



RETURN

To an Address of the Honorable Legislative Assembly, dated 16th March, 1857, requiring Copies of any Charters, Leases, or other Documents, under which the Honorable Hudson's Bay Company claim Title to the Hudson's Bay Territory, or any Maps relating thereto in the possession of the Government.



NOTE.—Of the Map accompanying the foregoing “Statement” only one Copy is sent, but it can be lithographed for the Appendices of the House, if required. It simply represents, in green, the whole watershed of Hudson’s Bay (north of the 49th parallel) as belonging to the Company, under their Charter, and, in pink, the whole Country, thence westward to the Pacific, &c. as “Indian Territories” held under the Lease now about to expire.

NOTE.—The two old Maps sent herewith (which can be lithographed for the Appendices of the House, if required) are but samples of a number of the same kind,—the one representing the English view of the extent of the Hudson’s Bay Territory, and the other the French and general European view thereof, subsequent to the Treaty of Utrecht (1713) and till long after the conquest of Canada.

SCHEDULE

OF APPENDICES COMPRISING THE AFORESAID RETURN.

- (A.)—Statement of the Rights, as to Territory, Trade, Taxation and Government claimed and exercised by the Hudson's Bay Company on the Continent of North America, and accompanying Map.
- (B.)—Memorandum, with Maps numbered 1 and 2.
- (1) Map of the British Empire in North America, by Samuel Dunn, published at London, in 1774, shewing the British view of the division between the Hudson's Bay Territory and Canada—corresponding therein with Jeffrey's Map of 1760, quoted in Memorandum.
 - (2) Map of America, by William Delisle, published at Amsterdam, in 1739, shewing the French and general European view of the division between the Hudson's Bay Territory and Canada.
- (C.)—The Royal Charter, incorporating the Hudson's Bay Company, 1670. Act confirming the Charter, during seven years from 1690.
- (D.)—License of Exclusive Trade in the Indian Territories, expiring in 1859. And Covenant of the Hudson's Bay Company thereunder.
- (E.)—Conditional Grant of Vancouver's.
- (F.)—Canada Jurisdiction Act; 43 Geo. III, Cap. 138; also amended and extended Act of 1st. & 2d. Geo. IV, Cap. 46, together with the Act providing for administration of Justice in Vancouver's Island, 12 Vic. Cap. 48.

Crown Land Department,
Toronto, April, 1857.

APPENDIX (A.)

STATEMENT of the RIGHTS, as to TERRITORY, TRADE, TAXATION and GOVERNMENT claimed and exercised by the Hudson's Bay Company on the Continent of *North America*.

By the Charter of his Majesty King Charles the Second, dated 2d May, 1670, by which the Hudson's Bay Company was constituted, his Majesty granted to the Company as follows :—

“ We have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm, unto the said Governor and Company, and their successors, the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks, and sounds in whatsoever latitude they shall be, that lie within the entrance of the straits commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, that are not already actually possessed by or granted to any of our subjects, or possessed by the subjects of any other Christian Prince or State, with the fishing of all sorts of fish, whales and sturgeons, and other royal fishes, in the seas, bays, inlets and rivers within the premises, and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid ; and all mines royal, as well discovered as not discovered, of gold, silver, gems and precious stones, to be found or discovered within the territories, limits and places aforesaid ; and that the said land be from henceforth reckoned and reputed as one of our plantations or colonies in America, called “ Rupert's Land ” : And further, we do by these presents, for us, our heirs and successors, make, create and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits and places aforesaid, and of all other the premises, saving always the faith, allegiance and sovereign dominion due to us, our heirs and successors for the same ; to have, hold, possess and enjoy the said territory, limits and places, and all and singular other the premises hereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties and appurtenances whatsoever to them the said Governor and Company and their successors for ever, to be holden of us, our heirs and successors as of our manor of East Greenwich, in our county of Kent, in free and common soccage, and not in capite, or by knight's service ; yielding and paying yearly to us, our heirs and successors, for the same, two elks and two black beavers, whensoever and as often as we, our heirs and successors, shall happen to enter into the said countries, territories and regions hereby granted.”

Under this grant the Company have always claimed and exercised dominion as absolute proprietors of the soil in the territories understood to be embraced by the terms of the grant, and which are more particularly defined in the accompanying map ; and they have also claimed and enjoyed the exclusive right of trading in those territories.

It may be right here to mention, that, although the original title to the territory and trade in question was derived under the charter above referred to, the rights of the Company have, in various instances, received the recognition of the Legislature.

The Act 14 Geo. 3, c. 83, which is intituled, "An Act for making more effectual Provision for the Government of the Province of Quebec, in North America," in describing the boundaries of Canada, expressly refers to their lying "northward to the southern boundary of the territories granted to the Merchants Adventurers of England trading into Hudson's Bay;" thereby distinctly recognizing the existence of such a grant, and referring to the known boundary on the south of the territories so granted.

Again, an Act was passed in the 43rd year of the reign of Geo. 3, c. 138, intituled, "An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of North America adjoining to the said Provinces;" and this Act having stated in the preamble that crimes committed in the Indian territories were not then cognizable by any jurisdiction whatsoever, declares that such crimes should be considered as if committed within the jurisdiction of the Canadian courts.

A doubt having arisen whether this provision extended to the territories possessed by the Hudson's Bay Company, because, although they formed part of the Indian territories, crimes therein committed could not be said not to be cognizable by any jurisdiction whatsoever, inasmuch as the Hudson's Bay Company had a distinct jurisdiction conferred upon it by its charter, an Act was passed in the 1st & 2d Geo. 4, c. 66, intituled, "An Act for regulating the Fur Trade, and establishing a Commercial and Civil Jurisdiction within certain Parts of North America," by which after reciting that doubts had been entertained whether the provisions of the Act of Geo. 3 extended to the territories granted by charter to the Governor and Company of Adventurers of England trading into Hudson's Bay, and that it was expedient that such doubts should be removed, and the said Act should be further extended, it was declared and enacted, that the provisions of the Act of 43 Geo. 3 should be deemed and construed "to extend to and over, and to be in full force in and through all the territories theretofore granted to the Hudson's Bay Company;" thus again distinctly recognizing the existence of the grant of the soil, as well as the jurisdiction; for the Act contains an express reservation that nothing therein contained should affect the rights, privileges, authority or jurisdiction of the Hudson's Bay Company; and, in consequence, from that period, the Company and the Canadian courts have exercised a concurrent jurisdiction as to offences committed within the territories of the Company. By this Act also power was given to the Crown to make, grant or give licenses for the exclusive privilege of trading with the Indians in all such parts of North America as should be specified in any such grants or licenses not being part of the lands and territories granted to the Governor and Company of Adventurers of England trading to Hudson's Bay, and not being part of any of the Crown provinces in North America, or of any lands or territories belonging to the United States of America.

By virtue of licenses granted under the powers of this Act, the Company are entitled to certain exclusive rights of trading beyond the limits of

their own territories ; but this Act is referred to here as distinctly recognizing the rights of the Company to exclusive trade within their own territories.

With regard to Taxation and Government, the Company, under their charter, are invested with power "to make, ordain and constitute such and so many reasonable laws, constitutions, orders and ordinances as to them, or the greater part of them, being then and there present, shall seem necessary and convenient for the good government of the said Company, and of all Governors of colonies, forts and plantations, factors, masters, mariners and other officers employed or to be employed in any of the territories and lands aforesaid, and in any of their voyages, and for the better advancement and continuance of the said trade or traffic and plantations, and the same laws, constitutions, orders and ordinances so made, to put in use and execute accordingly, and at their pleasure to revoke and alter the same, or any of them, as the occasion shall require : and it is provided, that the said Governor and Company, so often as they shall make, ordain or establish any such laws, constitutions, orders and ordinances, in such form as aforesaid, shall and may lawfully impose, ordain, limit and provide such pains, penalties and punishments upon all offenders contrary to such laws, constitutions, orders and ordinances, or any of them, as to the said Governor and Company for the time being, or the greater part of them then and there being present (the said Governor, or his deputy, being always one), shall seem necessary, requisite or convenient for the observation of the same laws, constitutions, orders and ordinances ; and the same fines and amer-ciements shall and may, by their officers and servants, from time to time to be appointed for that purpose, levy, take and have to the use of the said Governor and Company, and their successors, without the impediment of us, our heirs or successors, or of any of the officers or ministers of us, our heirs or successors, and without any account therefore to us, our heirs or successors, to be made so always as the said laws, constitutions, orders and ordinances, fines and amer-ciements, be reasonable, and not contrary or repugnant, but as near as may be agreeable to the laws, statutes or customs of this our realm." And it is further provided, "that all lands, islands, territories, plantations, forts, fortifications, factories or colonies, where the said Company's factories and trade are or shall be, within any the ports or places afore limited, shall be immediately and from henceforth under the power and command of the said Governor and Company, their successors and assigns, and the said Governor and Company are empowered to appoint and establish Governors and all other officers to govern them." And it is provided, "that the Governor and his Council of the several and respective places where the said Company shall have plantations, forts, factories, colonies or places of trade, within any of the countries, lands or territories hereby granted, may have power to judge all persons belonging to the said Governor and Company, or that shall live under them, in all causes, whether civil or criminal, according to the laws of this Kingdom, and to execute justice accordingly ; and in case any crime or misdemeanor shall be committed in any of the said Company's plantations, forts, factories or places of trade, within the limits aforesaid, where judicature cannot be executed for want of Governor and Council there, then in such case it shall and may be lawful for the Chief Factor of that place and his council transmit the party, together with the offence, to such other plantation, factor.

or fort where there shall be a Governor and Council, where justice may be executed, or into this Kingdom of England, or shall be thought most convenient, there to receive such punishment as the nature of his offence shall deserve."

In pursuance of the authority thus given, the Company have invariably exercised all the powers of Government necessary for the administration of justice in their territory, and for that purpose have appointed proper officers, who have acted judicially in all matters arising therein.

As already observed, the Canadian courts have now a concurrent jurisdiction with the Company.

