IN HALIBURTON'S NOVA SCOTIA:

"The Old Judge or Life in a Colony"

Katherine Morrison

writer in nineteenth-century British North America. In spite of his renown the book that many modern scholars consider Haliburton's finest, The Old Judge or Life in a Colony (1849), is almost unknown, neglected in its day because of the absence of the author's popular comic character, the Yankee pedlar Sam Slick. Twentieth-century lack of interest in Haliburton's works rests upon three assumptions: Sam Slick is no longer very amusing; Haliburton's right-wing Tory views are offensive to modern readers; and Haliburton's writings are not in the mainstream of Canada's literary tradition. Few would disagree with the first of these, but the second and third need to be examined in light of The Old Judge. This book shows aspects of Haliburton and his art which are not present in his other works.

Most of the stories in *The Old Judge* are told by Judge Sandford, Haliburton's serious and thoughtful persona. An English visitor, as narrator, and Lawyer Barclay, an additional story teller, maintain and extend the Judge's point-of-view during their travels through Nova Scotia. The Judge's reminiscences integrate the past with the observations of the travellers in a unified colonial setting. The three are educated, astute, and share their author's Tory sympathies.

The famous Sam Slick of the Clockmaker series was used by Haliburton to satirize the Yankees and to reprove the Nova Scotians for laziness and presumption. The strength of Sam as a caricature of an American obscured his relevance to the colony and its people. Such a memorable statement as, "the free and enlightened citizens [of the United States] . . . fairly take the shine off creation; they are actilly equal to cash," tells us something of Haliburton's attitude toward the Americans, nothing about Nova Scotia. Sam could not articulate the author's social ideals nor provide deep insights into colonial life or history. There are a number of comic characters in *The Old Judge*, but none has a multiplicity of functions like the overburdened Sam Slick.

The Old Judge was not published in Canada until 1968 and then only in an abridged edition.² In his Introduction, R. E. Watters took issue with Robert L. McDougall, who argued that Canadian humour is "mild" and did not take form until the end of the nineteenth century. Because of the slashing satire of Sam Slick, he said, "Haliburton is not conspicuously related to the mainstream of our [Canadian] literary traditions." Watters found "a needed corrective" in The Old Judge, where the three narrators reveal "a complex, ironic subjectivity of which Sam Slick was quite incapable," but which foreshadows characters of Stephen Leacock and Robertson Davies.4 Professor Watters is not entirely convincing, because the "humorist" he sees in the author of The Old Judge appears incongruous with the ever-present Tory polemicist. Unfortunately, this abridged edition of the book cut out two important authorial roles. At last an unabridged edition arrived in late 1978, bringing its many-sided author into full view.5 The humorist and Tory polemicist are augmented by a compassionate paternalist and a patriot eager to preserve the Nova Scotian past. In addition, Fred Cogswell found "an unsuspected facet of romantic feeling and talents of a high order for serious fiction." In The Old Judge Haliburton used all of his skills as an author in the service of a central message: the Loyalist ideals should not be rejected and forgotten in favour of a more "American" and democratic society.

Haliburton was familiar with the prevailing ideals of the United States and wanted no part of them in Nova Scotia. Jefferson's famous words to Madison, "that the earth belongs in usufruct to the living': that the dead have neither powers nor rights over it," was never "self-evident" to Haliburton or his compatriots. The concept of a new and morally superior nation, which was free of a feudal past, had wide popularity in the United States of the early nineteenth century. R. W. B. Lewis' study, The American Adam, describes its great appeal and profound effect on American writing from 1820 to 1860: "the image contrived to embody the most fruitful contemporary ideas was that of the authentic American as a figure of heroic innocence and vast potentialities, poised at the start of a new history."

