

# CROWN, COMPANY, AND CHARTER: *Founding Vancouver Island Colony – A Chapter in Victorian Empire Making*

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THE COLONY OF VANCOUVER ISLAND, created by Charter of Grant dated Westminster 13 January 1849 and proclaimed on the spot by Governor Richard Blanshard at Fort Victoria on 11 March 1850, is a waif and stray of British imperial history. Its origins are at once rooted deeply in the complexities of the long-standing relationship between the British government and the Hudson's Bay Company (HBC). They are also tied to the legal aspects of creating a formal means of granting colony status. Piecing together the dimensions of this empire making in what was then a remote corner of the world has been a perplexing task for many historians. In this regard, as James Hendrickson has rightly said: "The constitutional history of Vancouver Island has never been adequately described nor even fully understood."<sup>1</sup> Moreover, as John Boshier has recently put it, the changing status of Vancouver Island after its founding, and the main events in its development as a colony,

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<sup>1</sup> James E. Hendrickson, ed., *Journals of the Colonial Legislatures of the Colonies of Vancouver Island and British Columbia, 1851-1871*, 4 vols. (Victoria: British Columbia Archives, 1980), i:xxvii.

“are difficult to establish because even a simple chronology is elusive.”<sup>2</sup> Another postulation, by Daniel Clayton, envisions how others of the time “imagined” Vancouver Island: as one might expect, diversity of opinion was expressed.<sup>3</sup> The main lines of inquiry have been sketched by Jeremy Mouat, who discusses the central claimants who wanted to shape the new colony.<sup>4</sup> Indeed, there were many possibilities as to what might transpire as the 1840s progressed, but the outcome was never in doubt. As I have written previously in these pages,<sup>5</sup> the British government gave assistance to the HBC before, during, and after the Oregon crisis, and, when observed in the long view, the historian is struck by the continuity of this association of Crown and Company. To a certain degree, therefore, the awarding of Vancouver Island to the HBC under the Charter of Grant seems a logical development. In fact, the political complexities of this process of colonial formation and founding have fascinated historians. But it has yet to be adequately explained how the Colonial Office, which administered the British Empire from London, came to work through the intricacies of this process. And this is the subject of my study. As to the effectiveness of this colonial project, which lies beyond the scope of this article, the pioneering work of Richard Mackie in his “The Colonization of Vancouver Island” repays the close attention that it deserves.<sup>6</sup> The discussion of this issue forms a “common ground” for many scholars, most recently myself, with a late entry being Royle’s *Company, Crown and Colony*, which, as I have mentioned, came to my attention after this article was accepted for publication. Royle’s workmanlike, detailed book argues that the HBC was coerced into becoming a colonial ruler under licence from the Crown. Its coverage of the post-1849 years is extensive and detailed. If Mackie’s study shows the success of the HBC under adverse circumstances, Royle’s seems to describe its faltering progress under its second governor, James Douglas. In any event, this subject – as treated here – forms the first chapter in the modern political history of British Columbia. It is also a study of administrative history.

In its origin, the Colony of Vancouver Island is unlike that of any other colony of the British Empire. It was forged into existence neither

<sup>2</sup> John Boshier, *Vancouver in the Empire* (Tamarac, FL: Lumina Press, 2012), xi. For a review of the constitutional changes, see *ibid.* xi–xii.

<sup>3</sup> Daniel Clayton, *Islands of Truth: The Imperial Fashioning of Vancouver Island* (Vancouver: UBC Press, 2000), 224–32.

<sup>4</sup> Jeremy Mouat, “Situating Vancouver Island in the British World, 1846–49,” *BC Studies* 145 (2005): 5–30.

<sup>5</sup> Barry Gough, “The Royal Navy in the Oregon Crisis, 1844–1846,” *BC Studies*, 9 (1971): 15–37; Barry Gough, “The Character of the British Columbia Frontier,” *BC Studies* 32 (1976–77): 28–40.

<sup>6</sup> Richard Mackie, “The Colonization of Vancouver Island,” *BC Studies*, 98 (1992–93): 3–40.

by religious persecution at home (such as yielded certain American colonies) nor by the demands for convict settlement (such as New South Wales, Van Diemen's Land, or Norfolk Island). It was not established as a settlement colony under a corporation formed for such a purpose (as in the case of South Australia). It was not established as a strategic bastion to guard trade routes or to keep out rival aspirants (such as the Cape Colony or the Falkland Islands). Nor was it constituted as a refuge for former slaves (Sierra Leone) or as a protectorate to end violence (Fiji). Further, it was not erected so as to fully fulfill aspirations of free trade, then the current thinking of the British Parliament and press. Nor was it developed as a safe place for responsible government, as then recently proclaimed in Nova Scotia, Lower Canada (Quebec), and Upper Canada (Ontario). It was not acquired by the sword or in a "fit of absent-mindedness," as the historian Sir John Seeley remarked of the accumulations of empire in his *Expansion of England* (1883). And yet again, it was not a creation of the so-called Colonial Reformers who wanted what they termed "systematic colonization." Nor was it constituted as a pre-emptive political reaction to expansionist California, mainly American, gold miners (British Columbia). It fits none of these archetypes but, rather, was a form of counter-empire whose purpose was to stay the tide of nascent American "manifest destiny," a point well known. Taken as an aggregate, the enlarging British Empire of this mid-Victorian era was a cluster of entities under the Union Jack.

The pluralistic nature of these imperial acquisitions reflects, much more than we have previously understood, the complexities of the "politics" of the imperial state (and colony making) at that time. "British expansion," writes John Darwin (its most recent historian) with particular reference to the mid-Victorian period, "was driven not by official designs but by the chaotic pluralism of British interests at home and of their agents and allies abroad." To which he adds: "While imposing a system on this chaotic expansion was beyond the power of the imperial government in London, a system emerged nonetheless."<sup>7</sup> Rather than pursuing a well thought out colonial policy in advance, the British state in the course of its often quixotic expansion overseas exhibited a law of unintended consequences: the Empire grew in spite of itself. It is now generally appreciated that various causes existed for the growth of imperial responsibilities. In the mid-Victorian era, when colonial affairs had odious connotations in Parliament and press, the Empire witnessed numerous accretions,

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<sup>7</sup> John Darwin, *The Empire Project: The Rise and Fall of the British World-System, 1830-1970* (Cambridge: Cambridge University Press, 2009), 3.

each predicated on a different reason or set of reasons.<sup>8</sup> In the Empire's imperial growth, even at the level of theoretical postulation, the British imagined an imperial space in which they would construct sovereignty and extend the rule of law as they knew it. In doing so, they were often in conflict with various Native appreciations of space and authority, and it must be remembered that Native peoples competed with one another in such matters.<sup>9</sup>

One such addition to the imperial estate was Vancouver Island. In large measure, in an era when British statesmen invariably placed trade ahead of territory – as Ronald Robinson and John Gallagher argued – informal empire held preference over formal empire. In so far as an “official mind of imperialism” directed the affairs of the Empire and oversaw its growth, ministers of state acted in response to stimuli, unable as they were to shape the course of events. Sometimes formal empire was thrust upon British statesmen for strategic rather than commercial reasons. Circumstances leading to the extension of the formal aspects of British Empire in Vancouver Island and its mainland companion British Columbia in particular had a corollary in what can be called the politics of imperial management and growth.<sup>10</sup>

In the case here considered, the reality faced was a strategic one, for the United States now closed in on the southern margins of British Oregon, which consisted of Vancouver Island and the adjoining mainland territory, the future (1858) British Columbia, then shown on maps as New Caledonia. The strategic requirement involved, oddly, a necessary scheme of managed colonization of the island proper under a corporate method of control exercised by a corporation previously and habitually opposed to settlement. The task was to liberalize the existing order in the direction of settlement, or colonization, under legal authority. But the foreign challenge was real, the circumstances of the day commanding a response the like of which was unique in imperial history. The then recently agreed Anglo-American Treaty of Washington, generally known as the Oregon Treaty of 1846, signalled a possible and imminent

<sup>8</sup> This theme is developed in Barry Gough, *Pax Britannica: Navy and Empire* (London: Palgrave Macmillan, forthcoming).

<sup>9</sup> For an introduction to this theme, see Laura Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1490–1900* (Cambridge: Cambridge University Press, 2010). On additional perspectives, see Matt Matsuda, *Pacific Worlds: A History of Seas, Peoples and Cultures* (Cambridge: Cambridge University Press, 2012), a discussion of changing economies, societies, and imaginations. See also, Alan Frost and Jane Samson, eds., *Pacific Empires: Essays in Honour of Glyndwr Williams* (Melbourne: Melbourne University Press, 1999) and Jane Samson, ed., *British Imperial Strategies in the Pacific, 1750–1900* (Aldershot: Ashgate, 2003).

<sup>10</sup> John Gallagher and Ronald Robinson, “The Imperialism of Free Trade,” *Economic History Review*, 2nd ser., 6, 1 (1953): 1–15.

division of the old trading realm of the HBC on the Pacific cordillera. American settlement, a material and psychological determinant in the recent boundary settlement, might be likely to move north into this newly acquired but unorganized and unregulated British dependency.<sup>11</sup> But this strategic dynamic really covered up a transformation of an existing British corporate interest of all-encompassing influence, an internal pressure, so to speak, that the British Ministry could not easily sweep aside. Pre-existing British trade and trading stations, or forts, in what the HBC called its Columbia Department, the basis of what subsequently became its “possessory rights,” were of utmost consideration with regard to the preference the British government was to give to the firm. The most abiding factor was the matter of available and committed capital, and, for political reasons, the government could not invest even a farthing in colonial development: it had to be self-sustaining in every sense other than naval protection.

Whereas it had been the Foreign Office that had managed the diplomatic arrangements that led to the Oregon Treaty, it fell to the Colonial Office to develop on newly defined British sovereign territory a defensive regime that would withstand the threat of American settlement. Speed was of the essence, given the rapid flow of American land seekers into Oregon. But herein lay new difficulties, for the British government had to guard against playing favorites, and therein lay the great challenge to the new Whig administration of Lord John Russell. A study of the Colonial Office of this period, indeed of the nineteenth century, lies beyond the scope of this work, but such, if undertaken, would reveal that many competent statesmen held the cabinet post as colonial secretary, that there were many conscientious persons who worked in the office and gave advice as to legal and policy matters with regard to colony formation, and that such criticism as was directed at the Colonial Office was more often than not politically inspired and often wrong as to assumptions and to details. In regard to the formation of Vancouver Island, where the issues were strategic, in the sense of protecting against further American encroachment, the formulators of policy and their allies (as well as contenders and critics) were faced with matters of a financial or an economic sort. The connections between the City of London and

<sup>11</sup> British “dependencies” were defined as all provinces “insular or continental, near or remote, which are not represented in the British Parliament, but subject to subordinate Governments, absolute or representative [e.g., the HBC].” Arthur Mills, *Colonial Constitutions: An Outline of the Constitutional History and Existing Government of the British Dependencies, with Schedules of the Orders in Council, Statutes, and Parliamentary Documents Relating to Each Dependency* (London: John Murray, 1856), viii.

Whitehall, cogently analyzed by P.J. Cain and A.G. Hopkins, are amply displayed in the case study of empire making here under examination, though no attempt is made here to support or quarrel with the general theme and subthemes of their work on “gentlemanly capitalism.”<sup>12</sup>

In his path-breaking study of the role of the HBC in the events leading to the establishment of the Colony of Vancouver Island under HBC proprietorship, John S. Galbraith emphasizes the role of trade in HBC expansion and consolidation in Old Oregon, arguing, first, that its hard-earned monopoly was the precursor of informal empire and, second, that the Oregon Treaty, which sacrificed Company interests south of the 49th parallel (save for recognizing possessory rights and granting freedom of navigation on the Columbia River), signified an American victory – one made possible by Foreign Office frailty under the pacific Secretary of State Lord Aberdeen. Moreover, the HBC showed the way out of the difficulty posed by the new boundary by suggesting a way for the Company to become the new, reluctant “imperial factor” north of the line in British territory.<sup>13</sup> The HBC, moreover, showed little interest in colonization save to protect its own interests or to serve its own agricultural needs, including the sale or export of foodstuffs. According to Galbraith, from the HBC’s point of view, Vancouver Island was a bulwark to protect its larger continental trading domain, which it held under licence from the British government. It could be argued, however, that it was not the continental trading domain but the licence proper that was the subject of Company concern, for the licence gave the HBC exclusive trade and strengthened its British imperial claims against American and Russian prospects.<sup>14</sup> Galbraith is little concerned with the matter of HBC-Aboriginal relations, a regrettable fact from my point of view, for at the time the Colonial Office was bound to consider matters of Aboriginal protection, given the powerful positions taken by various

<sup>12</sup> P.J. Cain and A.G. Hopkins, *British Imperialism*, vol. 1, *Innovation and Expansion, 1688-1914* (London: Pearson, 1993); P.J. Cain and A.G. Hopkins, *British Imperialism*, vol. 2, *Crisis and Deconstruction, 1914-1990* (London: Pearson, 1993). A second, composite edition was published in 2002, and it is the latter that I have used here. See note 43 below for the full citation.

<sup>13</sup> John S. Galbraith, *The Hudson’s Bay Company as an Imperial Factor, 1821-1869* (Berkeley and Los Angeles: University of California Press, 1957).

<sup>14</sup> The main particulars of the 1821 licence of exclusive trade, and its early renewal in 1838, may best be followed in E.E. Rich, *History of the Hudson’s Bay Company, 1670-1870*, 2 vols. (London: Hudson’s Bay Record Society, 1958-59), 2:401-31, 539, 647, 650, 662, 678, 685-86. That the licence as renewed was due to expire in May 1859 must have been in the Company’s consideration during the Oregon crisis and when the Colony of Vancouver Island was being formulated in discussions in London. In reading the terms of the Charter of Grant, which awarded Vancouver Island to the HBC, one is struck by how the colonization project was now integrated into the commercial monopoly that the Company enjoyed in its territories held by licence.

associations in Britain to prevent the manipulation or destruction of Aboriginal peoples (or the despoliation of their lands) on the Empire's margins.