It may be right here to refer to several Acts of the Legislature which have recognized the general rights and privileges claimed and exercised by the Company.

An Act passed in the sixth year of the reign of Queen Anne, c. 37, intituled "An Act for the Encouragement of the Trade to America," and this Act contains an express proviso, that "nothing therein contained shall extend or be construed to take away or prejudice any of the estates, rights or privileges of or belonging to the Governor and Company of Adventurers trading into Hudson's Bay."

In like manner, in 1745, when an Act was passed (18 Geo. 2, c. 17), for granting a reward for the discovery of a north-west passage through Hudson's Straits, it was expressly provided, that "nothing herein contained should extend or be construed to take away or prejudice any of the estates, rights or privileges of or belonging to the Hudson's Bay Company."

No exact system of taxation has been claimed or exercised by the Company; and until a colony of resident settlers was established, other than the Company's own servants, the Company defrayed the whole expenses of the government of their territories, without the aid of any contribution whatever; but since a colony was formed, it has been made a stipulation with the community, upon their becoming settlers, and receiving parcels of land, that they should contribute towards the expenses of the government of the colony; but the main charge has continued to be borne by the Company.

APPENDIX (B .)

MEMORANDUM.

The Commissioner of Crown Lands submits the following remarks on the North-West Territories of Canada, Hudson's Bay, the Indian Territories and the Questions of Boundary and Jurisdiction connected therewith to accompany the other Documents :

The question now under special consideration has more particular reference to the subject of the renewal of a Lease held by the Hudson's Bay Company for the "*Indian Territories*," which are not considered to be within the boundaries of Canada, though subject to Canadian jurisdiction.

But the Hudson's Bay Company's "Map and Statement of Rights." under their original Charter, as submitted to the Imperial Government in 1850 by Sir J. H. Pelly, the Chairman of the Company, has also however to be considered in connection with it.

It becomes necessary therefore to expose the fallacies of the "Statement of Rights and Map" referred to, in order that the rights of the Province may not be misunderstood or the pretensions of the Company taken for granted.

The rights of the Hudson's Bay Company and the effect of their operations upon the interests of Canada, will best be considered under the following separate heads, viz :

First.—With respect to their operations under the Original Charter on the territories affected thereby.

Second.—With respect to their operations within the boundaries of this Province.

Third.—With respect to their operations on what has been termed the Indian Territories, now under Lease to them.

Fourth.—Arising out of the foregoing, the more important question of the Boundaries of the above Territorial Divisions ; and

Fifth.—With respect to jurisdiction as exercised and as sanctioned by law.

OPERATIONS OF THE COMPANY ON THEIR OWN
TERRITORIES.

On the first head, as regards their operations under their Charter on the territories which, if valid, it would cover, it is a matter of very secondary importance to Canada. The territories of the Hudson's Bay Company, taken at the largest extent which any sound construction of their Charter

in connection with international rights would warrant, if not in point of distance so very remote, are nevertheless so situated, that it can only be when all the localities to the south and west, more available for purposes of agriculture and settlement, have been filled to overflowing, that settlers may be gradually forced into that vicinity from the superabundant population of more favored countries.

The most direct interest that Canada could have in the matter at the present moment, being responsible for the administration of justice there, would be rather of a moral and political than of an interested or commercial character. But as the necessities of the Company, in whose hands a monopoly of the trade has practically existed since the treaty of Utrecht, together with the powers which they profess to derive from their Charter, has induced them to establish a jurisdiction which, for the moment, seems to have been successful in maintaining tranquility and order, Canada has had no special reason to intervene, though if any complaints had been made on this score she would of course have felt called upon to exercise the powers vested in her by Imperial Statutes.

It is not indeed to be denied that the freedom of the trade, consisting of furs and fisheries, would be of advantage to this country; but as this involves a question of the validity of the Charter, and whether or not, if valid in respect of the territory really affected by it, it would also affect the open sea of the Bay, and seeing that the question is not now raised of any further legislation to give effect to the powers it professes to confer, the consideration of this point is immaterial at the present moment compared with the more important subjects that have to be treated of.

OPERATIONS OF THE COMPANY ON CANADIAN TERRITORIES.

The second point to be taken into consideration and which is of a more important nature, is that which affects the operations of the Company within the boundaries of Canada, and on this head it must be admitted that they have had every facility they could possibly enjoy in their own territories, if such exist: whether on the coasts of Labrador, Lakes Huron, Superior or Winnipeg; whether on the Saguenay, the St. Maurice, the Ottawa, the Red River, the Assiniboine or the Saskatchewan, wherever, they have operated within the boundaries of Canada, they have had precisely the same scope as within their own territories on the shores of Hudson's Bay; not indeed but what if opposition had sprung up, the same facilities must necessarily have been afforded to any rival traders, had they not been effectually protected from such rivalry by their unlimited means, their extensive ramifications and complete organization, with which no rival traders were able to compete, unless indeed to a very limited extent in the immediate vicinity of the settlements.

There are indeed parts of the Province so remote from established settlements and having so little direct intercourse with them, that in former years it might have been to some extent a tax upon the country to have established tribunals sufficient to enforce the laws over regions inhabited

only, with one exception, by the servants of the Company and the Indians, though it may now be reasonably questioned whether corresponding benefits would not have accrued from such a course, while it must be admitted that the Company have at all events reaped a profit, taking together the costs they have been put to from the want of legal tribunals and the monopoly of the trade which the non-organization of such tribunals has practically been the means of enabling them to enjoy.

The exception referred to, where a considerable settlement exists, besides the employees of the Company and the Indians, is the Red River Country.

But the time has passed when any considerations of expense or temporary inconvenience, even if proved to exist, can be allowed to stand in the way of opening up those territories, when indeed the necessity for expansion compels the Provincial Government to create further facilities for it; and as an additional reason why the Government should no longer permit the present state of things to continue, it must be added that rumours have been gaining ground of late years, with a force and clearness which almost compel conviction, that the jurisdiction actually exercised in those remote localities has been as contrary to the wishes of the people as it has been manifestly without the sanction of law, all which has created a necessity for early investigation and action on the part of the Canadian Government.

With this view preparations were made in the Crown Lands Department last summer for a preliminary survey from the head of Lake Superior westward, preparatory to the opening of free grant roads, which have been so successful in other parts of the country, for the purpose of forming the nucleus of a settlement which would gradually penetrate to the valley of the Red River and the prairies beyond: besides which a first class thoroughfare would be necessary to afford easier means of communication with the navigable waters flowing to the west, &c., to facilitate the administration of justice in the distant settlements and the necessary intercourse generally between those parts and the more populous districts of the country, and which would at the same time throw open to emigration, agriculture and commerce a far larger area, with at least an equal average mildness of climate, and susceptible of more rapid development (a known characteristic of prairie countries), than all other parts of the Province heretofore rendered available for settlement.

The question of the renewal of the license of exclusive trade on the Indian Territories does not, of course, affect the country above referred to, any more than it does the lands, whatever they be, for they have never been defined upon authority, which the original Charter of the Hudson's Bay Company may, upon investigation, be construed to cover.

OPERATIONS OF THE COMPANY ON THE INDIAN TERRITORIES.

The third point is, for the moment, of less importance than the last, though within the period of another such lease as the Act 1 & 2 Geo. 4, cap. 66, authorises, it would be impossible to calculate the immense influence it must have upon the future of this country, and the British institutions which have taken root so deeply and thrive so nobly on its soil.

The present operations of the Hudson's Bay Company on these "Indian Territories" are conducted on the same principle precisely as within the boundaries of Canada, the jurisdiction they exercise having heretofore had the excuse of necessity if not the sanction of law, and so far as it can be shewn to have been exercised to the benefit of those countries, the Company might fairly claim indemnity for the consequences, should that become necessary, and there is no reason to doubt either the generosity or the justice of the Legislature if called upon to ratify such a measure.

It now becomes necessary, under the fourth head, to treat the questions of boundary arising out of the three foregoing; and these questions have heretofore, been so little understood, that it will be necessary to enter into the subject at some length.

The difficulty of describing definite boundaries in countries, which at the time were but very imperfectly or partially known, has always been a matter of serious embarrassment. In the present instance, however, the difficulties can only be in matters of detail, and it may be safely assumed that they will be still further lessened by the fact, that wherever uncertainty can be supposed to prevail in any point of real importance, it can only be between the Province of Canada, on the one hand, and the "Indian Territories," on the other, (not between Canada and the Territories of the Hudson's Bay Company, unless at a point of comparatively little consequence); and it would be difficult to conceive that it could be adverse to the interests of the Crown or the community, if the principal question of boundary were sunk altogether, and the whole of the "Indian Territories" incorporated with this Province.

BOUNDARY OF THE COMPANY'S TERRITORIES UNDER CHARTER OF 1670.

In the first place then, with respect to the Territory affected by the Charter of the Hudson's Bay Company, it may be admitted that it would not only be difficult but absolutely impossible to define it; it is therefore fortunate that its limited extent renders the question of little importance further than that it becomes necessary to consider and rebut the very large pretensions of the Company.

The extent of the territory affected by the Charter is subject to two distinct conditions:

First—It is confined to all such territory as was then the property of the donor.

Second—It is confined to all such unknown territories as by the discoveries of the Company, his subjects, might become his property.

These distinctions, though not directly expressed, are nevertheless conditions resulting from the circumstances and necessary to a proper understanding of the case.

With respect to the first, viz: the territory which was the property of the donor, it is necessarily limited by usage and by common sense to what was known or discovered, for the unknown and undiscovered could not be his property and might never become his property, that being dependant upon circumstances then in the future; it is further limited by specific condition, expressed in the Charter itself, to such portions of what was then known as did not belong to any other christian Prince, which condition it

must be admitted, was an acknowledgment on the part of the donor, that some part of the territory he was describing was not his, and of doubt as to what did or did not belong to him.

