of Trade that the Yamassee Indians were allying with the Spaniards. Therefore, the colonists requested the following guns: six twenty-four pounders, six eighteen pounders, six twelve pounders, and six small field pieces. Other weapons desired were ten small patereras, twenty blunderbuses, two hundred fusees, twelve dozen grenades, two hundred cutlasses, and five hundred weights of match powder.

Without these materials, the colonists claimed they could not halt the onslaught of the Indians and their Spanish allies.<sup>1</sup>

On April 15, 1703, the Carolinians requested the Lords Proprietors to supply ammunition and the necessary men for a proposed expedition against the Spanish at St. Augustine. The proprietors were also requested to intercede with Queen Anne for a frigate to protect the coast.<sup>2</sup> The frigate was needed for patrol duty to protect colonial shipping from the pirates as well as for military protection.<sup>3</sup>

The arrival of Governor Nathaniel Johnson brought about an improvement in the ominous military situation. Johnson was an experienced military commander whose reputation and ability encouraged more men to volunteer for military duty. With the help of Colonel William Rhett, the colonists were successful in two sea attacks upon Spanish shipping.<sup>4</sup> However, Governor Johnson was a realist and did not permit complacency to follow these two successes. The sea attacks were quite expensive and a serious drain on the Carolinian treasury. Unfortunately the mother country gave no indication that financial assistance could be expected from that quarter.<sup>5</sup> The period 1703-1711 is filled

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<sup>1</sup> Collections, V, 36.

<sup>2</sup> Ibid., II, 210.

<sup>3</sup> Ibid., III, 273.

<sup>4</sup> Transcripts of Records, V, 56.

<sup>5</sup> McCrady, History of South Carolina, p. 622.

with requests made to the proprietors and Board of Trade for necessary supplies and men to protect the frontier from the Spanish and the Indians.<sup>6</sup>

The plight of South Carolina deteriorated quickly because no arms arrived from England and the colonial Assembly was not able to supply sufficient funds to purchase supplies from the neighboring colonies. Governor Craven addressed the proprietors in a number of communications asking for aid and protection, but the proprietors failed to respond. On July 8, 1715, the proprietors pleaded their case before the Board of Trade. They claimed that they were unable to render assistance to the Carolinians and begged the king to come to their assistance. Without immediate aid, the proprietors foresaw nothing less than the complete destruction of the province. The proprietors did, however, order the colonial Receiver General to employ all available funds for the procuring of arms and ammunition.<sup>7</sup>

Before the men and supplies arrived, the Indians began their attack on the frontier of Carolina. The Yemassee were the most warlike Indian nation in the province and once having started the conflict prevailed upon other tribes to become their confederates. The Indians had a total of about eight thousand braves engaged in a furious battle with the settlers. The Indians divided themselves

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<sup>6</sup> Collections, V, 275. On December 6, 1711, the Board of Trade received an ordnance report requesting arms and ammunition for the beleaguered Carolinians.

<sup>7</sup> Transcripts of Records, VI, 89.

into two parties; one attacked Port Royal and the other St. Bartholomew's. The inhabitants in the Port Royal area took refuge on board a merchant ship in the harbor. In St. Bartholomew's about one hundred people fell before the Indians. They burned all houses and churches as they moved through the countryside. Governor Craven reported that he had reduced the plantation losses considerably by an immediate counter-attack.<sup>8</sup>

By July 1715 the situation in Carolina had deteriorated to such a degree that a number of merchants requested that aid from England be dispatched immediately. Should the Indians be successful in South Carolina, then all the other English colonies would be open to attack.<sup>9</sup> On July 19, 1715 the Board of Trade cited the need for assistance from the king. In the opinion of the Board of Trade, the commercial value of the province was sufficient to warrant military aid. The supplies requested to be sent to the Carolinians were 300 barrels of powder, 1500 muskets, 40 cohorn mortars, 6 field pieces, and 500 men. The proprietors offered to make a partial payment toward a ship to carry the material. The Carolina Assembly sent £2500 to New York and New England to buy arms and ammunition. There was a provision that all troops sent to South Carolina had to be under the

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<sup>8</sup> Collections, II, 220. Port Royal was located on an island in the Port Royal River on the Carolina frontier. St. Bartholomew's was a small interior frontier outpost.

<sup>9</sup> Ibid., p. 222.



jurisdiction of the governor. The province had to furnish food and lodging for twelve months.<sup>10</sup>

In August 1715 the Assembly passed an act to raise an army of 1200 white men and negroes. These men were divided into three divisions for the protection of farmers during the crop season. These defense measures were a costly burden estimated at £120,000 per year. The Assembly issued £30,000 in new paper money to be retired by a tax levied upon the inhabitants. The Assembly empowered the Governor and Council to impress all ships, vessels, arms, ammunition, and military stores for the public service.. Martial law was to extend to all military affairs.<sup>11</sup>

In March 1716 the Assembly endeavored to obtain additional supplies from England to replace troops from Virginia and North Carolina. With the departure of the North Carolinian and Virginian troops, the frontier was again unprotected and Captain Woodae had not yet arrived with his ship load of men and arms.<sup>12</sup> The General Assembly was convinced that the Lords Proprietors were neither willing nor able to give assistance to the province, so in 1716 they pressed for the king to assume control of the province. One thousand men were needed immediately to forestall complete disaster. Already, the cost of financing

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<sup>10</sup> Collections, III, 282.

<sup>11</sup> McCrady, History of South Carolina, p. 537.

