

“Claims of Equity and Justice”: Petitions and Petitioners in Upper Canada 1815–1840

J. K. JOHNSON*

In the British colonies, including Upper Canada, the historic right to petition the Crown — in this case the Crown's representative, the Lieutenant Governor — was commonly exercised. Petitioning in Upper Canada began with the arrival of the Loyalists, who, as refugees and potential land and office holders, had a great variety of requests and complaints to bring to the attention of the Governor. Petitions received between 1815 and 1840, requesting land, jobs, pardons, pensions, payment allegedly due from the government, or relief, reveal something of the problems, hopes, and expectations of ordinary Upper Canadians of the time.

Dans les colonies britanniques, y compris le Haut-Canada, on se prévalait couramment du droit traditionnel de requête auprès de la Couronne, en l'occurrence de son représentant, le lieutenant-gouverneur. La présentation de requêtes a commencé dans le Haut-Canada avec l'arrivée des Loyalistes, qui, à titre de réfugiés et d'éventuels propriétaires fonciers et titulaires de fonctions, avaient de nombreuses plaintes et requêtes à porter à l'attention du lieutenant-gouverneur. Les requêtes reçues de 1815 à 1840 — demandes de terres, d'emplois, de pardons, de pensions, de sommes prétendument dues par le gouvernement ou d'aide — lèvent un peu le voile sur les problèmes, les espoirs et les attentes des Hauts-Canadiens de l'époque.

THE RIGHT OF a British subject to petition the sovereign has existed for many centuries. In 1689 the Bill of Rights gave formal sanction to an ancient practice: “It is the right of the subject to petition the King, and all commitments and prosecutions for such petitions are illegal.”¹ In the thirteenth century persons wanting “extraordinary relief” of some kind outside the common law courts who appealed to the King and his council were required by Edward I to make their submissions in writing in the form of a petition.² The petition thus became a standard device by which a

* J. K. Johnson is a professor of history at Carleton University.

1 E. N. Williams, ed., *The Eighteenth Century Constitution 1688–1815: Documents and Commentary* (Cambridge: Cambridge University Press, 1960) p. 28.

2 T. F. T. Plucknett, *A Concise History of the Common Law* (London: Butterworth, 1956), p. 178.

subject could ask for some grace or favour from the monarch, and it was the vehicle for a great variety of requests. Petitions could also be sent to Parliament, to the King's council, or to the Chancellor³(an office that had originated in the reign of Edward the Confessor as the King's chief secretary, keeper of the royal seal, and chaplain)⁴ or could be forwarded by the King to any of these. Much of the work of dealing with petitions devolved in fact on the Chancellor, the member of the King's council most often in attendance and one who had a well-organized staff.⁵ It has been suggested that the expansion of the Chancellor's office and of his duties resulted from the need to deal with the heavy load of petitions to the King.⁶ Thus the Chancellor's office, or "Chancery", eventually evolved into a court of equity: a court which dealt with matters that could not be satisfactorily resolved within the inflexible rules of common law, but were decided on the basis of what was equitable or fair, using "a body of rules existing by the side of the original civil law, founded on distinct principles and claiming incidentally to supersede the civil law in virtue of a superior sanctity inherent in these principles".⁷

Petitions to the King have been of two types, according to legal scholars: petitions claiming something as a right and those asking for some favour to which there was no legal claim, or "petitions of right" and "petitions of grace". Petitions of right required the sovereign to act if a court judgement was obtained in favour of the petitioner. Petitions of grace, which simply made some sort of personal request, could be granted or refused according to the royal pleasure.⁸ Eventually petitions dealt with by Chancery were presented directly to the Chancellor, bypassing the monarch. As the balance of power between the Crown and Parliament gradually shifted, the ability of the monarch to respond favourably to personal petitions naturally lessened, and the process of petitioning, either by individuals or increasingly by groups, tended to focus more and more on Parliament. By the nineteenth century petitions to Parliament were common and becoming ever more numerous. Over the five-year period ending in 1831, 24,492 petitions were presented to Parliament.⁹

In the British colonies, including Upper Canada, the historic right to petition the Crown — in this case the Crown's representative, the Lieutenant Governor — was also commonly exercised. For an even longer period in the pre-responsible government era, the Lieutenant Governor had a great deal of real power, involving such matters as government jobs and salaries, land

3 W. S. Holdsworth, *A History of English Law* (Boston: Little, Brown, 1926), vol. 9, p. 13.

4 L. B. Curzon, *English Legal History* (Plymouth: Macdonald and Evans, 1976), p. 97.

5 Plucknett, *A Concise History of the Common Law*, p. 180.

6 Curzon, *English Legal History*, p. 97.

7 *Ibid.*, p. 93.

8 Holdsworth, *A History of English Law*, vol. 9, pp. 13–14.

9 Williams, *The Eighteenth Century Constitution*, p. 408.

grants, pardons, pensions for civil servants, and some discretionary spending.¹⁰ Petitioning in Upper Canada began with the arrival of the Loyalists, who, as male and female refugees and as potential land and office holders, had a great variety of requests and complaints to bring to the attention of the Governor.¹¹

During the whole Upper-Canadian period the use of the personal petition continued to be extraordinarily prevalent, in some cases even routine. The early regulations governing the distribution of crown land among the Loyalists and other newcomers required that "every such application shall be by petition to the Governor in council";¹² since, as shall be seen, petitions for land were submitted in very great numbers, it is not surprising that the correct and acceptable form of the petition was soon widely known and almost invariably used. Some British guide books for the use of prospective immigrants, such as James Strachan's *A Visit to the Province of Upper Canada in 1819*, contained a printed example of the standard petition as an appendix.¹³ Each petition was addressed to the incumbent Lieutenant Governor listing all his titles and honours, civil and military. This piece of formality was followed by the words "The petition of —" (also with some appropriate identification such as "yeoman", "widow", or "Lieutenant of the 24th Regiment on Half Pay", plus place of origin or residence) and ended with the words "humbly sheweth". The petition itself then followed, stating the nature of the request and the reasons why the petitioner believed that he or she was entitled to a favourable answer. Finally the petition almost always ended with some variant of the words "and your petitioner will pray that your Excellency will long be spared to govern this part of His [or Her] Majesty's Dominions". This phrase was often abbreviated to "and your petitioner will ever pray, etc." (see Figure 1).