With respect to the extent of territory that *might have been* affected by the second condition above stated (that is as regards exclusive trade, the grant of soil being less extensive and more ambiguous) it has no particular limit, for it embraces all countries which could be reached either by "water or land" through Hudson's Straits, and to limit or extend it merely to the sources of rivers discharging into Hudson's Bay, would be a construction which the Charter will in no sense admit of. But while it extends to all unknown Countries, or infidel nations, which the Company could reach through Hudson's Straits or Bay, it is at the same time inferentially and *necessarily* restricted from extending to any of those unknown parts which might be first discovered and possessed by the subjects of any other christian Prince or State. This is not indeed expressed in the Charter in relation to undiscovered territories, but it is emphatically so as regards the then state of the rights and possessions of christian Powers. While the King therefore is so careful, at least in the wording of the document, not to infringe upon the rights of others *already acquired*, it can scarcely be supposed that he meant to infringe upon the rights of others *to acquire* what then belonged to none. The inference is altogether against the supposition that King Charles meant by his Charter to deny the right of any other civilized nation to make further discoveries and appropriate the countries discovered, and, even if he had so intended it, he had not the power to alter the law of nations in this respect. Besides, the Charter is expressly one of discovery as well as trade, &c.; the advantages granted to the "adventurers" are incidental and subordinate to that greater object, but there could be no *discovery* on their part wherever they were preceded by prior discovery and possession on the part of the subjects of any other christian Prince. The right of discovery is and was so well established, and wherever considered of any importance, has been so jealously watched that volumes of diplomatic controversy have been written on single cases of dispute, and the King of Great Britain could not by his Charter annul the recognized law of nations, or limit in any degree the right of other States to discover and possess countries then unknown. It may even be considered extravagant to affirm that he could convey a right of property to territories *not then* but which *might afterwards become* his or his successors' by the prior discovery and possession of the Company themselves, his subjects: were it necessary to dwell upon this point it could easily be shown that most of the territories now claimed under the Charter, which were not discovered at that date, the Company were not afterwards the first nor were any other British subjects the first discoverers of; that in fact, except the Coppermine River, the Company never discovered anything or penetrated beyond the *Coasts and Confines* of the Bay (to which perhaps they at that time justly considered their rights restricted) for upwards of a hundred years after the date of their Charter, and that when they did so penetrate, the only *discovery* they made was that the whole country, in the interior had been long in the peaceful possession of the subjects of another christian Prince.

But the position, as regards discovery after the date of the Charter, it is unnecessary to dwell upon, particularly as an adverse title can be proved prior to the date of the Charter, and that too sanctioned by treaty.

The early discovery and occupation of the country in and about Hudson's Bay are, as in many other cases, shrouded in a good deal of obscurity. The British claim as the first discoverers of the whole coast of this

1497.

Cabot, about the year 1497, but it is contended on the other hand that their discoveries did not extend to the north of Newfoundland, which still retains the name they gave it and which they supposed to form part of the main land. It is *said* indeed that the Cabots penetrated to a very high latitude far to the north of the Straits now bearing the name of Hudson; but it must be remarked that there appear to be no authentic records of the two voyages of the Cabots, their journals or observations. There appears to be only *hearsay* evidence of what they did, or where they went, told afterwards at second hand to third parties. The voyages of the Cabots therefore, although they are matters of history, not admitting of any reasonable doubt, in a general way, as to their having reached the coast of America, lose much of their force as the bases of specific territorial claims, from the want of any record of their proceedings. Did they ever land? If so, where? What observations did they make? Did they take formal possession? &c.

1504.

The French claim through Fishermen of Brittany who established Fisheries on the coast as early as 1504, and through

1506.

a map published by Jean Deny, of Honfleur, in 1506. The map would be valuable if any authentic copy of it be extant.

There does not appear to be any such record of the operations of the Breton Fishermen as would fix precisely the spot where their trade was carried on, though a British geographical work, published in 1671, with a map attached, fixes it at Hudson's Straits, naming the country after them, on the south side of the Straits and within the Bay. The next navigator through whom the French claim is maintained is John Verazzani, who visited the country by order of Francis the First of France, in 1523-4.

1523-4.

This is the first voyage, in behalf of either France or England, of which any authentic and circumstantial record exists, as written by the navigator himself, who gave

1534.

the country the name of New France. In 1534, Jacques Cartier's discoveries commenced, and these are so well known that it is

unnecessary to say more of them.

Thus, then, it appears that the Cabot's voyages, unsustained by any authentic record, affording no means of basing even a probable surmise as to whether so much as a landing was effected, formal possession taken, or any act done to constitute the assumption of sovereignty or territorial dominion, comprise the only grounds on which England can base a claim to the country north of Newfoundland, prior to the voyage of Jacques Cartier. Apart, therefore, from the question of "*beneficial interests*" (to use the expression of a British diplomatist) which were acquired by France, commencing with the discoveries of Cartier, the preponderance of *admissible* evidence is altogether in favor of French

Oregon Negotiations.

Ogilby, London, 1671.

discovery of that part of the continent between Newfoundland and Hudson's Bay. But, even if the question rested altogether between the unauthenticated discoveries of the Cabots and the commencement of settlement by Cartier, it would not be inappropriate to assume the British view of a similar question as maintained in the Oregon dispute, in the following words :

" In the next place, it is a circumstance not to be lost sight of, that it (the discovery by Gray) was not for several years followed up by any act which could give it value in a national point of view : it was not in truth made known to the world either by the discoverer himself or by his Government."

1553. The next English attempts at discovery commenced in 1553, when Willoughby penetrated to the north of Hudson's Bay, which, however, he did not discover or enter. This was nineteen years after Jacques Cartier's first voyage and was followed by various other attempts at finding a north-west passage, all apparently directed to the north of Hudson's Straits until 1610, the period of Hudson's voyage, in which he perished after wintering in the Bay which bears his name ; but by this time it must be observed that Canada was colonized by the French.

1540. Jeffery's p. 98.

In 1540, De Roberval was made Viceroy of Canada, the description of which as given in his commission included Hudson's Bay, though not then of course known by that name.

1598.
L'Escarbot, Ed. 1611,
Vol. 1, p. 31.

L'Escarbot gives a full description of Canada at the period of De la Roche's appointment in 1598, as follows :

" Ainsi notre Nouvelle France a pour limites du côté d'ouest les terres jusqu'à la mer dite Pacifique au-delà du tropique du cancer ; au midi les îles de la mer Atlantique du côté de Cuba et l'Isle Espagnole ; au levant la mer du nord, qui baigne la Nouvelle France ; et au Septentrion cette terre, qui est dite inconnue, vers la mer glacée jusqu'au Pôle Arctique."

Notwithstanding failures and difficulties, France continued the effort to colonize Canada, and in 1598 De la Roche was appointed Governor of the whole of Canada as above described : In 1603 or 1604 the first exclusive charter was granted for the fur trade of Canada up to the 54th degree of north latitude : in 1608 Champlain founded the city of Quebec, and in 1613 he accompanied his Indian allies, to the number of between two and three thousand, up the Ottawa and by Lake Nipissing and the French River to war with a hostile nation at the Sault St. Marie. It must now be observed that the great incentive to the colonization of Canada was the enormous profits of the fur trade, without which it is scarcely likely that such persevering efforts would have been made for that purpose while so many countries with more genial climates remained in a manner unappropriated.

Tadoussac, at the mouth of the Saguenay River, was the first important Post established by the French on the St. Lawrence ; it was the entrepot of

* Therefore, New France has for boundaries on the west the Pacific Ocean within the Tropic of Cancer ; on the south the Islands of the Atlantic towards Cuba and the Spanish island or Hispaniola ; on the east the Northern sea which washes its shores, embracing on the north the lands called unknown, towards the Frozen sea, up to the Arctic Pole.

the fur trade before Quebec was founded, and continued to be so afterwards. This will not be deemed extraordinary when it is considered that the Saguenay River afforded the best means of access into the interior and was the best inland route, in fact is the best canoe route yet to the Great Bay now bearing the name of Hudson. There is indeed no authentic record of any of the French having made an overland journey to the Bay at so early a period, but when it is considered at what an early date the *Coureur de Bois* traversed the whole country in search of peltries, how readily they amalgamated with the Indians, who in that locality were in friendly alliance with them, and when it is also considered what extraordinary journeys the Indians undertook, as instanced by the war carried into the enemy's country at the Sault St. Marie, already referred to, the presumption is that the fur traders of Tadousac not only enjoyed the trade of the Great Bay, but must also have penetrated very far in that direction, if not to the Bay itself, a journey at the most of less distance and not greater difficulty than that which Champlain successfully accomplished with an army, while it had the strong incentive of profit to stimulate it. It is not necessary, however, to prove that every corner of the country known to the world as New France or Canada had been first visited by the actual possessors of the region so known.

However strong the probabilities therefore of the *Coureur de Bois* having been in communication with the great northern Bay before the visit

1610	of Hudson, in 1610, or of Button who succeeded him, in
1612.	1612, it is not necessary to base any argument thereon; nor is
1545.	it necessary to dwell on the reputed voyage of Jean Alphonse, of Saintonge, in 1545, which, although quoted by French historians, does not appear to be sufficiently authenticated. For,

granting that the rights accruing from discovery resulted from the voyages of Hudson and Button, these discoveries were practically abandoned, in fact were never dreamt of being followed up by way of occupation, the finding of a north-west passage having been their sole object; but, waiving even this point, it will be found that the rights of France were made good by international Treaty long before the Charter of Charles the Second was granted.