The position taken here provides a fuller historical explanation than that which Galbraith offers: that the Colonial Office, now under the recently constituted Whig government of Lord John Russell, in the new and even unwelcome situation afforded by the Oregon Treaty, took an aggressive position in empire making and colonial development, in doing so employing pre-existing HBC interests that it could do nothing to remove and, instead, adroitly modifying them to its own political and legal requirements. It is my purpose to balance, even correct, Galbraith's explanation, and to analyze and explain the role of the Colonial Office in these affairs, in so doing giving credence to the argument that the administration was not always reactive to parliamentary pressure but could sometimes be constructive in its own right and ably defend its interests. From the years 1846 through 1849, the years of forging a formal empire in what we are obliged to call, for want of a better name, British Oregon, officials at the Colonial Office remained ever-mindful of what would pass the censure of Parliament, and it was on the basis of this that the art of the possible was pursued.

For reasons of security, and defence of existing trade and territory under the Union Jack, the HBC and the Colonial Office had to act expeditiously. The burden rested on them both. They worked towards the evolution of a charter for the Colony of Vancouver Island, thus placing it under a proprietorship. A partnership developed out of necessity and circumstance. What might be called colony formation (or creation) was something new to the HBC and, in fact, abhorrent to its business practices. But this was less so for the Colonial Office for precursors of such arrangements dated from early English colonization in America, echoes of which were still heard in its halls. What emerged for Vancouver Island, I argue, can be seen as a partnership of convenience if not necessity, with credit for this state of affairs given to the third Earl Grey, secretary of state for war and the colonies, the principal administrator for the collectivity of colonies, territories, and dependencies known as the British Empire. Often the recipient of derision and abuse, the Colonial Office was, in fact, at the centre of empire making as well as colonial management. That office had to do so much with so little and, given parliamentary opposition, had little or no discretionary funds to deploy on colonial projects, no matter how beneficial they might be to British imperial purposes such as emigration and colonization.

It is best to see the Colonial Office as a hard-pressed agency, one often under fire in Parliament and the press, and even as a bureau of land and commercial management fashioning outlying ramparts of Empire into what it hoped would be useful and stable locations of imperial control. The Colonial Office offered the HBC the only acceptable solution – a colonial proprietorship, the constitutional instrument of this, under residual imperial oversight, being a Charter of Colonial Grant.

Much has rightly been made of non-European collaboration in imperialism or in indigenous opposition to imperial rule. In the case herein analyzed, however, we find a relatively easy co-association of colonists and colonized based on economic activities – “relatively easy” because it was far less problematic and violent than it was in, say, adjacent United States territory, Southern Africa, New Zealand, and Tasmania.<sup>15</sup> This played as an advantage to the Colonial Office. Looking over the shoulders of those connected to the concerns of the Colonial Office were powerful persons who advanced the protection of Aboriginal peoples and their rights (as noted below). However, in the circumstances, neither the HBC nor the Colonial Office was overly worried about Aboriginal resistance in this geographical location. This was because the HBC had decades of experience with the various Aboriginal nations and, not least, because many Company factors and clerks had married Aboriginal women, either in the fashion of the country or through the church, their resulting families clearly demonstrating the link between Europeans and indigenes.<sup>16</sup> The fur trade depended on Aboriginal wage labour, which in no way involved servitude. Apart from one demonstration of local Aboriginal power, which was hardly an act of resistance,<sup>17</sup> Aboriginal

<sup>15</sup> Native power and influence in the shaping of the history of the Northwest Coast has been ably defended. See Robin Fisher, *Contact and Conflict: Indian-European Relations in British Columbia, 1774-1890*, 2<sup>nd</sup> ed. (Vancouver: UBC Press, 1992); and Robin Fisher, “Contact and Trade, 1774-1849,” in *The Pacific Province: A History of British Columbia*, ed. Hugh Johnston, (Vancouver: Douglas and McIntyre, 1996), 48-67. Fisher’s views have come under attack by the most recent review of imperial tide and Native responses, but without evidence to change his essential point: that Aboriginal peoples were less victims than shapers of a new destiny. See Clayton, *Islands of Truth*. Despite Clayton’s title, scant attention is given to Colonial Office direction and affairs; rather, it is directed to public opinion and Cartesian science and painting-the-map-red cartography – ironically, the least of Earl Grey’s concerns.

<sup>16</sup> Sylvia Van Kirk, “Colonised Lives: The Native Wives and Daughters of Five Founding Families of Victoria,” in Frost and Samson, *Pacific Empires*, 215-33 (endnotes at 313-16).

<sup>17</sup> In August 1848 a dispute between some Makah and Clallam, both from the south side of the Strait of Juan de Fuca, erupted near Fort Victoria. The British frigate *Constance* and Captain George Courtenay provided a show of force on the request of the post’s factor, Roderick Finlayson, and the problem evaporated. On another occasion Haida and Tsimshian visitors also caused some anxiety to authorities. But the local chiefs were on agreeable terms with the HBC. See Barry M. Gough, *Gunboat Frontier: British Maritime Authority and Northwest Coast Indians, 1846-1890* (Vancouver: UBC Press, 1984), 26-28.



people entered into the transforming economy that the fur trade, along with its construction projects and shipping business, afforded. The coming of colonial government exerted an additional layer of influence on the existing, diversifying, and enlarging economy of mid-nineteenth-century Vancouver Island. In other words, Crown interaction with the HBC made the new accretion possible, and the charter made its constitutional structure legal. Galbraith, dean of historians who have examined corporate empire (specifically chartered companies on imperial frontiers), challenges the argument that these constituted “empire on the cheap.”<sup>18</sup> Rather, his studies open the prospect, in the case of Vancouver Island, of exploring the rich interplay of Crown and Company: in this, Grey and the staff of the Colonial Office found themselves well matched with scions of the HBC, both in London and on the spot in Vancouver Island. London’s requirements had to meet Vancouver Island’s realities: thanks to Grey they were to do so handsomely.

Grey served as the guiding hand of imperial management. Long and closely associated in Parliament with supporters who encouraged colonial reform along the lines of self-government, he passionately advocated free trade, colonial self-sufficiency, and imperial trusteeship of Aboriginal peoples.<sup>19</sup> During his lengthy tenure at the Colonial Office (1846–51) he oversaw the first implementation of colonial responsible government (Nova Scotia) and advanced the policy that, ideally, self-governing colonies should be self-defending. His policies for establishing colonial frameworks on firm footings often outdistanced the capacity to find able colonial governors. As a recent scholar, Peter Burroughs, puts it unerringly, Grey’s strategic design of colonial consolidation and federation, embraced by his successors in office, had limited immediate achievements, dependent as they were on “capricious local circumstances.”<sup>20</sup> Imperial architect that he was, Grey demonstrated abilities in imperial management based in London that governors and colonial servants, caught up as they

<sup>18</sup> John S. Galbraith, *Crown and Charter: The Early Years of the British South Africa Company* (Berkeley and Los Angeles: University of California Press, 1974). The term “empire on the cheap” is credited to the politician and statesman Sir William Harcourt.

<sup>19</sup> Brother-in-law to Lord Durham, who investigated the difficulties in British North America and became the architect of “responsible government,” the besieged Grey was mindful of all the various theories of empire then being advanced. His memoir of his administration speaks to his understanding of these, though it in no way shirks the difficulties that the Colonial Office faced at that time. Third Earl Grey, *The Colonial Policy of Lord John Russell’s Administration* 2 vols. (London: R. Bentley, 1853). The best analysis of these years of colonial administration remains William P. Morrell, *British Colonial Policy in the Age of Peel and Russell* (Oxford: Clarendon, 1930). Neither Grey nor his historian deal with Vancouver Island.

<sup>20</sup> Peter Burroughs, “Defence and Imperial Disunity,” in *The Nineteenth Century: The Oxford History of the British Empire*, ed. Andrew Porter (Oxford: Oxford University Press, 1993), 3:326.

were in domestic difficulties, colonial politics, or racial and ethnic strife, could not fully grasp. Grey's policies faced great challenges. Demands in Parliament and press for fiscal economy and against financial burdens caused him worry for, as he put it: "The economical fever is very strong upon John Bull at this moment."<sup>21</sup>

The Colonial Office, which was connected to the War Office (the division came in 1856), had its headquarters in dilapidated buildings in Downing Street, London. It was headed up by the secretary of state for war and the colonies (the 3rd Earl Grey, already mentioned) and was administered by the permanent undersecretary of state for the colonies in 1846, Sir James Stephen. The latter had an assistant undersecretary, Herman Merivale, appointed November 1847. The office had a legal department headed by Arthur Blackwood. It had a number of clerks who assisted in secretarial duties, the keeping of records and correspondence, and the compilation of indexes. Altogether it was a tightly run organization under the general direction of the secretary of state (or colonial secretary), but the most powerful person in the office was the permanent undersecretary. However, not least in importance was the parliamentary undersecretary (always a member of Parliament and sitting in the House of Commons), at that time Benjamin Hawes. The political nuances are significant: inasmuch as the secretary of state sat in the House of Lords it fell to the parliamentary undersecretary to deal with colonial issues in the Commons. In an age when even the word "colony" had acquired a derisive connotation, carrying the issues in the two houses of Parliament was a task that was as difficult as it was thankless. The office holders in the Colonial Office were tough-minded types skilled in argument and capable in disputation, and the most dominant of these was Sir James Stephen, the permanent undersecretary, 1836-48. An evangelical and a reformer, a proponent of anti-slavery measures and the protection of Aboriginal rights in the British Empire, he was a progressive force in the managing of the imperial estate and its growing patrimony. But he was suspicious of certain theories of colonial development, particularly those of Edward Gibbon Wakefield, which had caused him specific difficulties with regard to New Zealand and South Australia. He despised the "perpetual small trickery" that characterized the New Zealand Company, particularly its agent Charles Buller, and he distrusted Wakefield; he spent much of his energy trying to wrest

<sup>21</sup> Grey to Elgin, 16 November 1848, in *The Elgin-Grey Papers, 1846-1852* (4 vols.), ed., Arthur G. Doughty (Ottawa: King's Printer, 1937), 1:253, quoted, Burroughs, "Defence and Imperial Disunity," 3:325.

New Zealand from the New Zealand Company and to secure just rights for the Maori and the settler alike. Grey, it seems, did not oppose the Wakefield system, or at least not as strongly as did Stephen. The reasons may be speculated: so powerful was the Wakefield lobby in Parliament and the press (perhaps out of all proportion to its numbers) that Grey was obliged to accept the provisions in principle. In addition, Grey had no funds to spend on colonial development. In other ways, Stephen thought colonial government had been better managed during the age of Charles II, when simple instructions would be given to the governor for the administration of English subjects, with the Crown's sanction empowering him to govern and make laws with the advice of a colonial assembly. But in Stephen's latter years the emigration commissioners were a force to be reckoned with. This was because, given population pressures at home (not least unemployment, pauperism, Irish famines, and the needs of Scottish emigrants), peopling the British Empire with settlers had become an imperial mission of great importance. Stephen was necessarily suspicious of any corporate scheme for the management of Vancouver Island, and the ancient HBC was bound to draw the fire of "Mr. Mother Country," as he was called. He thought the HBC was careless and unrealistic in its aims; he seems, increasingly, to have regarded it as an anachronism, which, in that free-trade era, it was. In dealing with the HBC's project, he seems to have been the gatekeeper, asking the essential questions and suggesting reasonable possibilities. But in 1847 Stephen had to step aside on account of something to do with his eyesight.

In November 1847, as a purely temporary measure, a young lawyer and political economist, Herman Merivale, was appointed assistant undersecretary at the Colonial Office. Merivale was a force to be reckoned with, and he had a practical knowledge of how to implement projects under legal restraint. When Stephen retired on 3 May 1848, Merivale succeeded to the post of permanent undersecretary.<sup>22</sup> Stephen and Merivale shared many perspectives concerning the managing of empire, not least a growing sense of moral responsibility for Aboriginal races. Both had a reforming zeal, but Stephen was a zealous evangelical and humanitarian, while Merivale turned to legal expedients to protect Aboriginal interests (indeed, he was a noted author on these matters). Merivale was particularly mindful of violent encounters on American

<sup>22</sup> J.C. Sainty, *Colonial Office Officials* (London: Institute of Historical Research, 1976), provides the basic "who's who," but the best explanation of these shifts in office responsibilities is found in Paul Knaplund, "James Stephen on Granting Vancouver Island to the Hudson's Bay Company, 1846-1848," *British Columbia Historical Quarterly*, 9 (1945): 271.

frontiers – “Indian wars” – which he sought to avoid at all costs in British dominions. Stephen guided Grey during the early stages, and throughout the process worked with Merivale to make the final scheme. But it was Merivale who carried the modified terms to their fruition and who had to oversee the results, until he was transferred to the India Office in 1860.<sup>23</sup>

## 1

The dynamics of distance, including isolation and the nature of the local economy, had favoured the HBC in its empire making before, during, and after the Oregon crisis. Its long experience in business in western North America made it a historical force to be reckoned with. Transcontinental links to Montreal were possible but only for light transport and express or courier purposes. Eighteen thousand sea miles separated London from Vancouver Island via Cape Horn. Vessels employed in the HBC's trade west of the Rocky Mountains consisted of three barques, one steam vessel, one brig, one schooner, and one sloop. The barques were employed in taking returns home to London and in bringing out annual supplies for the trade; the four latter vessels remained in coastal duties.<sup>24</sup> Vancouver Island's economy was based on maritime trade and coastal as well as emerging trans-Pacific opportunities. A good base of shipping operations ranked of paramount importance to trade prospects on this dangerous shore. When he first visited Vancouver Island to evaluate its potential as a base for marine operations, Chief Factor James Douglas of the Columbia Department described southernmost Vancouver Island as: “A perfect ‘Eden,’ in the midst of the dreary wilderness of the North west coast, and so different is its general aspect, from the wooded, rugged regions around, that one might be pardoned for supposing it had dropped from the clouds into its present position.” So did he write in February 1843 to his fur-trading friend James Hargrave, then wintering at frigid York Factory, Hudson Bay. Douglas gave particulars about the geological structure of the place, but he warmed to his analytical task when he referred to the commercial, especially maritime, qualities of the locale as a future hub of activity and settlement. He concluded his rhapsodic

<sup>23</sup> Further particulars on Stephen may be found in C.J.M. Ward, “The Retirement of a Titan: Sir James Stephen, 1847–50,” *Journal of Modern History*, 31 (1959): 197–205.