While this study concerns personal petitions sent to the Lieutenant Governor or to the Lieutenant Governor in Council, it should be understood that, in Upper Canada as in England, there were quite a number of other types of petitions and places where they could be directed. Petitions were often sent to the Provincial Legislature, for instance. These were mainly collective petitions from groups of people in one of the province's districts, asking for the expenditure of provincial funds on local improvements or for changes in local government regulations, or for the support or incorporation of some enterprise. Individual petitions were also sent to lesser levels of government,

10 A. Dunham, *Political Unrest in Upper Canada 1815–1836* (1927; Toronto: McClelland & Stewart, 1963), pp. 40–41.

11 J. Potter-MacKinnon, *While the Women Only Wept: Loyalist Refugee Women* (Montreal and Kingston: McGill-Queen's University Press, 1993), p. 98–99.

12 *Third Report of the Bureau of Archives for the Province of Ontario*, Toronto, 1905, p. lxx.

13 J. Strachan, *A Visit to the Province of Upper Canada in 1819* (Aberdeen: n.p., 1820), pp. 206–207. The actual author of this book was the Rev. John Strachan, then Rector of York and member of the executive council of Upper Canada.

special favours requiring inside knowledge or access to powerful people, but for things that were available to anyone who was qualified or could make a plausible case, such as land grants, pensions for wounded militiamen, or the remission of fines for petty crimes. Even illiteracy was not an insuperable barrier since petitions often came from people who could not sign their names. Who helped such applicants to prepare their petitions is rarely evident,¹⁵ but the petitions nonetheless were written and submitted, by rich and poor, men and women, magistrate and petty criminal, and officer and private alike.¹⁶

It is of some interest and value to categorize and quantify the petitions received by the Lieutenant Governor between 1815 and 1840¹⁷ because such an exercise reveals quite a bit about the problems, hopes, and expectations of those ordinary Upper Canadians. In descending order of number, the petitions fall into six main groups: petitions for land, for jobs, for pardons, for pensions, for payment allegedly due from government, and for relief.¹⁸

In sheer quantity, petitions for land outrank any other category by a margin of something like 100 to one. Land petitions began to be submitted before Upper Canada was a separate province and continued to be submitted after it had ceased to be one. Land petitions were filed separately from other petitions in the Executive Council office,¹⁹ but more can be found in the two other relevant series of Upper Canadian records, the Upper Canada Sundries²⁰ and the Provincial Secretary's Office,²¹ than any other type of petition, despite the fact that they ought not to be there at all. The overwhelming number of land petitions deserves some comment, though the explanation is simple enough. Of all the favours that Upper Canadians might have wished to receive from their government, land was the closest to a sure thing; unlike money or jobs, it was something the government had a great deal of and was willing to give away. Certain classes of Upper Canadians

15 The petition of John Henderson of Toronto, January 20, 1840, contains a note to the effect that it was written by James E. Small, a lawyer, and Henry Latham, a student-at-law, and that it had been read to the petitioner who then made his mark. This is the only such petition to have come to light. National Archives of Canada (hereafter NAC), RG 5, C1, v. 19, no. 8.

16 Some of the results of a test survey of the 498 petitions relating to land submitted in the years 1788–1840 by people whose names began with the letter ‘N’ are: male petitioners, 412 (83%); female petitioners, 86 (17%); unable to sign, 74 (15%); ‘elite’ petitioners, 15 (3%). NAC, RG 1, L3, v. 381A–386.

17 Before 1815 the petitions are too few and scattered to make any generalizations about them possible.

18 The numbers of petitions in each category are: land, 2,780; jobs, 2,011; pardons, 1,146; pensions, 326; money due, 296; relief, 266 (see Table 1). There were of course many other kinds of petitions, such as requests to be put on the U.E. list, to have the performance of settlement duties waived, for increased wages, or to be allowed to take the oath of allegiance, for example, but the numbers are small in each case.

19 NAC, RG 1, L3. The files occupy 147 feet of shelf space.

20 NAC, RG 5, A1.

21 NAC, RG 5, C1. There is no obvious explanation for so many land petitions having been misfiled. It is presumably just an example of sloppy record-keeping, or perhaps of overlapping jurisdiction between the Clerk of the Executive Council office and the Lieutenant Governor's secretary.

Table 1 Petitions in Six Main Categories by Year

	Land	Jobs	Pardons	Pensions	Money due	Relief
1815	45	9	4	15	0	3
1816	155	28	9	6	0	5
1817	119	11	8	1	0	1
1818	90	8	12	3	1	5
1819	38	20	12	8	5	3
1820	49	20	17	8	5	5
1821	51	28	12	9	0	6
1822	61	35	21	5	7	6
1823	53	24	16	6	8	11
1824	63	35	9	2	2	4
1825	80	24	27	6	8	10
1826	69	46	17	8	9	7
1827	48	38	19	8	2	5
1828	61	64	13	8	14	39
1829	50	80	23	6	11	6
1830	62	64	30	3	14	10
1831	97	62	23	5	11	11
1832	128	82	24	7	8	17
1833	206	142	40	10	11	13
1834	233	127	43	15	15	17
1835	306	79	41	20	15	17
1836	237	128	61	23	11	15
1837	127	247	64	16	5	14
1838	48	178	341	11	37	12
1839	93	160	131	42	31	11
1840	211	272	129	75	66	13
Totals	2,780	2,011	1,146	326	296	266

Source: NAC, RG 5, A1, C1

had a legal entitlement to land, but they still had to ask for it. Military officers (and at times and in some circumstances, military rank-and-file) had such an entitlement, as did Loyalists, whether former military personnel or simply refugees, and their children. Eventually in Upper Canada anyone who claimed to be a *bona fide* settler qualified almost automatically for land, at least for the basic grant, which was 200 acres. The striking thing about land petitions is that they persisted at an extraordinary rate even after the government of Upper Canada officially stopped giving out free land grants in 1826. Part of the explanation is that the government continued to make exceptions to the rule. The children of Loyalists retained their rights to land and pursued their free grants, and some were still doing so in the late 1840s. Military personnel also kept their eligibility for free grants. Though the basic grant was reduced to 100 acres, the applications from discharged soldiers were so numerous that in the 1830s the government distributed printed land petition forms for soldiers who had only to fill in the blanks. As well, what may be called the "hope and rumour" factor produced a great many petitions after

1826. People who had heard that land was free in Upper Canada, or hoped that it was, or hoped that somehow an exception could be made — newly arrived immigrants, widows or children of soldiers, and many others — continued to bombard the government with petitions.

It is worth noting that land petitioning was never an all-male phenomenon. Women in their own right, especially unmarried women, were seldom given land, the official answer to their petitions being “it is not usual to grant land to unmarried women” or “the waste lands of the Crown in this province are not grantable to any female except the daughters of U.E. Loyalists”,²² though widows, especially of prominent figures, sometimes received free land.²³ Nonetheless, about 18 per cent of all land petitions were from women, primarily because the daughters of Loyalists as well as their sons were entitled to 200 acres each, and the daughters of Loyalists were just as assiduous in submitting their petitions as were their brothers. (Land petitions from the daughters and sons of Loyalists were also so common that they were frequently submitted on specially printed forms.) When land was free, Upper Canadians routinely took advantage of it, and even when it was not, or the petitioner’s claim was dubious, there was no harm in asking.