It will be seen from L'Escarbot's description, and those contained in the Commissions of the Governors already referred to, that France claimed the whole country extending to the north of Hudson's Bay, her title resting in the first instance upon the discoveries already mentioned, of which those of Verazzani, Cartier and Champlain are of unquestioned authenticity, to which they had added, when L'Escarbot wrote in 1611, the title resulting from actual possession in the shape of permanent settlement. England, on the other hand, claiming under Cabot's discovery, denied the right of France generally to the whole and practically to the more southerly parts where she endeavoured to plant settlements of her own, in which she was successful at a period somewhat later than the French. The fact is, each was trying to grasp more than they could take actual possession of; and if mere discovery of parts of a continent without actual possession or settlement were made the basis of permanent rights, neither of the contending parties would perhaps have had any right at all. Gradually the state of the actual possessions of the two powers settled down into a sort

of intelligible shape, though without any very distinct boundaries, the most northerly of the English possessions being known as New England, and all the country to the north thereof being known as New France or Canada, where the French *only* were in possession, there being no possession or settlement of any kind to the north of them. Still had England colonized Hudson's Bay at that period and been successful in keeping actual possession of it, she would just have had the same right to do so that she had to colonize New England. That England persevered with extraordinary energy in trying to find a north-west passage there can be no doubt, nor does it appear that France, though publicly claiming the country, made any objection, but neither country made the most distant attempt at settlement or actual occupation of those remote and inhospitable regions at that period.

1615. In 1615 another expedition was made into Hudson's Bay,
 1727. in search of a north-west passage by Baffin & Bylot. In 1627, the Quebec Fur Company was formed under the auspices of Cardinal Richelieu and an exclusive Charter granted to them for the whole of New France or Canada, described as extending to the Arctic Circle. In 1629, Quebec was taken by the British, as were also most of the other principal towns founded by the French in Acadia and Nuremberg (now Nova-Scotia and New-Brutswick), which were then Provinces of New France, the two nations being
 1629. then at war. In 1631 Fox and James, on two different expeditions, prosecuted a further search for a north-west passage in Hudson's Bay, and from the latter of these navigators the southerly part of the Bay takes its name.

At this period the authenticated voyages of the English into Hudson's Bay were Hudson in 1610, Button in 1612, Bylot and Baffin in 1615, and Fox and James in 1631; the numerous other expeditions having been all apparently directed to the north of Hudson's Straits. At the same time the extent of New France or Canada, as claimed by the French, was publicly known throughout the civilized nations of Europe. It is not necessary to say, that that claim was admitted by Great Britain, it is sufficient that it was known. British authorities even of a later period it must be observed, have contended that the French were intruders in America altogether in violation of the title accrued through the discoveries of the Cabots, and had no right whatever to any part of it *until acquired by treaty*. It therefore becomes immaterial whether the claims of the French were disputed or not so far as they were afterwards confirmed or a title created by Treaty.

In 1632, peace was concluded, and by the Treaty of St. Germain en Laye, Canada or New France was relinquished to the French without any particular designation of its limits, and the British Forces were to be withdrawn from the places they had taken, which being the most important, including the seat of government, might almost be said to have amounted to the conquest of the whole country.

Admitting, then, that but a disputed title of discovery had previously existed on either part, nay admitting more that the right vested by prior discovery was in England, this treaty sets the matter at rest as regards all that was at that time called by the name of New France or Canada. There is indeed no getting behind this treaty, of which the Charter after-

wards granted by Charles the Second was in fact, but for the saving clause it contains, a violation, and Canada might well be content to rest her case here sa against a Charter which, referring to a country previously guaranteed by the treaty to a foreign power is expressly conditioned (as a Charter of discovery) not to interfere with what belonged to that other power. If, as is asserted by some English writers, France had no rights in America but such as she acquired by Treaty, what, it may be asked, were the limits of the territory she acquired by the Treaty of St. Germain's En Laye, if not all that she claimed under the name of New France? It must be observed too that Champlain, the Viceroy of Canada, was made prisoner when Quebec was taken in 1629, and carried to England where he remained for some time, and that the very year in which the Treaty was entered into, he published a work, containing a map of New France, by which Hudson's Bay was included in the country so called. Can it then for a moment be supposed, with Champlain, the Viceroy of New France, a prisoner in their hands and their flag floating in triumph from the battlements of its Capital, that the British Government and the Diplomats who negotiated the Treaty were ignorant of the meaning attached to the terms "Canada" or "New France," or could attach any other meaning to those terms than that which Champlain's published maps of a previous date indicated, and with which the descriptions of other French writers whose works were known throughout Europe coincided? Can it be supposed that in the negotiations preceding the Treaty, Champlain's views of the extent or boundaries of his Viceroyalty were wholly unknown or that the British Diplomats meant something less by the appellation than what was known to be understood by France? If, indeed, something less than the known extent of country called New France had been agreed upon, some explanation would undoubtedly have been contained in the Treaty, or, if there had been any misunderstanding on the subject, the map which issued the same year, in Champlain's work of 1632, would at once have been made a cause of remonstrance, for, coming from the Chief Officer of the Colony, who was re-appointed to or continued in his office after the Peace, and published in Paris under the auspices of the King, it could not be otherwise looked upon than as an official declaration of the sense in which France regarded the Treaty.

Even, then, if the rights of France were wholly dependent upon international Treaties, her right became as good by the Treaty of St. Germain's en Laye to the shores of Hudson's Bay as to the shores of the St. Lawrence. If she had rights before, the Treaty confirmed them, and if she had no rights before, the Treaty created them; and, in either case, the effect was as great in the one locality as the other. Every further step, however, in the history of the country will only tend to shew that even if there had been no such treaty as that of St. Germain en Laye, the Charter could not be sustained in opposition to the rights of France.

1632.

1652

The provisions of the treaty of 1632, seem to have been respected for a period of 36 years, when in 1668, the next English expedition entered the Bay, which was the first *trading voyage* ever made by British subjects to the Bay, and which resulted in the formation of the Hudson's Bay Company and the grant of the Charter two years after. In saying that this was the first purely commercial enterprise of

the British in Hudson's Bay, it is not meant to be implied that no trade was had with the Indians by those engaged on the former expeditions, but that such enterprises were undertaken with the definite object of reaching the Pacific and without the least idea of any practical occupation of, or trade with the country.

The British having ceased any attempt upon Hudson's Bay from the time of Fox and James' voyages and the Treaty of St. Germain's en Laye for a period of 36 years, it now remains to be seen what the character of this their next attempt was, and what had been the circumstances of the country in the interim.

That the name of Canada or New France continued to attach to the whole country during that period is indisputable; the French published maps of those times, leave no doubt upon the subject, and when we find the French not only designating the country by these names in their maps published by royal authority, but also entering upon the practical occupation of the since disputed parts of the country so designated, the carrying on of the trade with it both by sea and land, and the establishing of missions, all within the period intervening between the Treaty of St. Germain's En Laye and the granting of the Charter, or the voyage which preceded the Charter, and all without interference on the part of Great Britain, we must conclude that the rights of the French were incontestable, and that if ever an adverse claim had been preferred it was considered to have been abrogated by the Treaty.

1656 In 1656 the first exclusively commercial sea voyage was made into Hudson's Bay by Jean Bourdon, who found the trade in Furs so profitable that others immediately followed. The

1663 first missionary establishment was made there in 1663 by La Couture, who went over land by direction of D'Avaugour,

Governor of Canada, who had been twice solicited by deputations of Indians from the Bay to send them missionaries, and now the French being fully established in the trade and in the occupation of the Country both by sea and land, of the coast and of the interior, the English "Adventurers," first appear upon the scene, in a business way, under the countenance of two Canadians, DeGrozelier and Radisson, who having been already engaged in the trade of the Bay and having failed in procuring certain privileges they desired from their own Government, went to England and induced some Englishmen to join them in a trading voyage in

1688. 1668, which was so successful that, as already stated, it resulted

1670. in the formation of a Company and the grant in 1670, of one of those extraordinary Charters which were so much in vogue in those days that the whole of the Continent of America, north of the Gulf of Mexico, known and unknown, may be said to have been covered by them, and some of it doubly so if the vague and ambiguous descriptions, of which this was the most vague, could be said to mean any thing.

This was the origin of the Hudson's Bay Company, and they immediately commenced to build forts and establish themselves in the trade, but no sooner was this known in France than orders were given to expel them. Accordingly a desultory warfare was kept up for a number of years between the Canadian traders and the Company in which the latter were nearly expelled, but again recovered themselves and strengthened their

position when it became necessary to take more effective means for their expulsion. Troops were accordingly dispatched from Quebec overland for that purpose under the Chevalier De Troyes, who commenced his work very effectually by taking the principal Forts of the Company.

1686. It must be observed, that this was in 1686, in time of peace between Great Britain and France, and yet these proceedings were not made a cause of War, which in itself would strongly imply an admitted right on the part of France to extirpate the Company as trespassers upon her territory.

War having afterwards broken out, the Forts on Hudson's Bay were successively taken and retaken, till the peace of Ryswick, in 1697 1697, put a stop to hostilities, at which time the British appear to have been possessed of Fort Albany *only*, the Canadians having possession of all the other establishments and the trade of the Bay.

By the Treaty of Ryswick, Great Britain and France were respectively to deliver up to each other generally whatever possessions either held before the outbreak of the war, and it was specially provided that this should be applicable to the places in Hudson's Bay taken by the French during the peace which preceded the war, which, though retaken by the British during the war, were to be given up to the French. There could scarcely be a stronger acknowledgment of the right of France to expel the Company as trespassers upon her soil, for it is impossible to construe the Treaty in this particular otherwise than as a justification of the act.

Moreover, commissioners were to be appointed in pursuance of the Treaty, to determine the rights and pretensions which either nation had to the places in Hudson's Bay. Had these commissioners ever met, of which there appears to be no record, there might have been a decision that would have set the question at rest as to which were "*rights*" and which were "*pretensions*." The commissioners must however have been bound by the text of the Treaty wherever it was explicit. They *might* have decided that France had a right to the whole, but they could *not* have decided that Great Britain had a right to the whole. They would have been compelled to make over to France all the places she took during the peace which preceded the war, for in that the treaty left them no discretion. The following are the words of the treaty: "But the possession of those places which were taken by the French, during the peace that preceded this present war, and were retaken by the English during the war, shall be left to the French by virtue of the foregoing article." Thus the treaty of Ryswick recognised and confirmed the right of France to certain places in Hudson's Bay, distinctly and definitely, but it recognised no right at all on the part of Great Britain, it merely provided a tribunal to try whether she had any or not.

