

The Making of a Company Colony: The Fur Trade War, the Colonial Office, and the Metamorphosis of the Hudson's Bay Company

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Abstract: This article argues that between 1810 and 1816 the Hudson's Bay Company (HBC) underwent a managerial metamorphosis: where it had previously and then only timidly claimed economic privileges and authority in North America, after this period the company's directors in London began staking claim to authority over legal, political, and even humanitarian affairs in the area covered by its charter, Rupert's Land. Building on arguments that have been used to theorize the East India Company, this article concludes that in making these claims the HBC became what might be called a company colony, seeking to act as both a private business and a colonial government endowed with the power of the British state. In presenting this new interpretation of the HBC's early nineteenth-century experiences, we challenge the persistent historiographical depiction of the HBC as a business-first organization operating outside the traditional patterns of the so-called Second British Empire, thereby offering a new way of understanding both the HBC and other British chartered trading companies during the nineteenth century.

Keywords: British Empire, Hudson's Bay Company, chartered companies, mercantilism, colonialism, British Colonial Office, western Canada, company-state

Résumé : Le présent article soutient qu'entre 1810 et 1816 la Compagnie de la Baie d'Hudson (CBH) a subi des transformations managériales : alors qu'avant 1810 elle s'était contentée, mais alors seulement timidement, de revendiquer des privilèges économiques et une autorité en Amérique du Nord, après cette période les dirigeants de cette compagnie basée à Londres commencèrent à revendiquer leur autorité sur des affaires juridiques, politiques, et même humanitaires dans la zone couverte par sa charte, la Terre de Rupert. Faisant fond sur les arguments utilisés pour théoriser la Compagnie britanniques des Indes orientales, cet article conclut qu'en revendiquant de tels privilèges la Compagnie est devenue ce qu'on pourrait appeler une « compagnie-colonie », cherchant à agir à la fois comme une entreprise privée et un gouvernement colonial en vertu des pouvoirs qui lui ont été conférés par l'État britannique. En présentant cette nouvelle interprétation des expériences de la CBH au début du XIX^e, cette publication entend d'une part remettre en question le discours historiographique persistant sur la CBH, lequel tend à la présenter comme une organisation commerciale avant tout qui mène ses activités en dehors du cadre traditionnel du soi-disant Second Empire britannique, et d'autre part proposer une nouvelle façon de comprendre à la fois la CBH et d'autres sociétés de négoce à charte du Royaume-Uni au cours du XIX^e siècle.

Mots-clés : Empire britannique, Compagnie de la Baie d'Hudson, compagnies à charte, mercantilisme, colonialisme, Bureau des Colonies, Ouest canadien, compagnie-état

Although historians agree that the Hudson's Bay Company (HBC) experienced and generated significant social and economic change in nineteenth-century North America,¹ they depict the London-based directors of the company as essentially men of business motivated not by the desire to make sweeping changes to the commercial world but by the interest in making money.² In scholarship on the fur trade and the British Empire, HBC leadership in London is routinely presented as an essentially single-minded mercantilist organization interested in achieving commercial efficiencies but not in ruling or governing its territory as a colony.³ While some scholars suggest the company acted as a "pompous government department"⁴

- 1 We would like to thank Bethany McMillan and Mira Ahmad for their assistance with the research for this article; acknowledge the SSHRC Insight Development Grant program for its financial support of this project; and extend our appreciation to the journal's anonymous reviewers for their perceptive suggestions about the article.
- 2 Few studies explore the motivations of the London Committee. When the committee is discussed it is generally argued that the HBC was driven by economic rather than social, political, or cultural goals. See for instance E.E. Rich, *The History of the Hudson's Bay Company, 1670–1870*, 2 vols. (London: Hudson's Bay Record Society, 1958); John S. Galbraith, *The Hudson's Bay Company as an Imperial Factor, 1821–1869* (Berkeley: University of California Press, 1957); Glyndwr Williams, "The Hudson's Bay Company and the Fur Trade: 1670–1870," special issue, *Beaver* 341.2 (1983); Gary Spraakman, *Management Accounting at the Hudson's Bay Company: From Quill Pen to Digitization*, Studies in the Development of Accounting Thought, vol. 17 (Bingley: Emerald Group, 2015); Michael Payne, "Fur Trade Historiography: Past Conditions, Present Circumstances and a Hint of Future Prospects," in *From Rupert's Land to Canada*, ed. R.C. Macleod, Gerhard J. Ens, and Theodore Binnema (Edmonton: University of Alberta Press, 2001), 3–22. More recently Ted Binnema has shown that the HBC was involved in promoting science but argues that this promotion was generally fuelled by the London Committee's interest in securing economic benefits for the company. See Theodore Binnema, "Enlightened Zeal": *The Hudson's Bay Company and Scientific Networks, 1670–1870* (Toronto: University of Toronto Press, 2014).
- 3 See for example Michael Wagner, *The English Chartered Trading Companies, 1688–1763: Guns, Money and Lawyers* (London: Routledge, 2018); Ann M. Carlos and Stephen Nicholas, "Agency Problems in Early Chartered Companies: The Case of the Hudson's Bay Company," *Journal of Economic History* 50.4 (1990): 853–875.
- 4 E.E. Rich, *The History of the Hudson's Bay Company, 1670–1870*, vol. 1 (London: Hudson's Bay Record Society, 1958), 147, qtd. in Edward Cavanagh, "A Company with Sovereignty and Subjects of Its Own? The Case of the

or an “imperial factor,”⁵ and others have drawn upon recent work on the East India Company to similarly argue that the HBC was a company-state during the eighteenth century, there remains general agreement that the HBC during the nineteenth century was essentially a business-first organization guided by its account books and its continual search for economic efficiency.⁶ Indeed many see the nineteenth-century HBC as instinctively hostile to the traditional features of nineteenth-century settler colonialism such as missionaries, the encouragement of widespread agricultural settlement, and the so-called civilizing mission, leaving an impression that the company doggedly practised an eighteenth-century imperialism reminiscent of the First Empire even as the rest of the imperium moved on toward free trade, settlement, and the Second British Empire’s civilizing mission.⁷

Hudson’s Bay Company, 1670–1763,” *Canadian Journal of Law and Society* 26.1 (2011): 27.

5 Galbraith, *Hudson’s Bay Company*.

6 The HBC’s economic orientation is a consistent theme in the academic historiography of the fur trade. See Harold A. Innis, *The Fur Trade in Canada: An Introduction to Canadian Economic History* (New Haven, CT: Yale University Press, 1930); Galbraith, *Hudson’s Bay Company*; Rich, *History of the Hudson’s Bay Company*; Wagner, *English Chartered Trading Companies*. For the HBC as company-state see Cavanagh, “Company with Sovereignty.” Cavanagh is in part influenced by the work of Philip Stern, *The Company-State: Corporate Sovereignty and the Early Modern Foundations of the British Empire in India* (New York: Oxford University Press, 2011). Also see Edward Cavanagh, “Companies, Private International Law, and Diplomacy in the Atlantic World: Early Modern Imperialism and Foreign Corporate Activity in European Legal and Political Thought” (PhD diss., University of Ottawa, 2016), 1–16.

7 A cornerstone of Galbraith’s argument is that the HBC felt the fur trade could not coexist with settlement. See Galbraith, *Hudson’s Bay Company*, 12. Bumsted sums up the company’s resistance to settlement in his statement that for George Simpson, “the fur trade was incompatible with settlement and agriculture.” J.M. Bumsted, *The Fur Trade Wars: The Founding of Western Canada* (Winnipeg: Great Plains Publications, 1999), 235. A recent study of the Crown Colony of Vancouver Island likewise argues that the company was in a conflict of interest in trying to operate a settler colony while maintaining its fur trade commerce. See Stephen Royle, *Company, Crown and Colony: The Hudson’s Bay Company and Territorial Endeavour in Western Canada* (London: I.B. Tauris, 2011). On the theme of settler colonialism in its western North American contexts see L. Ishiguro, “Northwestern North America (Canadian West) to 1900,” *The Routledge Handbook of the History of Settler Colonialism*, ed. E. Cavanagh and L. Veracini (London: Routledge, 2017), 125–138; Sarah Carter, *Aboriginal People and Colonizers of Western Canada to 1900* (Toronto: University of Toronto Press, 1999); Adele Perry, *Colonial Relations: The Douglas-Connolly Family and the Nineteenth-Century Imperial World* (Cambridge: Cambridge University Press, 2015).