Jefferson's statement means that the institutions of the past are escapable. Haliburton's American contemporary, Ralph Waldo Emerson, went much further, arguing that all human institutions are suspect. Emerson's dislike of society stemmed from a pantheistic philosophy which saw nature as the connection between man and the transcendent, while institutions were a barrier. He called society a "joint-stock company," which "everywhere is in conspiracy against the manhood of every one of its members," while "we rest [in]... that great nature ... as the earth lies in the soft arms of the atmosphere." In nature "no history, or church, or state, is interpolated on the divine sky and the immortal year." Henry David Thoreau was practising Emerson's ideal at Walden Pond about the same time that Haliburton was writing *The Old Judge*. To be alone with nature

was to the American Transcendentalists the ultimate security, while danger and corruption lurked in the institutions of man. Nature in *The Old Judge*, though often beautiful, can suddenly metamorphose into a killer. Northrop Frye has recognized "a tone of deep terror in regard to nature" as recurrent in Canadian literature.¹⁰

Haliburton must have found these Americans naïve. We can imagine his answering Jefferson on the past and Emerson on society with Burke's words that the social contract is "a partnership not only between those who are living, but between those who are living, those who are dead and those who are to be born." In *The Old Judge* he stressed the often disastrous consequences of attempts to shed the past or to live in isolation, both stemming from a disdain for communalism and glorification of the individual: "alas," he said, "man in America is made for himself."

Haliburton, while he admired American efficiency and inventiveness, wanted a community-based and hierarchically structured society, firmly in that eighteenth-century tradition which rested upon centuries of faith in a Great Chain of Being. He was a latter-day Augustan, spiritually akin to Samuel Johnson. Haliburton expressed a Burkean faith in a sense of tradition as the basis for keeping those in authority wise and responsible. His satiric barbs, directed at irresponsibility in the upper-classes and insubordination among the lower, suggest that noblesse oblige, a valued part of those Loyalist ideals, must be kept alive and healthy.

The stories in *The Old Judge* derive from the tales, legends, and fragments of history collected by Haliburton during his many years of riding circuit as lawyer or judge. The first is a ribald tale and the last a supernatural, both set in the past and told by the Judge. In between lies a broad range of comic, tragic, and mysterious stories — plus brief reports on history, government, and local custom — all dealing with life in Nova Scotia from the first European settlement to the 1840's. The intracolonial setting and the author's politics are overshadowed by his sense of a noble, though turbulent, past. The present, Haliburton told his readers with a mixture of anger and sadness, was moving inexorably toward "democracy" and "social equality."

By the time he wrote *The Old Judge* Haliburton probably realized that his desired social structure would never prove acceptable in a land where the poorest immigrant had reason to hope that he might soon become a landowner. Judge Sandford claims membership in "the good old Tory party, the best, the truest, the most attached and loyal subjects her Majesty ever had. . . . There are only a few of them now surviving, and they are old and infirm men, with shattered constitutions and broken hearts . . . doomed to inevitable martyrdom." The elegiac note merges with the author's still undiminished powers as a humorist.

In spite of his commitment to the British Empire, Haliburton was not an unquestioning Anglophile. In The Old Judge he spoke with bitterness of a British

tendency to denigrate colonials. Both an effete aristocracy and the levelling and socially fragmenting tendencies of the United States were to be resisted. The very act of writing *The Old Judge* indicates how eager Haliburton was to defend, extol, and preserve the traditions and history of his native Nova Scotia. It was an outpost of Empire, which he wished to see governed with the accumulated wisdom of British history.

HREE TALES NEAR THE BEGINNING OF *The Old Judge* present Judge Sandford as a Johnsonian social critic. "Asking a Governor to Dine," "A Ball at Government House," and "The Old Admiral and the Old General" make such extensive use of the dinner party and ball as a setting for situational irony and didactic humour that they evoke Jane Austen's writings. In addition, there is the common theme of wise-versus-foolish governing and the presence in all of Governor Hercules Sampson. This good-natured man's effectiveness is weakened by the requirement that he treat everyone as an equal. He is the "Old General" of the last of the three stories, whose frustrating position is contrasted to that of the "Old Admiral" where naval traditions permit no such nonsense. Haliburton, probably contemplating that favourite eighteenth-century concept, "the ship of state," made the case that the colony would be better off if viewed as a ship and "governed" by a "captain" than by its present inefficient, semi-democratic machinery.

The situation is presented in microcosm in "Asking a Governor to Dine." Captain Jones, the only navy man at a dinner party given by a wealthy merchant for Governor Sampson, arrives late. "He was dressed in an old shabby frock-coat with a pair of tarnished epaulettes, his hands bore testimony to their familiarity with the rigging, and he had not submitted himself to a barber for two days, at least." Governor Sampson's arrogant young aide-de-camp, the Honourable Mr. Trotz, makes an audible comment on the strange-looking guest:

"Pray," said Trotz... to his neighbour, but loud enough to be distinctly heard, "who is that old quiz? Is he a colonist?"