So strongly has the treaty of Ryswick been interpreted in favor of France in this particular that some historians merely state the fact, that by it she retained all Hudson's Bay, and the places of which she was in possession at the beginning of the war.

The Commissioners having apparently never met to try the question of right, things remained *in statu quo*, and the most reliable accounts shew

Treaty of Ryswick, 7th and 8th clauses.

that the Hudson's Bay Company retained possession of Fort Albany *only* from that time up to the Treaty of Utrecht in 1713:

Now whatever the Commissioners might have done, had they ever passed judgment on the cause the Treaty provided they should try, they could not have given Fort Albany to the British, for it was one of the places taken by the French during the preceding peace and retaken by the British during the war, and therefore adjudged in direct terms of the Treaty itself to belong to France.

Thus then it will be seen, that the only possession held by the Hudson's Bay Company during the sixteen years that intervened between the Treaty of Ryswick and the Treaty of Utrecht was one to which they had no right, and which the obligations of the Treaty required should be given up to France

Here, therefore, for the second time an International Treaty interposes a barrier against the pretensions of the Company.

By the Treaty of Utrecht in 1713, the whole of Hudson's Bay was ceded to Great Britain without any distinct definition of boundaries, for the determining of which Commissioners were to be appointed. No official statement of the action of such Commissioners is at present available for reference, but it is stated that no such action threw any additional light upon the subject. Indeed no such Commissions ever have done much to determine boundaries in unexplored countries, as witness for instance the dispute so long pending on what was called the North Eastern boundary question between Great Britain and the United States, which was finally compromised by the Treaty of Washington concluded by Lord Ashburton; and again the difficulties arising out of the same ambiguous description, and which so many Commissions endeavoured in vain to settle between the Provinces of Canada and New Brunswick.

There is no denying the fact that the ancient boundaries of Canada or New France were circumscribed by the Treaty of Utrecht, and it is difficult to determine precisely the new boundaries assigned to it. The general interpretation adopted by the British geographers, as the country gradually became better known from that time up to the final cession of Canada, was that the boundary ran along the high lands separating the waters that discharge into the St. Lawrence from those that discharge into Hudson's Bay to the sources of the Nipigon River, and thence along the northerly division of the same range of high lands dividing the waters flowing direct to Hudson's Bay from those flowing into Lake Winnipeg and crossing the Nelson, or rather (as it was then known) the Bourbon, River, about midway between the said Lake and Bay, thence passing to the west and north by the sources of Churchill river, &c., no westerly boundary being anywhere assigned to Canada. It may indeed be held doubtful whether the terms in which Hudson's Bay was ceded could possibly be interpreted to mean more than the Bay and its immediate environs, but whatever the legitimate interpretation of the Treaty, the actual *acceptation* of it gave to France *at least* all to the south of the dividing high lands above described, for she remained in undisputed possession thereof until the final cession of Canada in 1763: while on the

other hand the acceptance of it on the part of Great Britain, as proved by the same test of occupation, confined her at least to the north of the said high lands, if not to the very shore of the Bay, beyond which her actual possession never extended.

It must here be observed, however, that the treaty of Utrecht conferred nothing upon the *Hudson's Bay Company*. It gave them nothing that was not theirs at the treaty of Ryswick, and the treaty of Ryswick gave them nothing that was not theirs before. The Charter obtained from King Charles the Second, may have granted all that was his (if any thing) to grant in 1670. 1670, but it would have required a new Charter to have granted what France ceded to Great Britain forty-three years afterwards. 1713. No doubt the treaty of Utrecht had this important bearing upon the Company that, although it conferred no territorial rights upon them, the territory it conferred on Great Britain was then inaccessible to British subjects by any other route than through the Bay and Straits of Hudson, over which (if over any thing) the Company's Charter gave exclusive control, and over which, whether rightfully or wrongfully, they have exercised such control.

Matters continued in this state as regards the territorial rights of Great Britain and France for 50 years more, when Canada was ceded to Great Britain by the treaty of Paris in 1763.

1763. During this period the *Hudson's Bay Company* occupied the posts on the coasts of the Bay, and *these only*, having made no attempt to penetrate into the interior or occupy even what the *British Geographers* of the time construed the treaty of Utrecht as conferring, not upon the Company, but upon Great Britain ;

while on the other hand the French had covered that part of New France which still remained to them, (according to the British authorities) with posts or forts from the Lake of the Woods to the lower end of Lake Winnipeg, and remained in peaceable possession thereof, and in the most active prosecution of the trade, until the whole country was given up to the British by the peace of Paris, in 1763; by which, however, nothing was conferred upon the *Hudson's Bay Company* any more than there had been by the treaty of Utrecht, the rights acquired by these treaties being simply in common with other British subjects.

For a few years about the time of the transfer of Canada from French to British Dominion, the trade of the western territories languished, from a very natural want of confidence on the part of the Canadians by whom it had, up to that time, been carried on, and who now owed a new allegiance and had to seek a new market for the produce of their industry ; but a fresh impulse was soon given to it, first by separate individuals, then by small companies, and finally by the great North-west Company of Montreal, who not only spread their operations over all the territories formerly possessed by the French, but explored new countries to the north and west, while the *Hudson's Bay Company* had not yet made a single establishment beyond the immediate confines of the sea coast.

The temporary depression of the fur trade at the period of the transfer of Canada to British dominion was of course advantageous to the *Hudson's Bay Company*, for the Indians inhabiting those parts of Canada where the

French posts were established around lake Winnipeg and its tributaries, would naturally seek a market in Hudson's Bay during the comparative cessation of demand at the establishments in their midst. But when confidence was restored and a new impulse was given to the trade in the north west of Canada, the supply was again cut off from Hudson's Bay, and now the Company for the first time entered into competition with the

Canadian traders in the interior, where their first establishment
1774. was made in 1774. And why, it may be asked, did not the

Hudson's Bay Company oppose the French Canadians in the interior a few years earlier, as well as they opposed them (principally the same people,) now that they had become British subjects? The answer is very simple. During French dominion they could not do it because the country belonged to France, but by the cession of the country to Great Britain, the Company had acquired the same right as any other British subjects to trade in it and they availed themselves of that right accordingly.

From this period an active competition was carried on between these companies, but the Canadian North West Company were every where in advance of their rivals; they were the first to spread themselves beyond the limits of the French, over the prairies of the Saskatchewan; they were the first to discover the great river of the north, now bearing the name of McKenzie, and pursue its course to its discharge in the Frozen Ocean. They were the first to penetrate the passes of the northern Cordilleras and plant their posts upon the shores of the Pacific; and with such indomitable energy did they carry on their business that at the period of Lord Selkirk's interference, they had upwards of 300 Canadians, "*Voyageurs*," employed in carrying on their trade to the west of the Rocky Mountains.

It would be a useless task, now to enter into a detail of the attempt made by the Earl of Selkirk, as a partner of the Hudson's Bay Company, to ruin their opponents. It is only necessary to refer to it here as the first endeavour made to exercise the privileges contended for under the Charter over those territories which had not been acquired by Great Britain till the conquest or cession of Canada. Lord Selkirk having become the principal partner and acquired a predominant influence in the affairs of the Hudson's Bay Company, it was determined to assert the assumed privileges of the Company to an extent never before attempted, and for this purpose a grant of the country on

- the Red River was made to His Lordship who commenced in
1811. 1811-12 to plant a colony there.* A Governor was appointed,
the colonists and the servants of the Company were armed and
1814. drilled, and in 1814 the claims of the Company to soil, jurisdiction and exclusive trade were openly asserted, and for the first
time attempted to be enforced by the actual expulsion
of the North-West Company, several of whose forts
were surprised and taken, their people being made
prisoners, their goods seized and the channel of their
trade obstructed by the interception of their supplies.

W. Semple, 2nd appointed
to that Office.

* "Who have been the aggressors in their different quarrels, I am not able to determine, however, previous to 1811, at which time Lord Selkirk became connected with the Company trading to Hudson's Bay, and sent settlers from Europe to that country, no great differences existed between the servants of that Company and the fur traders of Canada. There might be difficulties between different posts, but seldom attended with serious consequences."
Despatch of Lieutenant Governor Gore to Earl Bathurst, 9th September, 1816.

Overawed somewhat for the moment by this bold assumption of authority, the Canadian Company appear to have avoided the contest, but when forced into it they proved the stronger: the Governor was killed in leading an attack upon a party of the North-West Company who turned and gave battle, and the colony was dispersed. This final catastrophe occurred in the

1816. spring of 1816, while in the mean time Lord Selkirk was organising a more formidable force than had hitherto taken the field.

Having procured a commission of the peace from the government of Canada he engaged a large force of the disbanded DeMeuron soldiers, equipped them in military style, procured arms, ammunition, artillery even, and started for the interior.

It must be allowed that it was a somewhat anomalous course for the government of Canada to have pursued to permit such a force to be organised; but when it is considered that great ignorance prevailed as to the state of those remote localities, that it was known that there had been disturbances and bloodshed the previous year, when also Lord Selkirk's position is considered, and that he went as a pacificator professedly to maintain peace, it may not be deemed so extraordinary that so much confidence should have been placed in him, for he was even granted a sergeant's guard of regular troops. It is not the object here, however, to enter into a discussion of the unfortunate occurrences of that period, or the particular action of the provincial government, and the circumstances are only referred to, to show that Canada actually exercised the jurisdiction, that Lord Selkirk's destination was the Red River colony, and that he deemed it necessary to fortify himself doubly with commissions as a Canadian Magistrate, first for Canadian territory, and second (under 43 Geo. 3rd) for the "*Indian territories*," so that those who resisted his authority on the ground that they were in Canada, he could judge under the one commission, and those who resisted on the ground that they were in the Indian territories, he could judge under the other while the judicial and governmental attributes claimed for the Company would have served as a third basis of operations; and thus with the actual force at his disposal there was a pretty fair prospect of the Hudson's Bay Company being made the absolute masters of the north-west country.

