The Administration of Alejandro O'REILLY as Governor of Louisiana, 1769-1770.

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TEXADA, David Ker, 1928-
THE ADMINISTRATION OF ALEJANDRO O'REILLY
AS GOVERNOR OF LOUISIANA, 1769-1770.

Louisiana State University and Agricultural and
Mechanical College, Ph.D., 1968
History, modern

University Microfilms, Inc., Ann Arbor, Michigan

David Ker Texada 1969

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THE ADMINISTRATION OF
ALEJANDRO O'REILLY
AS GOVERNOR OF LOUISIANA
1769-1770

A Dissertation

Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
in partial fulfillment of the
requirements for the degree of
Doctor of Philosophy

in

The Department of History

by
David Ker Texada
M.A., Louisiana State University, 1958
August, 1968
ACKNOWLEDGMENT

The author wishes to express his sincere appreciation to Dr. John Preston Moore for his guidance and encouragement while supervising the preparation of this dissertation. Thanks is also due to Dr. Jo Ann Carrigan for her many suggestions concerning the manuscript. Finally, very special gratitude is extended to my family and friends, too numerous to mention by name, who have encouraged and assisted me in many ways over these past years.
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ABSTRACT

This work is an assessment of the administration of Count Alejandro O'Reilly as governor of Louisiana from August, 1769, to March, 1770. O'Reilly was a soldier of fortune who rose to the rank of lieutenant general in the Spanish army and was made Inspector General of Infantry in 1764. He was chosen by Charles III to bring Spanish rule to Louisiana after the 1768 insurrection of the French settlers in New Orleans. This uprising had resulted in the expulsion of the first Spanish governor, Antonio de Ulloa, who had come to take possession of the colony after its transfer from France to Spain by the Treaty of Fontainebleau in November, 1762. Because of O'Reilly's execution of the main leaders of the rebellion in New Orleans, much abuse was heaped upon him by unsympathetic historians until well into the twentieth century.

This study is introduced by a brief analysis of the historiography covering these events. Next, there is an introductory chapter dealing with the transfer of the colony from France to Spain and Governor Ulloa's administration, which ended in his expulsion in October, 1768.

The main body of the work covers Governor O'Reilly's arrival in Louisiana, in August, 1769, the trial of the rebel leaders, and the governor's administration of the colony. Considerable space has been devoted to an analysis of the
trial proceedings, which are found in the Archives of the Indies in Seville and in the National Historical Archives in Madrid. The reader can determine from these proceedings whether or not the trial was conducted fairly by eighteenth century Spanish standards.

The Indian policy adopted by O'Reilly and continued by his successors also comes under study. In connection with this, O'Reilly's plans for Louisiana's military posture within the Spanish American Empire has been outlined. The weaknesses and strengths of these policies are shown in relation to the use made of them by the subsequent Spanish governors of Louisiana.

This study also treats the social and commercial problems under O'Reilly, and analyzes his fiscal and commercial policies in the light of the subsequent history of Spanish Louisiana. The inadequacies of some of these policies are noted.

O'Reilly's most important contribution to Louisiana was the Code O'Reilly. This code was a synthesis of Spain's Laws of the Indies, and was compiled under O'Reilly's direction by two of his lawyers, Felix del Rey and Jose Manuel de Urrutia. Although intended to be temporary, it served the colony until Spain returned Louisiana to France in 1803.

The brief epilogue covers the highlights of O'Reilly's career from his return to Spain in June, 1770, until his
death in March, 1794. He was Inspector General of Infantry until 1783 and served as governor of Madrid, Andalusia, and Cadiz, retiring from the last post in 1786. The crown summoned him in 1794 to take command of the Army of the Pyrenees, but he died en route at Murcia (Chincilla).
INTRODUCTION

On August 18, 1769, the French flag was lowered in the Place d'Armes (today Jackson Square) in the city of New Orleans. In its place was raised the banner of the Spanish monarch Charles III. Thus began the brief but important administration of Lieutenant General Don Alejandro O'Reilly as the second Spanish governor of Louisiana.

O'Reilly had been sent by Charles III to restore Spanish authority in the newly acquired colony of Louisiana. Developments in that colony after the arrival of Don Antonio de Ulloa, Spain's first governor of Louisiana, had led to an insurrection in October, 1768, and to Ulloa's subsequent expulsion. When O'Reilly came to Louisiana in 1769 to establish Spanish rule, he had the leaders of the rebellion tried and six of them were condemned to death.

In spite of the attempt of a number of historians in recent times to exonerate O'Reilly for his treatment of the insurrectionists, one still hears him popularly referred to as "Bloody O'Reilly." In order to put the Spanish governor's actions in proper perspective, it would be appropriate to examine critically the attitudes of leading historians of Louisiana from the beginning of the nineteenth century to the present. These illustrate a variety
of views and interpretations: some indicate judgments based on obvious prejudice or lack of knowledge of sources; others adopt more lenient or vindicating positions.

As early as 1830 a bitter attack was made upon O'Reilly and upon Spanish justice by the French historian, Francois Barbé-Marbois. Referring to the governor, he wrote:

...The Spanish general, O'Reilly, replaced Don Antonio de Ulloa. ... O'Reilly was an enemy of reconciliatory measures, a warrior of reputation in his profession, and thought a colony might be governed even more despotically than a conquered country. The barbarian indulged in acts of violence and ferocity which he mistook for prudence and firmness, ... Scaffolds were erected in New Orleans. Six colonists paid by their heads for the courage with which they had manifested their attachment to France. The Court of Madrid secretly disapproved of these acts of outrage; but fearing to endanger the authority of its governors it abstained from condemning O'Reilly and even from disavowing him by an authentic act.¹

Barbé-Marbois either ignored or was unaware of certain vital documents covering the events that had occurred at New Orleans and at Madrid. That the French historian might have been misinformed concerning the most critical facts in the case is evident, as at least two readily discernible errors illustrate. First, his comments concerning a secret disapproval of O'Reilly's actions by Charles III and his court are without foundation. Neither Barbé-Marbois nor

anyone else has ever located any document proving this assertion. On the contrary, materials used by the California historian, David K. Bjork, in 1923, and the Spanish historian, Rodriguez-Casado, in 1942, are quoted in this study and show conclusively that the king and his advisors approved the general's actions in Louisiana. Second, Barbe-Marbois said that O'Reilly had 3,000 soldiers with him when he arrived in New Orleans in August of 1769. The records, however, clearly indicate that the exact number of men under the general's command was 2,056.2

A realistic explanation for this historian's attitude toward O'Reilly and the Spanish is Barbe-Marbois' sympathy for his fellow Frenchmen in Louisiana. Nevertheless, it is difficult to understand how he could accuse O'Reilly of barbarism when only six men were condemned to death for treason in an insurrection in which a large portion of the population of New Orleans and its environs was involved.

Another writer who attacked the Spanish general was Francois Xavier Martin, Chief Justice of the Louisiana Supreme Court in the early nineteenth century. He pronounced

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nearly as severe a judgment on O'Reilly as had Barbe-Marbois. Martin wrote:

...Posterity, the judge of men in power, will doom this act to public execration. No necessity demanded, no policy justified it. Ulloa's conduct provoked the measures to which the inhabitants resorted. During nearly two (sic) years he had haunted the province as a phantom of dubious authority. ... If the indiscretion of a few of them needed an apology, the common misfortune afforded it.3

His statement and others similar to it reflect an uncritical attitude. How can treason be called an act of "indiscretion"?

Even in the first part of the twentieth century, historians in Louisiana were still condemning O'Reilly. Alcée Fortier, a well known Louisiana historian, maintained that the general deserved the title, "Bloody O'Reilly," which had been given him by the people of Louisiana. Fortier accused the Spanish governor of violating King Charles' desire that clemency be accorded the rebels.4 He agreed with Martin that nothing could excuse the governor's "cruelty".5


As late as 1922, Henry Plauché Dart, a Louisiana attorney and legal historian, was continuing the myth of "Bloody O'Reilly." He went to the extreme of calling the governor the "hired executioner" of Charles III. Without offering proofs, he accused O'Reilly of having come to Louisiana with a predetermination to find the leaders of the rebellion guilty. A careful study of the general's correspondence with the Spanish Minister of State, the Marques de Grimaldi, and with El Baylio, Frey Don Julian de Arriaga, Secretary of State for the Indies, should have been made by Dart. Had he read O'Reilly's account of his meeting with the rebel leaders aboard the Spanish frigate Palas, and the account of the arrest and trial of the insurrectionists, he could not have drawn such conclusions.

Popular writers and authors of text books of Louisiana history were also infected by this anti-Spanish bias. Among the literary figures George Washington Cable is typical. In a work on the Creole families of Louisiana, he unquestioningly accepted the anti-Spanish interpretation. He stated that the sobriquet, "Cruel O'Reilly," was one merited by the Spanish governor, and he could find no excuse for the execution of the rebel leaders.

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7 George Washington Cable, The Creoles of Louisiana (New York, 1884), pp. 74-75.
Other writers who followed Cable's lead were John Ficklen and Grace E. King. In their collaborative work on Louisiana history, they espoused the "patriot-martyr" theme for the executed rebels. With pathos they wrote: "All the Creoles wept over the sad fate of the patriots, and prayed O'Reilly to spare their lives. But nothing could move him." And while they blamed the French commandant and acting governor, Charles Philippe Aubry, more than they did the Spanish general, still they most heartily condemned the latter for the "deceptive" manner in which he chose to arrest the rebel leaders when he called them to his residence. 8

Writing in the early twentieth century, Marc Villiers du Terrage, a French nobleman, condemned the Spanish system rather than O'Reilly. He considered the general a mere instrument of the Spanish empire. While admitting that the Spanish had the right to try the rebels, Terrage held that death for treason in this instance was cruel and the Spanish legal system ruthless. 9 If one accepts Terrage's thesis, then all nations are guilty of cruelty, for death is the normal penalty for treason.

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The most impartial view of the Spanish and of O'Reilly was made by Charles Etienne Gayarré, a nineteenth century Louisiana historian. Considering the events that occurred in New Orleans in 1769 in the light of the standards prevailing in all of the European nations at that time, he stated:

...To judge fairly of the feelings and ideas of these men, we must transport ourselves back to the days in which they lived; we must adopt the turn of mind which education, habits and associations had given them, and we must become impregnated with the political, social and moral atmosphere in which they had been born. ... It is not astonishing, therefore, that both Aubry and O'Reilly should have honestly thought that, to pick out of the rebellious colonists twelve leaders only, ... was an extremely merciful act. Besides, there is no doubt that O'Reilly was moved by considerations of policy; ... and above all it was expedient to set a salutary example before the other colonies... 10

These observations are notable for their fairness, and they stand out in near isolation in the midst of the bitter attacks on O'Reilly that lasted into the second quarter of the twentieth century. Unfortunately, since Gayarré was the grandson of O'Reilly's comptroller, this interpretation was dismissed as the product of pro-Spanish bias. Actually, Gayarré's work is based on a remarkably thorough study of documents from the Spanish archives.

By the mid-1920's, the historiographical attitude toward O'Reilly began to reverse itself. In 1925 the historian, Henry Edward Chambers, in his multi-volume work on

Louisiana, shifted the blame for the death of the "patriots" away from the Spanish governor and laid it on the shoulders of Aubry. He maintained that "O'Reilly came to the colony with a predetermined course of action laid out for him," and stated that the Spanish governor accepted as a matter of course the suppression of the rebellion and the punishment of its leaders. Chambers contended that O'Reilly was compelled by circumstances to make an example of the leaders of the insurrection, lest other Spanish colonials rebel. The bulk of the blame was laid upon Aubry. Chambers asserted that Aubry, in a calculated manner, had kept Ulloa and the colonial leaders from coming to terms, and that Aubry had inserted between them a "wedge of misunderstanding and mutual antagonism," thus causing the rebellion. He concluded that: "If the blood of the martyred Lafrénière and his companions calls aloud for vengeance, it is the shade (sic) of Aubry and not that of O'Reilly that must heed the call."\textsuperscript{11}

In the 1930's other historians continued the trend toward removing the blame from O'Reilly for his actions in punishing the rebel leaders. Another Louisiana historian, James E. Winston, who relied mostly on secondary materials supplemented by a few documents, attempted to prove that the Spanish general was not vindictive and that he had not violated the instructions of Charles III. Nevertheless, he

\textsuperscript{11}Henry Edward Chambers, \textit{A History of Louisiana} (3 vols.; New York, 1925), I, 291-292.
maintained that O'Reilly should have been more merciful, as no one had lost his life in the insurrection against Ulloa; he deplored the "inquisitorial" manner in which the trial was conducted, and he stated that the leaders were presumed guilty. He also asserted that force had been used in obtaining the confessions of the accused. Had he used all of the documents, Winston would have learned that neither of the two latter assertions was correct. Moreover, to call the Spanish trial procedures "inquisitorial" was to judge eighteenth century Spanish procedure by twentieth century American standards. This is righteous indignation, not historical analysis.

Writing in the early 1930's, David Knuth Bjork published a work on Spain in North America. In this volume he incorporated much of his doctoral dissertation on the early Spanish era in Louisiana. Through a careful examination of many documents he proved that the Spanish monarch approved of O'Reilly's actions in Louisiana, and that the general had indeed faithfully carried out the king's instructions.  


Another prominent historian of the Spanish colonial era in North America, John Walter Caughey, writing during the 1930's, agreed with Bjork's position. He asserted that O'Reilly had followed instructions, and that in judging his actions one must use eighteenth century Spanish norms, not the more "refined" ones of twentieth century America.  

In 1942 the Spanish historian, Vicente Rodriguez-Casado, carefully studied Spain's first years in Louisiana. It was his view that O'Reilly was acting in complete accord with the king's commands. He further noted the heavy emphasis placed on economic factors by the rebels themselves in their "Memorial" justifying the insurrection.  

In spite of the attempts of these scholars to put O'Reilly's administration of the colony and the trial and execution of the rebels in proper historical perspective, the myth of "Bloody O'Reilly" has not completely disappeared from general works still in use. As late as 1949, G. W. McGinty, in a text on Louisiana history, perpetuated the myth. He accused O'Reilly of a predetermination to make an example of the rebel leaders, and of deceit when, 

15 Vicente Rodriguez-Casado, Primeros años de dominación española en la Luisiana (Madrid, 1942), pp. 192-197.
without warning, according to him, O'Reilly arrested the leaders at his residence in New Orleans. In short, he merely repeated earlier attacks on the Spanish governor.

Fortunately, by 1960 the most widely used text in Louisiana history, that of Edwin A. Davis, reflected the revisionist interpretation of O'Reilly. This prominent Louisiana historian flatly rejected the "martyr-patriot" motif. He stressed, even more than Rodriguez-Casado, the economic issues that prompted the French planters and merchants of New Orleans to rebel against Ulloa. The "Memorial" issued by these merchants and inhabitants of New Orleans, as will be shown, certainly gives great substance to Davis' position. Moreover, Davis unqualifiedly asserts that O'Reilly was an honorable man who justly executed the leaders of a rebellion against legitimate Spanish authority.

In a new edition of Fortier's History of Louisiana, edited by Jo Ann Carrigan of Louisiana State University, a new analysis of Fortier's "principle and rights" theory is made. Dr. Carrigan notes that Fortier's assertion that the colonists loved both France and liberty seems to be a contradiction. However, the contradiction is only apparent, she asserts, for the colonists hoped to regain their former

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de facto independence of the years immediately preceding Ulloa's arrival by returning to the laissez-faire rule of France. The rebel leaders, she noted, had become free in practice, and exercised a self-rule similar to the British colonists in America. Just as the British Americans struck for their "rights" in 1776, so had the Louisiana rebels of 1768. They claimed they were fighting for their liberties, which they indeed had acquired through the neglect of the French government, especially during the Seven Years War. These "rights" had in effect become their "fundamental rights and liberties." This analysis seems to put Dr. Carrigan on the fringe of the revisionist school.18

In view of historians' diverse interpretations of O'Reilly's career in Louisiana, an impartial study of the man and his achievements is essential to an accurate and objective appraisal of his regime. This work does not propose to be another polemic. It is intended to provide a more detailed account of the Spanish governor's activities in the former French colony than is presently available. Moreover, greater use has been made of manuscript sources collected in the Spanish and American archives and libraries. It will be demonstrated that Governor O'Reilly had full power to act as he did, and that he was neither vindictive nor

deceitful in his handling of the rebels, having been instructed to establish Spanish power in Louisiana, and to punish those responsible for the expulsion of Governor Ulloa.

A considerable part of the dissertation will examine O'Reilly's policies, which were aimed at the creation of a sound foundation for Spanish rule. As will be shown, these policies laid the basis for an exemplary legal system and for the promotion of prosperity through commerce and agriculture. In these respects his influence in the colony was lasting.

Alejandro O'Reilly's contributions to the future of the former French colony evidence the conclusion that he was one of the most capable governors of Louisiana during the period of Spanish domination.
I

THE CESSION OF LOUISIANA TO SPAIN BY FRANCE, AND THE FIRST ATTEMPT BY THE SPANISH TO EFFECT OCCUPATION

During the course of the Seven Years War, the French Court resolved to rid itself of the vast colony of Louisiana. By 1761 it had become apparent that when peace came, France might lose to the British all of her possessions in North America. From an economic point of view, the loss of Louisiana would have been an asset. The colony had been a constant disappointment to the crown from the earliest days of settlement. Its costs had been excessive to Antoine Crozat who had been granted the concession to settle Louisiana in 1712. Consequent to his failure to regain his investment from Louisiana, he had successfully petitioned the king, in 1717, to revoke his concession. Later that year the notorious John Law received the Louisiana concession. He was soon bankrupt, as were many of his fellow investors, and although he was ousted in 1720, the company that he had organized controlled Louisiana until 1731. In that same year, Louisiana became a Crown colony; but the Louisiana venture was also an economic failure for the French king.

In spite of this failure from the economic standpoint, Louisiana had served the French for decades as a buffer to
English expansion across the North American continent below the Great Lakes. By 1761 it was almost a certainty that Canada would be demanded by England as the price for peace. This might lead to Britain's eventual absorption of Louisiana, and this would greatly enhance the power of the British Empire. The French Minister of State, the Duke of Choiseul, realized, therefore, that he must consider means of preventing this from occurring. The Marquis D'Ossun, the French ambassador to Spain, suggested to Choiseul that the French government might persuade some Canadians to migrate to Louisiana, thereby leaving England fewer people in Canada. However, a majority of these settlers preferred to remain in their secure homes rather than venture into a wilderness. This idea having failed, Choiseul then next proposed changing Louisiana's boundary so that it would include within its territory those parts of Canada most vital to the French fur trade.¹ This plan also proved unworkable.

The final phase of the discussion over the future of Louisiana evolved from another suggestion of the Marquis D'Ossun. He sent a communique to Choiseul telling him that Charles III of Spain was desirous of possessing that colony. Consequently, there began a series of negotiations with the Spanish in 1761 to effect the transfer of Louisiana to Spain. Affecting these negotiations was the Family Compact

between the French and Spanish Bourbons, signed on August 15, 1761. This compact, the work of Choiseul, was designed to provide a needed ally for France in her war with England. The French Minister of State offered Louisiana to Charles III provided he would make a much needed loan to the French and subsequently enter the war against England. In 1761 Charles refused to make the loan, as his bullion vessels had not arrived from America. Moreover, he flatly refused to enter the war before May of 1762. Hence, the proposed cession of Louisiana to Spain did not occur in 1761.

Meanwhile Spain had been offering to act as a peacemaker between France and England, thereby hoping to persuade the British to return Gibraltar and Minorca to her for this service. This gesture was refused by the English. In the interim, the Spanish had been giving open aid to the French, which led England to declare war on Spain on January 2, 1762. This immediately removed Louisiana from the diplomatic scene as an offering by the French to involve Spain in the war and its status was then even more uncertain.

In the course of the year 1762, the British overwhelmed the French and also began to inflict serious defeats on the Spanish in the colonial areas. By August, 1762, France was compelled to make peace overtures to Great Britain, but because of the Family Compact, she could not accept a peace without the consent of the Spanish. Delay was dangerous.
The French Ministry again offered Louisiana to the Spanish, but this time to end the war, not to enter it. Spanish misfortune came to the aid of the French, for on September 29, 1762, the fortress of Havana fell to the British. Since Britain had already occupied the Floridas to the Mississippi, the French offer of Louisiana to Charles seemed to provide the necessary protection for New Spain against English expansion. It was, in effect, the only plausible solution for Spain at the time. The Spanish Court did not consider the loss of the Floridas serious, and as Havana was to be returned by the British, the remaining problem of a buffer zone was resolved by the French cession of Louisiana to Spain. Consequently, the three nations signed a preliminary agreement that was ratified in the Treaty of Paris in 1763.²

The treaty of cession for the colony took place secretly. It was signed by Louis XV of France at Fontainebleau on November 23, 1762, and by the Spanish plenipotentiary, the Marquis of Grimaldi, ambassador to France, on November 25, 1762.³ By January of 1763, France had prepared a notice of the treaty for delivery to the colonists in Louisiana, but, upon the insistence of the Spanish Court, this was not then dispatched.


³Lyon, Louisiana in French Diplomacy, p. 39.
In May of 1763, the Duke of Choiseul urged the Spanish to take possession of their new territory. In spite of this suggestion and later ones, it was not until January of 1764 that the Spanish Court took any action. Moreover, it was not until April 21, 1764, after some unexplained delays by the French, that the documents of transfer were signed and delivered to the Spanish diplomats in Paris. On that same day, a letter was sent by the Duke of Choiseul to Director-General Abbadie of Louisiana, informing him and the colonists of the formal transfer of Louisiana to Spain.4

It is evident that both governments were responsible for delaying the actual transfer of the colony, but Spain found further cause for delaying the actual occupation. The Spanish felt that they needed a large contingent of troops to send to Louisiana to effect possession. At that time, most of the Spanish troops were deployed elsewhere as a part of the program of restoration of those fortifications that had suffered during the war that had just ended. Choiseul offered a solution to this problem by suggesting that the French soldiers in Louisiana could enlist in the Spanish army. This proved to be acceptable to the Spanish Court, and an apparent obstacle was removed.5

5Lyon, Louisiana in French Diplomacy, pp. 40-43.
The final step preparatory to occupation was taken in May, 1765, when Charles III appointed Don Antonio de Ulloa, Captain of the Royal Spanish Navy, the first Spanish governor of Louisiana.⁶

Ulloa was born on January 12, 1716, in Seville, the son of Bernardo de Ulloa y Sousa, an economist. Besides being a naval officer, Don Antonio was a well-known scientist who had made two extensive journeys in Spanish America. He had been a member of a scientific expedition sponsored by the French Academy of Science in the late 1730's and early 1740's. His role in that venture was published as A Voyage to South America. At the same time he was authorized, along with Jorge Juan y Santacilla, also a member of the expedition, to study the conditions that existed in the viceroyalty of Peru. The observations of these two men were reported to Philip V of Spain in a confidential paper in 1749, which was later published in 1826 as the Noticias Secretas de America.⁷ Later Ulloa served as the governor of Huancavelica in the viceroyalty of Peru from 1758 to 1764.⁸

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⁸John Preston Moore, "Antonio de Ulloa: A Profile of the First Spanish Governor of Louisiana," Louisiana History, VIII, No. 3 (Summer, 1967), 196.

After Ulloa's service as governor of Louisiana, he was again called to duty in the Royal Navy. In 1777-78, he had
In the meantime the colonists of Louisiana had learned in October of 1764 of the cession of that area to Spain. Prominent men in the colony called for a meeting of the Superior Council of the colony, to discuss this event. Among those present at this meeting were Nicholas Chauvin de Lafrénière, Procurator General (Attorney General) of the colony, and Jean Milhet, one of the richest merchants in New Orleans. Lafrénière suggested that a delegation be sent to France to petition Louis XV to revoke the cession. The Superior Council agreed with Lafrénière, selecting Jean Milhet to carry the petition to Louis XV. Upon his arrival in France, Milhet sought out the father of Louisiana, Jean Baptiste Le Moyne, Sieur de Bienville. By his good graces, an audience was secured with the Duke of Choiseul. Although Choiseul intimated his understanding of the feelings of the French of New Orleans, nonetheless he told the delegates that the cession of the colony was a fait accompli. After

the responsibility for the direction of the flota, or fleet, to New Spain which brought back to Spain one of the richest cargoes of the eighteenth century. For his lack of success in commanding his squadron in 1779 against the British, he was court-martialed but was acquitted. He served in the Navy for the remaining years of his life as a vice-admiral (teniente general de la armada). He died on July 5, 1795, at the age of 79. Whitaker, "Antonio de Ulloa," Hispanic American Historical Review (May, 1935), pp. 186-188.

The Superior Council was a governmental organ in New Orleans having judicial and legislative powers. It resembled the Spanish Cabildo, but was much more powerful. Its members were appointed by the French king from among the influential planters and merchants of the New Orleans area.
considerable delay in France, Milhet finally returned to Louisiana in 1767 to report the sad news of his failure to his fellow colonists.¹⁰

While Milhet was away on his journey, further delays by Spain in taking possession of Louisiana gave some of the inhabitants of that colony ample time to imagine the worst at the hands of their new rulers. They feared that the arrival of the Spanish would mean the end of their freedom which had increased progressively during the long years of their isolation. France, moreover, had never exerted a strict control over Louisiana and had, by necessity, been extremely lax during the Seven Years War. Unfortunately, the colonists did not know the ultimate intentions of the Spanish monarch in their regard, for their new governor had been instructed to leave, for the time being, their local customs and institutions as undisturbed as possible, consonant with Spanish sovereignty. Governor Ulloa had been given the following orders by Charles III:

... I have decided that in this new acquisition, for the present, no change in the system of government shall be undertaken, and consequently, that in no way shall it be subject to the laws and practices observed in my dominion of the Indies, but that it shall be regarded as a separate colony, even with respect to all trade between them. It is my will that, ... everything

pertaining to it shall go through the Ministry of State, ... 11

These instructions had come to Ulloa in Havana, where he awaited his new assignment from the king. He had come to Havana in February, 1765, arriving there from Callao, Peru. His term as governor of Huancavelica, from 1758 to 1764, had not been successful. Due to powerful interest groups, among which were the Viceroy of Peru and the members of the Audiencia of Peru, he had failed to achieve his goal in Peru, which was the revitalization of its silver mining. 12

Further preparations for the occupation of Louisiana continued during 1765. Subsequent to receiving the royal Cedula appointing him governor, Ulloa was advised by the Marques de Grimaldi, Spanish Minister of State, that the commander of the frigate, La Liebre, would be at his service and would meet him in Havana. 13 The captain of that frigate had been ordered to accompany the new governor of Louisiana and to remain there as long as Ulloa required the services of the frigate. Moreover, the captain carried

11 Cedula of Ulloa's Appointment as Governor of Louisiana, Aranjuez, May 21, 1765, A.G.I.S.D., Legajo 2543, L.C., p. 3.
13 Ulloa sailed on the Volante, a smaller vessel, as he feared the frigate, La Liebre, might be too large to safely negotiate the passage at the mouth of the Mississippi. Ibid.
with him further instructions for Ulloa from the king, informing the newly appointed governor of the procedures to be followed in taking possession of Louisiana.\textsuperscript{14}

After receiving his appointment as governor of Louisiana, Ulloa took steps to carry out his new assignment. In July, 1765, he wrote to the Superior Council of New Orleans, notifying them of his appointment as governor.\textsuperscript{15} He then made preparations for his journey to New Orleans. However, it was not until January 17 of the following year that he, his officials, and his small military contingent set sail.

The Spaniards arrived in New Orleans on March 5, where Ulloa was greeted by the French commandant and acting-governor, Charles Philippe Aubry. Aubry had succeeded Director-General Abbadie, who had died suddenly on February 4, 1765.\textsuperscript{16} Through Aubry, as a result of circumstances unforeseen by the Spanish Court, Ulloa governed Louisiana during his entire stay in the colony.

Among the many difficulties facing the new governor was the shortage of troops. From the time of his arrival

\textsuperscript{14}Grimaldi to Ulloa, Madrid, July 3, 1765, Archivo General de Indias, Papeles de Cuba (hereinafter cited as A.G.I.P.C.), Legajo 174, Doc. 185, in Kinnaird, Spain in the Mississippi Valley, pp. 2-3.

\textsuperscript{15}Gayarré, History of Louisiana, II, 130.

\textsuperscript{16}Lyon, Louisiana in French Diplomacy, p. 44, citing Archivo Histórico Nacional (hereinafter cited as A.H.N.), Papeles de Estado, 3883, Exp. 3, Doc. 7, Fol. 631.
in Louisiana, until he unceremoniously departed in October of 1768, this problem plagued Ulloa. He had brought with him about ninety Spanish soldiers, anticipating many enlistments among the French troops yet stationed in Louisiana. Contrary to Choiseul's and Ulloa's hopes, these enlistments did not materialize. This was due in part, however, to the interpretation which Ulloa decided to place upon his orders to pay the Spanish and the French soldiers equally. He adapted the pay scale to the French regulations which called for seven livres per month. The Spanish scale was 35 livres per month, and had Ulloa used this scale he might well have recruited enough volunteers. In a letter of May 24, 1766, this matter was corrected. In the king's name, the Marques de Grimaldi granted Ulloa permission to pay all Louisiana troops according to the higher Spanish rate for troops serving in the Indies.17

Unfortunately, this change came too late to help Ulloa. He noted in a communique to Antonio Bucareli, Captain-General and Governor of Cuba, that despite the higher wages the French regulars by that time were unwilling to enlist in the Spanish army. With more liberality Ulloa might have solved his troop problem from the beginning. Ulloa further

noted that, in order to carry out his instructions in Louisiana, and to be an effective governor, "... there is no other recourse than to bring the troops from Spain." Notwithstanding this initial misjudgment, Ulloa realized, and stated, the positive need for a large Spanish contingent to control the colony effectively.

In retrospect it is clear that the absence of a powerful military force was the key factor in making a rebellion possible in Louisiana. Not only did Ulloa see the need for this force, but Charles Aubry felt that without it he could not formally transfer the colony to Ulloa at the capital city of New Orleans. It was Aubry's influence that convinced Ulloa not to attempt to take formal possession there.19

Also of considerable importance in setting the stage for the rebellion against Ulloa was the decision of the Spanish Court to enforce certain typical Spanish mercantile restrictions on the trade of the Louisianians. One of these decrees, dated May 6, 1766, was promulgated in New Orleans for Ulloa by Aubry on September 6, 1766. It restricted the

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19Gayarré's analysis seems to be correct when he says that Aubry used this argument with Ulloa to delay the transfere. Cf. Gayarré, History of Louisiana, II, 162. See also, B.F. French (ed.), Historical Memoirs of Louisiana (5 vols.; New York, 1846-1853), V, 158.
commerce of Louisiana to only a few Spanish colonies and the mother country, while prohibiting foreign trade except with the islands of Martinique and St. Domingue, and with France. Regulations against smuggling were to be enforced, and all cargo lists had to have Ulloa's approval. The governor controlled the prices of all imported or exported goods, and the papers of all vessels sailing from France to Louisiana came under his supervision. Due to the unpopularity of these restrictions, Aubry, under pressure of the Superior Council, did not enforce the decree. In this decision Ulloa acquiesced. Although the decree was unpopular, it was certainly not illegal as Fortier claimed.20

The mercantile decree of March 23, 1768, was similar to that of May 6, 1766. It limited the shipment of goods to the colonists themselves. Only specified ports in Spain, such as Cadiz and Seville, were open to trade with Louisiana and a few items were duty free. Commodities from Louisiana which could not be sold in Spain could be shipped, duty free, to other countries in Europe for sale. Finally, only goods produced in Louisiana were to be exported from that colony.21 This decree, as well as the earlier one, was no

20Rodriguez-Casado, Primeros años de dominación española, p. 120; Gayarre, History of Louisiana, II, 168-171; Fortier, History of Louisiana, I, 160, 161, 170.

Commercial Decree of March 23, 1768, El Pardo, in Kinnaird, Spain in the Mississippi Valley, pp. 45-50.
more restrictive than the average Spanish mercantile decree. Nevertheless, the French colonists of Louisiana, as the British colonists in North America, had long been free, in practice, of most mercantile restrictions and consequently were unwilling to submit to these relatively mild ones. Due to the resistance of the colonists, this decree, like the earlier one, was never enforced.

The handling of the retirement of paper issues in Louisiana proved to be another cross for Ulloa to bear. Upon the Spanish governor's arrival, he was asked by Nicholas Foucault, the French Commissary, to indicate his intentions in regard to the paper issues then outstanding. Ulloa offered to redeem this paper at 75 percent of its value, since that was the ratio established by Louis XV. However, the colonists refused to accept this as a compromise, insisting that had the colony not been transferred the French king would have redeemed the currency at par. However, the history of the paper issues of the colony did not justify their claim.22

Another source of concern for Ulloa was the lack of sufficient funds to run the colony. The original yearly allotment made by the Spanish government for Louisiana was 150,000 pesos, which was to come from the treasury of New Spain. Unfortunately, this amount was inadequate. Ulloa's

22Gayarré, History of Louisiana, II, 159-160.
letters to Bucareli are a litany of pleas for funds, and this situation continued until the governor was forced out of the colony. As early as May of 1766, in recording the tour of the posts of the colony, Ulloa mentioned sending his treasurer, Don Martin Navarro, to Balize to meet the Spanish frigate carrying 110,000 of the 150,000 pesos due the Louisiana treasury.23

On December 12, 1766, Ulloa asked Bucareli for additional funds to maintain the Spanish establishment in Louisiana. By January 23, 1767, he had sounded a note of urgency in a communique to Bucareli. Ulloa noted that since June of 1766 the Colony had relied solely on Spanish gold and silver for its currency, as faith had been lost in the French and Spanish paper issues. The amount allotted to him for the running of the colony had proved to be far short of what was needed. Moreover, he lacked ample funds even to meet the basic military and civilian necessities.24

It was not long before Ulloa was again pleading for


money to finance the administration of the colony. In a letter of March 3, 1767, he made known his need for an additional forty to fifty thousand pesos to meet current and emergency expenditures; and at the same time he gave his first indication that seditious activities were being carried on in the colony. His belief was that this unrest was aided by the impoverishment of the newly established government. To avoid giving these groups any cause for complaint, he urged, in a letter to Bucareli, the immediate dispatch of funds:

... In view of this and also of the fact that here everything causes revolts and seditions, I should thank Your Lordship, if your circumstances permit, please to order that I be sent promptly 40,000 or 50,000 pesos for account of the allotment.25

As a result of such repeated petitions, the Spanish Court finally realized that the 150,000 pesos allocated for Louisiana's yearly expenses would have to be augmented with further funds. In May, 1767, the king decreed that 250,000 pesos should be allotted to the Louisiana treasury each year.26 However, as a shortage of silver existed at that time in New Spain, the source of Louisiana's funds, the additional money did not arrive when due.27 This was a situation for which


26Grimaldi to Arriaga, Aranjuez, May 13, 1767, A.G.I. S.D., 86-6-6, ibid., p. 28.

27New Spain, Ulloa's source of funds, was undergoing financial reorganization by the new Viceroy, Jose de Galvez. Collection of revenue was temporarily suspended during this time. Consequently, the funds for Ulloa were not available. Cf. Moore, "Antonio de Ulloa," Louisiana History, VIII, No. 3, p. 217.
Ulloa could not be blamed, but which, nonetheless caused additional difficulties in a colony where problems were already serious.

In the summer of 1767, financial matters in the colony reached a critical state. Writing on June 17, 1767, from Balize, Ulloa informed Bucareli that both the French and the Spanish commissariats in Louisiana had suspended all payments, as he simply had no funds. In addition, he noted: "... This results not only in seditious and insolent rumors, but also very extravagant threats. ...I cannot exaggerate to Your Lordship the peril in which the colony finds itself, nor the importance of some aid to fulfill the most urgent requirements and to quiet the disturbances that are being experienced. ..." But the new allotment of 250,000 pesos was by no means forthcoming as promised. Although an additional 60,000 pesos had been transported to Louisiana on the frigate, San Juan Bautista, the creditors of the Spanish government had not been paid in full. Furthermore, Ulloa needed money to pay the troops which he thought would arrive soon from Spain. Finally, he pleaded: "... For this reason I hope that Your Lordship will please order that there be no delay in remitting the funds to complete the allotment.

when the Viceroy of Mexico has had them sent to your city, as he promised."\textsuperscript{29}

By December of 1767, the finances of the colony had further deteriorated. It is to Ulloa's credit that he was able to carry on as long as he did without proper funds. Two letters to the governor of Havana bear eloquent testimony to the approaching financial crisis. Ulloa noted that prices had risen for the colonists who bought their goods on credit. Those dependent upon the Spanish government for their salaries and payments were suffering considerable hardship, as often they could not even buy on credit. Confidence in the Spanish colonial government had deteriorated to this extent. Ulloa's own words are fully expressive of the danger:

\begin{quote}
... Everybody is without pay; troops, officials, officers, and purveyors. In the hope that the balance of the allotment would be received during the month just ending, the people have been suffering their want in patience; but now that they have seen the contrary come to pass, it is inevitable that this will result in some very serious disaster, for the reason that, as I have told Your Lordship, there is no place here to turn for aid.\textsuperscript{30}
\end{quote}

These letters indicate the almost universally unfavorable reception now accorded the Spanish, as Fortier noted.\textsuperscript{31} It is

\begin{footnotes}
\item[31]Fortier, A History of Louisiana, I, 159-163.
\end{footnotes}
difficult to imagine how Ulloa's warnings could have been virtually disregarded by the Court at Madrid, until it was too late to help him.

By February, 1768, the situation had not improved. The distressed Ulloa again pleaded for the allocated funds:

My Very Dear Sir:

Having described to Your Excellency on previous occasions the miserable and critical state in which this colony finds itself through lack of funds, I have nothing more to add, because the longer the delay the more the want and troubles increase. ... One of the suppliers of flour, Moore of New York, among others, ... has asked me on two or three occasions with great urgency to permit him to go to collect this in that city (Havana).32

It is apparent that Ulloa was under heavy pressure from the colonists and did not command their respect. Clearly, any government that is unable to satisfy the basic needs of its citizens cannot long survive.