Petitioning for government jobs was a vastly different matter. In contrast to land petitioners, those asking for government positions were largely people of the “respectable classes” — people of education and social standing — because the jobs the government had to bestow (or at least the jobs in question) required such people. Petitions for jobs were usually accompanied by supporting recommendations from British or provincial worthies attesting to the applicant’s competence, loyalty, honesty, respectability, and political and religious orthodoxy. There was a more-or-less steady increase in the number of such petitions submitted in the Upper-Canadian period, but if anything the success rate went down, since the number of jobs available did not keep pace with the number of petitioners. A clerkship in a government office in the capital or a local office such as district sheriff, collector of customs, or county registrar would attract a dozen or more applicants, only one of whom naturally could be the lucky candidate. To cite an example, when the registrarship of Oxford County became vacant in 1834 due to the death of Thomas Horner, who had held the job since 1800, there were at least 17 hopeful petitioners, including two lawyers, W. C. Keele and John Stuart; a doctor, Charles Duncombe; Lewis Burwell, surveyor; a former naval captain, Philip Graham; a militia colonel, A. W. Light; and one of Thomas Horner’s sons. The official choice eventually fell on a member of another locally prominent family, James Ingersoll.²⁴ Certainly it was often as much whom you knew as what you knew

22 NAC, RG 1, L3, H3/159; RG 7 G16c, v. 14, 79.

23 The widow of John White, Attorney General of Upper Canada, received “a grant in trust for the support of Mr. White’s widow and children”. NAC, RG 5, A1, v. 1a, 413–414.

24 B. Dawe, *Old Oxford is Wide Awake! Pioneer Settlers and Politicians in Oxford County, 1793–1853* (n.p., 1980), pp. 51–52.

that counted in getting a job, but the "interests" of even the well known and well connected tended to conflict. How such decisions were arrived at is a subject which continues to intrigue historians.²⁵

Petitions for government positions came almost entirely from men, for the simple reason that the government had almost no female positions to fill. The exceptions, such as the post of housekeeper to the executive council or, late in the period, matron of the Provincial Penitentiary, were rarely available and, compared to most other positions, were poorly paid.

Ordinarily, petitions for pardons were not nearly so numerous as those for jobs, but their total number was inflated in the years of 1838 to 1840 by the Rebellion of 1837. Before 1838 the number of petitions for pardons in any one year never exceeded 65. In 1838 alone there were 341 petitions for pardon, and the numbers remained high in 1839 (131) and 1840 (129). In fact, most of the people rounded up after the Rebellion were eventually pardoned, or had their sentences commuted or reduced, or were released outright, though of course there are well-known exceptions. Even in normal times petitions against prison sentences or fines were also reasonably successful, the statistical chances (calculated long after the fact, of course) being about fifty-fifty. If the petitioner could get a number of respectable people to support his or her petition and if the judge or magistrates involved were sympathetic, the chances of some remission were good. The Lieutenant Governor and his executive council did not wish to be seen as draconian (unless they believed it was necessary to instil a lesson in the minds of the public).²⁶ Especially in really serious cases involving the death penalty, the council was "anxious to avoid inflicting capital punishment whenever possible"²⁷ and tended to go out of its way to look for some mitigating circumstance. Most petitions for pardon were not matters of life and death, however; rather they were for a shortened sentence or remission of part of a fine for mundane crimes such as assault, petty larceny, prostitution, or selling liquor without a licence. It is difficult to make clear male-female distinctions within this class of petitioner because many, probably a majority, were second-party petitions — parents on behalf of a son or daughter, friends or neighbours on behalf of a member of the community, or a husband or wife on behalf of one another.

The relatively large number of such petitions (compared to the categories to follow) suggests a society in which levels of crime were fairly high. In fact the petitions represent only a tiny fraction of the number of people convicted of crimes. In 1828, for example, 13 people are known to have petitioned for some form of mitigation of a sentence. In the same year there

25 For some speculation on this point, see J. K. Johnson, *Becoming Prominent: Regional Leadership in Upper Canada, 1791-1841* (Montreal and Kingston: McGill-Queen's University Press, 1989), chap. 4.

26 As Sir George Arthur commented on an 1838 arson case, "at this particular crisis it is of great importance to strike terror into criminals of this kind." NAC, RG 1, E3, v. 86, 26.

27 *Ibid.*, v. 36A, 231.

were 191 prisoners in jails in the province (of whom eight were women).²⁸

Petitions for pensions were different from most other kinds of petitions because pensions were governed by legislation, which did not require the Lieutenant Governor or his council to make subjective decisions. Either the petitioner was entitled to a pension on the grounds of disability or, for women and children, by virtue of being widowed or orphaned, or the petitioner was not. Still problems arose in quite a few cases. At least one petition turned out to be totally fraudulent, involving a woman posing as the wife of a dead militiaman and forged medical and service documents.²⁹ In addition, the regulations relating to pensions, first passed by the legislature during the War of 1812,³⁰ were changed from time to time, allowing more or fewer people to qualify, which produced flurries of petitions from people wishing to take advantage of a more favourable act, and later petitions protesting their removal from the list under an amended law. At first only men who became disabled while fighting or widows and children of men killed in battle were eligible, but an act of 1816³¹ widened those conditions to include death or incapacity due to disease contracted while performing any duty on actual service. It is easy to see how such an amendment would produce new applicants and also some considerable need for investigation of the validity of many claims. This expanded definition of eligibility was in turn repealed five years later and a much more restrictive act put in its place because "the classes of militia pensions were greatly increased so that the public revenue has been found wholly unable to bear the charge thereby incurred".³² Still it was worthwhile to petition, even on dubious grounds, because a pension, if awarded, provided some regular income in an uncertain world. The basic pension was only £20 a year but, for a veteran unable to work or a widow left with children to raise, it was the difference between serious hardship and modest subsistence.

In special cases pensions could be worth much more and were sometimes awarded under individual acts of the legislature or by imperial command. Titus Geer Simons, formerly Major, Second Regiment of York Militia, who lost the use of an arm in the war, received £250 per year under the authority of "Lord Goderich's despatch".³³ The widow of Col. Robert Moodie, "inhumanly murdered" by Mackenzie's rebels, received £100 per year under a special act of the provincial legislature.³⁴ Requests for pensions were the one form of petitioning in which roughly equal numbers of men and women were involved, the number of disabled veterans being not far off the number of widows of militiamen. A list compiled under the regulations

28 NAC, RG 1, E13, CO 47, v. 144 (microfilm).

29 NAC, RG 1, E3, v. 52, 234-258.

30 53 Geo. III, cap. 4 (1813).

