

CHAPTER II

THE NEW YORK FUR TRADE AND ITS REGULATION

THE part played by the Province of New York in this struggle for the mastery of the continent was greater in the eighteenth century than that of any other English colony. In Pennsylvania, as we have seen, Indian affairs were a compound of land titles and trade. In New York in this period they consisted almost exclusively of trade. At an earlier time, when Indian affairs were local, lands had played their part there as elsewhere, in the early relations with the River Indians, for example; and to a minor extent this continued to be true, as in the case of the great and scandalous Kayaderosseras Patent on the Mohawk,¹ but it may be said truly that in New York, Indian relations in the eighteenth century practically meant Indian trade. The great contest in America was mainly a struggle for the control of the vast country west of the Alleghanies, through the aid of Indian alliances induced by trade. The supremacy of New York among the English colonies in this trade was due to several interrelated causes. One of these was the unique geographical position of the province.

It was the constant aim of the French in colonial times, as it was England's in the War of Independence, to draw a line through the English colonies from the St. Lawrence to Manhattan Island. It was a comparatively short line — only about three hundred miles — and it would effectually cut apart New England and all the rest of British America. France was fully aware of its importance, and tried to buy and then to take New York. It was her failure in both these that made necessary that line of forts behind the English colonies — some two thousand miles in length instead of three hundred — a line too long for the small population of Canada to man. If there is one military reason for the failure

¹ For a judicious account of certain phases of the history of Indian lands in New York, see Alice Maplesden Keys's *Cadwallader Colden* (1906), especially ch. ii.

of New France it is this. But why was it necessary to proceed by sea at all against so weak a colony as New York? Why was not France able by a land attack to sweep away the slight trading posts of Dutch and English merchants, and take possession of a small and poorly defended colony? For it was miserably weak and this could easily have been done before the other members of the loosely joined empire would or could have come to the rescue. The reason does not lie in the lack of desire, or in any want of appreciation of the supreme importance of the conquest on the part of the French, nor is it to be found in the strength of New Netherland or New York. Neither is it due to the natural defenses of the country. New York has been called the "Citadel of America." The term is rather misleading. Its central position and splendid river and lake system make it truly the key of the continent, but this very fact made it also the most open to attack by the French. The valley of the St. Lawrence and the lakes, as Professor Shaler says, has not its like in the world.¹ Nowhere else is there such a mighty water system with no mountain wall to flank it. So low is the watershed between the St. Lawrence system and the Mississippi that a common suction pump will raise the water high enough to surmount it, and the City of Chicago has dug through it, and in part diverted the waters of Lake Michigan from the Gulf of St. Lawrence to the Gulf of Mexico. It was this low water-shed, with its interlacing rivers, that invited the French into the interior and made possible their marvellous explorations there. Access to New York from the north was equally easy. The English colonies were protected elsewhere by the impenetrable thickets of the Endless Mountains. Only in New York was there no protecting wall. This made New York the natural gateway to the interior, with enormous possibilities for trade and commerce, which have been of decisive importance from then to now, but it also exposed her as no other colony was exposed to attack from

¹ Winsor, *Narrative and Critical History of America*, iv, Introduction, p. xxi. See also Pownall's Memorial stating the Nature of the Service in North America, and proposing a General Plan of Operations. *Administration of the Colonies*, 4th ed., Appendix 1.

Canada.¹ Why then was she not swept away? There is but one answer: the continuous alliance of the government at Orange and New Amsterdam, Albany and New York, with the League of the Iroquois. Evidences of the appreciation of this fact could be given almost without number, both French and English, contemporary and modern. "To this Indian League, France must chiefly ascribe the final overthrow of her magnificent schemes of colonization in the northern part of America," declares Lewis H. Morgan.² "The pivotal fact in early American history," says Fiske, "was the alliance between the Five Nations and the white men on the Hudson River, first Dutch, afterwards English."³ And Parkman: "The cause of the failure of the Jesuits is obvious. The guns and tomahawks of the Iroquois were the ruin of their hopes. Could they have curbed or converted those ferocious bands, it is little less than certain that their dream would have become a reality."⁴ George Chalmers calls the Five Nations the "impenetrable fence around the northern colonies,"⁵ and to Governor Dongan they are the "bulwark between us & the French & all other Indians."⁶ "If we lose the Iroquois, we are gone," wrote James Logan, Secretary of Pennsylvania, to William Penn in 1702.⁷ In 1681, Du Chesnau

¹ In 1650 the directors of the Dutch West Indian Company were fearful of an attack by the English on the Wappinger Indians. "If these Indians should be driven away," they wrote to Stuyvesant, "then the *English* would thus by occupying their lands have a chance to cut *Rensselaerswyck* off from us; they might further become masters of the whole North river and with it of the fur trade." *N. Y. Col. Docs.*, xiv, p. 124.

"If ever the *French* can take us at an unguarded Hour, and could make themselves Masters of *New-York*, they would be enabled thereby to cutoff the Communication between the *Northern* and *Southern* Colonies, and by the Aid of the *Indians*, they might have it in their Power totally to destroy the *English* Settlements." *The Wisdom and Policy of the French* (London, 1755), pp. 98-99.

"Whoever possesses the dominion of lake Ontario and the pass at Niagara, must engross the whole furr trade." *The Importance of Canada Considered in Two Letters to a Noble Lord* (London, 1761), p. 3.

² *League of the Iroquois* (Rochester, 1851), p. 11.

³ *Dutch and Quaker Colonies*, ii, p. 172.

⁴ *The Jesuits in North America*, p. 447.

⁵ *History of the Revolt of the American Colonies*, i, p. 248.

⁶ *N. Y. Col. Docs.*, iii, p. 393.

⁷ *Penn-Logan Correspondence*, i, p. 88.

wrote home, "There is no doubt, and it is the universal opinion, that if the Iroquois are allowed to proceed they will subdue the Illinois, and in a short time render themselves masters of all the Outawa tribes, and divert the trade to the English, so that it is absolutely necessary to make them our friends or to destroy them."¹ Five years later, Denonville, Governor of Canada, exclaimed in despair, "Whilst we have the Iroquois on our hands can we be certain of anything?"² Charlevoix gives it as his opinion that if they united with the English and the Indians of the interior "one single campaign would suffice to expel the French from New France."³ They are "the balance of the Continent of America," declared the people of Albany in 1720.⁴

If these opinions are correct, few subjects could be more important for American history than a determination of the causes of this continuous alliance of the League with the whites on the Hudson. In this particular instance, great importance is

¹ *N. Y. Col. Docs.*, ix, p. 165.

² *Ibid.*, p. 301. Archibald Kennedy, a member of the Council of the Province of New York, in his *Observations on the Importance of the Northern Colonies under Proper Regulations*, published in 1750, says that if D'Anville had been able to refresh his troops they could easily have taken New York and Albany, "by which Means they would have been possessed of Hudson's River, the whole Furr Trade, and at the same Time the Command of many thousand fighting Indians, who would very soon have drove us all into the Sea. . . . And if ever the French become absolute masters of the Indians, adieu to our English Settlements: and should they even attempt this and succeed, of which I make little doubt, if even at the Expence of a Million, they will be Gainers" (p. 6). In his important *Serious Considerations on the Present State of the Affairs of the Northern Colonies* (New York, 1754) he expresses the opinion that if the French can but succeed in getting the Indians over to their side — an outcome apparently not improbable when he wrote — "they will have little else to do." A stop can be put to them "by Means of the Indians, and by them only" (pp. 5-6).

"If we look back into the history of our colonies, and those of the French, we shall find, that our colonies have not derived the peace and quiet, safety and security, they have hitherto enjoyed, from the number of their men, and far less from their caution and vigilance, or the care that has been taken of them by Britain, but from the Indians in alliance with them, and particularly the *Six Nations*; who are situated between the French and us, upon the borders of both nations, and have been in a manner the safeguard and only barrier of our colonies ever since they were settled, particularly against the French." Mitchell, *The Contest in America* (London, 1757), p. 212.

³ *Histoire de la Nouvelle France*. English translation by J. G. Shea, iv, p. 276.

⁴ *N. Y. Col. Docs.*, v, p. 571.

usually given to the ill-advised assistance given by Champlain in 1609 to the Indians of Canada against the Iroquois. The memory of it is usually represented as the cause of the alliance between the Iroquois and the European enemies of France in America for one hundred and fifty years. I confess that this seems to me entirely too insignificant and transient a cause of so important and enduring a thing as the alliance in question. The explanation is inadequate. Revenge has always been prominent in the Indian character, but such an explanation as this, while it might explain the actions of the Indians of *Gertrude of Wyoming* or *The Last of the Mohicans*, does not suffice to make clear the policy of the Iroquois as we see it in the eighteenth century.

Another and a better reason for the alliance must be sought, and it is to be found in the trade in furs. Mr. Andrew McFarland Davis expresses what seems to me the truer view when he says: "The interests of the Confederacy rested with the English, and not with the French. If the Iroquois permitted the Indians of the Northwest to negotiate with the French, and interposed no obstacle to the transportation of peltries from the upper lakes to Montreal and Quebec, they would forfeit all the commercial benefits which belonged to their geographical position. Thus their natural tendency was to join with the English."¹

¹ Winsor's *Narrative and Critical History of America*, v, p. 2.

"I have nevertheless observed, and this must not be lost sight of, to understand the whole thread of the Iroquois manœuvres, so apparently variant with each other, that these Indians would not calmly have beheld the English sole masters of all Canada. They were not ignorant how much they should have to fear at the hands of the English, had the latter no rivals, and at bottom they aspired only to hold the scale evenly balanced between the two nations, whose mutual jealousy made the Iroquois sought by both and ensured their safety."

"The English themselves were fortunate to have such a barrier to present to us; for they could not ensure the very tranquillity of their colonies, powerful as they were, except by keeping us employed on that side, while the Indians in the neighborhood of Acadia, closely allied to us by the bond of religion, incessantly disturbed the repose of New England, and the domestic dissensions of New York exposed that province to the danger of passing under the French domination." Charlevoix, *Histoire de la Nouvelle France*, Eng. trans., iv, p. 248.

"It was at this time [about 1609] that the mutual dread and enmity between the Five nations and the French commenced, which brought so many calamities on both. It was at the same time that a peace ensued between the former and the Dutch, which continued without interruption, because it was advantageous to both; the

Really to understand what Winsor means when he says that "trade was on the whole the most important influence now at work in the struggle for a continent,"¹ we must appreciate two things: first, what was the real aim of the French and English in all their relations with the interior, by what means and under what relative conditions were they striving to accomplish it; and second, what influence upon such aims, means and conditions was given to the Iroquois by their unique geographical position. In the eighteenth century trade with an Indian nation meant an alliance with it, and an alliance meant trade. The nations that traded with New France would fight against the English colonies, and the ones who brought their furs to Albany instead of Montreal could be counted on to fight the French. "The ultimate question for the rival whites," as Winsor says, "as well as for the intermediary natives was: Who should supply the rum to the distant Ottawas and Miamis."² Trade and policy were inseparable, but trade was the ultimate end of all policy; it was also practically the sole means in all Indian relations. The endeavors of the contending whites were thus directed to the control of the interior and its trade, and the interruption so far as possible of all communication between the interior tribes and their own enemies, white and red. The matter was never put better than by the representative of the Six Nations at Albany in 1735, when he said, "Trade and Peace we take to be one thing."³ The converse was usually equally true.

The English entered this competition for trade and for peace under great handicaps. The French were far in advance of them in the trade with the interior. To this must be added the abuses of the English traders themselves. During the whole history of the English fur trade, the evidence indicates that most of these traders were the very scum of the earth, and their treat-

one was constantly engaged in war, the other was occupied with the arts of peace. When the English acquired possession of New York they were adopted, by the tribes, in the place of their ancient allies, and a similar good correspondence continued, *because the same causes existed.*" Chalmers, *Political Annals*, i, p. 586. The Italics are not in the original.

¹ *The Mississippi Basin*, p. 163.

² *Ibid.*, p. 176.

³ *Post*, p. 195.

ment of the Indians was such as hardly to be suitable for description.¹ The lack of adequate regulation of these lawless and unprincipled men was no doubt a serious disadvantage of the English colonies, and it was one hardly likely to be amended while there was such rivalry for the trade between the different colonies themselves. Against these handicaps, serious as they were, and sometimes threatening the very continuance of the English trade, were two important and closely related influences. One was the fact that with the exception of powder alone, the English goods were so much cheaper than the French, that at

¹ References to the abuses of the Indian traders abound in many of the numerous accounts of travel in the seventeenth and eighteenth centuries, in memoirs, political pamphlets and official papers. They are in substantial agreement in describing the trickery, violence and immorality of the practices. A few of the admissions of one of these men who considered himself above the average will indicate what the unrecorded customs of these "banditti" must have been.

Long, in his account of his travels (*Early Western Travels*, edited by Thwaites), says that the vice and immorality charged upon the English are "to be attributed in a great measure to the traders, who used to purchase convicts, and hire men of infamous character to carry up their goods among the Indians, many of whom ran away from their masters to join the Savages; the iniquitous conduct of those people essentially injured the English in the opinion of the Indians and fixed an odium which will not be soon or easily removed," p. 33 (original paging). But he admitted that rum "is now become an essential requisite in every transaction with the Savages," and "a drunken frolic is looked upon as an indispensable requisite in a barter," pp. 13-14. He describes some of these "frolics" resulting from his own rum. One of them lasted four days and nights, with the result that two boys were killed and six men wounded by three Indian women, and one of the chiefs was murdered. These frolics he piously declares "are very prejudicial to all parties, and put the trader to a considerable expence!" p. 56. In another frolic, lasting three days and nights, "five men were killed, and one woman dreadfully burnt," p. 104. In still another, "the only accident which happened was to a little child, whose back was broke by the mother," p. 111. The worthy Long also admits that it is his practice to dilute his rum so as to make it "about one-fifth part weaker than usual," p. 133. During these "frolics," in order to prevent injury to himself it was his custom to put laudanum in the rum, p. 105, and on one occasion, he confesses, he gave rum with eighty drops of tincture of cantharides and eighty drops of laudanum to an Indian woman, who drank it "and then fell on the floor," pp. 111-112. "I have always found laudanum extremely useful," he says, "in general it may be considered an essential article in the commerce with the Indians, as it proves the only method of overcoming their intoxicated senses, and making the life of a trader more tolerable, by putting a stop to their impertinence," p. 112. Wraxall gives an instance of the practices of traders in their dealing with the Indians, on page 166.