The climax of these financial difficulties was reached in June, 1768. At that time, Ulloa gave clear notice to Bucareli of the dangers involved in attempting to govern a colony with such a small amount of money. Debts against the government were steadily accumulating, and no sign of improvement was in sight. Ulloa had no doubt of the consequences if such a pattern continued. At the time of writing this letter, 140,000 pesos from the 1767 allotment were still

due. There was no silver in circulation, and it had been the only liquid money since 1767. Under those circumstances, legal proceedings against debtors in the colony were suspended. The calamity which resulted from this intolerable situation was predicted by Ulloa:

Such a situation is the more difficult and its consequences much more serious in a new dominion, as is this one where, at the same time a new sovereignty begins, want makes itself felt. Furthermore, little attention is paid to it. For these reasons, it is inevitable that the new subjects and those that supply the necessities of life should make most dire predictions for the future, because, as their fealty has not become deep-rooted nor their confidence been won, distrust cannot fail to be widespread, and it reveals itself automatically.33

In October, 1768, as a final attempt to resolve the financial problems of the colony, Ulloa pointed out to the Minister of State, the Marques de Grimaldi, that conditions in Louisiana had become intolerable because of money shortages. The governor confessed that he realized that the failure of his allotment to arrive was due to the general shortage of funds in New Spain. Nonetheless, this knowledge did not help Ulloa in his desperate plight. Consequently, in order to reduce his own expenditures to the minimum, he suggested a reduction in the forts defending the colony. Since the English had abandoned some of their posts adjacent to Spanish Louisiana, he felt he could safely evacuate the Spanish posts

across from these areas. His enforced departure from the colony prevented the implementation of the plan.

In summary, then, there were two main issues: a shortage of adequate money to run the colony, and too small a military force to enable Ulloa to assert his authority. The result was that the first Spanish governor of Louisiana was brought into conflict with the powerful Superior Council. This clash focused on the legitimacy of Spanish authority and upon which agency was to exercise power in the colony—the governor or the Superior Council. The Council had long been powerful and was reluctant to give up its position in the governmental affairs of Louisiana.

The struggle between Ulloa and the Council had begun almost immediately upon his arrival in the colony. Upon Aubry's advice, the Spanish governor had refused to present his credentials to the Superior Council when the latter demanded to see them. Moreover, Ulloa had not taken formal possession of Louisiana at the capital city of New Orleans as the Council had reasonably expected. Instead, it was at the French fortress of Balize, near the mouth of the Mississippi, that the act of transfer had occurred and the Spanish flag was raised. No member of the Superior Council was present at this ceremony. Nonetheless, the document of transfer was

34Ulloa to Grimaldi, New Orleans, October 6, 1768, A.G.I.S.D., 86-6-6, ibid., pp. 75-76.
signed on that occasion by the Acting-Governor, Charles Philippe Aubry, the only official who had the power to turn the colony over to Ulloa. The wording of this document clearly shows that in Aubry's mind there was no doubt to whom the colony belonged, nor that the transfer had been legally made. It stated in part:

Don Antonio de Ulloa, charged by His Catholic Majesty with taking the possession and government of the province of Louisiana, ... to execute the orders of the King, his master, ... I order, ... that he be given possession of the post of Balize and that the flag of His Majesty the King of France, my master, be struck and that of His Majesty the King of Spain be raised in its place....

Balize, 20 January 1767
Aubry (signature)

It is true, as Gayarré asserts, that Aubry opposed the choice of Balize as the site of transfer. Yet, as unimportant as was that post, the document clearly proves that the transfer was made one year and nine months prior to the rebellion. Fortier's assertion that the colonists were justified in not acknowledging Louisiana as a Spanish possession is invalid in the face of this document signed by Aubry.

35 Aubry's Order, Balize, January 20, 1767, A.H.N., Sección Consejo de Indias, Legajo 20,854, Foxas 296, cited by Rodriguez-Casado, Primeros años de dominación española, pp. 176-177. This document signed by Aubry, in which he recognized Ulloa's legitimacy, clearly refutes any claim he is alleged to have made to the Superior Council on October 28, 1768, that he had never seen anything decisive concerning Ulloa's governing powers for the colony. Gayarré attributes this statement to Aubry. Cf. Gayarré, History of Louisiana, II, 193.

36 Gayarré, History of Louisiana, II, 174-175.
the only French officer in the colony empowered to make the transfer. Moreover, Fortier claims that the ceremony at Balize was only a flag-raising ceremony. The wording of the document referring to Ulloa's commission to take possession of Louisiana and its government in the name of the Spanish king completely refutes Fortier's statement. 37

Ulloa chose Balize for the transfer because Aubry had advised him that no formal transfer could take place at New Orleans without a large Spanish contingent. The French official felt that disturbances would occur in the capital city if the Spanish did not have a show of force at the time of the act of possession. Until the Spanish flag had been raised at that city, actual control of the colony was tenuous. Even the Spanish Minister of State realized this, for in a letter to Ulloa, written not long after the Balize transfer, he stated: "... when possession of the said colony has been taken, this gentleman (Aubry) shall be given a present of 3,000 pesos fuertes, so that he may arrange for his voyage to France." 38 Thus, although the Marques de Grimaldi knew that Louisiana was in law and in fact Spanish, he realized that complete control of the colony could exist


38Grimaldi to Ulloa, Aranjuez, June 20, 1768, A.G.I. P.C., Legajo 174, in Kinnaird, Spain in the Mississippi Valley, p. 50.
only when the Spanish flag flew over New Orleans. In consequence, it seems just to assert that the Spanish Court must take the brunt of the responsibility for Ulloa's failure to take possession of Louisiana. The governor had often informed the Minister of State and the Captain General of Cuba of his shortage of money and troops. There was little else Ulloa could have done under the circumstances, since all appropriations and troop movements were centrally controlled.

The status of the colony, however, was never legally in doubt after 1764. The Treaty of Fontainebleau was valid. The act of transfer at Balize was sufficient to effect the change in government in Louisiana itself. All of the colonists had the opportunity of knowing of the general terms of the treaty; Director-General D'Abbadie had been informed of the Treaty of Fontainebleau in a letter, dated April 21, 1764, from the Duke of Choiseul, the French Minister of State. Furthermore, Jean Milhet had returned to the colony in 1767, after his interview with Choiseul, and had informed the Superior Council and the other interested colonists that Louisiana had indeed become a part of the Spanish Empire. His long delay, however, did feed the hopes of the colonists that perhaps Louisiana might again become French. The disappointment his news brought, consequently, was all the more bitter. Nonetheless, it is incontrovertible that Ulloa was accepted by the colonists as the de jure and de facto governor.

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He and the Spanish troops were accepted, although half-heartedly. In addition, Spanish money was the basic currency, and only Spanish passports were acceptable. No further proofs need be offered that the colony was, and was known to be, Spanish.

To the unusual circumstances of effecting the transfer at Balize and Ulloa's refusal to act independently of Aubry in the New Orleans area, was added the personal antagonism of the colonists toward the Spanish official. He had been married by proxy to a Peruvian lady, the Marchioness d'Abrado, whose arrival he awaited at Balize from September, 1766, to March, 1767. When he returned to New Orleans with his new bride, no festivities were held for the city's social elite to honor the occasion. Certainly the socially sensitive Creoles could interpret this as an affront to themselves. Yet, there is no evidence offered that Ulloa intended to be discourteous. It seems that he felt that any other course of action at the time would be inopportune, as he had not taken formal possession of the colony at New Orleans. He was a naturally retiring man, which may help to explain the incident.  

The rebellion, to a degree anticipated by Ulloa, occurred late in October of 1768. The early stages of the uprising are fully described by the governor in a letter of October 26, 1768, to Grimaldi:

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Most Excellent Sir:

My Very Dear Sir: Yesterday, the 25th, at eleven o'clock Senor Maxent came to inform me of what had been learned about the present disturbances, and a little later the engineer, Don Ypolito Amelot, brought me the same information. This leaves no doubt that there is already a conspiracy of the whole colony to refuse submission to the dominion of His Majesty.

Their plan is to present a manifesto full of complaints against me, because it is necessary to have some pretext to excuse their report to the council.... The conspirators will ask, ..., that the council intimate to me that I should depart from the province, .... In order to make it appear that they are forcing the council to accede to this decision, they have drawn up a memorial...

...we learned that next Friday the city will be full of people, the Germans and the Acadians coming to it, together with the people here, armed to carry out the coup.

When the French governor tried to persuade the attorney general (Lafrénière) to exert himself to put down this uprising, the latter replied that he could not do so,...

The French governor is of the opinion that this uprising has been plotted among Lafrénière, Comisario Foucault, and Noyan, the son-in-law of the former,...

...I have given Your Excellency this long account before the trouble breaks out....

New Orleans, October 26, 1768.
Don Antonio de Ulloa.

Obviously the full extent of the disturbances then occurring in New Orleans and its environs was understood by Ulloa. Both he and Aubry knew the plans of the conspirators

41Gilbert Antoine de St. Maxent was a rich planter sympathetic to the Spanish. He had given 1500 pesos to Ulloa's government to pay the Germans for the food supplies bought on credit. Cf. Rodriguez-Casado, Primeros años de dominación española, p. 154.

42Ulloa to Grimaldi, New Orleans, October 26, 1768, A.G.I.S.D., 86-6-6, in Kinnaird, Spain in the Mississippi Valley, pp. 77-81.
and the names of the leaders before the insurrection materia­
alized. The testimony of these two men was of invaluable aid
to the prosecuting attorney who tried the leaders of the con­
spiracy and rebellion.

As foreseen by the Spanish governor, a meeting of the
Superior Council took place on October 28, 1768, to discuss
the legitimacy and the conduct of Ulloa and the Spanish re­
gime he headed. At that meeting Chauvin de Lafrénière, the
attorney general of the colony, in the most violent terms
urged the acceptance of a petition which he alleged the col­
onists had drawn up and given him to present to the Superior
Council. This petition demanded that Ulloa either present
his credentials to the Superior Council or face banishment
as a disturber of the peace. Moreover, it insisted that all
of the former privileges of the colonists be restored by
Ulloa's government, and that free trade be allowed. At the
urging of Lafrénière, the Council accepted the petition in
its entirety. Ulloa refused to submit to these demands, since
he considered himself the legal governor and did not recognize
the Superior Council as having any prerogatives. Thus, an
impasse was reached.

Soon after these demands had been rejected, armed bands,
among whom were the Acadians and Germans from the coastal re­
gions near New Orleans, arrived in the city. These groups
were led by Joseph Villeré, Captain of the militia of the
German Coast, and by Jean Baptiste Noyan, Captain réformé of the
French cavalry. Aubry, fearing for Ulloa's safety, convinced the Spanish governor that, as there was no adequate force to provide protection for the governor and his family, they should take refuge aboard the Spanish frigate, the Volante, anchored in the New Orleans harbor. Meanwhile, Aubry did what he could to insure Ulloa's safety. The Spanish garrison, assisted by the French commandant and his regulars, put up a show of resistance, and the French commandant tried to calm the rebels. With Ulloa ousted, the leaders, who apparently had achieved their goal, accepted Aubry's suggestions. Ulloa, sensing his precarious situation, decided on November 1, 1768, to sail for Havana.\(^43\) Seemingly, the insurrection had succeeded.\(^44\)

Once in Havana, it was clear to Ulloa that to return to Louisiana under the existing circumstances was impossible. He informed his superiors in a letter of December 8, 1768, that due to the extraordinary uprising in New Orleans, his orders could not be carried out. These instructions had presupposed the loyalty of the people of the colony to the Spanish king. Recent events, Ulloa noted, had clearly demon-

\(^{43}\)In the meantime Ulloa had transferred to a French vessel, Le Caesar, for the trip to Havana, as the Volante was in need of repairs. (Cf. Gayarré, *A History of Louisiana*, II, 212; Rodriguez-Casado, *Primeros años de dominación española*, p. 172.)

strated that no such loyalty existed. 45

Three of the Spanish officials in Ulloa's government were compelled to remain in New Orleans by the rebel leaders. Don Esteban Gayarre, the chief auditor, Don Martín Narvarro, the treasurer, and Don Jose de Loyola, commissioner of war and the military intendant under Ulloa, were held by the rebels as surety for the 100,000 pesos owed to the inhabitants of Louisiana by the Spanish government. Besides these three men, there were only a few Spanish troops scattered throughout the colony. Anti-Spanish feeling continued in Louisiana well into the following year. It reached a new peak in April when the Volante was forced to sail for Havana. Jose de Loyola, in a communiqué to Bucareli on April 20, 1769, reported that the spirit of rebellion had not in the lease diminished. 46

Soon after Ulloa's departure, Pierre Marquis, a Swiss by birth, and the elected colonel-general of the colony's militia, began to spread ideas looking to the founding of a republic in Louisiana. This action would have required the expulsion of Aubry and his troops. However, the colonists had maintained in their "Memorial" that they were loyal to


46 Loyola to Bucareli, New Orleans, April 20, 1769, A.G.I.S.D., 80-1-7, ibid., p. 84.
the French King. Most of the leaders of the movement opposed the establishment of a republic. Consequently, a "Memorial Against the Republic" was soon drafted and circulated among the inhabitants of the New Orleans area. A probable cause for their opposition to a republic was the certainty that neither Spain nor France would have tolerated its existence, lest other colonies attempt the same course. Too, they must have realized that Louisiana had neither a sufficient population nor a strong enough economy to sustain itself as an independent state. They had enjoyed considerable freedom under French rule, and doubtless the overwhelming majority of them wished to return to their previous status. These realities, then, dealt a death blow to the Quixotic ideas of a republic. In a short time, Aubry, Foucault, and the Superior Council were again in complete control of the colony.47

The next step the colonists took to consolidate their position was to draw up a "Representation to Louis XV." This document was drafted by the Superior Council on November 12, 1768, and contained protestations of Loyalty to France. It was carried to France by Ensign Bienville de Noyan, a nephew of Sieur de Bienville, by M. Saint Lette, who replaced Jean Milhet as an emissary, and by M. Lessassier.

Charles Aubry, who had resisted the rebellion from its inception, sent M. LaPeyiere to France to represent his position. From that moment on, the colonists could do little but await the reactions of the French and Spanish courts to the rebellion and the "Representation".

The attitude of the French government to the uprising was at first uncertain. One French author, Pierre Boulle, suggests that the French ministry, after hearing of the rebellion, considered proposing to Spain that the Louisianians be permitted to establish a republic under the joint protection of France and Spain. The Comte de Chalet, French ambassador to England, is supposed to have recommended this plan to the Duke of Choiseul. The Count D'Estaing is alleged to have further promoted this suggestion. He felt that in this way both Spain and France would be rid of the burden of supporting and constantly defending the colony, and yet it would still serve as a buffer to English expansion.

Choiseul, however, rejected these recommendations, stating that the plan would be too difficult to execute. Boulle suggests that the Duke did not wish to offend the Spanish Court, which had meanwhile decided to re-establish Spanish

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48 Rodríguez-Casado, Primeros años de dominación española, pp. 218-220; Fortier, A History of Louisiana, I, 169.

rule in Louisiana by dispatching General O'Reilly to Louisi­
a with a large force. He also suggests that Choiseul and
other members of the French Ministry hoped some day to have
Spain return Louisiana to France.50

Spain, for its part, could have taken the easy course
and abandoned this costly colony by returning it to France
as the rebels desired. However, the ministry realized that
it was a good buffer against English expansion toward New
Spain. Furthermore, they believed it might be unwise to
let the rebellion succeed in one colony, thereby setting a
bad example for other disaffected areas in the Spanish em-
pire. It was clear to the king and the Council of the In-
dies that Spanish control would have to be imposed upon
Louisiana.51

After several meetings of the Council of the Indies, a
decision was made to put down the rebellion. The views of
the Council, in which the king acquiesced, were well ex-
pressed by the Duke of Alba at a session on March 25, 1769.
Repression was necessary, he declared, in order to impress
upon the world, but especially upon the American colonists,
the power and prestige of Charles III.52 The stage was set.

50Ibid., pp. 149, 150, 152, 153, 156, 157.
51Gayarré, History of Louisiana, II, 347.
52Rodriguez-Casado, Primeros años de dominación españo-
la, p. 291; Gayarré, History of Louisiana, II, 250.
It was only a matter of time before the Spanish Court took the steps necessary to bring the rebellious colonists effectively under Spanish rule.

In assessing the true nature of the rebellion, one fundamental problem still needs to be resolved. What were the motives behind the insurrection? The explanation given by Ulloa and Aubry is essentially economic and political. The French and Spanish governors agreed that the rebels felt that Ulloa had to be expelled so that the trade restrictions which threatened them could be removed, and so that the Superior Council could continue to be the chief governing body in the colony. From the beginning of Ulloa's governorship, the merchants and the people wanted to continue the free trade that they had come to enjoy under the lax rule of France. Chauvin de Lafrénière, the attorney general, and Nicholas Foucault, the French commissary, had encouraged these sentiments among the rebels.53

Another explanation for the insurrection is offered by a well known twentieth-century Spanish scholar, Vicente Rodríguez-Casado. He discounts the assertions made by the nineteenth-century French historian, François Barbé-Marbois, who held that Ulloa was an absent-minded intellectual who

was incapable of attending to normal administrative affairs. Instead, Rodriguez-Casado portrays Ulloa as a man faced with the task of imposing strict control on a colony which had for many years been free of nearly all restraint. He had been sent to Louisiana by a ministry that was almost totally ignorant of the political situation that existed in Louisiana. Coupled with a lack of money and a shortage of troops, Ulloa had as an advisor an irresolute man (Aubry) who catered to public opinion. In the last analysis, according to this scholar, the major cause of the rebellion was the existence in Louisiana of a libertarian, anti-clerical philosophy, widespread in France and in her possessions at that time. It was a philosophy that understood human liberty as a right which had no restraints placed upon it except those inherent in man's nature. In this philosophy the laws of God had no place. It was, in effect, a philosophy which held up man as the supreme standard of morality and law. This concept of human nature was quite obviously alien to that of the Spanish, who held that the king, under God, determined the extent of human liberty in society.\textsuperscript{54}

Professor John Preston Moore, a scholar in the field of Spanish colonial history, cites a number of valid reasons to account for Ulloa's failure in Louisiana. Ulloa's own

\footnote{Rodriguez-Casado, \textit{Primeros años de dominación española}, pp. 176, 177, 179, 201.}
person and personality were, in Professor Moore's view, a hindrance. The Spanish governor was of medium stature, with stooped shoulders and pale cheeks. He was tactless, highly sensitive to criticism, and so retiring and unsociable that he antagonized the socially-minded Creoles of New Orleans. Professor Moore noted that he failed to realize how attached to France the colonists were and, perhaps most damagingly, lacked the quality of "authentic leadership." In addition to these personal defects, he was simply unfortunate in being short of both troops and money and was compelled to promulgate two unpopular restrictive mercantile decrees.55

Needless to say, the rebels gave their own reasons for ousting Ulloa. Through their leaders they maintained that Ulloa, without showing any credentials to the Superior Council, had assumed gubernatorial powers and had issued at his own discretion the "oppressive" mercantile decree of September, 1766. They claimed that their products would not be saleable in Spanish ports on a competitive basis. They contended that they had been promised uninterrupted commercial advantages for ten years; but Ulloa's decree of September, 1766, had taken away these privileges.56


56Fortier, A History of Louisiana, I, 185, 187, 196, "Memorial." It is interesting to note that the "Memorial" itself, which emphasizes economic motives so much,
Besides the heavy stress placed on the economic reasons for the rebellion, the insurrectionists stated that Louisiana would be more useful to Spain if France owned it. They said that France had kept the Indians loyal, but Ulloa and his men had alienated them. Furthermore, they accused the Spanish governor of violating the marriage decrees of the Council of Trent by permitting intermarriage between a Spaniard and a Negress without the priest's consent. Finally, they professed to offer no offense to the Spanish Court when they affirmed their loyalty to France and their desire to be subjects of Louis XV again.57

Perhaps all of these explanations have some validity. If this is true, then one must assign relative importance to each of them. First, Ulloa's correspondence with Bucareli and Grimaldi makes it clear that the absence of a powerful military force was the one factor that enabled the rebellion to succeed. In addition, the lack of a proper money supply to administer the colony lost Ulloa the support of the colonial merchants. This, too, is evident from Ulloa's communiques with Bucareli and Grimaldi. The extent to which Ulloa depended on Aubry and was willing to follow his advice was

contradicts Fortier who maintains that it was a love for France that caused the rebels to oust Ulloa. (Cf. Ibid., 175.)

57 Ibid., 199, 202, 203.
a serious mistake. Aubry was not only irresolute, as Rodríguez-Casado stated, but he was too subservient to the Superior Council. Had Ulloa acted on his own, had he shown his credentials to the Superior Council from the first, and had he cooperated with its members, there may well have been no rebellion. Had he been more sophisticated politically, perhaps he could have governed the colony in cooperation with the Superior Council, even on its terms, until he was in a position of power.

Ulloa's tragedy, then, was his failure to assess quickly the political situation in the colony and to work within its limitations. The Superior Council was to him no more than the equivalent of the Spanish cabildo, a body having purely local powers and almost completely subordinate to the governor. An astute political leader would have soon seen that in New Orleans the Superior Council had acquired great powers, and he would have adapted his methods to meet the needs of the situation. In time, with the arrival of the additional Spanish regulars, Ulloa's position would have been secure. Then he would have reduced the Council to the status of a cabildo or, if so instructed, abolished it.  

58It must be admitted that to a man of Ulloa's training and background this would probably have been unthinkable, as in so acting he certainly would have disregarded the orders of the Minister of State, the Marques de Grimaldi.
Therefore, it may be concluded that the real cause of the rebellion was a political struggle between Ulloa and the Superior Council. A successful insurrection occurred because Ulloa lacked the political ability to cope with the unforeseen and difficult situation in which he found himself.
II

THE COMING OF GENERAL O'REILLY TO LOUISIANA

As soon as a decision had been reached in the Council of the Indies to retain Louisiana, steps were taken to implement this policy. Needed for the task was a man of considerable military experience who possessed the ability to govern authoritatively, but with restraint. This latter quality was important lest over-severity cause either further disorders or induce the population to migrate to the English colonies or to French possessions in the West Indies. For this mission, the King selected Lieutenant-General Don Alejandro O'Reilly. The general was, at that time, one of the most prominent soldiers in Spain and a man very high in the favor of Charles III. It is very likely that he was recommended for the command by the Spanish Minister of State, the Marques de Grimaldi, who had befriended him on previous occasions.¹

Alejandro O'Reilly was a soldier of fortune who had left his native Ireland, as had many others who chafed under English oppression. He was born in Baltrasna, County Meath, Ireland, in 1722, the son of Thomas Reilly (sic), a lieutenant in "Reilly's Dragoons," a brigade of the Spanish army.

¹Rodríguez-Casado, Primeros años de dominación española, pp. 291, 300.
The young O'Reilly became a cadet in the Spanish infantry in 1732, at the age of ten. He was commissioned a lieutenant in the War of the Austrian Succession. In 1757, during the first stages of the Seven Years War, he enlisted in the Austrian army, in which he served for two years. In 1759 he joined a French unit. In the service of France he distinguished himself in the battle of Bergen in April, 1759, and later in the battle of Minden in July, 1759. Because of O'Reilly's bravery in these engagements, the Duke of Broglie, a high-ranking French commander, recommended him to Charles III. Upon O'Reilly's return to Spain, the king promoted him to the rank of lieutenant colonel.²

When Spain entered the Seven Years War against England, the young Irishman was given another chance to advance his career. Although the war did not go well for Spain, O'Reilly was able to demonstrate his military competence. During the Spanish invasion of Portugal, England's ally, he led a regiment in the capture of Chares and Pancorro. For this he was promoted to bridagier. From Pancorro, he led his brigade to Villareal, where he took part in the siege of that city. In this engagement he again showed his talent for warfare. His personal successes once more brought O'Reilly to the attention of Charles III, who, at the end of the conflict, promoted

to major general. His contemporaries considered him one of Spain's most outstanding military leaders.\textsuperscript{3}

The Spanish had lost Havana to England during the Seven Years War, but it was returned to Spain by the peace treaty which ended that conflict. As \textit{Mariscal de Campo}, O'Reilly led the Spanish forces which re-occupied Havana in 1763.\textsuperscript{4} He was ordered to restore fortifications there and in the rest of the West Indies where great destruction had occurred. Contained in his commission were additional instructions to give a full report on the status of the island's economy, its judicial system, and those-policies necessary to secure the island and to render it profitable to the inhabitants and to the crown.\textsuperscript{5}

The reorganization of the army in Cuba was of first importance. The forces established by O'Reilly consisted of four volunteer regiments, eight battalions of regulars and one cavalry unit. The four volunteer regiments and the cavalry unit seemed especially well trained. Of the eight regular battalions, the three Plaza battalions and the Guanabacoa battalions were better prepared than the four


\textsuperscript{4}Rodriguez-Casado, \textit{ibid.}, p. 300.

\textsuperscript{5}O'Reilly to Grimaldi, Havana, April 12, 1764, A.H.N., Papeles de Estado, Legajo 3025, No. 4, microfilm.
battalions of Cuba. The latter needed further training. 6

The future defense of the colony was of great concern to O'Reilly. He felt that it would have to be defended by its own people without appreciable support from Spain. He maintained that one naval squadron could delay enemy forces until help came from Cartagena or other parts of the empire south of Cuba. There was only one place close enough to Havana which could be used to bring in soldiers and that was Xagua. 7

The general's observations on the economy and status of the population of Cuba are worthy of consideration. He noted the rich produce of the island and the excellent climate. However, he felt that the island was not yielding to its full capacity. On the contrary, it had been a drain on the Spanish treasury, never returning to the mother country a fair portion of what went into the island. Much of the wealth that was poured into the island from Spain was drained off to foreigners in legal and illegal commerce.

6Ibid.

7O'Reilly to Arriaga, April 12, 1764, ibid. Xagua is a port located in the city of Cienfuegos in the Province of Santa Clara east of Havana on the island of Cuba. It is an excellent port with a narrow entrance and wide, calm bay. (Cf. G. A. Thompson (ed. and trans.), The Geographical and Historical Dictionary of America and the West Indies, V (London, 1816), 309.)
O'Reilly insisted that this situation must be remedied.  

On the whole, according to this report, the island was backward. Although many causes could be cited for this condition, the main ones were the inadequacies of the judicial system, a scarcity of labor for the haciendas, and the failure of the merchants to provide inhabitants with the necessary goods at reasonable prices. Justice was lacking owing to the partiality and collusion of the municipal alcaldes, and to the delays in appealing to higher courts. O'Reilly recommended that a special court be established in Havana to expedite the handling of appeals which theretofore had gone to the Audiencia at Santo Domingo.  

This report was submitted to O'Reilly's immediate superior, the Conde de Ricla, then to the Marques de Grimaldi, and finally to Don Julian de Arriaga, Minister of the Council of the Indies. In concluding his report to Grimaldi, O'Reilly made all of his recommendations in the hope that the king would approve them. Moreover, he petitioned that he might return to Spain, as he felt his mission had been completed. Grimaldi noted in reply that the king had taken these considerations under advisement. The Minister of State cited his approval for the advancement of agriculture.
as recommended by O'Reilly. Nothing was said of O'Reilly's suggestion to encourage immigration to Cuba, but Grimaldi agreed that foreign commerce could not be totally excluded from the island. The general was ordered to remain in Cuba until the inadequately trained troops were considered to be an effective unit of the island's military establishment.¹⁰

Late in 1764, O'Reilly was recalled to Spain and promoted to the position of Inspector General of Infantry.¹¹ To the task of Inspector General, O'Reilly applied enthusiasm and vigor. He was expected to re-train the Spanish army in the Prussian methods of warfare, and for this purpose he established at Avila a military academy for officers.

Rodriguez-Casado commented on the general's perhaps excessive enthusiasm for this project and noted that the academy later fell into disuse due to opposition within the Spanish officers' corps. This group had consistently resisted the reforms introduced by O'Reilly. Perhaps this opposition was due, in part, to O'Reilly's origin.¹² As military governor of Madrid, a position to which he was

¹⁰ Grimaldi to O'Reilly, San Ildefonso, August 5, 1764, ibid.


¹² Rodriguez-Casado, Primeros años de dominación española, p. 300.
appointed in 1765, O'Reilly was able once again to advance his career. When riots occurred in Madrid in 1766, owing to Charles III's promulgation of unpopular decrees, O'Reilly acted promptly to protect the palace from a hostile mob. His action in safeguarding the king's person gave him a preferred place at the court. Because of the king's high regard for O'Reilly and the general's excellent military and administrative record, he was raised to the rank of lieutenant general on July 15, 1767.

Thus, in 1769 when the king sought the right man to suppress the rebellion in Louisiana, it was with good reason that Alejandro O'Reilly was chosen. His military background, his experience in Cuba, and his effective quelling of the riots in Madrid well recommended him for the mission. When the royal cedula was issued appointing O'Reilly commander of the expedition to bring order to Louisiana, it not only made clear O'Reilly's powers but also bore testimony to the esteem in which the king held the general.

THE KING

Don Alejandro O'Reilly, Knight Commander of the Order of Alcantara, Lieutenant General of My Armies:


14Expedientes personales Alejandro O'Reilly, Archivo General de Simancas, Letter from the Director of the Archives at Simancas, April 21, 1967.
Having great confidence in your well known zeal and activity in behalf of my Royal Service, I have decided to send you to America with several missions. Since the most important is to take formal possession of the Colony of Louisiana, which my most worthy, Christian and beloved cousin has ceded to me, I have decided that as soon as you reach the island of Cuba and organize the proper number of soldiers and ammunition and other supplies which you feel are necessary, and that after having then taken possession of it in my Royal Name, you make formal charge and punish according to the law, the instigators and accomplices of the uprising which occurred in New Orleans, ... So that you may carry out my instructions fully, I give you today such power and jurisdiction as shall be necessary for handling each matter, case and incident.... for this is my desire.

Dictated at Aranjuez on the 16th day of April of 1769.15

Upon receipt of his orders, O'Reilly prepared at once to leave for America to carry out his mission. He set out from La Coruña, Spain, in May of 1769 and arrived in Havana aboard the frigate La Palas on June 24, 1769. There he presented to Antonio Bucareli, Captain-General of Cuba, his royal commission.16 Pursuant to his instructions, the general organized an expedition to take possession of New Orleans. The speed with which the men and supplies were assembled demonstrated his ability in the field of logistics, as well as the complete cooperation given him by Bucareli. According to Bucareli, when O'Reilly left for New Orleans on


16Bucareli to Arriaga, Havana, July 7, 1769, A.G.I.S.D., 80-1-6, in Kinnaird, Spain in the Mississippi Valley, pp. 86-87.
the morning of July 6, the convoy under his command was quite impressive:

... I have the special satisfaction of being able to report to Your Excellency that yesterday morning at six o'clock the said general (O'Reilly) set sail on the frigate Volante, together with twenty other ships, carrying the troops, artillery, munitions, provisions, equipment, and funds shown in the attached statements. ... The quality of the veteran troops and militia composing the troops selected could not be bettered, ... All of them are eager to show their zeal on this occasion.18

The attached list indicated a total of 2,056 men,19 including infantry, pickets and artillery men. For his military supplies the general took 46 cannons of various sizes, mortars, a large supply of small arms and ammunition, as well as medical provisions and food. In addition, O'Reilly had with him 150,000 pesos to pay the debts owed by the provincial treasury, and for the immediate needs of his troops and the colony itself.20 It seems that nothing was overlooked.

17In addition to the Volante, there were 20 ships for troops and supplies, including 2 hospital ships. ("El Diario de la Expedicion de Alejandro O'Reilly para la Occupacion de Nueva Orleans /1769/" A.H.N., Seccion de Diversos, Títulos y Familias, Príego (Condado de7, microfilm.)

18Bucareli to Arriaga, Havana, July 7, 1769, A.G.I.S.D., 80-1-6, in Kinnaird, Spain in the Mississippi Valley, pp. 86-87.

19Gayarre, on whom most students of this era have relied, states that O'Reilly had 2,600 men. (History of Louisiana, II, 296.) Although he does not indicate it, Gayarre might possibly have included the sailors who are not in Bucareli's number.

20Bucareli to Arriaga, Havana, July 7, 1769, A.G.I.S.D., 80-1-6, in Kinnaird, Spain in the Mississippi Valley, pp. 86-87.
The wisdom of having this overwhelming force at his disposal was soon evident. The Spanish government did not repeat the tragic error it had made during the regime of the unfortunate Ulloa.

The "Diary", or log of the voyage, has shed new light on the intervening days between O'Reilly's departure from Havana and his arrival at Balize. The secretary on board the Volante began his record on July 5 and ended it abruptly on July 27. Including the Volante, the ship on which O'Reilly sailed, the convoy numbered 23 ships. Two of these were hospital ships, and the remainder included three frigates, two brigantines, six sloops, six schooners, two setees, one lighter and one paquette. The sailing instructions called for the Volante to lead, with ten ships in parallel columns on either side, with the hospital vessels between them. The convoy was under orders from its commander to keep this order throughout the journey.

After lifting anchor about mid-day on July 6, the convoy gradually pulled away from the port of Havana. Some

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21 The abrupt ending in the middle of a sentence indicates, among other possibilities, that the scribe was interrupted and never finished his account, or that the remainder of the journal has been lost.

22 Relación y diario de todo lo acaecido en la expedición del Excellentísimo Don Alejandro O'Rrely(sic) desde su salida de la Havana tomado posesión del Orleans, A.H.N., Sección de Diversos, Titulos y familias, Priego (Condado de), 2270.
days of the journey were eventful and were recorded, others were omitted. On the seventh, the crew saw turtles near the ships and noted that the sky had some clouds. On the eighth, the convoy was sailing in good order, in water of about 82 fathoms. Apparently, nothing of importance occurred until the twelfth when a storm developed and the sea became choppy. At the same time, a schooner was reported missing from the convoy, but fortunately it was found about mid-day in Saint Blaise's cove along the Apalache Coast. By July 16, the ships were within sixty leagues of Balize and, after sailing into water of only fifty-nine fathoms on the seventeenth, they were within twenty leagues of Balize by the eighteenth.23

At about noon on July 20, the convoy sighted Balize at a distance of about seven leagues. At eight o'clock that night, a crewman sounded the depth and discovered that the ship was in only forty fathoms of water. The entire convoy was halted, and an expert was summoned to guide the vessels through the shallow water. He arrived on the following day and guided them to the approaches of Balize. At this point, the navigators estimated that they were thirty-two leagues from the city of New Orleans by way of the river. Accordingly, they dropped their anchors.24

While aboard the Volante, General O'Reilly made his

\[^{23}\text{Ibid.}\] \[^{24}\text{Ibid.}\]
next move preparatory to taking possession of New Orleans. The pen of Lieutenant Colonel Francisco Bouligny, the general's aide de camp, provides a vivid account of the events surrounding the re-establishment of Spanish authority in Louisiana. O'Reilly himself verified this account in his own report to Don Juan Gregorio de Munian, a member of the Council of the Indies.

Bouligny was ordered by O'Reilly to carry to Charles Aubry a letter, dated July 20, 1769, notifying the French commandant of the general's arrival. O'Reilly stated that he had with him his royal commission to take possession of the colony and asked Aubry for his cooperation. Bouligny was further ordered to see that notices of the arrival of the Spanish forces were posted throughout the colony. It was hoped that this would contribute to the success of the expedition by preparing the inhabitants for O'Reilly's coming.25

Bouligny disembarked from the Volante on July 21, at two o'clock in the morning. He went by oar boat up the river and arrived in New Orleans at eleven o'clock at night on July 24. He had stopped at Balize to notify the French commander there of his intention to meet with Acting-Governor Aubry. Farther up the river the colonel met four ships, one English and three French. Upon his arrival at New

25Ibid.
Orleans, he observed five or six others.26

In the city, Bouligny was greeted by a large crowd of people, among whom were the three Spanish officials, Loyola, Gayarre, and Navarro, who had been detained by the colonists. Accompanied by the Spanish officials, he went to Aubry's home and delivered O'Reilly's letter. As Aubry's knowledge of Spanish was inadequate, Bouligny offered to translate the document into French. Aubry responded very favorably to the message and said that he would cooperate fully with General O'Reilly and if necessary use his forces to aid in suppressing any opposition.27

The following morning, Tuesday, July 25, at nine o'clock, Aubry assembled the colonists in the Plaza and informed them of the arrival of O'Reilly and his forces. According to Bouligny, "all, terrified merely by the name of Your Excellency (O'Reilly), became quiet, and only M. Marquis, retired Captain of Swiss troops, and M. Lafrenière, Solicitor-General of the King in this Council, said that they had to speak with M. Aubry in private...."28

26Bouligny's Account to O'Reilly, New Orleans, July 26, 1769, Ms., Howard Tilton Memorial Library Archives (Tulane University, New Orleans, La.), Emile and Rosemunde E. Kuntz Collection.

27Ibid.