31 56 Geo. III, cap. 17 (1816).

32 2 Geo. IV, cap. 4 (1821).

33 NAC, RG 1, E13, CO 47, v. 144 (microfilm).

34 1 Vic., cap. 98 (1838).

of the Pension Act of 1816 showed 147 men and 130 women receiving War of 1812 pensions during the 1820s.³⁵

The class of petition labelled "money due from government" is an amorphous one, arising out of many different circumstances. What these petitions *do not* include are claims for damage to or loss of property during the War of 1812 (and to a lesser extent, the Rebellion of 1837), which are in their own separate and very large documentary series. By and large, "money due" refers to petitions for payment which the petitioner had not received, or not received in full, for work done on behalf of the government. This could be for the hiring of teams of horses for government use, the rental of premises, surveying, road building, or other kinds of construction contracted for by the province. It is difficult to be sure about the overall success rate of such petitions, but it seems safe to say that those from people who had received payment, but believed that they were entitled to more, were very rarely, if ever, successful. The classic case is that of James Gordon Strobridge, a contractor on the Burlington Canal, who, owing to construction problems which he maintained were impossible to anticipate, had lost a great deal of money on the contract and wanted compensation. After his initial unsuccessful petition he continued to submit further requests more or less annually during his lifetime; after he died in 1833 his wife took over as persistent petitioner, but with no better result.³⁶ The provincial government's resources were in fact very meagre to begin with, depending especially on a fluctuating and sometimes non-existent share of the customs revenues collected in Lower Canada.³⁷ By 1840 the province was heavily in debt, despite the fact that in this instance the provincial administration was obliged to account for its actions to the imperial government and to submit an annual "Blue Book", showing revenue and expenditure, to an increasingly sceptical Colonial Office.³⁸ Of course the Lieutenant Governor and his council could, within limits, reward friends and promote their own favourite economic objects, such as the provincial canal system,³⁹ but without a special reason to be sympathetic, they were likely to ignore individual claims, however morally justified, and only meet strictly legal obligations.

Despite the fact that petitions for relief or assistance are least in number, it is not mere perversity to choose them for special study: there are some cogent reasons for concentrating on this group of petitions. They are the most "ordinary" of the various categories of petitions — generally not from soldiers, war widows, Loyalists, convicted criminals, or contractors, but

35 NAC, RG 8 C703C, 1a-46.

36 See P. Brode, "James Gordon Strobridge", *Dictionary of Canadian Biography* (Toronto: University of Toronto Press, 1987), vol. 6, pp. 741-742.

37 D. McCalla, *Planting the Province: The Economic History of Upper Canada, 1784-1870* (Toronto: University of Toronto Press, 1993), pp. 298-299.

38 B. Curtis, "The Canada 'Blue Books' and the Administrative Capacity of the Canadian State", *Canadian Historical Review* (December 1993), pp. 535-565.

39 P. Brode, *Sir John Beverley Robinson, Bone and Sinew of the Compact* (Toronto: University of Toronto Press for the Osgoode Society, 1984), pp. 164, 180.

simply from individuals caught in circumstances beyond their control. They are in the purest sense "petitions of grace", based on no legal claim but only on the needs and hopes of the petitioners. As well, their stories, while partial and incomplete, take us closer than most other nineteenth-century documents into the actual lives of people in trouble. They can help us know what it was like to be poor or friendless or abandoned or sick: to be a desperate casualty in a society which had preciously few means of providing help.

That poverty, hardship, and various other forms of human suffering were early and increasing problems in Upper Canada is not a new revelation.⁴⁰ The petitions for relief, like those for pardon, clearly represent only the tip of an iceberg. Many people must have needed and wanted help but only a few wrote to the Lieutenant Governor to tell him so. A striking illustration of this discrepancy can be seen in a comparison of the number of people known to be seeking aid at the end of the period at the recently opened House of Industry in Toronto with the number who actually petitioned for help. A list of the inmates and out-pensioners of the House of Industry as of January 20, 1840, contained 363 men, women, and children.⁴¹ In all of 1839 and 1840, only 24 people petitioned for relief. (There was no overlap between the two groups of people, though one woman in the House of Industry had petitioned for a widow's pension.) What the petitions provide, then, is obviously only a sample of hardship, but a sample is better than nothing. A look at 266 petitions for relief, even over a 25-year period, is enough to permit some individual glimpses of human misery and some collective generalizations about the petitioners.

What can we say about the 266 petitioners who applied to the government for some kind of help? First, they were overwhelmingly immigrant in background. For 95 (36 per cent) of the 266 no information is available about place of birth or national origin. Of the others, 157 (59 per cent) are known to have been immigrants of some sort. A further 11 are known to have been United Empire Loyalists, though their actual places of birth are unknown, and only two are known to have been born in British North America (neither in Upper Canada itself). Among those for whom a birthplace is known (86) the pattern suggests that they were fairly typical of immigrants of the time as a whole. Of the United Kingdom petitioners, 40 were from Ireland, 28 from England and Wales, and 11 from Scotland, which is the right order, even if the Scots were underrepresented and the English somewhat overrepresented compared to their actual numbers in the population as of 1842.⁴² At any rate one conclusion seems justified. Judging from these petitions, it was a considerable advantage to have been born and grown up in Upper Canada, since such people are conspicuously absent among a group who got into

40 See, for example, R. Baehre, "Paupers and Poor Relief in Upper Canada", *Historical Papers*, Canadian Historical Association (1981).

41 Upper Canada, House of Assembly, *Journal*, 1839-1840, Appendix.

42 The birthplace percentages in the first census for Upper Canada are: Ireland, 16.1%; England and Wales, 8.4%; Scotland, 8.1%.

some form of trouble.⁴³ The native-born generally had family, accumulated resources, experience, and knowledge on their side, which some immigrants clearly lacked. Put another way, it is very likely that "the first years were the worst years". Most of the immigrant petitioners were in fact recent arrivals, though a few had been in Upper Canada for 10 years or longer. A related point of interest has to do with children. Among the 52 petitioners who mentioned their families, the average works out to 5.9 children per family, though the actual number varied between one and 14. It has often been said that a settler could not have too many children to help with the arduous chores of clearing land and raising crops; in the short run, however, immigrant petitioners often pointed to their families as extra burdens which made their lot in life more difficult and expensive, since children had to be fed, clothed, and housed even if they were not yet productive members of a family wage-earning or settlement unit. Children could be part of the problem, as well as part of the solution. The initial immigrant experience was by far the most difficult. If that could be survived (and some never did get through it) things were likely to get better, if only slowly.