Albany and Oswego twice as much could be given for beaver as the Indian could get at any of the French posts. This is the reason always given by English, French and Indians for the English share in the trade.¹ There is no doubt that it is the correct one, practically the sole one. The second fact derives its importance entirely from it: the only route from the interior to Albany, the centre of distribution of these cheap goods, lay directly through the country of the Iroquois. These two inter-related facts furnish the secret of the Iroquois alliance, the enduring and sufficient cause of their practically unbroken friendship with the nation that held Albany. The reasons for this are plain. The great rôle of the Iroquois was that of middle-men between the "Far Indians" and the English, a rôle which enabled them not only to obtain material benefits, but to retain that position of superiority over the Indians of the eastern half of the United States which they had probably first secured through their knowledge of the white man's firearms, but could now no longer hope to hold by mere force alone, since their fighting men had so diminished in numbers and their enemies had obtained weapons as good as their own. They hoped to retain

¹ "It is absolutely impossible to prevent the savages from taking their beaver-skins to Orange; we shall never succeed in doing so as long as goods are dear and beaver-skins cheap." Report of Vaudreuil and Raudot on the colonies, November 14, 1708. *Michigan Pioneer and Historical Collections*, xxxiii, p. 420. On this point all contemporary observers, both French and English, are unanimous. There is no subject to which they referred oftener, and there was no factor more important or more continuously operative upon the respective fortunes of the rival claimants for North America. The reasons for the greater cheapness of English goods are various; the monopolistic policy of the French government, the fact that rum, strouds and duffels, the staples of Indian trade, came mainly from England or English dependencies, the difficulties of navigation in the St. Lawrence, and in the route to the interior as compared with the easier route to Oswego and Schenectady, and other factors. Colden's important memoir on the fur trade gives the best summary of the matter. *N. Y. Col. Docs.*, v, pp. 726-733. Strouds, probably the most important article in a trader's outfit, were a kind of coarse woolen cloth, so called from Stroud in England, where it was manufactured. Wynne, *British Empire in America*, i, p. 198. Duffels, for the same reason, were named from a town near Antwerp. *New Oxford Dictionary*. "Brandy," says Kalm, "the Indians value above all other goods that can be brought them; nor have they any thing, though ever so dear to them, which they would not give away for this liquor." *Travels*, English Translation, 2d ed., ii, p. 395.

by peaceable means what they could not expect any longer to keep by force of arms. This could be done by alliance and by trade alone, and by English trade alone. They could not possibly hope to enjoy the same importance as intermediaries between the French and the western Indians, because the French themselves already had their own trading posts as far west as the lakes extended with hundreds of *coureurs de bois* who collected the furs in the interior and brought them directly to Canada. Besides, the Canadian Indians were strong enough to prevent any interference, notwithstanding their defeats by the Iroquois. It was clearly good policy on the part of the Iroquois to stick to the English, particularly as their friends had no posts farther west than Oswego.

The Iroquois were fully alive to the great advantages their situation gave them. It became, therefore, a consistent part of their policy to do their utmost to induce the nations of the interior to desert the French and accept the English goods. This is the reason for the repeated rumors reported in the French memoirs that the Iroquois have been "sending belts underground" to western Indians accustomed to trade with France — rumors which never failed to arouse French fears on account of the cheapness of English goods.

The very existence of the Five Nations depended on this. There were no beaver left in their own country. As early as 1671, we have a French memoir to the effect that hardly a single beaver could be found south of Lake Ontario.¹ The Iroquois had to get their beaver from the Indians farther west or get none, and beaver they must have or lose the rum, the clothing, guns and ammunition which had become necessary to their happiness and even to their existence. To induce these other Indian tribes to take English goods often meant to induce them to take up the hatchet against the French. It was at times a part of Iroquois policy to bring this about, and the alternatives offered were usually trade or war. Particularly important to them at one period were the Hurons and the Tobacco Nation, who were in such

¹ In that year Courcelles wrote that the beaver were "absolutely exhausted" there. *N. Y. Col. Docs.*, ix, p. 80.

a position geographically that they could intercept all furs coming from the west to Canada. To intercept trade there was to turn it southward, where it must pass through the Iroquois country to Albany. It is easy to see the bearing of conditions such as these on the history of the Indians at this time, — the Fox Wars, the desperate struggle with the Hurons, the war between the Iroquois and the Illinois, the alliance between Iroquois and Miamis, the general influence of the Iroquois over the tribes as far as the Mississippi. It is little wonder the Iroquois valued a connection with the English which lay at the bottom of such influence and power, or that the English tried to continue an alliance which brought so many furs to Albany.¹ The policy had other results. Obviously it would be unwise for the Iroquois to allow the English to send their own men directly to the western Indians, or to establish posts in the Indian country which would lessen their own importance as middlemen. The Indian records contain many entries which show that the Iroquois fully realized this. It is undoubtedly the reason for the otherwise surprising fact that New York had neither post nor fort west of Oswego. Again and again the Indians protested against the practice of English traders in carrying rum to the Far Indians. Their real reason was that it endangered their trade. They resisted all projects of New York to build a fort at Niagara and elsewhere west of

¹ "The English . . . from that time [about 1689] shared with the French in the fur trade; and this was the chief motive of their fomenting war between us and the Iroquois, inasmuch as they could get no good furs, which come from the northern districts, except by means of these Indians, who could scarcely effect a reconciliation with us, without precluding them from this precious mine."

"Not that the Iroquois were great hunters; but, besides their often robbing our allies and voyageurs of the furs they were bearing to Montreal, they induced several tribes, and often even our bushlopers, to trade with the English of New York, and the profit which they derived from this trade, of which their country became of course the centre, retained them in the English interest. To these reasons was added the allurement of a better market, which made a great impression on all the Indians, so that the best part of the furs of Canada went to the English, without there being any possibility of bringing to reason those interested in this trade, the head men of which being in France, did not see matters so clearly as those who were in America." Charlevoix, *Histoire de la Nouvelle France*, English translation, iv, pp. 16-17.

Oswego, and succeeded in preventing it.¹ This is in strong contrast with the attitude of the Indians on the Ohio, who begged the English to erect forts to protect them.² As a result, when the

¹ When a war was impending between England and France, the policy changed. Then the Indians were glad enough to have forts as a protection from actual attack. But with the restoration of peace the opposition to any extension of posts or forts always revived. The results of the policy of the League of the Iroquois are also to be seen in the small number of New York traders among the western Indians. Compared with the numbers from Pennsylvania or the Carolinas, they were insignificant, and yet the New York trade probably exceeded that of Pennsylvania and the Carolinas combined. In this respect New York presents a striking contrast both to the French on the north and to the English colonies to the south of her. Through the causes mentioned above, the New York fur trade could be conducted largely at home, a fact which greatly complicated some of the problems of New York politics.

² The French perfectly understood the reason for this opposition on the part of the Iroquois to the building of English posts and forts in the west. Officers interested in the retention of Michillimackinac and the abandonment of Detroit used it effectively as an argument. In 1708 d'Aigremont, in answer to Cadillac's contention that Detroit must be strengthened or it would fall into English hands, wrote, "Even if it were true that the English would wish to take possession of this post if we abandoned it, I do not think the Iroquois would permit it, for if they were masters there, they would do the whole trade independently of the Iroquois, which would certainly not suit them. They are quite willing for the English to do this trade, but want it to be done through them, so that they may share the profit on it with them." *Michigan Pioneer Historical Collections*, xxxiii, p. 445.

The same argument was used against the establishment of a French post at Niagara. In 1708 Vaudreuil and Raudot wrote, "There need be no fear, My Lord, of the English seizing this post; the Iroquois is too skillful, and understands his interests too well, to permit it. If the Englishman were settled there, the Iroquois would find himself deprived of the profit he makes out of the people of the lakes who pass through their territory to go to the English, or from the beaver-skins they trade in with them on which they make a profit out of the Englishman."

"There is yet another reason which would cause the Iroquois to oppose it, namely, that if the English were settled there, the people of the lakes would no longer have need of the Iroquois for trading with the English, who would attract to them all the tribes of the lakes." *Ibid.*, p. 415e In 1712 carpenters who had been sent into the Mohawk country to build forts reported that they had met with opposition from the Indians, who declared that they would pull the forts down. *N. Y. Council MSS.*, xi, p. 113. For example on September 15, 1725, in a conference with the Five Nations, when Governor Burnet proposed the building of a block house at the mouth of the Onondaga River, the Indians objected and suggested the end of Oneida Lake as a preferable site. Burnet refused to assent, urging that this proposal was "a thing the handlers put into your heads, on purpose that the Beavers may all go to Canada, where they would rather trade w^b the French than with you by which you may see they are not your friends." *Original Indian Records*, ii. New

Seven Years' War broke out, there was that lack of forts on the western frontier upon which Pownall and others dwelt at such length,—a factor of great influence on the campaigns and their outcome during the early years of the struggle. Such, then, was the influence which kept the Iroquois at peace with Albany, and not the memory of Champlain's action generations before. It was an influence that gave to Albany practical immunity from attack in all the wars between France and England, while all northern New England and even the neighboring Connecticut valley were harried by war parties. This continued security gave rise to rumors—only too well founded—of the existence of neutrality between Albany and Montreal, based upon a mutual advantage arising from trade which would be interrupted by hostilities.¹ The intermediaries in this illicit traffic were

York records and documents show a great number of instances of this feeling on the part of the Iroquois. For example, in 1755 William Alexander wrote to Sir William Johnson that the building of a store-house at the carrying-place between the Mohawk and Wood Creek was offensive to the Indians and had been discontinued. *Johnson MSS.*, i, p. 211.

Mr. Biggar cites Sagard as authority for the statement that the Hurons in the early period occupied much the same position with regard to Canada that the Iroquois did toward New York, and opposed the passage of trade by way of Lake Ontario because it meant the loss of their annual toll on goods going by the Ottawa and Lake Nipissing. *Early Trading Companies*, p. 128. It is clear that this furnished an argument to the Hurons against allowing the Canadians to make peace with the Iroquois which would at the least make the route by lakes Ontario and Erie more available. Sagard also declared that such a peace was opposed by the shareholders of the Company in Canada lest the furs of the Hurons might then go to the Dutch on the Hudson. *Ibid.* It may be suspected that there were persons in Albany whose attitude was much the same, because they preferred the Canada trade even to the direct dealings with the western Indians.

¹ Complaints of this neutrality began soon after the English conquest of New York. The people of Albany were charged, much to the anger of Governor Andros, with aiding King Philip against the English colonists in New England. *Mass. Hist. Soc. Colls.*, 4th Series, ii, ppe 287-288. ". . . the New Yorkers, or rather the Albanians, suffered the Canada-Indians to go through their province and fall upon any of our frontiers, without looking upon it to be a breach of neutrality, and carried on great trade both with French and Indians, at the same time; and sometimes the plunder, made in the county of Hampshire, became merchandize in Albany." Hutchinson, *History of Massachusetts Bay* (2d ed.), ii, pp. 141-142. In a memoir of Beauharnois and Hocquart on the trade in Canada, written in 1732, they say that three Englishmen have come to Montreal with passports from the Commandant at Orange, pretending to be collecting debts, hunting a slave, etc., but

the Caughnawaga or Praying Indians, originally members of the Iroquois confederacy, who had been induced by the French to move to the St. Lawrence, where they were under French in-

really to trade, it is suspected. They are watched carefully to prevent it. *Mich. Pioneer and Hist. Colls.*, xxxiv, p. 101.

In 1734 M. de Beauharnois wrote to de Maurepas, "As respects Orange, you will be informed that the Patroon or Lord of that City, [Colonel Jeremiah van Rensselaer] visited Montreal this summer, in company with another influential gentleman of that country, on pretence of traveling and making a tour, and nevertheless provided with a passport from the English Governor, from whom they handed me a letter on the subject of the fort, which that Governor had imagined I was having built among the Senecas. These two Englishmen, who are Dutch (*flamands*), have privately informed me, and I was aware of it, that the late M. de Vaudreuil, in the last war had always spared their country and had recommended the Indians not to make any incursions into it; that the Father of one of these two Englishmen had kept up a secret correspondence with M. de Vaudreuil, and that they would do the same with me; that as for themselves, being in more intimate relation with the Indians than the English *are*, they would *make* no movement against us; *adding*, that they had thus acted with fidelity during twenty years!^d" *N. Y. Col. Docs.*, ix, pp. 1039-1040. Maurepas, in reply, said he was aware such a course had been adopted in the last war, but advised caution. *Ibid.*, p. 1048. See also *ibid.*, p. 1045.

"Le sieur Livingston, qui avait demeuré à Montréal, était celui qui recevait ordinairement les pelleteeries des français du Canada." Ferland, *Canada*, ii, p. 415. See Kingsford, *History of Canada*, ii, p. 508. The French at various times forbade foreign merchants or factors to live in Canada (e.g., in 1727, *Edits et Ordonnances*, i, p. 475) but such regulations were probably obeyed about as much as the New York laws against this trade.

In the heat of the conflict between governor and assembly, Governor Clinton, in 1747, charged the people of Albany with a "shameful Neutrality, which it is generally believed, some in this Province, have endeavoured to establish between this Province and *Canada*, at this Time, such as was established in the War in Queen Anne's Reign, by which the *French* in *Canada*, gained great Advantages over the neighbouring Colonies, to the Prejudice of the common Interest of the Nation." *N. Y. Assembly Journals*, ii, p. 186. The assembly disavowed all knowledge of the offences charged in these "groundless Insinuations," which they attributed to "the next Person in the Administration"^d [Cadwallader Colden] *ibid.*, ii, pp. 206 *et seq.*, but they are confirmed by other evidence. Comptroller Weare, after a visit to Albany in 1745, wrote that neutrality was sought by the people of Albany at that time in order to protect their trade with Canada. *Mass. Hist. Soc. Colls.*, 1st series, i, p. 75. A letter from an officer stationed at Albany during the Seven Years' War complains that the people there "instead of assisting the officers in forwarding the service, . . . do every thing in their power to hinder and obstruct it." *Ibid.*, 4th series, ix, p. 457. It was reported in the New York Assembly in 1755 that the French at Louisbourg were supplied from New York. *N. Y. Assembly Journal*, ii, p. 436.