"Captain Jones, of H.M. ship Thunderer, sir; very much at your service!" said the sailor with a very unmistakable air and tone.

Trotz quailed. It was evident that, though a good shot, he preferred a target to an antagonist, and wanted bottom. True courage is too noble a quality to be associated with swaggering and insolent airs.

Trotz, who appears again in "A Ball at Government House," represents the decadent aspects of aristocracy, where irresponsible behaviour weakens the traditional hierarchy and encourages the trend toward social and political equality. Captain Jones' rough exterior counters a widespread belief that persons of authority in hierarchical societies do not work, but live on the energies of their

underlings. Haliburton, by showing the inability of someone like Trotz to stand up to a man like Captain Jones, is saying that those who are courageous, hardworking, responsible, and intelligent do, in fact, rise to the top. Trotz is a travesty of noblesse oblige; Captain Jones its fulfilment.

In "The Old Admiral and the Old General," Governor Sampson envies the Admiral for having "no turbulent House of Assembly to plague him." The Admiral "is not altogether able to understand [the legislature]... whose remonstrances look very like mutiny to him, and always suggest the idea of arrest and court-martial." These two highest officials in the colony have "each their little empire to rule. The one is a despotic and the other a constitutional monarch."

"The Admiral is a plain, unaffected man, with a frank and cordial manner, somewhat positive in his language.... He is always popular, for he converses so freely and affably with everyone....

"The old General is erect and formal, and is compelled to be ceremonious.... He is... afraid to commit himself by promises or opinions, and... shelters himself behind generalities.... The one, therefore, naturally and unconsciously wins the good-will of people and the other labours to conciliate it."

The Admiral, a larger edition of Captain Jones, "converses... freely," while the General, "compelled to be ceremonious," is unable to perform effectively as Governor of Nova Scotia.

By describing their entertainments, Haliburton strengthens his position with dramatic irony. A typical party of the General's, "A Ball at Government House," is a huge and heterogeneous assemblage of people. "Sir Hercules, with great good humour" attempts a conversation:

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"'Do you play?'
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"'Perhaps you would like to hear some music? If so, Lady Sampson will have great pleasure in playing for you.'

"'For me! Oh, dear, no — not for the world. I couldn't think of it for me, sir.'

"'What a pity it is there is no theatre at Halifax.'

"Yes, sir - very, sir - for them as sees no harm in 'em, sir - yes, sir."

At the other end of the social scale we have the female counterpart of the Honourable Mr. Trotz. A social climber instructs a young girl:

"'I will introduce [Captain Beech and Lieutenant Birch] to you; they are both well connected and have capital interest. Take my arm, but don't look at those country members, dear, and then you won't have to cut them, for Sir Hercules don't like that.... Keep close to me, now, and I'll take you among the right set...."

The Admiral never has such entertainments; his training and experience forbid toadying and self-serving. He chooses his guests without regard to local politics:

[&]quot;'I never touch cards, sir....'

People are expected to speak above a whisper, or they cannot be heard, and to be at home, or they cannot be agreeable. The dinner itself has...a higher seasoning, ... while the forbidden onion lurks stealthily concealed under the gravy.... The conversation, also, is unlike that at the palace.... You hear nothing of the Merrygomish Bridge, the election at Port Medway, or the alteration of the road at Aspatangon, to which the Governor is compelled to listen, and, at each repetition, appear as much interested as ever.

The Governor is now "compelled to listen." Presumably he is also compelled to retain the services of Mr. Trotz, whom the Admiral, like Captain Jones, would dispose of summarily.

There is a sharp contrast between the petty materialism and parochial "pork-barrelling" of the General's guests and the wide-ranging interests of the Admiral's. The intensity of the social irony in these three stories shows an author deeply concerned with the source and wielding of political power.

Two stories which show haliburton in a more overtly serious vein, concerned with the human need for a sense of community, are "The Lone House" and the two-part "Horse-Shoe Cove; or, Hufeisen Bucht." Both highlight Haliburton's preoccupation with the effect of the past on the living; both reveal his "anti-Emersonian" attitude toward nature.