<sup>24</sup> For further particulars, see the table (based on information from Captain Edward Belcher, R.N.), in Richard Somerset Mackie, *Trading Beyond the Mountains: The British Fur Trade on the Pacific, 1793–1843* (Vancouver: UBC Press, 1996), 170.

letter with specific reference to the agricultural potential (which hinted at self-sufficiency and even agricultural exports):

The growth of indigenous vegetation is more luxuriant than in any other place I have seen in America, indicating a rich productive soil. Though the survey I made was somewhat laborious, not being so light and active of foot as in my younger days, I was nevertheless delighted in ranging over fields knee deep in clover, tall grasses and ferns reaching above our heads, at these unequivocal proofs of fertility. Not a mosquito that plague of plagues did we feel, nor meet with molestation from the natives.<sup>25</sup>

Alive to possible resistance that might come from Aboriginal peoples, he was unavoidably led to the conclusion – and subsequent recommendation – that a strong fort be erected with sufficient armament to meet the perceived needs of the day.<sup>26</sup>

Douglas's attraction to Vancouver Island is understandable given his experiences in the wilds of the fur-bearing regions of the Northwest and of New Caledonia (nowadays north central British Columbia). He was intimately familiar, from personal experience, with the geography and political economy of the Northwest Coast from San Francisco Bay north to Sitka, Russian America, much of it dreary and forbidding in prospect and unsuitable for agriculture. During his long lifetime he progressed from clerk to empire-builder, and he was in his latter days, before retirement, proconsul of empire in Vancouver Island and British Columbia.<sup>27</sup> At the time of his letter to Hargrave about southern Vancouver Island's being an Elysium, he was answerable to Dr. John McLoughlin, headquartered at Fort Vancouver on the Columbia River. In reports to superiors, particularly to Sir George Simpson, the deputy governor in charge of North American operations, he warned of encroachments by Americans and of the settlers' wars with Indian tribes.

<sup>25</sup> James Douglas to James Hargrave, 5 February 1843, in *The Hargrave Correspondence, 1821-1845*, ed. George P. de T. Glazebrook (Toronto: Champlain Society, 1938), 420-21. See also, W. Kaye Lamb, "The Founding of Fort Victoria," *British Columbia Historical Quarterly* 7, 2 (1943): 71-92. On the HBC's policies for expansion and consolidation in Rupert's Land and adjacent territories, including New Caledonia, Oregon, and Vancouver Island, see Galbraith, *Hudson's Bay Company, passim*. For a preliminary review of the issues considered here, see Arthur S. Morton, *A History of the Canadian West to 1870-71, Being a History of Rupert's Land (the Hudson's Bay Company's Territory) and of the North-west Territory (including the Pacific Slope)* 2nd ed. (Toronto: University of Toronto Press, 1973), 750-62.

<sup>26</sup> In the end, Douglas overestimated Native resistance and martial ability, all part of the imperial logic of better to be safe than sorry.

<sup>27</sup> John Adams, *Old Square-Toes and His Lady: The Life of James and Amelia Douglas* (Victoria: Horsdal and Schubart, 2001).

His alarms coincided with the economic reorganization of the Columbia Department. In fact, the interplay of these two themes of American westward expansion and of the HBC's restructuring of its coastal trade provides a complicated backdrop against which the new British imperial enterprise – for the founding of the new colony of Vancouver Island – must be viewed.<sup>28</sup>

Eight months previous to writing to Hargrave, Douglas had been assigned the task of re-examining a promising port known to exist at the southern tip of Vancouver Island. The port of Camosun, or Camosack, as it was known by the local Aboriginal people, the Songhees, or Lekwungen,<sup>29</sup> on account of the tidal, rushing waters of the inner harbour of the gorge, had first been described by the mariner William Henry McNeill in 1837. Five years later, in 1842, there was an urgency to Douglas's reconnaissance as American immigration was beginning to change from a trickle to a steady flow over the Oregon Trail into the rich lands of the Willamette Valley. Coastal trade was becoming both diversified and extensive, with growing coastal trade to Alaska, the Sandwich Islands, and California. The exigencies of the service required that the marine department be reorganized. The HBC planned to restructure its northern trade, using vessels and, particularly, its successful steamer *Beaver*; to that end, economies could be made in the number of permanent trade establishments. Forts Taku and McLoughlin could be closed and the whole managed from Camosack. Forts Nisqually on Puget Sound and Langley on the Fraser River could similarly be serviced. Fort Vancouver was inadequate to the purpose, confined as it was 160 kilometres upriver from the dangerous entrance of the Columbia River. Put differently, the political needs of the firm now marched side by side with the commercial. The "Gentlemen Adventurers of England Trading into Hudson's Bay" were as much attracted to Vancouver Island by commercial possibilities as they were being driven out of the Columbia by undiminished fears of the consequences of American settlement.<sup>30</sup>

<sup>28</sup> Mackie, *Trading Beyond the Mountains*, chap. 6, provides a review of HBC commercial redesign in the years from 1829 to 1843. Principal documents of the Columbia Department's commercial realignment, including marine arrangements, may be consulted in W. Kaye Lamb, ed., *Letters of John McLoughlin from Fort Vancouver to the Governor and Committee for the Years 1825 to 1846*, 3 vols. (London: Hudson's Bay Record Society and Toronto: Champlain Society, 1941-44). That redesign continued. See also Margaret Ormsby, *British Columbia: A History* (Toronto: Macmillan of Canada, 1958), 93.

<sup>29</sup> On these people, see Grant Keddie, *Songhees Pictorial: A History of the Songhees People as Seen by Outsiders, 1790-1912* (Victoria: Royal British Columbia Museum, 2003). Today the First Nations in this locale are the Lekwungen, who consist of two groups: the Esquimalt and the Songhees Nations. They belong to the broader language group called Coast Salish.

<sup>30</sup> On the choice of Fort Victoria, see Mackie, *Trading Beyond the Mountains*, 277-82.

Douglas selected a site for the fort, one well adapted for the purposes intended. The entrance to the port of Camosack was tight and shallow, especially for sailing vessels, but inside the anchorage was safe, with good holding ground.<sup>31</sup> Water and wood were available, and nearby too were plains that could be devoted to agriculture, grazing, and dairy. It was, Douglas reasoned, the best of places on Vancouver Island. It could become a depot for the HBC's Pacific trade, Douglas said in expectation of its future capabilities. The fort was constructed in 1843, and nearby fields were cleared for tillage and grazing.<sup>32</sup> The name "Fort Albert" was given to the stockaded post, so named after the Prince Consort. But soon it became Fort Victoria, the name "Victoria" alone being decided upon in 1852, by which time the bastions had become defensive anachronisms.<sup>33</sup> In those days the place was very much an Aboriginal community, occupied and claimed by the Songhees, and to Camosack Aboriginal persons from near and far came to trade with each other and with the HBC. By the late 1840s, Fort Victoria and environs was the nascent headquarters of the Columbia Department and was an active and growing location of marine-related activities and agricultural production. Visits by ships of the Royal Navy spurred the local economy through their need for provisions and supplies, while naval officers reported on Fort Victoria's progress. At the time of the Oregon Crisis the place had been visited by ships of the Royal Navy on reconnaissance, surveying, and political missions.<sup>34</sup> And, before long, coastwise traffic arrived from

<sup>31</sup> The depth of water, at high tide, of the entrance to the harbour was a mere 2.13 metres. This obliged larger shipping to use Esquimalt Harbour, at least until dredging could deepen the channel. This was an expensive, time-consuming project. The other difficulty was narrowness of approach, which necessitated the construction of wharves outside of the harbour at Ogden Point.

<sup>32</sup> W. Kaye Lamb, "The Founding of Fort Victoria," *British Columbia Historical Quarterly* 7, 2 (1943): 71-92, which contains (1) a copy of part of the map of James Douglas 1842, (2) the view of Fort Victoria and the Company steamer *Beaver*, which appeared in the *Illustrated London News*, 26 August 1848, and (3) Paul Kane's painting of Fort Victoria (April? 1847, the earliest known view of Fort Victoria).

<sup>33</sup> Douglas to George Simpson, 10 March 1843, D.5/8, Hudson's Bay Company Archives (HBCA), Manitoba Archives, Winnipeg. See also Margaret Ormsby's introduction in Hartwell Bowsfield, ed., *Fort Victoria Letters 1846-1851* (Winnipeg: Hudson's Bay Record Society, 1979), xviii-xxii. The town of Victoria was incorporated in 1862. The fort was demolished in 1864.

<sup>34</sup> The information supplied to the British Ministry via Royal Navy commanders to the Admiralty provided a steady stream of data about the state of the Oregon country, the Columbia River, Puget Sound, the Strait of Juan de Fuca (which had to be surveyed), and southern Vancouver Island, particularly Victoria and Esquimalt harbours. This information was relayed to the Colonial Office and to the Foreign Office on a regular basis. For an examination of this matter, including discussion of the various men-of-war tasked with these duties, see Barry M. Gough, *The Royal Navy and the Northwest Coast of North America, 1810-1914: A Study of British Maritime Ascendancy* (Vancouver: UBC Press, 1971). It may be observed that naval reports gave the ministry a necessarily different perspective on the future of the country than did letters

San Francisco, Honolulu, and Sitka, and not the least of the imports of prominence was whisky, brought in steady supply from San Francisco to satisfy the drinking habits of the colonists and traders. Gold seekers destined for the Fraser River and the Cariboo were to arrive a decade or more later, but they and others who visited Victoria in this early colonial era were well aware that this was very much a British colonial capital on the Pacific rim of the North American continent. Not a few visitors despised the dominating and overbearing character of the monopoly-holding traders. In the circumstances, much complaint was directed at Douglas, whom many regarded as a pompous swell, an anti-republican reactionary, and an opponent of free trade.

In truth, the HBC had established in short order, in the space of six or seven years, a form of proto-British Empire on Vancouver Island. Echoes of this were heard in London. It was because of the HBC's power and influence, its zealous maintenance of its monopoly, that it faced such great parliamentary and public opposition as agent for formal empire. Despite its prior claims based on commercial management in situ, the HBC did not become the agency of colonial formation and imperial master of the new colony without an entrenched public fight. It had to prove its legitimacy against other would-be claimants who were seeking to control the destiny of Vancouver Island and the adjacent British mainland territories. Because Vancouver Island's potential as a gateway to Pacific trade and coastwise traffic offered so much in the new age of steam navigation, many contestants came forward vying for control. Some wanted to mine the island's coal, others to establish a sheep station, still others to develop the fisheries or whaling, yet others to colonize it with Celtic refugees, and there were those who wished to establish a Mormon colony.<sup>35</sup> The Colonial Office knew of all these claimants. It had to be circumspect in any public pronouncements about policy-making, not least to avoid

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from Douglas and McLoughlin, and they certainly expressed more free trade principles and anti-monopolistic perspectives than did the Company heads. Reflecting the views of Sir John Barrow at the Admiralty and Sir James Stephen at the Colonial Office, they tended to see the HBC as an anachronism of the mid-Victorian age of free trade, colonial development, and self-sufficiency (as well as hoped-for defence), and eventual responsible government.

<sup>35</sup> These, including the Fitzgerald project discussed here, may be followed in C.O. 305/1, the National Archives, Kew, Surrey. The essential documents are printed in *Report of the British Columbia Archives Department, 1913*, in *Sessional Papers, British Columbia for the Year Ended 31 December 1913* (Victoria: King's Printer, 1914); however, they do not contain the departmental minutes and commentary that are to be found with the original correspondence. Accordingly, I have relied on the originals. On the Mormons, see Richard Bennett and Arran Jewsbury, "The Lion and the Emperor: The Mormons, the Hudson's Bay Company, and Vancouver Island, 1846-1858," *BC Studies* 128 (2000-01): 37-62. See also Robert J. McCue, "The Church of Jesus Christ of Latter-Day Saints and Vancouver Island: The Establishment and Growth of the Mormon Community," *BC Studies* 42 (1979): 51-64.



searing criticism from the opposition or from public bodies interested in schemes of empire. Against all these comers the HBC had to make its own formal application to the Colonial Office and the British government. The HBC's prospects, though promising, were by no means certain, given the rigorous and customary opposition in Parliament and press to Grey and to those who administered the Colonial Office, not least Stephen and Merivale.<sup>36</sup> Once again competing colonial theories and intentions came to dominate discussions that were made more difficult imperial outcomes.

As far as information about Vancouver Island such as the diligent and thorough Douglas had recounted to others in the HBC was concerned, it was for internal corporate consumption in the first place. It could be (and was) used to provide Grey, Stephen, Merivale, and others in the Colonial Office with up-to-date advice about the state of the Columbia Department. The long history of British involvement in the discovery, exploration, and trade of the Northwest Coast, dating from the days of James Cook and George Vancouver, was well known, and the cartographic history of western North America since the days of North West Company trader-explorers Peter Pond and Sir Alexander Mackenzie had imprinted the British progression onto the maps of this region, though the same had hinted at the rivalry of the Russians on the north and the Spanish and (later) the Americans (who acquired Spanish claims by treaty in 1819) on the south.<sup>37</sup> The Oregon Crisis brought all these matters under close scrutiny. By 1846, a number of books and

<sup>36</sup> Stephen had initially opposed colonization in colonies where it would conflict with British trusteeship obligations; however, as in the case of New Zealand (and doubtless its contemporary formation, Vancouver Island), he eventually realized the inevitability of this and then sought to safeguard Maori interests. See W.P. Morrell, *British Colonial Policy in the Age of Peel and Russell* (Oxford: Clarendon, 1930), 40.