<sup>12</sup> Collections, II, 225.

the war had reached the astronomical figure of £150,000.<sup>13</sup>

On July 27, 1716, Woodae's men, arms, and ammunition arrived safely.<sup>14</sup>

Throughout the year 1717, many small Indian incursions again further resulted in much destruction in the outlying settlements. The Senecas and some Mohawks joined the Yamassees. The Indians were further strengthened by the Spanish and French who furnished them with weapons. The war was finally terminated, with the aid of the Cherokee Indians, and a treaty was concluded in 1717. The Yamassees were driven from the province and later settled in Spanish Florida.<sup>15</sup>

During the summer of 1717, Sir Robert Montgomery proposed a new settlement on the frontier to serve as a barrier against Indian attack. He proposed to bring over several families at his own expense. These people would fortify that area of the colony beyond the Savannah River. Montgomery pointed out that the Spanish and their Indian allies could not invade the main province without passing through the new settlement which would be called Azilia.<sup>16</sup>

When Governor Robert Johnson arrived in the province, he found it necessary to build fortifications for the defense of the settlers. Four forts were erected; one at Port Royal,

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13 McCrady, History of South Carolina, p. 550.

14 Transcripts of Records, VI, 235-242.

15 Collections, II, 230.

16 Transcripts of Records, VII, 85.

another called Fort Moon, a third called Pallachicola Fort, and the fourth called Johnson's Fort. These forts were to command the Charles Town harbor. The Lords Proprietors neglected to garrison the forts so the Assembly was forced to hire men to serve as the garrison. One company of men were sent to Port Royal but the other three forts were left unattended.<sup>17</sup> In addition to these outlying forts, fortifications were to be built in Charles Town. The harbor was capable of being made impregnable with the mounting of guns around the coastal area. However, the government failed to follow through on the plan and the fortifications were never completed.<sup>18</sup>

On June 18, 1718 Governor Johnson requested aid from the proprietors to combat the pirates. The pirates were commanded by Teach, alias Blackbeard, who had a ship with more than fifty guns. The treaty of peace between England, France, and Spain only made the pirate activity worse. There were few ships that did not fall into the hands of the pirates. Two frigates were needed for immediate patrol duty.<sup>19</sup> As many as four pirate ships were seen in the Charles Town area within a period of fourteen days. The pirates captured several of the leading inhabitants and then ordered the governor to send a chest of

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<sup>17</sup> Collections, III, 282.

<sup>18</sup> Ibid., II, 237.

<sup>19</sup> Ibid., p. 257.

medicines or they would put every prisoner to death. After they were stripped of all possessions, the citizens were allowed to return.<sup>20</sup>

In October 1718 a successful raid against the pirates was made by Colonel William Rhett. Major Stede Bonnet and his entire crew were captured. Governor Johnson feared reprisals from the remaining pirates. Several ships were taken within a matter of days and serious trouble could have developed, had it not been for the quick action of Governor Johnson who successfully cleared the harbor of all pirate ships.<sup>21</sup> The pirates at Cape Fear were thoroughly routed by the operation. The leader, Thatch, was killed and his crew was captured.<sup>22</sup> The British merchants requested that the Board of Trade send a ship for patrolling the coast of Carolina and the Bahamas. On April 20, 1719, the Admiralty ordered a frigate to Carolina to protect English shipping.<sup>23</sup>

The inefficiency of the colonial government and the refusal of the Lords Proprietors to render assistance brought about the renunciation of the proprietary regime. The first act of the revolutionary Convention was to ask the king for protection.

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<sup>20</sup> Collections, II, 236.

<sup>21</sup> Ibid., p. 258.

<sup>22</sup> McCrady, History of South Carolina, p. 621.

<sup>23</sup> Collections, II, 236.

In asking for protection, the South Carolinians reported new Spanish and Indian incursions and the French had settled within the bounds of the provincial territory.<sup>24</sup>

In early 1720, the Spanish invaded the Carolina coast near Charles Town. The colonists were unable to compete with four Spanish ships--each fitted with fifty guns.<sup>25</sup> As the Spanish attacked, the northern Indians broke out of their boundaries and joined the southern tribes. The Spanish were frightening the leading citizens away from the colony, thus causing a financial drain upon the colonial treasury.<sup>26</sup>

That South Carolina escaped complete ruin was due largely to the energy of a gallant governor and the skill of seasoned Indian fighters. However, these gallant men alone would not have been enough to overcome the threat posed to the colony. Had it not been for the arms and men of neighboring provinces and the Cherokee alliance, South Carolina might well have succumbed to superior numbers. The South Carolinians had good reason to be disturbed by the vacillation of the proprietors. Obviously, the need for protection from the Spanish, the Indians, and the pirates was one of the major causes for the overthrow of the proprietors.

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24 Transcripts of Records, VII, 223-226.

25 Ibid., p. 314.

26 Ibid., VIII, 34-35.

## CHAPTER IV

### ASSEMBLY ELECTIONS AND PROPRIETARY APPOINTMENTS

Members of the Council were chosen by the Governor, acting as the agent of the proprietors and the king. The Commons House was elected by the Protestant white settlers in the province under the existing English laws of the times. The proprietors had full power to choose any person as governor of the colony without regard to the desires of the South Carolinians. The Carolinian charter also gave the Lords Proprietors the power to appoint all lawful officials of the colony. Thus by charter right, the proprietary control over the colonial government was complete except for the Commons.

The results of this autonomy were sometimes detrimental to the welfare of the colony. Appointments were made without regard to qualifications; the only essential qualification necessary for an appointment was friendship with one of the proprietors. As long as the appointee worked for the benefit of the Lords, he was assured a permanent position. Among those appointees were Nicholas Trott and William Rhett. Rhett was a close friend of the proprietors and Trott had married a daughter of one of the owners. This placed Trott in the position of working in his own behalf while carrying out the dictates of the proprietors. Obviously this system would precipitate friction between the Carolinians and the Lords Proprietors in London.