Another set of numbers of apparently significant size can be attached to petitioners divided on the basis of whether they were living in an urban or rural place at the time that their petitions were submitted. A classification of this kind has been possible for 216 of the petitions, and the breakdown is 119 rural, 97 urban (50 unknown). "Urban" meant mostly and increasingly York/Toronto or Kingston, with a few petitions from places like Niagara, Hamilton, Cornwall, or Perth. At first glance it might seem that people were less likely to fall on hard times in urban Upper Canada, but of course the numbers on their own are misleading, since Upper Canada was an overwhelmingly rural province. Even at the end of the Upper Canadian period the urban population was only about 12 per cent of the total,⁴⁴ so that on the basis of population there ought to have been at most only 32 petitions from urban locations rather than three times that many.⁴⁵ Here again the lesson, after the fact, is apparent. One was better off in the countryside where, if one could once get a start in farming, the ability to provide for one's family could only increase. It was true that, from 1817 on, rudimentary agencies in the principal urban centres, York and Kingston, provided short-term assistance to people in need, but the best long-term solution for newcomers was to get on the land. In many instances the rural custom of communal activity, exemplified by the

43 This is not to suggest that no native-born Upper Canadians needed help, only that they were less likely to do so. A report of the number of people given relief by the privately organized House of Industry in Toronto in 1839 by place of birth shows Ireland, 390; England, 188; Scotland, 45; Canada, 36; foreign, 22.

44 G. A. Stelter, "Urban Development in a Frontier Region: The Towns and Cities of Upper Canada, 1784-1851", paper presented to the Canadian Historical Association Annual Meeting, Saskatoon, 1979, Table 2.

45 The higher level of petitions from urban centres could also conceivably reflect the fact that there were more people in towns, especially in York/Toronto, who were familiar with the process and could help to prepare petitions.

various kinds of "bees" or by simple neighbourliness, may also have been more effective than the grudging charity handed out to the deserving in the towns. Of course, there were failures in rural areas, and some of the urban petitioners said that they had tried to be settlers but had been forced to give up. Some also professed a wish to become settlers but lacked the means to buy or to get to land, and some of them probably got their wish in time. Still, distress was, in proportion to the population, an urban phenomenon.

Petitions for relief were also heavily unbalanced in that they came mainly from men. There were 215 male to 51 female petitioners, and these figures need little if any adjustment for population since men did not outnumber women in Upper Canada by very much.⁴⁶ We should not conclude, however, that men experienced misfortune more frequently than women. Most of the male petitioners applied for help for themselves and their wives and families, and it is evident that in the patriarchal society of the time an adult male assumed that it was his right and duty to take whatever initiatives were necessary, and it was expected that he would be the one who communicated with government officers. This was not because women did not have a legal right to petition. The daughters of Loyalists, whether married or unmarried, regularly petitioned for land. Susanna Moodie, as is well known, appealed to Sir George Arthur to give her husband a job, without even telling J. W. D. Moodie she was doing so.⁴⁷ At least two Upper Canadian wives petitioned the Lieutenant Governor for protection from their own abusive or improvident husbands.⁴⁸ These were exceptions, however. Most women submitted petitions only when they had no alternative, not because they were weak, helpless, or incompetent, but because to act otherwise would have been, in the social circumstances of the day, disturbingly unconventional. Of the 51 female petitioners, 31 were single mothers, 12 were widows, and the remaining eight were single women. (By contrast, out of the 215 male petitioners, only one mentioned that he was a widower and only eight said that they were single fathers.) Quite a few male petitioners appear to have been single men (65), though it is not always possible to be sure that they did not have families, and the marital status of a further 62 men is so ambiguous that it has been classed as unknown. Of the 266 petitions, 127 definitely concerned families, most of which included an adult male. Most petitioners, then, were immigrants; most of the immigrants came in families, or to a lesser extent as single men. Without exception, women who petitioned did so in the absence of an adult male. (As far as is known, the women who were single mothers became so after coming to Upper Canada.)

A final subdivision of the petitioners, noteworthy on the basis of size alone, is a military one. There were 73 former British soldiers among the

46 Stelter, "Urban Development in a Frontier Region", p. 45.

47 In fact Moodie himself had previously petitioned for a position. See NAC, RG 5, C1, v. 1, no. 138.

48 NAC, RG 5, A1, v. 79, 42643-8; v. 144, 78773-5.

petitioners, 60 rank-and-file, and 13 former officers, plus 15 who had been on active service in 1812 to 1814 or in 1837 to 1838 in the provincial militia. Such a sizeable proportion (33 per cent) of the petitioners invites some speculative comment. A military career, especially of some length, spent in a variety of conditions, climates, and hazardous circumstances, was likely to leave a former soldier with lingering disabilities — impaired health, a weakened constitution, a weakness for ardent spirits, or the actual loss of limbs or sight. Having been in a high-risk occupation, their post-military careers reflected their heightened vulnerability and inability to cope with conditions in which others prevailed. It is also possible, for the private soldiers especially, that long habits of dependency and subordination had left them unqualified to adapt to new conditions in which they had to make their own way and decisions. As well there was a certain natural affinity between former military personnel and the Lieutenant Governors, all of whom had been military officers, some, like Maitland and Colborne, at a senior level. This military connection was raised very frequently in petitions, the contention being that British officers would not abandon old soldiers who had suffered much and offered their lives for Queen and country or their families to starve in a British colony. “On claims of equity and justice”, army widow Catharine Roberts believed, “she is entitled to some remuneration for the deeds of the dead.”⁴⁹ One or two men, like Thomas Robinson, once a private in the Buffs, claimed to have served under the Lieutenant Governor in the past. “Every man in your Brigoad [*sic*]”, Robinson assured Sir John Colborne, “would have went to their knees in fire for you.” It is not known whether Colborne was prepared to make similar efforts to help Robinson, whose money was “all dun”.⁵⁰

The matter of physical health, or the lack of it, of which many old soldiers complained, leads to some further considerations — not about who the petitioners were but about how they alleged that they had gotten into trouble — and it is not surprising to find that assorted forms of health problems were high on the list. The ultimate health problem, the death of a family member, especially of the father, has already been shown to have produced a total of 52 single parents, widows, and widowers among the petitioners, representing 20 per cent, but another 63 people, a further 24 per cent, specified some kind of sickness affecting themselves, a spouse, children, or all of them as a cause of their problems. Once again, many of these petitioners had been struck by death or illness at a particularly bad time, shortly after arriving in Upper Canada or even during the ocean passage, and had used up their resources in board bills and provisions before being able to start new, independent, productive lives in the colony. The cholera years were especially devastating, sometimes wiping out almost all of a family, or more capriciously, as in the case of widow Margaret O’Hare,

