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Garland, Charles, planter, trader, Justice of the Peace, Naval Officer and Surrogate Judge, Conception Bay, Newfoundland; b. Musketta (Bristol's Hope), Conception Bay, 1730, son of George Garland; d. Harbour Grace, March 8, 1810; one son, Charles, 1776-1815.

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Charles Garland was born into one of the oldest established families in Conception Bay.<sup>1</sup> In the 1670s his grandfather, John Garland, resided in a small cove called Musketta (later Mosquito, presently Bristol's Hope) situated between Carbonear and Harbour Grace. He operated several fishing boats, employed ten servants and raised a few hogs and cattle - giving him the status of a typical seventeenth century fisherman-planter. It is uncertain whether or not John Garland was the first of his patriline to settle in Newfoundland. Another Garland family also inhabited nearby Harbour Grace in the 1670s and thus it is possible to speculate that John and/or Emeline Garland were progeny of an earlier planter. Another matter for speculation is the origin of the family. One possibility is that the Garlands came from Bristol or environs, through either an association with the early century colony established in Bristol's Hope or the fishery of Bristol merchants who focussed their efforts in that area.<sup>2</sup> An alternative origin is provided by a suggestion that the Garland family of Conception Bay was related to a merchant family of Poole in Dorsetshire, who in the eighteenth century established headquarters in Trinity, Trinity Bay.<sup>3</sup> The latter Garlands have well-documented roots in East Lulworth, Isle of Purbeck in Dorsetshire and in Poole.<sup>4</sup>

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Among over 60 settler surnames which can be documented in Conception Bay before the period of Queen Anne's War, 1696-1713, the Garlands represent one of only a dozen families who survived among the post-war settlers.<sup>5</sup> During the course of the war French forces based in Placentia repeatedly attacked the small English settlements in Conception Bay. Most settlers were either killed, captured, inflicted with property losses and bankruptcy or abandoned the island. While British naval power provided safety during the summer fishery season, the settlers were left virtually defenceless during the fall, winter and early spring. Only in Conception Bay was some successful defence raised that, at least, spared some families their lives. Over most of the war period the wintering populations abandoned their permanent settlements and resorted to small bleak islands such as Carbonear Island, Harbour Grace Island, Kelly's Island and Little Bell Island, which could be defended with a few cannons and small arms, against their approaches by sea. John Garland was one of the individuals who organized the occupation and defence of Little Bell Island. Here he took refuge with his family in the winters of 1708 and 1709. In 1709 Charles Garland's father, George, held the position of 2nd Captain in Little Bell Island Militia.<sup>7</sup>

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George Garland (1677-1763) was evidently the only son of John Garland. His early life is obscure,

however, he appears to have helped raise the family fortunes after the war by engaging in the fishery and acquiring properties in Carbonear and Harbour Grace which he added to those inherited from his father in Musketta and Little Bell Island. He became prominent enough to be one of the first appointed Justices of the Peace for Conception Bay, a post he held interimly, if not continuously, from 1732 until 1755.<sup>8</sup> In 1755 Charles Garland was appointed magistrate and held this position until 1792, when he also acquired the offices of Deputy Customs and Naval Officer.<sup>9</sup> In 1799 Charles became a salaried surrogate judge with an annual stipend of 60 pounds. He maintained this appointment until he died on March 8, 1810 at the age of 79 years, 9 months.<sup>10</sup>

As one of Newfoundland's pioneering peace-officers in a fledging civil service, Charles Garland performed a varied role in a controversial office during a period of extreme uncertainty, instability and change. He served under many different Naval Governors whose views and interpretations of the act governing Newfoundland varied. His authority was frequently challenged by British merchants and sea-captains and his conduct and integrity were

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occasionally questioned. While his official duties as a magistrate entailed mainly the arbitration of civil disputes, particularly charges of debt between either merchants and fishermen or fishermen and their seaman and servants, and property disputes, personal assaults and drunkenness, he was frequently required to enforce decrees of the Naval Governor and to provide the Governors with information. Over most of his public career Garland also tried to gain a livelihood from the fishery and trade, occupations that tended to draw him into a conflict of interest with his role as a peace-officer.