Nicholas Trott was a self-seeking and unprincipled man, who did not scruple to use high office to further his own personal and political ambitions. He was without question learned in the law and an effective administrator, qualities that recommended him to the proprietors. He was appointed to the posts of Attorney General and Advocate General and authorized to act, plead, sue, and prosecute all persons for debts, fines, and forfeitures. He was given power to plead all criminal cases in the High Court of Admiralty.<sup>1</sup> In addition to his duties as Attorney General, Trott was also appointed colonial naval officer. Upon his arrival in Carolina, he was sworn into the offices of Attorney General and naval officer, but not to the office of Advocate General. The governor and council informed him that the king had taken the admiralty jurisdiction into his own immediate power and that Mr. Jonathan Amory was appointed Advocate General. For six months Trott performed his duties satisfactorily. However, trouble arose when the ship known as the Cole and Ben Galley entered Charles Town harbor. The galley was ordered seized under the pretence of not having registered with colonial customs. Since the cargo was worth several thousand pounds sterling, Governor Blake wanted a conviction so that he could benefit from the sale of the ship's produce. Trott was ordered to prosecute the ship owners in the Court of the Admiralty as the Advocate General. He refused to act without the king's commission.

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<sup>1</sup> Collections, V, 57.

He also stated that in his opinion the galley had been unjustly seized. When Judge Morton proceeded to condemn the ship owner, Trott, a court room spectator, urged the owners to appeal the decision to London. Morton, fearing the Board of Trade might return the ship and goods, ruled against an appeal. For his interference, Governor Blake, Judge Morton and the councillors suspended Trott from his offices without authority from the proprietors. Trott denied the existence of the government of Blake because the governor had disturbed the peace of the settlers. Governor Blake ordered Captain John Collins to apprehend Justice Trott and lodge him in jail. Judge Trott communicated to the proprietors his reply to the charges made by the colonials. In addition, he charged the colonial government with misdemeanors.<sup>2</sup>

Upon the death of Governor Joseph Blake in 1700, the Council met to make an interim appointment to fill the vacancy. This was highly irregular; the only persons with power to appoint a governor were the proprietors themselves. Nonetheless, the Council proceeded with the affairs of electing a governor. Landgrave Joseph Morton, as the eldest Landgrave present, was entitled to the position under the Fundamental Constitutions. Whether or not the constitutions were binding was of little consequence as the Council elected Morton to the governor's seat until a new proprietary appointee arrived. Morton's appointment was not unanimous. James Moore objected to the election on the ground that Morton had held the position of Judge of the Admiralty

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<sup>2</sup> Collections, II, 208.



which was a royal appointment. To this objection, Morton's friends replied, "that it did not appear by the charter, the proprietaries can empower any one to try persons for acts committed out of their dominions which is necessary for a judge." Although many willingly backed Morton, his appointment was repealed and Moore was chosen governor.<sup>3</sup>

A new Assembly was called and Moore's followers made every effort to control its composition. The new elections were held in November 1701. The Colleton County dissenters charged that unqualified aliens, French Protestants, strangers, paupers, servants, and all free Negroes were allowed to vote. When the Assembly session opened, petitions were presented by the defeated candidates requesting to be heard concerning the validity of the election returns. The Assembly, most of whom were incorruptible, and apparently not under Moore's control, promptly resolved to enter into an immediate investigation. However, the investigation was side-tracked when Moore introduced a bill into the Assembly for the regulation of Indian trade. Moore was interested primarily in his own personal finances, and had it not been for Nicholas Trott defeating the bill, he would have established a complete trade monopoly. After his defeat, he immediately dissolved the legislature. The Assembly was dissolved so that new elections could be held. Perhaps Moore's followers could become the majority party in the new Assembly.<sup>4</sup>

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<sup>3</sup> McCrady, History of South Carolina, pp. 373-374.

<sup>4</sup> Ibid., p. 374.

With the arrival of Governor Nathaniel Johnson, a new act to control elections was enacted by the Assembly. Provisions were: a voter must be twenty-one years of age, must possess 50 acres of land or £10 in personal property, reside in the province for three months prior to the election, and elections were to be by ballot. The act did not establish the voting precincts, nor apportion the representatives to the respective counties.<sup>5</sup>

During the administration of Governor Johnson, an important act was passed that provided for the continuance of the present Assembly for a term of two years after its ratification or during the life and continuance in office of the governor. The Assembly could not be dissolved by any power or person except by the governor and council. It was to continue likewise for eighteen months after the end of the administration of the present governor by death or removal. The danger of a Spanish invasion which might render an election impossible or leave the province without a duly organized Commons House was the motive for this act.<sup>6</sup>

Another important Assembly Act called for the decentralization of elections in the province. The elections were held almost exclusively in Charles Town and it was charged that undue influence was exerted on many of the voters. It had been the policy of the proprietors to support but one place of voting. The new act provided that elections should be held in all the

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<sup>5</sup> McCrady, History of South Carolina, p. 559.

<sup>6</sup> Ibid., p. 446.

parishes under the supervision of the church wardens. A proportional distribution of members among the parishes was instituted. Changes were made in the property qualifications and all persons who held proprietary offices were excluded from the Assembly. Obviously, the act was designed to weaken proprietary control over the elections.<sup>7</sup> An additional elections act was passed in 1716. The principal features of the act were: elections were to be held in each parish for a period of two days, beginning at sunrise each day and ending at sunset; and elections were to be managed by the church wardens.<sup>8</sup>

Governor Robert Johnson complained to the Lords Proprietors that he could not get his appointed council to attend meetings in Charles Town. To alleviate the difficulty, the Lords appointed a new council of twelve consisting of William Bull, Ralph Izard, Nicholas Trott, Charles Hart, Samuel Wragg, Benjamin De La Consilieri, Peter St. Julien, William Gibbon, Hugh Butler, Francis Yonge, Jäcob Satur, and Jonathan Skrine.<sup>9</sup> Nicholas Trott, having stood by the proprietors, was granted power to act and exercise all authority allowed a deputy proprietor. The proprietors empowered him to appoint his own Provost Marshals; they increased his salary to £100 per year; they gave him £100 for proclaiming the king in the province of South Carolina. Attorney General Trott had compiled a transcript of Carolina laws for which he was paid

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<sup>7</sup> Osgood, American Colonies, II, 353.