49 NAC, RG 5, A1, v. 199, 116307–9.

50 *Ibid.*, v. 108, 61393–4.

leaving her husband dead and her solely responsible for nine dependent children.⁵¹

In addition to the cholera and other forms of disease, many other physical problems, some relating to military life, were cited as causes of distress. The lingering effects of wounds were mentioned 11 times, and 12 petitioners had suffered some form of amputation. Two were cripples, eight were blind or partially so, and 10 reported disability due to accidents which had occurred while they were working for themselves or others, such as axe cuts, falling trees, cave-ins, or explosions, particularly during canal construction. Pierre Giroux of Penetanguishene was reduced to destitution as the result of having his hands and feet frozen while transporting fish on Lake Huron in weather so cold that both his horse and dog froze to death.⁵² Getting sick or injured was a critical factor in causing hardship in Upper Canada. If we add an additional unfavourable physical condition, old age, given as a cause of distress by 32 people, the point becomes even more significant. There was a considerable overlap among those who were aged, sick, and infirm.

Three other contributors to the problems of Upper Canadians should be included. Loss by fire of houses, barns or other buildings, stored crops, and livestock was a fairly common occurrence (21 cases reported) and could, or so it was claimed, reduce even an established settler to penury. Unemployment, on the other hand, or rather the alleged inability to find work of any kind, was relatively rare, only 12 petitioners making this complaint. It was not necessarily true, as some Upper Canadians believed, that there was work for anyone who was willing to take it, but the petitions suggest that the inability to work through age or infirmity was likely more common than the inability to find work. Failure to find work was mentioned most frequently by people who claimed to be of more than common birth or education, of whom there were about 30 among the petitioners. The problem of employment for such people, however, was not always a lack of jobs *per se*, but of suitable jobs. As one such "respectable" petitioner complained, he could not "get in this country employment suitable to his habits and rank in life".⁵³ White-collar jobs, either in government or elsewhere, were scarce, and the only easily accessible "profession", schoolteaching, was wretchedly paid.

Crop failure was the subject of seven individual petitions. (In 1817 there was a collective petition from 550 families in Glengarry as a result of the devastating frosts in July of the previous year.) In each case, the newly settled once again suffered most from the loss of crops, having no backlog of funds, seed, or provisions to turn to. It is significant that the local magistrates and other established settlers, who often wrote accompanying letters recommending the new settlers as fit objects of charity, did not themselves

51 *Ibid.*, v. 126, 69640-1.

52 NAC, RG 5, C1, v. 4, no. 303.

53 *Ibid.*, v. 19, no. 76.

complain of crippling loss, though in 1816 they must also have felt at least some effects of the widespread failure of crops.⁵⁴

A last statistical category concerns the objectives sought by the petitioners. What did they want the government to do for them? For the great majority it was simply money — short- or long-term funds to get them over a bad patch, or to ease an otherwise very bleak old age. The appeal could be expressed as “a small pecuniary assistance” or “a loan out of some fund”. Some wanted rations or provisions. One widow, fearing the oncoming winter, asked for a stove.⁵⁵ Many could not bring themselves to beg outright on paper and asked for “some means of assistance” or “such aid as to Your Excellency may seem meet”. A few (10 in all) asked for some form of free transportation to their land grants, but quite a few more wanted transport of a different kind. Thirty-five disappointed petitioners wanted no more of Upper Canada. They asked for funds to take them “home”, usually to Ireland, England, or Scotland. Richard Pierpont, a former slave, wanted to be sent to Africa.⁵⁶ Some made more modest requests and asked only for funds to get them to an ocean port, either Quebec or New York. Alone and friendless in Upper Canada, they wanted to return to a place where they had families, friends, and familiar surroundings.

And what was done for the petitioners? For some who were in the initial stages of actual settlement, short-term rations, bedding, or tools could sometimes be provided from military stores, but by and large the invariable answer was “the Lieutenant Governor regrets that he has no means of complying with your request”⁵⁷ or “His Excellency much regrets that he has no funds at his disposal to provide for you.”⁵⁸ It was no more than the truth. There *were* no funds available, to the Lieutenant Governor or anyone else in the government, without specific legislation authorizing expenditure, which could be used to relieve the poor and helpless. Such relief as was extended by the Lieutenant Governor himself came from his own private means. Not a few of the more pathetic petitions contain the notation of the Civil Secretary: “gave him [or her] a pound from the Lt. Govr.”

What became of the people who appealed to the Lieutenant Governor to help them out of problems which they could not solve? In most cases we shall simply never know. The beginning and middle of a story are told; the end is lost forever. What we do know is tragic enough, and some glimpses of their lives — their “stories so far” — can help to convey, a century and a half after the event, some of the ingredients of human misfortune. It should perhaps be admitted that troubles were sometimes self-inflicted by various forms of incompetence, ignorance, or pig-headedness, and that there were some petitioners who attempted to gain sympathy and handouts under

54 NAC, RG 5, A1, v. 30, 13693–5.

55 *Ibid.*, v. 58, 30116.

56 *Ibid.*, v. 53, 26441–2.

57 *Ibid.*, v. 115, 64490.

58 *Ibid.*, v. 109, 62153.

false pretences. A man named Reuben Illingsworth, who claimed that intermittent blindness made it impossible for him to find work, was declared on investigation to be a fake, trying "to extend his system of imposition on the public".⁵⁹ A more successful fraud was practised by a man named William H. Yelland, who extracted £10 from Sir George Arthur in 1839 and 1840 ("I was advised", he told Arthur, "to appeal to a popish priest for relief. I would suffer death rather than do so. I am not a bigot or a party man"),⁶⁰ a further £5 from Sir Charles Metcalfe, and 10 shillings from Sir Richard Jackson in 1844, before an investigation revealed that he was "not of the most abstemious habits" and was living with one of three sons-in-law he had in Upper Canada, a prosperous merchant in Hamilton.⁶¹ A few other claims of dire poverty must also be treated with some scepticism. When John MacIntyre of Dalhousie Township petitioned successfully in July 1828 to be given tools with which to clear his land from the government stores at Lanark because he was too poor to buy them, no fewer than 30 other Lanark-area settlers sent in similar petitions alleging their inability to buy implements, although some had been on the land for as long as seven years.⁶² Francis Wyatt, a persistent petitioner from Perth in the early 1820s, who eventually abandoned his widowed mother and younger siblings to return to England, turned out to have a long history as a swindler and left debts behind him wherever he went.⁶³ Quite a few petitioners, like William Pitt, also of the Perth area, were simply incompetent. Pitt had gotten deep into debt due "to his own mismanagment and imprudence, being quite unfitted for the active duties of a farm, in which he threw away a large sum of money".⁶⁴