<sup>37</sup> The reader's attention is drawn particularly to Clayton, *Islands of Truth*; also to Paul Mapp, *The Elusive West and the Contest for Empire, 1713-1763* (Chapel Hill: University of North Carolina Press, 2011), which explains how various nations viewed their rivals of an earlier age using cartographic and other information. It is well known that imperial authority made decisions about the future of distant lands and the Native inhabitants, but current research reflects local Native agency as a means of controlling the tide of events. See Miranda Johnson, "Making History Public: Indigenous Claims to Settler States," *Public Culture* 20, 1 (2008): 97-117. Here (and in such places as museums, courts, books, and film in ex-colonial settings where conflicting Native and newcomer perceptions of history are juxtaposed and adjudicated) "arguments about the past have also become arguments about how the evidentiary weight of different historical practices can be assessed." See also Benton, *A Search for Sovereignty* and Matsuda, *Pacific Worlds*, both of which provide "evidence" to suggest that long-range processes of cartographic and legal inscription repositioned the ability of the Native peoples of Vancouver Island and elsewhere to control the tide of colonial events. See also John Lutz, *Makúk: A New History of Aboriginal-White Relations* (Vancouver: UBC Press, 2008); and R. Cole Harris, *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia* (Vancouver: UBC Press, 2002).

letters to prominent London papers had highlighted the commercial and strategic value of Old Oregon, the Sandwich Islands, and Alta California. Former HBC employee John Dunn's *The Oregon Territory and the British North-American Fur Trade* (1844; US edition 1845) was one such. Another was a work by Alexander Simpson, a British political agent at Oahu who had visited the Oregon Country and sailed to Alta California. He wrote a short book entitled *The Oregon Territory, Claims Thereto of England and America Considered; Its Condition and Prospects* (1846). In it, he drew attention to the strategic importance of the Sandwich Islands, bemoaned the neglect of the Foreign Office's interest in the future of these islands, and trumpeted the fact that no red lines should divide the Oregon Country, which was fully British by right. He backed up his spirited views with letters to *The Times*.<sup>38</sup> Another important work, the legal history compiled by Sir Travers Twiss, a professor of political economy at Oxford and a specialist in international law, appeared under the title *The Oregon Question Examined, in Respect of Facts and the Law of Nations* (1846). This last was designed to refute arguments advanced by librarian at the US Department of State Robert Greenhow's *Memoir, Historical and Political...* (1840) and his fast-selling American treatise *The History of Oregon and California* (1st ed. 1844; 4th ed. 1847). The underlying motif of these English works (or rejoinders to American arguments and positions) was: what did the British ministry intend to do to protect and enhance existing trade and to reinforce claims established by discovery and exploration? These books made clear to the wider public in the United Kingdom that long-standing British interests in Oregon deserved firm attention and effective action. The HBC chose not to comment on these published views. It issued no press releases but, rather, kept up a steady liaison with the Colonial Office and other departments of state as required. In doing so it was keeping to its age-old tactic of working closely with the respective offices of the British government, and long before the Oregon Crisis broke, HBC

<sup>38</sup> His three letters to the *Times* are printed in Alexander Simpson, *The Oregon Territory, Claims Thereto of England and America Considered; Its Condition and Prospects* (London: Bentley, 1846). Simpson makes clear that the historic claims of Britain, dating from the explorations of Cook, Vancouver, and Broughton, to the heritage of North West Company trade before 1821 gave pre-eminence to British claims to the full territory. In his third letter, he described the extent of the HBC's trade with Aboriginal peoples as well as its right to exclude British trading rivals who might trade with them. He pointed out that, against American citizens, the Company had no exclusive rights of any kind (27). This was the HBC's Achilles heel in the Columbia and Willamette. In short, the HBC could not keep out outsiders. What does this mean for the post-1846 arrangement? When the arrangements for the Vancouver Island Colony were put in place, the tight mechanisms to keep land control firmly in British hands were of material importance to British political and imperial objectives.

officers were in regular and effective communication with the Foreign Office. Since the amalgamation with the North West Company the HBC constituted the central guiding agency of the British Empire in northwestern North America.<sup>39</sup>

From Douglas's reports on Vancouver Island, particularly recounting knowledge of its resources, Aboriginal peoples, and future prospects, the Colonial Office gathered data about the island. On 24 October 1846, in particular, a long letter from the HBC reached the Colonial Office reporting Douglas's survey of the locality and his selection of an advantageous situation for carrying on the Company's trade; and it explained how this was advantageous to the current situation in the anticipated (though not attractive) event of any portion of the territory north of the Columbia River falling under the dominion of the United States.<sup>40</sup> Put differently, the Colonial Office depended on the HBC for reliable information about circumstances and prospects on the frontier.

## II

British colonial politics as of 1846, the year the Oregon Treaty divided the United States from British possessions in western North America from the Continental Divide to the middle of the Strait of Georgia,<sup>41</sup> leaving Vancouver Island in British possession, turned on two essential themes: first, fiscal restraint in defence expenditures; second, colonial abilities to deal on the spot with indigenous peoples.<sup>42</sup> These were the major preoccupations. Added to these were powerful forces favouring free trade, ending slavery (and continuing to attack the slave trade), protecting Aboriginal title, securing frontiers from foreign encroachment,

<sup>39</sup> In reading the twelve chapters of Galbraith's *Hudson's Bay Company*, 3-283, leading up to the Oregon Crisis, one is struck by the mutual dependence of Crown and Company, beginning in 1821 in the shaping of affairs in such places as Timiskaming, Russian America, the Yukon, New Caledonia, the Pacific Coast, the Red River, the Snake River country, and the Columbia basin. Throughout, the policy of the Company was to out-trade its rivals on the periphery (or frontier), trading at a loss as required, in order to consolidate its profitable trade within the zones of influence. When the question of the colonization of Vancouver Island had to be addressed, this was but another chapter in a much longer association of convenience. What made this unique was the political opposition raised by proponents of colonization as settling the wastelands of the British Empire had become a major imperial question.

<sup>40</sup> Douglas to J. McLoughlin, 12 July 1842, enclosed in J. Pelly to B. Hawes, 24 October 1846, C.O. 305/1, p. 25ff.

<sup>41</sup> Discussion of the San Juan Islands boundary dispute, 1859-72, the unfinished business of the Oregon Treaty, is excluded here as it is not pertinent to the issue of imperial management. The matter was of concern to the Foreign Office and to the HBC but only marginally to the Colonial Office at the inception of the Anglo-American dispute.

<sup>42</sup> William P. Morrell, *British Colonial Policy in the Mid-Victorian Age: South Africa, New Zealand, the West Indies* (Oxford: Clarendon Press, 1969), 2.

providing security for colonists in frontier areas, and advancing the cause of so-called responsible government. The British still preferred trade to dominion, but seemingly in every continent they were being drawn into obligations either to protect traders, colonists, missionaries, and travellers or to keep out rivals. Everywhere there seemed to be imperial quagmires. As of 1846, British resolve was being tested in the Colonial Office, the British cabinet, and, not least, in Parliament.

In the face of all these difficulties, the HBC knew all the nuances of the new theories of imperial development. It was astute in its dealings with the British government, demonstrating a close link between the City and Whitehall. In fact, since the seventeenth century, the HBC had responded as circumstances required to new political exigencies. It had often come under fire. Its considerable skills in diplomacy had been strengthened in the course of dealing with various crises over the years. In the three decades leading up to the Oregon Crisis it had negotiated a lease for the monopoly of British trade west of the Rocky Mountains, arranged a trade treaty with the Russian-American Company, and effected a renewal of the lease with the British government.

In 1846, the governor, Sir John Henry Pelly, a fixture in the City of London, and a past governor of the Bank of England, was well placed to advise ministers and undersecretaries in Whitehall on the future of the western territories of North America. He is an apt example of the “gentlemanly capitalist” portrayed by Peter Cain and Anthony Hopkins, and he functioned within norms described by these scholars.<sup>43</sup> The then existing and prior position of the HBC as an agent of empire, backed by Crown Charter in 1670 and renewed licence in 1821 and after, gave him a unique advantage and subtle leverage in relations with his opposite at the Colonial Office. Governor since 1822 and influential in HBC affairs before that, he was architect of policies of expanding its frontiers in order to manage the heartland on a profitable, sustainable basis. His cousin, George Pelly, was stationed in the Columbia Department in a high-profile mercantile situation at Oahu. Sir John Pelly worked in conjunction with Sir George Simpson, the overseas governor. But Simpson saw formal obligations for Vancouver Island as disadvantageous to HBC fortunes and odious to its future. His views were shared by Archibald Barclay, secretary of the HBC. A premier partner in the firm, Edward Ellice, was hostile to the project. But Ellice, who had high credit with the Whig

<sup>43</sup> Peter J. Cain and Anthony G. Hopkins, *British Imperialism, 1688-2000*, 2nd ed. (Harlow, Essex: Pearson Educational, 2002), 114-29. See also Raymond E. Dumett, ed., *Gentlemanly Capitalism and British Imperialism: The New Debate on Empire* (Harlow, Essex: Addison Wesley Longman, 1999). Biographical details of Pelly from Galbraith, *Hudson's Bay Company*, 15-16.

government of the day and with his friend Lord Grey, was not then at the centre of the negotiations with the Colonial Office. In dealings with government Pelly acted from strength and with an apparent free hand. Even against opposition from within the corporation, he was willing to forge a unique alliance with the Colonial Office to enlarge and secure the HBC's interests. He employed the most amusingly diplomatic language in his correspondence with Grey, guiding it towards an agreement or a partnership of the possible. Without sacrificing his firm's influence he agreeably did Grey's bidding while, at the same time, shaping the issues and, on occasion, leading the argument.

Pelly presented an attractive target to rivals. Opponents ranged far and wide in their attacks on the firm, and for decades they had been on guard against further additions to the HBC's imperial power. They suspected collusion between the government and the firm. Examples of this already existed. In 1821, for instance, parliamentary awareness of the long-continued differences between the North West Company and the HBC, marked by violence in the Indian Territory, had led to the rapid merger of the firms to obviate and end the strife. The government of the day steered through the arrangement of corporate merger and then rewarded the consolidated firm. In consequence, on 2 July 1821, by an act for regulating the fur trade, Parliament granted the HBC a licence of exclusive trade, for twenty-one years, over the North-West Territory. This was renewed in 1838, for a further twenty-one years, due to expire 31 May 1859. This vast corporate empire, the North-West Territory, was bounded on the east by the continental divide, on the north by the Russian territories of Alaska and the Arctic Ocean, and on the south by the undetermined frontier of the United States. Thus, in 1846, the influence of the HBC transcended the narrow boundaries of British legal authority, and quietly flowed over the waters and shores of the northeastern Pacific, with predominant trade in southeastern Alaska, Hawaii, Oregon and Washington territories, and even Montana, Utah, and California. Furthermore, the HBC had its own quasi-colonizing agency, an agricultural subsidiary known as the Puget's Sound Agricultural Company, and, as of 1846, it possessed considerable establishments of this kind on the banks of the Columbia River and nascent developments at Fort Victoria. As of April 1848, some twenty-seven servants of the Company were established at Vancouver Island.<sup>44</sup> In 1846, the United States commenced to buy out

<sup>44</sup> Barry M. Gough, "Corporate Farming on Vancouver Island: The Puget's Sound Agricultural Company, 1846-1857," in *Canadian Papers in Rural History*, ed. Donald H. Akenson (Gananoque, ON: Langdale Press, 1984), 4:72-82; Mackie, *Trading Beyond the Mountains*, 235-40; James

the possessory rights of the Puget's Sound Agricultural Company that existed on American soil, a process not concluded until 1869; however, on Vancouver Island, activities continued very much under the control of this branch of the HBC.

In fact, the sealing of the boundary induced the governor and committee to turn their attention, even more than before, to their establishments on Vancouver Island. Pelly knew of Douglas's growing dislike and fear of American expansion, and he was familiar with the reluctant and cautious views of Simpson and McLoughlin. Pelly could only imagine Douglas's distrust of colonization anywhere in fur-trading realms, and his efforts to get the support of the Colonial Office were undertaken against a backdrop of an unspecified and largely unknown rival scheme to found a settlement colony.

### III

At this specific juncture a flurry of opposition from all quarters descended on the secretary of state, the Colonial Office, and the government as exercised in Parliament, in the Commons, and in the Lords. "Colonial reformers," "little Englanders," and "aborigines' protectionists" alike mounted forceful opposition. Parliament was a battleground for discussion of colonial affairs, which each year comprised a larger subject than the year before. There were two reasons for this: the so-called colonial reformers Charles Buller, William Molesworth, John Robert Godley, and Edward Gibbon Wakefield could, on almost any issue, provide earth-shattering alternatives to anything advanced by the Colonial Office as an imperial project, and the administration of colonial affairs continued to be one of great difficulty and national concern as well as one of considerable embarrassment to the party in power. Less than ten years previous, in 1837, the Empire appeared to be in a considerable state of disarray. Rebellions had occurred in Lower Canada and Upper Canada. The Constitution of Lower Canada had been suspended and Lord Durham sent to investigate. Dissatisfaction among South African colonists occurred over the abolition of slavery and the imperial government's land and Native policies, and Boer trekking into the interior brought confrontations with tribes on the eastern border of Cape Colony. In New South Wales, settlers demanded self-government, and an ending to transportation of convicts resulted in

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R. Gibson, *Farming the Frontier: The Agricultural Opening of the Oregon Country, 1786-1846* (Vancouver: UBC Press, 1985).