28Ibid.
At ten o'clock of that same morning, Aubry met again with Bouligny in Loyola's house to inform him that all was well and that Marquis and Lafreniere wished to go down the river with him (Bouligny) to confer with the Spanish general, and to implore his clemency. Later in the day, Bouligny dined with Loyola, Gayarre and Navarro at Aubry's home. All agreed that the city had responded wisely in showing no signs of resisting the Spanish.29

Bouligny noted that he did not depart that same day for Balize, as the men who had rowed him up the river were exhausted. During the delay he had a close watch kept on Marquis and Lafrénière, lest they decide not to go to meet with O'Reilly and instead organize a resistance. On Wednesday he again dined with Aubry who arranged for the senior captain of the French garrison to return with Bouligny to bring Aubry's greeting to the Spanish General. O'Reilly's aide noted also that he had been very cautious in answering any questions put to him. Doubtless, he feared that he might unwittingly give comfort to anyone trying to resist the Spanish in any way.30

In the meantime, the third delegate to greet O'Reilly had been chosen. This was Joseph Milhet. On Thursday, July 27, Bouligny, accompanied by Aubry's captain and the three delegates of the people, descended the river to Balize

29Ibid. 30Ibid.
to meet the Volante as it was entering the pass. Bouligny reported to his superior and the delegates awaited their interview with O'Reilly. According to Bouligny, the three men were quite ill at ease upon meeting the Spanish general, but Lafrénière was able to compose himself and make a conciliatory statement to O'Reilly in the name of all of the colonists. He spoke thus to the general:

M. Marquis, ... M. Milhet, ... and I, ... have been chosen to come to assure Your Excellency of the submission to the orders of Their Most Christian and Catholic Majesties and of their veneration for the military virtues and talents that have placed Your Excellency in the high position in which you find yourself. ... The colony never had any intention of straying at all from the profound respect that it professes for the great monarch that Your Excellency represents. The severity of the nature of Don Antonio de Ulloa, and the subversion of the privileges assured by the act of cession have been the only cause of the uprisings that occurred in this colony. ... The colony implores of your kindness, privileges, and of your equity, sufficient delay for those that wish to emigrate.31

These comments seem incongruous coming from the firebrand that led the insurrection against Ulloa. Presumably the overwhelming power of O'Reilly's forces had cooled Lafrénière's revolutionary ardor.32

The Spanish general listened intently to Lafrénière's comments and replied:

31Bouligny's Account of the Occupation of Louisiana, Ms., Tulane Archives, Kuntz Collection.

32The "valiant" Lafrénière described by Fortier scarcely seems to fit the picture of the man painted by Bouligny. Cf. Fortier, A History of Louisiana, I, 209.
Gentlemen, it is not possible for men to judge things without first finding out about the prior circumstances; as soon as I arrive in the city I shall devote all my attention to becoming informed about everything thoroughly, and you may be sure that my greatest pleasure will be to do good, and that I shall regret very much to see myself compelled to do harm to anyone. I shall be the first to provide you with the means to pacify yourselves. Put the entire public at ease and assure it of the good disposition into which I find myself compelled by my character. I look with pleasure upon the step that you have taken, for you may be sure that otherwise I would have made the flag of my king respected, and that nothing would have stopped me, ... Have you imagined yourselves capable of resisting the forces of one of the most powerful kings of Europe, and have you ever thought that the Most Christian King (Louis XV)... would have ever supported or paid any attention to the cries of a seditious people? 

Certainly the general made his position clear and left no doubt that the rebels would be punished. This was obviously what the delegates understood, for Marquis interrupted the general and complained of the word "seditious." O'Reilly bade him hold his peace and told him that in time he would allow them to present their case. Turning from these serious matters, O'Reilly invited the three to dine with him aboard the frigate. Afterwards, Marquis, Lafrénière and Milhet returned to New Orleans "full of admiration for his (O'Reilly's) talents and very hopeful of his clemency." 

O'Reilly's account of his arrival and subsequent actions through the end of August of 1769 was less colorful

33Bouligny's Account of the Occupation of Louisiana, Tulane Archives, Kuntz Collection.

34Ibid.
and less detailed than Bouligny's, but it corroborated and complemented the colonel's. Don Alejandro noted his departure from Havana on July 6, and his arrival and anchorage at the mouth of the Mississippi on July 22. It was due to a lack of a favorable wind that he decided to send Bouligny ahead by row boat to meet with Aubry. The general noted that the colonists had shown some signs of resistance. However, as soon as they learned of the size of his forces and of his determination, they became "more friendly."33

The three delegates sent by the colonists had aroused O'Reilly's suspicions. He believed that they had accompanied Bouligny to ascertain the strength of the Spanish forces and to determine the general's true intentions. After he had met with them, O'Reilly was aware that they saw it would be useless to resist.34

During the interview with the three colonists O'Reilly was certain that they were very anxious to learn his attitude toward them in particular, and toward the colonists in general. He professed in his letter to the Minister of State that he was without prejudice toward anyone, but that he would do whatever justice required. It is interesting to note that he commented in this communique to Grimaldi that

33O'Reilly to Grimaldi, New Orleans, August 31, 1769, A.G.I.S.D., Legajo 2543, Doc. 72, L.C. pp. 218-220.
34Ibid., pp. 221-222.
he had not deceived the delegates as to his intentions, but nonetheless he had not permitted them to exonerate themselves of all guilt. To the delegates he had stated that he would not treat them unjustly, but he refused to commit himself as to the nature or the extent of any punishment to be inflicted. Undoubtedly, his evasiveness during the meeting led many historians, including Fortier, to accuse him of duplicity. However, O'Reilly's statements to the three men were certainly adequate to make his position clear. Men such as Lafrénière, Marquis and Milhet could hardly have believed that a rebellion against the Spanish crown would go unpunished. Moreover, due to circumstances, there was ample time for those who wished to do so to leave the colony. They met with the general on July 27, and it was not until August 18 that O'Reilly disembarked in New Orleans.

When the three colonists returned to New Orleans, O'Reilly sent with them Spanish officers from his expedition to prepare for his arrival. They were on the whole well received by the inhabitants of the colony. The only signs of opposition came from the Acadians and Germans who lived along the coast. Consequently, these two groups were warned by O'Reilly's emissaries of the destruction that awaited them if they dared to take up arms to resist the Spanish forces.

37 Ibid., pp. 223-224.
38 Ibid., pp. 225-227.
After these preparatory moves, the general moved the convoy toward New Orleans. To avoid all unnecessary actions that might cause resistance, and to prevent the flight into English territory of some of the rebels, the convoy moved quietly into the New Orleans port during the night of August 16. The people living in and near the city were awakened on the morning of the 17th by cannon shot from the flotilla. When they arrived at the river's bank, they found the entire Spanish force anchored in the river.39

Later during the day of the 17th, Aubry, the French Commissary Nicholas Foucault, and other French officials came aboard the frigate Volante to confer with General O'Reilly. Aubry pledged his loyalty to the Spanish king and gave his submission to O'Reilly. Foucault seemed to have nothing to offer but complaints against the former Spanish administration. O'Reilly, for his part, did not reveal his intentions to the French.40 Thus, for the remainder of the 17th the situation remained static. The stage was set for the impressive and near heraldic events that were to follow on the 18th--events quite in contrast to those surrounding the arrival of the first Spanish

39O'Reilly to Munian, New Orleans, August 31, 1769, A.G.I.S.D., 87-3-10, in Kinnaird, Spain in the Mississippi Valley, p. 91.

Antonio de Ulloa. Bouligny vividly narrated these events:

Everything was ready for the 18th when possession was taken of the Plaza with all the form and ceremony appropriate. Our troops in the center of the Plaza occupied the three sides of a square and the French militiamen closed the square. The General disembarked at 5:30 P.M., and came to the center of the Plaza, where he presented to M. Aubry that which he was waiting for, the order of His Most Catholic Majesty. Immediately the latter placed at his feet the keys of the city. At the same time, several Spanish flags were run up in all parts of the city, and the artillery of the Plaza and all the troops fired a general salute. After this, our General, with the French commandant and all the officers who were not under arms went into the Church where the Te Deum was sung as an act of Thanksgiving.41

After taking possession of Louisiana in the name of Charles III, O'Reilly again conferred with Aubry that same day. The general made it clear to Aubry that he intended to obtain all the necessary documents: "... para fundar la causa contra los motores ..." of the rebellion.42 He left no doubt that he would do his utmost to punish the leaders of the insurrection. That there had existed a rebellion was public knowledge. The general's task was to ascertain the true causes of the uprising and to punish its leaders. To do this, witnesses would have to be called and all available information gathered and examined. The following day O'Reilly ordered Aubry to prepare an account of the events surrounding

41 Bouligny's Account, Tulane Archives, Kuntz Collection.
the rebellion.  

The prompt cooperation given by Aubry indicated his devotion to duty and his desire to cooperate with the Spanish general. He was indeed able to fulfill O'Reilly's request. His testimony was important to Del Rey, the Prosecuting Attorney, in the conviction of the rebel leaders. The conspirators named by him in this report were Chauvin de Lafrénière, Procurator General (Attorney General) of his colony; Pierre Marquis, elected Colonel-general of the militia; Jean Baptiste Noyan, a militia captain; Ensign Bienville de Noyan of the French Navy; Nicholas Foucault, the French Commissary; and Joseph Villere, captain of the militia. Due to the urgency of O'Reilly's order, Aubry's report was but a preliminary one. He did not name all of the conspirators, nor did he give a full account of the causes of the insurrection. He promised O'Reilly that a complete report would be forthcoming.  

On August 21, O'Reilly again conferred with the French governor. Later that day, each of the men (except Nicholas Foucault) who had been implicated by the witnesses as the prime movers and chief accomplices in the conspiracy were

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43 O'Reilly to Aubry, New Orleans, August 19, 1769, ibid., Doc. 72, "B," L.C. p. 257.

44 Aubry to O'Reilly, New Orleans, August 20, 1769, ibid., Doc. 72, "C," L.C. pp. 261-264.
summoned to O'Reilly's residence. Upon their arrival, they were accused of sedition and treason and were arrested by the Spanish guards. Those detained were: Chauvin de Lafrénère, Hardi de Boisblanc, Balthasar Massan, Joseph Villé, Pierre Marquis, Pierre Poupet, Joseph Petit, Pierre Carresse, Julian Jerome Doucet, Jean and Joseph Milhet, Jean Baptiste Noyan and M. Le Braud.

The manner of their seizure was not unusual in Spanish procedure. Each man was charged with sedition and treason and arrested in the name of the king. Then they were "... taken as prisoners two by two and accompanied by various companies of grenadiers; they passed through a throng of people, stunned to see exercised a justice that up to then they were not acquainted with." Two of those arrested were put in confinement in the treasury building, eight were placed on the Spanish ships anchored in the port, and three were placed

45 Bouligny's Account, Tulane Archives, Kuntz Collection.

46 According to Fortier, Joseph Villé was arrested later. (A History of Louisiana, I, 215.)


Le Braud was released since he presented the "Memorial" on order to Foucault, his superior. (Cf. Gayarre, History of Louisiana, II, 313.)

48 Bouligny's Account, Tulane Archives, Kuntz Collection.
under guard in the barracks area. 49

The dread instilled in the people by these sudden arrests made O'Reilly see the necessity of quieting their fears. Therefore, he summoned the merchants of the city and spoke to them reassuringly:

Gentlemen, may what you have just seen not cause the slightest uneasiness in anyone. That is a precise justice in order to assure for you and this entire city the quiet and tranquility which it has lacked for so long. The prisoners will be judged; each one will be granted all possible means to justify himself; the innocent will be set free, and the guilty will suffer the penalty of the laws. Notwithstanding this, the many confederates that the prisoners had in this country have caused an almost general desolation; fear has overcome the rest, and I believe that this alone will be sufficient so that they will never (again) think of departing from the legitimate obedience of their sovereign. 50

Shortly after this, the general commanded that a Proclamation, dated August 21, 1769, be posted on the doors and the corners of buildings throughout the city. It granted a general amnesty to the populace of New Orleans and of Louisiana who had "... allowed itself to be led astray by the intrigues of ambitious ... people." Each citizen, the decree stated, should consider himself thankful that he was the subject of so merciful a king as Charles III, and out of gratitude should show unswerving fidelity to His Most Catholic

49O'Reilly to Grimaldi, New Orleans, August 31, 1769, A.G.i.S.D., Legajo 2543, Doc. 72, L.C. p. 239.
50Bouligny's Account, Tulane Archives, Kuntz Collection.
Another proclamation was issued by the Spanish governor on August 23, 1769. It ordered all of the inhabitants to assemble on the following day before the dwelling in which O'Reilly was lodged. Here the citizens were commanded to take the oath of fealty to Charles III. However, the actual procedure of administering this oath to all the classes of citizens was not completed until August 26th, when everyone, including the clergy, promised his allegiance to the Spanish monarch. Each person signed his name to the formulary, which, along with other documents, was sent to Don Juan Gregorio de Munian, member of the Council of the Indies.

In the meantime, O'Reilly ordered the arrest of Nicholas Foucault, the French Commissary. In a communication to Aubry on August 23rd, the general noted that he had before him the original of a paper called, "The Memorial of the Inhabitants and Merchants of Louisiana," printed by M. Le Braud under orders from Foucault. This document was


53 O'Reilly to Munian, New Orleans, August 31, 1769, A.G.I.S.D., 87-3-1, in Kinnaird, Spain in the Mississippi Valley, pp. 90-91.
most offensive to His Catholic Majesty and to the Spanish nation. Because of Foucault's orders to have this paper printed and because of the grave accusations implicating him in the rebellion, O'Reilly requested that Aubry order his arrest. In his reply, Aubry told O'Reilly that he had immediately ordered the arrest of Foucault. Moreover, he noted that even if O'Reilly had not ordered the commissary's arrest, he would have taken him into custody. Aubry maintained that not only had Foucault ordered the printing of the "Memorial", but he had abused his authority, and had been a chief leader among those who had aroused the people in the rebellion. Aubry had chosen M. Baube, Foucault's assistant to replace the commissary. That Foucault as a French official, was beyond the jurisdiction of the Spanish courts is thus clearly indicated by this exceptional action taken by Aubry at O'Reilly's request.

In his report to Munian, O'Reilly summed up the events of the first few days of his occupation, giving a clear picture of the state of affairs in the colony:

"... On the 21st, I had all the principal leaders and instigators of the recent uprising arrested; on the 26th, the inhabitants of all classes took an oath of

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55 Aubry to O'Reilly, New Orleans, August 24, 1769, ibid., p. 278.
fealty before me, each one signing his name in the order in which Your Excellency will see from the attached formulary No. 1. ... The edict, of which I enclose a copy, reassured the populace, which was greatly terrified. ... With the leaders already imprisoned and their property confiscated, their trials are now proceeding in accordance with the laws, before the judges whom I brought from Havana for this purpose .... Not an officer or even a soldier has said a single improper word to these people. This great moderation and good conduct has filled these natives with confusion, as they (through malign influences) had so greatly wronged our nation without knowing us.... My measures up to now have produced as favorable effects as might be desired for the King, the public, and my own satisfaction...."56

Indeed, the new subjects of the Spanish king seemed to be overwhelmed by O'Reilly's military power and his administrative tactics. He had combined the swift arrest of the leaders of the insurrection with a general amnesty for the average citizen. Within ten days after his arrival in New Orleans, he had established order and imprisoned the leaders of the rebellion. In the communique to Munian, the general confidently assured the minister of the Council of Indies that within four months all of the tasks assigned to him in Louisiana would be performed, and he would then be ready to depart for Havana. There he planned to await whatever

further instructions the King chose to send him. 57 His optimistic view of the amount of time needed for settling the affairs of the colony was not far wrong. Within two months of the predicted period he had brought order to Louisiana and had departed for Havana.

57 Ibid., p. 92.
III

THE TRIAL OF THE REBELS

The trial of those indicted as leaders of the rebellion against Don Antonio de Ulloa began late in August, 1769, and did not terminate until October 24. It was conducted according to the standard Spanish judicial procedures. The promotor fiscal, or royal prosecuting attorney, was Felix del Rey, advocate of the Royal Audiencias of Santo Domingo and of New Spain. He was assisted by the official scribe of the expedition, Francisco Xavier Rodriguez. The Spanish court set out to prove that there had been a conspiracy to oust Ulloa, and that treason and sedition had been committed by the leaders of the rebellion. The prosecutor began the trial by obtaining sworn statements from many witnesses. His key witness was the acting French governor, Charles Phillipe Aubry, whose testimony was basically the same as that in Aubry's letter to O'Reilly on August 20. On that day the Spanish general had told Aubry that as a witness to the

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insurrection, he (Aubry) was expected to give: "... the true causes, with the names of the persons who led the people to commit the offense of being present in this Plaza, for the purpose of bringing about the violent expulsion of Don Antonio ..." Aubry immediately answered this letter and provided an account of the causes of the rebellion, with the names of most of the men arrested as leaders in the conspiracy.

Before giving the names of the rebel leaders and the parts they played, Aubry sketched the background of the revolt against Ulloa. In explaining the circumstances surrounding the insurrection, he listed as one of its important causes a shortage of troops in Louisiana, which resulted from the fact that the expected enlistments of the French soldiers in the Spanish army had not occurred. Due to this drastic shortage of troops, the French and Spanish commanders had even been forced to pool their manpower to defend the colony. They had placed their few men at posts along the Mississippi where they found British fortresses or troop concentrations on the river's east bank.

Aubry further noted that the colonists meanwhile had accepted Ulloa as the legal governor. They had acknowledged

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Spanish authority and knew that Spain was the source of their money supply and that the Spanish government also issued the passports for the colony. It was Aubry's opinion that the shortage of troops had prevented Ulloa from taking possession of the colony at New Orleans. The French commander commented that another factor in encouraging the revolt was undoubtedly the issuance by Spain of the two restrictive mercantile decrees of 1766 and 1768 respectively. But in the last analysis Aubry held that the chief cause of the insurrection was the Superior Council's ambition to become the supreme governing body in the colony.4

The men named by Aubry as the leading conspirators were: Chauvin de Lafrénière, Procurator General of the colony; Nicholas Foucault, French Commissary; Balthasar Massan, Chevalier of Saint Louis; Pierre Marquis, retired Commandant of the Swiss company under Louis XV; Chevalier Bienville de Noyan, Ensign of the Royal French Navy;5 Joseph Villeré, Captain of the militia along the German Coast; Jean Baptiste Noyan, retired Captain of French cavalry;6 and Jerome Julian Doucet, a lawyer recently arrived from France. These men

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4Ibid., pp. 261-264.

5This Bienville was a nephew of the famous governor of Louisiana, the Sieur de Bienville.

6Noyan was also a nephew of Sieur de Bienville.
had set out to destroy Aubry's efforts to induce the colonists to accept Spanish rule. Moreover, they had convinced the people that the Spanish governor was a tyrant and that if the Spaniards remained in control of Louisiana, the colonists would be no better off than slaves.⁷

According to Aubry's testimony the conspiracy among these men was so well guarded that it was not until four days before the actual revolt, that is, on October 25, 1768, that their plans were discovered. The French commandant said that he had informed Ulloa of the plot so that the two men could act together in this serious matter. Then, on October 26, he called together his officers and men and informed them that he wished no harm to come to the Spanish governor. Unfortunately, Aubry had at his command only about one hundred regulars. On that same evening, October 26, the French commandant conferred with Attorney General Lafrénière, who told him that he had in his possession a petition from the colonists addressed to Commissary Foucault. This document asked Foucault to call a special meeting of the Superior Council to plan measures to remove Don Antonio de Ulloa and the other

Spanish officials from the colony. Lafrénière, moreover, told Aubry that the entire male populace of New Orleans and its environs was armed at that very moment.

Seeing the extent of the conspiracy, Aubry said he appealed to Lafrénière and Foucault to halt it, but Lafreniere answered that it had progressed too far, and Foucault was noncommittal in his reply to Aubry. On October 27, Ulloa agreed to hear the Council's demands in order to avoid bloodshed. The colonists were expected to have delegates at the meeting to present their case, and they had promised to attend unarmed. On the following day, however, the situation worsened considerably, as large groups of armed men were gathering near the city. At that point, Aubry said that he had feared for Ulloa's safety. The French governor convinced the Spanish governor that he and his family should take refuge aboard the Spanish frigate Volante, where they could be more readily protected by the French and Spanish troops.

By October 29 approximately one thousand armed men led by members of the Superior Council, were in the Plaza carrying white flags and shouting, "Long live the King of France", and "We want no other King." Braving this mob and trying to quiet them, Aubry said that he addressed himself to the Superior Council and reminded its members that Ulloa's person was sacred and that he represented a great monarch.
In spite of these efforts, as Aubry noted, the insurrection continued. After Ulloa's departure, Marquis with a company of sixty or seventy men, went in pursuit of Don Antonio's ship. Hearing of this, Aubry commanded Marquis and his men to return to New Orleans. The French commandant noted that for the first time since the rebellion had begun, they obeyed him.  

Aubry then made his charges against individual rebels. He asserted that Marquis had consistently refused obedience to him, the supreme commander. The only occasion on which Marquis had obeyed orders was in the incident concerning the pursuit of Ulloa's ship. Moreover, after Ulloa's expulsion, Marquis had proposed the establishment of a republic, thereby demanding independence even of France. Aubry stated that Doucet had helped to compose the infamous "Memorial of the Inhabitants and Merchants." He testified that Joseph Villere had defied him, and had stirred up the Germans and the Acadians who lived along the coast. Villere had also accompanied the Acadians in their march on the city of New Orleans. Massan, he noted, had held meetings with the conspirators in his house, and had spoken out against Spanish rule in virulent language. Aubry leveled no definite charges

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8Ibid., p. 264-271.
against either Ensign Bienville or Noyan, but he named them as accomplices in the insurrection.⁹

In a later statement to O'Reilly, Aubry gave detailed accusations against Commissary Foucault. He charged Foucault with calling the Council into session to discuss the "Memorial" on October 28, and of later ordering the printing and distribution of that same "Memorial" among the people. Moreover, as Aubry noted, instead of siding with him, Foucault had supported Lafrénière and the other rebels in inciting the people to revolt. Aubry held that these actions were all the more offensive and worthy of condemnation, as Foucault in his official capacity as commissary knew that the colony was a Spanish possession. He had been officially informed by the Duke de Praslin in a letter of February 23, 1767, that once Don Antonio de Ulloa arrived in Louisiana the colony was to be considered Spanish.¹⁰

Charles Garic, the chief scribe of the Superior Council, also testified against Foucault. He stated that the Commissary had abided by the Council's decision to oust Ulloa, and that he had gone with Lafrénière to ask Aubry to assume


the reins of government.\textsuperscript{11}

O'Reilly resolved to accept Foucault's claims that since he was a French official directly appointed by Louis XV he was not subject to the Spanish tribunal. Nevertheless, the governor chose to obtain a statement from him before sending Foucault to France for trial. Although charged with all of the above offenses by Aubry, Foucault refused to make any answer to them, except to admit that he had ordered the printing of the "Memorial." He was finally sent to France in the custody of a Spanish sergeant major.\textsuperscript{12}

It is clear that there was weighty evidence against Foucault. Had he been subject to the Spanish tribunal he would have undoubtedly been convicted along with the other leaders of the insurrection. As it was, he arrived in France at La Rochelle and was arrested there by French officials on December 30, 1769. From La Rochelle he was taken to the Bastille. His hearing and trial proceedings continued there until June of 1771, at which time his case was dis-

\textsuperscript{11} Garic's testimony concerning Foucault, attached to O'Reilly's letter to Grimaldi, New Orleans, October 17, 1769, \textit{ibid.}, "7," L.C. p. 339.

missed and he was set at liberty.13

Another key witness for the prosecution was Don Esteban Gayarre, chief auditor under Governor Ulloa. Gayarre implicated Lafrénière, Foucault, Carresse, Villérè, Marquis, Noyan and Massan. He stressed the vital role played by Lafreniere in organizing the conspiracy, stating that: "... acting among them as chief or head was the said Lafrénière, with whose consent the others worked in everything related to the conspiracy; and the writings or papers leading to it which publicly manifested his consent (to it) and his hatred of the Spanish nation, were produced (with his consent), ..." He further stated that Marquis was the leader of the rebellious militia units and that Massan had been a militia commander under Marquis. Noyan and Villérè were also named by him as leading conspirators, and Villérè was accused of stirring up the Germans and the Acadians.14 Thus, in addition to corroborating Aubry's testimony against Lafrénière, Foucault, Massan, Villérè, Marquis and Noyan, Gayarre added Carresse to the list of conspirators.

The next witness for the state was Don Martin Navarro, royal treasurer for the colony of Louisiana under Ulloa. He

13Rodriguez-Casado, Primeros años de dominación española, pp. 332-333.

also testified that Lafrenière had been the main leader of the insurrection. He then named Foucault, Massan, Marquis, Carresse and Noyan as conspirators. Villére, he stated, had stirred up the Germans and the Acadians. His testimony corroborated Gayarre's indictment of Carresse, supported Aubry's charges against Villére, and added weight to the charges made against Foucault, Massan, Marquis and Noyan. Navarro gave further testimony naming Jerome Doucet as a main accomplice. This man had been accused by Aubry of helping to draw up the "Memorial". Navarro then added new names to the list of conspirators and accomplices when he accused the Milhet brothers, Jean and Joseph, of leading their respective militia units against Governor Ulloa. Moreover, Joseph Petit, according to Navarro, had been a prime mover in the rebellion, while Pierre Poupet and Hardi de Boisblanc had been leading accomplices.\(^\text{15}\) The case for the crown was indeed becoming strong.

Another important witness was Jose Melchor de Acosta, captain of the frigate Volante. He gave evidence against ten of the twelve who were to be later convicted. His accusations, with those of Aubry, Gayarre and Navarro, gave the state two reliable witnesses testifying against each of the accused.

After swearing that he would tell the truth, the captain noted that four or five days prior to the rebellion he had heard rumors of a possible uprising and had immediately informed Don Antonio de Ulloa. De Acosta then went on to recount his experiences during the last stages of the insurrection:

...presently on the evening of the day preceding the rebellion, he encountered M. Lafrénière in Aubry's house and observed that he was beside himself with anger, and that he allowed himself to say, while walking about his room, that M. Foucault was an evil man, and Lafrénière was even worse, ..."

De Acosta continued to testify that Aubry had told him that he (Aubry) had tried to learn from Lafrénière what was transpiring in the colony. From this conversation with Lafrénière, Aubry was convinced that the conspiracy was being instigated and led by Foucault and Lafrénière.16

He further noted that Boisblanc and Carresse had been associated with the chief conspirator, Lafrénière; and he then accused Joseph Milhet of joining the rebel band that gathered in New Orleans. He said that Villere had accompanied the Acadians. Foucault, he commented, had ordered M. Denis Braud to print the "Memorial," which Doucet had helped to draw up. Massan was accused of allowing the conspirators to

meet in his home, and of being a member of the revolutionary Superior Council. De Acosta also accused Boisblanc and Petit of being collaborating members of the Council. He named Poupet as its treasurer, and he cited Jean Milhet for leading his militia unit in pursuit of Don Antonio on the vessel which was taking him to Balize for safety.\(^{17}\)

This extensive testimony was given by presumably trustworthy men, who were either French or Spanish officials. Consequently, it is little wonder that the prosecutor for the Spanish crown had no difficulty in presenting a convincing case against the rebels. Felix del Rey, the promotor fiscal, very carefully stated the case for the crown. In his preliminary statement, he reviewed the background of the rebellion. Next he drew up the case against the leaders and chief accomplices. Finally, he elaborated upon the Spanish laws under which the accused were to be sentenced, if proven guilty.

In his opening statement, the prosecutor pointed out that by an act of cession the colony of Louisiana had been transferred from France to Spain; that Don Antonio de Ulloa had been sent by His Most Catholic Majesty to take possession of the colony; that Ulloa, due to a shortage of troops, had decided to postpone the formal act of possession until more

\(^{17}\)Ibid.
troops had arrived from Spain; that Governor Aubry and Governor Ulloa had worked together in the administration of the colony; that some months after Ulloa's arrival, formal possession had in fact been taken by Ulloa at the post of Balize, and the Spanish flag had been raised at the other posts of the colony: "... Don Carlos Aubry made formal delivery of the fort at Balize and of all other posts in the Province to Don Antonio, ... as the person destined for that end by His Most Catholic Majesty, the new Lord of this country, ..." He maintained, in effect, that as a result of this transfer and Ulloa's actual administrative actions, the colony of Louisiana was not only de jure, but also de facto Spanish. For further proof he noted that the military, civil and ecclesiastical officials recognized Ulloa as the rightful Spanish governor. Moreover, Spanish money supported the colony; salaries of officials were paid by the Spanish commissary; military posts were built and old ones were repaired at Spanish expense; churches were likewise repaired and new ones built by the Spanish; and, finally, passports were issued by the Spanish authorities. All of these things proved, Del Rey stated, that the colony was in law and in fact under the dominion of Spain. In addition to

this, the Duke of Praslin himself had informed Commissary
Foucault in 1767, that henceforth in Louisiana the only
legal money was Spanish. No further evidence, Del Rey
commented, was needed to prove that Louisiana was in fact
a Spanish colony. 19

The prosecutor then discussed the origins of the
rebellion. He noted that there were a few individuals who
had been dissatisfied with Spanish rule. These had spoken
out against the commercial decrees issued by the Spanish
government, declaring that the colonists would be worse
off than slaves under Spanish rule. Meanwhile, the con­
spirators induced a number of men to sign a petition of
grievances against the new government, and presented it to
the Superior Council. This petition contained many state­
ments offensive to the Spanish nation, demanding among other
things the expulsion of Don Antonio and his followers.

It was under the leadership of Nicholas Foucault and
Chauvin de Lafreniere that the rebellion took form. These
were joined by Balthasar Massan, Ensign Bienville, Jean
Baptiste Noyan, Pierre Marquis and Joseph Milhet. Under the
guidance of Lafreniere and Carresse, the "Representation"
was soon drawn up. Joseph Villere, meanwhile, was inciting to
rebellion the Germans along the coast, while Noyan stirred

19Ibid., pp. 364-365, 391-392. Del Rey's convincing
arguments seem to render untenable Fortier's defense of the
justice of the rebels' cause and his assertion that the col­
ony was still French. (Cf., Fortier, A History of Louisiana,
I, p. 162.
Continuing his case, del Rey noted that when Aubry learned of the conspiracy on October 25, he tried to get Lafreniere to dissociate himself from it. But the latter stated that events were beyond his control, and nothing he might do could halt the insurrection. On October 28, the "Memorial" had been presented to the Superior Council which debated it and accepted it the following day. That same day, October 29, Marquis led his militia units into the Plaza and was joined there by the rest of the conspirators who were at the head of groups of armed men. These developments forced Governor Ulloa and his followers to depart from New Orleans on the French ship Ulloa had chartered. Del Rey held that these crimes against the Spanish nation were the fruits of a conspiracy whose leaders and accomplices were the following: Chauvin de Lafreniere, Jean Baptiste Noyan, Balthasar Massan, Pierre Marquis, Joseph Villere (dead at the time of the trial), Pierre Carresse, Hardi de Boisblanc, Joseph Petit, Jean and Joseph Milhet, Pierre Poupet, Jerome Julian Doucet, Nicholas Foucault and Ensign Bienville. The last two, as officials of the French government, were not considered by O'Reilly and del Rey to be subject to the Spanish Court.

There is no evidence that Lafreniere, although also appointed by the French king, was ever considered by O'Reilly or the Promotor Fiscal to be beyond the jurisdiction of the Spanish Court.
Spanish tribunal.21

The prosecutor went on to state that although all who took part in the rebellion were in fact guilty of treason, nevertheless, due to the great mercy of His Most Catholic Majesty, only the leaders and leading accomplices would be prosecuted. The rebel leaders were guilty of a crime which was "... against the Person of the Prince and is by its nature (a crime) of lèse majesté and subject to the punishment of natural death and confiscation of goods. ..." However, the Promotor Fiscal stated that he did not wish to rest his case on the general principles involved in the crime of lèse majesté, but rather on those laws of Spain which applied specifically to the crimes of sedition and treason.22

In his proof of sedition and treason, del Rey said that the leaders had convinced the people that their liberties were being violated. Consequently, the conspirators told the people they had a right to take up arms to defend their alleged rights. The leaders then persuaded the populace in and around New Orleans to rise up against its legitimate ruler, Don Antonio de Ulloa, the representative of the Spanish king. Del Rey logically concluded that as Ulloa was the king's representative, the rebellion had been a crime against the monarch's authority, and: "... those who

22Ibid., p. 383.
so rise up are traitors and must die for it and lose whatever they possess."\(^{23}\)

Thus the leaders were guilty of both sedition and treason when they caused the rebellion. This crime carried the penalties of death and confiscation of all property. Undoubtedly the leaders of the rebellion were guilty of breaking these laws for:

The insurrectionists conspired openly against the Realm, drawing the colony away from the Catholic domination, execrating laws, the government, and the nation, with furious invectives, and this is in hatred of the crown, ... which is also covered by this last law: "In hatred of Him or of the Realm."\(^{24}\)

Due to yet another law that made it treasonable to entice away from the rule of Spain any of its legitimate subjects, the leaders of the insurrection were doubly guilty. The violation of this law also demanded the penalties of death and confiscation of all property.\(^{25}\) The Crown's attorney had no doubt that the accused had violated these laws, as the colony of Louisiana was the legitimate possession of Spain, having been ceded to Charles III by the Louis XV. The act of transfer had been made public in the colony by order of the King of France:

\(^{23}\)Ibid., p. 385.

\(^{24}\)Ibid., pp. 385-386.

\(^{25}\)Ibid., p. 386.
... that crime was perpetrated against His Most Catholic Majesty and his State ... in this colony, which he (Charles III) had gained possession of through the ministry of Don Antonio de Ulloa, and the right to which he held by virtue of the act of cession from the Most Christian King, which (act) was obeyed by the Council and was made public in the colony by his order. ...26

After the witnesses had given their testimony and del Rey had lodged these formal charges against the accused, he began to question the prisoners. Each man was interrogated separately. Each was told of the crimes with which he was charged and was confronted with the testimony made against him by the witnesses for the State. Those indicted then either denied or admitted the accusations. There was no trial by jury in Spanish law nor was the trial held in a public court. Trial by jury was a tradition of Anglo-Saxon, not Roman law; but Spain, as well as the other countries of Europe, then had a government which derived its legal system from Roman jurisprudence.

The procedures in this trial, therefore, must be viewed in the light of the standards set for Spanish trials as they were conducted in the eighteenth century.

The first of the conspirators to be examined was Lafrenière. As he was the procurator general for the colony, the prosecutor considered him the most culpable. He was guilty

26Ibid., p. 388.
of abusing his position of power by using it to instill sedition in the hearts of the people. The promotor fiscal so accused him:

He was the first who had put into the minds of the people the execration of the government and of the Spanish nation, using to the utmost the influence he had gained by his intrepidity and by his position as attorney general, to put into the minds (of the people) the spirit of rebellion and to bring them over to his faction; and it (the spirit of rebellion) began to grow stronger among a group of his relatives, ... he, together with Foucault, was the author of these seditions; he directed the "Memorial" and he arranged with Carresse for the Council to decree the expulsion of Don Antonio de Ulloa; ... he named to the Council, with Foucault, councillors of his faction, to foment and to favor his views; and, finally, in the Council on October 29, of the preceding year, he aided with excessive fervor and extraordinary vehemence, the pretensions of the rebels, and he resolved that taking possession (of the colony) could not be proposed, nor was it intended, through any means except new orders from His Most Christian Majesty....27

Furthermore, del Rey said that Lafrénière knowingly acted against the wishes of both the kings of France and of Spain, whose commands he knew were above any acts of the Superior Council. As procurator general he should have sided with Aubry and not with the rebels.28

Lafrénière's explanation for his actions at the time of the rebellion were not convincing to del Rey. The defendant stated that he had not sided with Aubry at the time of the

27 Ibid., pp. 395-396.
28 Ibid., pp. 397-400.
meeting of the Superior Council, since protocol did not allow him to be present when the governor was attending a meeting. He denied all of the charges against him, admitting only that he had read the "Memorial" to the members of the Council. He did ask pardon, however, for not having softened the violent expressions contained in the "Memorial." He further protested that he was not one of the rebel leaders. He insisted that it was Carresse and not he who was responsible for the drafting of the "Memorial" on October 27, 1768, and who, together with certain others, had presented this document to him. Nevertheless, the prosecution was able to show, on the basis of the testimony of reliable witnesses, that the said "Memorial" was in Lafrénière's possession prior to the date claimed by the defendant. The defendant also claimed that he could in no way have complied with Aubry's request that he stop the insurrection. The prosecutor replied that his key position in all matters relating to the rebellion certainly enabled him to quell the uprising.29

29Ibid., pp. 401-402, 409. Lafrénière's denial that he was a rebel leader, his shifting to Carresse all blame for the drafting of the "Memorial" and his apology for not removing offensive statements from that protest are noteworthy and revealing. During the trial he appears a much different person from the one portrayed by Fortier, who praised Lafrénière's "patriotism, boldness, and heroism." The trial documents reveal a man who seems frightened, one whose implication of others hardly becomes the patriot or hero. (Cf., Fortier, A History of Louisiana, I, 232.)
Finally, in his defense Lafrénière offered the argument that Ulloa had not taken formal possession of the colony. Consequently, Ulloa had been expelled as a private individual, and not as a representative of the Spanish crown; treason, therefore, was out of the question. Lafrénière based his argument on the fact that the Spanish flag had not been raised at New Orleans but rather at Balize and other posts. This, the prosecutor noted, was a weak argument in light of all of the facts presented in the opening statement to prove that the colony was both de jure and de facto a Spanish possession. Had not, commented del Rey, Lafrénière received his salary as procurator general in Spanish money, paid by the Spanish treasury in Louisiana? By this very fact Lafreniere himself had recognized the actual possession of the colony by Spain.\(^{30}\) Indeed, there were too many witnesses against Lafreniere for his defense to be acceptable. Aubry, Navarro, and Trudeau had all testified that he was one of the chief leaders in the rebellion. The prosecution's case against the procurator general was too strong to be shaken, without some overwhelming evidence to the contrary. Lafrénière was unable to offer any such evidence in his defense.

The case for conspiracy against Jean Baptiste Noyan appears equally convincing. Felix del Rey charged him with inducing the Acadians to take up arms and to march to the city of New Orleans, thereby adding to the threat against Ulloa. He was further accused of being: "... one of those who concurred with the cabals, prior to the event (rebellion); spreading complaints against Don Antonio de Ulloa, freely speaking out with others who were desirous of his (Ulloa's) expulsion. ...". In addition to these charges, Noyan was accused of urging the Superior Council to vote for the expulsion of Ulloa. Moreover, from the beginning of Ulloa's arrival in Louisiana, Noyan had refused to accept Spanish rule, and he had spoken of keeping "our lives always French and never Spanish, ...".