These, too, were exceptions. Most of the petitioners were "deserving" people; that is, their troubles were not of their own making, as some capsule biographies will demonstrate. Joseph Burton, late of County Fermanagh, his wife, and three small children were reduced "to penury and want" after his house burned in September 1814 and he then broke his leg in June 1815.⁶⁵ Donald McPherson, a former soldier who had come to Upper Canada from Scotland in 1822, lost all his possessions in a shipwreck on the St. Lawrence on arrival. After clearing land in Monaghan Township and beginning to establish himself, he lost his crops to a hail storm in July 1829. Complaining of old age (he was probably in his fifties), in bad health, and with a wife and four children depending on him, he turned to the Lieutenant Governor for "pecuniary assistance".⁶⁶ James Doherty, also an 1822

59 *Ibid.*, v. 135, 74351.

60 *Ibid.*, v. 243, 133442.

61 NAC, RG 8, C510, 234-235.

62 NAC, RG 5, A1, v. 89, 49431; v. 90, 50228-71, v. 91, 50323-50809. This accounts for the unusually high number of petitions in that year (see Table 1).

63 NAC, RG 5, A1, v. 61, 32209-10, 34675-6; v. 65, 34241-3.

64 *Ibid.*, v. 86, 47450-1.

65 *Ibid.*, v. 24, 10657-8.

66 *Ibid.* v. 98, 55033-4.

immigrant from Ireland, lost one eye in an accident while working on the Rideau Canal and later lost the sight of the second eye. Settled in Ramsay Township, he was also totally burned out in December 1830, leaving him destitute, along with his wife and five children, all girls "who are unable to render him any assistants [*sic*] on his farm".⁶⁷ James Cowley, like Doherty, was the victim of an industrial accident while working on the Long Sault Canal, where he had a leg broken when "blown up by powder in a clay bank". Two of his sons were also injured in explosions on the same works, one being blinded. Unable to support a family of 10, he appealed to the Lieutenant Governor "to consider our most grievous necessities".⁶⁸ John Henderson, who came from the United States in 1816, had the fingers of his right hand amputated in 1833. In 1838 a wound to his left hand "mortified", forcing a second amputation. His wife was left to support him and their five children "by industry and the kindness of several ladies of this city", until she was hospitalized by a fall which injured her leg.⁶⁹

Widows, especially young widows with children, were particularly vulnerable to the sudden onset of hardship. Harriet Hall, widow of a British captain and the mother of three young children, was left "destitute in a foreign country" because, among other things, her husband before his death had been induced "by derangement of mind" to sell his commission, leaving her with the purchase money spent and no chance of a pension.⁷⁰ Margaret O'Hare, referred to earlier, whose husband died of cholera in 1832, had no money and no relatives or friends in Upper Canada. She wrote to the Lieutenant Governor "trusting that Your Excellency will think of something for us".⁷¹ Sarah McKechnie's Scottish husband also probably died of cholera on board ship in the St. Lawrence in 1834 (the cause of death is not stated). Her oldest son was drowned, also in the St. Lawrence, and her remaining six children all fell sick, so that it is hardly surprising that she appealed for a free passage home or "such assistance in this country as to your Excellency shall seem fit".⁷² Catharine Roberts had followed her soldier husband to Madras, Cape of Good Hope, St. Helena, and Upper Canada, where, before he died, "in an unguarded moment" he sold his land for \$16, leaving her in a strange country without friends.⁷³ Nancy Daley's husband, a Peter Robinson settler from Cork in 1825, froze to death crossing Rice Lake. She was left with an infant child in need of "protection".⁷⁴ The husband of Rachel McCormick was not dead when she petitioned in 1833, but he might as well have been. He had abandoned

67 *Ibid.*, v. 109, 62152-3.

68 *Ibid.*, v. 205, 113506.

69 NAC, RG 5, C1, v. 19, no. 8.

70 NAC, RG 5, A1, v. 100, 56785-6.

71 *Ibid.*, v. 126, 69640-1.

72 *Ibid.*, v. 152, 83570-1.

73 *Ibid.*, v. 199, 110307-9.

74 *Ibid.*, v. 76, 40690.

her and their four children "living this few days on one loaf of bread". She wanted permission to sell their land or "if Your Excellency would assist me to go to my land I would not part with it on your directions to bind my children out as my husband has left me and I is not able to pay for my lodgings".⁷⁵ Whether these widows and others like them eventually found strategems for survival⁷⁶ can probably never be known. Whatever their individual capabilities, like the Loyalist women described by Janice Potter-MacKinnon, in appealing to the most powerful male figure in the province as one possible source of aid, they stressed their weakness and helplessness⁷⁷ as the most likely route to a sympathetic response.

These assorted glimpses of despair are representative of those women and men who appealed to the Lieutenant Governors for relief and are themselves only part of a much larger group who needed help at some point. Sir Francis Bond Head's secretary told a petitioner in 1836 that "the demands made on him for charitable aid are so numerous that he is obliged to confine his assistance to those who have a claim on his support. He therefore must decline to comply with your request."⁷⁸ Most of the time the Lieutenant Governors simply said that there was nothing they could do, but the requests never stopped coming, partly because there was nothing to be lost by asking, but also from a genuine belief that something would be forthcoming. Few were aware, as was John Smyth of Augusta Township, that there was "no provision in this country for the support of the poor",⁷⁹ but rather looked to "that plan of universal benevolence for which the British government is so justly famed".⁸⁰ They asked for relief "agreeable to the laws of our province"⁸¹ or "a small supply of our government allowance"⁸² or "some of the charitable fund",⁸³ or believed "that Your Excellency has it in power to render me assistance and that I can be relieved by government".⁸⁴ Others just made direct appeals to the generosity of the individual Lieutenant Governor in the hope that he would be "touched by the effects of human woe"⁸⁵ or that "the representative of our Gracious

75 *Ibid.*, v. 136, 74738-9.

76 Recent studies of nineteenth-century widowhood, such as B. Bradbury's "Surviving as a Widow in Nineteenth-Century Montreal", *Urban History Review* (February 1989), and L. R. McLean's "Single Again: Widow's Work in the Urban Family Economy, Ottawa, 1871", *Ontario History* (June 1991), make the point that widows could be highly resilient and were able to find a variety of means to support themselves and their families. Whether these studies of urban widows at a later date are relevant to the case of recently arrived widows in Upper Canada is unclear.