Molesworth's being charged with the chairmanship of a parliamentary select committee on the subject. Instability existed in Western Australia, South Australia, and Port Phillip, where a squatter settlement was soon translated into the Colony of Victoria. Above all loomed the problems of New Zealand. A "fatal necessity" was Lord Melbourne's, the prime minister's, explanation as to why Britain seemed obliged to intervene there as elsewhere in the imperial progression: to protect national interests, principally those that involved maintaining trade and seaborne strength, naval as well as mercantile. Whether the "fatal necessity" that led to Britain's annexation of New Zealand was required to provide law and order, to keep Maoris from the wickedness of beachcombers and liquor vendors, or to forestall French or American annexation, the fact remains that the islands had been added to British dominions.<sup>45</sup>

The so-called colonial reformers might well be self-seeking persons looking for a colonial bishopric, a colonial land grant, or a dockyard contract. But they could, and did, ally themselves with other groups that might be called the humanitarian lobby of Parliament, press, and public. The Anti-Slavery Society, which begat the Aborigines' Protection Society, founded in 1837, had made the work of the Colonial Office so difficult that, in 1837, a House of Commons Select Committee on Aboriginal Affairs issued, in its report, a chivalrous defence of the oppressed, abused, or robbed. Even though colonial officers and colonists took exception to some of the searing, unjustified criticism, henceforth the Colonial Office and Parliament could never overlook concern for Native interests. The Aborigines' Protection Society, which passed comment on the affairs of Vancouver Island, British Columbia, and the Red River Settlement (later Manitoba), to give three British North American examples, and worked in conjunction with the Church Missionary Society, ensured that the legal rights of Aboriginal peoples on the Empire's frontiers could not be swept away, at least not without a fight. More generally, these critics placed, or tried to place, the Colonial Office in disrepute. First Nations slavery on the Northwest Coast, a by-product of inter-tribal raiding and/or purchase, and estimated in 1845 as accounting for one in every fifteen Aboriginal people, could not be countenanced and had to be eradicated by the imperial power, the work of years.<sup>46</sup>

<sup>45</sup> "If we really are in that situation that we must do something, ... it is only another proof of the fatal necessity by which a nation that once begins to colonize is led step by step over the whole globe." Melbourne to Howick (later 3<sup>rd</sup> Earl Grey), 16 December 1837, Grey papers: Melbourne 15/1, Durham University Library; see also, Peter Adams, *Fatal Necessity: British Intervention in New Zealand, 1830-1847* (Auckland: Auckland University Press, 1977), 101.

<sup>46</sup> See Mackie, *Trading Beyond the Mountains*, 300-8. For suppression of slavery and discussion of sources, see Gough, *Gunboat Frontier*, chap. 6.

Grey, aware of the urgency of the situation, used the power of his office to shape the affairs of Vancouver Island. "Looking to the encroaching spirit of the U.S.," he noted in an internal office memorandum dated 10 September 1846, shortly after he learned that Washington had accepted the terms of the treaty: "I think it is of importance to strengthen the B[ritis]h hold upon the territory now assigned to us by encouraging the settlement on it of B[ritis]h subjects; and I am also of opin[ion] that such settlement c[oul]d only be effected under the auspices of the Hudson's Bay Co. wh[ich] I am therefore disposed to encourage."<sup>47</sup> Grey's view was strictly for private discussion purposes, leaving his Colonial Office colleagues to consider the ramifications of Vancouver Island's future. Grey's memo came in response to an inquiry by Pelly, who understandably wanted particulars as to the government's intentions relating to the physical area north of the boundary, a territory now exclusively British. What did the ministry propose to do on the continental territory north of the 49th parallel and on Vancouver Island? Grey noted that the HBC had a large establishment at Fort Victoria. The members of the HBC, he continued: "are anxious to know whether they will be confirmed in the possession of such lands as they may find it expedient to add to those which they already possess." Granting the Company total control of British Oregon was out of the question for Parliament would not have accepted such a sweeping scheme, given political opinion none too friendly to the HBC.

Also at the Colonial Office, Stephen, astute and wary, and an inveterate opponent of monopolies, was carefully reviewing the files. He did so after he saw Pelly's letter to Grey of 7 September 1846. He had all the relevant papers – charter, renewals, and licences – gathered together, and before long we find him wryly minuting to his colleague Hawes that he scarcely thought it possible to define the HBC territories, so sprawling were they in extent; but Stephen thought that Vancouver Island and the British part of the Oregon Territory were not therein. (He was correct: they did not lie in Rupert's Land.) The HBC had the rights of the Aboriginal trade under licence but had no claim to title. He went on with assurance to say that the Crown would never have granted lands to any company there. He argued against granting the HBC a new interest and title in lands; further, he opposed prolonging exclusive rights of navigation after the year 1859, when they were due to

<sup>47</sup> Confidential minute by Grey, 10 September 1846, on J. Pelly to Grey, 7 September 1846, C.O. 305/1. Intentions of Grey's colonial policies are discussed in Earl Grey, *The Colonial Policy of Lord John Russell's Administration*, 2 vols. (London: R. Bentley, 1853), 1:1-49. Strangely, in this work, designed to defend policies put in place, Vancouver Island receives no special treatment.



expire. Caution, he advised, should be exercised in laying any ground for a company colony.<sup>48</sup> On a later occasion, Stephen went even further. He turned against the scheme, comparing the HBC's plan to one of the now odious "ancient proprietary" schemes in the sixteenth- and seventeenth-century American colonies. After meeting with Hawes and Pelly, which he did at Grey's request, on 23 September 1846, he came to the opinion that what the HBC really wanted was to have its existing property and holdings on Vancouver Island protected if a colonial government were to be established there. Pelly, Stephen said, had no concrete plans for colonizing the country; rather, the HBC would support other persons who might devise such a plan. We can see in Stephen's actions that, on his urging, the concept of a Colony of British Oregon, including the mainland, must be confined solely to that of Vancouver Island. Moreover, Stephen, ahead of his time, saw Vancouver Island's value in strategic terms for, with its ports suitable for naval stations, it might well provide a counterweight to American designs, should the United States acquire and develop San Francisco, Alta California.<sup>49</sup> In fact, at that very moment Alta California had been annexed to the United States.

By contrast, Stephen's colleague Benjamin Hawes, MP, parliamentary undersecretary, followed the lead of his political superior Grey, and may even have been in advance of the thinking of the colonial secretary in matters of political economy and Aboriginal affairs. He followed Stephen's reasoning closely but in the end was not to be dismayed by Stephen's discouraging position. The role of Hawes in these transactions has been unappreciated. Yet of all those connected with the Colonial Office and colonial policy-making he was closest to the issues concerning Aboriginal affairs, a matter critical to easing the HBC's position towards

<sup>48</sup> Minute of J. Stephen, n.d., on Pelly to Grey, 7 September 1846, C.O. 305/1. Stephen's further minute of 12 September 1846, C.O. 305/1.

<sup>49</sup> Memo by Stephen and Hawes, 24 September 1846, C.O. 305/1. See also, Knaplund, "James Stephen on Granting Vancouver Island," 263, 268. Stephen's biographer, Paul Knaplund, exaggerates Stephen's opposition to the HBC. Stephen may have been discouraging in his views but he was successful in defining what could be identified as a potential colony (with his preference for Vancouver Island), and he had brought out the ill preparedness of Pelly to advance a scheme for colonization, trade, and trusteeship. In a way, he had forced the Company's hand, though not directly. This also explains why almost a year passed before the Colonial Office and the HBC got down to business in the discussions about what a colony would require in the way of management, governance, commercial matters, land development, and much else. See Paul Knaplund, *James Stephen and the British Colonial System, 1813-1847* (Madison: University of Wisconsin Press, 1953), 91-93. I am more inclined to believe that Stephen was forcing Pelly's hand, inducing him to take an initiative in colony-making. This was a tactic that Grey and Hawes probably anticipated and encouraged. I am also struck by how ill-prepared Pelly was at first and how he warmed to the project that was set forth and defined by the Colonial Office.

successfully obtaining the Charter of Grant. Hawes had been one of the original five members of the Select Committee to consider “what measures ought to be adopted with regard to the native inhabitants of countries, where British settlements are made, and to the neighboring Tribes, in order to secure to them the due observance of justice, and the protection of their rights; and to promote the spread of civilization among them, and to lead them to a peaceful and voluntary reception of the Christian Religion.” The evidence they published grew into the famous Report on Aboriginal Tribes, which surveyed the evils of past colonization.<sup>50</sup> As a founding member of the Aborigines’ Protection Society, Hawes had political credit in Parliament. He thought in encouraging terms about the future of Vancouver Island, and he had come to the conclusion that the terms Stephen had demanded of the HBC, though of value in defining the character of a possible grant, had to be supplanted by political realities. Aboriginal issues in regards to Vancouver Island posed no major concern to him, and he did not take the harsh line of the Aborigines’ Protection Society. In the circumstances, then, it would be his obligation to carry the arguments, and to defend the government and Colonial Office, in the Commons. “I attach importance to settlement upon and near Vancouver Island,” he advised Grey, “it is here alone we have a good Harbour on the Western Coast of America.” Agricultural prospects were also promising there. Above all, without the agency of the HBC he despaired “of any speedy colonizing mov[emen]t in that quarter” except at great expense to the British treasury. One estimate gave fifty thousand pounds as the staggering outlay for starting a colony there, but even consideration of this was out of the question. The HBC, Hawes noted favourably, already had its establishment, Fort Victoria, and the Company proposed developing a coal mine and shipping depot, protected by a fort, on the northeastern coast of the island. Besides, it had ships and personnel. It had capital. And, not least, for this was Hawes’s ancient concern, it had experience in dealing with the indigenous population.<sup>51</sup> He did not have to mention, for this was understood, that the HBC also possessed political currency.

Despite Stephen’s cautions but in keeping with Hawes’s support, Grey held to his view that the HBC would be the best agent to possess

<sup>50</sup> “Report of House of Commons Committee on Aborigines in British Settlements,” *Parliamentary Papers*, 1837, vii; H.R. Fox Bourne, *The Aborigines Protection Society: Chapters in Its History* (London: P.S. King, 1899), 3–9. In regards to British North America, Upper Canada Indian matters received their first concern, and other parts of British North America, notably Red River, followed.

<sup>51</sup> Minute of B. Hawes, 25 November 1846, C.O. 305/1, fol. 21.

the right to establish a colony on Vancouver Island. Grey necessarily had colonization in mind, and he pressed it in his discussions. Hawes could be a powerful and articulate supporter of the scheme in the House of Commons. Stephen's objections were set aside one by one, and his pending retirement from office further diminished his influence.<sup>52</sup> His successor, Herman Merivale, the former assistant undersecretary, and an expert on political economy and Aboriginal affairs, possessed a more pragmatic and less angular position with respect to the HBC. If Stephen was too restrictive in his views, Merivale was pragmatic and progressive. He held the same views as Hawes on Aboriginal matters, which was significant with regard to carrying these issues through the legal processes. Merivale had entered the Colonial Office on the strength of his *Lectures on Colonization and Colonies* (1841), a classic study on emigration and imperial frontiers. Capable, brilliant, and a free trader, he had a wide knowledge of comparative colonial history. Merivale was inclined to advance the interests of the HBC on the grounds of protection of Aboriginal interests. He did so because he was fully conversant with the horrors of white-Aboriginal conflict in the adjacent United States and in other parts of the British Empire, and he tended to see the HBC as an ameliorative factor in the frontier evolution that had developed in Red River and the North-West Territory.<sup>53</sup> Like others who held bureaucratic positions in the Colonial Office, he knew that self-governing colonies had to be conceded control over Aboriginal affairs. What was being considered for Vancouver Island was not self-government but corporate control under licence, Whitehall's having oversight of the scheme. His views aligned nicely with those of Hawes. In the House of Commons Hawes put up a stout defence against pressures that the formidable W.E. Gladstone, a former colonial secretary himself, and others were mounting. Lord John Russell was equally forceful in defending the policies of the Colonial Office.

For his part, Grey continued to advance the cause of the HBC as colonizing agent. He conducted his main work in private, far from the searing eyes of the press and parliamentary opposition. Backed by the

<sup>52</sup> It seems that Stephen left the Colonial Office in late 1847 and resigned in 1848, on account of difficulty with his eyesight. Subsequently he became Regius Professor of Modern History at Cambridge.

<sup>53</sup> David T. McNab, "Herman Merivale and the Native Question, 1837-1861," *Albion* 9, 4 (1977): 359-84; and David T. McNab, "Herman Merivale and the Colonial Office Indian Policy in the Mid-Nineteenth Century," *Canadian Journal of Native Studies* 1, 2 (1981): 277-302. See also Barry M. Gough, "The Indian Policies of Great Britain and the United States in the Pacific Northwest in the Mid-Nineteenth Century," *Canadian Journal of Native Studies* 2, 2 (1982): 321-37.

opinion of the foreign secretary, Lord Palmerston, whose opinion he sought in the first instance, that it would be desirable for the British “as soon as possible [to] do acts of ownership there,” Grey determined on urgent action.<sup>54</sup> Legal opinion had been obtained indicating that the HBC could proceed with a scheme of settlement on its licenced lands. “I am exceedingly anxious for the colonization of Vancouver’s Island,” Grey confided to Pelly on 25 February 1848, fully a year and a half after the two of them had their first exchange on the matter, “but I should wish any propositions ... to come from you.” “You may remember,” he continued, “that official correspondence last year was dropped in consequence of my thinking that you had proposed too large a scheme.” Now Grey called on Pelly for a less extensive scheme, one that he would be happy to consider.<sup>55</sup> In fact, Pelly had been awaiting Grey’s letter and, at this juncture, was able to relate what he thought the HBC could provide so as to meet Grey’s mandate, which was predicated on political possibilities: a whittled down proposal in geographical scope but one that embraced colonial development with a scheme of settlement included.

Meanwhile, a change had come over the waters: a new and startling factor entered the discussions. The confirmation of news of the discovery of steamer coal on Vancouver Island had made more urgent the need to determine who should manage the affairs of the island. No less a figure than Samuel Cunard, the Halifax promoter of oceanic steam navigation, was urging the development of the Vancouver Island coal mines for the evolution of the merchant marine and the interests of British naval security. Coal brought a new focus in that age that fur trading and agricultural settlement alone could not have effected. And British naval officers, who in British men-of-war were sent to “show the flag” in the waters of Puget Sound and Vancouver Island, reported on the value of the maritime assets of that area, most notably its harbours, timber, and coal. And, although not a few of them were critical of the HBC as fur traders and opponents of settlement on principle, Grey, who was advised by the Admiralty (or even directly by political friends who forwarded to him letters from British naval officers), was mindful of the changing circumstances on the Northwest Coast.

Pelly, for his part, ably took a new tack in the arguments in favour of the HBC as a colonizing agent when he proposed, on 4 March 1848, the new and more limited scheme. Because the issue had now shifted to coal, Pelly made it clear that the HBC expected “no pecuniary advantages

<sup>54</sup> Grey, Minute of 7 December 1846, C.O. 305/1, fol. 23-23v.