These interpretations of the early nineteenth-century HBC are increasingly out of step with recent writings on the nature of the British Empire in the same period.⁸ Such historiographical interpretations are not isolated to histories of the HBC and the fur trade itself. Surveys of Canadian history draw on studies of the fur trade to depict western Canada, where the company was so dominant before 1870, as outside of — and in some ways behind — the narrative of settler colonialism that took shape in the rest of Canada during the nineteenth century.⁹ In these arguments, colonialism only arrived in Rupert's Land and western Canada with the decline of the HBC after 1870s and with the emergence of Canadian imperial interests, which it is argued brought the region under patterns of modern colonial influence for the first time.¹⁰ This tendency to see the HBC, and the territory of Rupert's Land and western Canada, as distinctive from the regular patterns of nineteenth-century colonialism is further reflected in British imperial historiography, which when considering the post-American Revolutionary period has been keen to unpack the complex meaning and legacies of the East India Company for colonialism in India and the processes of anti-slavery and abolition in shaping the Caribbean, yet pays little attention to the HBC's own colonial legacy or how it — and Rupert's

- 8 In general terms see the various essays in Andrew Porter, ed., *The Oxford History of the British Empire*, vol. 3, *The Nineteenth Century* (Oxford: Oxford University Press, 1999); but also P.J. Marshall, "Britain Without America — A Second Empire?" in ed. P.J. Marshall, *The Oxford History of the British Empire*, vol. 2, *The Eighteenth Century* (Oxford: Oxford University Press, 1998), 576–595; C.A. Bayly, "Second British Empire," in *The Oxford History of the British Empire*, vol. 5, *Historiography*, ed. Robin Winks (Oxford: Oxford University Press, 1999), 54–72. Also see Catherine Hall, *Civilizing Subjects: Metropole and Colony in the English Imagination 1830–1867* (Cambridge: Polity Press, 2002); Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800–1850* (Cambridge, MA: Harvard University Press, 2016); James Belich, *Replenishing the Earth: The Settler Revolution and the Rise of the Anglo-World, 1783–1939* (Oxford: Oxford University Press, 2009), 1–218; Trevor Burnard, *Britain in the Wider World, 1603–1800* (New York: Routledge, 2020), 276–281.
- 9 Two surveys that tend to emphasize this Western exceptionalism are Gerald Friesen, *The Canadian Prairies: A History* (Toronto: University of Toronto Press, 1984); and J.R. Miller, *Skyscrapers Hide the Heavens: A History of Native-Newcomer Relations in Canada*, 4th ed. (Toronto: University of Toronto Press, 2018).
- 10 This narrative of the pre-/post-1870 West as very distinctive can be found in several foundational texts: see for example Doug Owram, *Promise of Eden: The Canadian Expansionist Movement and the Idea of the West, 1856–1900* (Toronto: University of Toronto Press, 1980); Miller, *Skyscrapers Hide the Heavens*; Sarah Carter, *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy* (Montreal & Kingston: McGill-Queen's University Press, 1990).

Land — fit into the broader and increasingly global dynamics of imperial and colonial expansion after the revolution.¹¹

Challenging this exceptionalism, this article reveals that while this business-first orientation may have held sway for the HBC before the 1810s, by 1815 there was a noticeable change in the experience and governing mentality of the HBC. In that moment the company began a managerial metamorphosis; where it had previously — and then only timidly — claimed economic privileges and authority in North America, by 1815 the company's directors in London gradually began staking claim to authority over legal, political, and even humanitarian affairs in the area covered by its charter, Rupert's Land. These were crucial years in the history of the HBC, marked on the one hand by the financial challenges precipitated by the Napoleonic blockade and by competition from the North-West Company (NWC) and on the other hand by significant, even seismic changes within the company itself. Most striking, it was during this time frame that, for the first time since its initial inception in the late seventeenth century, the company began to act as more than a commercial outfit, approving for instance both the creation of a settler colony in Rupert's Land and the presence — although carefully managed — of Christian missionaries in fur trade areas: elements that had been studiously avoided and prevented until the turn of the nineteenth century.¹² Thus in staking these broader claims to authority in the 1810s, the company effectively transformed itself into what might aptly be called a company colony: an organization that sought to act as both a private business *and* a colonial government endowed with the power of the British state.

- 11 The absence of the HBC from imperial historiography is evidenced in the scant attention paid to the company in key volumes of the *Oxford History of the British Empire*. See Marshall, *Oxford History of the British Empire*, vol. 2; Porter, *Oxford History of the British Empire*, vol. 3; Winks, *Oxford History of the British Empire*, vol. 5. Also see Phillip A. Buckner, "Whatever Happened to the British Empire?" *Journal of the Canadian Historical Association* 4.1 (1993): 3–32; Phillip A. Buckner, "Was There a British Empire? *The Oxford History of the British Empire* from a Canadian Perspective," *Acadiensis* 32.1 (2002): 110–128. For a recent and all-too-brief consideration of the HBC in its imperial contexts in the early nineteenth century see J.M. Bumsted, "The Consolidation of British North America," in *Canada and the British Empire*, ed. Phillip Buckner (Oxford: Oxford University Press, 2008), 62–63.
- 12 For early HBC initiatives to plant settlements see Elizabeth Mancke, *A Company of Businessmen: The Hudson's Bay Company and Long-Distance Trade, 1670–1730* (Winnipeg: Rupert's Land Research Centre, 1988), 16–18. Also see Elizabeth Mancke, "Another British America: A Canadian Model for the Early Modern British Empire," *Journal of Imperial and Commonwealth History* 25.1 (1997): 1–36.

I. THE COMPANY COLONY

This concept of the HBC as a company colony draws on — but also differs from — the company-state described by Philip Stern in his influential work about the East India Company (EIC) and more recently adopted by Edward Cavanagh in his study of the HBC. For both Stern and Cavanagh the chartered companies they describe acted like a “corporate body politic” that blended their royal charters with other forms of authority, including on-the-ground behaviours, to establish a “composite political ideology.”¹³ Key to Stern’s argument is the suggestion that in an early modern context where authority was “layered” and hard for European states to completely establish, especially overseas, imperial states — particularly the English imperial state — were unable to properly manage overseas territories and thus allowed — and indeed encouraged — the EIC and other chartered companies a significant independence from the Crown and the state.¹⁴ Armed with this independence, argue Stern and Cavanagh, the chartered companies became company-states.

While we agree with Stern and Cavanagh that chartered companies, including the HBC, acted in state-like ways during the seventeenth and eighteenth

- 13 Philip J. Stern, “Politics and Ideology in the Early East India Company-State: The Case of St. Helena, 1673–1709,” *Journal of Imperial and Commonwealth History* 35.1 (2007): 3. See also Stern, *Company-State*, 10; Philip J. Stern, “‘A Politie of Civill & Military Power’: Political Thought and the Late-Seventeenth Century Foundations of the East-India Company State,” *Journal of British Studies* 47.2 (2008): 253–283; Philip J. Stern, “Company, State, and Empire: Governance and Regulatory Frameworks in Asia,” in *Britain’s Oceanic Empire: Atlantic and Indian Ocean Worlds, c. 1550–1850*, ed. H.V. Bowen, Elizabeth Mancke, and John G. Reid (Cambridge: Cambridge University Press, 2012), 130–131, 145. Additionally see Ron Harris, *Going the Distance: Eurasian Trade and the Rise of the Business Corporation, 1400–1700* (Princeton, NJ: Princeton University Press, 2020), 291–330.
- 14 Stern, *Company-State*, 10. Taking this argument a step further, Elizabeth Mancke has implied that the English state *needed* the chartered companies to become imperial states themselves, even as they carried out their private commerce. Elizabeth Mancke, “Chartered Enterprises and the Evolution of the British Atlantic World,” in *The Creation of the British Atlantic World*, ed. Elizabeth Mancke and Carole Shammas (Baltimore, MD: Johns Hopkins University Press, 2015), 238–240. For a recent synthesis of the historical experiences of numerous European polities and corporations and elaboration, and an extension of the argument that early modern states required the assistance of company-states to realize their commercial and colonial ambitions, see Andrew Phillips and J.C. Sharman, *Outsourcing Empire: How Company-States Made the Modern World* (Princeton, NJ: Princeton University Press, 2020); and for a consideration of its argument see Linda Colley, “In the Disguise of a Merchant,” *London Review of Books* 42.15 (2020): 24–26.