In his statement before the prosecutor Noyan admitted doing and saying all of the things of which he was accused. His defense, however, was that his words and actions had never been seditious. He claimed that he had only acted in a manner that he considered loyal to his master, the French king. Noyan's defense, although unacceptable to del Rey, does illustrate that Noyan was firm in his resolves, unlike Lafrénière who sought to disavow involvement in the conspiracy. The promotor fiscal commented in regard to Noyan that he had confessed only to those things with which he was

charged and not to crimes of which he had not been accused. He also noted that Noyan had signed the confession as he always signed his papers and documents, in a steady hand and in his usual manner. These comments were apparently made to indicate to the Spanish court that the confession had not been forced from him but had been freely made. General O'Reilly and his prosecutor obviously took great pains to see that the trial was carried out properly. No evidence of any torture has been found.

As in the case against Lafrénière, so in the case against Noyan, the court proved conclusively that any attempt to demonstrate that the actions of the accused were merely the actions of loyalty to Louis XV, and not actions disloyal to Charles III, was pointless. The prosecution had fully proven that owing to the act of cession and the orders of both monarchs, none of the inhabitants of Louisiana could legally deny the authority of the Spanish governor without defying both the French and Spanish kings.

Pierre Marquis who held the elected office of colonel general of the Louisiana militia was also charged with serious offenses. Against the express command of his superior, Governor Aubry, he had incited the militia to rebel against Ulloa. He set out with his militia units in pursuit of Ulloa

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32 Ibid., pp. 426-427.
although he did finally return to New Orleans at the command of Aubry. He had been named to the new *sindico* for the rebellious colony after the departure of Ulloa and had accepted this position in the new illegal government. Reflecting the sentiments of his homeland, Switzerland, he was charged with advocating a republic in Louisiana. Had this idea been accepted, del Rey noted, not only would the colonists have openly defied Spain, but also France, the nation to which the rebels allegedly were loyal. Marquis, furthermore, had voted for the approval of the "Memorial" against the Spanish.\(^3^3\)

Marquis in his defense claimed that he had always held the post of colonel general of the militia with the approval of Aubry. This the court could not accept in the face of Aubry's testimony to the contrary. It was impossible for the prosecutor to believe that Aubry could have continued to approve as colonel general a man involved in the rebellion against the legitimate Spanish governor whom Aubry accepted. In addition to this, the defendant denied that he had endeavored to establish a republic in the colony. The court had too much testimony to the contrary to accept this claim. Finally, he denied being a leader of the rebels at the meeting of the Superior Council, stating that he went there

\(^{33}\)Ibid., pp. 434-436.
merely because he had been requested to be present. Such "non-rebellious" statements from a man considered by Fortier as a forerunner of men like George Washington and John Adams are not what one would expect of a sincere patriot in a true revolution.

Regardless of whatever else he might have denied, Marquis had to admit that he had indeed led the militia units into the Plaza on the day Ulloa was forced to leave New Orleans on the French vessel, the Caesar. The court also maintained that he had led others in armed rebellion against the legitimate representative of Charles III and therefore was guilty of sedition and treason. That Louisiana was de jure and de facto a Spanish colony had been amply shown in the opening statements of the trial. It was as useless for Marquis as it was for the other accused to claim that the transfer at Balize was not sufficient to make the colony a Spanish possession. Such was the prosecutor's reasoning.\(^{34}\)

Pierre Carresse was also charged with serious offenses against the crown. He was accused of leading armed bands of Acadians into the city of New Orleans, of going with the militia units to pursue Ulloa to Balize, and of accepting nomination and election to a post on the new sindico of the illegal government of the colony. Furthermore, as del Rey noted, he was:

\(^{34}\text{Ibid.}, \text{pp. 436-440.}\)
... the one who after spreading among the colonists the seeds of sedition, by which he and other leaders were able to excite their spirits, he drew up the Memorial in the name of the inhabitants and merchants, and he made many sign it and handed it personally, together with Marquis and Massan, to Foucault, proving himself in these documents to be an instigator and principal accomplice, as well as having been one of those who made arrangements for the Acadians to stay in the house of M. Denville. ...35

In addition to these crimes, he supported the illegal government of the colony after the departure of Don Antonio by helping to form the colony's new independent bank, the Bank of Mount Piety. Finally, he had been one of those who sought the expulsion of the frigate Volante. 36

In defense of himself, Carresse claimed, as did the others, that Louisiana was not legally a Spanish possession at the time of the uprising. He further maintained that the colonists had a legitimate complaint: namely the oppressive commercial decrees issued by the Spanish government. To these objections, the court answered that no rebellion would have occurred, in spite of the unpopularity of the commercial decrees, without the leadership of men who, like himself, were held in high esteem by the common people. That the colony was legally Spanish had been conclusively proven in

35Ibid., p. 441.
36Ibid., pp. 441-445.
the court's opening statement. Finally, the court stated that it was in possession of a letter from the accused to Lafrénière, which clearly implicated Carresse in the uprising. Also, the witnesses for the State against Carresse and the documents proving the legality of Spanish possession of the colony were evidence sufficient to convict the accused. The defendant's claim that new orders were needed from the French king for the transfer was an unacceptable assertion. Louis XV had already made it clear through the Duke of Praslin that the colony was to be considered Spanish when Don Antonio arrived to take possession.37

In reply to Carresse's denial that he was a key figure in the insurrection, the prosecutor offered not only the statements of the Crown's witnesses, but also a letter from Carresse to Lafrénière fully implicating the former in the rebellion. If more proof were needed that Carresse was a leading conspirator, additional testimony had been offered that he was among those who at first favored resisting Don Alejandro O'Reilly when the general arrived at Balize in July, 1769. The court left no reasonable doubt that the accused was guilty as charged.38

Another leader of the rebels was Joseph Milhet. Del Rey accused him of stirring up the people and of planting

37Ibid., pp. 446-451.

38Ibid., 453-455.
seditious ideas among them. He was also accused of helping to promote the conspiratorial decisions of the Superior Council. Milhet was denounced by the court as follows:

... he was one of those who worked in gathering signatures for the Representation which brought about the decree of the Council, and he persuaded some, who were excusing themselves from signing, by assuring them that this was an affair directed by men of great judgment, and that all measures had been taken to make sure that no one would lose anything that was owed to him by the Spanish. 39

This, del Rey noted, was certainly sedition, for Milhet had tried to convince the common people that by driving out the Spanish they would be acting for their own true and righteous interests. It was he, who with Noyan and Ensign Bienville on the night before the rebellion, had stirred up the Acadians. In addition to these accusations, it was also asserted that Milhet had accepted a position in the new sindico of the illegal government of the colony, and that he had solicited funds, after the expulsion of Ulloa, to keep the rebel regime in power. 40

In his statement of defense, Joseph Milhet admitted that he had indeed taken part in all of the events mentioned by the court. However, he declared that he did not recognize

39 Ibid., pp. 456-459.
40 Ibid.
these events as being seditious or subversive of the legal order of the colony. He defended his actions among the Acadians by asserting that he was only trying to help them collect the money owed them by the Spanish colonial treasury. The court's answer to this was that it was unreasonable to think that a man of Milhet's intelligence could not have realized that his actions were acts of sedition and, as such were conducive to rebellion against the legitimate Spanish regime. An even greater absurdity, del Rey stated, was to maintain that Milhet, as a leader of the militia, did not realize that in stirring up the Acadians and in leading his own forces against the Spanish, he was committing sedition and treason.

The court's answer to Milhet's final argument, that in leading his forces be only obeyed his commander, colonel general Marquis, was incisive. Del Rey declared that it must have been obvious to Milhet that his chief commander, Governor Aubry, was attempting to halt the insurrection, and that his rightful obedience should have been to him. Had not Milhet led his forces in pursuit of Ulloa in defiance of Aubry's open opposition to the rebellion? According to the prosecutor, the accused had no reasonable defense to offer for his crimes. He stood guilty as charged, a seditious and treasonable man, and a key leader in the insurrection. By his own confession he had admitted taking
part in all phases of the rebellion, even to the extent of aiding it financially. This was, in summary, the state's case against Joseph Milhet.  

Although Joseph Villere had died in prison, the court saw fit to offer in its report the evidence it had gathered to prove that he was a prime conspirator and, as such, guilty of sedition and treason. The evidence given by the court plainly implicated him:

... He stirred up the Germans, whose captain he was, making them sign the Representation that was formulated to bring about the expulsion of Don Antonio de Ulloa and of all of the Spanish, and he led them to the city to join the rebels in order to keep alive the insurrection, as was verified that day; and he was in command of them, as has been declared by the witnesses who testified to this in the Proceedings.


42 There is still uncertainty about the circumstances of Villere's death. From the official report sent by O'Reilly to Grimaldi, it is clear that the Spanish governor had learned of Villere's death from Captain de Acosta. The attached trial account stated that he had a seizure of some sort and died shortly thereafter. Beyond this, no other explanation was offered. According to legend, Villere had struck a Spanish soldier and in the ensuing struggle received bayonet wounds which resulted in his death. It has not been ascertained whether he was attempting to escape, or whether the struggle with the soldiers was caused by some attack of his upon them, or for some other reason. Gayarre claimed that Villere had become angry upon being arrested, as Aubry had led him to believe that he had nothing to fear in returning to New Orleans. (Gayarre, History of Louisiana, II, 304.) According to another document in the Spanish Archives, Villere died a natural death on August 31, 1769. This report also says he was buried by the Capuchins on September 1, 1769 (A.H.N.P.E., Legajo 20.854, folio 723).
Further, it was Villeré who had prevented the money taken by M. Maxent to pay the Germans and the Acadians from reaching them. In this way, he was responsible for these people believing that the crown still had not met its obligations. Consequently, the Germans and the Acadians were induced to march to New Orleans in the hope that they would receive their money.\textsuperscript{43} This latter accusation was supported by both Aubry and Don Esteban Gayarre.

After dealing with the chief conspirators in the rebellion, the prosecution indicted a number of accomplices. Joseph Petit was considered by the court as a major accomplice. Although this charge was a serious one, it did not carry a compulsory death penalty. Del Rey accused Petit of speaking out publicly against the Spanish commercial regulations and of cooperating, before the rebellion, with the leaders and chief instigators to bring about the expulsion of Ulloa:

\textit{... In public he spoke against the already known commercial regulations, which caused the people to be stirred up, attended the meetings leading up to the insurrection, and showed himself among the rebels with his weapons, giving orders and acting as their main leader; being so insolent that, with the assistance of his followers, he untied the ropes that moored the frigate on which Don Antonio was expelled, as he (Petit) was impatient with the slowness of the sailors in this task, \textellipsis}
Added to this, with others of his own social group he had helped to force the sailing of the frigate *Volante* from New Orleans on April 20, 1769. Moreover, he had been associated with Lafrénière in attempting to persuade Aubry to give his word of honor that he would use his influence to force the Spanish frigate *Volante* to depart from the port of New Orleans. Finally, he was one of those who was prepared to set out for Balize to offer resistance to O'Reilly in July, 1769. 44

Petit's defense seems weak. He claimed that he had been in New Orleans on October 29 merely to hear the proceedings of the Superior Council. Furthermore, he denied that he had been armed when he was in the Plaza with the populace on that date. However, his denials were of no avail, for the testimony of many witnesses contradicted him. That he was guilty as charged had been sworn to by de Acosta and Navarro. Nevertheless, the prosecutor considered him as important accomplice, rather than an instigator and leader of the insurrection. 45 This fact was to prove to be of vital importance to him when he was sentenced by the court.

Balthasar Massan was another influential accomplice. He was accused of having forced some of the citizens to sign the "Petition" which had been presented to the Superior

44 Ibid., pp. 469-472.

Council for consideration. Also, he was alleged to have cooperated with the rebels before and after the insurrection. According to the prosecutor, he was implicated as follows:

... in which he accepted the position of, and acted as, the chief fiscal officer of the rebels, promoting the ideas that followed upon the rebellion; and among these, on two occasions, he urged the violent expulsion of the frigate of His Catholic Majesty along with the officers and troops who were loyal to Don Antonio de Ulloa.

The court maintained that Massan, who was a Knight of the Order of Saint Louis, should have restrained the people during the events surrounding the rebellion. Instead, he aided the rebels, and refused to support Governor Aubry in maintaining order. His loyalty to Louis XV should have made him loyal to Charles III, to whom the French king had ceded Louisiana.46

In spite of Massan's denials of all of the charges brought against him, the state's case appears convincing. Governor Aubry had testified to his presence at the meetings of the Superior Council and to his involvement in forcing the withdrawal of the frigate Volante. He had been one of the officials to whom the French governor had presented Don Antonio as the man chosen by Charles III to take possession

46Ibid., pp. 415-418.
of Louisiana. Furthermore, on the basis of testimony given by Gayarre and de Acosta, he had been implicated in the actual insurrection. The case against him was strong. Accordingly, the prosecutor indicted him as a leading accomplice in the rebellion.

Jerome Julian Doucet, a lawyer who had lived in the colony for only a short time prior to the rebellion, was also accused of being an accomplice. It was not considered, however, that he played a major role in the insurrection; so he was indicted as a minor accomplice, and del Rey stated:

... who cooperated with Carresse in the drawing up of the Memorial made in the name of the inhabitants and merchants for the expulsion of Don Antonio de Ulloa and of all the Spanish, ... but what is constant is the terrible crime of having drawn up the Memorial of the Inhabitants and Merchants, ... together with many other writings directed to sustain and to justify in law the crime of insurrection.\(^\text{48}\)

Doucet, therefore, was regarded only as a collaborator in the drafting of the "Memorial", which had stirred up the colonists to rebellion. He was also charged with collaborating in later writings which sought to sustain and to justify the accomplished rebellion. The prosecutor noted that those writings had attempted a justification of the insurrection

\(^{47}\) Ibid., pp. 419-423.

\(^{48}\) Ibid., pp. 487-488.
on the theory of natural law. They proposed to the world the view that the rebels had only followed the example of those many others in history who had sought to protect their natural rights against an oppressive government. They maintained that the rebels had not committed any crime against the highest law, the natural law.49

Doucet attempted to defend himself against the accusations of the prosecutor. He denied responsibility for the most inflammatory statements in the "Memorial" and in the writings published after the insurrection. He was unable, however, to prove to the satisfaction of the court that he had not had an essential role in their preparation. The prosecution, for its part, admitted that it could not prove that Doucet had a key role in drawing up the "Memorial" or in drafting the later writings. Nevertheless, there was no doubt, the court asserted, that he had collaborated in these works, which were offensive to the Spanish Crown and nation. These documents had helped to further inflame the people of Louisiana, and to sustain them in their resistance to their legitimate ruler. Since it had not been clearly proven by the court that he was a chief accomplice, the prosecutor charged instead that Doucet was an accessory to the crime of sedition and treason. The testimony of Aubry and de Acosta

49 Ibid., p. 492
supported this indictment.\textsuperscript{50}

Jean Milhet, lieutenant of militia and brother of Joseph Milhet, was also involved in the conspiracy. The court accused him of being a major accomplice in the rebellion. He was charged with publicly speaking out against the two commercial decrees that the Spanish government had issued for Louisiana. Moreover, he had allegedly approved of the "Memorial" and had sided with Foucault and Carresse. Witnesses testified that he had led his militia unit into the Plaza on the day Ulloa was ousted, and that he had later led his troops, under Marquis' command, in pursuit of the French vessel, the \textit{Caesar}, as it sailed toward Balize with Ulloa and his family. That he was a lieutenant of militia who, in violation of Aubry's orders, took part in the actual rebellion was the most important charge against him:

\begin{quote}
... he took up his arms to back the rebellion, ... but without permission of the chief military officer of the colony (Aubry) and even against his express orders, which had been given the night before, as Milhet himself admitted in his confession; and he took up his arms and joined his company. As a result of this there is no doubt that he was one of the main accomplices of the insurrection.\textsuperscript{51}
\end{quote}

\textsuperscript{50}\textit{Ibid.}, pp. 488-491.

\textsuperscript{51}\textit{Ibid.}, pp. 468-469.
In spite of the phrase, "principal accomplice", in the charge, Milhet was not ultimately so convicted. Rather, he was convicted of being a collaborating or minor accomplice. He offered no denial of the charges made against him by del Rey; his defense rested on a legal technicality. It was his claim that he had acted as a private citizen, and not as a member of the militia, when he took part in the expulsion of Ulloa and in the pursuit of the Caesar. He asserted that he had not acted in the course of the rebellion as a militia lieutenant. The court was unwilling to accept this reasoning, for as the head of a militia unit he must have realized that he was acting against the explicit commands of Aubry who had tried to stop the rebellion. Furthermore, as the leader of a militia unit, he could not divest himself by a technicality from that position. He was, therefore, judged guilty of being a minor accomplice in the rebellion.52

Pierre Poupet was also charged as an accomplice. In essence he was accused of being an accessory to the rebellion after it had already taken place:

... He acted as the treasurer of the rebels, after the insurrection had come about. Several meetings were held in his house to plan the means to sustain it, and he supplied the expenses necessary for that purpose.

52 Ibid.
The main charge against Poupet was that he had given financial aid to the rebels after they had expelled Ulloa. In addition, he was accused of being in the company of Doucet, Noyan and Joseph Milhet in the house of a certain M. Desiller, where the movement to incite the Acadians was alleged to have begun. Also, he was charged with carrying arms and mingling with the rebels in the Plaza on October 29, and of having been involved in the printing of the "Memorial".  

Poupet denied some of the charges made against him. He refused to admit any involvement in the events leading up to the rebellion. He confessed, however, that he had accepted the post of treasurer for the rebels and had made personal contributions to the rebel cause. He further admitted that he was present and armed among the rebels on October 29.

The prosecutor agreed that the evidence at hand supported the claims of the accused, namely, that he had been an "after-the-fact" accomplice. However, he had cooperated with an illegal regime and had accepted the post of treasurer in a government established in defiance of the legitimate ruler, Charles III, and his representative, Don Antonio de Ulloa. In view of these circumstances, the prosecutor contended that Poupet had violated the Ley Julia, which forbade a Spanish

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53 Ibid., pp. 476-478.
subject from joining, as an official, a regime established in opposition to the legal government. In effect, he was guilty of a mitigated form of sedition and should be punished accordingly.\textsuperscript{54}

The last of the accused was Pierre Hardi de Boisblanc. He was also considered an accomplice, but not an instigator of the rebellion. Yet, he had been more involved in the uprising than had Poupet. Del Rey charged him with being:

\begin{quote}
... the banker of Louisiana, ... he was named by Foucault and Lafreniere to deliberate about the Memorial of the Inhabitants and Merchants, ... and he intervened in the drawing up of the already mentioned Memorial, ... he directed the establishment of the bank, called Mount Piety.
\end{quote}

Thus, he was cited as the banker for an illegal regime established after Ulloa's departure, and as the man who had directed the establishment of that bank. Moreover, he was accused of conspiratorial association with Lafreniere and Foucault prior to the insurrection. Even though it was known that he visited with Lafreniere and Foucault on October 28, the court could not prove definitely that he had prior knowledge of the revolt. Hence, he was not indicted as a prime mover in the rebellion.\textsuperscript{55}

Boisblanc's defense was that he had not been involved in any of the events leading up to the rebellion. He admitted

\begin{itemize}
\item \textsuperscript{54} Ibid., pp. 479-480.
\item \textsuperscript{55} Ibid., pp. 482-485.
\end{itemize}
his visit with Lafrénière and Foucault on October 28. However, he denied complicity in the rebellion. The remaining charges he could not, and did not, deny. It was known that he had signed the "Memorial" on October 29. It was also common knowledge that he was the financier for the colony's illegal government, and that he had directed the establishment of the Bank of Mount Piety. Therefore, he was adjudged guilty as an accomplice to the rebellion. The fact that he had thus joined a rebellious movement, and later an illegal government, made him guilty of the crime of sedition and treason. His guilt, however, was deemed less than that of the men who had instigated the insurrection. Thus ended the charges against the accused.

The trial had been conducted with thoroughness and apparent impartiality. It is unlikely that by the end of the proceedings any of the accused thought he would be acquitted. Each had been accused of sedition and treason, and must have realized that he might receive the death penalty. Yet, the Spanish governor had exercised great moderation since his arrival at New Orleans in August of that year. The general amnesty he had granted to the populace was evidence of his spirit of leniency and forgiveness. Perhaps some or all of the accused expected that the full penalty demanded by

56Ibid., pp. 485-487.
Spanish law would not be incurred by them. No available records disclose their sentiments.

On October 24, 1769, General O'Reilly imposed the sentences on the rebels. His verdict made it clear that the Spanish government, while not being vindictive, was unwilling to allow a rebellion against legitimate authority to go unpunished. The twelve convicted men were sentenced as follows:

"... condemned to the penalty of death were Nicholas Chauvin Lafrénière, Jean Baptiste Noyan, Pierre Carresse, Pierre Marquis and Joseph Milhet as heads and main leaders; and ... Joseph Villère, already dead, ... Joseph Petit was condemned to perpetual exile in prison; ... Balthasar Massan and Julien Jerome Doucet were condemned to ten years in prison, and Jean Milhet, Pierre Poupet and Pierre Hardi de Boisblanc were condemned to six years in prison."\(^{57}\)

O'Reilly's sentences must be judged in the light of the evidence made available by the trial proceedings. In the eighteenth century, treason was considered a most grievous crime by all nations. That only six men were condemned to death, while the other six were given prison terms, indicates that the Spanish governor wished to assess fairly the extent of the individual guilt or complicity of the rebel leaders. As none of the six men sentenced to imprisonment was considered to have been a leader, without whom the rebellion

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\(^{57}\)Ibid., pp. 501-503, 510.
could not have occurred, each was granted that "justice tempered with mercy" which the general wished to exhibit toward the new subjects of Charles III. It seems that this was as far as the Spanish governor could go in granting leniency.

Because there was no hangman in New Orleans, Felix del Rey requested that O'Reilly have the execution carried out by a firing squad. This was done and the condemned were put to death on the day following their sentencing. On October 25, 1769, Lafrénière, Marquis, Noyan, Joseph Milhet, and Carresse, (Villeré was already dead), were taken into the barracks area of the Lisbon regiment. There, away from the sight of the other colonists, they were executed by soldiers of that regiment. These proceedings were carried out under the supervision of M. Ganderat, Jean Baptiste Garic, and Lieutenant Juan Kelly of the Spanish artillery. The condemned were shot and were then pronounced dead. For verification of the trial and the sentencing, the signatures of O'Reilly and del Rey were affixed to the document. The execution was verified by General O'Reilly, del Rey and Jose Urrutria, the assessor. The entire proceedings were certified as true and accurate by Francisco Xavier Rodriguez, the scribe of O'Reilly's expedition.\(^{58}\) Thus ended the futile attempt of the rebels to overthrow the legitimate rule of Spain in Louisiana.

\(^{58}\)Ibid., pp. 512-517.
In his letter to Grimaldi, to which was appended an account of the entire trial proceedings, O'Reilly stated that he considered that the trial had been conducted fairly and that the sentences imposed were just. He believed that the people realized the justification for what he had done, and he hoped his actions had been pleasing to the king.  

O'Reilly's own sentiments regarding the trial and its outcome are more fully revealed in a subsequent letter to the Minister of the Council of the Indies, El Bailio Frey Don Julian de Arriaga. In addition to a full account of the proceedings, the Spanish governor indicated to Arriaga a deep concern that all had been done properly, and as His Majesty had desired. He wrote to Arriaga as follows:

... The case that was being prosecuted against the twelve leaders; ... has been concluded. Full satisfaction has been given for the offense committed, ... Everyone recognizes the necessity, justice and clemency of the proceedings, and this example will remain eternally graven on the hearts of all. Respect for the authority of the King is greatly augmented by the strict justice and great celerity with which it has been carried out. Henceforth, I shall receive without discrimination those who were seduced and signed the first representation to the council, and it will be the greatest consolation to the public to know that I shall not leave in the province any memory of that ill-considered act. I shall reconcile and calm their minds by all means possible, and none is more effective than to let them know that there is and always will be entire forgetfulness of the past, and that everyone will find in the government the

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protection and favor of which he is deserving....
I hope that I have carried out his royal in-
structions, and if I have attained this happiness,
my satisfaction will be complete....\(^{60}\)

O'Reilly was not left in doubt as to whether or not he
had acted according to the wishes of the king. A favorable
reply came to him soon after the receipt of the documents in
Madrid. Answering for His Majesty, the Marquès de Grimaldi
wrote to O'Reilly on January 27, 1770, assuring him of the
king's approval:

... The complete justification of the proceedings
against those condemned to death and prison, the
moderation in reducing the punishment to what was
absolutely necessary to bring about the tranquility
and the good of the province, and your assurance to
the rest that no reminders of their crime will sub-
sist, are very conformable to the pious soul of the
King. Your Excellency was well advised of the royal
intentions, put them into full effect, and the
assurance which I gave him of this may serve as a
source of satisfaction.\(^{61}\)

Official public approval in Spain for O'Reilly's accom-
plishments in Louisiana came in June of 1770, in a notice
appearing in the Gaceta de Madrid. The article noted that
the general had been awarded a gift of 2,000 pesos, and upon
his arrival in Madrid had been received and welcomed by the
King. He was praised for completing the tasks given him by
Charles III, especially the one which he had recently

\(^{60}\) O'Reilly to Arriaga, October 27, 1769, A.G.I.S.D.,
80-1-7, No. 9, in Kinnaird, Spain in the Mississippi Valley,
pp. 105-106.

\(^{61}\) Grimaldi to O'Reilly, El Pardo, January 27, 1770,
finished in the colony of Louisiana. There is no doubt, therefore, that he had carried out the wishes of the King in a satisfactory manner.

Although the trial was over, there were additional problems connected with it which had to be solved by O'Reilly. The property of those condemned to death had been confiscated and had to be liquidated. O'Reilly had this done with promptness, so that the widows, the creditors, and the royal exchequer would be satisfied. As a result of his rapid settlement of these estates, the general noted that the colonists realized that the Spanish dealt with their subjects justly and equitably.

A final letter to Arriaga concerning this matter was sent by O'Reilly just before he left New Orleans on March 1, 1770. He pointed out that the widows of the condemned men had received their dowries, the creditors their debts, and the state its due, as required by law. Furthermore, he stated that the sum paid to the assessor, the promotor fiscal and the scribe for their work was only 2007 pesos. This small remuneration, especially considering the distance each had to travel for the trial, in O'Reilly's judgment, was

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62 Gaceta de Madrid, June 18, 1770, cited by Rodríguez-Casado, *Primeros años de dominación española*, p. 301.

enough to convince the widows of the executed men, as well as the populace, of the Spanish officials' disinterestedness and sense of justice.  

Although the leaders of the rebellion were tried and convicted, the status of other individuals, who later might prove to be a source of discontent in Louisiana had to be considered. M. d'Arensburg, his sons and daughter, who was the widow of Joseph Villere, were also considered potential trouble makers. Since d'Arensburg and his family had great influence among the Germans along the Mississippi River above New Orleans, O'Reilly ordered the family to sell its property and to leave the area. Due to his advanced age (seventy-seven), the elder d'Arensburg was allowed to live in New Orleans, but the sons were commanded to move to Opelousas. Relatives and friends offered surety for them, thereby making themselves responsible for their good behavior. O'Reilly asserted that d'Arensburg, who had been a commandant of the German settlement during Ulloa's regime, should have tried to stop the rebellion. Instead, he had remained neutral during the events leading up to the insurrection, even though he knew of the involvement of Joseph Villere, his son-in-law.  

64 O'Reilly to Arriaga, New Orleans, March 1, 1770, ibid., pp. 160-161.

65 O'Reilly to Arriaga, New Orleans, December 10, 1769, ibid., pp. 127-128.
Another undesirable, M. de Sasier, deputy of the Superior Council, had gone to France after the uprising. Since the Spanish general felt that he had shown little respect for law and order, he was not permitted to return to Louisiana.  

Still others, in O'Reilly's judgment, presented a danger to the peace of the colony. In a communique to Arriaga in December of that year, the general listed twenty-one men that he had ordered expelled from the colony as a threat to the peace and security of the community. Three Jews were also expelled because of their religion and because of a reputation for questionable business transactions.

The fate of the six who had been imprisoned in Havana soon took a turn for the better. In a short time they had a number of advocates pleading for their release. As early as January of 1770, the Conde de Fuentes, Spanish ambassador to France, sent to the Marques de Grimaldi, Spanish Minister of State, a letter noting that Pierre Hardi de Boisblanc had many men of influence in France who were speaking in his behalf. Among these was the brother of the prisoner, a

66Ibid.

67No details were offered as to exactly what dubious things these men were doing. O'Reilly to Arriaga, New Orleans, December 17, 1769, A.G.I.S.D., 80-1-7, Ibid., p. 103.
priest, who was the Provincial of the Order of Recolets for the Province of Aquitaine, and **Predicateur de Roi**, a special honor for any cleric. Claiming that his imprisoned brother was a victim of circumstances, he begged for clemency now that peace was restored in Louisiana.68

In time, these pleas which made their way to the Spanish court for the release of the imprisoned rebels had their effect. By the summer of 1770, the Marques de Grimaldi notified Governor Unzaga of Louisiana that the six rebel leaders were to be released. He noted that the Duke of Choiseul had pleaded for mercy for them in the name of Louis XV, and that His Most Catholic Majesty: "... desiring to manifest to the Most Christian King the regard which he has for any suggestion of his, has seen fit to grant all of them their liberty, and to order the governor of Havana to be instructed to send them to Santo Domingo.... He is to warn them before they leave never to enter again the domains of His Majesty under penalty of death."69 However, it is noteworthy that in no way did Grimaldi imply that any injustice

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had been done to them. The release was, accordingly, an act of mercy on the part of Charles III. It did not indicate any criticism of the actions and judgments of the Spanish tribunal under O'Reilly.

Antonio Bucareli, Captain-general and Governor of Cuba, in pursuance of the order of the king, released the prisoners who had been held at Castle Morro. The six were put aboard the British brigantine once used in the trade of the Asiento granted by Spain to England, and from Havana they sailed by way of Puerto Rico to the French colony of Saint Domingue. 70

With the release of the six rebel leaders, the story of the trial and its aftermath ends. O'Reilly's decisive actions in dealing with the rebels gave political stability to Louisiana. His work, however, was far from over, and he continued the task of integrating Louisiana into the Spanish empire. With that same determination that he had shown in handling the occupation of Louisiana and the trial of the rebels, he completed the other assignments given him by Charles III.

70Bucareli to Arriaga, Havana, December 12, 1770, A.G.I.S.D., 80-1-9, ibid., p. 189.
Once order had been established in Louisiana and the rebels had been tried and punished, the various other problems pressing on O'Reilly were gradually resolved. Carefully interpreting his instructions, O'Reilly established in Louisiana that same law under which all of the Spanish dominions in America were governed. The legal system set up in Louisiana was a condensed version of the Recopilación de Leyes de los Reinos de las Indias, supplemented by La Cour Philipique.

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1 Proclamation Establishing the Cabildo, New Orleans, November 25, 1769, in Kinnaird, Spain in the Mississippi Valley, pp. 108-110.

2 Recopilación de Las Indias, as it is generally called, was based on earlier laws of Spain, namely the Leyes de Toro, which were compiled as the Nueva Recopilación. The Recopilación de las Indias was first promulgated in Spain on May 18, 1680. It was comprised of 9 books, 218 titles and 6447 enactments, and dealt with every possible phase of law for the colonies. It was upon this vast pyramid of law that the Code O'Reilly was based. (Cf. Wallach, as cited below, and Henry PLAUCHÉ DART, "Courts and Laws in Colonial Louisiana," Report of the Louisiana Bar Association, 1921, Vol. XXII (New Orleans, 1921), pp. 53-55.)
and the Recopilación de Leyes de Castilla.  

As previously noted, O'Reilly appointed Luis de Unzaga to succeed him as governor, effective upon his departure. The intendant, the treasurer, and the contador, Jose de Loyola, Martin Navarro, and Esteban Gayarre, respectively, had retained their offices when O'Reilly arrived. Except for these three men, nothing of the limited structure of government established under Ulloa remained. Consequently, for the permanence of the Spanish regime an adequate governmental and legal system had to be established.

In the governor rested the highest executive and judicial powers. He could issue proclamations which had the effect of law. He was, however, subordinate to the captain general of Cuba. Appeals might be made from the governor to the special tribunal established by the king at Havana, or to the Audiencia of Santo Domingo, the Council of the Indies, or the king.

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5Gayarre seemed uncertain whether the governor of Louisiana was under the captain general of Cuba. (History of Louisiana, III, p. 5 and p. 104.) His subordination to the captain general is definitely verified by documents. Cf., Cedula putting Louisiana under the captain general of Cuba, San Ildefonso, August 11, 1772, A.G.I.S.D., Legajo 2594, L.C. pp. 534-541.
The intendant had commercial, naval and fiscal powers. Hence, he often clashed with the governor over matters of jurisdiction. Among other things, it was intended that he serve as a restraining power on the governor in the Spanish American Colonies. The contador was the auditor for the whole province. The treasurer was the official who kept the funds for the colony and was responsible for informing the governor and intendant of the financial status of the colony.⁶

For these key provincial officers, the crown appointed advisors. An auditor of war and assessor of government advised the governor (and others, if necessary) on legal matters. There was also a legal advisor for the intendant, called an auditor of intendancy. Moreover, there were secretaries to the governor and the intendant and such minor officials as storekeepers and interpreters. Since all of these existed under Ulloa,⁷ this chapter will deal in detail only with those offices initiated under O'Reilly's administration which have not been dealt with in previous chapters. There is no need to discuss the function of the lieutenant governors, as these officials will be treated in detail in Chapter VII.

Relying on powers given him by Charles III, O'Reilly had

⁶Gayarré, History of Louisiana, III, 5-6.
⁷Ibid.
determined as early as October of 1769 to establish the Spanish legal system in Louisiana. Contrary to assumptions by various historians that O'Reilly was not so empowered, the following instructions, available for many years, prove that he acted as commanded:

... that in both the military and civil spheres you establish proper administration of justice and management of the Royal Treasury, organizing the form of government and its administrators in the manner which you consider most suitable. So that you may carry out my instructions fully, I give you today such power and jurisdiction as shall be necessary for handling each matter, case and incident. And I desire, should it become necessary, that you use the soldiers and weapons that will be at your orders, and that to take care of matters pertaining to finances and the treasury, you take as your adviser and prosecutor such lawyers as you see fit, who having been appointed by you, will perform these tasks with full authority, for this is my will.

There can certainly be no doubt as to the plenipotentiary powers contained in O'Reilly's commission and to the King's desire that Spanish colonial law be established in Louisiana. The manner of executing these instructions was left to O'Reilly's discretion, and the approval found in cedulas later issued by Charles III, fully attests to the fact that

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9 Cedula of Charles III commissioning O'Reilly, dictated in Aranjuez, April, 1769, A.G.I.S.D., Legajo 2594, L.C. pp. 341-342. The draft is not dated. For date, April 16, 1769, see Bjork, "Alejandro O'Reilly", in New Spain in the Anglo-American West.
the Spanish general faithfully carried out the royal intentions.\textsuperscript{10}

On November 25, 1769, O'Reilly issued two proclamations and two legal ordinances. By the first proclamation and ordinance, he abolished the old Superior Council, which had helped to engineer the rebellion, and established in its place a cabildo. Under this ordinance were included the regulations for the perpetuation of the cabildo and the provisions for the election of judges to try civil and criminal cases in New Orleans. Included also was a list of the responsibilities of each of these officials.\textsuperscript{11} The second proclamation and ordinance dealt with the instructions for instituting civil and criminal suits and the general administrations of justice in the colony.\textsuperscript{12} A brief analysis of each of these documents will illustrate the importance of Spanish law by showing the relationship of the Spanish legal system to its French forerunner and to the civil code later


\textsuperscript{11}O'Reilly's Proclamation, New Orleans, November 25, 1769, in Kinnaird, \textit{Spain in the Mississippi Valley}, p. 108.

established by the state of Louisiana. The proclamation of November 25, 1769, states in part:

Don Alejandro O'Reilly, .... We establish, in his royal name, a city council or cabildo, for the administration of justice and preservation of order in this city, composed of six perpetual regidores, in conformity with the second statute, title ten, book five, of the Recopilacion de las Indias. Among these shall be distributed the offices of alferez royal, provincial alcalde mayor, alguacil mayor, depositary general, and receiver of penas de camara, or fines, awarded to the royal treasury. These shall elect, on the first day of every year, two judges, who shall be styled alcaldes ordinary, a syndic general, and a manager of the income taxes of the city such as the laws have established for good government and administration of justice.13

The attached instructions promulgated by O'Reilly made clear the duties incumbent upon the cabildo's members and the officials elected by them. The members of the cabildo and the other officials mentioned were either elected by the existing cabildo, or they bought their offices. The governor had the power to prevent a person from taking office in either case. Meetings of the cabildo were held every Friday and were presided over by the governor, or, in his absence, by the ranking alcalde ordinary.14

The cabildo was entrusted with the maintenance of public order and care of the public welfare. It regulated the price of food, especially that of meat, looked after public

13Proclamation of O'Reilly, November 25, 1769, in Kinnaird, Spain in the Mississippi Valley, p. 108.
14Cabildo, ibid., pp. 110-113.
buildings, including churches, and the streets; and it collected fines.\(^{15}\)

Certain limited judicial powers also resided in the cabildo. It had the right to hear appeals from an alcalde or a commandant in civil cases involving not more than 90,000 maravedis.\(^{16}\) Amounts above this went to the Havana appeals court.\(^{17}\) The cabildo, as a body, seems not to have had any original jurisdiction. In order to hear appeals in the cases mentioned, the cabildo appointed two of its regidores to decide, in conjunction with the alcaldes or commandant who had original jurisdiction in the case, whether or not the appeal should be heard. No appeal in criminal cases was allowed the cabildo, for these appeals were to be sent to the superior tribunal which, upon O'Reilly's recommendation, Charles III later established at Havana for that purpose.\(^{18}\)

The clerk of the cabildo was either appointed by the governor or he bought his office. The duties of the clerk were essentially those of the secretary of any council. He

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\(^{15}\)Ibid., p. 112.