<sup>55</sup> Grey to Pelly, 25 February 1848, C.O. 305/1, fols. 77-77v.

for colonizing the Territory in question” because, as he pointed out, under the intended scheme all monies were to be used for colonial improvement: “Therefore, if the grant is to be clogged with any payment to the Mother Country, the Company would be under the necessity of declining it.”<sup>56</sup> In effect, this was a game that two could play: Grey could make his demands for a limited scheme and Pelly could reply that if the Colonial Office wanted the HBC as agent then it would have to accept the fact that neither profit nor gain would be accruing to the imperial authority. It seems doubtful that Grey ever expected the intended colony to be of any financial benefit to the Crown, and Pelly may have been a little naive even in bringing forth this argument. The legal authority within the Colonial Office, Arthur Blackwood, advised that any royalties that the Crown expected to get from the sale of coal would hobble any HBC interests in looking after the colonial management of the Island. Grey took up Blackwood’s position, and he concluded that the grant should be confined to Vancouver Island and that the HBC should be told to proceed with the scheme on the assumption that it was not to receive any pecuniary benefits from colonization but was to reinvest all earnings from the sale of land and of coal into the advancement of the colony proper.

Records of the Colonial Office on this subject make it clear that Grey carried the policy in favour of the HBC against all rivals. Pelly’s view about the continuity of British imperial interest was compelling and undeniable. Merivale was justifiably worried about ways and means, and Grey had to remind him about the more urgent political realities of the matter. In the middle of the Colonial Office’s review of the subject, in April 1848, Grey returned to his theme. In a departmental minute, he stated: “The early colonization of Vancouver Island is an object of some importance to prevent it from falling into the hands of the Americans, but as Parl[iamen]t certainly would not & ought not to make a grant for the expenses of such an undertaking it can only be attempted by a company, nor is there the slightest possibility that this w[oul]d be formed for the purpose.” In other words, any new, alternate scheme could not be raised and developed in time, given the aggressive processes on the American frontier. Grey continued:

But though I am not indisposed to make the grant I am of opinion that it sh[oul]d contain a recital that its object is to promote the colonization of Vancouver’s island, & that in consideration of this grant the

<sup>56</sup> Pelly to Grey, 4 March 1848, C.O. 305/1, fols. 78-79v.

Company undertakes to form a settlement upon it & to defray the whole expense of any civil & military establishments which may consequently be required there. There sh[oul]d also I think be a condition that the grant sh[oul]d become void unless settlements sh[oul]d be formed within a definite time.

Grey directed that no new exclusive rights to trade should be given and that reference to any such should be conveniently avoided, unless necessary. “These rights,” reflected Grey, were “very unpopular” in Parliament, and any restatement of them would have been highly objectionable. Grey was anxious to know what mechanism the HBC proposed to develop lands for agriculture and settlement, and it is a fact that, in due course, the Colonial Office turned to one of the prevailing theories of colonization, Edward Gibbon Wakefield.<sup>57</sup> Grey would have avoided Wakefield’s ideas at his peril, so persistent were their adherents in British colonial politics. Wakefield was one of the significant political economists of the day, and his concept was to use waste lands of the imperial estate for the betterment of society, notably of labourers who often found themselves in indigent states at home in the British Isles. Wakefield employed the link between land, labour, and capital thusly: land would be available at a predetermined “sufficient price”; labourers would qualify for freehold ownership after a certain number of years, usually five; and capital would be supplied in two ways – by gentlemen farmers (or yeomen) and by the profits of the sale of land. Colonial administration would be a form of land management. Clearly, this was entirely paternalistic and government-directed.<sup>58</sup> Wakefield, we know, had come up with various prices as the “sufficient price” for land: in 1839 he tentatively fixed on two pounds an acre, and seven years later he thought this the very lowest price that could be considered. Later still he backed a scheme in South Australia for offering land at five or twelve shillings, and yet later he proposed to sell land for one pound an acre. The proper method of calculating the sufficient price, or “a hired-labour-price,” as one South Australia settler called it, involved neither a tax, nor a price, nor a charge for land; rather, it involved a wise and provident payment “for the transmission to the settlement of that labour-power without which it would be vain to attempt the application of capital at all. It augments in fact, instead of diminishing the power of the capitalist.”<sup>59</sup> By the time

<sup>57</sup> Minute of Grey, 22 April 1848, C.O. 305/1, fol. 89v.

<sup>58</sup> Perhaps the most remarkable aspect of it, from this historian’s point of view, is that it flourished in a time of free trade theory and trade deregulation.

<sup>59</sup> Quoted in Douglas Pike, *Paradise of Dissent: South Australia, 1829–1857* (Melbourne: Melbourne University Press, 1957), 80–81, where a cogent discussion of the Wakefield system is to be found.

the question of Vancouver Island's future was being considered under one sort of proprietorship or another, the Wakefield system in pure form was heavily under attack if not largely discredited in public circles and in the Colonial Office, though it still had its passionate adherents. In South Australia the plan of systematic colonization proved disastrous; its finances collapsed in 1841 and South Australia became a Crown Colony in 1842, administered by the commissioner of colonial land and emigration. It had been saddled with absentee landowners and run by agents as lobbyists. Misuse of money raised by land sales was the ultimate cause of its decline. Once the old order was swept aside, the province began to flourish, aided by sale of wheat, developments in mining, and the coming of free trade.<sup>60</sup>

Grey found himself in the peculiar box of a Victorian statesman and imperialist for, on the one hand, he had to appear as not favouring any special interest and, on the other, he had to be seen as encouraging all new schemes of colonization. In the end, he may not have done either objective justice, but such is the nature of politics, and in the circumstances he gave due consideration to other claimants for proprietorial control of Vancouver Island.

An early claimant – one expects he got an early whiff of what was initially transpiring between the Colonial Office and the HBC – was James Edward Fitzgerald, a twenty-nine-year-old with Irish landed connections, an energetic fellow most inspired by the ideas of Edward Gibbon Wakefield. Fitzgerald was well recommended to the Colonial Office through Anthony Panizzi, principal librarian at the British Museum. Benjamin Hawes, who discussed the matter with him in late May or early June 1847, was much attracted to the project. The fact that many of Fitzgerald's ideas were borrowed from Edward Gibbon Wakefield gave currency to the proposed scheme. There is no reason to doubt Hawes's motives, though the cynic might very well wonder if the Fitzgerald project was merely advanced as a ruse, a counter to the HBC project. In any event, Hawes suggested that Fitzgerald put his proposal in writing, and this Fitzgerald did in a combined letter and memorandum – a total of 10,260 words – dated 9 June 1847 and addressed to Hawes at the Colonial Office.<sup>61</sup> Thus was born the hoped-for "Company of Colonists of Vancouver's Island," wherein the government of the colony and the management of the joint-stock company would be vested in shareholders (one hundred pounds each) resident in Vancouver

<sup>60</sup> *Ibid.*, 53–95.

<sup>61</sup> The original, Fitzgerald to Hawes, 9 June 1847, is in C.O. 305/1, fols. 243–53.

Island – in essence a proprietorship with no religious connections, one in which the capital would convey young married couples to the Island:

The whole of the capital of the company in other words the price of land is to be expended in the manner most beneficial to the colonist, viz., in the supply of labour which is found practically to be the greatest want in a new colony ... The whole question of the economical prosperity of a colony is reduced to a single proposition. Such a proposition must exist between *The Share*, *The land allotted to it*, and *the labour that can be supplied by it* [so] that the greatest possible return may be made on the price of the share (Ibid).

The “sufficient price” would generate income from land sales, and for each hundred acres purchased six labourers would be sent to the colony. It was the common Marxist balancing act of land, labour, and capital. Fitzgerald was good on theory; he was terribly under-capitalized. He could not produce evidence of adequate financial backing. Leaving aside any ulterior motive, the attention given to Fitzgerald shows that, at this stage, Grey and the Colonial Office were not prejudiced against other rivals for colonization of Vancouver Island but would be acting on the merits of the application.<sup>62</sup>

In its first (and extensive) iteration Fitzgerald proposed to establish a settlement colony. On 12 February 1848 he met with Merivale, the cautious bureaucrat and specialist in colonization projects, and, on advice of the latter, sent a letter to him (his second to the Colonial Office), this one dated 14 February 1848. He recounted how steam navigation in the Pacific, mainly based in Panama and under the Pacific Steam Navigation Company, was and would be in need of coal, given corporate schemes for expansion. He saw this as beneficial to British interests in the Pacific, not least to the prospects of Vancouver Island as a source of coal. In addition, the sea transport could aid in the transport of a large number of English to Vancouver Island, no small consideration, given the difficulties of shipping and of distance. A proposal to form a company for the purpose of working the coal and establishing a colony in Vancouver Island developed from this nine days later, on 23 February 1848.<sup>63</sup> In other words, his project had grown into that of a coal mining company on Vancouver Island, one, he argued, that would advance the

<sup>62</sup> John S. Galbraith, “James Edward Fitzgerald versus the Hudson’s Bay Company: The Founding of Vancouver Island,” *British Columbia Historical Quarterly* 16 (1952): 191–207.

<sup>63</sup> A copy of the printed prospectus, signed John Shillinglaw, dated 23 February 1848, is enclosed in Pelly to Grey, private, 24 February 1848, C.O. 305/1. The original was received at the Colonial Office 23 February 1848.



interests of trade and colonization. He claimed that he spoke for investors and partners who could establish such a corporation as would mine and market the coal and colonize the island. The coal would belong to the corporation, and the management on the spot would have the sole interest of colonizing the island as rapidly as possible: "If this is not done, either the Hudson's Bay Coy. will have the Island, when there will be an end to all colonization, or else the country will remain barren, and the greatest opportunity yet offered for the foundation of a Colony will be lost forever. In the mean time the United States will be all powerful on those Coasts, and we shall be unable to compete with them." This, then, was Fitzgerald's proposal to the Colonial Office, first brought to attention by Hawes, then directed to Grey through Merivale, who had been tasked with meeting the claimant to hear him out.<sup>64</sup> At some point he met with Hawes and Merivale together. At a later stage, Fitzgerald even discussed the possibilities with Pelly, presumably at HBC headquarters in Fenchurch Street, about separating the coal business from other economic activities that the Company would have on Vancouver Island if it got the charter.<sup>65</sup> Fitzgerald's scheme, despite careful consideration by Grey and Merivale, had no future.

When news broke that the HBC was about to be awarded the Charter of Grant, Fitzgerald took a violently strong position against the Colonial Office as well as against the Company. He wrote several letters to prominent journals interested in Aboriginal and colonial affairs, and he continued at length to write reports about the HBC's usurping of power.<sup>66</sup> He was joined in his assault by A.K. Isbister, a Métis/Cree free trader and a lawyer in London. Isbister was likewise an Aboriginal affairs' advocate and author of an article entitled "Aborigines of Vancouver Island," published by the Aborigines' Protection Society.<sup>67</sup> His views on Aboriginal affairs on Vancouver Island were as vague as they were off the mark, and

<sup>64</sup> James Edward Fitzgerald to Herman Merivale, 2 June and 30 June 1848, C.O. 305/1, fols. 269-71 and 277-78, respectively.

<sup>65</sup> Fitzgerald's third letter, addressed to Merivale, is dated 2 June 1848, C.O. 305/1, fols. 269-71. It is full of dark forebodings about what he now expected would transpire. He claimed that Pelly's professions of liberality and disinterestedness were insincere: "The Hudson's Bay Coy. want to get the island into their own hands in order that they may prevent any colony there, except of their servants and dependents. I am anxious that Earl Grey should be informed, that there is no one who is acquainted with the System of the H.B. Coy. who does not coincide in this opinion." He wanted Grey to take one long last look and to reconsider.

<sup>66</sup> For example, James Edward Fitzgerald, "Vancouver's Island," *Colonial Magazine*, October 1848, reprinted as *Vancouver's Island* (London: George Peirce, 1848). And, attacking the HBC, also by James Edward Fitzgerald, *An Examination of the Charter and Proceedings of the Hudson's Bay Company with Reference to the Grant of Vancouver's Island* (London: Trelawney Saunders, 1849).

<sup>67</sup> A.K. I[sbister], "Aborigines of Vancouver Island," *The Colonial Intelligencer, or Aborigines' Friend*, new. ser., 2, 5, and 6 (1848): 75-79.

they posed no problem in or out of Parliament. Fitzgerald's views ran counter to those of Robert Montgomery Martin, a scribe for the HBC, who crafted a lengthy defence of Company interests in western North America and defended the firm's qualifications for colonizing Vancouver Island.<sup>68</sup> In Parliament the matter was hotly discussed a great length, but limits of space preclude full discussion here. In essence, Gladstone, conversant with Fitzgerald's arguments, led the attack; Russell, Grey's colleague, undertook the defence.<sup>69</sup> Because colonial affairs were always a pressing matter, and much under the microscope, the opposition could put the government on the defensive, and in this case it did. Grey's colonial policy and the Colonial Office were on trial. And in Parliament questions were asked about what sort of colonial government would be established.

The Colonial Office was most mindful of the sort of government that the new colony ought to have. The HBC had never shown any tendency towards democracy, and Grey could not ignore this. At the same time he realized that an elected legislative assembly was out of the question inasmuch as there were as of yet no colonists. The best that could be done was a form of executive government with the colonial governor fully in charge, assisted by a small number of members summoned to duty as legislators – a privy council, so to speak. In due time, Grey reasoned, the colony would have sufficient numbers so that a legislative assembly could be elected: eventually, responsible government – then possibly (apart from Aboriginal affairs in South Africa and New Zealand) the hottest point of contention in colonial affairs – could be effected. As a parallel measure a governor would be selected, and it was imagined that the system of government, law, and order would proceed advantageously and without difficulty.

In the end, Fitzgerald and his innocuous ally Isbister posed no problem to Grey and Hawes. They never had the capital for a well developed project. Other importunate contestants for control of Vancouver Island were shelved or declined: a scheme for Scottish settlers suggested by a naval officer, Lieutenant Adam Dundas, 30 May 1848; an inquiring scheme for settling Vancouver Island with Mormons, reported 24 June 1848; and a London-based scheme of Charles Enderby dated August 1848

<sup>68</sup> Robert Montgomery Martin, *The Hudson's Bay Territories and Vancouver Island* (London: T. and W. Boone, 1849), 137–50. The HBC had not failed as a colonizer at Red River, attested Martin, who, turning his arguments to Vancouver Island, claimed, correctly, that it was favourable to agriculture.