John Mitchell, in his *Contest in America*, accounts as follows for the opposition in New York to Governor Burnet's scheme for a post at Oswego. "The private

fluence. The relations of these Indians with their brethren who remained the allies of the English were never entirely broken off in peace or war, notwithstanding the efforts of the English,¹ and

reasons of their conduct, for they could certainly have no public reasons for it, were, a company of them had engrossed the whole trade of supplying the colony, as was pretended, with goods for the Indian trade; which they sold in wholesale to the French, instead of retailing them to our people, or the Indians. And for that reason they and the rest who were concerned in this clandestine trade with the French, chose rather that the French should be convenient to them at *Crown-Point*, than that the English should settle at *Oswego!* Hence the French got so peaceable and quiet possession of that place (that now costs so much blood and treasure to recover) rather by our connivance, than our opposition: and the six nations of Indians told us flatly, that *the French built their Forts with English Strouds*, the goods we supplied them with; and remonstrated against it, as prejudicial to our interest and their welfare," pp. 29-30. Mitchell was a partisan, but there is no reason to doubt the accuracy of this statement. This trade was the same whether the English and French were at peace or war, a circumstance which made little difference to the Canadian Indians and to some persons in Montreal and Albany.

¹ Negotiations with the Praying Indians are found in the New York records in all periods. In 1691 it was reported in the Council of the province that they wished to come back to their old homes, and the Council ordered the Albany commissioners to send letters and belts to invite them to come and to promise that they would be "protected as brethren" and instructed in the Christian Religion. *N. Y. Council MSS.*, vi, p. 17. Nothing came of it, however, and in 1694 the commissioners report that emissaries from the Five Nations had returned with the Caughnawaga's reply that they would make war or peace just as the French commanded. *N. Y. MSS.*, xxxix, p. 156. Complaints of the neutrality came in from New England, however, whenever there was war between the French and English, and the New York government was rather sensitive on the point. To a complaint made by New England governors in 1711 the Council of the province replied: "eWhatsoever Neutrality there is between the Five Nations & y^e French of Canada and their Indians had been Entred into without y^e Consent or direction of this Government.

"Wee are not Conscious that there has beeene dureing this Warr any Neutrality between y^e people of Albany or any other people of this province and y^e french and their Indians. . . . Wee are very well assured that if any of her Majesties subjects have or shall hereafter be Detected of Trading with the french in Canada, they would be soe farr from Receiving any Countenance or favoure from y^e Government here that they should be in due manner prosecuted as Traitors as by Law they ought and brought to Condign punishment for y^e same." *N. Y. MSS.*, lvii, p. 2.

In the very next year, however, we find a "proposition" to the Indian commissioners from Praying Indians who had come from Canada to "take the hatchet out of the heads of those that were kild, and to Burry the Same that it may be forgotten & forgiven . . . to the end that the path may be open for Sachims to come and go to this place in peace that we may Live in unity & Sessation as formerly." *N. Y. MSS.*, lvii, p. 152. Upon this, the commissioners, headed by Peter Schuyler, wrote to Governor Hunter on May 19, 1712, ". . . we are of opinion with submission to your Excellency that it would be proper to Grant them Liberty to come as for-

they constituted a difficulty all the more serious because it was connected with the illicit trade in Indian goods between Albany and Montreal, in which the Albanians were deeply involved,

merly; if not, then we can Expect nothing Else but an open war with those Indians and we can't See that we are in a Capacity to wage war Considering the poor Circumstances these fronteers are in at present." *N. Y. MSS.*, lvii, p. 153. On May 23d the matter was discussed in the provincial council, and "Left to the discretion of the commissioners." *N. Y. Council MSS.*, xi, p. 87. This series of letters and minutes is very enlightening. It shows the fact of neutrality in time of war, and the tortuous policy of the New York government; but it also discloses the real difficulty with which the government was confronted, — a difficulty which the English merchants and the French were by no means disposed to lessen. This difficulty is further illustrated by a letter of Governor Hunter's at this time. The governor had apparently communicated in the mean time with representatives of the Five Nations, and on August 13, 1712, he wrote to the Albany commissioners informing them that the answer to the Caughnawagas was left to their discretion, — an arrangement to which the Five Nations had agreed. But he says the Indians had also expressed the hope that "you would put a stop to all Commerce between her Majesty's Subjects & those Indians, Resolving if you did so that they likewise would break off all correspondence of what nature soever with the French and their Indians; but the five nations finding contrary to their Expectations that those Cachnawaga Indians were Encouraged to trade with Our People, they Thought it a very odd Procedure that the Allys of our Enemies should be Countenanced in such an affair, when They were ready on their Part to put a Stop to that Scandalous Neutrality; whereupon Some of the Five Nations Enquiring into this misterious Conduct, were answered by some (I shall enquire hereafter by whom) that it was the Governo'r's Order; you may Imagine it was not a little Surprising to me to be Branded with a Procedure so very Remote from my Thoughts." *N. Y. MSS.*, lviii, p. 5.

In 1723 the Indian commissioners were much agitated over the report that Colonel John Schuyler was making war in company with the New Englanders upon the eastern Indians, an action which they deplored on the ground that it might draw New York into the war — "Nothing can Ensue these Strained Actions of Coll^o John Schuyler but an Indian War in the Bowels of your Excell^y Govern^t" *Original Indian Records*, ii, dated October 19, 1723. Throughout this year, these records are full of accounts of attacks upon New England by the French Indians, at which the commissioners express their horror, but take no action.

Again in 1745 Governor Clinton reported the Caughnawagas as spies. *N. Y. Assembly Journals*, ii, p. 74. He so distrusted the commissioners at this time that he preferred to carry on his negotiations with the Indians through Colonel Johnson, which led to a lively correspondence between the commissioners and himself. *N. Y. MSS.*, lxxiv, p. 222; lxxv, pp. 25, 27, 31, 32. The commissioners reported in April, 1746, that the Senecas, under French influence, had promised the Caughnawagas to be neutral in the war. *Ibid.*, lxxv, p. 32.

On August 14, 1754, the Albany commissioners had a conference with the Caughnawagas, in which the covenant chain was renewed. *N. Y. MSS.*, lxxix, p. 46. On September 27th the commissioners asked instructions from the governor

even the members of the Albany Council who were entrusted for a long period with the enforcement of Indian regulations for New York, and for the other colonies as well. The actions of

how to deal with the Caughnawagas if they came to Albany, and expressed the opinion "that it is very Necessary to Keep friendship With them." *Ibid.*, p. 44. In January of the next year the governor submitted to the Council a letter from Lieutenant Holland at Oswego, saying that certain chiefs of the Five Nations who had gone to Canada the year before had returned and reported that they had "settled the Point with the French that Oswego and Albany should remain in peace without Molestation." *N. Y. Council MSS.*, xxiii, p. 262. The Council advised the sending of the information to the governors of Massachusetts, Pennsylvania, Maryland and Virginia. Governor Dinwiddie, in reply, strenuously objected to any such treaty of neutrality "as a measure the Commissioners had taken from Lucrative Views." *Ibid.*, xxv, p. 4.

A letter to Sir William Johnson in September, 1755, contains the report that all the tribes of the Six Nations except the Mohawks had sent a belt to the latter and said that they would not intermeddle in French and English affairs as both French and English had a design to kill them all. They said the Mohawks might join the English if they liked, but in that case "they would kick them from them." The author of the letter expresses the suspicion "that the Caughnawagas were not only backward themselves but persuaded others to be so that our Indians and they have some Understanding together." *Johnson MSS.*, iii, p. 7.

Colden reports the fact that the Indian guides of the English troops in pursuit of French Indians, when they came near the enemy, always fired their guns or made some noise so that the French Indians might avoid them. *Five Nations*, ii, p. 216.

The evidences seem overwhelming that there existed at all times, both in war and peace, an understanding between the Dutch and the Caughnawagas, if not the French themselves, that Albany was not to be attacked nor the trade between it and Montreal interrupted. The problem of the government was made doubly hard by the fact that the Albanians were at once the chief offenders in this contraband trade, and also constituted the official board entrusted with the prevention and punishment of it. "Most of them," as Archibald Kennedy says, "if not altogether, traders, or handlers, and whose interest it is, to take all advantage of those poor people, and that with impunity, as they have no body to complain to, the principal directors being all traders, and of course *Socii Criminis* . . . mostly Anglo-Dutch traders in *Indian* goods; who, together with a tribe of harpies or handlers, their relations and understrappers, have so abused, defrauded, and deceived these poor, innocent, well meaning people, that this treaty has well-nigh executed itself; so that at present we have very few *Indians* left that are sincerely in our interest, or that can be depended upon." *The Importance of the Friendship of the Indians*, pp. 14, 2. Wraxall reports that the officer stationed at Saratoga to prevent this trade with Canada was regularly engaged in it himself. *Post*, p. 141. Colden says that at the beginning of the English occupation of New York the Dutch circulated the report among the Indians that the English intended to destroy them. *Five Nations*, i, pp. 25-26.

From all this it is easy to see why the local commissioners were eventually superseded by a superintendent appointed by the Crown. In attempting to understand

some of these in violation of the laws they were supposed to enforce is parallel with that of some of the Canadian officials responsible for preserving the monopoly in furs, who grew rich by sending furs to Albany in return for these forbidden Indian goods. This is a subject of fundamental importance.

Not New England alone, but sometimes the southern colonies as well, had reason to complain of this discrimination against them. Every now and then a war party would go from New York to Virginia or the Carolinas and attack the Indians or whites there. This was due to the intrigues of the French, who, as Colden says, were "in Hopes, that, by the Indian Parties doing frequent Mischief in Virginia, the Government of New-York would be forced to join, in resenting the Injury, and thereby that Union, between the Government of New-York and the Five Nations, would be broke."¹ The French could not induce

this involved and important question, however, the race hostility and conflict of policy and pecuniary interests must not be overlooked. While admitting the facts, we must, in estimating the justice of English writers, such as Colden, Wraxall, Kennedy, and others, constantly keep one or two facts in mind. In the first place, that thesee "poor, innocent, well-meaning" Indians, shamefully defrauded as they undoubtedly were, at the same time well knew how to protect their own interests. As Charlevoix says (*ante*, p. xxxix) their constant policy was to preserve a balance between the French and English, and while in the main they kept the side of the English, they saw to it carefully that their allies were not too successful against the French. They "constantly received the bounty of both parties without much regarding the professions of either." Chalmers, *History of the Revolt*, ii, p. 225. French, Dutch, English and the Indians themselves all knew perfectly well how indispensable the alliance of the Iroquois was to Albany and all the English colonies as well. They all knew equally well that the Caughnawagas, though in the French interest, were in constant communication with their kinsmen, the Iroquois of New York; that the Indian league would never consent to allow the English to go to extremes against them, and that without that consent the English would never dare to proceed themselves. At the same time all were aware that these same "Praying Indians" at the instigation of the French were engaged in every war in harrying the New England provinces. It was a practical problem of infinite delicacy, and is an historical question of considerable difficulty, but of great importance. In attempting to solve it, possibly too much loyalty to English laws or fidelity to interests believed to be at variance with their own should not be looked for among a population only recently brought under a hostile flag. The Swedish traveller Kalm reported as late as 1749 that the Albanians weree "almost all Dutchmen." *Travels*, English Translation, ii, pp. 100-101.

¹ History of the Five Nations (1902), i, pp. 24, 33. Parkman says there is no evidence of these intrigues, but the Indian Records, from which Colden got his in-

the Indians to attack New York directly, hard as they tried, on account of the trade, but it was easier to get them to attack any other English colony.

How important this trade through the country of the Five Nations was may be seen in the opinions expressed by both French and English of the importance of Oswego. Oswego existed for trade alone. It was a fortified trading post and nothing more, but in the whole of North America there was no place so hated or so feared by the French. In the Seven Years' War, it was the place above all others against which the French campaign was aimed. "The founding of Oswego," says Fiske,² "was an event of prime importance in the history of the United States."¹

formation, seem to leave little doubt of it. *E.g., post*, p. 214. In 1717 the Indian Commissioners wrote to Governor Hunter that the French were "deludeing our Indians" and setting them against "our friends" in Carolina. *N. Y. MSS.*, lx, p. 156.

In 1723 an English prisoner was taken in Virginia by the Caughnawagas and Governor Burnet urged the Indian commissioners to have the Five Nations secure his release. In answer, the commissioners wrote, on April 23d, "We are perfectly well assured your Excellency would not oblige y^e five Nations in any thing unreasonable, but any act of your Excel^e weighs much more w^t them then any thing we can do the Indn^s who live at Canada at least those of Cachnawage are part of the five Nations and what ever Rough Treatment they receive will be resented by the five Nations perhaps not in so publick a Manner as to oblige them to leave their bread & Cloathing which we are Satisfied they receive at Albany but underhand to the great detriment of many Subjects living in the remotest part of the Government.³ *Original Indian Records*, ii.

In 1743 the Indian Commissioners wrote to the Governor of New York concerning the attacks of the Northern Indians upon Virginia, that the French were using "all their arts & means to foment a wider difference of this sort." *N. Y. Council MSS.*, xix, p. 177.

¹ "The Preservation of Oswego, and of the Fidelity of the six Nations, is of more Consequence to the Province, than any other Thing whatsoever; and if we lose them, no Part of the Country will be safe." Governor Clarke's address to the New York Assembly, April 27, 1741, *N. Y. Assembly Journals*, i, p. 800. In 1756 Governor Sir Charles Hardy called Oswego "The Source of the British influence" among the Indian allies. *Ibid.*, ii, p. 500. George Chalmers referred to it as "the storehouse of the Indian trade, the bulwark of the Six Nations." *History of the Revolt of the American Colonies*, ii, p. 284.