\(^{16}\)A maravedi was the smallest Spanish coin. Gayarré says 90,000 maravedis was $330.88. (Cf. Gayarré, History of Louisiana, III, 4.)

\(^{17}\)Gayarré says alcaldes heard cases up to 90,000 maravedis and that the cabildo heard appeals for amounts over 90,000. (Ibid.) This assertion is not justified in the light of the documents. (Cf. Kinnaird, Spain in the Mississippi Valley, p. 112.)

\(^{18}\)Kinnaird, Spain in the Mississippi Valley, pp. 108-125.
acted as the chief archivist, preserving all of the papers concerning the cabildo, as well as its trial proceedings. In order to insure his honesty, he was required to note the fee charged at the bottom of each document, and he was subject to the prescribed penalty for charging more than was allowed under Spanish law.19

The alcaldes ordinary, who were elected by the members of the cabildo, were judges. They were usually two in number, and had original jurisdiction in both civil and criminal cases falling within their assigned jurisdiction. The jurisdictional area included the city and its dependencies assigned to a particular alcalde. They were not permitted to handle criminal cases of grave importance, and their civil cases were only those which involved a very small sum, twenty pias ters, unless the litigants both agreed to have the alcalde hear the case; otherwise the governor had jurisdiction in the case.

No alcalde could be deprived of his jurisdiction in a case legally brought before him, not even by the governor. However, the governor could, by a written order, demanded by the litigants, require the alcalde to render speedy justice conformable to law. If the jurisdiction of the alcalde was in doubt, the dispute had to be decided by the governor.

But if one of the alcaldes claiming jurisdiction tried the case before the governor reached his decision concerning the jurisdiction that alcalde automatically lost jurisdiction, and the other alcalde took charge of the case.

If the authority of an alcalde was challenged by a litigant, he could continue on the case only in conjunction with the other alcalde. If both alcaldes were challenged, a regidor was associated with them to hear the case. If the litigant wished to exclude an alcalde from hearing the case, he had to present, in writing, evidence to substantiate his claim that the alcalde was unable to render an impartial verdict. Two men, one chosen by the alcalde, and the other by the litigant, were to decide whether or not the litigant's evidence warranted exclusion of the alcalde from the case. If they could not agree, a third man was appointed by the alcalde, and then the decision reached by the majority was binding. This feature of judicial procedure resembles the Anglo-Saxon system of challenging jurors, and provided a reasonable procedure for the administration of justice.²⁰

That clemency existed under Spanish law was shown by the prison rule for the eves of Christmas, Easter and Pente-

cost. On those days, the alcaldes, the alguacil mayor and
the clerk accompanied the governor in a tour of the prisons.
They released those who had been arrested for criminal cases
of little importance, as well as those imprisoned for debts,
on condition that they arrange to pay their debts in the fu­
ture.21 Thus, Spanish law had a number of safeguards to
prevent the indefinite detention of prisoners prior to their
trial, or their lengthy imprisonment for minor offenses.
Consequently, it seems to have compared favorably with the
legal system in the British colonies of North America.

The regidor of the cabildo, who exercised the office of
provincial regidor alcalde mayor, had jurisdiction over crim­
inal cases outside of the city and villages and over crim­
inals fleeing from a city. If, however, one of the alcaldes
ordinary or the governor had the case before him when the
criminal fled, that case was to remain within his jurisdic­
tion and not that of the provincial regidor alcalde mayor,
even if the criminal was later apprehended by agents of the
regidor alcalde mayor. In effect, he had jurisdiction over
those vast areas of the colony which were not specifically
under the control of other alcaldes or the governor.22

21 Alcaldes Ordinary, Kinnaird, Spain in the Mississippi
Valley, pp. 115-116.

22 A case was tried in the court of alcalde Jacinto Panis
in June of 1782 which shows the vast extent of the jurisdic­
tion of an alcalde. The defendant, Evan Milly, was a resident
In order that the regidor alcalde mayor be unhindered in the administration of justice in remote places, there was to be no appeal from his judgment. Accordingly, he was instructed to conform to the letter and spirit of the laws and to consult a lawyer in the cases brought before him. Until lawyers were available, the instructions issued under O'Reilly's orders were his guide. Any conflict of jurisdiction was to be resolved in the same manner as that prescribed for situations involving a conflict of jurisdiction between the alcaldes ordinary, or between an alcalde and the governor.

and ordered the commandant at Opelousas to carry out the decision. (Cf. Henry P. Dart and Laura L. Porteous /eds./, "Index to the Spanish Judicial Records," Louisiana Historical Quarterly, Vol. XVIII /October, 1935/, p. 103.)

The extent of the alcalde's jurisdiction was governed by custom in the different colonies. (Cf. O. Garfield Jones, "Local Government in the Spanish Colonies," Southwestern Historical Quarterly, Vol. XIX /July, 1915/, pp. 75-76.)


24Provincial Alcalde Mayor, Kinnaird, Spain in the Mississippi Valley, pp. 116-118. To assist the provincial alcalde mayor in the administration of justice in rural areas, Spanish law established the Santa Hermandad, a court made up of citizens whose duty it was to bring justice to the king's domain outside of cities and villages. These men not only served as judges but, like the provincial regidor alcalde mayor, they were also charged with the pursuit and arrest of fugitives within their jurisdiction. The provincial regidor alcalde mayor presided as the chief judge of this court, the Santa Hermandad. The Santa Hermandad does not seem to have functioned in Louisiana. (Cf. Burson, Miro; Caughey, Galvez; Jack L. Holmes, Gayoso, The Life of a Spanish Governor in the Mississippi Valley, 1789-1799 (Baton Rouge, 1965).
The regidor, who, according to law, was chosen as alguacil mayor, was, in that capacity, charged with the execution of sentences and judgments rendered in the courts. This included the seizure of goods for sale, receiving payments ordered by the court, imprisoning and punishing criminals. He was also charged with the supervision of the prisons, and was the official who appointed (subject to the governor's confirmation) the jailers and keepers of the prisons. If anyone broke the peace, he or his aides had the right and the duty to arrest the offenders. The regidor who held the office of alguacil mayor was, in effect, a chief of police and exercised only peace-keeping and restraining powers. In no way did he possess judicial power, as did the provincial regidor alcalde mayor.

Another regidor was named depositary general. This official acted as the chief treasurer of the city's funds. He is not to be confused with the city steward, who could disburse city funds. Before assuming his office he gave a

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25 Alguacil Mayor, Kinnaid, Spain in the Mississippi Valley, pp. 118-120.


Joseph Ducros was named depositary general and James Durel was named city steward. Hence, Gayarré errs in making
bond together with an accounting of his financial situation, which insured the safety of the deposits made with him. His surety had to be approved by the governor, the alcaldes and the cabildo. The clerk of the cabildo recorded this bond in the book used for the recording of deposits. If, at any time, the cabildo became apprehensive about the surety offered by the depositary general, he could not receive any more deposits until the cabildo had reassured itself as to his solvency.

Upon demand by the cabildo or governor, the depositary general presented the money deposited with him, and in the same coin. He was not permitted to make any substitutions whatsoever in kinds of money. At all times he kept a record of the deposits in a book similar to that used by the cabildo clerk. In compensation for his services, the depositary general received three percent of the funds deposited with him. These items and other details were fully explained in the commission delivered to him at the time of his appointment.27

Another office held by a regidor of the cabildo was that of the receiver of fines. He kept a record of all fines

"two" offices "one." (History of Louisiana, III, 3-5). Burson, in Miro, refers to the depositary general and the city steward as separate offices (p. 14).

27The Depositary General, Kinnaird, Spain in the Mississippi Valley, p. 120.
imposed by the alcaldes or the governor, and had custody of the funds obtained from this source. In order to insure the receiver's honesty, the clerk of the cabildo kept a record of the fines imposed and in his possession. This document also required the governor's signature. To further protect the funds in his possession, he was required to give a bond similar to the one given by the depositary general. At the end of the year, his sureties were investigated to ascertain the soundness of his financial status. Spanish law obviously provided many precautions to insure the honesty of the king's officials. It was primarily the opportunities for wealth, abetted by the distance from the center of Spanish power, that gave occasion to the acts of peculation and dishonesty among colonial officials.

The penalties collected by the receiver of fines could not be used at his own discretion. As they were the property of the king, they could be used only upon order of the governor, the alcaldes or other judges. To insure that only lawful disbursements were made, the receiver of fines had to give an accounting to the comptroller or auditor of the province at the end of each year. He was, however, allowed ten percent of all fines received into the treasury in compensation for his work. As he was responsible for the collection of those fines at his own expense, this was perhaps not an exorbitant amount. 28

28 The Receiver of Fines, ibid., pp. 121-122.
Another regidor held the office of alférez real, or keeper of the royal ensign or standard. This official was the custodian of the royal standard, which he carried at certain public ceremonies. This office was primarily one of social prestige.

Of the remaining elected or appointed officials, the two most important were the attorney general and the city steward. The former, elected by the cabildo, differed much from the attorney general of today. It was his duty to promote justice for the people. Theoretically, he was not wholly a prosecutor. Rather, he acted for the people, as did the ancient Roman tribune. Associated with this duty was his responsibility for seeing that all of the public ordinances were observed, and for remedying any situation which might cause public harm. He collected also the public debts and revenues due to the city. In addition to these duties, the attorney general was charged with protecting the interests of the crown by supervising the activities of the members of the cabildo, the depositary general and the receiver of fines, to insure that they faithfully discharged their duties. Finally, he took part in all public matters of importance, especially in the allotment of lands.\footnote{29}{The Attorney General, \textit{ibid.}, p. 122.}

The city steward, or manager of income and taxes of the city, was elected by the cabildo, as was the attorney general.
The steward was the keeper of the city's funds derived primarily from taxes. He was responsible for keeping a strict record of all the sums received as taxes or income for the city. When a person paid his taxes, the steward gave him his receipt. He was permitted to draw drafts on the cabildo's funds, derived from taxes and their income, but not on any other funds available to the cabildo. If he lent the funds of the city to any individual whatsoever, he was held personally responsible for repayment, lost his position, and forfeited any right ever again to hold office in the king's realms.

The public funds in the city steward's custody could be used for public works undertaken by the cabildo, and for public mourning in the event of a death in the royal family. However, the cost for construction and upkeep of bridges was not paid for by the city, but rather by those who used those facilities. This would indicate that the extent of what the government considered to be public was considerably different from comparable ideas of today. Possibly the arrangement for the payment for bridges is reflected in the toll bridge of modern times.\(^30\)

The jailer, who had charge of the prisons, was appointed by the alguacil mayor. Since it was the alguacil mayor who was charged with guarding the accused and executing sentences of

\(^{30}\)The City Steward, ibid., pp. 112-123.
imprisonment, it was logical that he should choose the jailer. The appointment, of course, had to be approved by the governor. Once he was approved, the jailer was required to present himself before the cabildo and take an oath to fulfill his duties faithfully. He, too, had to give a bond, although only a small one of two hundred piasters. This was to discourage bribery on the part of prisoners and to insure that no prisoner held for failure to pay his debts would, because of bribery, be released without an order from the proper judge. The jailer was to keep a list of the prisoners and to see that they were properly cared for according to the laws of the realm. He was to be content with his prescribed fees, and under penalty of punishment was forbidden to take anything from the poor.  

During O'Reilly's regime, all of the other officials necessary to administer the Spanish legal system for the entire colony were appointed. Those not already discussed will be briefly mentioned in the following chapter in connection with an explanation of the general principles and procedures of Spanish law.

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31The Jailer and the Prisons, ibid., pp. 124-125.
That section of the *Code O'Reilly* describing the institution of suits, civil and criminal, was a condensed version of the special laws dealing with these matters in Spanish America. It was based upon the *Nueva Recopilación de Castilla* and the *Recopilación de las Indias*, and was entitled "...Instructions as to the manner of instituting suits, civil and criminal, and of pronouncing judgments in general, in conformity to the *Nueva Recopilación de Castilla*, and the *Recopilación de las Indias*, for the government of judges and parties pleading,..." Drawn up by O'Reilly's legal advisers, Felix del Rey and Jose Manuel de Urrutria, it was intended to serve as the law for the colony of Louisiana until there was common knowledge of Spanish procedure.\(^1\) Together with the regulations for the cabildo and its officers, it was the only code under which the Spanish governed Louisiana during their stay in the colony.

These instructions are divided into six sections, to which is appended a list of the various offices held in the

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colony and the fees allowed to each official for the various types of duty performed. The instructions are supplemented by explanations and clarifications based on commentaries. On the whole, it is an able synthesis of a vast code of law and the fact that it remained in force until Spain returned Louisiana to France testifies to its worth.

The first section of the instructions concerned civil judgments in general. The instructions noted that no member of a religious order could bring a suit into court without the permission of his superior; no wife could so act without her husband's permission; no son without his father's permission; and no slave without his master's consent. One exception to these rules was that a son could bring suit in regard to possessions that he had gained as "spoils of war."

In suits involving more than 100 livres, the case had to be presented to the judge in writing, and full justification for the claim had to be shown. Then the defendant was informed of the nature of the suit against him, and was given nine days in which to present his defense or pay the claim by default. Witnesses were examined in secret by the judge, but upon the demand of the other party involved in the case the testimony had to be made public.

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The second section of these instructions dealt with ex­ecutory proceedings. If a claimant had proper acknowledge­ment of debts signed by a notary, the judge could immediately order that the debts be paid by the defendant. The alguacil mayor was charged with summoning the debtor and informing him that he was bound by law to pay his debt. If he did so, the case was closed; if he refused, the alguacil mayor imprisoned him and seized his property. This property was held by the depositary general. Once the property was seized, two men were chosen by the alguacil mayor to examine and evaluate it. There was a nine-day delay in the sale of personal property, and a thirty-day delay in the sale of real property. During this period, the debtor could pay his debt and thereby fore­stall the sale of his possessions. The debtor's property was not sold until the judge was satisfied that the debt had not been paid, and not before notices of the sale of the seized property had been given at intervals of three days. After the final notice, if the debt was judged unpaid, the property was sold and the creditor was reimbursed. The alguacil mayor received one tenth of the value of the property for his fee, and the other officials received their fees as allowed by law.4

It is interesting to note that in cases of payment of debts, the creditor had to give surety for the amount paid.

4Ibid., pp. 272-274.
to him if an appeal was lodged by the debtor. If the judgment was upheld, then his surety was returned. If the decision of the lower court was reversed, and the debt declared invalid, then the surety served to reimburse the debtor for the property lost, and to pay the court costs. This system of executing judgment in civil cases before the appeal was heard was a grave weakness in Spanish law, for it caused serious harm to an accused debtor who later won his case. Unfortunately, this procedure is still a part of Louisiana law.

The third section of the instructions for instituting suits, etc., dealt with judgment in criminal cases. The litigant could present a bill of information before a judge and request the judge to begin criminal proceedings. If no one appeared in court to institute proceedings, the judge himself drew up a proces-verbal and began to gather information concerning the alleged crime.

Once the investigation began, witnesses were called, and the accused, if he was available, was brought before the judge. It was the duty of the alguacil mayor to demand the surrender of the accused or seek him out if he did not sur-

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5 This appeal, if less than 90,000 maravedis were involved, went to the cabildo. Otherwise, it went to a special appeals tribunal in Havana. (Ibid., pp. 271-272. Cf. also, Kinnaird, Spain in the Mississippi Valley, p. 112.)

6 French, Historical Memoirs of Louisiana, V, 273-274.
The accused was given nine days in which to appear before the court, and if did not do so in this time and offer his defense, the proceedings against him began in his absence. Once the accused appeared on his own, or was captured, the proceedings were reviewed by the judge.

If the accused was present in the court from the beginning, he would be questioned in private by the judge, after which he was permitted to offer his defense and to call witnesses in his behalf. The court, or the litigant if there was one, presented its case against the accused and brought its witnesses before the judge to be examined. This was also done privately. When the prosecution's case was made, the accused was allowed to read it or to have it read to him, thereby learning of the names of his accusers and their testimony against him. In like manner, the prosecution read the statement of the defendant's case. If either the prosecution or the defense objected to a witness, that the other had used in the case, on the grounds of prejudice or unreliability, the testimony of that witness was thrown out. It goes without saying that sufficient cause was required before a witness would be rejected. The regulations for ruling out the testimony of witnesses in criminal cases were the same as those for civil cases.

If the accused was found guilty in a criminal case, he was sentenced by the judge. If the conviction was based on the testimony of at least two reliable witnesses, his penalty
was imposed according to the letter of the law, in strict justice. If, however, he was convicted on the testimony of one witness and circumstantial evidence, the sentence was not that demanded in strict justice by the law; rather a lighter penalty was chosen at the discretion of the judge. The reason for this leniency was stated in the Code O'Reilly, namely, that when two reliable witnesses were not available it was better to err in the way of mercy. The Code noted that it was preferable to allow a guilty man to go free than to convict an innocent man. The common assumption of injustice in Spanish judicial procedures is not borne out by these provisions for the protection of individual rights.7

The fourth section of the instructions concerned appeals in both criminal and civil cases. An appeal of less than 90,000 maravedis was heard by the regidores of the cabildo, as well as by the judge who had original jurisdiction in the case. Fifteen days were allowed for appeal, and then another fifteen days were allowed for the other party to present his case. The judges were required to render their decision no later than ten days after the complete time allowed the parties for the presentation of their respective cases. In these proceedings, all of the pertinent documents were copied, and the originals were forwarded to the cabildo where

7The procedures described in this section were basically followed in the trial of the rebel leaders who were tried under O'Reilly.
the two regidores and the judge of the trial court could either affirm or reverse the decision of the lower court, depending on the evidence offered them. In all of the appeals, the appellant's only recourse was to show that the judgment had not been in conformity with the laws of Spain. The appeals were appeals in law and not appeals in fact. Appeals in matters of over 90,000 maravedis went to the special appeals tribunal, established at Havana for that purpose, and its decisions were final.8

Appeals in criminal cases under this jurisdiction were allowed only if the alcalde9 of the trial court permitted them.10 Appeals were made to the special tribunal at Havana, from which there was no further resort in minor cases. Appeals from the special tribunal in capital cases went to the Council of the Indies in Spain. Naturally, the king himself could always override any decision of his tribunals.

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10Dart notes that there were many instances of such appeals being granted, but he clearly states that the appeal was granted by the alcalde's favor, not by right, ibid., pp. 284-285.
No judgment in a criminal case could be executed before an appeal had been heard.  

The fifth section dealt with the nature of punishments for various crimes. Although these are described in considerable detail, only a few examples need be cited in order to understand the concept of justice that existed at that time. Actually, the punishments imposed by Spanish law differed little from those prevailing in other European nations during the eighteenth century. For example, the crime of blasphemy against the Savior or His Virgin Mother was punished by cutting out the tongue of the offender and confiscating all of his property, one half of which went to the treasury and the other half to the informer. This is reminiscent of the laws of Puritan England, where blasphemy was punished by death. In each case, the penalty bore the mark of the Mosaic Law. However, there is no known instance of this law being enforced in Louisiana.

Another crime to which a severe penalty was attached was that of reviling the king or any member of the king's immediate family. Depending on the extent of the defamation

11Ibid., pp. 277-279; Dart, "Courts and Laws in Colonial Louisiana," Louisiana Bar, pp. 56-57. It is clear from O'Reilly's instructions to his lieutenant governors and other officials, including alcaldes, that any serious offense must be sent to the governor for trial. Lesser officials could only gather facts in serious cases, and the governor alone could pass judgment. As noted, even his decision could be appealed. (Cf. Burson, Miro, pp. 194-195.)
or detraction, the person was given greater or lesser bodily
punishment, the nature of which was left to the discretion
of the judge. However, death was never inflicted on the
guilty party. The offender's property was also confiscated,
and one half of it was given to the treasury and the other
half to his children. If he had no children, two thirds
went to the treasury, and one third to the informer.\textsuperscript{12}

Another cited crime, and a very serious one in all eras
of history, was that of treason. Anyone convicted of this
crime was condemned to death, and his property confiscated.
The crime of insurrection was associated with treason. This
was defined as taking up arms against the state for any rea­
son, even under the pretext of defending alleged liberties
or rights. For this crime, the penalty was also death and
confiscation of property. It was according to these laws
that six of the Louisiana rebels tried by Felix del Rey were
condemned to death. The other six received lesser sentences,
as they were accomplices, not prime instigators, of the re­
bellion. That the strict enforcement of this feature of the
original code was not carried out by O'Reilly is clear. Only
those without whom the rebellion could not have occurred were
given the full penalty of the law.

Murder was mentioned among the other crimes for which

\textsuperscript{12}No case of this sort seems to have occurred in Spanish
Louisiana.
death was the usual penalty. Assassins and robbers on the highways were likewise subject to the death penalty. Assault was punished according to the seriousness of the injury done to the victim.13

The sixth and final section of the instructions dealt with testaments. A student of Spanish institutions in Louisiana has commented that the system for drawing up and executing wills under the Spanish regime was very similar to that which obtains under the present Louisiana Constitution.14 This is not surprising, as the Louisiana legal system rests to some degree upon Spanish law, although the Napoleonic Code was used as the prime source for the Louisiana Civil Code drawn up in 1808.

Under Spanish law, a nuncupative will required for validity the signatures of three witnesses before a notary. If no notary was available, as was often the case in those days in remote areas, five resident, or seven non-resident, witnesses were required to sign the document. Codicils could be added, but in no instance could a codicil alter the names of heirs. A new will was required to change the heirs. If the will was a mystic will— that is, a secret one—then seven witnesses had to sign in the presence of a notary. When any will was probated, all of the witnesses, if available, were required to appear before the judge and verify their signatures.


If the deceased had died intestate, then special provisions were made in law for the procedures required for the distribution of his property. First of all, after capable men had made an evaluation of the property, the debts of the party had to be proven in court and then paid from the estate. An executor appointed by the court carried out these provisions. Then, one-fifth of the estate was to be set aside for the offering of Masses for the repose of the soul of the deceased. The remainder of the estate was then divided among the heirs, after the deduction of court costs, according to the shares allotted to them by law. If there were no heirs, then after the wife had received her one-half share of the estate and one fifth had been set aside for Masses, the remainder was given to charities.15

In making the will, the testator worked within certain limitations regarding the distribution of his estate. One of the most obvious restrictions was that while a testator could give an heir his share before the will was made he could not bequeath to him more than the law permitted. If only a part of the heir's legal share had been given to him before the death of the testator, then the remainder could be left in the will. Generally, the testator was quite free to dispose of his property. He could entail it, in whole or

15French, Historical Memoirs of Louisiana, V, 281-283.
part. He could leave his property to legitimate or illegitimate heirs. Furthermore, the parents by an advance agreement between them could disinherit any one or all of their children.

For one dying intestate the laws carefully regulated the distribution of the property among the heirs, the wife inheriting one half and the children sharing the rest. If the deceased had no legitimate heirs, his relations to the fourth degree shared the property not due the wife. Illegitimate children could succeed to what was due their mother upon her death. In summary, it was a clear and well thought out system of testaments.  

Appended to these legal instructions was a list of fees allowable to various officials, such as judges, attorneys, scribes, and the like, for the various duties which they performed. For example, a judge who verified titles, judgments, decrees and the like received as compensation four reals in milled dollars. A scribe who sat in court in the city received fifteen reals per diem, but if he sat in court in the countryside he received thirty reals for his work. A surveyor received three ducats per diem for performing his duty. The alguacil mayor received twelve reals for every free man he held in prison, while for every slave he received only eight reals. These are but a few examples of the various fees.

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16 Ibid., pp. 283-285.
allowed by law to each official for a specific duty performed.\(^{17}\) There was merit in this, for by these regulations the crown had a standard by which to judge any official who might exact more than his due. That some peculation existed under the Spanish regime, even in the face of these regulations, cannot be denied, but it was no worse than the well known corruption occurring in Louisiana during the post civil war era, and the early 1930's.\(^{18}\)

At every stage of the process of establishing the Spanish Code of Law for Louisiana, O'Reilly knew that he had the opportunity to exercise great discretion. Nevertheless, he knew also that he had to submit his plans to the king for formal ratification. He had written to the Minister of State, the Marques de Grimaldi, in October, 1769, telling him of his plans to abolish the Superior Council and to establish a cabildo and apply the Spanish legal system to Louisiana. Furthermore, he had suggested that it would be advisable for the court to establish at Havana a special tribunal for hearing civil and criminal appeals from Louisiana.\(^{19}\) In December,

\(^{17}\)Ibid., pp. 285-288.

\(^{18}\)Dart asserts the existence of peculation in the Louisiana government, but states that he had found no proof that it existed in the judicial branch ("Courts and Laws in Colonial Louisiana," Reprint in Louisiana Historical Quarterly, Vol. IV, p. 287).

\(^{19}\)O'Reilly to Grimaldi, October 17, 1769, A.G.I.S.D., Legajo 2594, Doc. 5, L.C. pp. 240-245.
he wrote Grimaldi again, telling him of the actual establishment of a cabildo and the application of the Laws of the Indies in Louisiana.20

Approval for O'Reilly's plans was forthcoming from the king. To O'Reilly's proposals for the establishment of a cabildo, the application of the Laws of the Indies in Louisiana, and the establishment at Havana of a special tribunal for appeals from Louisiana, Charles III gave his complete approval, and commanded the general to pursue his present course. The king further noted that cedulas were being drawn up for the formal ratification of O'Reilly's actions. He stated also that the special tribunal which had been requested would soon be established.21 After O'Reilly had returned to Spain, the royal cedulas approving the governor's actions were promulgated. In these cedulas, Charles III noted that O'Reilly had acted according to his instructions in establishing the Spanish system of law, and that in all things his royal will had been carried out. The letter and the cedulas left no doubt that all had been executed as the Spanish monarch desired.22

20 O'Reilly to Grimaldi, December 10, 1769, ibid., Doc. 19, L.C. pp. 212-224.

21 E 1  Pardo, Royal Communique to O'Reilly, January 27, 1770, ibid., pp. 369-371.

22 Royal Cedula, San Ildefonso, August 7, 1772, ibid., pp. 442-444; Royal Cedula, San Ildefonso, August 7, 1772, ibid., pp. 470-471.
Besides the well known Code O'Reilly, which was promulgated in November of 1769, the Spanish governor issued other special instructions, decrees and regulations for the government of Louisiana. Among these were the orders sent to minor officials or commanders who handled lesser civil and criminal cases in areas of the colony outside of New Orleans. The title of these officials was tenientes particulares de la Costa, or, in French, lieutenants particuliers de la dite Cote. They resided at such places as Opelousas, Pointe Coupée, Iberville, La Fourche, and St. Genevieve. These officers were instructed to hear only those civil cases involving less than 20 piasters, otherwise the case had to be referred to the governor of the province. They were also empowered to process and execute wills under certain conditions. If the will involved less than 100 piasters, the lieutenant was to go to the residence of the deceased and distribute the estate according to the terms specified, or, if the person died intestate, according to Spanish laws provided for persons so dying. If the will involved more than 100 piasters, the lieutenant appointed two men to make an inventory of the

23 Petty officials who governed posts, generally along the banks of a river. (Cf. Gayarre, History of Louisiana, III, 21.)

24 Judge Martin says that twenty piasters was twelve dollars. (History of Louisiana, p. 15.)
estate. Once the estate was evaluated, it was distributed according to the terms of the will, if one existed, or according to laws providing for persons dying intestate. If the heirs contested the will or the distribution of the property, they could make an appeal to the governor of the province.

Wills could be made in the presence of the lieutenants, since there was a great shortage of notaries in the colony. In these areas, remote from populated places, only two witnesses were needed to validate a will. Moreover, the lieutenant could act as a notary for contracts, and could require only two witnesses to validate them. Even marriage contracts were drawn up and certified by the lieutenant, who later sent a certified copy to the clerk of the cabildo for his records.

In criminal cases, if the violation was a minor one, the lieutenant settled the issue himself. If the issue involved was serious, the lieutenant took the testimony of witnesses, at least two for the same action, and forwarded the transcript to the governor, who then heard the case.

Besides these judicial duties, the lieutenants were also charged with keeping the peace in their districts. They were not to allow any new person to come to live within their districts unless this person had written permission from the governor of the colony. Furthermore, the lieutenant was instructed to keep a close watch over commercial activities to see that no illegal trading took place, especially with
English ships. Finally, an annual report of the conditions of the area under his command had to be sent to the governor at New Orleans.25 These instructions, as well as the appointment by O'Reilly of the various men to fill the posts of tenientes particulares, were all approved by the king.26

Since slavery existed in Louisiana under the French regime, it was necessary for O'Reilly to issue regulations in this regard. In a proclamation of August 24, 1769, the governor noted that many slaves had been buying and selling goods in the city of New Orleans, contrary to a decree of October 12, 1765. Anyone who sold to slaves or bought from them was subject to a fine of 500 livres, and both the goods bought and the money received were confiscated. This did not apply if the slave had permission from his master to engage in this trade.27

Three days after the decree of August 24, 1769, concerning sales and purchases by slaves, O'Reilly issued a definitive proclamation concerning slavery in Louisiana. He believed that in order to maintain this system the laws concerning slaves must be clearly understood and effectively enforced. Hence, he ordered that the Black Code, or Code __________

25 Instructions for lieutenants particuliers de la dite Cote, New Orleans, February 12, 1770, ibid., pp. 315-319.
26 Royal Cedula, San Ildefonso, August 17, 1772, ibid., pp. 507-512.
27 Kinnaird, Spain in the Mississippi Valley, pp. 89-90.
Noir, issued at Versailles in 1724, be observed as it had been under the French regime and under Ulloa. This code regulated matters of justice, discipline and the government of the slaves within the colony of Louisiana, as well as the conditions of the slave trade. To see that it was fully enforced, Governor O'Reilly appointed two Creoles, M. Fleurian and M. Ducros, as administrators of the Code Noir. Each of these men later became regidores of the cabildo.

Another important regulation issued by O'Reilly was his proclamation for the distribution of land in Louisiana. He noted that new and clearly stated regulations were necessary regarding the conditions and terms of land grants. He felt that an increase in land ownership was needed to encourage the agricultural pursuits of the colonies. He established these conditions for a land grant: Each new family that settled along the banks of the Mississippi was ceded a plot of ground six to eight arpents wide and forty arpents deep. Levees had to be built to protect the land, and the land must be improved within the first three years of acquisition in order to retain ownership. Furthermore, the new laws required that the roads near the land be kept up by the grantee. If, at the end of the three years, it was judged

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that the specified improvement had not been made, the property reverted to the crown. This was probably done to keep speculators from buying large tracts of land. In certain areas of the colony, as many as twelve arpents of land could be granted along the Mississippi, if at these points the river curved so as to cause these sites to be of less than normal depth. In the areas of Opelousas, Atakapas, and Rapides, larger grants of 42 arpents by 42 arpents were permitted, but only if the grantee possessed one hundred head of tame cattle, some domesticated horses and sheep, and at least two slaves to care for this live stock. All grants were made by the governor of Louisiana in the king's name.

These instructions also contained regulations in regard to the raising of cattle. These animals were permitted to roam at large only between November 11 and March 15, doubtless due to the shortage of grass on enclosed pastures during those months. Such cattle, however, must be branded; any cattle not branded were considered as strays, and could be confiscated and slaughtered after July, 1771. Persons allowing their branded cattle to roam at any other time were liable for damages they caused to other settlers' property.\textsuperscript{30} In this matter of the new land regulations, O'Reilly's actions received the approval of the Council of the Indies and the King.\textsuperscript{31}

\textsuperscript{30}\textit{Instructions para repartimiento de tierra}, \textit{ibid.}, Doc. 12, L.C. pp. 328-338.

\textsuperscript{31}Cedula on Land Grants, San Ildefonso, August 17, 1772, \textit{ibid.}, pp. 513-519.
This resume of the Spanish system of law established by O'Reilly for Louisiana illustrates the nature of the new regime under which the people of Louisiana were intended to live. That the systems did not always function as intended was not O'Reilly's fault. Moreover, it was not, as was asserted by Francis Xavier Martin, the 19th Century Louisiana judge and historian, a system forced upon the people by O'Reilly against the expressed instructions of the king. Historians who attacked O'Reilly also held that the Spanish laws were alien, and therefore incompatible with Louisiana customs. This is true only in that it was the system of a country other than France. But the law existing in France and her colonies closely resembled that of Spain and the Spanish Indies. Both systems were based upon Roman, and not Anglo-Saxon, law, and both had developed in a similar way. The Bourbon dynasty reigned in both France and Spain, a fact that further increased the similarity of the legal systems. In addition, the French Code Noir, as was noted, had been adopted intact by O'Reilly.

To better illustrate the similarity of the two legal systems, a comparison of the Superior Council with the cabildo may be made. The Superior Council was first established in New Orleans under Crozat in 1712; was given permanent status in the city and the colony in 1716; and was reorganized in 1719, at which time it took its final form. The Council was comprised of a First Councillor, or presid-
ing judge, a Procurator General, or attorney general, and other members who were themselves not necessarily lawyers. It acted as a court for the city of New Orleans and the colony of Louisiana. Crozat, and later the directors of the Company of the West, appointed its members, subject to the king's approval. When Louisiana became a crown colony in 1731, the members were appointed by the king.32

In dealing with civil and criminal cases, the French judges were bound to written pleas only in important cases. In minor cases, they held informal hearings. In the early days of the colony, the Superior Council had original and exclusive jurisdiction in all cases, but towards the end of the French era local judges held court, and appeals were made to the Superior Council. Appeals from a decision of the Superior Council could be made only to the king's Privy Council.33

As has already been noted in the summary of the functions of the cabildo, that body was also a judicial one. However, it served primarily as a court of appeals, and its jurisdiction was more limited than that of the Superior Council. The special tribunal established at Havana heard appeals in civil cases involving more than 90,000 maravedis.

33Ibid., pp. 28-35.
Furthermore, the latter tribunal, and not the cabildo, heard appeals in all criminal cases. In spite of these differences, however, the two councils were sufficiently similar to justify the statement that the cabildo was not, in essence, alien to the people of Louisiana. The greatest difference was that the Superior Council had powers which the Spanish chose to vest in the governor, or in others, like the appeals tribunal at Havana, rather than in the cabildo.

The Superior Council and the cabildo both cared for the public welfare and controlled public works, fixed food prices, and the like. However, the Superior Council had jurisdiction over the whole colony, whereas the cabildo was, in theory, restricted to local affairs in New Orleans. Although technically the cabildo had no power over land grants, it was able to tax lands. If an owner failed to pay his taxes or did not keep up his land, the cabildo could force him to do this or forfeit his land.

Again, as the cabildo members came from powerful families, they also exercised some influence in other affairs beyond their legal jurisdiction. In one instance, they were able to resist Carondelet's efforts to educate the slaves as required by Spanish law.

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34 The Cabildo, Kinnaird, Spain in the Mississippi Valley, pp. 109-114.


36 Ibid.
On the other hand, by the end of the Spanish period, the cabildo in New Orleans had lost to the intendant some of its financial control. Logically the cabildo should have retained fiscal powers within the city, but it did not. Unlike the Superior Council, the cabildo, in spite of some influence over colonial affairs, never acquired vast governing powers. It remained basically subordinate to the governor in Louisiana, just as it did in the rest of the Spanish colonies in America.

Another item worthy of note is that the personnel of the cabildo appointed by O'Reilly was entirely of French extraction. This fact alone would make the judgments of that body akin to those of the French Superior Council. On the whole, one might say that the cabildo was a weak reflection of the Superior Council. It differed from that powerful body not so much in regard to its basic structure, but in regard to the extent of its powers.

An example of an actual case will further illustrate the closeness of the two legal systems. In criminal trials, the procedure for investigating and questioning witnesses and accused was nearly identical. A certain murder case handled by


the Superior Council shortly before the end of the French period of domination will illustrate this likeness. The accused was arrested at Natchitoches, put in chains, and taken to New Orleans, where he was placed in a dungeon. The Procurator General started the proceedings against the accused, who in the meantime remained in prison. The accused was not given a notice of the indictment specifying the charges against him. Evidence was gathered at Natchitoches, the scene of the murder. Once this testimony was assembled, the accused was told of the charges against him, and was given the name of the chief witness for the state. The accused denied the testimony against him, after which the witness was brought from Natchitoches to attempt identification. This prisoner was identified as the murderer by the one witness, but was not permitted to question the witness himself. The chief judge of the trial, however, questioned the witness. The Council then decided on the basis of the testimony of this witness, and other circumstantial information, that the man was guilty.\footnote{In comparing this case with the trial of the rebels as described in Ch. III of this work, one notices particularly that the French and Spanish methods of questioning the accused, and of obtaining information and witnesses was identical. The most notable difference was the fact that two witnesses were required by the Spanish for the death penalty, whereas the French considered one witness and circumstantial evidence adequate.} He was then sentenced to death by breaking on the rack and hanging, but as an act of mercy the Council had
his body broken after the hanging.41 A similar case under Spanish law would have required two witnesses for the imposition of the death penalty. The Spanish Code stated that it was better that a guilty man should go free, than that an innocent one should be falsely convicted and punished. But aside from this, the procedures were nearly identical to those required by French law. Such a case, however, since it was a capital offense, would have been tried by the governor, not the cabildo.

