

*Patterns of Vengeance: Crosscultural Homicide in the North
American Fur Trade*

John Phillip Reid

Pasadena: Ninth Judicial Circuit Historical Society, 1999.

248 pp. US\$39.95 cloth.

*Contested Empire: Peter Skene Ogden and the Snake River
Expeditions*

John Phillip Reid

Norman: University of Oklahoma Press, 2002. 258 pp. US\$29.95 cloth.

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ANYONE INTERESTED in fur trade history should take note of these two intriguing studies for, by asking new questions about how law functioned in places without formal machinery for the enactment and enforcement of law, John Phillip Reid offers original and provocative reinterpretations of legal and fur trade history. Reid's unsentimental studies challenge many widespread assumptions about fur trade and western North American history.

It is not surprising that Reid puts law at the center of his analysis; his training is in law, not history. Reid's skill as a historian, however, is apparent in both books. His conclusions, if not unassailable, are well supported and significant. In *Patterns of Vengeance* Reid examines evidence from the long and varied history of the North American fur trade to argue that traders throughout North America usually relied upon aboriginal concepts of law and vengeance, not principles of European or common law, after aboriginal people killed non-Native traders. *Contested Empire* is not about

aboriginal law. It examines a historical-legal curiosity: the Oregon Country during the period of joint British and American occupation from 1818 to 1846. Like *Patterns of Vengeance* it scrutinizes the operation of unwritten law. In this period, neither the British nor the American government made or enforced law for Oregon, or even established a system for resolving disputes in the region. Neither sent officials to the region. How, under such conditions, did the British and Americans regulate their activities and their interactions? Reid answers this question by examining one of the more controversial fur traders, Peter Skene Ogden. He argues that the mountain men maintained order because of a general "lawmindedness" that they shared. Researchers working in the fur trade era of British Columbia history ought to read these two important books.

In *Patterns of Vengeance*, the more ambitious, Reid delineates patterns in all of North American fur trade history. Because its bold generalizations are based on extensive but shallow

research in published primary and secondary sources, many specialists will find fault with Reid's conclusions. However, researchers should welcome *Patterns of Vengeance* in the spirit Reid intended – as a preliminary exploration designed to open up a new field of inquiry, not as the last word on the topic (21). *Contested Empire*, a more focused and definitive book, relies on intensive research in published and archival sources. Here Reid is more unequivocal, and his interpretive flair evinces itself in different ways, but both books are bold and original.

Patterns of Vengeance is organized thematically. Twelve chapters deal with various aspects of vengeance and retribution that traders took after Natives killed one of their own. Much of the evidence is gathered from published Hudson's Bay Company (HBC) records, and much of that relates to what is now British Columbia. Readers interested in the HBC and British Columbia will find particularly intriguing the argument of Chapters 8 and 9 that the HBC (and companies generally) were more likely to take vengeance against Indians, and were generally swifter, harsher, and more efficient in their vengeance, than non-company traders. By adhering aggressively to patterns of vengeance dictated by Indian law, says Reid, the HBC actually averted escalating cycles of violence that plagued regions where traders and trappers did not have the power and organization to respond as Indian communities expected. If Reid is successful, researchers will now delve deeper into the unpublished documents to explore the questions he has raised. These researchers would at least add nuance to our understanding of such dynamics, but they would very likely revise Reid's arguments sub-

stantially. Even so, *Patterns of Vengeance* will have served its purpose.

Patterns of Vengeance has its weaknesses. In some cases Reid attacks decades-old studies that hardly represent today's scholarship, disparagingly quotes recent scholarship which he really does not refute, or refutes arguments that scholars have never believed anyways (see 22, 118, 121). He explains very well why we should not use the words *steal* or *murder* but he always substitutes them, distractingly, with words like *conversion*, *appropriation*, and *homicide*. Simple words like *take* or *kill* convey his meaning just as well.

Fundamentally, *Patterns of Vengeance* explores the nature and function of indigenous law in cross-cultural contexts, a subject of great relevance in Canada and the United States today. Reid's insights are valuable, but his book raises many questions. Curiously, Reid avers that "there is no need to make a fuss over words" (67). He does, however, state that "Indian law" cannot be law according to a narrow definition of that word (41). He then proposes other definitions of law, Indian domestic law and Indian international law. But how is a skeptic going to respond to an argument that Indian law existed only if we redefine *law*? Furthermore, if fur traders and Indians did share concepts of law, perhaps they also shared ideas of what constituted a crime. Maybe there was such a thing as murder. Perhaps it would be useful to think about whether certain "homicides" might be more precisely labeled as murder, feud, or warfare. It might be worth fussing over such distinctions if aboriginal law is to be taken seriously.