"Nothing at the north was shaping this traffic [in furs] in the colonial interests more than the English post at Oswego and nothing angered the French more than the maintenance of that station." Winsor, *The Mississippi Basin*, p. 174.

"When the English were in possession of the Colonies, Albany commanded the

For New York the importance of the Indian trade in its larger aspects centres about the fort and settlement made by the Dutch on the Hudson called Fort Orange, Beverwyck or Willemstadt, and later Albany. It was this post and settlement, along with the "Colonya" of Rensselaerswyck about it which first brought the Dutch into contact with the Mohawks, and later with the other members of the League of the Iroquois. It is unnecessary here to recount the conflict between the patroon in his colony and the director of the company in New Amsterdam or his deputy in Fort Orange. These disputes largely concerned the Indian trade, but their regulations show that the authority of both was systematically ignored by interlopers who carried their wares, of which rum was a principal part, into the Indian country and there intercepted the Indians, and by making them drunk or by offering them higher prices prevented their furs from reaching the fort or the colony. The repeated enactment of rules against selling liquor to the Indians or going beyond the settlement to intercept them shows how ineffectual all such regulations were.¹ The first relations between the Dutch and the Indians were simple matters concerning neighboring land or local trade with the nearest tribes along the Hudson River and the Mohawks. The first formal treaty between the Europeans and any part of the Five Nations occurred probably about 1643,² and may be considered the beginning of the long series of compacts which kept these Indians on the side of the Dutch and the English for over one hundred years. All details concerning the Indian trade, the trade with the Indians; and it is well known that no place in America furnished such a quantity of furs and skins, not even the Hudson's Bay settlements, whose utmost extent of trade is far inferior to the produce collected here. These furs and skins were procured from Canada, and brought to Fort Oswego by the Indians, who disposed of them to the agents sent there by the merchants of Albany."

J. Long, *Travels*, p. 14. Oswego, he says, "is the key to the United States." *Ibid.*

¹ See, for example, O'Callaghan's *Laws and Ordinances of New Netherland*, pp. 34, 63, 64-65, 93, 100, 137, 182-184, 200-201 & 258-263, 310-314, 366, 378, 381, 382, 383-384, 425-427, 446-447, 463-464.

² In 1659, at an Indian conference, one of the Dutch commissioners said to the Mohawks: "eBrothers! sixteen years have now elapsed since friendship and fraternity were first established between you and the Dutch; since we were bound unto each other by an iron chain! Up to this time, that chain has not been broken, neither by us nor by you." O'Callaghan, *History of New Netherland*, ii, p. 391.

regulation or prevention of its abuses, and the consequent negotiations with the Indians were naturally left to the local authorities in the separate posts or towns, and in New Netherland such local authorities were organized on the model of the institutions of the mother country with which the colonists were familiar.

In Amsterdam and elsewhere in the Netherlands, the cities had long had an aristocratic government, in which the Senate was a self perpetuating body by whom the burgomasters and *échevins* were chosen.¹ In New Amsterdam the company's hold was too great for such a form of local government at once, but in other parts of New Netherland select bodies modelled upon that of the cities at home, in which the principle of coöptation prevailed, gradually arose to control the local administration, while the central authority of the Company was preserved by the expedient, also long in use in the mother country, of having a double number of names chosen by the local board from whom the director or his deputy selected the required number.

For some years after the founding of Fort Orange, its government was naturally in the hands of the commandant, but as the population about the fort grew larger, the Company determined to give them a civil government independent of the colony of Rensselaerswyck. The civil government of Beverwyck probably dates from 1652, when Stuyvesant by proclamation set up a court of justice there;² before that time, dwellers outside the jurisdiction of the fort had been subject to the government of Rensselaer's colony, which was administered according to the usual model under the general control of the patroon.³

At the end of the Dutch régime the government of Albany was in the hands of a sheriff or "schout," and a small council of burgomasters and "schepens," who acted in both a legislative and a judicial capacity for the city, appointing all subordinate officials except the secretary, and empowered also to name

¹ Sir William Temple's *Observations upon the United Provinces of the Netherlands*, Works (Edinburgh, 1754), i, pp. 53-56.

² O'Callaghan, *History of New Netherland*, ii, p. 183.

³ *Ibid.*, i, pp. 320-322.

double the number of men necessary to fill vacancies in their own body, from whom the Governor could choose their successors.¹

This general system of local government continued in New Netherland after the English occupation, and in some parts of the country the business thus administered of necessity included regulations of trade and other relations with the Indians. Where these relations were exceptionally important, special commissioners might at times be employed, but apparently the regular officials ordinarily managed these along with other local matters.² After the English occupation, these local councillors continued to nominate the men from whom the governor chose their successors, and the board, now commonly spoken of as "commissaries," continued as before to govern and regulate local matters in which the Indians were concerned, though the more important matters might at times be concluded by the governor and his council, or by the commissaries under their direction.³ So far as the northern

¹ O'Callaghan, *Laws and Ordinances of New Netherland*, pp. 465, 485, 512.

² For example, in the East Riding of Yorkshire on Long Island, the employment of Indians in the whale fishery necessitated the appointment of "Commissioners for y^e Indian affaires" there, who are referred to in 1670. *N. Y. MSS., Court of Assize*, pp. 622-623; *N. Y. Col. Docs.*, xiv, pp. 645 *et seq.* This was not a temporary but a permanent commission. It was not the same as the justices of the peace of the district, though some justices were probably included. In a commission of 1671 in the same district two justices and four others are named, any four of whom may act. *N. Y. MSS., General Entries*, iv, pp. 14-15; also *ibid.*, pp. 119-120. See also *N. Y. Col. Docs.*, xiv, pp. 650-652, 665-666. In Albany there was never any difference between "Justices," "Commissaries," or "Commissioners," but a proper control was obtained by associating with them the commandant of the fort.

³ By the articles of capitulation in 1664 it was provided that all existing inferior civil officers and magistrates should be undisturbed, and that new ones were to be chosen in the accustomed manner. *N. Y. Col. Docs.*, ii, p. 252. The protection of these Articles was expressly extended to Albany after a conference between Nicolls and deputies from the city, the magistrates were empowered to elect a "Scout," and it was ordered "That the officer in cheife at the Fort and the Magistrates of the Towne, shall upon all occasions for the perservinge of the peace and good Governm^t mutually ayde and assist each other." *General Entries*, i (*N. Y. State Library Bulletin, History No. 2*), pp. 112-114. In 1668 directions were given to the commander at Albany as follows: "In matters Capitall or treatyes with y^e Indians you are to Sitt in y^e Fort with y^e Schout and Comissaries as y^e upper Cor^t whereof you are to bee president and upon Equall division of voices to have the Costigne & decisive voyce: But in the ordinary Co^s for Civill affaires you have nothing to doe."

"Lett not yo^r eares bee abused with private Storyes of y^e Dutch, being disaffected to y^e English, for generally wee cannot expect they love us; but in

part of the colony was concerned, practically the whole control of the details of Indian administration thus naturally fell into the hands of the magistrates or commissaries of Albany, and continued under their control after the colony came under well attested cases, bring it before the commissaries who are expected to do justice therein.^e

It was also provided that if the Indians caused any disturbance in or near Albany, the commander should join with the commissaries in considering the same till further directions from the governor could be known. The commander was further directed to meet with the commissaries to give advice to Indian sachems, and instructed to answer the Indians after advice with the commissaries. He was also to receive presents from the Indians and make them presents in return at his "own Charge." *N. Y. MSS., Orders, Letters and Warrants, 1665-1669*, p. 229.

There are also in existence several less formal letters from the governor to the commander or to the commissaries about this time. *N. Y. Col. Docs.*, iii, pp. 144, 146. For example, in 1666 the governor wrote to the commander,^e "I have sent the best advice and direction w^{ch} my knowledge of the present affaires could collect out of the seuerall letters; but I must referr the management thereof for the best to the discretion of yr selfe & Comissaries." *Ibid.*, p. 148.

In 1670 Governor Lovelace appointed the Albany commissioners in the usual way from a list of double the number. *N. Y. MSS., Court of Assize*, p. 591.

An entry in 1671 makes clearer the nature of this board. It recites the fact that heretofore for the courts of Albany, the Colony of Rensselaerswyck, Schenectady and the parts adjoining, including strangers, two commissaries have been elected annually for Albany and Schenectady and two for Rensselaerswyck — four in all — to take the place of the outgoing members, these four new members being added to the two whose terms have not expired — one from each of the two general districts referred to; thus making the whole board consist of six commissaries in addition to the "Schout." Hereafter there is to be one additional commissary from Albany, bringing the number up to seven, exclusive of the Schout. *N. Y. MSS., General Entries*, iv, p. 282.

In 1676 Governor Andros had instructions drawn up defining the jurisdiction of the commissaries, and regulating appeals from them and also appeals to them from a similar board constituted for Schenectady. *N. Y. MSS., Warrants, Orders, Passes, &c., 1674-1679*, pp. 223-225, 205-206. There is a reference to a nomination by the commissaries in 1681, *N. Y. MSS.*, xxx, p. 34, and a commission to the seven "Commissaries and Justices of the Peace for the County of Albany" from Governor Dongan in 1684, *N. Y. MSS.*, xxxiii, p. 53.

The more important Indian matters seem at this time to have been settled by the governor and council, and their decisions were generally followed by orders to the commissaries to carry them out, which sometimes became the basis for further ordinances of the commissaries. *N. Y. MSS., Warrants, Orders, Passes, &c., 1674-1679*, pp. 223-225; *N. Y. MSS., Orders, Letters Warrants, 1665-1669*, p. 431; *N. Y. Council MSS.*, iii, pt. 11, pp. 146, 178; *N. Y. MSS.*, xxvii, p. 144, 188; xxviii, p. 1.

In 1682 regular "propositions" were made at Albany by representatives of the Seneca tribe to the commander and four commissaries, *N. Y. MSS.*, xxx, p. 72.

English sovereignty, though the matters dealt with by this local self nominating body were rapidly taking on an importance which extended far beyond Albany, or the province of New York, or even the English dependencies. A general system of local control including Indian relations which had thus gradually grown up was recognized, rendered more systematic and made permanent by Governor Dongan's charter to the city of Albany, granted in 1686, the great charter of the "liberties" of the Albany traders, the legal basis of the power of the Albany commissaries or commissioners for over half a century, and one of the fundamental documents in the history of the American Indian trade.¹ This charter confirms the franchises and immunities before enjoyed by the Albanians, "Sometimes by the Name of the Commissaryes of the Towne of Albany Sometimes by the Name of Schepenon of Willem Stadt and Sometimes by the Name of Justices of the Peace for the Towne of Albany and by Divers other Names,"² and provides for their continuance "for ever" under the titles of "Mayor Recorder Towne Clerke and six Aldermen and six assistants" to be known collectively as "the Mayor Aldermen & Comonalty of the City of Albany," together with "one Chamberlaine or Treasurer one Sherriffe one Coroner one Clerke of the Markett one high Constable three sub. Constables and one Marshall or Serjant att Mace."³

The mayor, recorder, alderman and assistants or the mayor and any three or more of the aldermen and any three or more of the assistants were authorized to act as a "Common Council" empowered to make all necessary ordinances for the government of the city provided they were not repugnant to the King's prerogative, the laws of England or the enactments of the province. Such ordinances expressly including provisionse" for Preservacon of Governmt the Indian trade" etc.⁴

The incumbents of all these offices for the time being were appointed by Colonel Dongan,⁵ and the mayor and sheriff were in future to be appointed once a year by the Governor "by &

¹ *N. Y. Col. Laws*, i, pp. 195 *et seq.*

⁴ *Ibid.*, p. 203.

² *Ibid.*, pp. 196-197.

⁵ *Ibid.*, pp. 202-203.

³ *Ibid.*, p. 201.

with the Advice of his Council," but an important change was made in the manner of choosing the six aldermen and six assistants. Instead of the old practice of qualified coöptation, these councillors were, hereafter, to be elected yearly, two aldermen and two assistants " by the Majority of voyces of the Inhabitants of each ward."¹ The chamberlain or treasurer was to be appointed yearly by the mayor and council.² The mayor, recorder and aldermen were given a limited jurisdiction as judges of common pleas and also created justices of the peace,³ a provision whose legality was brought in question almost a hundred years later.⁴ In like manner the mayor was made *ex officio* coroner;⁵ and the town clerk, " Clerke of the Peace and clerke of the Courts of Sessions or County Courts."⁶ This office of town clerk was really in the gift of the Crown, but in defect of a crown appointment the charter empowered the governor to fill the office,⁷ a power which later led to troublesome complications in the case of the author of this *Abridgment*.⁸ Dongan appointed to the clerkship Robert Livingston.⁹

For us the most important phase of the powers of the Albany council under the charter was its control of Indian relations and trade. With this must be coupled the provision of the charter which made all participation in that trade a monopoly open only to Albanians — a provision which the council in their capacity as magistrates were expressly authorized to enforce — "whereas amongst other ye Rights Privilidges Preheminences & Advantages which the Cittizens and ffremen of the sd City of Albany & their Predecessors have for many Yeares last past held used & enjoyed the Privilidge Preheminence & Advantage of haveing

¹ *N. Y. Col. Laws*, i, p. 205.

² *Ibid.*

³ *Ibid.*, pp. 214-215.

⁴ In 1771 the chief justice and other justices informed the Governor that the Albany magistrates who acted as justices of the peace could not legally sit as a court of Oyer and Terminer or General Gaol Delivery. *N. Y. Council MSS.*, xxvi, pp. 222, 293; *N. Y. MSS.*, xcvi, p. 53; xcvi, p. 108.

⁵ *N. Y. Col. Laws*, i, p. 207.

⁶ *Ibid.*, p. 215.

⁷ *Ibid.*, i, pp. 204-205e

⁸ *Post*, p. 6.