<sup>8</sup> Transcripts of Records, VI, 223-226.

<sup>9</sup> Collections, I, 170.

£80 by the colonial treasurer. The proprietors desired two copies, one of which was to be forwarded to them and one to remain in the province.<sup>10</sup>

While in London, Trott had ingratiated himself with the proprietors until he gained almost complete ascendancy over them. He obtained a most extraordinary grant of powers--powers greater than those of the governor. Trott, already a member of the council, was given a veto power over all Assembly acts. Without his presence in the council, there was no quorum for transacting business. Also, he was to be consulted by the proprietors concerning every proposed law, and on his part he agreed to carry on a regular correspondence with their secretary. They appointed him Chief Justice of Carolina with all its power and dignity.<sup>11</sup> Armed with these great powers, Trott returned to Carolina. The Governor, Council, and Assembly were dismayed by the action of the proprietors. The Assembly described the power as "an exorbitant power unheard of in any of the British dominions, for aught we know in the whole world!"<sup>12</sup> Richard Berresford was dispatched to England to place the colonial grievances before the proprietors. They were strongly opposed to the veto power of Trott and his appointment of Provost Marshals.

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<sup>10</sup> Collections, II, 208.

<sup>11</sup> Transcripts of Records, VI, 66.

<sup>12</sup> McCrady, History of South Carolina, p. 530.

If the proprietors did not show redress, Berresford was ordered to direct his memorial to the king.<sup>13</sup>

In 1716, thirty-one articles of complaint against Trott were submitted to the Assembly. They charged him with partiality on the bench, with acting as counsel in cases which were pending before him as judge, with taking exorbitant fees, unduly prolonging cases, monopolizing the administration of justice, and accepting bribes. Trott refused to recognize the right of the Assembly to act on the charges. Therefore, the Assembly requested the governor and council to send a representative to the proprietors. The members recommended that Trott be removed from his judicial offices. Governor Johnson and a majority of the council agreed with the Assembly.<sup>14</sup> In a memorial presented to the proprietors, the colonists complained that the entire judicial system was lodged in one man. There was no appeal from his decisions because of the veto he held in the Council.<sup>15</sup>

On February 24, 1716, the proprietors yielded to the desires of the Carolinians and revoked Trott's veto power. His power to appoint Provost Marshals was also withdrawn. However, Trott suffered no diminution of power with the proprietors who continued to depend upon him to look after their interests.<sup>16</sup>

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<sup>13</sup> McCrady, History of South Carolina, pp. 530-531.

<sup>14</sup> Osgood, American Colonies, II, 358.

<sup>15</sup> McCrady, History of South Carolina, p. 681.

<sup>16</sup> Transcripts of Records, VI, 152.

Colonel William Rhett, Receiver General and Commissioner of Customs, also worked on behalf of proprietary interests. His greatest assistance to the province was establishing adequate coastal defenses. He was in constant conflict with Governor Johnson. During an attack upon Charles Town, Rhett was contemptuous and used indecent language in addressing the governor. He was reprimanded and ordered removed from his posts. But, the colonial Assembly was ordered not to replace him.<sup>17</sup>

In July 1719, the Lords Proprietors received and considered the bill calling for decentralized elections. The proprietors ordered the acts repealed because they were repugnant to the laws of Britain. The Assembly fought back and denied that the proprietors had the right to veto acts which were approved by the governor and legislature. Chief Justice Trott defended the proprietary position, but Governor Johnson did not obey instructions to dissolve the Assembly. Johnson gave as his reason for not dissolving the Assembly that the treasury would lose a large amount of revenue which would jeopardize the defense of the colony. But increased proprietary pressure forced Johnson to declare the decentralization act repealed. The Assembly was dissolved and a new Assembly was elected at Charles Town according to the old rules.<sup>18</sup> By proprietary decree, all persons interested

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<sup>17</sup> Transcripts of Records, VI, 51.

<sup>18</sup> Ibid., VII, 197.

in a matter debated in council session were to withdraw from the chambers. Chief Justice Trott was ordered to abide by the decree so that a person could be granted an appeal from his decisions.<sup>19</sup>

The Assembly, anticipating the dissolution, resolved that all acts repealed by the proprietors were still in force and could not be repealed except by action of the General Assembly.<sup>20</sup>

In November 1719, Governor Johnson called the Assembly into session to provide funds for defense. The Assembly broke up in a quarrel over the validity of several acts vetoed by the proprietors. When Johnson called out the militia, the anti-proprietary leaders seized upon the occasion to create an association to set up a royal government. The first notice Governor Johnson had of the movement was a letter from Mr. Alexander Skene, Colonel Logan, and Major Blakeway. The revolutionary movement rapidly spread throughout the province.<sup>21</sup> The colonists easily justified their action; they charged the proprietors with corruption, indecision, and gross neglect. Furthermore, the proprietors had refused to propagate the gospel among the Indians, refused protection from outside enemies, and repealed the Church, Trade, and Bank Acts. The proprietors were guilty of repealing acts which were just and valid.<sup>22</sup>

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<sup>19</sup> Collections, I, 170.

<sup>20</sup> McCrady, History of South Carolina, p. 649.

<sup>21</sup> Ibid., p. 647.