At the Sault St. Marie, however, Lord Selkirk met intelligence of the death of Governor Semple and the dispersion of his colony; nevertheless he still proceeded with his force as far as Fort William, on Lake Superior, where he arrived about the 11th of August, 1816, and soon after arrested the partners of the North West Company, who were there at the time, and took possession of the whole establishment including the merchandise and stores of the Company. The course pursued on this occasion, as appears by documents published at the time, shews the character of the pretensions set up at that period—pretensions which were then and not till then presumed upon.

It will be observed that Fort William was the principal depot of the Canadian merchants, through which all their supplies for and peltries from the north-west had to pass. By seizing on this point therefore Lord Selkirk had possession of the key of their whole trade, and was enabled to permit or refuse the transit of their goods as he saw fit. For whatever purpose, therefore, he obtained his two commissions of the peace in Canada,

the expedition simply resolved itself into a continuation of the attempt to destroy the North-West Company of Canada, the rivals in trade of the Hudson's Bay Company, for, however desirable it might be to arrest and bring to trial all parties implicated on either side in the death of Governor Semple, there could be no excuse for seizing the persons of those gentlemen who were known not to have been at the time within hundreds of miles of the scene of that catastrophe, merely because they were partners in the North West Company, nor, even if there were cause for their arrest, did that justify the taking possession of their property without the sanction or the form of law.*

The object of entering upon this brief record is, to point out that all this occurred at *Fort William*, on the shores of Lake Superior, within what the Hudson's Bay Company, by their map and statement of "rights," now admit to be within the boundaries of Canada. And thus it will be seen that, while the pretension of extending the privileges of the Charter beyond the "coasts and confines" of the bay to the western territories of Canada, was a mere invention of that period, to further their own ends and to destroy the rival company of Canada, they were as ready to employ force at *Fort William* as in the valley of the Red River.

In further proof that the transactions at *Fort William* were openly done in violation of Canadian law and in defiance of Canadian authority it is only necessary to add that when Lord Selkirk's proceedings became known, warrants were issued for his apprehension and a party of constables sent to arrest him, and that refusing obedience to the laws of this country and presuming upon the force for the moment at his command in that remote locality (remote *then* as regards the *time* it took to reach it, though at our doors to day) he caused the constables to be taken prisoners themselves, and treated the Deputy Sheriff of the western district, who afterwards made the attempt, in like manner.

This war between the Companies, though injurious to both, failed to exterminate either, and the final result was a compromise by which they entered into partnership; and thus the trade has been carried on since, under the name indeed of the Hudson's Bay Company, but *expressly* in conjunction with the North-West Company of Canada, so that Canada can at no time be said to have been out of possession of her western territories within the limits occupied by the French at the time of the conquest, nor out of possession of the "Indian Territories" beyond, which, after the conquest, were first discovered by the Canadian traders and for which the license of exclusive trade was granted to the partners of the North-West Company of Canada, as such, in conjunction with the Hudson's Bay Company.

It is true that after the amalgamation of the Companies and
1821. the license of exclusive trade granted in 1821, competition became
illegal in the "Indian Territories," beyond the boundaries of Ca-

* "From these documents it appears, that the Earl of Selkirk, acting in his own cause, aided by an armed force, has not only made the Partners of the North West Company prisoners, but has also seized their Papers and Property."

Lieut. Govr Gore to Earl Bathurst.

29th Sept. 1816.

Deputy Sheriff obtained verdict for £500, damages.

nada, as indeed it had always proved *impracticable* on the part of minor traders either within or beyond the remote parts of the province, small traders being altogether unable to cope with the two great Companies. It is true also that after they, the two great Companies, had been for some time united, and when by the policy pursued by them the trade had ceased to be beneficial to, and had been lost sight of in Canada, an arrangement was effected between the two sections of the united Company by which

the name of the North-West Company was dropped entirely, 1838. the lease relinquished, and a new one obtained in which the name of the Hudson's Bay Company alone appeared; but it must be observed that this new arrangement was accepted and entered into by the British government by consent of the partners representing the original Canadian Company, for although this lease or license only affects the Indian Territories beyond the actual boundaries of Canada, it can scarcely be supposed that the government would have agreed to give it, had Canadian traders still remained in the field. The policy of the Companies, when joined, has however been so far successful that they have managed heretofore to secure themselves against opposition, many no doubt being imposed upon by the pretentious but erroneous construction put upon their Charter, and the public in general kept in the dark respecting a trade which, though partly carried on in the very centre of Canada and within range of steam navigation, is so managed as to pass by a circuitous route, by means of the primitive canoe and over portages on men's backs, away hundreds of miles into the interior and round by Hudson's Bay.

But the time has come when Canada must assert her rights, not only from that necessity for expansion which her growing population and trade require, but also because if she does not now begin to provide for the future by opening up her remote territories to colonisation, and securing the loyalty and attachment of the people by extending to them the rights and privileges of her laws and institutions, there is a moral certainty that a power far more formidable than the Hudson's Bay Company must in a very short period acquire the actual possession of those countries.

This brief chronological sketch of the history of the Company and of the circumstances connected therewith, must sufficiently shew that they have acquired no territorial grant whatever under either of the two conditions stated to which their Charter was subject: first as regards the countries then known upon the "coasts and confines" of Hudson's Bay, because they were already in the possession of the subjects of another christian Prince, and were therefore excluded from the grant in terms of the Charter itself; and second, as regards discoveries, because when they first penetrated into the interior, 104 years after the date of their

1747. Charter, they found the country and a long established trade in the hands of others,—unless indeed as regards some discoveries to the north which are of no special importance to Canada, such as the Copper Mine River, discovered by Hearne under the auspices 1772. of the Company.

Under the first head the most sanguine advocate of the Company, upon a full investigation of all the circumstances, could only urge on their behalf a claim to certain points, or stations on the sea coasts of the bay, and even to these a doubtful and disputed title.

Parliamentary Paper,
No. 642 of 1850.

The high legal authorities that may be quoted in favor of the claims of the Company cannot be held as of weight against the conclusions inevitably resulting from a fuller investigation of the subject, inasmuch as they are merely opinions upon the cases submitted. The latest opinion given upon the subject is that of Sir John Jervis and Sir John Romilly in their letter to

Earl Grey, of January, 1850, in which they give it as their opinion, "That the rights claimed by the Company do properly belong to them." Before arriving at this conclusion, however, these learned gentlemen are careful to specify precisely what papers they had then under consideration, and to which alone they refer as the basis of their opinion. These papers were simply the "*Statement of Rights and the Map*" submitted by the chairman of the Company, Sir J. H. Pelly.

This opinion, therefore, can only be taken as affirmative of the power of the King to grant such rights and privileges as the Charter specifies, and that the Charter would cover all the territory claimed, but the question of whether that territory belonged to the King to grant was not before them. With respect to the territory which the wording of the Charter would cover, it would be difficult to say what it would not cover; and with respect to the validity of the grant of such powers, it is to be remarked that very high authorities have given a directly opposite opinion; and it may be asked why,

if the Charter was valid, did the Company procure an Act of Parliament to confirm it in 1690, and why when that Act expired, which was limited to seven years, did they again ask for an Act to continue it? It is worthy of notice, too, that the seven years Act was passed during war with France, when it appears that Parliament did not scruple to grant or confirm a Charter for countries to which Great Britain had, at best, but a disputed title, based only upon a very partial, and, even during peace, a very precarious possession; nor is it less worthy of remark, that, when Parliament refused to re-grant or continue the Charter the Treaty of Ryswick had intervened, by which the rights of France were recognised, and those of Great Britain left, at most, in doubt, and when, therefore, any such Act would have been a direct violation of an international Treaty.

Another opinion appears to have been obtained by the Hudson's Bay Company at an earlier period, from Romilly, Holroyd, Cruse, Scarlett and Bell, equally upon the case drawn and without reference to the real points at issue, merely affirming that the grant of the soil contained in the Charter is good, and that it will include all the countries the waters of which flow into Hudson's Bay. This opinion is therefore, like the other, of no weight on questions which were not before the learned gentlemen who gave it.

Opposite opinions were obtained at an earlier period by the North-West Company, viz: in 1804, from Sir V. Gibbs and Mr Bearcroft. These opinions, however, although they touched the fundamental principles of the Charter, had no reference to the interior countries on the Red River, Lake Winnipeg, the Saskatchewan, &c., for the simple reason that no opinion was asked on a case which only arose six or seven years later, when Lord Selkirk came on the field.

The position of the question at this period was that the North-West Company being in possession not only of all the country formerly possessed

by the Canadian French in that direction, but also of the country first discovered by themselves, to the north-west of the Churchill River, came to the conclusion that their trade could be more conveniently carried on with these more remote parts through Hudson's Bay than through Canada. The question they submitted therefore was solely in regard to the validity of the Charter in respect of the navigation, trade and fisheries of the Bay itself. The North-West Company as little dreamt of asking an opinion respecting the legality of their trade in the interior as the Hudson's Bay Company thought, at that period, of attempting its forcible restraint. In the case put it is to be remarked that no reference is made to the early possessions of the French on the coasts of the bay, and consequent possession of the bay itself in communicating therewith, and yet, even without this, these opinions are entirely adverse to the exclusive privileges claimed under the Charter.

After the difficulties occasioned by the more recent assumption of power in virtue of the Charter to expel the North-West Company from the Red River country, under the auspices of Lord Selkirk, had become serious, another opinion was obtained by that Company in 1816, from Sir Arthur Pigott, Sergeant Spankie and Lord Brougham. This opinion must be held to be more valuable than those obtained by the Hudson's Bay Company, inasmuch as it enters more into the merits of the case and is therefore more explicit as to the real views of the learned counsel on the subject submitted to them, whereas the opposite opinions are such as the gentlemen who gave them would be at liberty to ignore upon a fuller submission of the case, without incurring a charge of inconsistency.