The introduction to "Horse-Shoe Cove" is a succinct expression of Haliburton's moral outrage at the individualistic trend in North America:

There are no hamlets, no little rural villages.... No system of landlord and tenant, or farmer and cotter, and, consequently, no motive or duty to protect and encourage on the one hand, or to conciliate and sustain on the other. No material difference in rank or fortune... and hence no means to direct or even to influence opinion; and, above all, no unity in religious belief; and, therefore, no one temple in which they can all worship together, and offer up their united prayers and thanksgivings as members of one great family to their common Father in Heaven.

The Judge's "good-old" Toryism is spelled out in this quotation, stressing the religious basis he believed to be necessary to a viable community. His disapproval of these tendencies to leave home and dwell in isolation does not, however, include the spearheading of a new settlement:

Follow any new road into the wilderness, and you will find a family settled there, miles and miles from any house. But imagination soon fills up the intervening space with a dense population, and you see them in the midst of a well-cultivated country, and enjoying all the blessings of a civilized community. They are merely pioneers.¹³

The events at Horse-Shoe Cove illustrate the dangers inherent in real isolation. This is layered history, where successive occupants — Indian, French, German,

and British — of a beautiful cove are haunted by "ghosts" of former inhabitants. These ghosts succeed in evicting the trespassers, suggesting that the dead have not only rights but also power over the living. The American concept of a "virgin land" without predecessors is implicitly, but strongly, denied.¹⁴

A German named Nicholas Spohr, exploring south of Lunenberg, finds a cove, "concealed by two hooded promontories, that gave to the Cove a striking resemblance to a horse-shoe." "Hooded" sounds an ominous note countering the goodluck implied by the horse-shoe. There were forty cleared acres, buildings of hewn timbers, a large bell, a neglected orchard and garden, a spring, and a rustic table with "Pierre and Madeline, 1740" and two clasped hands carved into the corner. These clasped hands are an extended ironic symbol in this tale of banishment.

Nicholas lays a claim and moves his family to this beautiful estate, where he begins to fancy himself a landed gentleman and ceases to do much work. Indians arrive to bury a deceased chief in their ancient burial-ground. They look upon him as an intruder and temporarily mar his joy. The stress on Nicholas' "happiness" in his unearned wealth suggests that Haliburton may have been implicitly critical of Jefferson's "pursuit of happiness" as a human right. Later, Nicholas returns from Halifax to find his wife and children slaughtered and scalped. He had cut trees in the Indian burial-ground to sell for cord-wood and to open his estate to the admiring gaze of travellers. In "prostrating these ancient trees, he had unintentionally committed sacrilege, and violated the repose of the dead — an offence that, in all countries and in all ages, has ever been regarded with pious horror or implacable resentment."

Nature provides an illusion of happiness to the ill-fated Nicholas Spohr, who thinks of Horse-Shoe Cove as "a world of wonders." He returns in the full splendour of autumn to discover his slaughtered family:

He had never beheld anything like this in his own country.... [H]ere death was cruel as well as impatient, and, like a consumptive fever, beautified its victim with hectic colour before it destroyed it.... When he entered the little placid Cove, which lay glittering like a lake of molten silver beneath the gaze of the declining sun, he was startled at beholding his house reversed and suspended far and deep in its pellucid bosom, and the trees growing downwards with their umbrageous branches or pointed tops, and all so clear, so distinct, and perfect, as to appear to be capable of corporeal touch. And yet, strange to say, far below the house, and the trees, and other earthly objects, was the clear, blue sky with its light, fleecy clouds that floated slowly through its transparent atmosphere, while the eagle was distinctly visible soaring in unrestrained liberty in the subterranean heavens.

Haliburton intended close links between this scene of magnificence and the grisly spectacle awaiting.

Losing his reason, Nicholas dies on the graves of his wife and children, becoming a ghost to the local inhabitants. The Cove is now a terrifyingly haunted place, where Indians bury their dead with strange incantations and rotting timbers

expose the bell which tolls on windy nights. The first alien inhabitants to be evicted from the Cove were the French; Nicholas and his family become the next.