centuries, we argue that because of the profound ideological, geopolitical, and socio-economic changes of the American and French revolutionary era, in particular the rising power of the British state and the increasing regulation of the imperium by metropolitan interests in Britain, the HBC that emerged after 1815 — although certainly political in its identity — was less state-like than the early modern iterations of the company-state.¹⁵ Crucially, in upholding its claims in Rupert's Land, by 1815 the HBC-as-company colony sought to assert its authority not in the context of layered claims to sovereignty in Rupert's Land that Stern and Cavanagh argue existed in the early modern period but rather in a context where authority over Rupert's Land was recognized (by the company and other Europeans at least) to rest exclusively with the British state and Crown. In this context the company did not seek to establish sovereignty over Rupert's Land as an independent state but looked to present itself as a loyal and honourable representative of the Crown — as a colonial government.¹⁶ In practice this meant convincing the British Colonial Office and imperial metropolitan elites more broadly that the HBC — not the colonial governments in Upper and Lower Canada or their allies in the NWC — was the only legitimate authority in the territory. In working to achieve this we argue that the HBC gradually reoriented and reconfigured itself into an organization that could be both a well-run business that deserved to retain and have its charter respected and also a worthy — indeed the only worthy — colonial governor of Rupert's Land. It was in making this transformation that the HBC became a company colony: a corporation with a political role and identity similar to a colonial administration

- 15 See for example C.A. Bayly, *Imperial Meridian: The British Empire and the World, 1780–1830* (London: Longman, 1990); David Armitage and Sanjay Subrahmanyam, "The Age of Revolutions, c.1760–1840 — Global Causation, Connection, and Comparison," in *The Age of Revolutions in Global Context*, ed. David Armitage and Sanjay Subrahmanyam (Basingtoke, UK: Palgrave, 2010), xii–xvi. On the nature of ideology in the period see Robert Travers, *Ideology and Empire in Eighteenth-Century India* (Cambridge: Cambridge University Press, 2007), 207–253; Thomas R. Metcalf, *Ideologies of the Raj* (Cambridge: Cambridge University Press, 1994), 1–42; Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Great Britain and France* (Princeton, NJ: Princeton University Press, 2006); Anthony Pagden, *Lords of All the World: Ideologies of Empire in Spain, Britain and France c.1500–c.1800* (New Haven, CT: Yale University Press, 1995).
- 16 For discussions of these themes and of the broader political, social, and economic contexts of the HBC in the eighteenth century see David Chan Smith, "The Hudson's Bay Company, Social Legitimacy, and the Political Economy of Eighteenth-Century Empire," *William and Mary Quarterly* 75.1 (2018): 71–108; for the later nineteenth century see Robert Irwin, "Assembling Sovereignty: Canadian Claims to the Athabasca District Prior to Treaty No. 8," *Journal of Imperial and Commonwealth History* 48.4 (2020): 619–653.

though not that of a sovereign state. In articulating these changes we show the HBC keeping pace with the wider patterns of trade, governance, and authority reflective of the Second British Empire.¹⁷

II. THE HBC BEFORE 1815

Despite the contentions of some legal scholars, the company's charter did not, at least between 1803 and 1815, play an active role in how the London Committee operated, coped with financial challenges, or thought about its own identity as an organization.¹⁸ In 1803 lawyers consulted by the HBC suggested that although the charter may give them the right to claim territory in Rupert's Land, their assumed right to exclusive trade in Rupert's Land was open to dispute.¹⁹ In the midst of mounting pressures from Montreal traders, this ruling left the HBC on shaky and ambiguous legal ground. The committee during these years, according to one historian of the company, "appeared uncertain and lacking in confidence,"²⁰ as it applied a strategy of avoiding a formal legal challenge that might have exposed the weakness of its claim to a monopoly while continuing to reference the charter, in rhetoric at least, in their dealings with the NWC.²¹

- 17 Bayly, *Imperial Meridian*; C.A. Bayly, "The Second British Empire," in *Oxford History of the British Empire*, 5:54–72; P.J. Marshall, "Britain without America: A Second Empire?" in *The Oxford History of the British Empire*, 2:576–595; P.J. Marshall, *The Making and Unmaking of Empires: Britain; India and America c. 1750–1783* (Oxford: Oxford University Press, 2005); Miles Taylor, "Imperium et Libertas? Rethinking the Radical Critique of Imperialism during the Nineteenth Century," *Journal of Imperial and Commonwealth History* 19.1 (1991): 1–9.
- 18 Hamar Foster argues that the charter was more influential in the company's history than most historians of the HBC, such as Rich and Galbraith, contend. See Hamar Foster, "Law and Necessity in Western Rupert's Land and Beyond, 1670–1870," in *Law and Societies in the Canadian Prairie West, 1670–1940*, ed. Louis A. Knafla and Jonathan Swainger (Vancouver: University of British Columbia Press, 2005), 68–73.
- 19 E.E. Rich, *The Fur Trade and the Northwest to 1857*, Canadian Centenary Series (Toronto: McClelland & Stewart, 1967), 194.
- 20 Rich, *Fur Trade*, 194. The attitudes and character of the Colonial Office in London is considered in Phillip Buckner, "The Colonial Office and British North America, 1801–50," in *Dictionary of Canadian Biography*, vol. 3, 1851–1860 (Toronto: University of Toronto Press, 1985), xxiii–xxxvii; Ian K. Steele, *Politics of Colonial Policy: The Role of the Board of Trade in Colonial Administration* (Oxford: Oxford University Press, 1968); Peter Marshall, "British North America, 1760–1815," in *Oxford History of the British Empire*, 2:372–393; Ged Martin, "Canada from 1815," in *Oxford History of the British Empire*, 3:522–545; Bayly, *Imperial Meridian*, 193–194.
- 21 Coincidentally, this ambiguous legal positioning is similar to that adopted by the EIC from 1766 and into the early 1770s, which while being challenged

Compounding the insecurities fostered by this 1803 legal opinion was the fact that the British government either expressed indifference to the HBC's interests and its charter rights or routinely displayed support for its rival traders based in Montreal. Two reasons are likely for this government position. First from the metropolitan perspective of the Colonial Office and the Admiralty, as long as this fur trade rivalry between the HBC and the Montreal traders did not boil over into full-scale conflict, and as long as a British fur trade continued in some form under some company, there was no reason — and only costs to be incurred — by directly involving itself in the dispute. From the government perspective it was the NWC traders who were achieving what the state wanted: a healthy British fur trade that could “combat American pretensions” in the contested region.²² Why, asked the government, should it put in time, effort, and money to support the HBC when it appeared to be the losing side in the fur trade?

A second perhaps more entrenched reason was that Henry Bathurst, colonial secretary from 1812 to 1827, and the Colonial Office saw Rupert's Land — the region granted to the HBC in its original charter — as not the domain or colony of the HBC but rather a frontier settlement under the authority of the Colony of Canada (that is Upper and Lower Canada). This logic is apparent in correspondence in 1807 between the HBC Governing Committee and Lords Auckland and Holland about a treaty with the Americans.²³ In preparing the treaty, the lords evidently not only failed to consult the company prior to the initial negotiation but commented to the HBC Committee, in a way that revealed their ignorance of both the charter and the nature of the fur trade, that free passage across the American–British North American border would be of great benefit to all “people of Canada and of the Hudson's Bay Settlements.” The lords seemed to assume

by Parliament denied having any sovereignty in India independently of the Mughal emperor. Yet in India the EIC was not only behaving as sovereigns but were explicitly criticizing the legal fiction of the so-called dual government of Bengal. On this subject see Travers, *Ideology and Empire*; and Ben Gilding, “British Politics, Imperial Ideology, and East India Company Reform, 1773–1784” (PhD diss., University of Cambridge, 2019), particularly pp. 171–179.

22 Rich, *Fur Trade*, 203.

23 Lords Holland and Auckland to William Mainwaring, 15 March 1807, copied in Fair Copies of Governor and Committee Minutes, 24 May 1815, A.1/50, Hudson's Bay Company Archive, Winnipeg, Manitoba (henceforth HBCA). For recent discussions of the Colonial Office and the governance of British North America in the early to mid nineteenth century see E.A. Heaman, “Space, Race and Violence: The Beginnings of ‘Civilization’ in Canada,” in *Violence, Order and Unrest: A History of British North America, 1749–1876*, ed. Elizabeth Mancke, Jerry Bannister, Denis McKim, and Scott W. See (Toronto: University of Toronto Press, 2019), 135–158, particularly pp. 135–140.

that Canada and the Hudson Bay settlements were connected political and economic units that could be dealt with as a single colony.²⁴

This perspective is more starkly revealed in Bathurst's initial responses to the fur trade conflict between the HBC and the NWC. During these years and prompted by his influential undersecretary Henry Goulburn, Bathurst sought to delegate to authorities and courts in Montreal decisions about the Northwest, including all legal issues related to fur trade violence.²⁵ Here Bathurst was following the 1803 statute "An Act for extending the jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada ...," by which the British Parliament stipulated that all criminal activity committed in the fur trade territories must be tried in Canadian courts under Canadian laws.²⁶ Thus in the spirit of the 1803 act, Bathurst wanted this violence addressed not by his office or by British courts but in Canada by the Canadian authorities. Following from this legal logic, Goulburn informed the HBC's Governing Committee that legal or military decisions about violence in the fur trade would be made not by the Colonial Office but by the governor general in Montreal.²⁷