A final important factor to be considered in the study of Spanish law in Louisiana is the impact that this system of law has had upon law as it exists in Louisiana today. A brief comparison of some section of the Civil Code of Louisiana with the Code O'Reilly will illustrate the considerable influence which the latter had on the former. Section VI of O'Reilly's instructions dealing with civil and criminal proceedings indicates the close connection between the Spanish laws and current Louisiana laws. Section VI dealt with wills and their execution. One finds that the Civil Code of Louisiana strongly reflects this section, since, for example, the nuncupative will must be attested by five witnesses, as was the case previously noted in Section VI of the Code O'Reilly. Both the Code O'Reilly and the Civil Code of Louisiana further required that these witnesses be residents of

the place where the will was signed, and if they were not
residents seven witnesses were required.\footnote{Benjamin Wall Dart (ed.), Civil Code of the State of
Louisiana, Revision of 1870 (Indianapolis, 1947), Article
1581, p. 398.}

Again, according to Spanish law, the mystic or secret
will had to be witnessed by seven persons. The 1825 Civil
Code of Louisiana required the same number. However, the
1870 code reduced the required number to three witnesses.\footnote{Ibid., art. 1584, p. 399.}

Section II of the instructions, as has been noted, dealt
with executory proceedings. These proceedings concerned pri-
marily the settlement of debts by legal means. In this sec-
tion, for example, Spanish law stated that the property was
the debtor's, even after seizure, until it was sold to settle
the debts. If the debtor paid the creditors prior to the
sale of his property, his property was automatically returned
to him. This exact provision is found in the Civil Code of
Louisiana, wherein it is noted: "As a debtor preserves his
ownership of the property surrendered, he may divest the cred-
itors of their possession of the same, at any time before
they have sold it, by paying the amount of his debts, with
the expenses attending the session."\footnote{Ibid., art. 2178, p. 540.}

According to Section II of the instructions, for the set-
tlement of a debt, property could be sold only by those who

\footnote{Benjamin Wall Dart (ed.), Civil Code of the State of
Louisiana, Revision of 1870 (Indianapolis, 1947), Article
1581, p. 398.}

\footnote{Ibid., art. 1584, p. 399.}

\footnote{Ibid., art. 2178, p. 540.}
had been appointed by the judge for this purpose, under specified conditions. In the Civil Code of Louisiana it is provided that the appraisal and sale should take place under similar conditions. These few examples illustrate the direct influence of the Spanish legal system on the laws of the State of Louisiana.

Thus, the Spanish code of laws, as instituted by O'Reilly, has been shown, first of all, to have been that system desired by his monarch, and not a set of laws imposed by the general on the people of Louisiana contrary to his instructions. Moreover, it was a system not basically alien to the French population of Louisiana, but one closely resembling the laws under which Louisiana was ruled by France. Finally, it has been noted that this system of law, although it held sway in Louisiana for only thirty-four years, influenced the Civil Code of the present state of Louisiana in an appreciable degree. The importance of the influence of Spanish legal concepts and procedure in the development of the present state code has been a reality previously either denied or given inadequate coverage.

45Ibid., art. 2184, p. 541.
VI

THE SPANISH LEGAL SYSTEM BEGINS TO FUNCTION UNDER GOVERNOR O'REILLY'S SUPERVISION

Within a few days after the promulgation of the Code O'Reilly the Spanish legal system began to function in Louisiana. Following his instructions, O'Reilly had notified Don Luis de Unzaga y Amezaga\(^1\) on November 29, 1769, that he would succeed him as governor of Louisiana. Also, he informed Unzaga that a cabildo would be established on December 1, 1769, at which time Unzaga would be given control of the civil and military government of New Orleans and the surrounding territory. Complete authority would be turned over to Unzaga when O'Reilly departed for Havana.\(^2\) Unzaga's salary was six thousand pesos per annum, to which was added a three thousand pesos allowance for a residence.\(^3\) The king's approval for these measures drawn up by O'Reilly was received by Unzaga after the latter had succeeded the general as governor:

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\(^1\)Unzaga came to Louisiana with O'Reilly as the Colonel of the Havana Regiment. (Gayarre, *History of Louisiana*, III, 44.)


The King has taken note that his royal intentions have been complied with in this respect. I shall continue to inform Your Lordship of what his majesty commands with respect to the colony, as I have already done in the previous mails, on the supposition that upon receipt of my letters, the said lieutenant general (O'Reilly) will have already left there and that Your Lordship will be in possession of that command.

El Pardo, 24th March, 1770. Grimaldi

In accordance with the information given to Unzaga on November 29th, O'Reilly established the cabildo on the first day of December. Having notified the appointees, he called them before him to take the oath of office, and then gave each his commission. It was also at this meeting that Unzaga was formally appointed military and civil governor of New Orleans and the territory surrounding it, and was named governor-elect for the entire province. The men, all of French descent, who were appointed to the cabildo as regidores were: Francis Marie Reggio, Alférez Royal; Charles Baptiste Fleurian, Alguacil Mayor; Peter Francis Olivier de Vezin, Alcalde Provincial; Joseph Ducros, Depositary General; Denis Braud, Receiver of the Fines; and Anthony Bienvenu, Regidor.

The following day, December 2, 1769, the cabildo began to function. At the first meeting, the elected officials of

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4Grimaldi to Unzaga, March 24, 1770, A.G.I.P.C., Legajo 174, in Kinnaird, Spain in the Mississippi Valley, p. 163.

the cabildo and the other city officials took office. The senior alcalde ordinary was Anthony de la Chaise; the junior alcalde ordinary, Louis Trudeau; the attorney general, Louis Ranson; and the city treasurer, John Durel. These four took the oath in the presence of Unzaga. The meeting was notarized by Charles Garic, formerly clerk of the Superior Council, who had since become clerk of the cabildo. Thus, the basic organ for the government of the capital city and the colony under Spanish rule came into being.

During the three month period between the establishment of the cabildo and O'Reilly's departure for Havana on March 1, 1770, there were only a few administrative items considered by that body. Some meetings dealt with the public welfare, but most of them were concerned with the various appointments made by O'Reilly. On December 23, 1769, Henry Depres was sworn in as a notary public by O'Reilly; and again on February 23, 1770.

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6Gayarre says that de la Chaise was the brother-in-law of Joseph Villere (History of Louisiana, III, 31).


8This author has found no documentary evidence that any of these officials purchased their offices. Since the practice, however, was common in the eighteenth century, it may, therefore, be true that the offices were bought.

9The function of a notary public was basically the same under O'Reilly as it is now in Louisiana.
1770, two other men were appointed as notaries public. 10
Most of the remaining business carried on during this period was supervised by Unzaga, who was acting as governor of New Orleans. However, as he did not yet exercise full gubernatorial powers, all of the appointments were made by O'Reilly.

Prior to the day of his departure, only one other important official action was taken by O'Reilly in regard to the cabildo. In February, he sent to that body a letter of instructions, clarifying the duties of the members of the cabildo with regard to city administration and judicial proceedings. It also gave instructions for the other judges within the province. 11 Until he gave official notice of his departure to the cabildo on March 1, 1770, there was no other important communication from the general. The administration of the city had indeed been left almost exclusively to governor-elect Unzaga from the very day of the establishment of the cabildo, as was intended by O'Reilly and approved by the Spanish Court.

While the administrative proceedings of the cabildo were few during the remainder of O'Reilly's time in Louisiana, the judicial proceedings of the new government were quite numerous. The first suit instituted under the new government had


been initiated under the late Superior Council on January 3, 1769, and the judgment rendered in May of that year. But, since this decision had never been executed, the petitioner had requested the new Spanish government to execute the judgment. One Elias Hughes had been awarded 17,133 livres, 16 sols and 10 derniers against Misters Detour and Villefranche. The plaintiff had departed for France, so a certain Nicholas Delasise had been chosen to act in his stead. There was a new hearing according to Spanish laws, and finally on January 8, 1771, the case was decided in favor of Hughes. Everything was in complete accord with the instructions set down by O'Reilly for these proceedings, even to the fees alloted to the officials hearing the case. Governor-elect Unzaga presided over the hearing.  

An interesting case also concerning a debt collection was initiated on January 16, 1770, in Unzaga's court. A certain John Pomet, captain of a ship named the Thetis, brought suit against M. Adamville, the only one of a group of debtors who had refused to comply with the governor-elect's order of January 17, 1770, to pay for goods received from the

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captain. Adamville was being sued for 168 livres, and court costs and fees. The case against Adamville was presented on July 12, 1770, by Leonard Mazange, a lawyer, who petitioned the court for collection of the debt. The alguacil mayor, Charles Fleurian, seized two notes payable to Adamville by Charles Le Conte in the amount of 543 livres, and deposited them with the receiver general for safe-keeping. At that point the case became complicated, for Le Conte claimed that Adamville owed him money from an old debt, thus balancing out these two notes destined for Adamville. All of this the latter denied. In the end, the court ordered Pomet to be satisfied with these notes in payment of his debts, and commanded that from the notes payable to Adamville the court costs and fees be deducted. This was the final decision of the court in regard to the debt owed to Pomet by Adamville. In all aspects of this case, the regular Spanish procedure was followed.13

One of the civil cases illustrative of the proceedings of the early days of the Spanish era was instituted on January 22, 1770, in the court of Governor-elect Unzaga, by Louis Diard against John Datchurut for loss of a boat and its cargo. Diard said that Datchurut had left St. Louis, at that time under the jurisdiction of lieutenant-governor

Pedro Piernas, an O'Reilly appointee, to deliver the merchandise to him but instead had gone with it to New Orleans. Furthermore, a worthless boat was returned to him in place of his own, and the hides and flour had disappeared. The plaintiff had hired this second boat, leaving 800 livres with the officials in Illinois for surety.

Governor-elect Unzaga appointed Attorney General, Louis Ranson, and Receiver of Fines, Denis Braud, to arbitrate Diard's claims. After considered judgment, they ordered the defendant, Datchurut, to pay all the demands. In order to carry out this judgment, the plaintiff and the defendant had to journey to St. Louis, where the shipment originated, to present themselves before Pedro Piernas. He decided on June 9, 1770, that the hides and flour should be valued at 35% of their original cost. Meanwhile, the case continued at New Orleans. In February of 1770, all of Datchurut's property was seized, as required by law, and placed in the keeping of the Receiver General, Joseph Ducros. Later in January of 1771, Unzaga sent a dispatch to Piernas authorizing him to seize the property of Datchurut in Illinois in order to pay the owner of the boat. Finally, on December 30th of 1773, a receipt for payment in full was signed by the defendant at St. Genevieve, thus ending the case.14

Naturally, the majority of the cases were heard outside the governor's court. Most of these came under the cognizance of an alcalde. A good example of one of these was the case of Duforest vs. Chaperon, which was heard in the court of the junior alcalde ordinary, Louis Trudeau. Duforest was the attorney for a M. Montegue who sued Chaperon for the amount due Montegue on a note signed by Chaperon on June 12, 1769. The latter failed to appear before the court, and judgment was rendered against him by default. This was in accord with the instructions issued in the Code O'Reilly.

In December of 1770, Chaperon still had not paid the note as the court ordered, so Duforest asked that the defendant be summoned to verify his signature and the validity of the note. On December 22, 1770, Duforest asked that the note be returned for future use, and that the proceedings be discontinued. This was granted and the case was closed. Since the plaintiff did not request the full enforcement of the law by demanding seizure of Chaperon's property, the proceedings rested at this unresolved point.15

An interesting case regarding freedom for slaves was recorded during O'Reilly's stay in Louisiana. On February 16, 1770, Pierre Joseph D'Ille Dupard and his wife petitioned General O'Reilly that an agreement of theirs be recognized

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in law as binding at the time of their deaths. In this petition, they specified that if four named slaves served them faithfully until their demise, they were to be freed and accorded all the rights of free men upon probation of their wills. Governor-elect Unzaga, to whom O'Reilly assigned the case, passed judgment on the petition and granted it as requested. The petitioner, M. Dupard, was required, as was customary in manumission cases, to give 120 livres for pious works. This money was turned over to Denis Braud, the Receiver of Fines, for use at the Maison de Charité. Attached to this agreement were all of the documents proving that the petitioners had legal title to the mentioned slaves. Although the petition was addressed to O'Reilly, the judicial records show that he gave all such cases to Unzaga, who either handled them himself, or gave them to an alcalde. However, outside of business involving a notary, no cases were begun under the new Spanish regime until January, 1770. O'Reilly was following his instructions in turning over the civil government to Unzaga as soon as possible.


One phase of the administration of the colony that O'Reilly kept completely in his own hands was that of the military. Not only did he maintain full control over the defense and garrisoning of Louisiana, but he also kept military trials under his supervision. For example, one military case involved five enlisted men of the company of Captain Riu. They had been cited by their commander for insubordination. The accused were sergeant Thomas de Cobas, corporal Manuel Martinez, and privates Pedro de Leon, Miguel Pinexo and Joseph Avellando. The formal charge stated that they had ignored their superiors, and had on various occasions, behaved in a manner not conformable to the military service.

A court martial board was ordered by O'Reilly. This body was headed by Captain Jerome Campani, and it continued the hearing from December 24 until December 30. During the trial the accused made counter-charges asserting they had suffered grave injustices at the hands of their superiors, Lieutenant Fernando Gomez and Captain Riu. The commander of the company introduced witnesses to prove that two of the accused were guilty as charged. These were privates Pedro de Leon and Miguel Pinexo, both of whom were sentenced to six years at hard labor. The sergeant, the corporal and the remaining private were acquitted. On the other hand, the court gave credence to the charges made by
sergeant de Cobas that he had suffered grave injustices at the hands of Lieutenant Gomez and Captain Riu. Consequently, the accusations against Riu and Gomez were further investigated.18

O'Reilly was particularly concerned over the alleged injustices that had been done to sergeant de Cobas. He believed that, if true, they were not only harmful to the sergeant, but were also dangerous for the morale and discipline of the entire military corps in Louisiana. The general was also concerned about the pending promotion of Riu to lieutenant colonel. Because of the accusations against the captain, O'Reilly told Grimaldi that he was withholding the captain's appointment to the rank of lieutenant colonel until an investigation could be made into the charges.19 Later, both Gomez and Riu were allowed to go to Havana to defend themselves against the charges made by sergeant de Cobas.20 Before departing for Havana, General O'Reilly had made these arrangements with governor-elect Unzaga.21


19Ibid., pp. 599-605.

20The records available for this case did not indicate the outcome of the court martial.

21O'Reilly to Unzaga, New Orleans, February 14, 1770, A.G.I.P.C., Legajo 181.
O'Reilly's continued control of the military is explained by his position as Inspector General and his responsibility not only for Louisiana's defense, but also for that of the Spanish West Indies. Even after his return to Spain, as the concluding chapter will disclose, he took a vital part in the military affairs of these areas, especially those of Louisiana. His subsequent concern with these areas derived from his office as Inspector General of Infantry, and from a recognition by the Spanish government of his knowledge of the strategic potential of this section of the Empire.
MILITARY AND INDIAN AFFAIRS

After the establishment of law and order in the colony of Louisiana, the most difficult problems which O'Reilly had to solve were those of military affairs and Indian relations. A system of defense had to be set up in the vast newly acquired territory which was adjacent to Spain's traditional enemy, England. Defense had been of great concern to Governor Ulloa, but the rebellion destroyed the work he had done. Ulloa had attempted to build effective forts at strategic places adjacent to the English posts. As he had so few troops and so little money, he had not been successful. Although much of Don Antonio's first year spent in Louisiana was devoted to the building of forts, O'Reilly felt compelled to revamp a great part of the system and revise the approach to the defense of the colony.¹

O'Reilly's basic plan for the protection and garrisoning of the colony was outlined in a letter to Don Julian de Arriaga in October, 1769. The general decided to reduce the number of forts in the colony, which he felt were too

¹O'Reilly to Arriaga, New Orleans, October 17, 1769, A.G.I.S.D., 80-1-7, in Kinnaird, Spain in the Mississippi Valley, pp. 96-98.
scattered to be effective. Furthermore, trying to keep so many forts was an unnecessary expense to the royal treasury. Next, he hoped to reduce the number of regular troops to a minimum, so that while having enough on hand to maintain control, he would not require so great a number of regulars as to overburden the royal treasury. Militia units would replace regulars. Finally, he realized that the allegiance of the Indians was necessary to insure the colony against any raids. Moreover, the Indian allies were an excellent barrier to British expansion.²

These general plans were soon supplemented by specific action, both in regard to forts and to troops. At the mouth of the Mississippi River, Governor Ulloa had established a new fortress, which he had built on an island composed of mud and shifting sands, named the Isla Real Catholica de San Carlos. It was located at a site along the river which today is called Spanish Balize, nearly adjacent to the French fortress of Balize. While O'Reilly admitted that the general area had been well chosen, the site of the fort was basically unsatisfactory because of the shifting sand and sinking mud

²Ibid., p. 96; and O'Reilly to Arriaga, Havana, April 12, 1764, A.H.N.P.E., Legajo 3025; and Jack D. L. Holmes, Honor and Fidelity. The Louisiana Infantry Regiment and The Louisiana Militia Companies, 1766-1821 (Birmingham, 1965), p. 10.
on which it was built. He itemized a long list of faults to be found with the fort. Since it had been built by Ulloa in 1766, it had so deteriorated that the repairs would come to 1,130 pesos, with a considerable sum to be expended annually for upkeep, due to the nature of the terrain. In addition, the sailors and soldiers required to man the fortress were exposed to the full force of the wind and water, there being no natural protection. Furthermore, it was indefensible in time of war. Also it was useless against ships coming down the river to attack New Orleans, as it was too far from the opposite water channel for its guns to be effective. In any event, O'Reilly felt an attack by water would come by way of Lake Ponchartrain or Lake Borgne, rather than by way of the Mississippi River.3

Since the fortress was considered of no value, he planned to abandon it leaving only a small garrison of ten men as observers. In taking this action, he had followed the advice of competent men who had gone to investigate the island and the fortress. In order to verify his own observations, those men had signed statements attesting to their belief that the fortress should be abandoned.4

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3O'Reilly to Arriaga, New Orleans, December 29, 1769, A.G.I.S.D., 80-1-9, Doc. 25, in Kinnaird, Spain in the Mississippi Valley, pp. 144-152.

4Ibid., attached statement signed by Unzaga et al, January 8, 1770, Doc. 25, No. 2.
On September 6, O'Reilly had issued a directive to the commander at French Balize to maintain his post and guard the entrance to the Mississippi River. He was to be on the lookout for all warships, especially foreign ones. Moreover, any vessel going through the pass must identify itself; either by showing its papers or by giving the proper signal before passing the fort. In his monthly report, the commander was required to list all sailings. To preserve good order at the post, special attention should be given to troop discipline. The commander was also cautioned by O'Reilly to see to it that all of the soldiers received proper rations. Because it was impossible in these brief instructions to cover all possible circumstances, the Spanish governor left to the discretion of the commandant the disposition of any unusual problems.5

Another fortress which O'Reilly decided to abandon was Fort Saint Louis de Natchez, which was on the west bank of the Mississippi, south of the British fortress of Panmure at Natchez. It was, he held, of no defensive value. Furthermore, due to its distance from New Orleans, it was deemed worthless as a trading post, and he ordered the Acadians who had settled there to move closer to New Orleans.

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5O'Reilly to Commandant at Balize, September 6, 1769, Ms. copy dated February 26, 1770, A.G.I.F.C., Legajo 181.
Still another fort to be abandoned was that at Iberville where a number of German families had settled. These colonists who had come on the English ship, The Britannia, had weapons of their own and could defend themselves, if necessary. This step would release the regular troops stationed at Iberville for the defense of the city of New Orleans.  

After making known his plans for the abandonment of these forts, O'Reilly went on to a more general appraisal of the defenses of the entire colony. He felt that owing to the climate and terrain, it was useless to continue to build fortresses or to dig moats. Because of the rain and dampness, the wood of the forts easily rotted. Moats were impractical in Louisiana, as they could not be made deep enough to be of any use. With the abundance of water in the soil of the southern part of the province, moats were impossible to maintain with the engineering capabilities available to O'Reilly. In summary, he believed that for all practical purposes the province was not defensible in the traditional way. His plan, therefore, was to keep the enemy busy elsewhere, and so ward off a massive direct attack on Louisiana. This was especially true for the city of New Orleans and its environs. The people would be the best

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6Ibid., pp. 144-152.
defense for the colony if a direct attack should come.

To one familiar with the climate and the terrain around New Orleans, and with the river's appearing and disappearing islands, the views offered by O'Reilly seem realistic indeed. While O'Reilly abandoned useless forts, however, he did keep those which he felt to be necessary. Among these, from south to north, were the following: French Balize; New Orleans, itself; Pointe Coupee; Arkansas; Saint Genevieve; Saint Louis; and the fort at the mouth of the Missouri River. In addition to these key river forts, he also retained the important posts of Opelousas, Natchitoches, Rapides, and Atakapas. His instructions for their preservation will be noted later.

A central idea in O'Reilly's plans was the use of as few regular Spanish troops in Louisiana as was consonant with domestic security and defense. To achieve this he organized the Louisiana militia. In all, thirteen militia units were established during O'Reilly's regime. By December, 1769, the Louisiana Batallion of Infantry had been re-

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8 Ibid., p. 740.
established and reformed by General O'Reilly.\footnote{Gayarré claims that the batallion was not established until after O'Reilly left (History of Louisiana, III, 50). However, this is hard to reconcile with the documents cited by Professor Holmes in Fidelity and Honor, p. 18.} It had a total of 549 officers and men, comprised of one company of grenadiers and seven of infantry. The grenadiers numbered forty-five officers and men, six of the infantry companies numbered seventy-seven officers and men each, and the remaining company numbered forty-two officers and men.\footnote{List of Troops made for O'Reilly, certified by O'Reilly and Juan A. Gayarre, December 8, 1769, A.G.I.P.C., Legajo 181.} Prior to O'Reilly's arrival, it was being formed in Havana, but the rebellion had caused a temporary halt in the organization of the batallion. Pasquel de Ulloa, the sergeant major was breveted as lieutenant colonel, and the adjutant general was Joaquin Panis.\footnote{Holmes, Honor and Fidelity, p. 18.} Don Jose Estecheria was named colonel.\footnote{Gayarré, History of Louisiana, III, p. 50.}

The general revealed his military plans through his instructions to the commandants of the various posts of the colony. In November 1769, O'Reilly issued instructions to Athanasius de Mezieres who was already the acting commander at Natchitoches. O'Reilly chose him to serve as lieutenant governor of that district, not only because he was trustworthy, but primarily because he was familiar with the area
and its people. De Mezieres had been in that community since 1743, and had served as assistant commander under Kerlerrec. Later he was acting commandant under Aubry. O'Reilly instructed him to keep only a small garrison of regulars, and to rely mainly on the militia. The latter unit was selected by de Mezieres himself, subject to the approval of the governor. These orders were in direct accord with O'Reilly's overall policy of reliance on the militia rather than on regular troops.

To keep order in the community, de Mezieres was commanded to maintain a small guard and a prison. Legal infractions of a minor nature were to be attended to by de Mezieres or other local officials, but cases of a very important and extraordinary nature had to be referred by courrier to the government at New Orleans. In carrying out the administration of justice, de Mezieres was directed to observe exactly the prescriptions of Spanish law as promulgated by O'Reilly. A copy of the Code O'Reilly was sent to de Mezieres for his study. He was further instructed to preserve the property of the Church and to impress upon the people their duty to support it.

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13 Herbert Eugene Bolton (ed.), Athanase de Mezieres and the Louisiana—Texas Frontier, 1768-1780 (2 vols.; Cleveland, 1914), I, 82 and 130-131, citing the letter of O'Reilly to de Mezieres, New Orleans, September 23, 1769.
However, the directives to de Mezieres that O'Reilly stressed more than any other pertained to the Indians. The Spanish Indian policy in Louisiana followed that of the French. Just as it would have been too costly for the French to conquer the Indian lands, so also would it have been for the Spanish. The Spaniards, like the French, wished to control the Indian lands, but they chose the system of fealty and alliance to accomplish this in Louisiana. The Indian nations were considered vassals and they were kept on friendly terms by gifts. The French had contacted them primarily through traders. This practice was continued in Louisiana, as also was the French custom of annual gifts. It was a more humane method than that which the Spanish had used in Latin America, but it was not so effective. Nonetheless, considering the vastness of the Spanish empire and its weakness at the close of the eighteenth century, it was the only realistic method.\textsuperscript{14}

An excellent example of the Spanish-Indian relations in Louisiana can be found by studying the actions of O'Reilly and one of his subordinates, de Mezieres. De Mezieres was told that the Indian tribes along the border of Louisiana and Texas, the Caddo, Tonkawa, and Yatasi, must realize

\textsuperscript{14}Ibid., pp. 27-29.
that all of them, by the act of cession of Louisiana, were now subjects of King Charles, a cousin of the French King. Tribes which had warred with one another, because of their different allegiance, must now cease their quarreling. Without doubt, this must have been one of the most difficult tasks that de Mezieres was expected to accomplish. He and the other officials of the area were twice reminded in the instructions to establish peace among these Indians who dwelt along the border. A warning was also forthcoming from O'Reilly, reminding de Mezieres that further enslavement of Indians was forbidden as of December 1, 1769. Finally, smuggling must be guarded against and punished. In regard to law enforcement in general, de Mezieres was warned to observe moderation. This is worthy of note coming from a man so long reputed to be tyrannical.

In keeping with Spanish customs, a royal cedula approving O'Reilly's instructions was issued. The king sanctioned the appointment of de Mezieres as lieutenant governor at Natchitoches, and the instructions sent to him by O'Reilly. Included in this decree was royal approval of all other officials appointed to assist de Mezieres and of the instructions issued.

15O'Reilly to de Mezieres, New Orleans, Nov. 24, 1769, A.G.I.S.D., Legajo 2543, Doc. 82, L.C. pp. 561-569.
to them by O'Reilly.16

A series of letters between O'Reilly and de Mezieres after the issuance of these instructions give a clear indication of the manner in which the Indian policy in Louisiana was executed during O'Reilly's administration. De Mezieres believed he needed a certain detailed list of gifts for the Indians living in the Natchitoches area. (These Indians came from the Grand Caddo, the Little Caddo, the Yatasi and the Natchitoch nations). In reply to his request, the Spanish governor stated that a supplier of goods, one M. Rancon, would give him what he needed.17 The discretion left to the commandant at Natchitoches is worthy of note. It is evident that General O'Reilly trusted him and relied on his judgment which was the fruit of many years of experience in the Natchitoches country.

Among the gifts sent to de Mezieres for the Indians, one finds such items as guns and ammunition, knives and hatchets, needles and cord, and luxury items such as tobacco, mirrors, shirts and hats.18 An evaluation of these gifts sent by O'Reilly was made by the governor's accountant. The Grand


17O'Reilly to de Mezieres, January 22, 1770, A.G.I.P.C. Legajo 188-1, No. 10, cited by Bolton, Athanase de Mezieres, I, 132-134.

18List of Gifts Attached to Letter of O'Reilly to de Mezieres, ibid.
Caddo received gifts valued at 467 Reals, 7 sueldos, and 9 dineros of silver. This was much less than the sum of 776 Reals, 7 sueldos and 3 dineros spent on the gifts for the Yatasi nation. It is to be presumed that the size and importance of the tribe to the Spanish determined the amount of money allotted for gifts. The sizeable amount spent for all of the tribes tells us also how costly it was for the Spanish to control the Indians through the use of gifts.

O'Reilly was also concerned for the welfare of the Indians. This is certainly clear from a subsequent letter to de Mezieres. The commandant at Natchitoches was commended by the governor for his humane treatment of the Indians under his care. However, he was also warned that he would be responsible for the behavior of any trader whom he appointed. In particular, the general's concern for the Indians was shown when he praised de Mezieres for confiscating and freeing four young Indians who had been brought as slaves to the post of Natchitoches by an Indian trader. The lieutenant governor was ordered to have the details of the affair recorded, and have a proces-verbal drawn up and sent to the governor of Louisiana, so that the trial against

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"Regulos ... a Las Naciones de Indios por Reglamento del Ex. S.D. Alejandro O'Reilly, "March 2, 1770, A.G.I.P.C, Legajo 274-A."
the trader could be initiated. The commandant did as he was ordered.20

De Mezieres' cooperation and faithful execution of his instructions in matters of this type are evident in a communiqué to governor-elect Unzaga in February, 1770. A Christian Indian named Santiago had been returned to his own people by an enemy tribe which had enslaved him. This Indian, since he was of the same religion as the Spanish, came to de Mezieres to warn him of an attack by his own nation, the Tawehash. De Mezieres sent the Indian to Unzaga, who was requested to prove to the Indian that the French and Spanish were allied. De Mezieres hoped that Santiago would return to his people and persuade them not to attack the Spanish. The lieutenant governor also asked Unzaga to protect this Indian from an Illinois trader who at one time had owned him, and who might seek to enslave him again.21 Unzaga granted his request, and the Indian returned by canoe to the settlement at Natchitoches after his trip to New Orleans.22

20O'Reilly to de Mezieres, January 23, 1770, A.G.I.P.C., Legajo 188-1, No. 33, cited by Bolton, Athanase de Mezieres, I, 136.

21De Mezieres to Unzaga, February 1, 1770, A.G.I.P.C., Legajo 110, No. 19, ibid., p. 137-138.

22Unzaga to de Mezieres, March 15, 1770, A.G.I.P.C., Legajo 111, ibid., p. 152.
Pedro Piernas had been appointed by O'Reilly as lieutenant governor of Saint Louis and the Illinois country. The instructions sent to him were essentially the same as those for de Mezieres, but with some few changes designed to meet the needs of the commander of a post so distant from New Orleans. Because of this great distance from the capital city, Piernas was admonished to strive to gain both the respect and love of the people committed to his care. This would insure greater loyalty to Spain. Furthermore, in his administration of justice, Piernas was ordered to observe all of the laws of Spain, following the Code O'Reilly. A full text of the Code, with a commentary drawn up by Manuel Urrutria and Felix del Rey, was sent to Piernas.

Piernas was also instructed to inform the Indians that they were now the subjects of a great and kind king. Furthermore, they were not to molest the English, as the English and Spanish were at peace with each other. Yearly gifts would be allotted to the tribes allied to the Spanish to reward them for their fidelity. The enslavement of Indians also was forbidden. Traders had to be especially licensed to go among the tribes and any Indians coming into the forts were to be treated fairly in all negotiations.

23Kinnaird, Spain in the Mississippi Valley, pp. 157-159.
For the protection of the settlers, O'Reilly established small garrisons at Saint Louis and at Saint Genevieve. He ordered the formation of militia units at both places, and their commanders were appointed by O'Reilly himself. Those designated to these positions of command in the militia were of French extraction in keeping with the general policy of O'Reilly. Piernas was ordered to keep strict control over the regular troops in the two posts in order to maintain the proper discipline. Every three months, he had to draw up a report pertaining to the soldiers under his command. This was judged necessary for the maintenance of military authority in so distant an area as that of the Illinois country.

Persons coming into the Illinois area were not permitted to settle there unless they had written permission from the governor of the province. Moreover, trading was not allowed without a license from the provincial governor.

For the maintenance of order, Piernas was to send regular reports to the governor at New Orleans. However, he was permitted considerable discretion in carrying out his duties. He was advised to use his own judgment in cases not specifically covered in the instructions sent to him or in the code of laws as explained by Urrutia and del Rey.24

24 Instructions of February 17, 1770 to Piernas, attached to a letter from O'Reilly to Grimaldi, New Orleans, March 1, 1770, A.G.I.S.D., Legajo 2594, Doc. 8, L.C. pp. 276-292.
In time, a royal cedula was issued which approved the instructions sent to Piernas for Saint Louis and Saint Genevieve. The cedula also ratified all of the appointments made for Saint Louis, and gave the king's blessing to all O'Reilly had done in Illinois and in all of Louisiana.25

Such elaborate instructions seem almost unnecessary in the light of the small number of people in the Illinois country at that time. According to the 1770 census of both Saint Louis and Saint Genevieve, there were at each post only 103 persons, slave and free.26 Yet, this was typical of O'Reilly's thoroughness in carrying out his commission in Louisiana.

The instructions to the commander at the Arkansas post, while basically the same as those sent to Piernas, throw some additional light on the relations of Spain with the Indians and with England. The commandant was instructed to keep a small number of soldiers at the post: a sergeant, two corporals, twelve privates, and an interpreter. With their assistance, he was to protect the post and its inhabitants

25Royal Cedula, San Ildefonso, August 17, 1772, ibid., pp. 495-500.

26Census of Population at Saint Louis and Saint Genevieve, 1770, attached to a letter from O'Reilly to Grimaldi, New Orleans, March 1, 1770, ibid., p. 293. Bjork says the population of these posts was 1102. Cf. Bjork, "Alejandro O'Reilly," in New Spain, p. 183.
and supplies. Because of the dangers present from Indians not yet closely tied to the Spanish king, their new master, the commandant was further ordered not to allow them to bring their weapons inside the walls of the post stockade. He was to impress upon the Indian the advantages in giving their allegiance to the king of Spain. The commandant was to make the usual gifts to the Indian allies on a yearly basis, allotting to each nation its due. He was instructed to protect the Indians against any white men who might attempt to abuse them. The commandant was further reminded that no newcomer was allowed to reside at the post without the written permission of the governor.

The instructions from O'Reilly concerning the English called, in particular, for avoidance of any hostilities. Since the two countries were at peace, all Spanish subjects, including the Indian allies, were warned against attacking subjects of the English king.27 This later directive was similar to the one issued to Piernas, who governed the Illinois district across the river from English Illinois. As was customary, a royal cedula was issued approving O'Reilly's instructions to the commandant of the post of Arkansas as well as his appointments at the post.28

27O'Reilly's instructions to the commandant of the post of Arkansas. New Orleans, November 11, 1769, ibid., pp. 305-313.

28Royal Cedula, San Ildefonso, August 17, 1772, ibid., pp. 501-506.
A series of letters exchanged between O'Reilly and the Arkansas commander, one M. Desmaseillères, adds more knowledge about the handling of Indian problems under O'Reilly. When the commandant arrived in Arkansas he found a large number of Arkansas Indians in the vicinity of the post. He had endeavored to reassure the inhabitants who feared an attack as he believed that the Indians would remain peaceful. He considered that they had been impressed with his military contingent and that the gifts he would provide would further pacify them.29

To placate the Indians, the commandant gave them the gifts sent at O'Reilly's orders. As a gesture of generosity he even made them gifts from his own possessions.30 This was probably wise, as the presents seem to have been a critical factor in keeping the allegiance of the Indians. Moreover, as the Indians had recently come under their new Spanish overlords, a good impression was in order. The total of the gifts for the three or four Arkansas nations was valued at 4779 reals, and 72 sueldos of silver.31 The

29 Desmaseillères to O'Reilly, Arkansas, January 5, 1770, A.G.I.P.C., Legajo 181.

30 Desmaseillères to O'Reilly, Arkansas, (no date), ibid.

31 "Regalos ... a las Naciones de Indios," March 2, 1770, A.G.I.P.C., Legajo 274-A.
general complimented the commandant for his liberality in giving gifts to the Indians from his own belongings. In this he had shown, said O'Reilly his loyalty to the king. However, on another issue the Spanish governor took the commandant to task. Desmaseillères was rebuked for giving a large quantity of government owned supplies (without authority) to a white man and an Indian.\(^\text{32}\)

O'Reilly reproved Desmaseillères on more than one occasion. While en route to Arkansas, the commandant stopped off at Manchac to get extra provisions and ammunition. The general reminded him that he should have taken care of the matter before leaving New Orleans and he should have first gotten permission.\(^\text{33}\) An even sterner reprimand was meted out to Desmaseillères in another instance. The commandant wished to retain at his post a surgeon who had arrived to administer to the needs of the settlers. He was reminded that he should have read his instructions carefully, thereby avoiding this unnecessary request. Nearly three hundred Indian families lived nearby without a surgeon, consequently the post did not need one.\(^\text{34}\) Attached to the copies of

\(^{32}\)O'Reilly to Desmaseillères, New Orleans, January 25, 1770, A.G.I.P.C., Legajo 181.

\(^{33}\)Desmaseillères to O'Reilly, Pointe Coupee, November 25, 1769, and O'Reilly to Desmaseillères, New Orleans, January 25, 1770, \textit{ibid}.

\(^{34}\)Desmaseillères to O'Reilly, Arkansas, (no date), and O'Reilly to Desmaseillères, New Orleans, (no date), \textit{ibid}.
these letters was a list of the possessions of the commandant, both in New Orleans and at Arkansas, which were sold by the provincial government to make payment to the king's treasury. This was presumably to reimburse the royal treasury for goods used or distributed by the commandant without authorization.\(^{35}\)

These communiques are among the few that enable one to recognize in an intimate way features of the personality of the Spanish governor. Most of the documents coming from him are devoid of any expression of feeling. In these letters, one sees revealed a man of almost inflexible character. He was most careful to carry out his own orders, and he expected the same of his subordinates. He may well have been "unmoved," at least openly, by the tears of the ladies of New Orleans who wept for the men who had been condemned to death in October, 1769. Letters of his during his later life in Spain, reveal this same rigidity of character.

In addition to sending orders to the commandants of all of the posts in Louisiana, O'Reilly himself went on inspection tours, such as the one to Balize, and sent his lieutenants on others. Captain Eduardo Nugent and Lieutenant Juan Kelly inspected several of the posts which O'Reilly himself, owing to the limitations of time, was unable to visit. Nugent and

\(^{35}\)O'Reilly, New Orleans, January 25, 1770, ibid.
Kelly visited Atacapas, Opelousas, Natchitoches and Rapides. At these posts, according to instructions, they were to accept the oath of fealty to the king from the inhabitants; to accept petitions of complaint addressed to O'Reilly; to gather reports of potential trouble-makers; to take a census and review the local militia.

They were further instructed to go to the post of Adaes, near the site of the present town of Robeline, Louisiana, and ascertain the identity of the person who had been selling guns to the Indians of that area. They were also commanded to assess the strength of the fortifications at this post.

Fort Adaes had been a border post of the Spanish for the protection of New Spain against encroachments from French Louisiana. It was now superfluous. Nugent's and Kelly's orders called for them to keep a journal of their trip, noting the character of the country, its products and the condition of the roads. The Indian allies were to be told to stop attacking other Indians or whites in the Texas territory, as all were now subject to the same ruler. Renegade whites must be turned over by the Indians to the proper authorities at each fort.36 These instructions are somewhat reminiscent of those given to Lewis and Clark by

36Instructions to Nugent and Kelly attached to letter from O'Reilly to Grimaldi, December 10, 1769, A.G.I.S.D., Legajo 2543, L.C. pp. 570-575.
Jefferson, in that the officers were told to observe carefully the nature of the country and to maintain a record of their travels.