The opinion under consideration is very decided on the point that the Red River and Saskatchewan Countries are not within the limits of the Charter, even upon the merits of the description contained in the Charter itself, apart from the question of prior possession by another State. The question of prior occupation of these localities by the French is indeed lightly touched upon though the opinion, as above, is definitely given without it; but the rights of Canada now for the first time fully discussed, based on prior discovery, at least of the whole of the interior, prior occupation on the shores of the bay itself, and international Treaties, do not appear to have ever been pronounced upon by any of those high legal authorities who have heretofore been consulted, because no such case has ever been submitted; and yet, based upon history and facts it may be taken to supersede all necessity for raising any question as to the extent of the royal prerogative in giving validity to such a Charter.

Had the Hudson's Bay Company indeed deemed their position good in law, as against the North-West Company, in respect of the Red River country, it can scarcely be supposed that they would have resorted to force at such a lavish expense (and it must be added, involving no small amount of bloodshed) when the question could have been so easily determined by the legal tribunals, at an expense altogether inconsiderable as compared with the actual losses and costs incurred. They have indeed attempted to shew that they had not an equal chance with their rivals in the courts of this Province; but not to speak of the injustice of such an insinuation in itself, the objection is untenable while *they had the right of appeal*, and to suppose that they were deterred from taking such a course from any dif-

ficulty attending the proceeding would be simply absurd, when we find them organising an *army* to defend their claims in those remote localities, and thus voluntarily removing the venue from the courts of law, by a far more difficult and expensive process, to the arbitrament of force where the interference of law could not be so readily invoked to check their proceedings.

And if any justification of this course could be based on the supposed validity of their Charter, and on the ground that it could be construed to cover that locality, why, when they failed to maintain their position by force, when the North-West Company even after the temporary interruption of their trade through the seizure of Fort William by Lord Selkirk, still continued in the ascendant, why did they not then resort to a trial at law, which, if it had resulted in their favor, would at once have secured a power exactly commensurate with the emergency to maintain their rights, for then, if the civil power had proved insufficient the whole power of the empire would have been available as far as necessary. But instead of trying the issue in a Court of Law they finally amalgamated with their rivals, affording thereby a clear proof that they had no hope of being able to treat them otherwise than as possessing equal rights, thus consenting to their opponents sharing with them what they had previously contended to be their private property.

To conclude the question of the Hudson's Bay Company's territories under their Charter, therefore, it is difficult to arrive at the result that they have any territorial rights at all, for in the first place the country was practically occupied by the French before the date of the Charter and consequently excluded from it, and in the second place because the whole country, including Hudson's Bay, was known as New France or Canada, as per maps and descriptions publicly known throughout Europe previous to that date, and therefore, if not so before, became the property of France by the Treaty of St. Germain's en Laye, in 1632, and as such *necessarily could not be and expressly was not* granted by their Charter, and in the third place, because by the Treaty of Ryswick the right of France to expel them as trespassers on her soil was manifestly admitted. And finally, even assuming that Great Britain originally had acquired a divided right with France, each to the extent of the establishments which their subjects respectively were the first to form, the Hudson's Bay Company would only have a right, under their Charter, to those particular posts, or forts, which they were the first to take possession of in localities previously unoccupied, for the Treaty of Ryswick conferred nothing upon them (if it even permitted them to retain any thing, which is doubtful) the Treaty of Utrecht, although, it gave Hudson's Bay to the British, conferred nothing upon the Company, apart from other British subjects, and the Treaty of Paris (although it gave Canada to Great Britain) conferred nothing upon them, except rights in common with other British subjects; while, until eleven years after the last named Treaty they never occupied anything beyond their original establishments on the coast, and those (also on the coast) conquered from or ceded by France at the Treaty of Utrecht, but which could not, by such subsequent conquest or cession be made subject to their Charter.

BOUNDARIES OF CANADA.

Having thus disposed of the boundaries of the 'Hudson's Bay Company's Territories—if such can be said to exist—the boundaries of Canada next come to be considered, and a division of the subject will naturally suggest itself into two heads. First, the original boundaries of Canada under the French, and second, the boundaries of Canada as acquired by Great Britain in 1763. The southerly boundaries, when not affecting the present question, need not of course be particularly referred to.

It will not be necessary to enter at length into the question of the original boundaries under the French as they have already been sufficiently indicated. They *claimed* all to the north of the St. Lawrence, and were the first to *occupy* Hudson's Bay. If the British, besides their visits in search of a north-west passage, had seen fit to occupy the country for any practical purpose and been the first to do so, they might no doubt have claimed it for their own. Had any such actual occupation followed the voyages of Hudson and Button, notwithstanding the French footing on and claim to the whole continent north of the St. Lawrence, it must be admitted that a valid title would have been created. But when such occupation was only first attempted some fifty to sixty years later, in support of a commercial project of two Frenchmen who had been already engaged in the trade, and when France was in formal and actual possession, it cannot be denied that the French title was the preferable one. Of the original territories of Canada, Great-Britain therefore acquired a part by the Treaty of Utrecht, the residue remaining to France for fifty years later. On this head there seems to be no dispute, for British authorities designate a part of what they claim to have been acquired by that Treaty as *Canada*.

It now remains to be considered what were the boundaries of the country finally acquired by the treaty of 1763, which, according to French and other authorities, was much larger than according to British authorities; but it will perhaps be most satisfactory for the present to adopt the latter.

One of the most circumstantial British accounts of the westerly possessions of the French is to be found in a geographical and historical work published by Thos. Jefferys in 1760. After giving the French account of Canada, he proceeds to give the English version of its boundaries in the following words:

"Canada, according to the English account, is bounded on the north by the high lands which separate it from the country about Hudson's Bay, Labrador or New Briton, and the country of the Eskimeaux and the Christeneaux; on the east by the River St. Lawrence, and on the south by the Outawais River, the country of the Six Nations and Louisiana, its limits towards the west extending over countries and nations hitherto undiscovered."

The high lands referred to in the above are distinctly delineated on the maps published with the work as the northerly section of the range which, dividing to the north-west of Lake Superior, separates the waters flowing direct to Hudson's Bay from those flowing into Lake Winnipeg, crossing the Nelson River at split Lake or Lac des Forts, etc. Describing the country from Lake Superior westward the author goes on, at page 19, as follows:

"At the mouth of Les Trois Rivières, or the Three Rivers, is a little French Fort called Camenistagouin; and twenty five leagues to the west of the said fort, the land begins to slope and the River to run towards the west.

" At ninety-five leagues from this greatest height lies the second establishment of the French that way, called Fort St. Pierre, in the Lake des Pluies. The third is Fort St. Charles eighty leagues farther on the Lake des Bois. The fourth is Fort Manrepas, a hundred leagues distant from the last, near the head of the Lake of Ouzinipigon. Fort La Reine, which is the fifth, lies a hundred leagues further on the river of the Assiniboels. Another Fort had been built on the River Rouge, but was deserted on account of its vicinity to the two last. The sixth, Fort Dauphin, stands on the west side of Lac des Prairies, or of the Meadows, and the seventh, which is called Fort Bourbon, stands on the shore of the Great Lake Bourbon. The chain ends with Fort Poskoyac, at the bottom of a River of that name, which falls into Lake Bourbon. The River Poskoyac is made by Delisle and Buache to rise within twenty-five leagues of their west sea, which, they say, communicates with the Pacific ocean. All these Forts are under the Governor of Canada."

The above, it will be observed, is the English account of what was still French Canada in 1760, just after the taking of Quebec and before the final conquest and cession of the country. The River Poskoyac is that which now bears the name of the Saskatchewan, upon which Sir Alexander Mackenzie states that the French had another Fort higher up than Fort Poskoyac.*

The same author, Jefferys, in his description of Louisiana, says: "It is bounded on the N. by Canada; on the E. by the British Colonies of New-York, Pennsylvania, Maryland, Virginia, &c., &c." The map accompanying this description claims the British Colonies, Virginia, &c., as coming up to the east bank of the Mississippi, and therefore it is Louisiana west of the Mississippi that he refers to as bounded by Canada on the north, that is to say, from the sources of the Mississippi westward.

The same year in which this work was published, all Canada was surrendered to the British, though not finally ceded till three years after.

In surrendering the country to the British the Marquis de Vaudreuil submitted articles of capitulation which were marked "granted," or "refused, etc." according as they were finally agreed to by General Amherst. In guarding the interests of the Canadian colonists in every part of the country surrendered, the localities above described by English authority as being under the "Governor of Canada," are designated as "*the Countries above*," and the 46th article of the capitulation is as follows:

"The Inhabitants and Merchants shall enjoy all the privileges of trade under the same favors and conditions granted to the subjects of Her Britannic Majesty as well in the Countries above as in the interior of the Colony.—Granted."

By which these countries were manifestly surrendered along with the rest of Canada, and the future rights of the Canadians guaranteed thereto by the provision that no British Subjects should ever enjoy any privileges of trade there in which they did not share; not indeed that this guarantee, although it would decidedly have that effect, could have been foreseen as a safeguard against the Hudson's Bay Company who had never at that period penetrated into the country, it being simply intended to prevent any cause whatever from depriving the French colonists of the benefits of a trade which had always been one of the most important in the country.

In the negotiations for peace that followed in 1761, which were directed on the one part by Mr. Pitt, and by the Duke de Choiseul on the

* "It may be proper to observe, that the French had two settlements upon the Saskatchewan, long before, and at the conquest of Canada; the first at the Passquia, near Carrot River, and the other at Nipawi, where they had agricultural instruments and wheel carriages, marks of both being found about these establishments, where the soil is excellent."

Notes to General history of the Fur Trade, p. LXXIII. See Mc Kenzie's Voyages, London, 1801.

other, and which ended, for the time, in failure, France contended for the boundaries of Louisiana extending to Canada, which Great Britain opposed. Finally, the Treaty of 1763 allowed Louisiana to extend west of the Mississippi to its source, and made that River from its source downwards the boundary between the British and French possessions, the boundary from the source of the Mississippi westward being left undetermined, a question which had ultimately to be settled with the United States instead of with France.

1846.

Oregon negotiations.