The London Committee of the HBC tried — unsuccessfully — to challenge Goulburn and Bathurst's approach and assert that the HBC's legal jurisdiction over the Hudson Bay watershed was superior to that of the 1803 act. When the company asked that, at the very least, the colonial secretary express his "high displeasure" that the governor general of Canada had not for instance sent aid to the British settlers in Red River,²⁸ Henry

- 24 Lords Holland and Auckland to William Mainwaring, 15 March 1807.
- 25 On Henry Bathurst see Neville Thompson, *Earl Bathurst and the British Empire* (Barnsley, UK: Leo Cooper, 1999); N.D. McLachlan, "Bathurst at the Colonial Office, 1812–1827: A Reconnaissance," *[Australian] Historical Studies* 13 (1969): 477–502; N. Thompson, "Bathurst, Henry, Third Earl Bathurst," *Oxford Dictionary of National Biography*, <<https://doi.org/10.1093/ref:odnb/1696>>, accessed 9 December 2019. For Goulburn see Brian Jenkins, *Henry Goulburn, 1784–1856: A Political Biography* (Montreal & Kingston: McGill-Queen's University Press, 1996); David Eastwood, "Goulburn, Henry," *Oxford Dictionary of National Biography*, <<https://doi.org/10.1093/ref:odnb/11148>>, accessed 9 December 2019. On the nature of the Colonial Office see: John McLaren, *Dewigged, Bothered and Bewildered: British Colonial Judges on Trial, 1800–1900* (Toronto: The Osgoode Society, 2011), 34–35.
- 26 Bumsted, *Fur Trade Wars*, 33; Philip Giraud, John Phillips, and R. Blake Brown, *A History of Law in Canada*, vol. 1, *Beginnings to 1866* (Toronto: University of Toronto Press, 2019), 264–266.
- 27 Henry Goulburn to Governor of the HBC, 14 December 1815, Governor and Committee correspondence from the British Government, A.13/1, fol. 64, HBCA.
- 28 Joseph Berens to Bathurst, 20 December 1815, Governing Committee correspondence to the British Government, A.8/1. Fol. 37–42, HBCA.

Goulburn reiterated the Colonial Office perspective that the authority to make decisions related to these issues rested with the courts and the governor general in Canada and, moreover, that, the Colonial Office was simply following the information sent to them by the Canadian authorities. Furthermore Goulburn observed that as long as court proceedings related to the fur trade violence were under way in Montreal, and while the governor general of Canada felt the situation was in hand, it was imprudent of Bathurst or the Colonial Office to intervene in matters; nor would Lord Bathurst express his “high displeasure” for anything the governor general had or had not done about sending aid to the Red River Settlement.²⁹ Goulburn repeated these observations in another letter when he explained that Bathurst’s non-intervention in the fur trade conflict was not because he sanctioned the violence but because he did not want to prejudice the Canadian-led legal processes.³⁰

Although the 1803 act did not explicitly state that Canadian courts held jurisdiction over Rupert’s Land, the exchanges with Bathurst and Goulburn seemed to convince the London Committee that in the eyes of the Colonial Office, the 1803 act gave Canada jurisdictional authority over Rupert’s Land. The HBC’s sensitivity over its charter and legal authority throughout Rupert’s Land reappeared in 1819 when the company wrote to various government departments in Britain about a new law enacted by the legislature in Upper Canada. Echoing concerns about the 1803 act, the London Committee in 1819 sought to know whether the new Canadian legislation would, in the words of the HBC, “authorize courts in Upper Canada to conduct enquiry and trial of Crimes and Offences committed within that province without the limits of any described Township or County to be had

- 29 Goulburn to Governor of the HBC, 29 December 1815, A.13/1, HBCA, 62a–63b. Goulburn explained that Bathurst would not say anything on the matter until the Colonial Office received decisive evidence about the “persons really guilty of the disturbances” and charges “for violent conduct towards others of His Majesty’s subjects trading in North American” had been investigated.
- 30 Goulburn to Joseph Berens, 12 April 1816, A.8/1, fol. 52–53, HBCA. In explaining Bathurst’s continued non-interference in the fur trade conflict, Goulburn explained that he wanted the tribunal in Canada already looking into case of Miles McDonnell to fully investigate the issues and the “real rights” of the HBC claims so as not to appear to be pre-judging that case. Rich mentions this same exchange in *Fur Trade*, 236–237. Rich has depicted these exchanges as attributable to Goulburn’s sympathy for the NWC. However although Goulburn’s personal preferences were likely important, that Bathurst followed the policy of non-interference so clearly and consistently during the 1810s suggests that the Colonial Office was of the opinion — if not a policy — that buttressed the 1803 act, which stated that the Northwest, including Rupert’s Land, should be administered not just legally but also politically through Montreal.

in any District thereof.”³¹ The London Committee feared that the ambiguity of the geographical reach of the law would again impede the company’s ability to establish authority and peace in Rupert’s Land.³²

Seemingly with the Colonial Office, the Canadian courts, legal opinions, and the NWC against them, it is unsurprising that in 1810 Andrew Wedderburn (later Colville), the newest member of the London Committee of the HBC, told his colleagues in no uncertain terms that the future of the company could not depend on the charter. Writing in an internal memo about why he saw the existing plans for the company as problematic, he stated:

It must be recollected that the right of the HB Coy. [HBC] to exclusive navigation of the Bay has often been called into question & lawyers of the first eminence have given their opinion that on this point at least the Charter of the Coy is null & void. This opinion is no secret but has been repeated in many publications. — Whatever be the real law of the case, we may be certain that if the question came to be tried at law, the leaning of any English court & jury would be strongly against the Company (original emphasis).³³

- 31 Memorial to King in Council prepared by the Governing Committee as quoted in Governor and Committee Minutes, 22 December 1819, A.1/51, HBCA.
- 32 On these themes see Richard Connors, “In the Mind’s Eye: Law and British Colonial Expansion in Rupert’s Land in the Age of Empire,” in *Forging Alberta’s Constitutional Framework*, ed. Richard Connors and John M. Law (Edmonton: University of Alberta Press, 2005), 1–23; Desmond Brown, “Ambiguous Authority: The Development of Criminal Law in the Canadian North-West and Alberta,” in Connors and Law, *Forging Alberta’s Constitutional Framework*, 25–60; Hamar Foster, “Long-Distance Justice: The Criminal Jurisdiction of Canadian Courts West of the Canadas, 1763–1859,” *American Journal of Legal History* 34.1 (1990): 1–48.
- 33 “HBC 1810 Scroll observations Wollastons’ [sic] plan,” Thomas Douglas, Fifth Earl of Selkirk collection (henceforth Selkirk collection), vol. 1, M171, Archives of Manitoba, Winnipeg, Manitoba, 19 (original emphasis). Although appearing in the Selkirk collection, this set of observations on a plan by another committee member, George Wollaston, was almost certainly prepared by Selkirk’s brother-in-law, Andrew Wedderburn. As primary and secondary evidence attest, it was Wedderburn who joined the London Committee in January 1810 and successfully challenged Wollaston’s plans in early February 1810, then offering his counterproposal by early March 1810. Defeated and outmanoeuvred by Wedderburn, Wollaston resigned from the London Committee on 21 March 1810 and sold his remaining shares by January 1811. See Governor and Committee Minutes, January–March 1811, A.1/49, HBCA; Rich, *History of the Hudson’s Bay Company*, vol. 2, chs. 12, 13.

Noting an earlier challenge to the charter in the 1740s, Wedderburn went on to explain that the HBC's survival in 1810 rested not on leveraging the charter but on strengthening the company. This drive to efficiency came to form the basis of the retrenchment system, for which Wedderburn is generally credited. Indeed Wedderburn was crucial in restructuring the HBC during these years, bringing to the company new practices in accounting, management, and overseas commerce — practices he had earlier embraced in his work as a sugar broker and absentee plantation owner.³⁴ However, even as Wedderburn and others moved the company toward this more economically efficient business model, the London Committee returned yet again to the charter and the accompanying rights it believed it represented. This time it would not only seek new — and more favourable — legal opinions about the charter but would use the charter to claim rights in North America that included but also extended well beyond trading privileges. This process precipitated the reorientation — perhaps even the reinvention — of the HBC.

