

p. 195). On the 4th of August of the previous year, Lord Dorchester was informed that General Clarke was appointed Lieut. Governor (Q 45—2. p. 514). He arrived on the 7th of October and on the following day his commission as Lieut. Governor was published, he having on that day taken the oaths and his seat, the oath, noted above, subsequently taken being apparently from its terms and from the tenour of Clarke's letter, a supplementary obligation on his assuming the office of Commander-in-chief. On the 11th of November of the same year (1791) Simcoe arrived, bringing with him Clarke's restricted commission of Lieut. Governor of Lower Canada with copy of the new act and instructions for him to divide the Province of Quebec into the two Provinces of Lower and Upper Canada. In accordance with these instructions, a proclamation was issued that the division was to take place on the 26th of December. A copy of the proclamation is in Q. 58—1 p. 5. So far as the administration of Lower Canada was concerned, little difficulty was experienced in its primary organisation, but before the Executive Council could proceed to business a very delicate question had to be settled, that is, the form of oath to be taken by the Catholic members. On this occasion the course adopted by Clarke, on the Catholic members objecting to the oaths proposed according to the terms of the Constitutional Act of 1791, was to accept their offer to take the oath prescribed by the Act of 1774. His reasons for so doing are thus stated to Mr. Dundas:—

To have insisted on their taking the oaths and making the declaration which I knew to be inconsistent with their religious principles, would have been to preclude them altogether from their seats, and thereby subvert the Royal intention in their nomination; and taking it for granted that no other oath was expected from them, as members of the present Executive Council, than what was required in their former capacities of Executive and Legislative Councillors, the oath prescribed by the Act of the 14th of the King was administered and they took their seats accordingly, which I trust will be approved. (Q. 58—1 p. 79).

He then asks that steps should be taken to prevent such doubts being raised in future.

Early in the following spring a new difficulty arose. A considerable proportion of the new settlers in Canada were foreigners, not natural born nor naturalised subjects of His Britannic Majesty. By the terms of the Act of 1791, they were excluded from voting for, or sitting as, Members of the Legislative Assembly, on the ground of their not being natural born subjects of His Majesty, or subjects of His Majesty naturalised by Act of the British Parliament, or subjects of His Majesty having become such by the conquest and cession of Canada. A reference to the signatures to the petition leads to the belief that the petitioners were largely Germans. The opinion of the Law Officers of the Crown was that the petitioners were disqualified. Means were afterwards taken to remedy this state of affairs.

Simcoe, as already stated, arrived in Quebec on the 11th of November, 1791, and remained there for some time, there being no Council constituted in Upper Canada by whom he could be sworn into office. For the same reason, difficulties arose as to the administration of justice in the newly created Province, which appear to have been overcome, to some extent at least, by an assumption of power which did not exist. Simcoe's plans for opening up and developing the resources of Upper Canada were on a scale of some importance, but it seems only necessary in this report to direct attention to the correspondence, which is of great importance to those interested in tracing the early history of Upper Canada, with its first settlement and the means