Much of the controversy that attended individuals holding the rank of Justice of the Peace in eighteenth century Newfoundland arose from the fact that the island was governed under an act that was meant to regulate primarily an English fishery, and then only for the summer months. Year-round settlement was tolerated but officially discouraged. Despite this permanent settlements did begin to emerge and it became common for a large contingent of unruly fishing servants to overwinter. When because of "great disorders committed in the winter season ..." and "the state of anarchy" that began to prevail, the British Government decided in 1728 to authorize the Commodores (later Naval Governors) to appoint local justices

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"to decide disputes between the inhabitants and distribute justice amongst them, during the winter season."<sup>11</sup> The mandate given the magistrates was somewhat ambiguous for they were exhorted to do "nothing contrary or repugnant to the Act for encouraging the trade to Newfoundland ... nor any way obstruct the powers thereby given and granted to the Admirals of Harbours or Captains of our ships of war."<sup>12</sup> One of the powers given the Admirals was that of settling civil disputes.

In his term of office Charles Garland cooperated closely with the different Naval Governors, carried out their orders and in turn received personal favours. Perhaps one of the more notable episodes of his magistracy happened in 1755 when he was ordered by governor Dorrell to investigate a complaint that - contrary to law (forbidding a liberty of conscience to Papists) - a Roman Catholic priest had celebrated a public mass in Conception Bay.<sup>13</sup> Dorrell demanded that the offender be arrested and sent to St. John's. Garland's preliminary investigation determined that a priest had held mass at Caplin Cove, north of Carbonear, but that he had left and gone to Harbour Main. Together with the other Justice of the Peace for Conception Bay, Garland went to Harbour Main and tendered a confession from one, Michael Katem, that he (Katem) had cele-

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brated public mass in one of his fish rooms. Katem was fined 50 pounds, his Properties were demolished and he was ordered to quit Newfoundland before November 25th. This same expedition also uncovered another planter-priest in Harbour Main by the name of Michael Landrican. Landrican was also fined, had his house and fish stage fired, and was ordered to leave the country.

A more praiseworthy effort of Garland was the role he played in organizing resistance to the French invasion of Newfoundland in 1762. He recruited 50 volunteers in Conception Bay to serve with Colonel Amherst who led the English expedition to recapture St. John's and provided boats and small vessels to aid the landing of troops. These activities in addition to supplying the English garrisons in St. John's with provisions after the French were routed earned him an official commendation and were reported in the London Chronicle.<sup>14</sup>

Although Garland took some active part in the codfishery and in the passenger and provisions trade in Conception Bay, he appears to have supported his family mainly by renting out fishing rooms and properties to migratory fisherman and planters. He owned and leased properties in Musketta (Bristol's Hope), Harbour Grace, Carbonear and Devil's Cove (Job's Cove), and asserted hay

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cutting and grazing rights to land on Little Bell Island, Harbour Grace Island and Carbonear Island.<sup>13</sup> Much of the conflict between migratory fishermen and settlers, and, more particularly between English ship captains and local magistrates such as Garland, focussed upon the possession of lundwash property known as fishing rooms. In 1763 Garland's rights to two separate fishing rooms in Harbour Grace were contested.<sup>16</sup> In one case a ship's captain, Elias Vibert (Phippard), claimed that Garland had built structures on a plantation which he then leased to one Edmund Hayes, and that this plantation was a 'ship's room', a property reserved according to law for the use of the migratory fisherman.<sup>17</sup> In the other case Edmund Combes, another ship's master asserted that Garland had no right to possess and let another room. In his defence, however, Garland proved to the Governor's satisfaction that both properties were inherited from his father who had acquired them in 1723.<sup>18</sup> In 1766 Garland's right to a room in Carbonear was disputed by the Poole merchant firm of Pike and Green,<sup>19</sup> and again in 1785 he was represented for encroaching upon a ship's room in Harbour Grace by John Clements, a Bristol merchant.<sup>20</sup>