III. CLAIMING LEGAL AUTHORITY

Changes in the London Committee's understanding of the charter and the identity of the HBC more broadly were in part precipitated by the NWC's increasingly violent actions at the Red River Colony and by correspondence from Lord Selkirk, a company shareholder who had established the colony. Writing from Montreal in early 1815 Selkirk explained that the HBC had to find better ways to assert its authority in the region and protect his fledgling colony from seasonal attacks by the NWC and its allies.³⁵ He believed the company should create a "small military corps" made up of armed HBC servants to assert control, believing that only a company-run army could ensure peace and security for the settlers. The charter, he argued, clearly gave the HBC considerable legal rights but also the responsibility to protect the British settlers from the "outrageous conduct" of the NWC. Collectively these circumstances gave the company the political right to create an army. While it was in the NWC's interest to "persuade them [the government and the British public] that the charter is of no consequence," Selkirk argued that more should be done to get the British courts, and especially the British government, to understand the explicit authority of the charter.³⁶ Selkirk's confidence, as he recognized, flew in the face of a general reformist mood in Britain that was skeptical

34 See for example Spraakman, *Management Accounting*, ch. 7.

35 Selkirk to Andrew Colville, Montreal, 6 January 1815, Governor and Committee general inward correspondence, A.10/1, fol. 182, HBCA.

36 Selkirk to Colville, Montreal, 6 January 1815.

of monopolies and charters and had significantly reduced the EIC charter rights in 1813.³⁷

By the charter, the Company seems to be sufficiently authorized to employ a regular military force. Hitherto there have been reasons which operated against the policy of acting upon that clause of the charter, as the measure would have been misrepresented & our adversaries might have had opportunity of exciting the jealousy of the public against the employment of a private military force, instituted (as they would say) for the purpose of enforcing an odious & illegal monopoly. But their own outrageous conduct seems to me to have removed this ground of scruple. After the occurrences of last summer, it must be sufficiently evident that we have to defend ourselves against every species of violence & that for our own security we are under the necessity of organizing what force we have in such a manner as to be effective.³⁸

While the committee did not in the short term adopt the idea of arming its servants, it was convinced by Selkirk's rationale that the HBC had a clear legal basis to claim authority over the law and order of Rupert's Land. More problematic was the fact that the committee had to convince Lord Bathurst, the Colonial Office, and the imperial metropole of this authority.

The first line of attack taken by the committee was to emphasize that the charter provided the legal basis for the company to implement English law and maintain order in Rupert's Land. This approach, which emphasized HBC obligations as established in the charter, is evident in a memorial presented to Lord Bathurst by the London Committee in May 1815.³⁹ The memorial, approved at a special meeting of the company's General Court, began by offering a clear rationale for why its charter gave HBC servants the right and responsibility to impose authority and order in Rupert's Land.⁴⁰ It explained that the charter compelled the company to enforce civil and criminal laws in the territories, "so laws are reasonable and not contrary to Laws of England," and although those rights had rarely been exercised by the company, "except such bye [*sic*] laws of the Company ... for the

37 See Philip Lawson, *The East India Company: A History* (London: Longmans, 1993), 137–143; H.V. Bowen, *The Business of Empire: The East India Company and Imperial Britain, 1756–1833* (Cambridge: Cambridge University Press, 2006); Anthony Webster, *The Twilight of the East India Company: The Evolution of Anglo-Asian Commerce and Politics, 1790–1860* (Woodbridge, UK: Boydell, 2009), 39–83.

38 Selkirk to Colville, Montreal, 6 January 1815.

39 "The Right Honourable Earl Bathurst Principle Secretary of State for the Colonial Department. The Humble Memorial and Representation of the Hudson's Bay Corporation," May 1815 (henceforth Memorial to Bathurst), A.13/1, fol. 55, HBCA, 51a–51b.

40 General Court as recorded in Governor and Committee Minutes, 19 May 1815, A.1/51, HBCA.

regulation of their servants and immediate dependents in their said territories," the establishment of the settlement at Red River had changed this situation to the point that "it is become necessary that a more enlarged and comprehensive code should be established for the good government as well of the Company's servants as of the settlers and others within their chartered limits in North America."⁴¹

A set of ordinances were attached to the memorial, outlining a new hierarchy of HBC personnel charged with the task of implementing their charter-based legal authority in Rupert's Land. At the apex of this hierarchy was the governor-in-chief and his council, who had "paramount authority over the whole of the Company's territory in North America."⁴² Below this council were the governors of the two main districts — Assiniboia and Moose — who possessed the power to dispense justice unless the governor-in-chief was present. Finally, the ordinances specified that three sheriffs were to be appointed: one each for Moose and Assiniboia and a third for the remainder of the territory. The sheriffs were to be empowered to execute "such processes as shall be directed to them according to Law."⁴³ Although the memorial gives few details, it is clear that most of these "governors," "councillors," and "sheriffs" were to be drawn from the officers already employed by the company as fur traders. Indeed the meeting of the General Court specified that all these positions would be given to HBC employees currently on contract to the company.⁴⁴

By making these ordinances, the company directly challenged the 1803 Jurisdiction Act. Aware of this and eager to legitimize this challenge, Joseph Berens, the HBC governor, reinforced this memorial and ordinances with a letter to Bathurst in which he explained that the company had solicited legal opinion from "several eminent councils" including "Sir Samuel Romilly, Mr. Cruise, Mr. Holyroyd, Mr. Scarlett and Mr. Bell" about the company's legal rights and that all concurred that the HBC had "complete title" to Rupert's Land, and thus "their governors and their council appointed by the company, are empowered by the charter to administer justice according to the laws of England."⁴⁵ By the summer of

41 Memorial to Bathurst, 51a.

42 Resolutions Passed 19 May 1815, attachment to Memorial to Bathurst.

43 Resolutions Passed 19 May 1815.

44 General Court as recorded in Governor and Committee Minutes, 19 May 1815.

45 See Joseph Berens to Bathurst, 8 June 1815, A.13/1, HBCA, 60–61. The most well-established of those was almost certainly Romilly. Previously a lawyer in commercial practice, he was by 1815 a politician and reformer of criminal justice. "ROMILLY, Sir Samuel (1757–1818), of Russell Square, Mdx. and Tanhurst, Surr.," *History of Parliament*, <<http://www.historyofparliamentonline.org/volume/1790-1820/member/romilly-sir-samuel-1757-1818>>, accessed 23 October 2020.

1815 HBC officers in the field were following the London Committee's lead and ignoring the 1803 Jurisdiction Act. In June 1815 Miles Macdonell and John Spencer, governor and sheriff of Assiniboia respectively, found themselves under threat of arrest by NWC partner Norman McLeod. McLeod had a commission from Canada to act as a "justice of the Peace for Indian territory" under the parameters of the 1803 statute.⁴⁶ Using this power in retaliation for Macdonell's Pemmican Proclamation forbidding the export of dried buffalo meat and other provisions outside the colony, McLeod ordered the arrest of Spencer and Macdonell for "burglary and robbery."⁴⁷ Spencer was immediately seized by the "partners and clerks of the NWC with a party of their hired servants" and taken to prison in Montreal.⁴⁸ When confronted with the same warrant, Macdonell, who had been away from Red River at the time of Spencer's arrest, refused to be taken. As Andrew Colville noted in his summary of events, that "as he [Macdonell] had been advised upon the opinion of the most eminent counsel in this country that the Courts of Canada had no jurisdiction over the territories of the Hudson's Bay Company, he refused to surrender to the warrant."⁴⁹ In the hope of ensuring that the Red River settlers were left alone by the NWC, Macdonell eventually surrendered.

In the absence of gaining recognition for either the legal force of the charter or the legitimacy of the ordinances confirmed by the Colonial Office lawyers, the 1815 memorial, Macdonell's resistance, and the consultations with "eminent counsel," collectively reveal the coordinated efforts the company undertook to establish its authority over the management of the law and order of Rupert's Land. Although initially aimed at reinforcing its economic interests, these challenges to the 1803 Jurisdiction Act simultaneously revealed that the London Committee was thinking about its authority more broadly and in a new light. Inspired in part to protect itself in the midst of the fur trade war, it asserted state-like authority inherent in its charter. In ways similar to those that historians have charted for the EIC as it emerged as a company-state, so too, but at a later date, the HBC began

46 Colville to Governor and Committee, 5 December 1815, enclosed in Berens to Bathurst, 6 December 1815, Governor and Committee correspondence to British Government, A.8/1, HBCA, 29. Bumsted briefly mentions this arrest in *Fur Trade Wars*, 114.