<sup>69</sup> Barry Cooper, *Alexander Kennedy Isbister: A Respectable Critic of the Honourable Company* (Ottawa: Carleton University Press, 1988), 152–54, contains a review of this subject.

for establishing a base to service and provision whalers engaged in their activities in the Pacific Ocean. These murky proposals, which we find in the Colonial Office records,<sup>70</sup> ranked far behind Fitzgerald's alternative, which in itself had no distinct possibility of success. In addition, these proposals were received too late to be given serious consideration, the tide having by this time flowed strongly in favour of the HBC.

#### IV

In its general form Grey's scheme was now in place, with Pelly's assurance, but much remained to be done, and political opposition was bound to present itself. At one time Grey and Hawes had intended to prepare all the papers, including the draft Charter of Grant, to present to Parliament but decided against it when news broke in the press about the close relations of the Colonial Office and the HBC.<sup>71</sup> In a last attempt to stall or derail the scheme, Gladstone, the highest-profile critic of the arrangement, introduced a motion for an address to the Crown to stay the Charter of Grant – in effect, a censure against the government for assigning the Island to the HBC. He regarded the HBC as a trading and a land company, known for its exclusive operations and showing a spirit of absolutism and secrecy in its operations.<sup>72</sup> When the matter came to a vote it failed to carry. Any further parliamentary opposition had been taken out of the picture for the matter was now to be completed by executive branches of government, powerfully controlled by the cabinet. This decision must have been made by Grey in consultation with Hawes and perhaps others.

Shortly thereafter, the prime minister, Lord John Russell, announced that arrangements for concluding the grant would be left to a committee of the Privy Council, and he made it clear that, already, certain restrictions and requirements had been added to the terms of the grant that would make it imperative that the HBC do all in its power to promote colonization.<sup>73</sup> This last was meant as a reassurance that settlement and colonization would be pursued once the grant had been made. That Committee of the Privy Council to which Russell had made reference

<sup>70</sup> These are in C.O. 305/1 and are conveniently printed in *Report of the Provincial Archives Department of the Province of British Columbia ...* 1913.

<sup>71</sup> Hawes to Pelly, 31 July 1848, C.O. 305/1, fols. 116-ff.

<sup>72</sup> The parliamentary discussion may be followed in *Hansard*, ser. 3, C.510-12, CI. 263-305, 315, and 465-69.

<sup>73</sup> This low vote turnout in the Commons cannot be taken as representative of the discussion of the issues; the fact of the matter was that the opposition could not carry the day. Reported in *Illustrated London News*, 26 August 1848.

was the Board of Trade, and it was in this powerful body, which had ancient powers of oversight over the affairs of trade, navigation and settlement of the British Empire, that the additional requirements, all of them discussed by Grey and his colleagues at the Colonial Office, were applied. We now turn to consideration of its work.

The Board of Trade advised, customary in such circumstances, that granting fishing rights be excluded from the pending Charter of Grant and also that the HBC be obliged to dispose of lands at “a reasonable price.” The Board of Trade also suggested that royalties from coal or minerals be applied towards colonization and improvement of the Island, that naval lands be reserved at a reasonable price, that if neglectful Her Majesty’s Government could revoke the said grant after five years, and that the administration of justice be fully compliant with full requirements of criminal and civil law, in other words that the existing territorial administration of justice, the Canada Jurisdiction Act of 1803, had to be elevated to the full law of a colonial establishment.<sup>74</sup> All of these were significant changes to the draft charter. The Colonial Office made the essential changes as recommended, with Merivale, in consultation with Pelly, undertaking the legal work and solicitors for the HBC preparing the final text.<sup>75</sup> The behind the scenes legal work was now complete, all administrative processes carried to fruition.

By Royal Charter of Grant, made by letters patent and issued under the Great Seal on 13 January 1849, the land of Vancouver Island and the administration of the colony was assigned to the HBC “for the advancement of colonization and encouragement of trade and commerce.” This was therefore a dual mandate for colonization and trade. But this was not all: the preamble to the Charter of Grant specified that the arrangement would also be conducive “to the protection and welfare of the native Indians residing within that portion of our territories in North America called Vancouver Island,” and it also makes mention of the HBC’s continuing to hold “the exclusive privilege of trading with the Indians.” These last are almost always forgotten, but they speak, first, to the requirement of trusteeship and are representative of the views of

<sup>74</sup> W.L. Bathurst to H. Merivale, 23 December 1848, C.O. 305/1. Also, Privy Council report, signed W.T. Bathurst, 31 October 1848, C.O. 305/1, fols. 185-87v. The routing of the draft of the charter of grant was as follows: from the Colonial Office to the Privy Council where by order-in-council it was referred to the Board of Trade, and then it and the recommendations were sent to the Colonial Office. See draft of grant, encl. in order-in-council, 4 September 1848, B.T.1/470/2506, the National Archives, Kew.

<sup>75</sup> For particulars of the final terms determined by government, which probably shows the hand of Palmerston, see the unsigned *Vancouver Island, Printed at the Foreign Office, March 1849*, copy in C.O. 305/1.

Grey, Hawes, Stephen, and Merivale and, second, that the then existing trade with Aboriginal peoples was not to be disturbed.<sup>76</sup>

Vancouver Island was not a Crown colony but one ceded to a proprietor. By the Charter of Grant the HBC became “the true and absolute lords and proprietors” of Vancouver Island “in free and common soccage” to the Crown for an annual rent of seven shillings.<sup>77</sup> The Charter of Grant called for the HBC to establish “a settlement or settlements of resident colonists” on the Island by 13 January 1854. No Crown lands were identified; nor were Aboriginal reserves designated under Crown management. The government retained residual control and could revoke the Charter of Grant at the end of five years if the HBC did not show results in colonization. Those matters relating to the administration of justice on Vancouver Island were arranged by a companion act of Parliament, effective 28 July 1849.<sup>78</sup>

Political opposition, as shown in the press of the day, gives some indication of the complaints against the Colonial Office, but the body of such material is slim and the contents circumstantial. One national newspaper, the *Daily News*, questioned the legality of the HBC’s holding the grant. The opinion of the law officers of the Crown, which had cleared away the legal barriers to the awarding of the Charter of Grant, had been held secret from public scrutiny, and even the meagre documents that have been furnished by the Colonial Office – the Grey-Pelly correspondence – published as a parliamentary paper by order of the House of Lords, only awakened suspicions of complicity and collusion between the HBC and the Colonial Office: “The Colonial Office has got an ugly character for suppressing and garbling the documents it may be obliged to present to parliament.”<sup>79</sup> Attacks in the press such as this one, coming naturally from associates of Gladstone, Lord Lincoln (later

<sup>76</sup> It may be observed that, since the days of James Cook and George Vancouver, maintaining friendly relations with First Nations through gift giving or peaceful trade had always been a British objective of state. It will be appreciated that this goal could not be maintained by private traders. But in 1849 we find this specifically stated in the Charter of Grant. The specific requirement for “the protection and welfare of the native Indians” is an essential, residual statement of the Crown’s expectations of the Company, but such words as “would conduce greatly,” “the promotion and encouragement of trade and commerce,” and “the protection and welfare” are hoped-for expectations only.

<sup>77</sup> Royal Grant, Letters Patent, 13 January 1849, A. 37/1, HBCA. The Colonial Office’s copy is in C.O. 880/2, vol. 45 (1849), 9 pp. The document is reprinted in Hendrickson, *Journals*, 374–78.

<sup>78</sup> An Act to Provide for the Administration of Justice in Vancouver’s Island, 12 and 13 *Vict. c. 48*. This removed the previous claims of the Government of Upper Canada, or Canada West, to jurisdiction over western lands of the British Crown in North America. Barry Gough, “Law and Empire: The Extension of Law to Vancouver Island and New Caledonia,” *Western Legal History*, 6, 2 (Summer/Fall 1993): 217–28.

<sup>79</sup> *Daily News*, 17 February 1849, copy in C.O. 305/2, fols. 37–39.

the Duke of Newcastle, a future colonial secretary), and others tried to document the collusion but could not.

On 24 January 1849, the HBC issued its prospectus entitled “Colonization of Vancouver Island.” Land price would be set at one pound per acre, and the minimum purchase would be twenty acres. Colonists were to pay their own passage or conveyance to Vancouver Island. Any purchaser of one hundred acres or more was obliged to take out with them five single men, or three married couples, for every hundred acres. The size of a land district was set at between five and ten square miles. For every eight square miles sold a clergy reserve of one square mile was to be set aside for the use of Anglican clergy; a further square mile was reserved for “church and churchyard, schools, and other public purposes.” The Island’s resources would be open for purchase, but a royalty would be paid on coal, while its ports and harbours would be open to colonists and foreign merchants alike. Details of the appointment of governor, council, assembly, and provisions for the passage of laws comprised the final clauses of the prospectus.<sup>80</sup>

Thus was the task of the founding of Vancouver Island completed in the imperial sense. The government put in place the new mode of government for the Colony of Vancouver Island, with a governor to be empowered with a commission and guided by instructions. As to who should proclaim the Colony of Vancouver Island and administer it, we need here only give the basic particulars. Grey raised no objection to the HBC’s naming the governor. In fact, he asked Pelly for his recommendation, assured as he was of checks and balances against HBC dominance in the colony. Grey was wrong in this matter (his only misstep in the whole process) for he was naive regarding the power, intransigence, and indifference of the fur-trading oligarchy. His liberal constitutionalist perspectives ran deep.<sup>81</sup> Pelly did not have to think twice, and he proposed as governor none other than Douglas. Initially this seemed eminently agreeable to Grey on the grounds that not only was Douglas an excellent businessman but also a seasoned administrator who was fully conversant with Aboriginal issues. On these grounds, Grey saw no objection to the nomination of Douglas as governor.<sup>82</sup> Thus was the matter agreed between Company and Crown. But, at the end of the day, for reasons entirely political – that is, to prevent further

<sup>80</sup> [Hudson’s Bay Company], *Colonization of Vancouver’s Island* (printed in London, 24 January 1849), copy in HBCA A.37/42, fols. 13–14d. I have relied on the useful summary provided by Mackie, “Colonization of Vancouver Island,” 7.

<sup>81</sup> Grey, minute, on Pelly to Grey, 4 May 1848, C.O. 305/1.

<sup>82</sup> Hawes to Pelly, 27 September 1848, C.O. 305/1.

censure or to silence critics – Pelly was obliged to recommend that the name of Douglas be put aside in favour of a barrister who had recently seen military action in India: Oxford-educated Richard Blanshard.<sup>83</sup> The latter, we may note in passing, who was as different from Douglas in experience and background as might be imagined, subsequently had the unfortunate experience of being vice-regal representative in a colony dominated and directed by fur traders and at a time when the infant colony of Vancouver Island could not attract colonists and when labour was being drained off to the more lucrative American frontier, specifically to the Sacramento River, where gold was found in 1848, the same year as the colony's founding. The Colonial Office made perfectly clear to the HBC that the governor would have no claim on Her Majesty's government either for salary or passage allowance and that the expense of the governor's commission "must be defrayed either by himself or the Company."<sup>84</sup> In the event, Blanshard received no salary, had living expenses totalling £1,100 per annum, and never received the thousand acres he had been led to believe would be his by right of his appointment. His tenure was understandably brief and ended when the Colonial Office finally accepted his resignation.<sup>85</sup> The duties then reverted to Douglas, who had been the power there all along.

The charter as required by the Board of Trade had spoken of the price of land's being set at a "reasonable price," which was altogether dubious. The HBC then put in place its own regulations for meeting this requirement, and the price was set at one pound per acre. As to the matter of Aboriginal lands, and in keeping with Merivale's views, the HBC sent instructions to James Douglas, 17 December 1849, that the Company's administration on Vancouver Island was to consider the Aborigines as rightful possessors of land that they occupied by cultivation or upon which they had houses as of the time Britain acquired the undivided

<sup>83</sup> On the political issue, see Pelly to Sir George Simpson, 7 September 1849, D.5/26, HBCA. Compare, Willard E. Ireland, "The Appointment of Governor Blanshard," *British Columbia Historical Quarterly* 8, 3 (1944): 23–26, esp. 216. When travelling in India, Blanshard had attached himself as a volunteer to a regiment that formed part of the 1st Infantry Division of the Army of the Punjab. He gained the rank of lieutenant. Perhaps serving as an intelligence officer and certainly carrying despatches, he had a horse shot out from under him. He was recommended, unsuccessfully, for a service medal. See certificates and testimonials from Sir William S. Whish, Major General Commanding, and others, in C.O. 305/3, 47–49. Pelly likely brought forward Blanshard's name; the latter was the son of a prominent London businessman.

<sup>84</sup> Colonial Office to Pelly, C.O. 305/2, fols. 259–60. And, in larger measure, it was made clear that the Company could make no claim on Her Majesty's government and vice versa. On this, see minutes on Pelly to Grey, 26 June 1849, C.O. 305/2, 256–57.