77 Potter-MacKinnon, *While the Women Only Wept*, pp. 104, 149-151.

78 NAC, RG 7, G16c, v. 37, 250.

79 NAC, RG 5, A1, v. 29, 13212-5.

80 *Ibid.*, v. 28, 12994-7.

81 *Ibid.*, v. 101, 57637.

82 *Ibid.*, v. 94, 52194.

83 *Ibid.*, v. 162, 88695.

84 *Ibid.*, v. 154, 84605.

85 *Ibid.*, v. 24, 10657-8.

Queen will not allow an old soldier to suffer".⁸⁶ Some few petitions, all from women, were sent during Sir Peregrine Maitland's term to Lady Sarah Maitland, who, as the daughter of a duke, was expected to be more charitable than most.⁸⁷

The majority of people who came to Upper Canada in increasing numbers succeeded to some degree in making the transition from newcomers to residents. The process can never have been easy, but it was survived, and the result was some minimum level of comfort. Ironically, even some of the most bitter complainers attest to this. William Yere Hunt, for example, who appealed for help "for the last time" in 1832, was still complaining six years later of having experienced "the most unexampled distress", but by then he had succeeded in getting some government patronage in the form of "a small overseership", which he wanted made permanent.⁸⁸ The less fortunate, who never did get official help, are a reminder of what could and did happen. Most immigrants were quite unprepared for the difficulties they were to face, even if, perhaps especially if, they had relied on the advice of the overly optimistic travellers' accounts or emigrant's guides of the time. In Upper Canada, the English writer John Howison assured his readers, "beggary, want and woe never meet the eye. No care-worn anxious countenance, or famished forms, are to be seen among its inhabitants."⁸⁹ The petitions make clear how far from reality such generalizations could be. Prospective emigrants might better have been warned that some — people past the prime of life or in ill health, former military personnel, and people with pretensions to respectability — might have more trouble than others in adjusting to change, or even surviving, in Upper Canada.

As historical sources, personal petitions have some obvious limitations.⁹⁰ They reflect the lives of the petitioners only to the time when they were submitted, and in most cases there is no way of knowing what may have happened to the petitioners later or how, or even if, the petition itself was answered, for there are far more extant petitions than copies of replies. As well, petitions inevitably stressed the "merits and pretensions" of the petitioners. They told the Lieutenant Governor and his council only what the petitioner wanted known and could present a one-sided or exaggerated version of the case. Nonetheless, petitions, whether examined individually or collectively, can convey a great deal of useful information — biographical, of course, but also information about the nature of the society of the time. Petitions, by their very nature, reflect a society which was not only

86 NAC, RG 5, C1, v. 41, no. 2191.

87 NAC, RG 5, A1, v. 80, 43436-7; v. 82, 44186.

88 *Ibid.*, v. 141, 77223-4; NAC, RG 5, B3, v. 10, 1296-7.

89 J. Howison, *Sketches of Upper Canada* (Edinburgh: n.p., 1821), p. 264.

90 Petitions have not been much utilized by historians of nineteenth-century Canada. For an example of the use of petitioning in another British North American colony, see Gail C. Campbell, "Disenfranchised but not Quiescent: Women Petitioners in New Brunswick in the Mid-19th Century", *Acadiensis* (Spring 1989).

hierarchical and patriarchal but profoundly unequal. A petition, even one asking for something to which the petitioner has some legal claim, is still a form of begging. "The formulation of a petition", the American historian Linda Kerber has written, "begins in the acknowledgement of subordination. The rhetoric of humility is a necessary part of the petition as a genre, whether or not humility is felt in fact."⁹¹ As has been seen, petitioners who submitted the colonial equivalent of a "petition of right", for land or a pension for example, had a good chance of receiving a favourable answer, as long as they were able to provide all the right documents and had previously gained the support of their local civil or military superiors such as magistrates and militia officers (though even then the executive council could sometimes find grounds for rejection). "Petitions of grace" were a very different matter. The outcome of a petition for a job, a pardon, or relief could never be certain, because the Lieutenant Governor and the executive council had absolute authority. Within the province they were responsible to no one, and there was no possible appeal against their decisions. Even among petitions of this sort, however, distinctions can be made. Some people were given jobs and some pardons were given, though in each case many applicants were inevitably disappointed. Applications for relief were almost never successful. They were rarely even referred to the executive council for examination because a political decision had been taken at an early date that no official provision for the relief of people in need was appropriate or necessary. As historians of social welfare in Upper Canada have frequently pointed out, the first statute of the first session of the provincial parliament, which introduced the main body of English civil law into Upper Canada, made an important exception: "nothing in this Act ... shall ... introduce any of the laws of England respecting the maintenance of the poor."⁹² The majority of Upper Canadians (and for a long time their successors) seem never to have changed their minds on this point. As David Murray has shown, district magistrates could sometimes be persuaded to divert a small amount of public funds to provide for a "pauper list", but they could also legitimately claim that they were legally prevented from spending money on the poor.⁹³ An act passed by the last legislature in Upper Canada in 1837, which provided for the erection of houses of industry in each district, was never implemented and was attacked in the House and in the press because it would be too expensive (it would have meant an increase in property

91 L. Kerber, *Women of the Republic: Intellect and Ideology in Revolutionary America* (Chapel Hill: University of North Carolina Press, 1986), p. 85.

92 R. Splane, *Social Welfare in Ontario, 1791-1893* (Toronto: University of Toronto Press, 1965), p. 65. Why the first legislature refused to take responsibility for the poor has been the subject of considerable debate. See, for example, Splane, *Social Welfare*, pp. 65-68; R. Baehre, "Paupers and Poor Relief in Upper Canada", *Historical Papers*, Canadian Historical Association (1981), pp. 58-59; J. C. Levy, "The Poor Laws in Early Upper Canada", in D. J. Bercuson and L. A. Knafly, eds., *Law and Society in Canada in Historical Perspective* (Calgary: The University of Calgary Studies in History, no. 2, 1979), pp. 23-34.

93 Murray, "The Cold Hand of Charity", pp. 180-183.

taxation)⁹⁴ and because it would “create a receptacle for the idle and worthless that are cast upon our shores”.⁹⁵ There were charitable and caring people in Upper Canada who did what they could, as individuals and in societies, to help people who could not help themselves. The government and society as a whole were less inclined to be welcoming and sympathetic. A Niagara district grand jury of 1837 struck a note which was long to resonate in Upper Canada/Ontario. The jury did not want to hold out “inducements to the idle and profligate of becoming paupers, as we are of the opinion that all that are able to labour in this country, have the power of earning a subsistence if they have the will to labour”.⁹⁶

94 Splane, *Social Welfare*, p. 71.

95 Murray, “The Cold Hand of Charity”, p. 199.

96 *Ibid.*, p. 200.