47 Colville to Governor and Committee, 5 December 1815, 30. For recent discussions on the Pemmican Proclamation see Gerhard J. Ens and Joe Sawchuk, *From New Peoples to New Nations: Aspects of Métis History and Identity from the Eighteenth to the Twenty-First Centuries* (Toronto: University of Toronto Press, 2016), 74–79; Dale Gibson, *Law, Life and Government at Red River* (Montreal & Kingston: McGill-Queen's University Press, 2015), 1:3–8.

48 Colville to Governor and Committee, 5 December 1815, 30.

49 Colville to Governor and Committee, 5 December 1815, 30.

building “societies independent of its factory and trading operations.”⁵⁰ Distinct from the EIC, the HBC saw its authority as falling under British sovereignty and thus tended to think of this process as the construction of a *colony* rather than a more independent and robust *state*.

IV. CLAIMING POLITICAL AUTHORITY

The HBC also argued that its charter and its behaviour, as a lawful and loyal representative of the British Crown, gave it authority and responsibility not just to manage the legal affairs of the colony but to act as the undisputed political representative of the British state. In doing this, the company suggested to the Colonial Office that only the HBC could — and should — act as the British authority in Rupert’s Land — and be given the political power and military might that went part and parcel with that responsibility.

First the company argued that because its servants, and especially the Red River settlers, were British subjects, they were inherently entitled to a fair and robust defence of their safety from what the HBC deemed unlawful attacks by the NWC. Carefully omitting the fact that the so-called settlers at Red River were technically servants of the HBC and that the settlement was strategically placed to both aid the Company’s trade with provisioning and disrupt the NWC’s commerce, the emphasis here was that in the lawless civil war-like atmosphere of Rupert’s Land in the 1810s, these British subjects were under unwarranted threat and needed — indeed were owed as Britons — the protection of the British state. As John Henry Pelly, deputy governor of the company, wrote in a letter to Bathurst in early 1816,

However reduced in point of numbers the settlement may now unfortunately be, no reasonable doubt has ever been stated to us with respect to its ultimate success were any means taken to assure the settlers that while they conduct themselves peaceably & properly in their agricultural pursuits, they will meet with that reasonable degree of countenance and encouragement which as British subjects we presume they are entitled to expect from the government to whom they owe allegiance.⁵¹

Second Pelly explained that because of the charter rights and the peaceful behaviour of company servants, the HBC was the obvious representative of this much-needed British authority in the region. The company, argued

50 Stern, “Politics and Ideology,” 2.

51 John Henry Pelly to Bathurst, 10 January 1816, A.8/1, HBCA, 45.

Pelly, had long been acting in this capacity as government representative and eyewitness to the NWC violence: "As guardians of the peace within the territory granted by our charter [we have informed you of the] continued and specific acts of violence & outrage committed on the persons and property of the agricultural settlers ... [and] there is no species of machinations & aggressions which we have not good grounds to believe had been resorted to for the purpose of effecting its [the settlement's] destruction."⁵²

All that was needed to entrench this authority, Pelly suggested, was the verbal and material support of the Colonial Office, especially in the form of a military force. In making this argument the company noted that while the HBC was a legitimate representative of the Crown, the NWC had intentionally deceived the Crown's honour. As the HBC had reported to Bathurst a few months earlier, NWC clerk Duncan Cameron had wilfully misled the Red River settlers in 1815 by appearing before them in a military uniform styling himself as "commanding officer of [R]ed [R]iver" and seizing company weapons "in the King's name."⁵³ While Duncan would have replied that the 1803 Canadian Jurisdiction Act dignified his conduct, the HBC dismissed it as a wilful deception that damaged the integrity of the British government and the Crown. A month later the London Committee wrote again about this incident, this time producing affidavits from Montreal that, in their words, clearly showed that Cameron's goals were not the safety of the British subjects but the "destruction" of the company and thus the sovereignty of the state as embodied in the HBC charter itself.⁵⁴ This motive, the military uniform, and his appropriation of the king's name, argued the letter, revealed that the NWC was trying both to "deceive" the British government and to dishonour the Crown. Far from protecting British subjects, argued the HBC, Duncan was carrying out "deep laid" plans — a "conspiracy" they called it — to destroy the colony.⁵⁵ The unstated suggestion was that because of its charter, the HBC was a much more reliable, respectable, honest, loyal, and most importantly legally legitimate representative of the Crown and protector of Britons and of British interests in Rupert's Land.

V. CLAIMING MORAL AUTHORITY

Accompanying its claims to legal and political authority, by early 1815 the HBC also began making a concerted attempt to show the Colonial Office and the British public at large that the HBC had the moral authority to govern Rupert's Land. While this claim to moral authority is apparent in

52 Pelly to Bathurst, 10 January 1816, 46–47.

53 See Colville to Governor and Committee, 5 December 1815, 32–33.

54 Pelly to Bathurst, 10 January 1816, 47.

55 Pelly to Bathurst, 10 January 1816, 49.

its statements about its ability to represent the British Crown, the essence of the company's argument hinged on the treatment of Indigenous Peoples. On this point the HBC clearly attempted to show that it was better for Indigenous Peoples to trade and interact with the HBC rather than the NWC, and thus the company was better positioned to represent the moral — specifically Christian — values of Britain in Rupert's Land. While the claims to legal and political authority were primarily pursued by illustrating the need to counter NWC advances in western North America, the move to claim moral authority was tied more directly to the expectations of metropolitan Britain. In particular the London Committee was echoing the growing early nineteenth-century evangelical demands that Britons not only traded with Natives across its empire but also offered them the virtues of "Christianity and civilization," which it alone could impart; the British Empire must also be a moral (or more specifically Godly) empire for the common good.⁵⁶

The HBC asserted its claim to moral authority by emphasizing that the NWC, just as it had dishonoured the British Crown, had corrupted Indigenous Peoples in Rupert's Land. The HBC claimed that the NWC presence had made Indigenous Peoples more violent and less sympathetic to British traders and settlers and that the NWC was a harbinger of deceit and disorder. For instance in explaining why the Red River Colony was under threat from a possible "attack of the settlement by the Indians," the London Committee observed that it was not because the "Indians" themselves were violent but because the NWC had "inflame[d] the minds of the Indians against the Colonists."⁵⁷ The committee explained that when the company established the settlement at Red River, it did not anticipate any troubles with Indigenous Peoples. The settlement existed where good relations had characterized relationships with the Assiniboine and Cree, and some "Indians" had even expressed anxiety that with depletion of fur stocks in the region the company may "abandon the posts from which they had so long been accustomed to receive their supplies of British manufacture."⁵⁸ The HBC contended that it was only with the arrival of the NWC, and its resistance to

56 One of the best analysis of the emergence of this new way of seeing the empire is Elizabeth Elbourne, *Blood Ground: Colonialism, Missions, and the Contest for Christianity in the Cape Colony and Britain, 1799–1853* (Montreal & Kingston: McGill-Queen's University Press, 2002), ch. 1. Also see Hilary M. Carey, *God's Empire: Religion and Colonialism in the British World, c. 1801–1908* (Cambridge: Cambridge University Press, 2011); Andrew Porter, *Religion versus Empire? British Protestant Missionaries and Overseas Expansion, 1700–1914* (Manchester: Manchester University Press, 2004); and the essays in Jeremy Gregory, ed., *The Oxford History of Anglicanism*, vol. 2, *Establishment and Empire, 1662–1829* (Oxford: Oxford University Press, 2017).

57 Joseph Berens to Bathurst, 18 February 1815, A.8/1, HBCA, 12.

58 Berens to Bathurst, 18 February 1815.

the Red River Colony, that this benevolent and beneficial relationship with the Indigenous people had been interrupted: "There is no reason to believe that any dissatisfaction would have existed on their [the Indigenous Peoples'] part if it had not been industriously fermented."⁵⁹

Expanding upon this perspective, the company then emphasized that the HBC had long had good relations with Indigenous Peoples, and with clearer and broadly recognized legally legitimate authority in the region, it would be able to restore these relations and also bring civilization to Indigenous Peoples. While the HBC had historically rejected — indeed forbidden — bringing either literacy or Christianity to Indigenous Peoples before this moment,⁶⁰ suddenly in February 1815 the London Committee agreed to establish a "general school for the Instruction and Civilization of the Native Indians in the Company's Territory."⁶¹ The plan for the school, drawn up by committee member Benjamin Harrison,⁶² who had previous experience with so-called Indian education through his work with the New England Company, was part of a policy aimed to encourage Indigenous Peoples throughout Rupert's Land to "apply to the cultivation of the ground."⁶³ Typical of this evangelically reformist era of mission work, Harrison's plan rested on the assumption that a sedentary lifestyle was both economically less "precarious" than a mobile lifestyle and morally and culturally beneficial. Indeed "the probable effects of this change [to cultivation] upon the moral improvement of the Indians are

59 Berens to Bathurst, 18 February 1815.

60 As Rich succinctly argues, throughout the eighteenth century and indeed much of the nineteenth, "towards the Indians the Company felt no missionary fervour." Rich, *History of the Hudson's Bay Company*, 1:314. Indeed the company dismissed at least one servant for instructing some Indigenous children in "the Christian religion." "Testimony of Richard White," in *Report from the Committee Appointed to Inquire into the State and Condition of the Countries Adjoining to Hudson's Bay, and of the Trade Carried of There* (British Parliament, 1749), 16.