<sup>85</sup> James E. Hendrickson, "Richard Blanshard," in *Dictionary of Canadian Biography* (Toronto: University of Toronto Press, 1990), 12:113–14.

sovereignty in 1846. They were to be confirmed in possession of their lands as long as they occupied and cultivated it themselves, “but [they would] not be allowed to sell or dispose of them to any private person, the right to the entire soil having been granted to the Company by the Crown.”<sup>86</sup>

An account of the achievements and problems of colonizing Vancouver Island under the HBC lies elsewhere. But it may be observed that such independent settlers – that is, those unconnected with the firm – who went to Vancouver Island soon objected to the overbearing policies and monopoly of the Company. The price of land, based on the Wakefield plan, a concept that Grey had adopted many years previous as theoretically beneficial to the emergence of a stable colonial settlement society, had been fixed at what some thought the exorbitant sum of one pound per acre. By a strange set of circumstances the naval lieutenant Adam Dundas’s prophecy of 1848, given to Grey, that the role that the HBC would play as the colonizing agency on Vancouver Island would be “repugnant” to colonists, who would consequently leave, was not much short of the mark. As he had stressed, the Company was dominated by a spirit “wholly and totally inapplicable to the nursing of a young Colony.”<sup>87</sup> Gladstone and many others felt similarly. But the times were not favourable for colonization either: the California gold rush also drained off labour, and communications between Britain and the Northwest Coast were not conducive to easy and economical links. On the spot, meantime, HBC employees reserved and received the premium land. In such disadvantageous circumstances, Governor Blanshard – powerless and in ill health, shunned and marginalized by Douglas, the real authority – requested that the Colonial Office accept his resignation. This was done. Douglas replaced Blanshard on a temporary and then permanent basis. Blanshard had had no role in the formation of the colony save to serve as its vice-regal representative. This was important in and of itself, but in the circumstances he was very much a small cog in a big wheel, and his unhappy circumstances and shaky governorship will be the subject of further study. The population of the Colony of Vancouver Island grew by fits and starts but was always small.

The historian, in reviewing the interlocking and complicating issues surrounding the awarding of the Charter of Grant to the HBC, and the subsequent initial and faltering development of settlement, is tempted to

<sup>86</sup> A. Barclay to Douglas, 17 December 1849, A.6/28, fol.92, HBCA, Manitoba Archives. For an introduction to the implementation process, see Wilson Duff, “The Fort Victoria Treaties,” *BC Studies* 3 (1969): 3-57.

<sup>87</sup> A. Dundas to Grey, 30 May 1848, C.O. 305/1.



say that not very much had changed under the new regime – that, indeed, a new lease on life had been given to the old ways of the HBC on Vancouver Island. Little had disrupted its corporate tenure, though it was under watch from the Colonial Office and from Parliament. It had five years to prove its worth as a colonial agent. In a strange way Douglas’s “perfect Eden” remained that way for at least two decades and maybe longer. Development was deferred, not energetically advanced, a subject that has preoccupied persons looking at Grey’s record and also that of the HBC. All such claims and charges are predicated on the assumption that development is beneficial and necessary. Not until 1869 did the HBC cease its proprietorial control over the lands of Vancouver Island. Much haggling had taken place over compensation, but in that year the matter was closed, and by a deed of reconveyance the Company surrendered its control to the Crown. The Puget’s Sound Agricultural Company continued on Vancouver Island for many years, and its squirarchy and families, like the fur traders who turned settlers (or retirees), shaped the character of the English-Scots-Irish community developing in and near Victoria.<sup>88</sup> This was a triumph of policy judiciously carried out. The HBC had stayed the course against many storms, and, in the end, it had provided the sort of continuity for which Grey and Hawes had hoped. As for Pelly, he seems to have had sufficient power – indeed undiminished authority – within the firm to carry off the necessary arrangements with Grey, but he died not long after the founding of the Colony of Vancouver Island. Other senior stockholders in the Company – Andrew Colville and Edward Ellice – always rued the day that the Gentlemen Adventurers of England trading into Hudson’s Bay had got their hands soiled with a colonization scheme of little profit and much agony. But they did not see the matter as Pelly had done – as a subject of state, not purely of Company commercial policy. As for Fitzgerald, he was not forgotten in the Colonial Office and soon became a leading force in the founding of Christ Church settlement, New Zealand, and a prime minister of that country.

## V

In the end, and in conclusion, Grey and the Colonial Office had pulled off a coup in establishing the Colony of Vancouver Island. Grey had been warmly supported in the Colonial Office. Stephen had asked the

<sup>88</sup> Gough, “Corporate Farming,” 72–82. Galbraith, *Hudson’s Bay Company, 192–217*, explains the origins and failure of the Puget’s Sound Agricultural Colony in Oregon. See also, Mackie, “Colonization of Vancouver Island,” 1–40.

essential questions. Hawes and Merivale had been powerful contributors in the policy-making: the former of particular influence in the House of Commons; the latter of guidance in the framing of the Charter of Grant in cooperation with Pelly and HBC solicitors. No absentmindedness directed the fortunes of the Colonial Office. "Gentlemanly capitalism" had been amply exhibited. Threat of American expansion, real or imagined, had been countered by Whitehall's political management.<sup>89</sup> No squatter settlement could be established on Vancouver Island. The resolution of the boundary dispute by the signing of the Oregon Treaty had clearly forced Grey's hand, just as it did, in turn, that of Pelly and the London directors. The participants in the discussion knew that headquarters of the Columbia Department had already begun its move to the north, to the "perfect Eden." Northward lay the future of its business activities.

Douglas, who despised the treaty and thought that the HBC had been sold out in that quarter and had feared that it would lose everything, came to realize that British Oregon and, particularly, Vancouver Island offered new promise of corporate empire. Douglas, unlike McLoughlin, stayed with the new system: he embraced, if grudgingly, the new reality of a trading realm now divided by borders and international politics. He was embarking on a new phase in his life, which he turned to his own advantage and to that of the Company and Crown. As to colonization and settlement he followed his natural instincts. He had never given a moment's consideration to the best way of effecting colonization. He provided Pelly with observations on the subject, 5 December 1848, recounting particulars of good cultivable land, though in scattered portions, and other land reclaimable from the forest "by an industrious population, who would, in a short time give the country a value and importance that could hardly fail to attract the notice and fostering care of Government." He went on to praise the benefits of a naval depot, with spars and coal to hand, accessible ports, and commercial prospects. In time, he favoured free trade for the settlements for the future, contending that a trade "restricted to the Mother Country and her Colonies" would be "almost beyond reach from this distant quarter."<sup>90</sup> Douglas understood the preference for free trade rather than formal empire, but in the new circumstances to which he found himself

<sup>89</sup> That is, until such time as discoveries of gold in tributaries of the Fraser River necessitated the establishing of a new colony (this one under the direct management of the British government), the Crown Colony of British Columbia, 19 November 1858.

<sup>90</sup> Douglas to Pelly, 5 December 1848, A.II/72, fols. 59-62, HBCA, printed in Bowsfield, *Fort Victoria Letters*, 32-35.

adapting, the commercial obligations of the old HBC monopoly was necessary for trade and prosperity.

Pelly must have been left with the appreciation, on the basis of Douglas's advice, that colonization and settlement ranked far below trade in priority. With colonization in the wind, so to speak, as a political reality, in order to obtain the Charter of Grant, the HBC at London headquarters turned, out of necessity, to the task of settling Vancouver Island with British citizens. Advertisements were placed in English, Irish, and Scottish newspapers. Shipping was arranged for the emigration. The project was commenced.

Grey had been first to appreciate the necessity of settling Vancouver Island, when realizing the implications of the treaty for the preservation of British sovereignty north of the boundary. Grey and the Colonial Office deserve credit for they worked in an age when colonies were regarded as odious in many circles and dubious in others. They had shifted the obligations of the Crown onto the shoulders of the Company, no mean feat, and thereby further diversified its obligations. Without spending any money they had arranged for a proprietorial government at the cost of seven shillings a year,<sup>91</sup> one in which the proprietor had every advantage (though considerable obstacles). And, by this arrangement, they secured the continuance of British trade and development, the further direction of Aboriginal affairs under the arrangements of the HBC, and the staying of American settlement on British territory in that quarter. This was not empire making on the cheap; rather, it was the only sensible way of undertaking it. Blanshard was the unintended victim of this experiment in empire building. Douglas, by contrast, came to thrive in the new circumstances.

The HBC took up a new task, one it was quite unprepared for or sympathetic towards; and the kings of fur and forest had to become, oddly enough, colonial managers. They accomplished their task with considerable difficulty, uneducated as they were in the management and affairs of conciliatory or representative government. But as to the business of empire making, in the few years after the crisis of 1846 it was a considerable achievement and creditable to Grey. Naturally, however, the faltering nature of the Colony of Vancouver Island cast a long

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<sup>91</sup> This was the annual rent, a nominal sum that secured the HBC proprietary rights – that is, a form of leasehold. At the end of a five-year period, should settlement not be effected, the Island might revert to the Crown, the government reimbursing the HBC for (1) its expenditures and (2) its establishments and property. Many years later the government was to compensate the HBC for its investment and establishment. In 1866 the Colony of Vancouver Island was united with the Colony of British Columbia (proclaimed 1858); in 1871 the United Colony of British Columbia became a province of Canada under terms of union.

shadow over Grey and the Colonial Office. As J. Despard Pemberton, surveyor-general of Vancouver Island and sometime member of the Assembly of Vancouver Island, put it in his *Facts and Figures Relating to Vancouver Island and British Columbia: What to Expect and How to Get There*, published in 1860: “A programme so illiberal, so restrictive, and so detrimental to the memory of the colonial administration of Earl Grey, for ten years stopped the settlement of the country.”<sup>92</sup>

That was only half the story, and the rest lies elsewhere in a closer evaluation of the terms of the Charter of Grant, the disadvantageous economic circumstances that the colony faced at the time of the California gold rush, and the ineffectiveness of the HBC when it came to promoting colonization in an area where agricultural land was expensive and at a premium, and where the Company’s employees naturally took up the best holdings.<sup>93</sup> From a purely commercial standpoint as beneficial to the HBC, this era was one of salutary neglect on the part of government. The corporate nature of Vancouver Island’s development under HBC auspices fulfilled the firm’s expectations because it consolidated and protected its interests throughout British territories west of the Continental Divide. It may be observed that the Company did so entirely for corporate reasons, and at a financial cost to itself that, in the end, it charged back to the Crown.

The historian looking at the question considered herein is struck by two matters connected with the HBC: first, the assertive power of Pelly against all opposition from the senior direction of corporate affairs immediately below him, and, second (and more specifically), the inability of the opponents of the Vancouver Island project within the firm to halt Pelly’s actions. Was Pelly overcome by the course of events? And was he caught up in an inescapable world that demanded HBC compliance? Would the process have been successful in other hands? We will never know. The fact of the matter is that the prodding Grey served as problem-solver, and if one looks at the wording of the Charter of Grant, the specific terms directed to the requirements of the grant holders – for seven shillings a year – are incorporated into a much longer statement about the licence and provisions of earlier corporate-Crown arrangements. In effect, the HBC was being guided into a more diversified economic status, colonization being added to the older and well established control

<sup>92</sup> J. Despard Pemberton, *Facts and Figures Relating to Vancouver Island and British Columbia: What to Expect and How to Get There* (London: Longman, Green, Longman and Roberts, 1860), 58.

<sup>93</sup> For a start, and a near contemporary opinion, see Pemberton, *Facts and Figures*, 57–61.

over trade and commerce. The trusteeship issues were specified for the first time. Taken all together, this constituted Grey's triumph.

And perhaps in final statement we may observe what Douglas said, on 12 August 1856, when recollecting the recent difficulties that had overcome the colonization project during those difficult years since 1849. The occasion was the first meeting of the Legislative Assembly of Vancouver Island. The Colony of Vancouver Island was unique in the history of the British Empire, he said: "Called into existence by an Act of the Supreme Government, immediately after the discovery of gold in California, it has maintained an arduous and incessant struggle with the disorganizing effects on labour of that discovery. Remote from every other British settlement, with its commerce trammelled, and met by restrictive duties on every side, its trade and resources remain undeveloped." Because it was a self-supporting colony, with all expenses defrayed by itself, "it present[ed] a striking contrast to every other colony in the British empire, and like the native pines of its storm-beaten promontories, it ha[d] acquired a slow but hardy growth."<sup>94</sup>

Douglas was disingenuous for he made no attempt to place any blame on the HBC, which he also served, but that is another story as his dual role was soon to end. Although much odium was placed on the HBC as a limiting factor in colonization (though the reasons for its tardy if nonetheless stout growth have been often explained) it is an undeniable fact that the American settlement of the Columbia and Willamette lands that had provoked the crisis that led to the Oregon Treaty also led to the colonization of Vancouver Island. An early historian, R.E. Gosnell, writing a mere half century after these events, puts it this way:

It may be remarked that as settlement was the object aimed at in creating a colony, which was in reality a fur-trading oligarchy in the guise of government, the stimulus was afforded by the success of the American colonization of Oregon. That is to say, the Hudson's Bay Company turned to good account their losses in the country south of the boundary line by making sure of the country north. Settlement was the pretence, but sovereignty to restrict settlement was the ulterior object, and it must be understood that while there was a garb of constitutional government and Imperial control, the Hudson's Bay

<sup>94</sup> Governor's Address, 12 August 1856, enclosed in Douglas to H. Labouchere, 20 August 1856, in *Vancouver's Island, Correspondence or Extracts of Despatches ... [re] Vancouver's Island, Parliamentary Papers*, 229, 1857, p. 10.

Company possessed quasi-sovereign powers and was literally *imperium in imperio*.<sup>95</sup>

From the public point of view, from the perspective of critics of Douglas, and from the position of opposition to the Colonial Office or to responsible ministers of the British government, the experiment could hardly be called a success. Those views are misguided. The form of government put in place by the Charter of Grant, including the appointment of a governor and a judicial corollary of the formal extension of British jurisprudence by an act of Parliament, was an intermediary step until an independent colony free of HBC dominance was swept away when its lease lapsed in 1859, and the Crown Colony of British Columbia was proclaimed in November 1858. And not least, in terms of the culture of empire and the characteristics of colonial society, this first phase, as laid down in the terms of the Charter of Grant, formed an essential preliminary to the Union of the Colonies of Vancouver Island and British Columbia in 1866 and, in turn, to the Union of the Province of British Columbia with the Dominion of Canada in 1871, which brought responsible government. In less than three decades a political formation had appeared, though still very much in its infancy, and the growing pains had been acute, and necessarily so, for empire making on this far frontier relied heavily on on-the-spot human strengths and opportunities, overseas guidance, and, at times, material support from a benign though interested imperial overlord.

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<sup>95</sup> R.E. Gosnell, *The Year Book of British Columbia and Manual of Provincial Information* (Coronation edition) (Victoria: Government of British Columbia, 1911), 14-15. At the time, Gosnell was Librarian Legislative Assembly and Secretary Bureau of Statistics.