<sup>22</sup> Transcripts of Records, VII, 271.

In December 1719, the Assembly met and was promptly converted into a revolutionary body. Governor Johnson made a public appeal calling for patience and support of the proprietors, but realized that the proprietary government was completely overthrown. His only hope was that the revolutionists would divide and become unpopular with the local populace. He decided to wait quietly and be ready to take advantage of any such occurrence when and if one should appear. Johnson called together the civil officers of the proprietors and ordered them to secure the public records and close their offices.<sup>23</sup>

The revolutionary Assembly now asked Johnson to become their governor, but he remained loyal to the proprietors as did Nicholas Trott and William Rhett. Although they were forced out of office by the revolutionaries, they worked for the continued interests of the proprietors. James Moore was then chosen governor of the Convention. Moore was a land owner with a reputation as an Indian fighter. He had served a short time as governor after the death of Joseph Blake and had served as Receiver General of the colony and held many other important appointments. By nature, Moore was bold and daring. Where finances were concerned, he was always ready for a new venture. But he was not careful with money; and on occasion used the government for his personal financial gain.

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<sup>23</sup> McCrady, History of South Carolina, p. 658.



The Moore government consisted of the governor, council, and the revolutionary Convention; however, the Convention soon voted themselves an Assembly. The first act of the revolutionary Assembly was a bill for the support of the James Moore government. Moore was to be known as "His Majesty's Governor." All colonial officials were appointed by Moore to serve until such time as the king might replace them.<sup>24</sup>

Because of the importance of South Carolinian trade to England and protection for the other colonies, the House of Lords recommended that South Carolina be provisionally placed under the Crown. The Lords Commissioners of Trade were ordered to prepare a commission and instructions for the royal governor to be appointed.<sup>25</sup> The Lord Justices recommended Francis Nicholson to be the first provisional royal governor of South Carolina with power to nominate and choose a council, and to make all laws provided they were not repugnant to those of England.<sup>26</sup>

In August 1720, the Lord Justices of England charged the proprietors with corruption, indecision, and gross neglect in the administration of Carolina.<sup>27</sup> The Justices gave the proprietors time to present their arguments; but when the

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<sup>24</sup> Transcripts of Records, VII, 310-313.

<sup>25</sup> Ibid., VIII, 36.

<sup>26</sup> Ibid., pp. 42-57.

<sup>27</sup> Ibid., pp. 89-92.

proprietors procrastinated, the Justices immediately ordered the Board of Trade to send Governor Nicholson to South Carolina.<sup>28</sup> The proprietors attempted to avoid the inevitable by signing over their charter to another group of men; however, this did not improve feeling in South Carolina.<sup>29</sup> The provisional government became official with the arrival of Francis Nicholson in September 1720.

The colonial Assembly was justified in charging the proprietors with unconcern and gross neglect. They were also right when they claimed that appointed officials were uninformed and uninterested in the local citizenry. Therefore, the Carolinians were justified in revolting and overthrowing the repressive proprietary system.

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<sup>28</sup> Transcripts of Records, VIII, 203.

<sup>29</sup> Ibid., pp. 207-209. South Carolina did not officially become a royal province until 1729 with the return of Robert Johnson as the first royal governor. The crown took ten years settling proprietary claims in the Carolinas.

## CHAPTER V

### AUTOCRATIC JUDICIAL SYSTEM

The early court system of Carolina was lodged in the Governor and Council. However, the increase in settlers necessitated additional courts of law to try both civil and criminal cases. The colonial high court system started with the Admiralty Courts, followed by the Courts of Pleas and the King's Bench. These courts were not always impartial because of the judges appointed by the Lords Proprietors. Perhaps the most despised judge was Nicholas Trott, who by 1717, had jurisdiction over the entire court system in South Carolina. No appeal from his decisions was permitted.

The Admiralty Court was in operation before 1700 and in 1701 the Carolinian Assembly passed an act to regulate the proceedings of the court. Judge Morton complained to the proprietors that the act was injurious to himself and the other officers of the admiralty. It was obviously inconsistent with the laws of England and an infringement upon the powers of the admiralty.<sup>1</sup> The act ultimately came to the Board of Trade for an opinion as to its constitutionality. The Board found the provisions of the act to be repugnant to the High Admiralty Court of England.

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<sup>1</sup> Collections, I, 219.

Furthermore, the Board of Trade found the act prejudicial to the judge because he could be subjected to suits and penalties from the South Carolinians. It was derogatory to the commission by which the judge was appointed. The right of appeal was removed and there was great delay in trying the cases before the court. Finally, by weakening the Admiralty Courts, the act would encourage unlawful trade.<sup>2</sup> The proprietors then ordered Governor Nathaniel Johnson to amend the act to comply with the decision of the Board of Trade.<sup>3</sup>

In 1700 Nicholas Trott was appointed Attorney General and Advocate General for the province of South Carolina. Curiously, he never took the office of Advocate General. Trott's knowledge of the laws and customs of England and the colonial laws of the Assembly made him well qualified for the posts. He had the power to plead, sue, and prosecute any civil or criminal case and was also allowed to plead in the High Courts of the Admiralty.<sup>4</sup> In September 1714, Trott was made Chief Justice of South Carolina by order of the proprietors. He was now empowered to try all cases and he was given the power to appoint his own Provost Marshals. Still later came the appointment to the Admiralty Court. Now there was virtually no appeal from his decisions.

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<sup>2</sup> Collections, V, 30.

<sup>3</sup> McCrady, History of South Carolina, p. 390.

<sup>4</sup> Collections, II, 208.

Not only did he or his appointees reign over the courts of the land, but he was also a member of the colonial Council with a veto over all decisions.<sup>5</sup> His control over South Carolina was undisguised and complete.