The second part of the story occurs a generation later. A Captain John Smith arrives with the Loyalists, buys and renovates Horse-Shoe Cove, but finds himself isolated for the local German inhabitants fear and resent him as an intruder and magician. When a young indentured servant runs to the nearest town and charges Smith with the murder of a pedlar, the jury convicts him in spite of a lack of evidence. Smith escapes and hides until the remains of the pedlar and a bear are found. Though he is now exonerated, joy in Horse-Shoe Cove is gone and the Smiths depart for England; the third to be driven forth.

The Indians and Germans of this story appear to be an extension of nature: human society in prescriptively controlled communities. An intruder is never welcomed by such a society, but is usually tolerated until perceived to do violence to the group's customs or beliefs. Neither Nicholas nor Captain Smith was guilty of any wrongdoing according to those who look upon man as an individual free to discard his past and inherited institutions. According to Haliburton, however, by leaving the protection and moral support of his own community, each wanderer brought his troubles on himself.

The conclusion stresses Haliburton's strong sense of the past:

The land comprised within the grant of poor Nicholas Spohr... remained derelict for many years; but as it was covered with valuable timber, cupidity in time proved stronger than superstition.... The story of Nicholas and Captain Smith is only known to a few old men like myself, and will soon be lost altogether, in a country where there is no one likely to found a romance on the inmates and incidents of the "Hufeisen Bucht."

Judge Sandford is once more the martyred old Tory dying of a broken heart, but he makes a valid point by suggesting that the land has again been violated. The cupidity that disdained respect for the Indians' sacred ground is paralleled by a shortsightedness which fails to preserve the community's history. It cannot see beyond possession of the land by the living.

THE LENT FAMILY of "The Lone House" provides a different illustration of the sad consequences of human isolation, for here there are no former inhabitants. The family dwells upon a desolate spot near the Atlantic coast, surrounded by "enormous bogs...in an undulating country of granite formation." There is enough soil to sustain only one family and the government and nearest neighbours provide a small subsidy for maintaining a way-station and possible haven on a barren stretch of the coastal road. There was a benevolent motive in the Lents' decision to settle here and provide a much-needed

service, but man "was not made to live alone; ... natural wants, individual weakness, and common protection require that, though we live in families, our families must dwell in communities."

John Lent, the husband and father, is caught in a blizzard, frozen in a sitting position, returned to his family by the mailman, and left unburied with his widow and little girls. Again Haliburton casts nature as a seductive yet dangerous beauty, for the Judge is reminded of this grim story as the narrators admire an ice storm:

There had been...a slight thaw accompanied by a cold fine rain that froze... into ice of the purest crystal. Every deciduous tree was covered with this glittering coating, and looked in the distance like an enormous though graceful bunch of feathers; while on a nearer approach, it resembled...a dazzling chandelier. The open fields...glistened in the sun as if thickly strewed with the largest diamonds; and every rail of the wooden fences...was decorated with a delicate fringe of pendant ice, that radiated like burnished silver.... The... rays of the sun... invested them with all the hues of the prism. It was a scene as impossible to describe as to forget,... and its effects are as well appreciated as its beauty. The farmer foresees... serious injury to his orchard, the woodsman a pitiless pelting of ice,... the huntsman a barrier to his sport, and the traveller an omen of hard and severe weather; and yet such was the glory of the landscape, that every heart felt its magic.

There is no pantheism here. This Burkean concept of the Sublime is one more aspect of *The Old Judge* which identifies Haliburton with Canada's literary tradition.

The bereaved widow of John Lent temporarily loses her reason but the outcome of "The Lone House" is a contrast to that of "Horse-Shoe Cove," for here the survivors are not driven away. God, plus the spirit of her dead husband, provide the widow with a mystical community to hold her to her lonely outpost. She is possessed, not rejected, by the land:

God had never failed them.... She... and her children had been fed in the wilderness, like the chosen people of the Lord.... It would be ungrateful and distrustful in her to leave a place He had selected for her.... And, besides, she said, there is my old man; his visits now are dearer to me than ever; he was once my companion — he is now my guardian angel. I cannot and will not forsake him while I live; and when it is God's will that I depart hence, I hope to be laid beside him, who, alive or dead, has never suffered this poor dwelling to be to me a "Lone House."