One of the most comprehensive source materials listing fishing properties, their owners, occupiers, dates and

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methods of property acquisition, survived in what is known as the "Conception Bay Plantations Book,"<sup>21</sup> This book was compiled by the district magistrates in the period 1804-7, under an order given by Governor Gower. Details in this source show that Charles Garland purchased a plantation at Harbour Grace in 1770 known as "The Grove", for which he paid 50 pounds to a Jersey merchant, Nicholas Fiott. In 1805 "the Grove" contained two stages, three fish flakes, four dwellings (buildings), three vegetable plots and a meadow. According to the plantations book, Garland sold a fishing room at Musketta in 1789 and another in Devil's Cove (Job's Cove) in 1790. He also leased a plantation in Musketta to an Irish family and in Harbour Grace he had two plantations, one let at 20 pounds per annum to a William Brown and another to a merchant, A. Boucher, for 50 pounds. The latter clearly contained a merchant establishment for it had three dwellings, a counting house, three warehouses, a cookroom (used to house and victual servants), and four wharves.<sup>22</sup>

There seems little doubt that the Garlands, like other settlers in Newfoundland, and indeed, English merchants who established fixed premises on the island, could only have acquired such properties by encroaching and converting to private ownership, fishing rooms which had been

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used formerly as ships' rooms, and by the indifference or inability of the Naval Governors to enforce the acts respecting property possession. Ironically Garland on at least one occasion acted to prevent encroachment on a ship's room when, in 1755, he ordered the structures built by a Jersey merchant in Harbour Grace to be burnt while the merchant was in Jersey for the winter.<sup>23</sup>

While his close association with the Governors appears to have been a major factor in having property disputes settled in his favour. Garland did lose grace, at least temporarily, with Governor Palliser who suspended him from office in 1763 for failing to settle a trade account with a Devonshire merchant, Bulley. Apparently Bulley had consigned some goods for Garland to retail late in 1762. Three years later Bulley claimed that no account had been tendered.<sup>24</sup> In 1766, however, Garland was reappointed as Justice of the Peace for Conception Bay.

Few details are available on Garland's role in the fishery and trade; however, he appears to have had a close association with several merchant traders and during the 1780s owned shares in several ships. He was probably related to a Scots merchant, Cowley, through the marriage of his sister. In 1784 Garland was listed as one of the owners of the Nancy, a ship which Cowley & Co., of Con-

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ception Bay and St. John's, consigned to Dominica in the West Indies with a load of fish.<sup>25</sup> Other ships in which he had shares included the schooner Friendship which he sold to Robert Newman and Company of Dartmouth for £245,<sup>26</sup> and the 110 ton Charlotte, built at Harbour Grace, which in 1787 he sent to Waterford, Ireland, with a cargo of cod-oil, fish and 100 passengers.<sup>27</sup> Documents related to the bankruptcy in 1792 of John Thomey and Co., of Bristol and Harbour Grace, suggest that Charles Garland had been involved in the Irish passenger traffic to Newfoundland on Thomey's account. Thus in the settlement of the estate, Garland received bills of exchange "for passages to Ireland" amounting to £525.<sup>28</sup> Alex Campbell of Glasgow was evidently another trade associate of Garland, again probably through a marriage connection with the Garland family. Campbell traded from Carbonear, but in 1785 he gave his property there to Garland who subsequently leased it at an annual rent of 20 pounds.<sup>29</sup> In his latter years, especially from 1792 until his death, Garland was able to live comfortably off his stipendary pay as a Customs and Naval Officer, and after 1799 as a Surrogate Judge.<sup>30</sup> He had additional income from his rented properties, but withdrew from commerce and trade.