⁹ *N. Y. Col. Laws*, i, p. 202.

within their owne Walls the Sole Managmt of the Trade with all the Indians Liveing within & to the Eastward Northward and Westward of the said County of Albany within the Compasse of his said Majestyes Dominion here wch hath been from time to time Confirmed to them & their said Predecessors as well by Prescription as by Divers and Sundry Grants Orders Confirmations & Proclamations Granted Ordered Confirmed and issued forth not only by & from Divers Governo's and Commanders in Cheife in the said Province since the same hath been under his said Majestyes Dominion but also of Sevall Governours Generall & Commanders in Cheife of the Neither Dutch Nacon whilst the same was or has been under their Power and Subjeccion which has Alwayes been found by Experience to be of Greate Advantage not only to the said Citty in Particular butt to the whole Province in Generall and that by the Care Caution and Inspection of the Magistrates of the said Citty to the well and Orderly management & Keeping the Trade with the Indians within their walls it has turned Vastly to the Advancement of Trade and the increase of his Majestyes Revenue and been the Sole meanes not only of Preserving this Province in Peace & Quiet whilist the Neighbouring Colonyes were imbruied in Blood & Warr but also of Putting an end to the Miseryes those Colonyes Laboured under from the Insulting Cruilty of the Northern Indians whereas on the other hand it has been no lesse evident that whenever there has been any Slacknesse or Remissenesse in the Regulacon & keeping the Indian Trade within the Walls of the sd Citty Occasioned by the encroachmt of Some Persons trading with the Indians in Places remote some Clandestinly others upon p'tence of Hunting Passes and the Like ye trade not only of the said Citty but of the whole Province has Apparently Decreased the Kings Revenue has been much impaired & not only Soe but this Governmt has lost much of the Reputacon and Management amongst the Indians which it otherwise had and enjoyed WHEREFORE for and on behalfe of his Majesty his Heires and Successors I have Given Granted Ratified and Confirmed and by these Presents Doe Give Grant Ratifie and Confirme unto the Mayor Aldermen & Comonalty of the said City of Albany and their Successors

forever the Right Privilidge Preheminence and Advantage of the Sole & only Managmt of the Trade with the Indians as well within this whole County as without the same to the Eastward Northward and Westward thereof so farr as his Maties Dominion here does or may extend to be Managed & Transacted only by the ffreemen being Actuall Inhabitants within the sd City & within the Now Walls or Stockados thereof and not else where And I Do hereby for his said Majesty his Heires and Successors Absolutely forbid and Prohibite all and every the Inhabitants of the said Province of New Yorke (the Inhabitants of the said City of Albany only Excepted) to Trade or traffique with any of the five Nations of Indians Called the Sinicas Cayugaes Onondagues Oneides & Maquas who live to the Westward or with any other Indian or Indians whatsoever within the County of Albany or to the Eastward Northward or Westward thereof so ffarr as his sd Majestyes Dominions here do or may extend or to have or keepe in their Houses or else where any Indian Goods or Marchandizes upon the Payne & Penalty of the fforfeiture and Confiscacon of such Indian Comodityes. . . . ”¹

The charter also empowers the mayor and council, and these alone to admit outsiders as “ free Cittizense” entitled to share in this trade monopoly and other privileges in Albany.²

These provisions simply authorize the continuance of regulations which had been in force under the Dutch régime and had not been disturbed in the interval between the English conquest and 1686, but they are of importance as a proof, not merely that the English received the Indian administration of their predecessors, but also that New York, though an English province, at this time either approved or at least felt obliged to continue an Indian policy which very properly subjected her to the suspicion of other English colonies, and at a later period to the criticism even of her own citizens. The blame for the continuance of this policy cannot be laid upon the Dutch alone, as is done by the English in the eighteenth century, though they were doubtless the greatest gainers by it; it is something in which the English provincial government must share. Hard as this policy was on

¹ *N. Y. Col. Laws*, i, pp. 210-212.

² *Ibid.*, p. 209.

New England, it was a very natural one for New York to adopt, if we consider the weakness of the bonds that united the English colonies in that day, and remember the immense difficulty of the Indian problem itself with the hostile French and their Indians without, the more or less disaffected Dutch within in actual control of the trade, and the wily Iroquois between fully able to take advantage of the situation.

The citizens of Albany were not slow to put into effect the powers conferred on them by the new charter. In the long ordinance of 1686, they make specific rules for the effective control of their trade monopoly with severe penalties for its infringement and a clause empowering the magistrates to administer an *ex officio* oath to persons suspected.¹ This is the beginning of a long series of regulations of this kind in Albany.²

Governor Dongan's administration may be considered the first important international phase of the New York fur trade. Dongan was one of the first, if not the very first, Englishman to see the vital connection of trade and policy, and to understand the immensity of the issues involved in Indian relations on the North American continent. "as for y^e Ottowawaes," he wrote, "and y^e Indyans that wear Pipes through there noses, and all those nations who liue west and S: west from hence, they haue traded at this toune, ever since it has been setled, which is above three score and ten yeares. . . . They are now fast to us, and are very considerable, and we must keep them soe, for if they were otherwise, they are able to ruine all y^e Kings Collonyes in those Parts of America. . . . we must build forts in y^e countrey upon y^e great Lake, as y^e french doe, otherwise we loose y^e Countrey, the Bever trade and our Indians."³

He was fully aware of the activities of the French in the interior, who, he wrote home, are "making a pretence as far as the Bay of Mexico."⁴

¹ N. Y. MSS., xxxiv, pt. 2, p. 10.

² They are to be found in the minutes of the Albany Council, printed in Munsell's *Annals of Albany*, i-ix, *passim*.

³ N. Y. Col. Docs., iii, pp. 510-511. See also *ibid.*, p. 430.

⁴ *Ibid.*, pp. 394-395.

Once alive to its real importance, Dongan was the last man through inaction to allow this trade to slip away to the French. He planned forts at strategic points, such as Lake Champlain, Niagara, and elsewhere.¹ During his administration New York traders for the first time passed beyond the Senecas' country in search of furs;² and he himself was largely responsible for the sending out of a party to trade with the Indians near Michillimakinac.³ Not much came of any of these schemes, it is true. Macgregorie, the leader of his trading party, was captured and carried off to Canada, the apathy of the provincials, the indifference of James II,⁴ and the opposition of the Five Nations themselves prevented the building of any forts, and Dongan's active efforts had to be confined to humbler things; but his eye was the first to penetrate the vast designs of the French, and the importance of trade as a means of furthering and also of defeating them. He noted the success of their missionary efforts among the Caughnawagas, with its consequent dangers for New York; and there was no important means afterward employed by English administrators to block these French schemes that Dongan had not directly or indirectly proposed or attempted to carry out. His successors had not his clearness of sight. The next New York governor who showed signs of appreciating the significance of Indian relations was Governor Bellomont. "Without doubt," he wrote in 1699, "the French King sets a great value on Canada, and takes such measures as will quickly extend his dominions in this part of the world, further than is consistent with the interest of England. . . . this Province by its scituuation (being much in the center of the other Colonies) challenges a preference to all the rest and ought to be looked upon as the capital Province or the Cittadel to all the others; for secure but this, and you secure all the English Colonies, not only against the French, but also against any insurrections or rebellions against the Crown of England, if any such should happen, which God forbid."⁵ Bello-

¹ *N. Y. Col. Docse*, iii, p. 477.

² *Ibid.*, p. 395.

³ *Ibid.* For some notices of this expedition led by Colonel Patrick Macgregorie, see *N. Y. Col. Docs.*, iii, pp. 476, 516, 540, 523, 525, 546-527; ix, pp. 318, 363.

⁴ *Ibid.*, iii, p. 504.

⁵ *Ibid.*, iv, p. 505.

mont saw also the need of enlisting the other English governors in a common effort to secure the trade with thea "far Indians,"¹ and fully realized the importance of the Five Nations as "the only Barriere at present between the French of Canada and Virginia & Maryland, as well as between the French and New York."² "I pretend to be able to demonstrate," he wrote to the Lords of Trade, "that if the Five Nations should at any time in conjunction with the Eastern Indians and those that live within these plantations, revolt from the English to the French, they would in a short time drive us quite out of this Continent."³ His plan to avert this danger was much the same as Dongan's, by building forts on the line of trade and thus diverting their furs to the English. By it he thought to gain over the Indians, "set the French at defiance and laugh at all their projects to circumvent us, their new settlement at Mechisipi and Canada and Nova Scotia put together."⁴ But like Dongan he failed to take account of colonial indifference and Indian opposition. Five hundred pounds were granted by the government in England to build a sod fort in the Onondaga country,⁵ but the governor's advocacy was enough to rouse the opposition of the Anti-Leislerian party in New York, who were sufficiently strong to prevent the raising in the province of the additional sum necessary,⁶ though legislation had been enacted for the purpose.⁷ The governor in his calculations had also overlooked the possibility of hostility among the Indians themselves. Acting on their settled principle of opposition to all direct relations between the whites and the far Indians they now requested the governor to "forbidd peoples coming to trade in our country."⁸ This Bellomont believed to be the result of a "trick" of Colonel Schuyler and his party to put the Indians "out of conceit with our building a fort in the Onondages Country, as 'tis not doubted but they have."⁹ Thus the petty quarrels of the colony, and the policy of the Indians worked together to defeat the governor's schemes, while

¹ *N. Y. Col. Docs.*, iv, p. 590.

⁵ *Ibid.*, iv, pp. 704, 832.

² *Ibid.*, p. 609.

⁶ *Ibid.*, p. 716; v, p. 500.

³ *Ibid.*, p. 638. Cf. also p. 677.

⁷ *N. Y. Col. Laws*, i, pp. 432, 444.

⁴ *Ibid.*, p. 834.

⁸ *N. Y. Col. Docs.*, iv, p. 741.

⁹ *Ibid.*, p. 783. For an account of the factional quarrel, see *ibid.*, p. 791.

at home the Lords of Trade advised the King to do nothing about the forts till the other colonies would "contribute in some due proportion to so necessary a Work."¹

In the war which broke out in 1702, the trade was naturally forgotten. It is only after the Peace of Utrecht, in the term of Governor Hunter, that it again assumes any great importance. By Article XV of the treaty the Canadians were forbidden to molest the Five Nations of Indians "subject to the Dominion of Great Britain," while the English were in like manner not to molest the French Indians. Both sides were to have liberty to come and go for purposes of trade, and the Indians were to be entirely free to go to either French or English as they chose. But exactly who were subjects of France and England respectively was a question reserved for determination by a commission to be appointed at some future time.² The vagueness and ambiguity of this article led to much controversy, but its value to the English probably lay more in its justification of acts already done by English traders than in its encouragement to further trade. The cessation of hostilities had a far greater effect in stimulating trade than any terms of the treaty, and there is a marked revival after the peace in which New York took an increasing share, a share, however, which might possibly have been greater, but for the English goods which after the treaty continued to find their way from New York to Montreal, as they had all through the war.³ In 1717 Governor Hunter complained to the Five Nations of "that pernicious trade which I am sure is hurtfull to both of us and only serves to put money in the pockets of a few traders."⁴ The Indians in their reply clearly indicated the cause and suggested the remedy: "our people are furnished with other goods also at the said French trading house as clothing and other necessaries, which stops a great deal of peltry coming hither; but the French are supply'd with all

¹ *N. Y. Col. Docs.*, iv, p. 705.

² *A General Collection of Treatys*, iii, p. 433.

³ For a scholarly modern account of the factional disputes which so complicated the Indian question in New York at this time, see *Phases of Royal Government in New York, 1691-1719*, by Charles Worthen Spencer, Columbus, Ohio, 1905.

⁴ *N. Y. Col. Docs.*, v, p. 485.

those goods from the people here at Albany which goes first to Canada and from thence up Mont Royal river and so to Terondouquat, where the French trading house is built upon ground belonging to the Sennekas. If you will stop that trade of goods being carried from hence to Canada the other trade will fall of course.”¹

In 1720, Brigadier Hunter, just returning from his governorship in New York, testified before the Commissioners of Trade and Plantations that this trade in Indian goods carried from New York to Canada amounted to ten or twelve thousand pounds annually.² In the same year Robert Livingston, Secretary of Indian affairs, presented to Peter Schuyler, the acting governor, a notable memorial on Indian relations, in which he deplores “The furnishing the French and their Indians of Canada with goods from hence, whereby they not only supply the farr Indians and Engroce that trade to themselves, who otherwise must come here to buy them, and by that means secure them to their interest to assist them upon occasion and engage them to be our Enemies.”³ To correct this he proposes “That a stop be made for 3 months for all Indian goods going to Canada.” This is the first proposal of definite legislative action to stop the trade to Canada. On September 17, 1720, William Burnet, son of the celebrated Bishop of Salisbury, took charge of the government.⁴ The years of Governor Burnet’s administration are among the most important in the history of the New York Indian trade. His term is mainly important for two things: the founding of Oswego, and the enactment of legislation to stop the trade with Canada in Indian goods. Governor Burnet was, like his father, a man of active mind, generous impulses, rapid, and at times hasty judgment. He seems to have mapped out his policy in regard to Indian matters — one of his most important problems — very soon after his arrival in New York. He was a friend of his predecessor, Governor Hunter, and elected to continue his policy and put confidence in his friends. The most important of

¹ *N. Y. Col. Docs.*, v, p. 486.

² *Ibid.*, p. 552.

³ *Ibid.*, pp. 559–561.

⁴ *Calendar of N. Y. Council Minutes*, p. 6; *N. Y. Col. Docs.*, v, p. 573.

these were Colonel Lewis Morris, Chief Justice of the province, James Alexander, Cadwallader Colden and Robert Livingston¹—none of them Dutch names. To make friends with this party inevitably meant to make enemies of the opposing faction, former enemies of Governor Bellomont, among whose most active members were Peter Schuyler, Adolf Philipse, and Stephen Delancey, the latter the richest man in the colony, if not in North America, and the principal factor in the trade with Canada. The Indian policy of the administration was thus foreshadowed, and also the factional disputes of the next ten years.