61 Governor and Committee Minutes, 1 February 1815, A.1/51, HBCA.

62 Benjamin Harrison (HBC member 1808–1854) was an active member of the New England Company (NEC) and was personally involved in helping the NEC establish a form of residential schooling for Indigenous children in New Brunswick. See Committees Minute Book (Includes Estates and Indian Committees as well as extracts from the General Courts), 1807–1822, Ms. 7923, CLC/540, New England Company, London Metropolitan Archives, London, England; Amalie M. Kass, "Harrison, Benjamin (1771–1856)," *Oxford Dictionary of National Biography*, <<https://doi.org/10.1093/ref:odnb/12431>>, accessed 28 October 2020.

63 Benjamin Harrison, *Proposal of Mr. Harrison for the Application of Part of the Funds of the New England Company within the Territories of the Hudson's Bay Company* (London: S. Gosnell, 1815), 7.

too evident to require illustration,” explained the published description of Harrison’s plan.⁶⁴

Harrison’s proposal as endorsed by the London Committee was not especially novel, although the method of imposing the plan was. His goal was to “impress on the tribes” the “importance of the objects recommended [— that is, to cultivation]” and also build a residential-style school in a “central situation” to instruct young Indigenous people who could then return to their families and become “leading men” in their communities.⁶⁵ Unlike in most British overseas territories, however, where missionary organizations generally led these initiatives in partnership with either Indigenous communities or colonial governments (but not private trading companies), Harrison’s plan placed the HBC as the initiator of and ultimate authority over the entire process. Instead of using missionaries to do the groundwork of introducing Indigenous Peoples to cultivation and “call[ing] their attention” to the opportunities of education that could be offered at the school, the plan suggested retired HBC officers and servants across the region could conduct this recruitment work.⁶⁶ Likewise the school would be almost wholly operated and controlled by the company. The HBC pledged that the plan would “appropriate a piece of land for the use of the establishment, and will undertake to provide the buildings that are necessary for its accommodation.”⁶⁷ And although there was a need to hire a schoolmaster — “of a very different class from those of an ordinary schoolmaster” — to lead the school, “the more elderly of the servants of the Hudson’s Bay Company, who have long resided among the Indians,” would act as assistants to the schoolmaster.⁶⁸ Building on what he had learned about the fur trade and about failed evangelizing missionary endeavours elsewhere, Harrison reasoned that a company-controlled scheme was the best way to achieve his goals.

The company’s influence over this scheme was perhaps clearest in Harrison’s specific statements about the content and mode of instruction at the school. He explained that “the course of the instruction must be

64 Harrison, *Proposal of Mr. Harrison*, 8. For the evangelical thought in the period see Boyd Hilton, *The Age of Atonement: The Influence of Evangelicalism on Social and Economic Thought, 1785–1865* (Oxford: Oxford University Press, 1988); Alison Twells, *The Civilizing Mission and the English Middle Class, 1782–1850: The “Heathen” at Home and Overseas* (London: Palgrave Macmillan, 2009); Christopher Leslie Brown, *Moral Capital: Foundations of British Abolitionism* (Chapel Hill: University of North Carolina Press, 2006); Brian Stanley, ed., *Christian Missions and the Enlightenment* (Richmond, UK: Curzon, 2001).

65 Harrison, *Proposal of Mr. Harrison*, 8–9.

66 Harrison, *Proposal of Mr. Harrison*, 13.

67 Harrison, *Proposal of Mr. Harrison*, 15.

68 Harrison, *Proposal of Mr. Harrison*, 12–13.

very different from that of an ordinary school"⁶⁹ and the teaching method should likewise be distinct from British schools: "It must be kept in mind, that among these Indians the youth are scarcely accustomed to the smallest degree of restraint from their parents, and it would hardly be possible to make them submit to that sort of control which is exercised over children in our schools. Much address must, therefore, be used to induce them to give a willing attention to the objects of primary importance."⁷⁰ This level of specificity about the content and pedagogical practice speaks to the company's desire to create these schools in their own image — and under their own authority. The schoolmaster was the only outsider to the company complex in this system of education since the rest of the people, the policy, and the physical infrastructure were inspired by and remained part of the HBC. Uniquely in the empire this was to be a company school and a company-led civilizing mission. The committee's interest in this evangelization process is made clear in 1816 correspondence in which an officer in Rupert's Land was asked to provide a detailed opinion on the best ways of "converting to Christianity the children of Native Indians," all in the hope that the HBC could send further materials, especially books, to aid the effort.⁷¹

The London Committee as a whole seemed to recognize that establishing this educational scheme was tied to its more general claims of authority in Rupert's Land. On the one hand this plan for so-called Native education would gain them general support in London, which if carefully promoted could win them support in the Colonial Office. On the other hand some evidence shows that this scheme empowered the committee to see its search for jurisdiction in spiritual and moral terms. In the summer of 1815 as a pamphlet outlining Harrison's plans (and asking for money) was circulating throughout London, in a rare statement about its evangelization effort, the committee informed Lord Selkirk that during any negotiations he had with the nwc, he must retain rights to "property and jurisdiction of all country lying upon the waters that run into H.B. [the Hudson Bay]"⁷² Their reasons clearly represent the emerging colonial and even humanitarian ethos of the London Committee at that moment: "We need not detail to your lordship the advantages to be devised from the absence of opposition [in Rupert's Land] by economical arrangements in carrying on the trade and by the gradual improvement in the habits of the

69 Harrison, *Proposal of Mr. Harrison*, 9–10.

70 Harrison, *Proposal of Mr. Harrison*, 11.

71 Governor and Committee to Robert Semple, 8 May 1816, Governor and Committee Outward Correspondence, A.6/19, HBCA, 4.

72 JB [Joseph Berens?] to "My Lord" [Selkirk], Hudson's Bay House, 30 August 1815, A.10/1, HBCA, 312.

Indians which we could then endeavour to accomplish with some prospect of success."⁷³

Indeed the London Committee sought to retain HBC jurisdiction for both economic and humanitarian reasons. Extending this logic further it suggests too that in a region of British North America devoid of an Indian agent or an obvious Indian policy, the HBC was making a case that it needed clear jurisdiction in order to save and manage the Indian in the name and for the benefit of the empire — only the company, the letter suggests, had the moral authority to do this, as well as the legally legitimate authority embodied in its charter to permit, enable, and necessitate it to do so. Although these interconnected legal and educational initiatives emerged out of a desire to protect its trade and the settlers at Red River, the social and legal *mentalité* that underpinned it, along with its desire to establish and maintain law and order, and to represent the political aspirations of the Crown and empire, reveals the HBC seeking to affirm and confirm itself as a colonial government. This transformation of the HBC came about as a result of a cluster of individual initiatives with transnational origins rather than a fully realized new vision for the company. Regardless of this pragmatic patchwork and almost accidental developmental process, this reimagining significantly re-orientated and restructured the company, moving it away from its historic business-first focus and bringing it more in line with how colonial governments in settler colonies were coming to understand and manage territories under their charge in an age of post-revolutionary British imperial reform.⁷⁴

VI. IMPLICATIONS OF THE COMPANY COLONY

At the outset of the nineteenth century the HBC struggled in the midst of dire financial circumstances, which were compounded by rivalry and competition — the fur trade war — in Rupert's Land and by the debilitating consequences of the Napoleonic Wars and the continental system, which made it impossible for the company to sell pelts in its traditional European markets. Such challenges drove the HBC to ask — unsuccessfully — the Colonial Office for military assistance and financial aid to ensure its survival. While Henry Goulburn and Lord Bathurst may not have acquiesced to HBC requests for funds and armed forces to assist in the preservation of its accounts and to maintain peace around the Selkirk settlement, respectively,

73 JB [Joseph Berens?] to "My Lord" [Selkirk], Hudson's Bay House, 30 August 1815, 314.

74 On these changing processes of governance see Bayly, *Imperial Meridian*; Zoë Laidlaw, *Colonial Connections, 1815–45: Patronage, the Information Revolution and Colonial Government* (Manchester: Manchester University Press, 2005); Boyd Hilton, *A Mad, Bad and Dangerous People? England, 1783–1846* (Oxford: Oxford University Press, 2008), 110–371.