Kelly and Nugent left New Orleans on November 18, 1769, and arrived in Natchitoches on December 29. In all, they covered 189 leagues in forty-two days of travel. They visited as many villages and outposts as they could en route. By November 25, they had covered thirty leagues on foot. Near the village of the Plaquemine Indians, (roughly the site of the present Plaquemine, Louisiana), they began to journey by boat, traveling on the Mississippi toward the Atchafalaya river. A scouting party which had been sent ahead, was lost, but was found on December 3. By the sixth of December, they had reached the Atchafalaya River, and after three days' journey up the river, they reached the village of the Chetimashas Indians. As neither this tribe nor the Plaquemines were considered important groups, they moved on toward the post of Atacapas.37

At Atacapas, Nugent and Kelly found a small village of people mainly of Acadian descent. The white population

included 97 men and 67 women, who owned 33 slaves (25 men and 8 women). They had livestock in plentiful supply, there being 1323 oxen, 565 pigs, 266 horses and 18 sheep. O'Reilly's agents noted that the land was rich and that the people were very industrious, and observed that the women made their own clothes. 38

As Opelousas was very close, it was the next stop for the Spanish officers. The inhabitants of Opelousas were primarily Acadians, hard-working people who had considerable livestock and productive lands. Of the total white population of 197 the men numbered 111, the women 86. They held 115 slaves, 69 men and 46 women. There livestock were more numerous than at Atacapas, with 2419 oxen, 639 horses, 682 pigs, 198 sheep, 38 goats, 13 mules, and 3 donkeys being counted. It is interesting to note that the crops then were much the same as today: rice, sweet potatoes, and corn. Kelly and Nugent stated that if the inhabitants so desired they could easily produce wheat. Finally, the officers noted that the two settlements were close enough to be easily merged into one. 39

En route to Natchitoches by way of the Red River, they stopped at the small settlement of Rapides near the present

38 Ibid., pp. 38-39.
39 Ibid., pp. 29, 30, 35, 36.
site of Alexandria, Louisiana. In the village there were only 17 white men and 16 women who held 18 slaves (12 men and 6 women). There were also 44 Apalache Indians (26 men and 18 women), most of whom were of the Catholic faith and spoke Spanish. The people of Rapides were very poor, having only a small amount of livestock—298 oxen, 98 horses, and 97 pigs—and produced a little corn and tobacco. The soil, it was noted, was much like that of the Natchitoches area.\textsuperscript{40}

Kelly and Nugent arrived in Natchitoches on December 29, travelling from Rapides up the Red River. At Natchitoches they found the governor's mansion, a simple fort, a store house, a jail, a store room, and 80 settlers' homes. They observed that with the exception of the governor's house, the buildings were in poor repair. The fort was on a small hill above the river. The census at this town was more detailed for it divided the inhabitants into age groups. Among the whites, there were 98 boys under fourteen, 152 men from fourteen to fifty, and 5 men over fifty, giving a total of 255 male residents. There were 94 girls under fourteen, 102 women from fourteen to fifty, and 2 women over fifty years old, making a total of 198 females. Among the slaves there were 182 males (of whom 141 were able to work), and 129 females, with 93 able to work. The inhabitants possessed

\textsuperscript{40}\textit{Ibid.}, pp. 31, 36, 37.
1752 oxen, 1268 pigs, 815 horses, 150 sheep, 50 goats, and 30 mules. The soil was suitable for wheat, the agents believed, although only corn, rice and tobacco were grown. In general, the community was deemed backward because the people were not industrious and many had no visible means of support. 41

During their journey they had another important duty to fulfill. They were to administer the oath to all the people with whom they came into contact. This was carried out without incident.

It was then time for the Spanish officers to return to New Orleans to make their report to O'Reilly. They departed from Natchitoches for New Orleans on January 5, 1770. Travel was rapid, as stops along the way were unnecessary. They journeyed first on the Red River, thence to the Mississippi, reaching New Orleans and reporting to the general on January 14. 42 Their brief journal gives a vivid idea of the primitive life led by the settlers. It also makes one realize why the Spanish, by necessity if not by desire, had to adopt a policy of alliance, subsidized by gifts, with the numerous Indian nations of their new colony.

As in all other matters, so in Indian affairs, O'Reilly kept control of the most important features of his policy in

41 Ibid., pp. 31, 33, 34.
42 Ibid., pp. 21-23.
his own hands. Rather than rely solely on the contact made with the Indians by the various commanders at the distant posts of the colony, O'Reilly himself called a meeting of the chiefs in New Orleans. Not long after the arrest of the rebels, he issued a summons to all of the chiefs within sixty leagues, or 180 miles, of New Orleans to meet with him there. He wished to impress upon the leaders the power of their new ruler, the Spanish king. An account of the meeting accompanying a letter from O'Reilly to Don Julian de Arriaga is most impressive:

... At half past eleven o'clock in the morning there arrived at his Excellency's house nine chiefs, accompanied by the interpreters, each one respectively authorized, together with quite a number of Indians, singing and playing their military instruments.

His Excellency entered the principal hall of the house, and having seated himself under the canopy, accompanied by all the officers of the garrison and the principal persons of the city, the Indians were admitted into his presence, preceded by the interpreters. After they had placed their military implements at His Excellency's feet, each one of the chiefs saluted him with his flag, waving it in a circle over his head, and touching him on the chest four times with it, then giving it to him. Each one then presented him with his burning pipe, the chief himself holding it while he smoked, which His Excellency did as he was not ignorant of its significance; and finally each chief gave him his hand, which is the Indian's greatest sign of friendship.

When these ceremonies had been concluded, the chief of the Bayougoulas asked permission to speak, and His Excellency having granted it, the chief made substantially the following speech:

"Red men, chiefs and warriors, in your name I speak to the great chief whom the great King of Spain has sent to take possession of these lands.
"Father and great chief, we hope that thou wilt deign to have pity on these, thy children, and grant us the same favors and benefits as did the French, and that thou wilt now deign to have our arms and implements repaired and give us some little assistance to live on for the rest of the year. "I am afraid of displeasing thee, great chief of chiefs, and so I close, assuring thee that all these red men, warriors and chiefs of the tribes, will be inviolably faithful to thee, both here and in the posts where are people of they orders."43

O'Reilly took pains to explain to the chiefs the transfer of Louisiana from the King of France to his cousin, the King of Spain, and the close ties between the two rulers. He told the Indians also of the great power of the Spanish King and of his clemency, promised them the presents which they requested, and ordered them not to attack the English. After these words he took a holy medal, and placed one over the head of each chief, and then touched the Indian's shoulders with his sword. After this ceremony O'Reilly promised the Indians a parade of his troops. Accordingly, that same afternoon, he held a military review before the chiefs. They were all deeply impressed by the skill and obvious strength of the Spanish troops, and felt themselves to be under powerful protectors. The next day they departed for their tribal areas satisfied with their new ruler and his representative.44

43Statement attached to letter from O'Reilly to Arriaga, October 17, 1769, in Kinnaird, Spain in the Mississippi Valley, pp. 101-103.

44Ibid.
Stronger ties had to be forged by the Spanish with their Indian allies, especially after the insurrection of the French settlers in 1768. The dramatic way in which they were received by O'Reilly, who sat in their presence almost as a monarch, and the demonstration of Spanish military power secured their respect and admiration. Not only did the Spanish governor treat them as men worthy of respect in their own right, but he impressed them with Spain's military might so that they were deterred from attacking the Spanish forts. Considering the small number of regulars he left in Louisiana, and the great distance between forts, O'Reilly's move was wise. His use of presents was also calculated to win over the Indians.

The use of presents for the Indians was begun by the French. While it was costly, the Spanish, nevertheless, deemed it more feasible than an attempt to conquer the various Indian nations. Actually, such a war probably would at that time have been all but impossible for Spain. During O'Reilly's administration, gifts valued at 8,257 reals, 78 sueldos, and 3 dineros were given to twenty-six friendly nations in Louisiana. These twenty-six nations were divided into three major groups. The first of these groups was the Taensa, located east and north of Natchitoches, and numbering fifteen nations. These were as follows: the Ouacha and the Chaouacha, the Osagoula, the Bayogoula,
the Houma, the Pacana, the Ochana, the Tonika and the Avoyelles, the Biloxi, the Pascagoula, the Chactoos, the Mobile, the Chitimacha of the River, and the Chitimacha of the Great Land. The second group was the Arkansas, located near the post of the same name. This group included the following: the Quapaw nation, the Ottawa, the Olamon, and the three Aldeas nations (considered one). The third group lived in the Natchitoches area, and included the following: the Natchitoch nation, the Grand Caddo, the Little Caddo, the Yatasi, the Rapides, and the Albamon nation.\(^\text{45}\) The vast amount spent by O'Reilly for the Indians' gifts, and later by other Spanish governors, indicates that Spain heeded Ulloa's warnings that the Indians expected extravagant gifts from the Spanish, and uttered dire threats when he was not able to provide them.\(^\text{46}\) This was another lesson that had been learned from the experience of the first Spanish governor.

As the military and Indian affairs of the colony of Louisiana were being solved, O'Reilly sent back to Havana some of the regular troops in his force. In October, 1769, he reassigned to Cuba the three companies of grenadiers of

\(^{45}\)"Regulos ... a las Naciones de Indios," March 2, 1770, A.G.I.P.C., Legajo 274-A.

\(^{46}\)Ulloa to Grimaldi, August 4, 1768, A.G.I.S.D., 86-6-6, in Kinnaird, Spain in the Mississippi Valley, pp. 61-62.
the Havana militia, and the fifty volunteer cavalrymen who had come with him. He noted that all of these soldiers had conducted themselves well while on their tour of duty in Louisiana. He planned also to return to Havana the Catalonian fusiliers, thirty-two dragoons, and all of the officers and troops of the artillery units. As only a few pieces of artillery were needed in New Orleans, he returned at that time all of the pieces which he had transported to New Orleans. Further withdrawals of men came as time progressed. In November, O'Reilly sent a communique to Antonio Bucareli, the governor and captain general of Cuba, to the effect that he was keeping 179 men from the Lisbon Regiment for the Louisiana Batallion, but that the remainder of that contingent was being returned to Havana and would be added to the regiment of that city. Those who were disabled would return to the kingdom of Lisbon.

Shortly after this reassignment of troops, two additional companies were returned to Havana, and plans were made for the return of seven more companies to that city as soon as transports for them were available. As these men were no longer needed to insure order in the colony, they were being

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dispatched to points where their presence was required. 49

In December, six of the seven companies which he had planned to send back to Havana returned on the frigate, La Fetis. 50 O'Reilly's well planned actions in establishing order in Louisiana, coupled with his rapid organization of militia units and his measures for cooperation with the Indians, enabled him within a short time to reassign to Havana most of his regulars. In this way, as he himself noted, the best interests of the crown were served and the burdens of the royal treasury were relieved.

O'Reilly's connection with the military affairs of Louisiana did not cease after his departure from that colony. As the Inspector General of Infantry, and also as the man charged with the establishment of the defenses for Louisiana, he was consulted by the crown on various problems that arose.

In the spring of 1770, Governor Unzaga requested (of the Spanish Minister of State) advice concerning the defense of Louisiana. From San Ildefonso the Marques de Grimaldi informed him that until General O'Reilly had been consulted concerning these questions, no decision could be made. It was the king's wish that all of the military commanders in

49 O'Reilly to Bucareli, November 18, 1769, ibid., Bk. 1, No. 87, p. 20.

50 O'Reilly to Bucareli, December 10, 1769, ibid., Bk. 1, No. 87, p. 22.
America should direct their communications concerning military affairs to O'Reilly.\(^{51}\)

Upon the general's return to Spain, Grimaldi sent him Governor Unzaga's communique. O'Reilly carefully studied the document and gave his recommendations. He pointed out the problems facing Unzaga in the defense of Louisiana. The Spanish general noted that in time of peace the English garrisoned forts near the Choctaw to keep them under control and to keep their pelt trade. These forts extended from Illinois to Pensacola and made the Mississippi safe for English shipping. In time of war, these same forts would serve as bases for an attack on Louisiana, thereby severing communications between the Spanish at Illinois and those at New Orleans.

O'Reilly held that it was impossible to prevent the English from controlling the pelt trade in time of peace since they could operate more efficiently than the Spanish. In time of war, Spain could only defend Louisiana at very great expense. The English at that time had fifteen hundred veteran troops in the area, and they were supported by seven thousand Choctaw braves. The Spanish could not afford to match such a force.\(^{52}\)


\(^{52}\)O'Reilly to Grimaldi, Madrid, September 30, 1770, A.G.I.S.D., 86-6-7, in Kinnaird, Spain in the Mississippi Valley, pp. 183-186.
If Louisiana should come under a massive attack by the British, O'Reilly recommended several defensive tactics: the governor and his garrison were instructed to abandon New Orleans, take up a defensive position at Opelousas, and lest he be cut en route to Opelousas, leave a small force at Manchac to intercept British troops coming from Natchez. O'Reilly hoped that the troops at the fort in Arkansas could protect themselves, but if they could not, they should also retire to Opelousas and join the governor's forces. The garrison and people at the forts of Saint Louis and Saint Genevieve were to flee to the Missouri Indians for protection. The governor was directed also to closely watch British troop movements and to report any unusual activities to the captain general of Cuba. O'Reilly further recommended an increase of one hundred regulars and seven canons for the Louisiana Battalion.53

The strategy in O'Reilly's letter to Grimaldi was the same as that which he had proposed to Julian de Arriaga in 1769. The colony was indéfensible. Withdrawal to a post near the Texas frontier seemed the best solution if the territory were attacked. If Opelousas could be held while the British troops dispersed themselves throughout the vast region, the Spanish would have protected Mexico and would have some hope of retaining at least part of Louisiana.

53Ibid.
Since Mexico was vital to Spanish interests and Louisiana was not, O'Reilly's plans proposed to achieve, with reasonable expenditures, the main purpose of Louisiana's incorporation within the Spanish-American Empire.

The two premises contained within O'Reilly's plan, namely, that Louisiana was indefensible in a traditional way, and that whatever holding actions were taken, would be executed primarily by the militia, were never fully tested.

Louisiana never underwent a massive attack while under Spanish rule. During the American Revolution, the Spanish Governor, Bernardo de Galvez, knowing Britain to be occupied elsewhere, took the offensive and succeeded. In later years, fears of an attack by the British during the second phase of the Spanish participation in the Wars of the French Revolution never materialized. However, during that time Governors Carondelet and Gayoso realized that any British attacks which might come from Canada or from the Gulf would require more means of resistance than they could offer.\(^{54}\)

The second premise; the reliance on militia, was accepted by most of O'Reilly's successors. The need for such units was expressed both by Carondelet and Gayoso, who not only feared attacks by the British, but also by American frontiersmen. Carondelet maintained that, "Louisiana cannot exist under Spain's dominion for very long unless it can depend for

\(^{54}\)Holmes, Honor and Fidelity, p. 48.
its security on its own resources, and by giving it a form of military administration which arouses the inhabitants' military ardor." He had previously, on his own authority, re-established six of the Louisiana militia units which Governor Miro had allowed to disband, and had promised that these units would be outfitted at the expense of the provincial government. This proposal, however, was not approved by the court at Madrid. Carondelet, nevertheless, continued to voice his fears of attacks and the need of militia units for defense. His successor, Manuel Gayoso also tried to reorganize the militia units but found that the men were unwilling to train regularly. Yet, when called upon to fight, existing units acquitted themselves with honor.

The position of Louisiana under Governors Carondelet and Gayoso would seem to support O'Reilly's view of the military posture of the colony. Both of these men knew that Louisiana was practically indefensible, but they also agreed with O'Reilly that whatever hope there was for security lay with the militia.

55 Carondelet to Luis de Las Casas, captain general of Cuba, May 16, 1792, cited in Holmes, ibid., pp. 48-49.

56 Ibid., pp. 19, 68, 71, 76-78. Holmes notes that the militia units certainly fought well under Galvez.
The Indian policy which the general had established under instructions from the court had mixed results. In some ways the policy was a success. One of its aims had been to prevent constant attacks on Spanish outposts and towns by the Indians. Basically this was accomplished. However, the reliance upon the Indians as allies was of dubious merit. One notable example of the failure of this proposal, was the alliance with the British by the Creeks during the American Revolutionary War. Another instance of failure was Governor Miro's inability to control the Cherokee.57

O'Reilly's successors tried to keep the loyalty of the Indians to promote still another part of the general's Indian policy. Spain had accepted Louisiana in 1762 primarily to curb British expansion toward New Spain. O'Reilly had believed that Indian allies in Louisiana would be an excellent deterrent to any such aggressive moves. Both Carondelet and Gayoso agreed with this policy as there were so few French and Spanish settlers in that vast colony. Consequently, when the Treaty of San Lorenzo transferred to the United States (England's successor in this region) areas inhabited by the Creek, Cherokee, Choctaw, and Chicksaw nations, these governors assigned agents to live among the

Indians to try and keep their loyalty to Spain.\textsuperscript{58} Due to Spain's retrocession of Louisiana to France in 1803, and the colony's purchase by the United States in that same year, this plan proved meaningless. However, as these Indian nations had a population of sixty thousand, of whom thirteen thousand were warriors, they would have presented a formidable problem to the United States had Spain remained in possession of Louisiana and retained their loyalty.

O'Reilly also planned to exclude British traders from the Indian areas. In Louisiana, this policy was generally followed. However, when Spain later reoccupied the Floridas, English traders were permitted to continue their trade with the Indians. This was a necessity, since Spain could not provide these people with necessities, especially with guns and ammunition.\textsuperscript{59}

Although O'Reilly's Indian policy was not carried out exactly as planned, and was very costly, it was basically sound. When everything is considered, there was really no alternative. Certainly Spain could not have afforded the human and natural resources to conquer the Indians. Alliance with them, based on bribery through expensive gifts, was the

\textsuperscript{58}Arthur P. Whitaker, The Mississippi Question (Gloucester, 1962, Reprint), pp. 54, 68.

\textsuperscript{59}Abernathy, South in the New Nation, p. 43.
only other recourse. A system of alliances without gifts would have been a complete failure. If some Indians joined the English because they offered more, then probably all of them would have allied with the English, had the Spanish offered no gifts. This would have been disastrous.

In summary, it may be said that General O'Reilly proposed basically workable military and Indian policies for Louisiana. Considering the conditions within the Spanish Empire at the time, it is difficult to conceive alternatives.
VIII

FINANCIAL, COMMERCIAL, RELIGIOUS AND SOCIAL
POLICIES OF GOVERNOR O'REILLY

During his brief stay in Louisiana, O'Reilly could give attention only to the most fundamental aspects of finance and commerce. Primarily, he had to bring the commerce of the colony into the framework of the Spanish colonial system. Moreover, the unfortunate situation left by the Ulloa administration, for which Ulloa was not totally responsible, had to be remedied before the economy could function - more especially before any reforms could be made.

As the chief auditor, Don Esteban Gayarre had the responsibility, under the direction of O'Reilly, for setting the finances of the colony in order. An overall accounting of the financial status was necessary before the colony could be turned over to O'Reilly's successor, Luis de Unzaga. Although emergency measures were taken in regard to the stabilization of finances, O'Reilly's auditor spent many months untangling the financial maze left over from the first years of Spanish rule, and the interim period from October, 1768, to August, 1769.

Among the immediate fiscal problems faced by O'Reilly was the lack of adequate funds to run the colony. This had been an insoluble problem for Ulloa. O'Reilly was more
successful in meeting this issue, and by December, 1769, the arrival of 100,000 pesos enabled him to begin to pay off the promissory notes issued in the name of the Spanish government during Ulloa's regime. In 1769 alone, O'Reilly spent approximately 260,000 pesos on the colony's needs. An ample money supply helped quickly to establish confidence in the new Spanish government. Ulloa's financial difficulties had taught the Spanish court the danger inherent in a situation such as the one that had been permitted to develop in the province in the first attempt at occupation.

Another measure taken to set the finances in order was O'Reilly's insistence on a new appraisal of the value of the properties being transferred from France to Spain. These properties included the hospital buildings, the general store house, the guardhouse, the dwelling of the comisario, the physician's house, the botanical gardens and the hospital for the soldiers. The prior assessment under Ulloa had been a value of 865,799(19-8) pesos fuertes. A new evaluation changed this to 603,190(1-0) pesos fuertes, a difference of 262,609(18-8) pesos fuertes. The old evalu-

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ation was made on the basis of buildings at the time of their construction. Depreciation, O'Reilly felt, certainly reduced them in value. In this judgment, he was joined by Aubry, Unzaga, as well as by Hipolite Amelot, Juan Cotilla, Jean Valentin, Comptroller of the Navy, and, of course, Esteban Gayarre, his auditor. This was another attempt by the general to relieve the Royal Treasury of what he considered undue costs.

O'Reilly made it clear that generally the colony had no problems in supplying itself with food. Consequently, he hoped to cut expenses by reducing the importation of those items which Louisiana could provide for itself. He found that large quantities of food brought by Ulloa had spoiled, thus causing considerable loss to the Royal Treasury. He ordered an inspection of the salt meat and flour which were on hand when he arrived; what was spoiled he ordered dumped into the river; whatever was still edible he returned to Havana, as New Orleans was able to supply itself with these items. If, by chance, flour became short, he noted, the

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3 Statements attached to letter from O'Reilly to Arriaga, October 7, 1769, ibid., pp. 99-101.

4 According to Elijah W. Lyons in Louisiana in French Diplomacy, pp. 53-54, France did not accept this evaluation. He cites N. M. Miller Surrey, The Commerce of Louisiana Under the French Regime (New York, 1916), Calendar, II, p. 1546, who stated that France prevailed on Spain to pay 1,622,454 livres. This was more than twice what O'Reilly had recommended, namely 603 pesos fuertes, 190 reals, 1 sueldo, or 761,537 livres. /603 pesos fuertes, 190 reals and 1 sueldo is the same as the 603,190(1-0) pesos fuertes referred to in the above cited document.
people could make rice bread, which would serve as an adequate substitute until flour could be obtained. The colony of Louisiana was given credit for the cost of the meat and flour which were returned to Havana.⁵

O'Reilly took these actions to reduce the expenditures of the treasury for Louisiana. He hoped that Louisiana would not be a liability but rather an asset to the Spanish economy. France had found Louisiana excessively costly, and O'Reilly hoped to prevent the colony from becoming a similar burden to Spain. Unfortunately, Louisiana proved to be almost as costly to Spain as it had been to France. The historian, Gayarre, claims that by the end of Spain's era of possession, Louisiana had cost her fifteen million dollars.⁶ These measures were only stop-gap ones, as the general intended to reform completely the finances of the colony. Meanwhile, Contador Gayarre's auditing of the books from the period of Ulloa's rule continued, and by December, 1769, considerable progress had been made. O'Reilly noted in a communique to Arriaga that:

Since bad weather has delayed my departure for Pointe Coupee, I have been able to finish the accounts submitted by the French comisario, M. Bobe, for the year 1766, during which the

⁵O'Reilly to Arriaga, New Orleans, December 10, 1769, A.G.I.S.D., 80-1-9, in Kinnaird, Spain in the Mississippi Valley, pp. 126-127.

⁶Gayarre, History of Louisiana, III, 624.
expenditures of the administration of this province were handled by M. Foucault. I had all these accounts audited by Auditor Don Esteban Gayarre, who disapproved the items shown by the attached paper...

From the attached brief abstract Your Excellency will see the harm that resulted to the royal exchequer from the administration of the expenditures of the province having been left in the hands of M. Foucault during the years 1766 and 1767, and the injustice and despotism with which he was wont to proceed in everything. ... I do not wish to imply by this that in any way is blame to be attributed to Don Antonio de Ulloa, to whose zeal and interest I do the justice that it deserves. I believe that sole cause of the irregularity to have been the desire that he had on his arrival of manifesting to everyone his confidence and good feeling toward the French. Afterwards he was not able to remedy the damage, and to make up his mind at the end of the first year to remove M. Foucault entirely from our administration, or to compel him, as he should have done, to submit his accounts. I know that he asked him for them several times, but Foucault always delayed submitting them for the reasons that are quite evident from the attached paper ...

In addition to ordering this meticulous accounting for all the monies spent by the Spaniards since their arrival in Louisiana, O'Reilly reduced the number of treasury officials for the colony, and made the contador, or auditor, directly responsible to the governor rather than the Secretario de

Despacho (Secretary of State). The treasury officials in Louisiana were reduced from five to three in order to economize. The general recommended that a regular accounting of all of the finances of the colony be made every six months, in preparation for the annual report sent by the governor. The governor would be assisted in this work by the contador. 8

Esteban Gayarre disagreed with the procedures established by O'Reilly for the contador and the treasury officials. Under the new rules, these men were subject directly to the governor of the province of Louisiana. Gayarre maintained that these rules were too rigid, and that the contador should be directly responsible to the Minister of State in Spain. 9 Upon his return to Spain, O'Reilly learned of this and he answered the objections raised by Gayarre. He asserted that he had made the contador directly responsible to the governor in order to prevent any conflict of power in the colony. He felt that the independence of these officials under Ulloa had been an occasion for trouble. If the contador were directly under the governor, a tighter control could be kept and financial difficulties averted. 10

8O'Reilly to Grimaldi, New Orleans, March 1, 1770, A.G.I.S.D., Legajo 2594, Doc. 32, L.C. pp. 258-266.


10O'Reilly to Grimaldi, Madrid, September 4, 1770, ibid., Doc. 112, L.C. pp. 748-749.
Whether or not the return of Gayarre to Spain was in any way the outcome of this disagreement with O'Reilly is not clear. In September, 1770, he requested and obtained permission to return to Spain and was replaced as contador by Antonio Jose de Aguiar. In any event, in light of the general approval given by Charles III to all that O'Reilly did in Louisiana, the chances of success by Gayarre in opposing any plan established by O'Reilly were indeed remote.

In addition to Gayarre's general auditing, Don Martin Navarro, the treasurer, made an extensive study of the colony's problems. He had notified General O'Reilly of the heavy expenditures that would be necessary to run the colony under the system begun by Ulloa. Due to these projected costs, O'Reilly had decided to reduce the number of all governmental employees. He felt that the colony could be run just as efficiently with fewer men. The general's penchant for getting the same work done with fewer men was characteristic. Later, as will be noted, it contributed to his defeat in the battle of Argel in Algeria.

11 Charles Etienne Gayarre, Esteban's grandson, made no reference to this clash as a cause for his grandfather's return to Spain (History of Louisiana, III, 42-43).


13 O'Reilly to Arriaga, New Orleans, ibid., Doc. 81, L.C. pp. 543-549.
Just before his departure from Louisiana for Havana, preparatory to his return to Spain, O'Reilly reported that the finances of the colony were in order. The treasury report had been completed, and the revised financial system was working. These actions had been taken in light of the circumstances existing in the colony of Louisiana at that time and were thought by him to be those most conducive to the service of the crown.

The wisdom of Governor O'Reilly's emergency action in almost immediately paying off the debts owed by the Spanish government can only merit praise. The rapid manner in which the accounts of the colony were brought up to date by Esteban Gayarre, his contador, must also elicit commendation. His reforms for the treasury and accounting system of the colony, however, must be more closely analyzed to see if they were suited to the circumstances.

Gayarre disputed O'Reilly's decision to place the office of contador under the governor of the colony. Was O'Reilly's decision a disinterested one? There is no reason to believe that it was not. He knew that he would leave the colony as soon as he had put its affairs in order. Therefore, he could not have wanted this power for himself. But what of Gayarre? Being subordinate to the governor of the colony would certainly be a difficult thing for certain men

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14 O'Reilly to Grimaldi, New Orleans, March 1, 1770, A.G.I.S.D., Legajo 2594, Doc. 32, L.C. pp. 258-266.
to bear. Perhaps this partially explains his opposition to the move as well as his resignation. Be that as it may, in view of the clashes that later occurred between the intendants and the governors over Louisiana's fiscal policy, the subordination of everyone in the colony, in 1769, was a wise provision.

O'Reilly's decision to reduce the number of treasury officials in Louisiana from five to three was definitely praiseworthy. One of the greatest defects of the Spanish empire was its excessive bureaucracy.\textsuperscript{15} Moreover, considering the fact that the colony was a relatively minor part of the empire, it was realistic to reduce the number of the contador's assistants to an absolute minimum.

Closely connected with the finances of the colony was the commercial potential of Louisiana. Trade had been carried on by the colonists not only with France, but also with the English, prior to O'Reilly's arrival. In the era of mercantilism foreign trade could not be tolerated once Spanish power had been established in the colony. However, in spite of the commercial regulations that would later be enforced, the immediate welfare of the colonists was of prime concern to O'Reilly. As was noted, one of the general's first actions upon arriving in Louisiana was to issue a proclamation fixing food prices, thereby preventing the acquisi-

tion of further excessive profits in the confusion attendant upon his arrival. The proclamation on food prices stipulated:

Don Alejandro O'Reilly, ...

Nothing requires greater attention from the government than the equitable regulation of the prices of food products. Having taken note of the abuses which are being practiced in this regard, and desiring equally that the farmer receive due recompense for his labor, and that the soldier, the resident of the city, and other consumers may not be tyrannized over, we have, after taking all the steps compatible with the sincerity of our intentions, established this tariff of prices,... under penalty of a fine....

September 7, 1769.16

This proclamation had attached to it a list of nearly all saleable food items, with the price allowed for each. O'Reilly obviously did not wish to permit any abusive measures to persist in the colony whereby the very necessaries of life would be priced beyond reason. Such a measure was, moreover, politically sound. It might anger the profiteers but it would certainly please the majority. Thus, O'Reilly could more readily win the loyalty of Spain's new subjects.

The general's permanent trade policies, however, presented another problem. At the time of O'Reilly's arrival in Louisiana, investigations showed that nine-tenths of the trade in the colony was carried on by the British, and that they employed commercial agents among the Germans along the coast, and even in the city of New Orleans. He had put an

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end to all of this. This tight control of trade, he felt, should be continued by his successors.\(^{17}\)

In a letter to the British General, Thomas Gage, O'Reilly made it clear that he would see to it that British ships using the Mississippi would be protected against attacks by Indians under his control and all necessary aid would be given to these ships. Nevertheless, no English ship would be allowed to put into New Orleans nor to land goods at any place under Spanish control. Gage was asked to cooperate in these measures.\(^{18}\)

A courteous reply was soon forthcoming from the British general. After congratulating O'Reilly on his appointment as governor of Louisiana, he proceeded to thank him for his intentions to keep the Indians under control, and promised he would see that the Indians under British rule did not attack the Spanish. He further promised that he would instruct British subjects not to attempt to land any goods in territory under the domination of the Spanish crown, nor to introduce any goods into New Orleans without permission.\(^{19}\)

That certain limited trade was allowed by the British at New Orleans is quite clear, and this was evidently what General

\(^{17}\)O'Reilly to Arriaga, New Orleans, October 17, 1769, A.G.I.S.D., 80-1-7, ibid., pp. 103-105.

\(^{18}\)O'Reilly to Gage, New Orleans, September 2, 1769, A.G.I.S.D., 80-1-9, ibid., pp. 95-96.

\(^{19}\)Gage to O'Reilly, New York, November 18, 1769, A.G.I.S.D., 80-1-9, No. 4, ibid., pp. 107-108.
Gage referred to when he instructed Englishmen not to introduce goods into New Orleans without permission. Elias Durnford, the British commander in Pensacola, offered further evidence of the limited trade permitted by O'Reilly when he wrote to the Spanish general thanking him for the good treatment accorded English traders in Louisiana. He was particularly appreciative of the favors shown to a certain Evan Jones, a merchant, whom O'Reilly had assisted while he was trading in New Orleans. Durnford also thanked O'Reilly for the special port set aside for English ships. He added that, in reciprocity, a special port had been set aside on English territory for Spanish ships. These temporary arrangements were doubtless made by O'Reilly to provide for emergency goods which the English possessed. The trade regulations which he later proposed to Grimaldi and Arriaga made no provisions for any such trade reciprocity.

These temporary measures were used by O'Reilly until comprehensive trade regulations could be established for the colony. In the meantime, the regulations of 1766 and 1768 initiated under Ulloa were in effect. However, by October, 1769, O'Reilly saw the need for a more realistic policy and at that time he began to press the crown for action, as had Ulloa. O'Reilly pointed out to Julian de Arriaga, Minister of the Council of the Indies, that the province of Louisiana

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20 Durnford to O'Reilly, undated (copy), A.G.I.S.D., 80-1-9, ibid., pp. 79-80.
could not survive without commerce. Timber, the most important product of Louisiana at that time, was not then needed by Spain. Therefore, he recommended that Louisiana be permitted to sell its timber and other products to Cuba. This arrangement was considered most feasible, since it would not only give Louisiana a market for its products but would also provide the Cubans with wood for sugar crates. The material from Louisiana for these crates would be cheaper than any other wood then available—an arrangement profitable to both Louisiana and Cuba. He also recommended that the crown collect the duty on this commodity at Havana. However, no other duties were to be charged, and trade between Louisiana and Cuba should otherwise be free. Louisiana could provide not only wood for Cuba, but also corn, rice, cotton, indigo and pelts. Cuba, for its part, would find a ready market for its rum in Louisiana. A final recommendation was that only Spanish ships should be permitted to engage in this trade between Cuba and Louisiana.\(^{21}\)

A communiqué, containing basically the same plans suggested to Arriaga, was sent to the Marques de Grimaldi that same day. O'Reilly reiterated the needs of the colony for commerce and again stated that free trade with Cuba would be

\(^{21}\)O'Reilly to Arriaga, October 17, 1769, A.G.I.S.D., 80-1-7, \textit{ibid.}, pp. 103-105. Ulloa had also recommended such trade with Cuba, but his request was refused. Cf. Ulloa to Grimaldi, Havana, November 27, 1765, A.G.I.S.D., Legajo 2585, L.C. pp. 80-90; and Grimaldi to Ulloa, El Pardo, February 22, 1766, \textit{ibid.}, pp. 93-94.
profitable to both colonies, as well as to the crown. To facilitate the trade and transportation between New Orleans and Havana, he compiled a list of the better ships' captains and suggested a schedule and route for ships sailing between the mouth of the Mississippi River and the port of Havana. He recommended that the list and schedule be printed and distributed among those who would trade with Louisiana.

Grimaldi received the communiques at El Pardo in January of 1770 and soon acted upon them. The Minister of State granted O'Reilly permission to observe the proposed trade arrangements between Havana and Louisiana. He also approved the opening of commerce with a limited number of Spanish ports, among them Seville, Cartagena, Malaga, Barcelona, La Coruña and Alicante. However, in all of this trade, Spanish ships must transport the goods. This concept was in keeping with the plans for trade as proposed by O'Reilly. In addition to this, Grimaldi forbade any direct trade by Louisiana with foreign ports or with New Spain. Thus, with the exception of the Cuban trade and the new ports open to Louisiana trade, the decree of March 23, 1768 was, in essence, re-established for the Louisiana colonists by the Spanish Minister.


Further clarification of these orders was spelled out to Don Antonio Maria Bucareli, captain general of Cuba, in a letter of instructions from O'Reilly in April, 1770. Bucareli was ordered to follow the procedures approved by Grimaldi. He was warned not to admit to Cuba any tobacco produced in Louisiana, as it was inferior in quality to that grown in Cuba. It is also probable that Louisiana tobacco was not sent to Cuba to prevent competition. The colonists of Louisiana were to be prohibited from introducing into Cuba any goods not produced in Louisiana itself. If anyone were found doing this, he would be punished as the law required. Here was an example of the theory of mercantilism in its most rigid form.

Bucareli received additional instructions from O'Reilly shortly afterwards. The duties charged on ships from Louisiana were to be the same as those established and observed in Havana in the trade with the mother country. To promote this commerce between Louisiana and Havana, Bucareli was directed to convince the people of Louisiana of the advantages to be derived from this trade. It was O'Reilly's opinion that the

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value of goods sold to Havana by the people of Louisiana would be about the same as the value of goods which they bought in Havana.26

The extent to which O'Reilly's advice was followed in matters of trade is additional evidence of the confidence placed in him by the Spanish court. Practically all of his suggestions were accepted, and no decree was drawn up during this initial period of Spanish rule in Louisiana without O'Reilly's advice. This was as true of commercial matters as it had been of legal and military affairs. The extent of the court's reliance upon O'Reilly is further illustrated by Julian de Arriaga's refusal to act upon a suggestion of the intendant of Cataluna regarding ships returning from Louisiana to Spain. Don Miguel de Muzquiz, the intendant, suggested that Spanish ships departing from Louisiana for Spain should first stop at the Windward Islands. The money they had gotten from selling goods in Louisiana could be used to purchase products at the Windward Islands. Arriaga postponed his decision until O'Reilly could return to Spain and be consulted as to the necessity for such a procedure.27 Arriaga's action in this matter is but added proof that O'Reilly obviously had the full confidence of the court and the king.

26O'Reilly to Bucareli, Havana, April 5, 1770, A.G.I. S.D., 80-1-9, ibid., p. 167.

Most historians who have written on this period of Louisiana's development, even those sympathetic to the Spanish regime, like Gayarré, have maintained that the restrictive commercial policies set up by O'Reilly were unrealistic, and would have been severely damaging to the prosperity of the colony had they been strictly enforced. 28 Actually, the assertions of these historians are not so much attacks on O'Reilly's mercantile policies as they are criticism of the entire Spanish mercantile system. To attempt to defend his commercial policies would be to try to defend the entire mercantile system of Spain, as opposed to free trade. Nevertheless, under the systems existing among all European powers at that time, the policies established by O'Reilly for Louisiana were technically no more restrictive than those of the British or French. They were devised by O'Reilly to promote the welfare of both the mother country and the colony. He permitted the removal of such restrictive features of mercantilism as he felt were needed to maintain the prosperity of the people of Louisiana.