That Reid's study is a flawed is understandable. The task was enormous and the existing literature scant. Much

contemporary research into aboriginal law is centered on oral evidence, but it would be a shame if this book did not encourage scholars to examine documentary evidence to investigate the existence and the nature of aboriginal law before states asserted their own jurisdiction.

The famous confrontation between Peter Skene Ogden and US trader Johnson Gardiner at the Weber River in today's Utah in 1825 lies at the center of *Contested Empire*. During that confrontation, Gardiner prompted twenty-three freemen to leave the HBC's Snake River Expedition. Reid's interpretation of the confrontation is unique and compelling. It certainly puts to rest the stereotype that the confrontation symbolized what happened when lawless American mountain men met law-abiding HBC men (122). Reid seeks to unravel the legal aspects of the confrontation, but *Contested Empire* is not just a legal history. Reid shows a keen understanding of the world of the HBC freemen. He argues convincingly that the freemen who "deserted" the HBC did not do so to avoid their debts – most of them paid their debts immediately, or afterwards. More than anything else, the confrontation of 1825 showed how ineffectively the HBC competed with the Americans in the Snake River country. But Reid explains that the confrontation was a significant turning point. Only a year later, even before its officials adequately understood the causes of the desertion, Ogden faced American competitors again and prevailed. Deserters were trickling back.

Although *Contested Empire* is not a biography, Reid offers a compelling, incisive, and insightful portrait of Ogden. Rather than blackball or whitewash Ogden, Reid portrays him in shades of grey. According to Reid,

Ogden, the son of a Montreal lawyer, was intelligent and wise enough to realize that if he remained in Lower Canada, his explosive temper and his violent tendencies might well put him on the wrong side of the law (16–18). In the employ of the North West Company (NWC) Ogden became one of the most feared and hated enemies of the HBC. Not surprisingly, then, after the NWC and HBC merged few HBC traders wanted Ogden around. But HBC Governor George Simpson, Ogden's Machiavellian equal, perceived Ogden's determination to remain a fur trader and decided that Ogden had better be on his team. Ogden's intelligence, energy, and determination had earned him a place in the new order. In this sense, the Snake River Expedition was the perfect place for Ogden. It existed in part to extend the employment of some of the officers, *engagés* and freemen who might otherwise have caused the post-merger company problems. The HBC wanted many of these men and their families away from its trading posts but not in the service of its competitors. Despite his reputation for ruthlessness, however, Ogden found the men of the expedition difficult to control, and his flawed leadership nearly cost him the expedition. Reid's interpretation may not make Ogden any more likeable, but it makes many of his actions more understandable.

The Snake River Expedition was supposed to make a profit while destroying the beaver stocks south of the Columbia River. The HBC used similar methods wherever it faced significant competition. Reid explains that the "fur desert" strategy was founded upon the logic that fur traders were the vanguard of settlement. Officials believed that if the beaver was extirpated, American trappers and

traders would abandon the Snake River country and Americans would never settle there. Part of the Oregon Country might be lost but the country north of the Columbia would remain firmly in British and HBC control. This strategy, Reid argues, had its ironic flaws. On one hand it was remarkably successful. The HBC did drive American trappers and traders out of the business. Instead, the Snake River Expedition itself provided some of the geographical information that American settlers needed. Furthermore, rather than retreat from Oregon to trap and trade elsewhere, many trappers settled in Oregon's Willamette Valley. Thus, ironically, "the mountain men, driven from their mountains, frequently became the original settlers; when they did not, they were often the ones who guided the settlers" (203). The Oregon country was lost not because the

strategy had been poorly executed, but because the logic behind the policy was flawed.

Patterns of Vengeance and *Contested Empire* are valuable additions to the historiography of the fur trade. Anyone interested in the operation of indigenous law, or in violence during the fur trade, should read *Patterns of Vengeance*. *Contested Empire* moves well beyond legal history to offer fascinating reassessments of the Snake River Expedition and Peter Skene Ogden, topics of great interest to historians of British Columbia. More generally, both books show that, when driven by new and important questions, scholars still tease valuable insights out of familiar documents. We are fortunate that this noted legal historian has turned his gaze to these intriguing questions.

The War on Weeds in the Prairie West: An Environmental History

Clinton L. Evans

Calgary: University of Calgary Press, 2002. xvii, 309 pp. Illus. (some col.).
\$29.95 paper.

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AS CAROLYN MERCHANT points out, domination is a useful concept for understanding relationships among people and between people and the environment. Readers could ask for no better elaboration of this claim than Clinton L. Evans's *The War on Weeds in the Prairie West*. Exemplifying environmental history's interdisciplinarity, the book is informed by

everything from postmodern theory to botany, and it raises important questions about how we do history and how we understand our relationship to nature.

Evans begins by arguing that historians need to be more attentive to the role of the environment in shaping human activity. While the natural world certainly was a material and imaginative obstacle to what people