On November third, less than two months after the Governor's arrival, Colonel Morris presented a bill in the Assembly "for the Encouragement of the Indian Trade,"² which became a law on November 19th,³a—"the source of an unreasonable opposition against him [Burnet], which continued through his whole administration."⁴ By this act it was made unlawful for any one, directly or indirectly, to barter or sell to any subject of the French King or on behalf of such person, "any of the Cloaths knowne by the Name of Stroud waters, Duffales or Trucking Cloth, Indian blankets, Indian Coates, halfthicks, Gunns, Kettles, Stokins, Shirts, flints Steele's, all blades, Swords, pistoles, Powder, Lead or any other Goods or Commodities Commonly Called or knowne by the Name of Indian Goods or Commodities, or taken deemed Esteemed or Understood to be Indian Goods or Commodities."^a All such goods if employed in this trade were to be forfeited, and in addition a penalty of £100 current money of the province was imposed for each offence, to be recovered before any two justices of the peace, the mayor of Albany, or the commanding officer at Albany, Schenectady, or Fort Hunter. One half the fine was to be applied to the fortifications in the colony, the other half, with all the forfeited goods, was to go to the informer. Any such goods found in the province north of a line drawn through Albany were to be confiscated, and their owner deemed a violator of the act. The high sheriff of Albany was empowered to search,

¹ Smith's *History of New York* (1814), pp. 240-241.

² *N. Y. Assembly Journals*, i, p. 445.

³ *N. Y. Col. Laws*, ii, p. 8.

⁴ Smith's *History of New York* (1814), p. 242.

by breaking and entering if necessary, any building or conveyance where it was suspected such goods might be hidden. Goods might be seized by the informer, and upon oath of one or more credible witnesses that they were found in the forbidden territory, the mayor or commanding officer before whom the goods were brought might issue his warrant for the arrest and commitment of the owner until the value of the goods and the fine were paid. When the owner could not be found, his goods and chattels might be distrained and sold. One of the provisions that turned out to be most necessary was one imposing a penalty of £500 upon any official empowered by the act to try offences under it who failed to condemn discovered goods, refused to issue a warrant, or agreed to compound with an offender for a sum less than the amount provided by the act.

As a result of this act Burnet prophesied that "Montreal will sink to nothing which now flourishes by its Trade with Albany.

I expect no less than restoring our influence over the Five Nations and drawing new nations of Indians through their means to trade with and depend on us."¹

The need of some such remedy seems obvious, if we may believe the testimony of the party advocating the stopping of the Canada trade. In a single year Colden says 900 pieces of strouds had been carried to Canada, besides other Indian goods,² and Governor Bellomont in 1700, reported that English woolens were much cheaper at Quebec and Montreal than at Albany, as a result of this direct trade from New York.³ Any interference with it would naturally be opposed by certain powerful merchants, because, as Colden says, "they sold large quantitys of Goods without any trouble the French taking them from their Doors whereas the trade with the Indians is carried on with a great deal of Toil and Trouble and as to the Interest of the Country they either never thought any thing about it or if they did, had no regard to it."⁴

¹ *N. Y. Col. Docs.*, v, p. 577.

² *Ibid.*, p. 729

³ *Ibid.*, iv, p. 792.

⁴ *Memorial on the Fur Trade*, *N. Y. Col. Docs.*, v, p. 732. In a letter printed in the London Edition of Colden's *Five Nations*, the Author, J. A. Esq. [James Alexander] says, "the French were chiefly supplied by one Gentleman at New-York, who almost entirely engrossed the Indian Trade of this Province, and thereby ac-

It is hard to estimate whether this plan of starving out the Canadians by shutting off the source of their supply of Indian goods at New York would have succeeded under favorable conditions. Our chief source of information in regard to it is the records of the Indian commissioners, which, it must be remembered, were kept by the Indian secretary, Robert Livingston, the chief advocate of the plan, a partisan of Burnet, a bitter enemy for both public and private reasons of Delancey, Philipse, and Schuyler, and a man who had many private interests of his own at stake. Notwithstanding this, no charges of falsification of these records, so far as I know, were ever brought against Livingston, though accusations of almost everything else were at one time or another made against him.¹ We are warranted in assuming that these records, drafted by Livingston, with the knowledge of all the Albany commissioners, some of whom were hostile to Burnet's policy, contain a substantially accurate account of the working of the new legislation. The Act of 1720 seems to have produced substantial results, even though the forbidden trade with Canada was never entirely stopped. "I find," says Wraxall, "that the Trade at Albany with the far Indians began again to revive & that they had hopes of its increasing. There is no doubt this was owing to Gov^r Burnets prohibition of the Trade from Albany to Canada wh^{ch} was a wise exsalent measure."² He reports that in 1721, some Indians came to Albany from near Detroit for the first time in twenty years.³ In May and June of the same year, Indians of six different nations came to Albany to trade and entered into treaties of peace with the English there — "All this was the Effect of the prohibition of the Trade with Canada, and ye Commiss^{rs} tell the Indians so."⁴ In 1722, even some of the Ottawas braved the French displeasure and visited Albany.⁵ In the next year eighty men besides women and

quired a very great Estate and Influence," ii, p. 58 (1902). This gentleman was in all probability Stephen Delancey, and it was no doubt by his influence largely that the legislation enacted under Governor Burnet was ultimately repealed.

¹ In 1721 he was succeeded in the office by his son Philip Livingston, whose attitude and partisanship were the same as his father's. *Post*, pp. lxxvii-lxxviii. *New York Civil List* (1889), pp. 221, 533.

² *Post*, p. 135.

³ *Ibid.*, p. 136.

⁴ *Ibid.*, p. 135.

⁵ *Ibid.*, p. 140.

children from several tribes on Lake Erie came to Albany " & bring with them the Calumet or Pipe of Peace."¹ A month or two later more Indians came from several remote nations and reported that Indians beyond them want to find if the way is open to Albany.² In 1724, the French succeeded by promises and threats in turning away thirty canoes of skins on their way to Albany from Indians who had never been to Albany before, but some Indians reached there notwithstanding.³ In September, 1725, the number of skins coming from the westward was three times the number from Canada, and the commissioners reported that in the spring and summer of that year fifty-two canoes had been brought to Albany from the far Indians, that nearly one hundred persons were employed in the trade, each making two trips among the Indians in a season, and that over 788 bundles of skins had been thus obtained, besides forty-three canoes brought by the far Indians themselves, amounting to two hundred bundles. The number of beaver and deer skins coming from Canada in the same period was only 176 bundles.⁴ So hard to obtain were the Indian goods in Canada as a result of the legislation in New York that the French Indians were sent by the Canadians to obtain goods in Albany under pretence of complaining of the hostility of the New England colonists.⁵

His examination of the Indian records of this period satisfied Wraxall of the wisdom of Governor Burnet's policy: " The surprising concourse of the Far Indians to Albany who formerly traded with the French, since the prohibition of the Trade to Canada, is an irrefragable Proof of the great advantage of that prohibition & as Trading is the Only Cement to bind the Indians to our Interest, if proper methods had been taken to fix and extend this Channel of Trade, . . . the French might have been . . . rendered incapable of disturbing the British Settlements in N. America."⁶

" I now flatter myself that the most difficult part is over," wrote Governor Burnet in 1723, " since the very Traders of

¹ *Post*, p. 144.

⁴ *Ibid.*, pp. 159-160.

² *Ibid.*, p. 147.

⁵ *Ibid.*, p. 151.

³ *Ibid.*, p. 152.

⁶ *Ibid.*, p. 145.

Albany who were fond of Trading to Canada, generally confess their error and that since the remote Indians will come to them they ought not to share that trade with the French, which they may keep wholly to themselves.”¹ “It is the opinion of many here,” says Colden, “that by the arts of Peace, with the assistance of a less sum than the tenth of what the expedition to Canada cost the Nation the settlement of Canada would be rendered useless to the French, and that they would be obliged to abandon it.²

Notwithstanding the governor’s optimism, it was very unlikely that a trade which had never been interrupted even by war would be stopped entirely by any penalties the government of New York could impose. The commissioners were forced to report early in 1722, that the forbidden trade to Canada was being carried on “by certain Persons in Albany,”³ and the greatest difficulty about the whole matter was that the officials who alone could make the new law effective were often themselves the worst offenders against it, while the governor himself unwittingly furthered the contraband trade by a too liberal distribution of passes to Canada.⁴ To meet the evasions of the law, a supplemental act of the most drastic kind was passed in 1722 “afor the further and more Effectual Prohibiting of the Selling Indian Goods to the French.”⁵ It allowed any of the officers mentioned in the former act to compel persons suspected of carrying on the prohibited trade to declare upon oath that they had not within a given time in any manner directly or indirectly traded in the forbidden articles with French subjects, and also that they had no knowledge, directly or indirectly, of any other person’s doing so. One who refused this oath was *ipso facto* adjudged guilty of trading unlawfully and at once became subject to all the penalties therefor provided in the former act. Any official who failed to perform his duty in administering this oath became liable to a fine of £200, and was made incapable of holding any office of trust or profit under the government.

¹ N. Y. Col. Docs., v, p. 685.

² *Ibid.*, p. 687.

³ Post, p. 139.

⁴ N. Y. Assembly Journals, i, pp. 473-474.

⁵ *Ibid.*, i, p. 475. Text in N. Y. Col. Laws, ii, pp. 98 *et seq.*

The governor, as the son of the great Whig historian, knew too much history not to be aware that this law might meet with objection at home, as appears from his apologetic letter to the Lords of Trade written in December, 1722.¹ Technically, the provision was probably not illegal, as the English act of 1661, which in effect abolished the oath *ex officio*, even though it might be construed to be in affirmation of the Common Law — a doubtful point — and, therefore, ordinarily in effect in after-acquired colonies, applied solely to oaths administered by ecclesiastical officers. But legal or illegal, the New York act was contrary to the spirit under which English institutions had been developing, at least since 1640. Burnet's excuse, like that of Elizabeth's High Commission, was that such means were necessary to detect offences which must be stopped, though no witnesses could be introduced to prove them. In his favor it must be admitted that this was true, on account of the nature of the wild and uninhabited country through which the trade passed. Such provisions as this had also existed under his predecessors in New York, Dutch and English, and are to be found in laws submitted from other colonies and allowed by the Privy Council;² and if ever justification existed for suspecting men until they purged themselves, it might be assumed to exist in Albany. Nevertheless, the provision was unpopular in New York and disliked in England, and deservedly so. There are numerous accounts in the Indian records for 1723 of the administering of this oath and some cases of refusal to take it.

Aided by these objections and by sundry quarrels and mistakes of the governor, which cannot be traced here, the opposition in New York became stronger from day to day. In 1725, the Indian trade laws were reënacted, but only for a short period, and a systematic campaign was begun to prevent their extension further, leading to the publication of a remarkable series of papers on both sides which give us invaluable information in regard to the whole trade and include Colden's important history of the Five Nations.³ Burnet's opponents asserted that the Canadian trade

¹ *N. Y. Col. Docs.*, v, p. 682. ² *Ante*, p. lxi. *N. Y. Col. Laws*, i, p. 830.

³ These papers are for the most part printed in volume v of the *New York Colo-*

had "enabled our Merchants to carry on a considerable Trade with *Great-Britain*, to the mutual Advantage of that Kingdom and this Colony" while the result of the prohibitory acts had been that "Strouds did thereupon immediately, . . . a rise to a very high and extraordinary Price amongst the *French* at *Canada*, which tended only to the Benefit of such, as clandestinely, and in Contempt of the said Law, supply them therewith; but it did at the same Time, put the *French* upon Measures to procure those Goods (if not equal to the *English*, yet in Imitation of, and somewhat near them) from *France* and other Parts, if not directly from *England*, wherein they succeeded so effectually, that their Storehouses soon filled, and they abounded in Strouds and other *Indian* Goods; after which they forbade the Importation of them from, and the Exportation of Furs to this Colony, . . . whereupon that Trade, which consumed vast Quantities of the Manufactures of *Great-Britain*, and was supported by return of Beaver, Furs and Peltry, was diverted from its former Channel, and in Danger of being engrossed by the French."¹ They declared that since the passage of the acts the exports of furs from New York to Great Britain had declined, as well as the imports of Indian goods, and that the vaunted increase in the direct trade with the Indians in their own country

nial Documents, pp. 707, 711, 725, 734, 740, 743, 745, 749, 756, 757, 760. Among the most important papers on the governor's side are Colden's excellent memorial on the New York Fur Trade, *ibid.*, p. 726, and the Minutes of the New York Council on the Matter, Colden's *Five Nations* (1902), ii, pp. 13 *et seq.* Most of the points made against the merchants are drawn from a report made by a committee of the Indian Commissioners late in 1724. Robert Livingston, Jr., was head of this committee and no doubt drew up this report. These arguments, which are frequently said to have originated with Colden, undoubtedly first came from Livingston. The report is given in volume ii of the original Indian records under date of November 12, 1724, and is printed in *N. Y. Col. Docs.*, v, p. 740.

A good summary of the opposing position is to be found in the *New York Assembly Journals*, i, pp. 620-622. Colden's *Five Nations* was first printed in New York in 1727. It was later published with additions and some changes not authorized by Colden, in two volumes, at London. The second part, which was new, contained an appendix, which included some of the above papers. A reprint of the original New York edition, edited by J. G. Shea, was published in New York in 1866.

¹ *N. Y. Assembly Journals*, i, p. 621.

really amounted to nothing but a secret and unlawful interchange with French trappers or agents.¹

¹ *N. Y. Col. Docs.*, v, pp. 743-744, 746-748, 750-756, 760-763. On July 6, 1724 the Indian commissioners wrote to the governor, "There have been no far Ind^{ns} since last April & those that Intend to come are Stop'd in their way hither by our People that go up to trade, whether any will come to this place [Albany] is much doubted." *Original Indian Records*, ii.

It is very evident that Burnet suspected the commissioners of suppressing the facts concerning the increase of trade produced by the acts. On July 27, 1725 the commissioners wrote to him, "We have been honoured with your Ex^{ly's} favours of y^e 9th Instant we hope your El^{y's} will not accuse us with Concealing y^e good success of the trade on the Lake, with the farr Indians which has been attended this year with a fair prospect of answering you Exd^{y's} Expectation, tho with Submission to yr Ex^y we are still humbly of opinion y^t the trade will not be Effectually brought thither only with y^e cheapness of goods." *Ibid.*

It seems probable that the direct trade had increased at Oswego — whether as a result of the prohibition of trade with Canada or of the establishment of the post and the encouragement of independent white traders to enter the field, it would be hard to say. But this meant a decrease of business at Albany as well as among the Iroquois, and neither Albanians nor Iroquois could be expected to be pleased at it.