The widow, a responsible member of the Family of Man, continues her husband's work of succouring the traveller and providing a haven for the shipwrecked mariner. Haliburton paid a moving tribute to the strength of woman, who "successfully resists afflictions that overpower the vigour and appal the courage of man." He is all patriotism and compassion in this story; no humorist or outraged Tory is in evidence.

The Old Judge is like an ancient treasure chest into which a few have glanced, but whose gems have not been carefully examined. Among these are comic characters comparable to Leacock's best and enough tales of the supernatural to suggest that the Canadian literary tradition has a plentiful supply of ghosts. It is said that Haliburton left us only one book of such high quality, for there are indications near the end of The Old Judge that he planned to continue writing stories about life in a colony. Professor Watters believes that he would have done so had he received any encouragement from his readers. He did not. Haliburton bowed to his public and returned to Sam Slick: an overworked parody of an American, who successfully turned The Old Judge into "a forgotten masterpiece."

NOTES

- ¹ Thomas Chandler Haliburton, *The Clockmaker* (First Series) (1871 rpt.; Toronto: McClelland & Stewart, 1958), p. 71.
- ² Thomas Chandler Haliburton, The Old Judge or Life in a Colony, ed. R. E. Watters (Toronto, Vancouver: Clarke, Irwin, 1968).
- ³ Robert L. McDougall, "Thomas Chandler Haliburton," Our Living Tradition, Second and Third Series, published in association with Carleton University by University of Toronto Press, 1959, pp. 3-30; reprinted in On Thomas Chandler Haliburton, ed. R. A. Davies (Ottawa: Tecumseh, 1979), pp. 200-01.
- 4 Watters, p. xi-xviii.
- ⁵ Thomas Chandler Haliburton, The Old Judge or Life in a Colony (1860 rpt., Ottawa: Tecumseh, 1978); further references to this work are to this edition.
- ⁶ Fred Cogswell, "Haliburton," *Literary History of Canada*, ed. C. F. Klinck (Toronto: University of Toronto Press, 1965), p. 100.
- ⁷ Thomas Jefferson to James Madison, September 6, 1789; reprinted in *The Portable Thomas Jefferson*, ed. Merril D. Peterson (New York: Penguin, 1977), p. 445.
- ⁸ R. W. B. Lewis, *The American Adam* (Chicago: University of Chicago Press, 1955), p. 1. The most obvious exception to Lewis' generalization is Nathaniel Hawthorne, who treated the past as evil and oppressive to the present. In *The Marble Faun* (1860), he spoke of Italy as a place where "the weary and dreary Past [is]...piled upon the back of the Present," and compared it to his own "fortunate land, [where] each generation has only its own sins and sorrows to bear."
- ⁹ Essays by Ralph Waldo Emerson, First and Second Series (New York: Thomas Y. Crowell, 1951), pp. 35, 189, 381.
- ¹⁰ Northrop Frye, "Conclusion," Literary History, p. 830.
- ¹¹ Edmund Burke, Reflections on the Revolution in France and Other Writings (1907; rpt., London: Oxford Unversity Press, 1958), p. 106.
- ¹² The best treatment of the individualist theme in American literature can be found in Quentin Anderson, *The Imperial Self* (New York: Vintage Books, 1971).
- ¹³ Haliburton was not disparaging the pioneers, for he was undoubtedly using the word "merely" in the now uncommon meaning of "pure" or "unmixed."

THE OLD JUDGE

- ¹⁴ Henry Nash Smith, in his classic study of American frontier literature, *Virgin Land* (New York: Vintage Books, 1957), said that "one of the most persistent generalizations concerning American life and character is the notion that our society has been shaped by the pull of a *vacant* continent" (p. 3, emphasis added).
- ¹⁵ Watters, p. vii (emphasis added).

THERE ARE LIMITS

L. Crozier

He has a present for me, something he caught this morning in Echo Lake. I think of the lure, the dead eyes. A fish? I ask. Better than that, he replies, pulling from his pocket a piece of glass shaped like a fish.

It is a dream
the glass had.
He presses it into my palm,
tells me he'll stop
thinking of me now.
He has reeled in
his line, the fish
is made of glass.
Life is not what we thought,
there are limits
to loving.

I hang the glass by a thread in my window. It turns and turns tangling the sunlight, echoes of fish flicker on the walls.

This is better than a word, better than a promise.
There are limits to giving.