the stance taken by the Colonial Office during the period had much to do with the global conflict with Napoleonic France and with the United States in the midst and aftermath of the War of 1812 — particularly as the terms of peace were drawn up, debated, and drawn out in 1814.⁷⁵

These metropolitan preoccupations with wider continental and global issues not only affected the responses of the Colonial Office to the HBC's overtures for assistance but also influenced and informed the evolving strategies adopted by the HBC Committee as it sought support of the British state — initially in dealing with the financial strains of the continental trade embargo and later when seeking to confirm its charter responsibilities for Rupert's Land in the face of potential challenges from a post-1812 expansionist US and from the actual, violent, and perceived illegal activities of the NWC. A signal of this changing approach and corporate attitude revealed itself clearly in the company's response to Colonial Office requests in March 1814 that, in the aftermath of American naval victories on and their control over Lake Erie, it permit the NWC to ship goods out of Rupert's Land via the Hudson Bay itself. Shrewdly drawing upon the monopoly rights embodied in its charter, the HBC rejected the requests and added that such a solution to NWC difficulties would also necessitate indemnities, bonds, and financial guarantees, as well as direct participation by the HBC in the transportation of goods from the bay itself.⁷⁶ As it would do throughout the 1810s the HBC's London Committee used the opportunity to remind Bathurst and Goulburn that through its actions the company also sought to abide by the terms of their incorporation first laid out by the Crown in 1670. This was a defensive posture perhaps, but in these timely actions and in their persistent assertions of their claims to legal, political, and moral authority in Rupert's Land, the company was also able to impress upon the Colonial Office its strategic, legal, and economic importance in western North America and within the British Empire.

Recent scholarship has cast light upon HBC activities in Rupert's Land, the establishment of the Red River settlement, the fur trade wars that animated the early nineteenth century, and the complex and drawn-out legal issues that in part emerged from those hostilities, upon the processes that led to the subsequent merger of the HBC and NWC in 1821.⁷⁷ In this scholarship it has become commonplace to see the retrenchment and merger of the 1820s

75 For a detailed discussion of the peace processes and the time and attention it demanded of the Colonial Office and Henry Goulburn and Lord Bathurst in particular see Jenkins, *Henry Goulburn*, 56–89.

76 See the sustained discussions between the HBC and the Colonial Office in the spring of 1814: A 13/1.3 44 through to A 13/1.3 50, HBCA.

77 Bumsted, *Fur Trade Wars*; Rich, *History of the Hudson's Bay Company*; Galbraith, *Hudson's Bay Company*; Williams, "Hudson's Bay Company and the Fur Trade"; Spraakman, *Management Accounting*; Payne, "Fur Trade Historiography," 3–22; Binnema, "Enlightened Zeal."

as a culmination of these circumstances and events. No doubt there is much to commend this historiographical consensus, which sees amalgamation and retrenchment as essential to the mid nineteenth-century successes of the reconstituted HBC, a company that reached its apogee under the overlordship of the so-called little emperor, George Simpson.⁷⁸ Yet in light of the calculated directions and initiatives of the HBC Committee between 1810 and 1816, it is striking how determined the London Committee was to rehabilitate the HBC well before the events of Seven Oaks (June 1816) and the subsequent calls by many, including the Colonial Office, for a cessation of the fur trade wars and for the merger of trading companies. Indeed after the news of the massacre of Seven Oaks reached London, it is clear — as the subsequent and extensive Coltman Commission and Report reveals — that the Colonial Office gave Rupert's Land and the fur trade wars more attention. That enquiry sought to determine the causes of turmoil in and around Red River but also to provide information and answers to colonial officials in London and in the Canadas about how order and authority could be re-established in the region. In the wake of the Coltman Report the Colonial Office came to the realization that a resolution of the fur trade conflict — the cessation of HBC and NWC hostilities for certain and perhaps even merger — was essential if British claims to Rupert's Land were to survive.⁷⁹ While

- 78 E.H. Oliver, *Canadian North-West: Its Early Development and Legislative Records*, 2 vols. (Ottawa: King's Printer, 1915), 1:23. After a brief period of service in the West Indian trade, Simpson took up employment with the HBC in 1820. He was influential in amalgamating the company with the NWC in 1821 and was shortly thereafter made governor of the northern department of the united company. Later he became governor-in-chief of Rupert's Land and general superintendent of the HBC in North America. He governed the company firmly and was notable for encouraging geographical exploration. *Dictionary of Canadian Biography*, (1851–1860), 8:812–819; Frederick Merk, ed., *Fur Trade and Empire: George Simpson's Journal* (Cambridge, MA: Harvard University Press, 1931); James Raffan, *Emperor of the North: Sir George Simpson and the Remarkable Story of the Hudson's Bay Company* (Toronto: HarperCollins, 2007); John S. Galbraith, *The Little Emperor: Governor Simpson of the Hudson's Bay Company* (Toronto: Macmillan of Canada, 1976).
- 79 On Seven Oaks and its consequences see Gerhard Ens, "The Battle of Seven Oaks and the Articulation of a Metis National Tradition, 1811–1849," in *Contours of a People: Metis Family, Mobility and History*, ed. Nicole St. Onge, Carolyn Podruchny, and Brenda Macdoughall (Norman: University of Oklahoma Press, 2012), 93–119; Bumsted, *Fur Trade Wars*, 147–152; Marcel Giraud, *Le Metis Canadien: son role dans l'histoire des provinces de l'Ouest*, 2 vols. (Paris: Institut d'Ethnologie, 1945), 1:477–619; Lyle Dick, "The Seven Oaks Incident and the Construction of a Historical Tradition, 1816–1870," *Journal of the Canadian Historical Association* 2 (1991): 91–114; Lyle Dick, "Historical Writing on 'Seven Oaks': The Assertion of Anglo-Canadian Cultural Dominance in the West," in *The Forks and the Battle of Seven Oaks in Manitoba*

there can be no doubt that the merger of 1821 thereafter shaped the HBC, it is also clear that the company's corporate culture and economic ethos had already changed in tangible ways before it amalgamated with the NWC and its trading expertise to more thoroughly and more peacefully pursue the economic and colonial opportunities of Rupert's Land and its environs. Ironically too in the process of becoming a company colony, it also adopted an imperial identity and a pragmatic imperial ideology — focused upon order, discipline, and profit — that mirrored those of the Colonial Office. Like other parts of a burgeoning British Empire in the early nineteenth century, a reconfigured HBC increasingly insisted of those it employed and encountered “due subordination to imperial authority [its charter] together with an increasing willingness to use that authority in ways that were guided by rough concepts of utility based on some assessment of the differing needs of the different peoples being incorporated into the empire” under its corporate colonial sovereignty.⁸⁰ This metamorphosis in the company also puts into new light the creation of the Crown colony of Vancouver Island in 1849. Instead of being an anomaly in the history of the company and the empire, framed within the context of these early century developments, the Crown colony should be seen as the apex of the HBC as a company colony. While historians may be correct that company rule of Vancouver Island represented something of a conflict of interest for the HBC, it is a testament to the extent to which the idea of a company colony had been realized and had cemented itself into the metropolitan world that the HBC was given the privilege and opportunity of operating the colony and even negotiating land treaties with several Indigenous communities.⁸¹ Of course, the full implication of these processes — which were initiated by the company itself before the merger of the HBC and the NWC — on the peoples of Rupert's Land would not be felt for decades, and when they were they would come with the surrender of Rupert's Land itself to a new and Canadian — rather than British — vision and understanding of empire and authority.⁸²

History, ed. Robert Coutts and Richard Stuart (Winnipeg: Manitoba Historical Society, 1994), 65–70.

- 80 P.J. Marshall, “Empire and Authority in the Later Eighteenth Century,” *Journal of Imperial and Commonwealth History* 15 (1987): 118. Also see C.A. Bayly, *Imperial Meridian*, 193–256; Laidlaw, *Colonial Connections*, 39–57.
- 81 Royle's analysis of the Vancouver Crown colony hinges on the argument that the company rule hindered the evolution of the colony because it was animated by a conflict of interest between the HBC's commercial goals and its role as colonial administrator. See Stephen Royle, *Company, Crown and Colony*, 10. On the HBC's difficulties with managing settler colonies see also Galbraith, *Hudson's Bay Company*, 12; Bumsted, *Fur Trade Wars*, 239–244.
- 82 On this subject see Phillips and Sharman, *Outsourcing Empire*, 132–136; but for a fuller and more precise analysis of the surrender of Rupert's

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