Burnet's whole Indian policy, both his encouragement of individual traders and the establishment of Oswego, on the one hand; and the prohibition of the trade in Indian goods to Canada, on the other; must be looked at from two points of view: as imperial and international policy; and as purely economic measures. Both parts of the plan were infinitely complicated by the position of the Iroquois and their relationship to the Caughnawagas; but it should probably be said that from the imperial point of view the fostering of a direct trade and the founding of Oswego were advisable. The cutting off of the Canada trade might also be justified from this point of view. The significance of the blow struck by Burnet at the Iroquois interests through the founding of Oswego and the establishment of a direct trade must not be overlooked. It greatly alarmed the Indians, and this alarm was cleverly used by Burnet's enemies. But a sufficient justification of this policy probably existed in the lessened importance of the Iroquois, due to the great diminution of their numbers, a tendency which Burnet clearly saw was likely to continue.

On the purely economic side, the question is much more debatable. It is impossible to say whether in the long run under effective regulation the direct trade would have grown greater and more profitable than the trade to Canada which was incompatible with it. The final withdrawal of the French from the continent in the end disposed of the whole matter, but for a long period the struggle of these two fundamentally opposite points of view explains much of New York's peculiar history. On the economic side much may be said for the position of the large dealers in New York and their London correspondents against the able arguments of Burnet's party.

Essentially the struggle was between the small traders and the great merchants, retailers against wholesalers. Burnet's policy as defended by Colden, Alexander and others was first suggested by the Livingstons, whose interests were and continued to be bound up in this direct retail trade; while Delancey, Philipse and the wholesalers were the centre of the opposition. The clash of the interests of these

The gist of the whole question really lay in the claim made by Burnet and denied by his enemies, that Indian goods could not be procured in New France from any source but New York at rates which would enable French traders to compete with the English in the Indian country. The Council pointed to the fact that strouds, selling at Albany for £10 a piece, brought £13 2s. and 6d. at Montreal before the passing of the act, and £25 after it. Colden gave illustrations to show that the difficulties and dangers of navigation, both of sea and river, in Canada, coupled with governmental restrictions on trade, made it absolutely impossible for the Canadians by any means whatsoever to obtain elsewhere than in New York goods for their trade upon terms which would enable them to compete with the English goods, brought by the easier route by way of New York, the Hudson, Mohawk and Oswego rivers to the shores of Lake Ontario. Whatever the merits of this question, however, Burnet's party were steadily losing ground in the colony, and the assaults of the interested London correspondents of the New York merchants opposed to the act were having the effect upon the Ministry in England that such tactics always had in the eighteenth century, while the administration of the acts was lax and the evasions of it many. The majority of the Albany commissioners at this time were on the side of the governor, probably because they were small rather than large traders, and their reports state their belief that the law was systematically violated by the most influential men of Albany, and that perjury was often made use of to evade the penalty.¹ By the time of the opening of the session of the

two groups goes far toward explaining the economic basis of the controversy. Burnet's adhesion to the Livingston party may have been due to his belief that their measures fitted in better with his own far-reaching policy of extending English influence toward the west through Indian alliances. On account of the many elements in the problem, it would be rash to attempt to say theoretically — and it could now be treated in no other way — which plan was the sounder on the economic side.

¹ *N. Y. Col. Docs.*, v, pp. 740-742. On this Wraxall has preserved an interesting letter of the Albany commissioners to Governor Burnet, October, 1724, *post*, p. 156. For October 8th the following entry occurs in the minutes of the provincial Council: "His Excellency Communicated to this Board a Letter from Edmund Blood Commanding Officer at Mount Burnet to the Commissioners of Indian Affairs Setting forth that he had Seized fifty eight pieces of Strouds waters carrying along

Assembly in April, 1726, even Burnet was forced to admit that it was practically impossible wholly to prevent the Canada trade.

towards Canada by Nicholas Schuyler Son of Phillip Schuyler and Jacob Wendell Son of Harmanus Wendell and another whose face he Could not See — together with Twenty or Thirty Indians and that after he had Seized them and put the broad arr upon every piece the Said Company took them away by fforce.

" His Excellency also communicated to this Board an Affidavit made by Charles Buckley Serjeant of the Garrison at Mount Burnet before Peter Vanbrugh Esq^r Mayor of the City of Albany Setting forth the particular Circumstances of the Said Seizure and that at his first meeting with the Said Company he told Jacob Wendell that he was Sorry to See him there who Replyed if it had not been for his father he had not been there.

" His Excellency also Communicated to this Board the Minutes of the Said Commissioners of Indian Affairs by which it appears that they had called the said Harmanus Wendell before them and in his being Examined concerning the Said Strouds did acknowledge that he knew Something of Nicholas Schuyler and his own Son whom he had Sold a parcell Strouds and thought perhaps they were going towards Canada or Tuschachrondie [Detroit] with them which being read and Considered of by this Board together with the Acts of Assembly of this Province concerning the carrying of Indian Goods to the french and particularly that passed in the Seventh year of his Majesty's Reign.

" *This Board* is of Opinion that the said Harmanus Wendell is a Seller of Indian Goods within the very words and meaning of the Said Acts passed in the Seventh year of his Majestys Reign and that the Commissioners aforesaid do with all care and Dilligence put the Said Acts in Execution against the Said Harmanus Wendell, Jacob Wendell and Nicolas Schuyler and all others concerned when discovered."

N. Y. Council MSS., xiv, pp. 353-354.

This "opinione" is certainly curious, in a non-judicial proceeding. The Council at this time was strongly on the side of the administration. On October 28, 1724 a warrant issued to compel the tendering of the oath to Nicholas Schuyler and Jacob Wendell (*Original Indian Records*, ii), but on January 7, 1724/5 the commissioners informed the governor that the oath was not to be tendered to them since they were regarded as already discovered in the act of violating the law. *Ibid.* In the course of a few months Schuyler was arrested. He asked to be taken to the sheriff's house and kept there until bedding and other necessaries could be provided at the gaol. But, the commissioners solemnly record, "as they went along together Mr. Schuyler made his escape." *Ibid.*, May 6, 1725. There seems to be no record of the arrest of Wendell.

On August 12 of the same year the commissioners wrote to Governor Burnet, "We have Issued Severall Summons to the Sherrif to bring Sundry Suspected psons as p Inclosed List before us to tender the oath unto them provided by y^e act, but none can be taken we do what lyes in our power to prevent all Illegal trade but find it to Little purpose for Strouds is plentifully (it is said) Conveyd to the french as well by way of onnondage River as directly from hence to montreal" *Ibid.*

By the act of assembly November 25, 1727, it is recited that Nicholas Schuyler and Jacob Wendell "having traded with the French contrary to the Laws of this

"I wish I could say," he complains in his opening speech, "the Laws for promoting a Trade with the far *Indians*, and prohibiting it with *Canada*, had been as duly executed as they were well intended; and I leave it to your Consideration, whether a Method less severe may not be more Effectual."¹ As a result a tax on the trade was substituted for the total prohibition, the goods taken to the north paying double the amount paid by those going westward. The duties were to be farmed, and all traders were required twice a year to render upon oath an account of all their transactions, including a statement that they had not violated the act. Refusal to take this oath subjected the trader to a fine of £300. A significant clause exempted all who complied with these conditions from all penalties under the former acts, and provided that all penalties already due were to be remitted on payment of £30 if the illicit trade had been to the westward, or £100 if toward the north.² In the acts passed later to supply defects or omissions in the original act, no further important change of principle occurs, but the nature of the defects is highly significant. The preamble of the act of November, 1726, for example, recites the facts "that Even some of the Farmers themselves have Absolutely refused to Enter and give an account to the other farmers of the dutiable Goods they already have Transported to the Northwards and Westward of Albany or which they hereafter Intend to transport Thither";³ and that "even those who afterwards became Farmers in manner as aforesaid did (As it is Credibly Alledged). . . . Send Carry or Transport Vast Quantities of Dutiable Goods both to the Northward and Westward of the said City doubtless with a View and Intent to elude the different duties imposed by the Act first mentioned." The main feature of this act was the oath required of the farmers themselves that they had not violated the law. This points to

Colony are ready and willing to pay Each of them the Sum of one hundred pounds for Such their Transgression,⁴ and enacted that upon such payment within ten days they shall be exonerated and discharged of all further penalty. *N. Y. Col. Laws*, ii, p. 384.

¹ *N. Y. Assembly Journals*, ii, p. 281.

² *N. Y. Col. Laws*, ii, p. 351.

³ *Ibid.*, p. 360 *et seq.*

the chief difficulty in the way of the successful administration of any restrictive acts at Albany, the principal cause for the failure of all Governor Burnet's legislation, and the weakest spot in New York's Indian administration through its whole history. Evidence is not wanting of the continued evasion of the acts by traders and farmers alike, and the acts themselves are witness that even in cases of conviction of breaches of the law, the penalties were often compounded for by the payment of sums considerably smaller than the original fines, — conditions which recall to mind the similar succession of penalties and amnesties in Canada.¹

¹ The following documents of the years 1728 and 1729 serve to illustrate not merely these difficulties and evasions, and the unpopularity of the law, but also the way in which all this was connected with the bitter factional struggles in the province at that time.

"In obedience to an order in Councill of the 5th of April Instant to make answer to a Complaint Exhibited against me by Rutger Bleeker Esq. Mayor John De Peyster Esq. Recorder Hendrick Roseboom, Barent Sanders and Ryer Gerritse Esq. Aldermen of the City of Albany to which I humbly crave Leave to say, That I acknowledge that the said Recorder by a Resolution of the said Mayor & Aldermen on the 5th of March Last Pressed on me to take the Oath directed to be taken by persons Suspected to have Traded with the Subjects of [the] french King Contrary to the Laws of this Province, Pursuant (as they Alledged) to the directions of an act of Generall Assembly of the Colony of New York Entitled an act for Defraying the Costs & Contingent Charges of the trading house at Oswego & Secondly That by y^e directions of the Said act they the Complainants were directed & Injoyned to take Said Oath themselves first in the Literall words as they Insisted I should take It. Before they were qualifyed & Impowered by Vertue of the said act to administer y^e Same to me or any other person w^t they have not done but made an alteration in the Same in the most materiall part of the said oath & after they had so taken the said oath & before they tendred y^e same to me they did not Proceed to putt S^d Act in Execution as they were directed by the same all which I am Ready to Verify. As I am not guilty of haveing traded with the Subjects of the french King for Indian goods while y^e Laws of this Province have [a word illegible] force to Prohibite the same I offer to take y^e oath before your Exl in Councill or before y^e s^d Mayor Recorder & Aldermen when they shall have quallifyed y^m selves in takeing y^e s^d oath firste which is humbly Submitted to your Ex^e Wise & Serious Consideration by May it Please your Ex^y Your Ex^y's most humble & most obed^t servant Ph. Livingston.

N. Y. MSS., lxviii, p. 72. See also *N. Y. Assembly Journals*, i, p. 584.

The records contain also a deposition by Evert Wendell of the City of Albany that on March 5, 1727-28 he witnessed Ph. Livingston's refusal to take the oath, in which it is said that Livingston pulled a piece of paper from his pocket containing a reservation he demanded to be allowed in his case, saying, "If you will allow me this reservation I have wrote Down here then I will Take the oaths aforesaid otherwise I cant for an oath is a thing of a Great Consequence and not So Easily Taken

Early in 1728, Burnet was rewarded for his services in New York by being transferred against his will to Massachusetts,

altho Some that have already Sworn Could Take the oath Less Than I and I Cant Take the Same without that reservation." He was answered that no reservation could be allowed to any one, " and then I heard Livingston answered the recorder and Smith that they Could allow the aforesaid reservation which he the said Livingstone had wrote upon The paper he shewed them but it was noting but Spite and malice and Severals more heard words which I can not Justly remember which the Said Livingston did Speak." They then ordered Livingston, as clerk, to enter in the books his own refusal to take the oath, which he refused to do. Whereupon they resolved that the recorder should enter it, but Livingston refused to allow it, put the book in his bosom and left the court house. *N. Y. MSS.*, lxviii, p. 75; *N. Y. Assembly Journals*, i, p. 584. Like depositions were made by Hendrick Roseboom and Barent Sanders, Alderman of Albany, and by Johannes Vander Hyden. *N. Y. MSS.*, lxviii, pp. 76, 77, 78.

In an act passed on September 20, 1728 the Mayor, Recorder, Aldermen "as likewise the Said Town Clerke "eare acquitted and discharged of all fines and penalties for not performing their duties under the acts but are forbidden in future "to do or exercise the aforesaid powers and Authorities or any parte thereof," while Rutger Bleeker, Evert Wendell and Ryer Gerritse are made Commissioners "for Recovering the Same in the Same manner and by the Same Methods which in the Said Act was prescribed & directed to be done and performed by the Mayor Recorder and Aldermen aforesaid." *N. Y. Col. Laws*, ii, p. 485. The next day Philip Livingston in great indignation had inserted in the minutes of the provincial Council a memorandum reciting the fact that when the above act was in committee "he did object to that clause thereof which insinuates that the Town Clerk of Albany had been Guilty of a Breach of an Act therein mentioned and which remits the penalty for that breach he being the said Town Clerk did yesterday in Council and now by these presents doth declare that he was not guilty of any breach of that Act and that he never directly or indirectly desired any remittance of the penalty for any breach of the said Act and prays that this declaration may be Entred in the minutes." *Journal of the Legislative Council of N. Y.*, i, p. 581. The new arrangements lasted a little over a year, as all the acts were disallowed about the end of the year 1729, but the whole affair is characteristic of New York partisan politics at this time. There is nothing in the original Indian records concerning Livingston's actions.