The colonial attorneys and members of the colonial Assembly drew up a complaint against Trott and presented it to the governor. They asked the governor to send a representative to the Lords Proprietors requesting the removal of the Chief Justice. Charges against Trott consisted of partiality on the bench, acting as counsel on cases pending before him as a judge, with taking exorbitant fees, unduly prolonging cases, monopolizing the administration of justice, and accepting bribes.<sup>6</sup>

The proprietors responded favorably to the complaints against Trott and revoked his veto power. In addition, his power to appoint Provost Marshals was taken away. However, the proprietors continued to hold him in their confidence and entrusted him with additional duties. He was also ordered to keep alive the proprietary interests in the province.<sup>7</sup> The colonists had every reason to complain about this autocratic system. Therefore, it is not surprising that this grievance added to many others, led to early dissatisfaction with proprietary rule in South Carolina that later matured into revolution.

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<sup>5</sup> Osgood, American Colonies, II, 358.

<sup>6</sup> McCrady, History of South Carolina, pp. 463-464.

<sup>7</sup> Ibid., p. 564.

## CHAPTER VI

### TRADE DISCRIMINATION AGAINST ENGLISH SHIPPING

Being an island nation, England depended almost entirely upon trade with other nations and colonial America for her economic well-being. Indeed, one of the chief motives for English colonization was the desire to escape economic dependence upon the outside world through colonies. Mercantilism, the prevailing economic philosophy, demanded this course of action. Strict regulation of colonial trade was necessary if the colonies were to fulfill their primary function to the mother country. Thus one of the first mercantilistic laws of England was that no colony could pass an act pertaining to trade without the concurrence of the British Board of Trade. It was the duty of the Board of Trade to recommend the veto of any act repugnant to the trade laws of England. The English view that the colonies existed primarily for the benefit of the mother country was certain to precipitate friction.

To encourage Carolinian trade, the Assembly passed a duty act that provided for a much larger tax on all merchandise shipped to the colony in British owned ships while a token duty was charged Carolinian shippers. Although this act was repugnant

to the Navigation Acts, there was little reaction to it from the Board of Trade until several complaints were registered by various English merchants. On February 25, 1701, Lewis Pasquereau of Charles Town, South Carolina, informed Michael Cole, a London merchant, of the duty levied on all British ships.<sup>1</sup> Cole immediately requested that the Commissioners of Trade strike down this act prejudicial to trade.<sup>2</sup> In his argument to the Commissioners of Trade, Cole reported that he had traded with Carolina for eight years and had always made a decent profit. But now the difference in the cost of shipping to the British merchants over those of the colonials was three pounds per ton. Since this was the cost of half of the freight on each vessel, British trade with Carolina became financially unsound.<sup>3</sup> To protect English navigation, Cole demanded that the act be revoked immediately. Several other English merchants and many of their colonial suppliers added their demands for repeal of the act.

On March 3, 1702, the Commissioners of Trade forwarded affidavits to the Lords Proprietors regarding the duty levied on British merchant ships. Because the act was prejudicial to English trade, the Commissioners requested the proprietors to state their case before the matter was referred to the king.<sup>4</sup>

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<sup>1</sup> Collections, II, 207.

<sup>2</sup> Ibid., I, 219.

<sup>3</sup> Ibid., V, 26.

<sup>4</sup> Ibid., II, 150.

Meanwhile additional acts prejudicial to English shipping were passed throughout the period 1712 to 1716.<sup>5</sup> On July 25, 1716, the Board of Trade finally acted and ordered the colonial Assembly to refrain from passing any acts repugnant to the trade of England.<sup>6</sup>

Disregarding the order of the Board of Trade, in 1717 the Assembly laid a ten per cent duty on negroes, liquors, and other goods and merchandise imported to and exported from the province. The funds were to be used to defray public charges and expenses incurred by the government. Another cause of conflict with the British Board of Trade was that all ships built in Carolina, but whose owners lived out of the province were liable for half duties; goods imported in ships built out of the province but owned by Carolinians were subject to three quarter duties.

In a letter to the Commissioner of Customs, Colonel William Rhett expressed his disapproval of the bill and feared that the duty would discourage all trade with the colonials.<sup>7</sup> The Comptroller of Customs, in a communication to Colonel Rhett, declared the act prejudicial to the trade of the kingdom of Great Britain. By March 1718, so much controversy was precipitated by the Trade Act, that it was referred to the Solicitor General to determine if the act was agreeable to the laws and customs of England.<sup>8</sup> The Solicitor General found the act to

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<sup>5</sup> Collections, II, 249.

<sup>6</sup> Transcripts of Records, VI, 227-229.

<sup>7</sup> Collections, II, 234.

<sup>8</sup> Transcripts of Records, VII, 113-114.



be repugnant to British law. The powers granted by the proprietary charter were also exceeded. If the proprietors did not immediately revoke the act, the Crown would begin proceedings against them.<sup>9</sup> The Lords Proprietors, in their defense to the Board of Trade, gave notice that they knew of no such law but would, if any such law was proposed or in force, repeal the act and give notice to the Board immediately.<sup>10</sup> After the opinion rendered by the Solicitor General, the Lords Commissioners of Trade took their case against the proprietors to the king. In the interest of British trade, the king was asked to declare the act null and void.<sup>11</sup>

After receiving memorials from London merchants asking for the repeal of the ten per cent act, the Lords Proprietors commanded the Governor and Council of South Carolina not to pass any act of Assembly with regard to trade without a suspending clause declaring the act not to be in force until approved by the Lords Proprietors. The proprietors took the English view and believed that to collect more duties from British shippers than from the Carolina merchants was unreasonable. In the same proceedings, they asked for the repeal of the "act for laying an imposition upon liquors, goods, and merchandise."<sup>12</sup> However, the colonials did not revoke the act but continued to collect

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<sup>9</sup> Transcripts of Records, VII, 116-117.