McLintock maintains that In 1790 "there was not a

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single magistrate in the whole island who possessed independent means. As they were all engaged in some branch or other of the trade, it was difficult for even the best intended among them to pass judgment impartially upon matters which concerned them directly or indirectly".<sup>31</sup> Charles Garland was thus not unique; indeed, other families such as the Carters of Ferryland and the Taverners of Trinity who were planters, agents, traders and magistrates over the same period, as well as the Pynn and Davis families of Conception Bay, were distinguished in that they sprung from among the earliest settlers in their respective regions and maintained a continuing high profile as community leaders over a lengthy pioneering period. Such individuals as George and Charles Garland were not only the first pillars added to the development of civil government in Newfoundland, they were the intermediates between the British Government and Newfoundland settlers in the transition of Newfoundland from an English fishery to a colony. When Charles Garland was born, Conception Bay had only a few hundred permanent settlers, was dominated by the migratory fishermen, and ruled by Fishing Admirals. When he died in 1810 Conception Bay was the most populous district in Newfoundland with over 5000 inhabitants. Chaotic and contentious conditions still prevailed in the

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courts and in the general administration of justice, but the offices and institutions that were needed for future improvements had at least been founded. Garland was succeeded as Surrogate Judge in Conception Bay in 1810 by the Reverend L. Anspach. His only son Charles died at Harbour Grace In 1815.<sup>32</sup>

1. Most of the biographical facts on the Garland family have been dissagragated from original sources by Dr. Keith Matthews, See, for example, name files - No. 43N, George Garland, and No. 43K, Charles Garland, Centre for Maritime History, Memorial University of Newfoundland. The more important of the original sources for the 17th century include PRO, CO 1/35 (1675), CO 1/38 (1676), CO 1/41 (1677), CO 1/47 (1681), and CO 1/55 (1684) which include nominal lists of planters and settlers in Conception Bay.
2. See Hancock, W.G. "An Historical Geography of English Settlement in Newfoundland: A Study of the Migration Process", unpub. Ph.D. thesis, University of Birmingham, 1979, pp. 16-8.
3. Prowse, D.W. A History of Newfoundland, 1895, 222.
4. Records of the Lester and Garland Families, D365, Dorset Record Office, Dorchester, Dorset.
5. See Hancock, op. cit., pp. 40-1.
6. Ibid.
7. PRO, CO 194/4.
8. PRO, CO 194/24, and PANL, Colonial Secretary's Office, Correspondence.
9. PANL, Colonial Secretary's Office; and PRO, CO 324/7.
10. PANL, Burial Register of St. Paul's (Anglican), Harbour Grace.
11. Calendar of State Papers, Colonial, America & the West Indies (CSPC), (1574-1737). London, 1860-1963, esp. 527 (1728), p. 283.
12. CSPC, 708 H.M. Instructions to Governor Osborne (1729), pp. 375-9.
13. Prowse, op. cit., 293-4.

14. Ibid, 315, also London Chronicle. October 14th, 1762 (cited in Matthews, op. cit., name file No. 43K).
15. Details of Garland's properties can be found in PRO, CO 199/18 "Conception Bay Plantations Book"; PANL, Colonial Secretary's Office, Correspondence.
16. PANL, Colonial Secretary's Office, September 19th, 1763.
17. Act of William III (1699).
18. fn. 16.
19. PANL, Colonial Secretary's Office, 1766.
20. Ibid, October 20th, 1785.
21. PRO, CO 199/18
22. Loc. cit.
23. PANL, Colonial Secretary's Office, Petition of Sam Guernsey, 1759.
24. Ibid, Petition of Bulley, 1762; Order of Palliser, 1765.
25. PRO, CO 41/7, September, 1784.
26. PANL, Newman-Hunt Papers, vol. 7, 1784.
27. PANL, Munn Collection, Nov. 25, 1878.
28. PRO, CO 324/7.
29. PRO, CO 199/18.
30. PRO, CO 194/41.
31. McLintock, A.H., The Establishment of Constitutional Government in Newfoundland, 1783-1832, London. 1941, p. 59.
32. PANL, Burial Register of St. Paul's (Anglican), Harbour Grace, and petition of Elizabeth Garland, widow of Charles Garland, dated April 29, 1834, Probate Office, Supreme Court of Newfoundland.

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St. John's.