In 1728 the farmers of the tax under the acts submitted their report which contained the names of 27 suspects. These persons were served with summonses to make appearance and the sheriff's returns upon some of these have been preserved and give a good idea of the difficulties preventing the enforcement of the acts: "The Sheriff makes return and Says that as he came out of the Cellar of ye above Johannes Schuyler his Wife, Elizabeth Schuyler was busie to Shut her door, he ran up to her door and found it lock'd on which he said he had two Summons one for her husband and one for her Son and if she would not accept of them he would leave them there or Bring them in the Cellar Kitchen which he did accordingly the 4th Instant." Philip Verplanck's wife also refused to accept service and at Cornelius Cuyler's house when the sheriff appeared "as soon as he came to the door the door was immediately shut with force." The Livingstons accepted ser-

where he had a short but stormy career as governor. One of the acts of his successor in New York was to announce to the As-

vice, as well as some of the others, but at Johannes Cuyler's the sheriff had to "eput ye originall of the above Summons under the door of the dwelling house . . . after having severall times knocked at the door and hearing there was some body in the house. I walked about eight or nine yards when the door was opened and the Summons thrown out." When the sheriff approached David Van Dyck's house Van Dycke^e let a person out and as soon as he Saw me Locked the door and then he run back to ye kitchin door which the said David van Dyck bolted though he Saw him and his wife through ye Glass in the door and he told them there was a Summons for ye said Van Dyck and would leave it at the door which he did."

On the second summons to Johannes Schuyler the sheriff returned "that he Tied ye original of the above fast to ye knocker of his door with a string after being Every Day several times at his house and found the doors and gates all Lock'd and fast."

At the house of Richard Hansen, Hansen's mother was at home but refused service. "Then he strove to fling it in the Said house which he did accordingly but not without a great resistance of his mother Deborah Hanse." *N. Y. MSS.*, lxviii, pp. 104 *et seq.* Some appeared and took the required oath. Jeremiah Schuyler alleged that he had paid his fine for trading west of Albany and refused to take the oath as to the trade to the north. After three summonses the commissioners certified to the sheriff "ethat Johannes Schuyler Philip Verplanck Edward Collins Cornelius Cuyler Hans Hanse Johannes J^r Cuyler David Van Dyck Volckert Outhout and Jacob Verplanck had not appeared and that Jeremiah Schuyler had appeared but refused to take the oath as to the northern trade. *Ibid.*

In the next year Colonel John Schuyler finally appeared before the commissioners and took his oath covering a part of the years 1725-26. He was tendered the oath also for the period from 1722 to 1725, "ewhich oath he refused to take so that he is adjudged Convicted of having traded with ye french Contrary to ye Laws of this Colony within ye Limitation of time aforesaid." Later his receipt is entered for £60. Edward Collins was fined £100 for illegal trading, but was discharged on payment of £60. Philip Verplanck was fined £300 and a warrant was issued for his arrest. Volckert Outhout was also fined £300. *N. Y. MSS.*, lxix, p. 94. David Van Dyck petitioned the assembly to be discharged because "although he had in no Ways traded or trafficked with the French, whilst it was prohibited so to do, he owns to have treated with them, (but to no Purpose or Effect) for which Reason he cannot in Conscience take the Oath in that Behalf prescribed, unless the Word (treated) was omitted." *N. Y. Assembly Journals*, i, p. 597. This permission was granted by act of Assembly, *N. Y. Col. Laws*, ii, pp. 538-539. Johannes Cuyler, Jr. and Volkert Oothout by the same act were to be discharged on payment of £45 apiece because it appeared that they had traded to the westward "upon a Supposition that the Prohibition was Expired." *Ibid.*, p. 539. Jeremiah Schuyler was in like manner to be discharged on payment of £45 in addition to £30 already paid, because, though he had violated the act, he had "carried on no such other Trade, but what he has suffered a considerably loss By!e" *Ibid.* All other persons unnamed liable in £100 were likewise to be discharged on payment of £60. *Ibid.*, p. 540. The date of this act was July 12, 1729, when the assembly was hostile to

sembly that the King had disallowed all the acts passed between 1720 and 1729, prohibiting the selling of Indian goods to the French or laying duties on them.¹ Thus ended the hopeless struggle to enforce the laws against the Canada trade. Such legislation was never enacted again in New York. I have given a fairly detailed account of Indian affairs during this short period, believing that such a concrete statement gives a better idea of the conditions of the trade and its management than any number of generalizations. Burnet's administration is well fitted to serve as such an illustration on account of the trade's prominence at that time, and of the governor's great interest in it.

Burnet's party and projects. The petitions of Jeremiah Schuyler and Johannes Cuyler, Jr. are summarized in *N. Y. Assembly Journals*, i, p. 672. The original Indian records are silent concerning these evasions of the law during the years 1727, 1728 and 1729. There is no doubt that the commissioners themselves were opposed to the Indian trade acts and after Burnet's removal there was nothing to spur them to unwilling action.

¹ *N. Y. Assembly Journals*, i, p. 606, August 26, 1730. The report of the Lords of the Council advising the repeal, dated November 19, 1729, is in *N. Y. Col. Docs.*, v, pp. 897-899. They object to the oath of purgation and the conviction for refusal to take it and to the fact that it could be administered by subordinates such as "a Serjeant Corporal or common Soldier." They also take exception to the right of search without the presence of any peace officer "tho' the said Farmers are to gain one moiety by the confiscation."

As to the means by which the repeal was secured Colden many years afterward wrote, "Mr. De Lancey was at the head of the party in the assembly which had been in opposition to Mr. Burnet and which had now [during the administration of Governor Montgomerie, Burnet's successor] the ascendant in that house. Mr. De Lancey was to be gratified in his resentment against Chief Justice Morris and the Gov^r was to use his interest to have the acts repealed which had been passed in Governor Burnets Administration prohibiting the direct trade to Canada with Indian goods. In consideration of these the Governor had his Sallary secured for five years and all the perquisites which any Governor before him ever had. Both sides punctually performed their ingagements to each other. But it was surprising to me how easily the Board of Trade and Plantations were induced to recommend to the King the repealing of the laws in favor of the direct trade with the Indians and which prohibited the furnishing the French with goods to enable them to carry on that trade to the prejudice to great Britain and of the colonies after all that had been laid before them by Mr. Burnet on that head. They probably thought that the people of New York were only interested in the Indian trade and that it did not concern Gr. Britain. They seem to have had nothing in view at that time but to serve the private purpose of a Governor. Mr. De Lancey had the advantages of his own private trade in view which were very considerable." Colden's Letters on Smith's *History of New York*, in *N. Y. Hist. Soc. Coll.* for the year 1868, pp. 220-221.

Whether Governor Burnet's "favorite project" under more favorable conditions would have succeeded in accomplishing his aim of depriving the French of their Indian trade can never be known. It never had a fair trial. At no time was the Canadian trade really stopped. Most historians, however, from the eighteenth century on seem to be in agreement in praise of his scheme and in denunciation of the narrowness or something worse which brought it to nothing.¹

It was the other part of Burnet's Indian policy that had lasting results. The building of the fortified trading house at Oswego, brought about by his efforts and in part paid for by money out of his own pocket, must be considered his greatest achievement. Though much had been planned before, on account of the founding of Oswego in 1722, Burnet deserves the credit of being the first man in the English colonies who actually succeeded in doing anything of importance to put a check upon the vast designs of the French upon the great west. The best proof of his success is the French fear and hatred of Oswego.

All parties in New York agreed that the founding of Oswego was a step in advance, many acts were passed, and much money spent by the New York government in keeping up the post and increasing its importance, but the many references in these acts to abuses by the traders there are the best proof that such abuses were never completely prevented. Aside from this the period following the administration of Burnet in New York was more devoted to factional struggles over other things than to the trade and the Indians. Every governor who pursued an aggressive Indian policy at this time met with considerable factional opposition, but such governors were few. Wraxall praises the administration of Lieutenant Governor Clarke for its Indian

¹ Mr. John Austin Stevens is apparently an exception. He believes that "the merchants knew their own interests better than the lawyers" (*Memorial History of N. Y.*, iv, p. 509), a fact which his opponents would probably concede readily enough, as these merchants' interests were too often different from those of the colony. To understand the clashing of the merchants' interest and the governor's policy it must be kept in mind that that policy was primarily imperial and political while the aims and views of the merchants whether expressed by themselves or their echo, the correspondents in London, were essentially local and economic merely.

policy and with reason. The details of Indian administration in this period remained in the hands of the Albany commissioners and the Oswego commissioner who was responsible to them, but as the rivalry between France and England became more bitter with the added years, the problems became more and more important and difficult, and the local board of Albany "handlers" increasingly inadequate to meet them,—a fact which now and then led to protest not only in New York, but in other English colonies, as their interest in the trade and the political results of trade became greater.

In 1738, for instance, the New York Assembly agreed *nem. con.* to a resolution of James Alexander, protesting against the number of commissioners, which had grown to about twenty, with a corresponding increase in expenditure, and proposing an address to the governor to request him to revoke the existing commissions and appoint new commissioners in their place, not more than nine in number, with instructions to hold all their Meetings with the *Indians* in Some proper Place for that Purpose, in a grave and Solemn Manner, and not in a Tavern; and that they would be as sparing in their own Expences as possible.¹ There is evidence that the trade at this time was growing, thanks largely to Oswego, and with it, of course, the importance of a more careful oversight and a wider outlook on the part of the commissioners. In 1740 James Alexander wrote, "The Indian Trade, to the great Advantage of this Province, is now divided into several hundred Hands, and there have been for many Years past upwards of one hundred young Men of this Province, who have gone yearly among the Indians, to supply them with our Goods.

"By this means, at a modest Estimate, I am assured, that the Indian Trade of this Province is now far above five times as much as when Governor Burnet began to put his Scheme in execution."² But the activity of these white men in the Indian country, and the continued influence of Oswego in thus attracting the direct trade and alliance of the western Indians, were not relished by the

¹ *N. Y. MSS.*, lxxii, p. 89; *N. Y. Assembly Journals*, i, p. 744.

² Colden, *Five Nations* (1902), ii, p. 58.

Iroquois, and probably would not have been permitted had not the number of their warriors become so small, notwithstanding the recent addition of the Tuscaroras from the southward. This is certainly one of the factors which made the Indian problem so difficult during the two French wars of the middle of the century. It was becoming plain that the local control of Albany over this trade, once suitable enough, was now outgrown and unsatisfactory, while complaints of a graver nature against the commissioners were not wanting.

Indian affairs in time of war were greatly complicated by the unwillingness of the Six Nations to declare open war with the French or their Indians. The New York system of local control of Indian relations had evidently broken down under the strain. These relations had become continental and international. It was impossible that they should longer continue permanently under the control of a single town or even a single colony. The approaching crisis in the struggle between England and France made this evident to all but biassed witnesses, for the Indian relations were all important in that struggle. It is not possible here to take up in detail the quarrel between Governor Clinton and his Assembly which in part turned upon Indian affairs, probably the bitterest quarrel in the annals of a colony disturbed almost continuously by such factional troubles. Some phases of it may, however, serve to bring Wraxall's narrative into a somewhat clearer light.

In a journal of Conrad Weiser — naturally somewhat biassed — written during a journey through the country of the Six Nations in 1745, the author notes many complaints made by the Indians of their treatment by the Albany commissioners. One of them used the following words: "Brother we are Sincible that our Brethren the English named the Governors of N-York Boston, philadelphia Intended no Hurt against us and allways were Kind to us — but Albany people did intent to Hurt us — and have in a manner Ruined us and would prevail upon the foresaid governors to destroy us if they Could — they have Cheated us out of our land Bribed our Chieffes to sign deeds for them. they treat us as slaves. did not suffer the Bostonians to

Come up to us last spring and Compelled us in a manner to give the Bostoniers such an answer as they pleased some weeks ago to Consent their Knavery. They will never suffer us to go to Boston philadelphia or any where Else: upon invitation of our Brethren last spring they stopt the Bostoniers for 10 days would not suffer them to Come to our towns; and, after all, they would not suffer the Bostoniers to speak to us, without it be in their presence, and great many Instances Could be given for which Reason the Indians would no more looke upon the Comissioners as their true friend, and went to Canada on an Invidation of the french governor to show Albany people that they would no more be advised nor Ruled by them. we are heartely inclined for the English Interest but Albany people are not *they have sold many Barrls of gune powder last fall to the french fetched by Some of the praying Indians gone up the Mohawks Rivir and a great deal by Sarraghdogon, [Saratoga] which Enabled the french to fight agt. the English* we Could see Albany Burned to the ground or Every Soul taken away by the great King and other people planted there. we desire you to Call upon the governor of New-York and let him Know all this and that the quarrel with Albany will never be made up — They had in a manner made it up by word of mouth; but on both sides only the tongue spoke and not the heart, and that we will never be friends again with Albany people.”¹

Governor Clinton soon reached the same point of view as Weiser and transferred the control of Indian affairs to William Johnson. The assembly under James Delancey's guidance, championed the Albany commissioners. A series of charges and recriminations hardly equalled in our colonial history followed, and is chronicled in the speeches of Clinton to the assembly and their addresses in reply, charges of misuse of funds by the governor or “the next person in the Administration” (Colden) and mismanagement of the Indian relations by Johnson; with counter-charges by the governor of disloyalty, peculation and incompetence on the part of the Indian commissioners. From the mass of controversial literature and additional papers, such as the pamphlets of Archibald Kennedy in defence of the administration,

¹ N. Y. MSS., lxxiv, p. 216.

the history of the Indian relations in this period must be written. It has been done by William L. Stone in his life of Sir William Johnson, and later by Miss Keyes in her life of Cadwallader Colden, and by others.¹ With the end of Clinton's stormy term and the close of the war, Indian relations enter a new phase, which ended only at the outbreak of the Seven Years' War, and the appointment of Colonel William Johnson as sole superintendent of Indian affairs for the northern colonies in 1755.

¹ Such part of the subsequent story as is necessary for our purpose is related below, pp. c-cxvi. For the controversy between Clinton and his assembly over Indian relations see *inter alia*, *N. Y. Assembly Journals*, ii, pp. 124-125, 130-135, 137-139, 147, 148, 149-157, 166, 168-170, 172, 173-178, 202-205, 206 *et seq.*; *N. Y. Col. Docsq*, vi, pp. 286 *et seq. passim*.