<sup>10</sup> Ibid., p. 121.

<sup>11</sup> Ibid., pp. 131-133.

<sup>12</sup> Collections, I, 169.

duties on British goods and liquors--the proprietary decree notwithstanding. On July 10, 1718, an order from the king in council demanded that the proprietors repeal the ten per cent duty on all British goods. The Palatine and proprietors in obedience to the king signified the repeal of the act to the Carolina Assembly.<sup>13</sup>

In 1719 the Assembly levied a tariff of forty pounds per head upon all negroes imported into Carolina after June 8, 1719. The merchants presented a memorial to the Board of Trade to inquire into the constitutionality of the act.<sup>14</sup> However, the Lords did not think it advisable to repeal the act, but decided to ask Governor Johnson for the purpose of such an act. Directions were also given that no further acts affecting trade should be made without the restrictive clause that the acts "shall not be in force until confirmation had been received from the proprietors."<sup>15</sup> In response to further action by the merchants, the Lords Proprietors repealed the act for the imposition upon "liquors, goods, and merchandise." As for the act for better "ordering and governing of negro and all other slaves," the Lords asked for information from the governor as to its value. If there was no danger from the slaves, the Lords proposed that the said act be repealed.<sup>16</sup> The Lords commanded the council

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<sup>13</sup> Collections, I, 166.

<sup>14</sup> Ibid., p. 193.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid., p. 194.

never to pass an act which would be prejudicial to British trade and navigation regardless of what repercussions it might have on the Carolinians. The repeal of these acts reduced the revenues needed for financing the government by about £45,000 a year which added to the distressed condition of the colony.<sup>17</sup> Not once did the proprietors come to the defense of the Carolinians when they attempted to pass laws helpful to themselves. This further pointed to the indecision and lack of concern for the colonial point of view.

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<sup>17</sup> Transcripts of Records, VII, 203

## CHAPTER VII

### EXCLUSION OF SETTLERS FROM INDIAN LANDS

The charter of Carolina gave the proprietors the right to sell or grant land as they pleased and for years the only means by which a person could obtain land in the colony was by direct contact with the owners. However, the lack of proprietary interest in the colony resulted in the colonial government assuming power to dispose of land. The only restriction placed on the colonial government in the land disposal policy was that no more than 500 acres could be granted to any individual and if no settlement was made within a period of four years subsequent to the grant, the land was to revert back to the Crown. Eventually the proprietors discovered that various governors ignored this restriction and had granted tracts far in excess of 500 acres. On January 5, 1710, the owners expressed their disapproval of this usurpation of proprietary prerogative and decided to return to the first land policy. Governor Edward Tynte was ordered to discontinue the sale of land by all agents under penalty of dismissal unless the warrant was signed by one of the owners.<sup>1</sup> Curiously, in August 1713, the decree of 1710

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<sup>1</sup> Collections, I, 158. By the decision of 1710, the proprietors refused to allow agents to make additional grants because the agents were making excessive profits which were not being collected by the proprietary receiver.

was revoked by the Lords Proprietors. The secretary of the province was now instructed to make grants of land in the colony on behalf of the proprietors in England. As before, the secretary was admonished to make no grants in excess of 500 acres.<sup>2</sup>

In addition to proprietary vacillation, the land policy of the colony was further complicated by the Indian problem. In 1709 a reservation was created between the Combahee and Savannah Rivers for the Yamassee Indians. When the Yamassees revolted in 1715, they were expelled from the colony, as punishment, and the Indian lands were left vacant for the future safety of the frontier. Indeed, the Yamassee War clearly indicated that large grants of land were not very practical because they resulted in a sparse population throughout much of the frontier area which made protection of the colony very difficult. The colonial Assembly was also opposed to large land grants. In addition to creating a sparsely populated frontier, the Assembly contended that the large grants were discriminatory; sold primarily to associates of the proprietors because an ordinary immigrant did not have the necessary funds to purchase the large tracts. Therefore, in February 1716, the proprietors decided to parcel out the land in plots of not more than 300 acres, a policy in

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<sup>2</sup> Transcripts of Records, VI, 56. At the request of the inhabitants, new proprietary land grants were allowed, thus adding much needed revenue and additional men for frontier defense.

keeping with the temper of the Commons. The land was to be free of quit-rents for five years, an added inducement to new settlers.<sup>3</sup>

The limits of the area to be divided and ultimately sold was the Combahee River on the northeast, the marshes and islands on Coosaw and Port Royal Rivers on the southeast, the Savannah River on the southwest, and a line drawn from the head of the Combahee River to Fort Moore on the Savannah River. This land was reserved for persons who might come to the province from Great Britain, Ireland, or any of the other British colonies in America; each was to receive 300 acres of river land and 400 acres of back land. The new land owner was prohibited from selling his land for seven years. By the addition of the seven year clause, the immigrants were forced to settle the land thus filling the vacuum between the large plantations and the Indians. A quit-rent of twelve pence per 100 acres was charged and £3 purchase price was to be paid for each 100 acres within a period of four years and six months, certainly a sum that would not discourage immigration into the colony.<sup>4</sup> Meanwhile, several hundred immigrants from Ireland had migrated to South Carolina lured with the promise of 200 acres of land. Settling the Irish on the new lands cost the Carolina Assembly several thousand pounds sterling. The Lords Proprietors reacted to the action of

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<sup>3</sup> Verner W. Crane, The Southern Frontier, 1670-1732 (Ann Arbor, University of Michigan Press, 1929), p. 214.