In his study of Louisiana, Gayarré maintains that, in general, the mercantile system suggested by O'Reilly and accepted by the Spanish court "was exceedingly foolish as it could benefit neither the colony nor the mother country." 29

28 Gayarré, History of Louisiana, III, 44-46.
29 Ibid., p. 44.
It is indeed true that Spain had little use for Louisiana's materials. The colony had been developed by the French, and naturally its products had been developed to meet the needs of France or of her other colonies. Furs, a large item, were certainly useless in Spain; Louisiana's tobacco could not compare with that of Cuba; nor could its indigo compete with that of Guatemala or Caracas. However, there was merit in sending Louisiana's timber to Cuba for sugar crates and for buildings. Obviously, this would not have solved the entire problem of Louisiana's commerce. But, in justice to the Spanish general, it should be judged as a realistic outlet for a considerable quantity of Louisiana's timber. Gayarré considers this as part of O'Reilly's enlightened commercial policy.30

Nevertheless, it must be admitted that the mercantile system simply could not be enforced in Louisiana without wrecking the trade of the colonists. Unzaga, for all practical purposes, ignored the regulations, and the British openly traded with the colonists. This certainly helped the settlers, but it is questionable how advantageous it was to Spain. Regulated trade with foreign nations might have provided the answer. In this way, the mother country could have solved the problem of disposing of Louisiana's products and providing the colonists with needed manufactures, while collecting a tax on foreign trade. The failure of O'Reilly's commercial

30Ibid., pp. 44-45.
plans for Louisiana is, therefore, not so much a personal failure as it is the failure of an outdated system of trade. Lack of ample population was part of the basic problem for the Spanish in Louisiana. Actually, the territory became profitable only after American possession, with its influx of vast numbers of people to the west throughout the nineteenth century.31

Religion was another concern of O'Reilly. In a society in which church and state were as intimately united as they were in Spanish society, O'Reilly exercised almost complete authority over the church. As the direct representative of Charles III, he had the authority of the real patronato. Here, as in other matters, the crown relied upon his advice.

One of the first things O'Reilly did in the religious field was to see that the people of the colony and the militia unit had a sufficient number of priests to minister to their needs. In a letter to Antonio Bucareli in November, 1769, he noted that the Battalion of Louisiana needed a chaplain, and he requested that the Bishop of Santiago de Cuba send one who could quickly learn French. He further stipulated that the Bishop grant this priest as many spiritual faculties as possible.32

31Ibid., pp. 624-625.

Concerning the religious needs of the civilian population, O'Reilly conferred with Father Dagobert, the pastor of Saint Louis Church and Vicar General of Louisiana. Upon Father Dagobert's recommendation, the Spanish governor requested that the total number of priests for Louisiana be set at eighteen. Six were needed for New Orleans and its environs, and the others for the rest of the colony. O'Reilly thought well of Father Dagobert, and noted that he was held in high esteem by the people of Louisiana.33

Father Dagobert had been faced with a shortage of priests since his appointment as Vicar General of Louisiana in 1765. When the Jesuits were expelled from the colony, he, eight other French Capuchins, and one secular priest were left to care for the colony's religious needs.34 O'Reilly's recognition that the eighteen priests requested by Father Dagobert in 1769 were necessary indicates the governor's realism. His ability to get them indicates the complete discretion given him by the king in handling all matters in Louisiana. It may be further noted that, except for the two priests assigned to the posts of St. Louis and St. Genevieve, the remaining sixteen were all within the area comprising the present state.


of Louisiana where the population was heaviest.\textsuperscript{35} Education was not neglected under O'Reilly. A royal cedula noted the departure for Louisiana of six Capuchin priests, who were instructed not only to promote the Christian faith, but also to train the people in the fundamentals of reading and writing.\textsuperscript{36} Nor were these Capuchins alone in the program. The Ursuline nuns, an order which had arrived in Louisiana under Louis XV, had for many years conducted an orphanage. In addition, these dedicated women cared for the education of both White and Negro girls, gave them religious instructions and arranged for their baptism at the church of St. Louis in New Orleans. The hospital work previously done by the Ursulines had to be discontinued, however, since they did not have a sufficient number of young women entering the convent to replenish their ranks.\textsuperscript{37}

The building and care of churches were also directed and often provided by the state. Among other things that he did in the king's name, O'Reilly granted to the church

\textsuperscript{35}Ibid., p. 180.


\textsuperscript{37}Baudier, Catholic Church in Louisiana, p. 183; Saint Louis Basilica Archives, New Orleans, Baptismal Register.
of Saint Louis a new bell, valued at 220 livres, and additional money needed for sundry items.  

Another example of Church-State relations is found in the instruction to Athanasius de Mezieres at Natchitoches. The general ordered that the parish church be repaired. Furthermore, he impressed upon the lieutenant governor of that town the people's responsibility for caring for the church. Each parishioner was expected to contribute his share to the upkeep of the building. De Mezieres was given the power to compel the people to support the Church, if compulsion proved necessary. Accordingly, De Mezieres and the priest at Natchitoches, Father Stanislaus, a Capuchin, collected a very substantial amount of money from the parishioners. With this they erected the first impressive church at the post (the old one was beyond repair), and de Mezieres indicated that no compulsion had been necessary to get the people's support.

Shortly before he was ready to depart from Louisiana, the inhabitants of the German Coast of Saint John the Baptist asked O'Reilly for a grant of land upon which to

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38 Saint Louis Basilica Archives, Financial Record, Book I, p. 100, item 30, 1769.

39 Bolton, Athanase de Mezieres, I, 27-29.

40 De Mezieres to Unzaga, Natchitoches, February 1, 1770, A.G.I.P.C., Legajo 110, No. 189, ibid., I, 237-238.
build a church. After examining their request and considering it reasonable, the general ordered the construction of the church and the appropriation of the land for its site. The document issued by O'Reilly on this occasion clearly indicates the control of the Church by the State, and the absolute power of the State over the colonists and their lands:

We, Captain General and Governor of the Province of Louisiana. In view of representations made to us by inhabitants of the German coast of Saint John the Baptist, and upon petition of Senor Michael Pauche in the name of said inhabitants, which documents are deposited with the government:

We shall take four acres of ground belonging to a party named Dubroc, for the purpose of erecting thereon a church; said Dubroc being single, without a family, and possessing twelve acres of ground; provided, however, that the community shall clear the remaining eight acres in the same manner as the said four acres taken for the church, and further providing that they shall give him as many new posts as there are old ones on said four acres.
Given at our Cabildo in New Orleans on February 21, 1770.41

As Dubroc was a bachelor, O'Reilly obviously felt he did not need the entire twelve acres. Since a church was deemed necessary for the community and Dubroc's land was apparently the proper site, it was expropriated. It should be further observed, however, that the community had to clear

Dubroc's remaining eight acres, and had to give him new
cposts to replace those on the four acres taken for the
church. Thus, a form of compensation was made by the
colonial government for the lands taken for the church
site. But it is clear that O'Reilly had complete dis-
ccretion in the disposal of any land for the needs of the
colony. Whatever form of compensation was given to Dubroc
was given freely by O'Reilly, not as a right due to Dubroc.

The promotion of the health and general welfare of the
colony was another obligation resting upon the Spanish
general. In addition to the proclamation fixing food
prices in August of 1769, numerous proclamations affecting
the health, welfare, and morals of the colony were issued
during his stay in Louisiana. Some of these have already
been cited by scholars writing the history of Louisiana,
others have not. The best known proclamation concerned
the regulations for taverns, coffee houses, boarding houses,
and billiard tables. Gayarré noted it and Professor Holmes
recently edited the entire document. It levied a tax of
forty dollars per year on the coffee houses, taverns and
billiard tables, and a charge of twenty dollars per year
on the boarding houses. This was to be used as revenue for
the upkeep of the city of New Orleans.42 It was a reasonable

42Gayarré, History of Louisiana, III, 34-35; Jack D. L.
Holmes (ed.), "O'Reilly's Regulations on Booze, Boarding
Houses, and Billiards," Louisiana History, Vol. VI (June,
1965), pp. 293-300.
and realistic source of revenue for the city government.

Among O'Reilly's earliest proclamations, one dealt with unfit meat in the New Orleans market places. The royal physician accompanying O'Reilly had noted that diseased animals had been put up for sale in New Orleans. Because of this, O'Reilly issued an order on August 29, appointing Charles Tarascan as inspector of all animals that were offered for sale as food in the various market places and stores of New Orleans. The decree noted that this official, with the assistance of the lieutenant of police, was empowered to order all diseased animals removed from the market places and stores. Anyone offering these animals for sale was fined, and if the person committed a second offense, the fine was increased.\footnote{Proclamation on Health, August 29, 1769, A.G.I.S.D., Legajo 2594, Doc. 71, L.C. p. 217.}

A health proclamation of a broader nature was issued by O'Reilly on February 2, 1770, setting the standards to be met by doctors, surgeons and pharmacists. The proclamation made it clear that surgeons were always subordinate to the doctors. Before any surgeon was allowed to practice, he had to pass an examination. If the doctors did not approve him, he would then have to work under their supervision at the Maison de Charité or at the royal hospital.
for six months. At the end of this period, the surgeon had to pass the examination or he would not be allowed to practice. 44

O'Reilly permitted only six surgeons in New Orleans. In no case was the surgeon permitted to treat internal illnesses in the city, except under a doctor's supervision. If the former practiced internal medicine in a rural area he was required to follow remedies prescribed by doctors. Furthermore, a surgeon could treat children and slaves only with the permission of the parents or master. A general discussion of the medical problems of the area took place at a meeting of the doctors and surgeons every Monday.

Surgeons were also warned that if they failed to call in a doctor within three days after consultation and the patient died, they were culpable. However, the penalty was only a fine in this instance, as was the case for any other failure to follow instructions. In cases where violence or poisoning was suspected, a surgeon was required under penalty of fine to call in the police officials.

Remedies were also subject to inspection by the public authorities, and would be disposed of if they were not in proper condition. According to David L. Cowen, Louisiana

44 Proclamation concerning the Practice of Medicine and Pharmacy and Surgery, November 12, 1770, A.G.I.P.C., Legajo 181.
was first in pharmacy regulations in the present United States.\textsuperscript{45}

Considering the deplorable state of medical knowledge prevailing in eighteenth century Europe and America, O'Reilly's regulations in this regard were a necessity. Moreover, this proclamation, as most of the others, indicates the high degree of supervision prevalent within the Spanish empire. O'Reilly brought to the Creoles a degree of regulation which they had not previously experienced.

Many of the problems faced by the Spanish governor had to be resolved as quickly as possible. Speed was necessary to insure stability for the new government and loyalty to the crown. O'Reilly himself had often mentioned this in his letters to Arriaga and Grimaldi. In making an assessment of his work in the fields of welfare, health, commerce and finance, one must consider the general's accomplishments from two points of view: first, emergency regulations; second, policy regulations. From the standpoint of emergency actions, it seems just to admire the man for the rapidity and sureness of the steps which he took. Matters such as money supply, food supply, medical practices and immediate religious or social needs were, as noted, promptly and effect-

ively handled. O'Reilly certainly proved that the Spanish king had acted wisely when he chose the general for the task of setting up an orderly and stable society under Spanish rule in Louisiana.

The long range policies of O'Reilly, as has already been suggested, were not always of such obvious merit. Without doubt, the weakest of these long term policies was the outdated mercantile trade policy, whose defects have already been noted. The fact that it was later ignored by Unzaga, and then altered by Galvez, revealed its faults. Moreover, O'Reilly's attempt to establish an efficient and not too costly bureaucracy for the colony met the fate of many such reform measures. For this he is hardly to blame.

On the whole, his administration, nevertheless, was excellent. In spite of some of its long term weaknesses, the general accomplished his basic mission. He did establish effective Spanish rule in Louisiana; and the colonists, although remaining essentially French in culture, on the whole were loyal to Spain. There can be little doubt that he had the ability and personality required for this particular assignment. When O'Reilly turned the government over to Unzaga and departed for Havana, the new governor could feel secure and begin his own task of governing an orderly colony, already incorporated into the Spanish-American empire.
Prior to his departure for Havana in March, 1770, General O'Reilly completed his job of bringing order to Louisiana. Among the last things he did before leaving, was to order inventories of the medical and military supplies on hand in the colony.

A group of local civilians, assisted by Spanish officials, compiled the report on the medical supplies. Among those who took part were M. LeBeau, a doctor, M. Duforest, a merchant, and Lieutenant Colonel Francisco Bouligny, O'Reilly's aide de camp, and, at that time, also adjutant major of the Louisiana Batallion. The supplies at the royal hospital in New Orleans were valued at 7,500 livres. In addition, a list of all other medical supplies available at the various posts of the colony was drawn up and their value estimated. Finally, the cost to the French king for medicines during the period from the cession of the colony to O'Reilly's arrival, was also estimated. The total of these two latter items was estimated at 8,606 livres, making the overall cost 16,106 livres. This report was delivered to Governor-elect Unzaga in the middle of February, 1770.¹

¹O'Reilly to Unzaga, New Orleans, February 15, 1770, Doc. 9, Report on Medical Supplies, A.G.I.S.D., Legajo 181.
The report on the military supplies throughout the colony was completed soon afterwards by two Spanish officers, Juan Kelly and Julian Alvarez. The most important places listed in this report included New Orleans, the posts along the Missouri, the German Coast, the Acadian Coast, the Iberville Coast, and Pointe Coupee. The supplies included items ranging from canons to pistols, with ample powder and shot for each type of weapon. Most of the military equipment was stored at the capital city.\(^2\)

By March 1, 1770, all of the governmental papers had been transferred to Unzaga by O'Reilly. On that day, the general deposited with the cabildo a letter certifying the formal transfer of government to Unzaga, and boarded ship for Havana. As early as December 1, 1769, Unzaga had been appointed military and civil governor of New Orleans and its environs, but it was not until March 1, 1770, that he assumed full control of the colony.\(^3\)

On November 29, 1769, O'Reilly had informed Unzaga that pursuant to his instructions from the Minister of the Indies, Julian de Arriaga, he would first appoint him governor of New Orleans and would then turn over to him the direction of affairs for the entire colony once Louisiana had been

\(^2\)O'Reilly to Unzaga, New Orleans, February 24, 1770, Doc. 12, Report on Military Supplies, ibid.

\(^3\)Records and Deliberations of the Cabildo, Book I, Part II, pp. 16-17 (9a-9b), New Orleans, March 1, 1770.
stabilized. Shortly after this, the general had written to Antonio Bucareli, the captain general and governor of Cuba, notifying him of Unzaga's appointment and of the subordination of Louisiana to Cuba in civil and military affairs.4

When he arrived in Havana, O'Reilly clarified for Bucareli the status of Louisiana in its relationship to Cuba. The Spanish general informed him that Louisiana was subject to the same laws as all the king's colonies in the West Indies. Spanish was to be the official language; appeals from Louisiana would be sent to a special tribunal to be established at Havana for that purpose; appeals from Havana were to be sent to the Council of the Indies; and finally, all appointments to offices in Louisiana would require the approval of the captain general of Cuba. Louisiana was, in effect, a dependency of Cuba in both civil and military affairs.5

After terminating his duties on the island of Cuba, O'Reilly returned to Spain in June, 1770. He was welcomed by the king, receiving from him a gift of 2,000 pesos in recognition of a task well performed. He was publically


5O'Reilly to Bucareli, Havana, April 3, 1770, Dispatches of the Spanish Governors, Bk. I, I, No. 95, 32-34.
honored in the *Gaceta de Madrid*, which noted that the king had commended the general for fulfilling all of the duties assigned to him. His work in Louisiana was cited as a special example of his accomplishments.⁶

O'Reilly's record in Louisiana was extraordinary, considering that he spent but little more than six months there. During his brief stay, he had taken possession of the colony, tried the rebel leaders, established Spanish law in Louisiana, and had incorporated the colony into the Spanish imperial system. It had not been without cause that the king complimented him on a "task well-done."

Shortly after his return to Spain, O'Reilly took up his former position as military governor of Madrid, while still keeping his post as Inspector General of Infantry. In his capacity as Inspector General, he established a military academy at Avila for the training of officers. He planned to model the Spanish army after that of Prussia. Unfortunately, owing to the adverse attitude of the military caste, opposed to any change in the system, and to O'Reilly's later fall from favor at the court, this institution eventually

⁶Rodríguez-Casado, *Primeros Años de dominación española*, p. 301 (Citing the *Gaceta de Madrid* of June 18, 1770).
fell into disuse.  

Although busy with his new military academy and the many tasks incumbent upon him as Inspector General and military governor of Madrid, the general was still much involved in the affairs of Louisiana. In his role as Inspector General, and as the special supervisor of the militia in the Americas, he closely scrutinized the functioning of the army in Louisiana. Anyone familiar with the task of an inspector general in a modern army will realize the minutiae with which, of necessity, O'Reilly concerned himself. Matters of discipline, promotion, retirement, deployment of forces, tactics, and every possible problem connected with the military were constantly brought to his attention.

One problem, typical of those sent to O'Reilly from Louisiana for his consideration, concerned the procedure for troop retirement. Governor Unzaga was informed by the general, in reply to his request for a decision, that the Royal Decree of October 4, 1766, concerning retirement, which applied to all of the king's troops outside of Louisiana, was also to govern retirement in that colony. The Minister of the Indies,  

Ibid., pp. 303-305; Arthur S. Aiton, "Spanish Colonial Reorganization and the Family Compact," Hispanic-American Historical Review, Vol. XII (August, 1932), p. 278. It is also evident that O'Reilly's foreign origin played a part in the resistance offered by the Spanish officer corps to his reforms. The clashes between the Aragonese party and the foreigners who were in favor at court at this time, bear this out.
Don Julian de Arriaga, acting for the king, had given O'Reilly to understand that this was the regulation for Louisiana as well as for the rest of the empire.  

A similar problem was solved for Unzaga regarding procedures to be observed in the event of the absence or death of military officers in Louisiana. The general notified Unzaga that in the event of the absence or death of the colonel of the Louisiana Batallion, he was to be replaced by the lieutenant colonel; the lieutenant colonel's post would then be assumed by the sergeant major of the batallion, and so on down the chain of command.

In the spring of 1773, an interesting incident involving military discipline came to O'Reilly's attention. Lieutenant Colonel Francisco Bouligny, who also held the position of sergeant major in the Louisiana Batallion, had imprisoned several deserters for a period greatly in excess of the normal legal penalty. Although all of the men were first offenders, five had been given six year prison terms, and two had received terms of five years. The prescribed penalty of the Royal Ordinances, Title Eight, was only four months imprisonment, and confiscation of pay for that period. At the same

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8 O'Reilly to Unzaga, Madrid, September 24, 1773, A.G. I.P.C., Legajo 181.

9 O'Reilly to Unzaga, Madrid, November 5, 1773, ibid.

time, O'Reilly received a communique from Governor Unzaga stating that Bouligny, because of this breach of military law, had been removed from his command and placed under house arrest. Immediately, the general informed Don Julian de Arriaga of the situation. O'Reilly recommended leniency, as he felt that Bouligny had acted out of ignorance and not out of malice. Moreover, he regarded house arrest as adequate punishment, and recommended that Bouligny be restored to his command. He noted, however, that the lieutenant colonel should be warned to carefully observe the king's decrees in the future. Arriaga accepted these recommendations without alteration. In consequence, he wrote to Unzaga to release Bouligny and to restore him to his command. At the same time, however, the governor was ordered to reprimand the lieutenant colonel, and to warn him to observe all royal decrees with exactness in the future. Unzaga notified the Minister of the Indies that he had promptly carried out these orders.

11 Unzaga to O'Reilly, New Orleans, May 20, 1773, ibid., pp. 8-9.

12 O'Reilly to Arriaga, Madrid, December 13, 1773, ibid., pp. 24-25.

13 Arriaga to Unzaga, Madrid, December 19, 1773, ibid., p. 27; Unzaga to Arriaga, New Orleans, May 30, 1774, ibid., pp. 28-29.
One curious aspect of this incident is that it involved O'Reilly's former aide de camp. Was his recommendation of leniency for Bouligny influenced by personal motives, or by a sense of justice? In the absence of any available documents concerning this, it is impossible to be sure. However, when O'Reilly was in Louisiana, he had acted more severely when confronted with a similar failure to carry out orders of an even less critical nature. His sharp censure of the commander of the Post of St. Louis, M. Desmaseillères, for failing to carry adequate supplies, and for distributing gifts to the Indians in excess of the allowed amounts, stands out in sharp contrast to his leniency toward Bouligny. Yet, in fairness to the general, it must be noted that complete obedience to orders was far more necessary in 1770, when Spanish rule in Louisiana was still so new, than in 1773, when it had become secure. It is quite possible that a combination of policy and personal motives could be attributed to O'Reilly in Bouligny's case. Moreover, Bouligny's house arrest certainly served as a harsh humiliation for a Spanish officer whose only offense noted by Colonel Estacheria and Governor Unzaga was the one under discussion. It may well have been an adequate punishment.

An example of a disciplinary decree of a general nature involving Louisiana was the one forwarded by O'Reilly to

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14Cf. above, Chapter VII, pp. 201-204.
Governor Bernardo de Galvez in 1781. The shortage of soldiers in the colony and the distance from Spain seemed to indicate to Galvez that some mitigation of the military code was in order. However, the Spanish court was not of the same opinion. In a letter to the Louisiana governor, General O'Reilly noted that despite the distance of the colony from the mother country, there could be no departure from the military code. Any soldier found guilty of a crime must be punished as were Spanish soldiers throughout the empire. O'Reilly based his ruling on a decree issued by Don Jose de Galvez, Minister of the Indies at that time.\(^{15}\)

Problems of a personal nature concerning military personnel in Louisiana also came to O'Reilly's attention. Not long after his return to Spain, he received a request from Unzaga for a leave for Carlos de Grandpré, adjutant of the Louisiana Batallion. Grandpré wished to absent himself from the colony for eighteen months, in order to settle family business in France. O'Reilly recommended the granting of the leave, but noted that twelve months seemed adequate for

\(^{15}\)O'Reilly to Bernardo de Galvez, Cadiz, December 6, 1781, A.G.I.P.C., Legajo 181. Had this decree been issued when Boulligny violated the military code, it is quite possible that his punishment would have been more severe.
Grandpré's purposes. When the leave was granted by the Minister of the Indies, Julian de Arriaga, it was with O'Reilly's recommendation regarding the twelve month limitation. The rather intricate proceedings surrounding the authorization of temporary absence from duty is noteworthy. Not only did the Inspector General have to concern himself with all such matters, but in the cases cited, the Minister of the Indies made the final decision. However, as indicated in these instances, O'Reilly's suggestions were invariably followed, and it is likely that the approval of the Minister of the Indies was generally a mere formality.

Appointment of young men as cadets in the Spanish army also required the approval of the Inspector General. Doña Petit Coulange, widow of Lieutenant Colonel Pedro Villement of the Louisiana Battalion, asked Governor Unzaga to obtain permission for her son to attend a military academy in Spain. The appointment had to come from the king, but before granting the appointment, Charles III had referred the petition to the Inspector General for his approval. In the certificate of appointment, the king noted: "The Inspector General, Count of O'Reilly, has agreed that it is proper to

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16 Unzaga to O'Reilly, New Orleans, March 1, 1771, A.G.I.S.D., Legajo 2661, L.C. p. 59; O'Reilly to Arriaga, Madrid, June 5, 1771, ibid., pp. 61-62; Arriaga to Unzaga, Aranjuez, June 20, 1771, ibid., pp. 63-64.
grant this favor to some natives (of Louisiana) so that they
may live with satisfaction and grow to love the (Spanish)
nation."\textsuperscript{17}

These instances involving the Inspector General indicate
the extensive scope of O'Reilly's jurisdiction. Even after
he had given up direct command of the militia in Louisiana
(which had been vested in him by a special commission), he
still exercised considerable supervision in that colony in
his capacity as Inspector General. After 1777, he was
relieved of his special control over the Louisiana militia,
but as late as 1783 he continued to exercise a kind of super­
visory power in the military affairs of the colony in virtue
of his office of Inspector General.\textsuperscript{18}

After 1770, O'Reilly's main interests lay in Spain.
Both in his special capacity in the army, and as governor of
Madrid, Andalusia, and Cadiz, successively, he was involved
both in military and political affairs.

\textsuperscript{17}Decree of Charles III, Madrid, September 3, 1774,
ibid., p. 191.

\textsuperscript{18}O'Reilly to Bernardo de Galvez, Puerto de Santa Maria,
August 7, 1777 (Document informing Galvez that O'Reilly no
longer had supervision of the Louisiana militia), A.G.I.S.D.,
Legajo 2534, L.C. p. 126; Document referring to O'Reilly as
During the general's tenure as military governor of Madrid, his name was linked, although vaguely, with a certain rationalistic philosopher, Olavide-Samaniego, who was brought before the Inquisition. When the philosopher was later questioned about his views by officials of that body, it became known that O'Reilly had attended some of his lectures in Madrid. According to a well known Spanish historian, from that day forward the general never again enjoyed the complete confidence of Charles III.19

This incident may possibly have hurt O'Reilly's career, but there is no doubt that intrigues in which he later became involved severely damaged his ascendancy. The general was an ally of the Marques de Grimaldi, leader of a clique of foreigners in power at court. This group constantly struggled to maintain itself against its chief opponents, the Aragonese Party, composed of native-born Spaniards, and led by the Conde de Floridablanca, who was allied to the Conde de Aranda. While O'Reilly was still governor of Madrid, he was on relatively good terms with Aranda. In a letter to O'Reilly, the Conde de Aranda made the mistake of criticizing Charles III. For motives that are still unclear, O'Reilly

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19Rodriguez-Casado, *Primeros años de dominación española*, In light of O'Reilly's continued prominence in both military and court affairs, this assertion of Rodriguez-Casado seems open to question.
passed on this information to Charles III. If O'Reilly's intent was to lessen the influence of the count, he succeeded, at least temporarily. Immediately upon receiving this news from the general, the king dismissed Aranda from the court and sent him to Versailles as ambassador. After this incident, according to the Spanish historian, Rodríguez-Casado, O'Reilly was viewed as a dangerous political enemy of the Aragonese party, and the chief obstacle to their rise to power. It is quite possible that if the general had remained aloof from political affairs, he might well have survived the fall of Grimaldi in 1775. That same year, however, O'Reilly was removed from court; but it must be noted that his departure was more specifically related to matters other than the fall of Grimaldi or those events already mentioned. Two other incidents soon followed, the first of which had little influence on O'Reilly's career, but the second one most certainly enabled the general's opponents to persuade Charles III to dismiss him from the court.

The first incident involved a jurisdictional clash with the influential Duke D'Ossun. The Guardias Españolas, an elite corps stationed in Madrid, was commanded by the Duke. Some of its officers had committed certain crimes, and the general wished to have them tried and punished in his courts.

\[\text{20Ibid.}, \text{pp 303-304.}\]
He maintained that in spite of Military Article Number 14, Title 11, of the Royal Military Ordinances, he, as governor of Madrid, had jurisdiction over these men. For his part, the Duke claimed that O'Reilly was obliged to release any officer of the Guards, whom he arrested, within forty-eight hours. The duke contended that the men were subject to himself as the colonel of the Guards. To defend his position, O'Reilly wrote the Secretary of War, the Conde de Ricla, citing the General Orders of the Army, Article 1, Title and Tract 6, which gave a governor jurisdiction over all military personnel within his province. He ended his plea by noting that he did not desire to increase his power, but wished only to preserve the good order of the service.21

The duke also wrote Ricla, referring to the Royal Military Orders, Articles 1 and 2, which, he held, gave to the colonel of units as the Guards, complete jurisdiction over his officers. He conceded that the men were subject to the Bandos de Gobierno issued by a governor, but this was the limit of the governor's powers.22

Within a short time, the dispute had been referred by Ricla to the king, who gave his decision. Charles III decided

21 O'Reilly to the Conde de Ricla, Madrid, January 18, 1775, A.H.N.P.E., Legajo, 2858, folios 1,2.

22 D'Ossun to the Conde de Ricla, Madrid, February 17, 1775, ibid., folios 2,4.
that the captain general and governor of Madrid, O'Reilly, had jurisdiction over all military personnel within his administrative area. But, he also decreed that it was his royal intention that in cases involving the officers of the Guardias Españolas and other such units, the colonel of the unit be given jurisdiction. The governor could only hold these men for forty-eight hours, and then turn them over to the colonel. He noted, as D'Ossun had admitted, that the only exception was in cases involving the violation of the Bandos de Gobierno which the governor might issue. 23

Whether or not this reflected the gradual loss of influence by O'Reilly, is open to question. It may merely have been the logical settlement of this matter of jurisdiction. However, be that as it may, it is interesting from another point of view. The entire episode casts some light on O'Reilly's character. As he himself protested, he had no personal ambition to increase his powers. Assuming this, it leads to another explanation of his actions. He was convinced that the regulations gave him jurisdiction, and he feared abuses by the colonel of the Guards who might fail to punish guilty men, especially when serious crimes were involved. 24 Possibly, O'Reilly believed that strict enforce-

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23 The King to Ricla and D'Ossun, Aranjuez, March 31, 1775, ibid., Legajo 2858, folios 4,5.

24 O'Reilly to Ricla, Madrid, January 18, 1775, ibid., Legajo 2858, folios 1,2.
ment of regulations was necessary, whatever else might be involved. If so, it may have reflected his natural tempera-
ment, or it may have been the result of the type of duties imposed on him as Inspector General. His actions indicate a certain inflexibility of character and make him more readily understood. This inflexibility may explain, at least in part, his decision not to grant either pardon or commutation of sentences to the rebel leaders who were condemned to death in New Orleans.

The second incident, certainly a factor in precipitating O'Reilly's political downfall, was his disastrous campaign in North Africa in July, 1775. Spain and Morocco had been major rivals since the days of the conquest of the Kingdom of Granada in 1492. However, a prolonged period of peace between the two nations seemed likely when, on May 28, 1767, the Sultan of Morocco and Charles III signed a treaty demili-
tarizing their adjacent coastal areas. Unfortunately, it was not long before England, Spain's perennial enemy, per-
suaded the Moroccans to renew their attacks on the Spanish. By 1774, the depredations against Spanish shipping forced Charles III to prepare for hostilities against the Sultan. It seemed that war might be postponed when the Sultan sent word to Charles III that he had ordered his subjects to cease their attacks. But, the Dey of Algiers, practically independ-
ent of the Sultan, refused to cooperate and continued to harass Spanish shipping in the Mediterranean. Due to
these continued forays, the Spanish king had no choice but to continue preparations for war.  

When Charles III first considered the appointment of a general to lead the forces against the Dey of Algiers, he turned to the famous Spanish general, Pedro Ceballos. The latter estimated that in order to carry out his mission effectively, he would need forty thousand troops. This number seemed excessive to the Spanish monarch, who turned to O'Reilly for advice. The Irishman convinced the king that with a force of only twenty thousand men he could make a successful landing at Argel and subdue the Algerians. Consequently, O'Reilly was chosen to lead the expeditionary force. This was, incidently, the first time that O'Reilly had commanded an entire army.

Preparations for the invasion of Algiers began as soon as the king made his choice of a general. The force prepared by O'Reilly consisted of twenty thousand troops, three

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25 Gayarré, History of Louisiana, II, 287; Rodriguez-Casado, Primeros años de dominación española, pp. 305-309.

26 General Pedro Ceballos had led the Spanish forces against the Anglo-Portuguese colony which had been erected along the border of the Province of La Plata, and had forced them to withdraw from their positions. Cf. Isabel Rennie, A History of Argentina (Chapel Hill, 1937), p. 77.

27 Gayarré, History of Louisiana, II, 287; Rodriguez-Casado, Primeros años de dominación española, pp. 309-316.
hundred and fifty transport ships, and forty ships-of-the-line. He also had ordered a fleet of flat boats to serve as landing craft. The armada left Spain on June 23, 1775, and landed at the mouth of the Jarache River in Argel on July 8. Unfortunately, the fleet of flat boats did not arrive on schedule. O'Reilly, nevertheless, decided that he had to proceed with the campaign. Consequently, he sent ten thousand of his men ashore in whatever small vessels were available. These troops, under the command of the Marques de Romana, were expected to establish a beachhead and await the arrival of the remainder of the troops led by O'Reilly. However, the Marques was drawn into battle by the Dey's forces, and he elected to disregard his instructions and pursue the enemy. The Dey's men led Romana's troops into a trap and killed four thousand, and among the dead was Romana himself. Meanwhile, O'Reilly's forces landed and joined battle. Although the general and his troops fought bravely (O'Reilly's horse was twice wounded in the battle), he felt compelled to withdraw to the safety of the ships. His men had become demoralized by their heavy losses, and it seems that O'Reilly feared a mutiny. Rather than risk a collapse, he chose to retreat to Spain. 28

Upon his return to Madrid, O'Reilly was the target of attacks from his foes within the military and at the court. Through the Gaceta de Madrid, the military hierarchy demanded his removal from power, since he, the Inspector General, had disgraced the army by his failure in Algiers. O'Reilly's old political foes joined in the attack, and the king was placed under heavy pressure. In partial deference to these groups, Charles III sent O'Reilly to the Chafarinas Islands off the coast of Morocco, ostensibly to secure their defenses. The real motive seems to have been to remove the general from the court, at least temporarily.

O'Reilly returned from these islands late in 1775, and was transferred from the governorship of Madrid to that of Andalusia. He retained his position as Inspector General of Infantry, in spite of the opposition from most of the military caste. This clearly indicates that he still enjoyed considerable influence with the king.

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29 These islands, three in number, are in the Mediterranean Sea, off the northeast coast of Morocco. Their names are Congreso, Isabel II and Rey. At one time they were a haven for pirates.


31 Aiton, "Spanish Colonial Reorganization and the Family Compact," Hispanic-American Historical Review, pp. 278-279 (Citing D'Ossun to Vergennes, October 2, 1775, Archivo General de Simancas, Papeles de Estado, Legajo 1715, pocket 578, folios 4-7); Del Rio, Carlos III, III, 135.
Although he had suffered a serious loss of prestige, O'Reilly still remained a factor in court intrigues. In 1777, he allied himself with the Conde de Rubi and Luis de las Casas in an attempt to unseat the Minister of State, the Conde de Floridablanca, who as leader of the Aragonese party, had unseated his opponent, the Marques de Grimaldi, the leader of the foreign party. O'Reilly and his associates were unsuccessful and were removed from positions of influence at court. De Rubi was sent to Prussia as ambassador; de las Casas became governor of Oran; and O'Reilly was appointed governor of Cadiz. O'Reilly was also deprived of his control over the militia in America. His appointment to Cadiz marked the virtual end of his influence in state affairs.32

The general served as governor of that maritime province from 1779 until his retirement from active life in 1786. When he left that post, the cabildo of Cadiz presented him with a memorial attesting to his seven years of noteworthy service to the community. He was praised for improving the finances of the city, for promoting public works, and for his concern for and promotion of the welfare of the people. O'Reilly answered in kind, thanking the cabildo and the citizens for

32Rodriguez-Casado, Primeros años de dominación española, p. 317; Gayarré, History of Louisiana, II, 288.
their cooperation during his administration and expressing his gratitude for their testimonial.33

In 1788 Charles III died. With his protector no longer on the throne, O'Reilly was banished to Galicia where he lived in complete retirement on a small pension. It was not until the Wars of the French Revolution that he again entered public life in Spain. Upon the death of General Carlos Richardos34 in 1794, O'Reilly was recalled to duty. Although still out of favor at court, he was recognized as one of Spain's most outstanding generals. He set out to take command of the Army of the East Pyrenees early in 1794. However, his advanced age was against him, and he contracted a fever. On March 23, 1794, at the age of 72, he died at Bonette, near Chinchilla (Murcia), before leading his army into combat.35

Thus ended the career of one of the most remarkable soldiers of fortune of the eighteenth century. He had risen from a lowly cadet in the Spanish army to one of the highest military positions, and had been elevated to the ranks of the


34Carlos Richardos was a member of the military caste, one-time Inspector General of Cavalry, and, at the time of his death, commander of the Army of the East Pyrenees.

35Antonio Ballesteros y Berretta, Historia de España, V (Barcelona, 1948), 389; Gayarré, History of Louisiana, II, 288-289.
nobility with the title of count. In spite of the constant friction with the native-born faction in the court, his deeds of service to the king won him the permanent good will of Charles III. Even his exile to Galicia, upon the death of that monarch in 1788, did not remove his name from influence among the military, as was evidenced by his recall to active duty in 1794.

To judge O'Reilly's place in the history of the Spanish Empire is difficult. Few men stand out to such a degree that they merit the title of "great". It would seem that Alejandro O'Reilly belonged to that category of men, who, although they stand far above most in their achievements, nevertheless fail to reach the summit. He was an able military man and administrator, who, on occasion, committed serious errors. Nevertheless, he was one of the most faithful officials of Charles III. He rose from the ranks, through merit, and became Inspector General of the Royal Infantry. In that position he excelled. He served as a "trouble-shooter" for the king, both in Havana in 1764, and in Louisiana from 1769 to 1770. His administration in Louisiana demonstrated a high degree of competence. Not only did he pacify the province, but he also laid the foundation for the able Spanish rule that continued without serious interruption until the retrocession of Louisiana to
France in 1803. The Code O'Reilly was in itself a remarkable achievement. Although his name evoked little love among the French in Louisiana, he won their respect for the enforcement of law and order.

In the last analysis, Alejandro O'Reilly deserves a place alongside such colonial governors as Bernardo de Galvez in Louisiana and Antonio Maria Bucareli in Cuba. Without him, and other such loyal and energetic officials, the implementation of the colonial reforms of Charles III would have been impossible.
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EXAMINATION AND THESIS REPORT

Candidate: Texada, David Ker

Major Field: History

Title of Thesis: The Administration of Alejandro O'Reilly as Governor of Louisiana, 1769-1770

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June 20, 1968