<sup>4</sup> McCrady, History of South Carolina, pp. 555-556.

the Assembly and informed the legislature that they had no legal right to appropriate lands which were a part of the proprietary estates; thus, the Assembly's Land Act of 1716 was declared null and void.<sup>5</sup>

On October 31, 1718, the Lords Proprietors agreed to grant land to new settlers provided the settlers would build a house and live on the land. The settler was allowed 50 acres of land for himself and for every person that he might bring into the colony. Under the colonial plan, each immigrant would have received grants of from 150 to 200 acres and a bounty would be given for each Protestant white servant brought into the province. By awarding 50 acres for each servant, the proprietary system granted the settler approximately equal value.<sup>6</sup> The small land holdings would result in a more uniform distribution of population; thus affording better protection from the Spanish and their Indian allies. The decree also provided for a new distribution of proprietary baronies half of which were to be carved out of the Yamassee territory.<sup>7</sup>

At different times, the Lords Proprietors ordered new land distribution policies. The new policies were characterized by indecision and poor timing. On September 4, 1719 the Lords Proprietors again ordered the governor and council to refrain from selling additional land. Apparently this action was

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<sup>5</sup> McCrady, History of South Carolina, p. 629.

<sup>6</sup> Collections, I, 191.

<sup>7</sup> Crane, Southern Frontier, p. 215.

necessitated because of the ever increasing graft in the colonial land office. No further land was to be appropriated without the consent of the proprietors. However, later in September the Lords closed the land office on the ground of excessive grants. The Lords Proprietors charged the Assembly with encroachments upon their proprietary rights and failure to collect quit-rents.<sup>8</sup> The closing of the land office and removing land distribution from the realm of legislative authority caused a great turmoil in the House of Commons of South Carolina. Furthermore, the closing of the land office enhanced the growing financial crisis by greatly reducing the normal flow of money into the colonial government. Finally, the depopulation of the border land left the entire province without a military buffer from attack. It is not, therefore, surprising that such a policy would be viewed with repugnance by the South Carolinians and was, one of the major grievances which led to the overthrow of the proprietors. South Carolinians believed that the acts passed by the Assembly were just and were not in disagreement with the laws of England; therefore, it was the right of the colony to make its own land policy. Only in this manner could their best interests be served. Perhaps overthrow of a government guilty of inconsistency and insensible to the needs of the colony would be justified.

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<sup>8</sup> Crane, Southern Frontier, p. 217.



## CONCLUSION

South Carolina was a proprietary colony ruled by absentee and disillusioned landlords who repeatedly refused to give aid so desperately needed. Thus a conflict of interests between the colonists and proprietors was assured. The colonists were forced to provide for their own protection and economic welfare. When urgent requests for aid from the proprietors did not materialize, the Carolinians gradually became more embittered about the restrictive proprietary policies.

The South Carolinians resented the incompetent colonial administrators appointed by the proprietors. Friendship with the proprietors was the chief prerequisite for an appointment in the colony; an appointee could retain his position as long as he looked after proprietary interests. Of course, the proprietor's interests were always opposed to those of the Carolinians. The South Carolinians were much aggrieved by the entire court system that was controlled by Chief Justice Trott. Although Trott was very capable, he had his own political and financial interests foremost in mind. Colonel William Rhett, the Receiver General, also worked for the proprietary interests. The colonists repeatedly petitioned the proprietors to change the judicial system, but their pleas were ignored. The manner

of elections was still another governmental problem which the colonists could not endure. The Assembly believed that elections should be held in each parish under the supervision of the local church officials. This made voting easy for the colonists because proprietary watch-dogs had little influence in the parishes. The proprietors, fearing this threat to their control of the colony, ordered all elections to be held in Charles Town where their friends Chief Justice Trott and Colonel Rhett could exert a decisive influence on the results.

Various acts passed in the colony, considered essential to the welfare of the province by the Assembly, were vetoed by the proprietors with little or no regard to the needs of the colonists. In retrospect, the proprietor's position appears indefensible with regard to the repeal of the Church Act, the Trade Act, and the Bank Act. Other efforts of the colonials to improve their condition met with disapproval from the absentee owners. The Church Act provided for worship according to the Church of England as a requirement for Assembly membership. Without this requirement, the Assembly could easily have been controlled by the dissenters. The proprietors were favorable to such legislation until Queen Anne and the House of Lords ordered the repeal of the act because the act was repugnant to the English laws and the constitution of the Anglican Church. It was difficult for the colonists to understand why the

proprietors took this position when the act was so necessary to the colony's safety. When the Trade Act was ordered repealed, the colonists objected more vehemently than ever before. The Carolinians could not compete with English shipping unless there was some means of equalizing the unfavorable balance of trade. To do this, the Assembly levied a ten per cent tax on all British good imported into the colony. The Bank Act of 1712 was essential to the life and welfare of the colony. When it was ordered repealed by the proprietors, the Assembly refused to repeal the act. This was the only means by which the Carolinians had to support their government and protect themselves from the Spanish and their Indian allies.

The proprietors refused to provide adequate protection for the Carolinians. They were very unconcerned by the depletion of the settlements. However, they refused to relinquish their right to the colony. The Carolinians had to depend upon the neighboring colonies for guns, ammunition, and men to ward off Indian attacks. When the Yamassee Indians revolted in 1715, the proprietors refused aid. When the Yamassees were driven from Carolina, the Carolinians were even more astounded and appalled by an order to evacuate the Indian lands so the area could be used by the proprietors.

As repugnant as these actions were to the Carolinians, it was sometime before the events ripened to the point of

open revolt against the proprietary system. However, when poverty and unrest became irreconcilable, the Carolinians renounced the proprietors and established a convention for the purpose of becoming a royal province. The colonists were justified in overthrowing a government ruled by incompetence and indecision. The Carolinians had given all they had in men and money for the welfare of the colony but had received nothing in return.

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