The system adopted and industriously followed up by the two rival Companies after their union had indeed so disseminated an erroneous appellation, that the country north and north-west of the Mississippi had come to be commonly called the Hudson's Bay Company's Territories; but when diplomatists and statesmen came to study the subject, tracing up from history and fact their respective claims, as bearing upon the Oregon question, they did not stultify themselves by the use of such an erroneous term; accordingly we find Mr. Buchanan, now President elect of the United States, using the following language, in concluding a proposition made by him on 1st July, 1846:

"The line proposed will carry out the principle of continuity equally for both parties, by extending the limits both of ancient Louisiana and Canada to the Pacific along the same parallel of latitude which divide them east of the Rocky Mountains."

The same line of argument sustains the British plenipotentiary when, in arguing the pretensions of his government to Oregon, he traces the progress of the Canadians westward across the Rocky Mountains to the Pacific.

The next step in the natural progress of events is the description of Canada under British sway. The first step after the Treaty of Paris was to provide for the Government of the settled parts of the country for which purpose the Government of Quebec was organised, comprising however a very limited portion of Canada, as per proclamation of 7th October, 1763, the rest of the country being thereby reserved from survey or settlement, for the moment, for the protection of the Indians. The descriptions of Canada however of that period took in the country to the westward of Pennsylvania, by the Ohio River, to the Mississippi. And the Imperial Statute of 1774, commonly called the "Quebec Act," describes the Province as extending "Northward to the Southern Boundary of the Territory granted to the Merchants, Adventurers of England trading to Hudson's Bay," but does not specify what their boundaries are, and it will be seen, by what follows, that the construction put upon this Act, by the British Government, nine years later, was adverse to the present pretensions of the Company. The Treaty of Independence of the United States provided a new southerly boundary for Canada, a part of what had formerly gone

Independence of United States: boundary of Canada then adopted.

under that name having been ceded to the United States; and by the commission issued to Lord Dorchester—the first after this treaty—the same words are used in describing the boundaries of Canada, as in the Treaty, viz:

Lord Dorchester's Com-
mission.

" Through Lake Superior northwards of the Isles Royal and Philippeaux to the Long Lake; thence, through the middle of the said Long Lake and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence, through the said Lake to the most north-western point thereof, and from thence, in a due west course to the River Mississippi and northward to the southern boundary of the territories granted to the Merchants Adventurers of England trading to Hudson's Bay."

This description, it will be seen, leaves the boundaries beyond the sources of the Mississippi indeterminate. On the supposition that a line due west from the Lake of the Woods would intersect the Mississippi, the King was obliged to limit the extent of Canada, on such line to the Mississippi proper, because by the Treaty of Paris, France retained the whole country to the west of the Mississippi from its source downwards. Had the King's Commission said from the intersection of the *due west* line with the Mississippi "*due north*," it might have been argued that it provided a westerly boundary, but it simply says "*northerly*," because although it was necessary to limit it to the Mississippi, where Louisiana commenced, there was no need for being specific beyond the sources of that River where the westerly boundary of Canada was yet unknown. Of the extent of Canada to the north by this description, it is enough to say that it was the same as by the Act of 1774, and required the boundaries of the territory granted to the Hudson's Bay Company, to be defined *first*, and if that failed it had no other limit, short of its original extent under the French.

At the "definitive Treaty of Peace" with the United States their territory did not extend at any point to the West of the Mississippi, until they acquired Louisiana in 1803. It will be remembered that Mr. Pitt objected to the northerly boundary of Louisiana coming so far north as the southerly boundary of Canada in 1761, that nevertheless it was so settled in 1763 that the Mississippi should be the boundary to its source. This result seems to have been a compromise by which Louisiana was confined almost entirely to the west of the Mississippi, Great Britain thus gaining her point on the east which came more nearly in contact with her old possessions, and giving to France entire scope on the west to the very sources of the Mississippi, the boundary from thence westward being left undetermined. This point had accordingly to be afterwards settled with the United States, who had in the meantime acquired the rights of France. This settlement ultimately admitted the 49th parallel of latitude as the northerly boundary of Louisiana, and as such necessarily the southerly boundary of Canada from the Lake of the Woods due west to the Rocky Mountains, passing north of the source of the Mississippi proper, though intersecting some of its tributary streams, the only error in which was that the line should not have been north of the source of the Mississippi, an error resulting from a previous treaty with the United States, at a time when it was supposed that the parallel of latitude agreed upon east of the Mississippi would intersect that river.

Were the King's letters patent to Lord Dorchester indeed taken literally at the present day in regard to the southerly boundary of Canada, the due west line of the description, not intersecting the Mississippi, would go on as far as British territory, not otherwise organised, would carry it, which would be to the Pacific; or if limited at all it would be by the first waters of the Mississippi which it did intersect, which would be the White Earth River,

and this would in fact correspond with the extent of Canada previously known to the French, taking in all the old forts already mentioned and leaving out the "countries and nations hitherto undiscovered," that is at the time of the conquest, though at the period when that description was made the North-West Company were carrying on an active trade much farther to the west: nor is it clear that this would be adverse to the intention of the description, for some of the maps of that period represent the Mississippi as west of the Red River.

The southerly boundary of the British dominions west of Lake Superior being therefore demonstrated as identical with the southerly boundary of Canada to *some point due west* of the Lake of the Woods, the only question is as to where that point is to be found; is it the White Earth River, the first waters of the Mississippi with which the due west line intersects? or is it the summit of the Rocky Mountains, on the same principle that the *co-terminous* boundary of Louisiana was ultimately so construed?

The next point to be determined is the northerly extension of Canada from its southerly boundary. The official description, corresponding with the Act of 1774, carries it to the boundary of the Hudson's Bay Company's Territories, but the same official description ignores the boundaries they claim, (*thus proving so far the construction then put upon the Act of 1774*.) for it carries the southerly boundary of Canada down the watershed of Hudson's Bay from two to three hundred miles to the Lake of the Woods, and *thence due west*, thus making the starting point far within what the Hudson's Bay Company claim, and thus, *from a point within what they claim as their territory*, it is to extend northerly to their territories. If then the "rights" of the Hudson's Bay Company were even far less equivocal than they are, their southerly boundary, as pretended by themselves, is entirely demolished, and the question arises *where is the boundary of their territories so described as the northerly limit of Canada?* The question of territorial rights has already been so fully discussed that it is unnecessary to repeat the arguments. The only possible conclusion is, that Canada is either bounded in that direction by a few isolated posts on the shore of Hudson's Bay, or else that the Company's territory is—like the intersection of the due west line with the Mississippi—a myth, and consequently that Canada has no particular limit in that direction.

The accompanying map illustrates the northerly boundary of Canada, according to British authorities as ceded by the French in 1763, there being no westerly boundary then known or since provided. This is perhaps all that could in the first instance be absolutely claimed as under the Government of Canada, were it not that, since the final determination of the southerly boundary, the Imperial Government merely described the authority of this Government as extending *over all the Countries (heretofore known as Canada*, which might fairly be taken to cover the territory acquired by the Treaty of Utrecht, as well as that acquired by the Treaty of Paris.

BOUNDARIES OF THE INDIAN TERRITORIES.

The boundaries of the Indian Territories need little consideration or explanation, as they simply include all that belongs to Great Britain in North America to the north and west of Canada, excepting the Territory

(if any) which the Hudson's Bay Company may of right claim. It must not be lost sight of, however, that the great bulk of this territory has been acquired by the Crown of Great Britain through discoveries of its Canadian subjects, beyond whatever may be determined to be the westerly boundary of Canada, across the Rocky Mountains to the shores of the Pacific, and by the McKenzie River to the Frozen Ocean. The importance of these discoveries in the negotiations pending the Treaty of Oregon, cannot be forgotten, for it is in virtue of *Canadian Discovery* and *Canadian Settlement* that the British negociator was enabled to maintain his position in the controversy, and secure a footing for his country on the Pacific. And when, it may be asked, did ever the Hudson's Bay Company afford such an important advantage to British interests?

Sir Alexander McKenzie's journey in 1793 across the Rocky Mountains (the first ever performed north of Mexico) is thus referred to by the British Plenipotentiary, in negotiating the treaty of Oregon :

"While Vancouver was prosecuting discovery and exploration by sea, Sir Alexander McKenzie, a partner in the *North West Company*, crossed the Rocky Mountains, discovered the head waters of the river called Frazer's River, and following for some time the course of that river, effected a passage to the sea, being the first civilized man who traversed the continent of America from sea to sea in these latitudes. On the return of McKenzie to Canada the *North West Company* established trading posts in the country to the westward of the Rocky Mountains."

Oregon Negotiations.

This was the British title to that part of the country, and but for this journey and the establishing of these trading posts, by which were acquired what the same diplomatist says "may be called beneficial interests" in those regions by commercial intercourse, the probability is that Great Britain would now hold no contiguous possessions across this continent, if she even held any isolated localities on the Pacific in virtue of her discoveries by sea.

Lewis and Clark, Americans, descended the southerly branch of the Columbia River, 1805, and in 1811, Mr. Thompson, of the North-west Company, came down the main branch from the north, whose discovery is thus referred to by the British Plenipotentiary :

"In the year 1811, Thompson, the Astronomer of the *North West Company*, discovered the northern head waters of the Columbia, and following its course till joined by the rivers previously discovered by Lewis and Clark, he continued his journey to the Pacific."

And again

"Thompson, of the *North West Company*, was the first civilized person who navigated the northern, in reality, the main branch of the Columbia, or traversed any part of the country drained by it."

This is the title by which Great Britain has been enabled to retain the main branch of the Columbia to its intersection with the 49th parallel of north latitude, and the free navigation for her subjects of the whole river from that point to its discharge in the Pacific Ocean, as secured by the Treaty of Oregon, 1846.

With respect to McKenzie's discoveries to the north, no diplomatic reference thereto can be quoted, inasmuch as there has been no disputed title on the part of any foreign power to give rise to any controversy upon the subject.

It may fairly be urged therefore, that these "Indian Territories" originally the fruits of Canadian enterprise, perseverance and industry, should no longer be shut out from the Canadian people, but should in fact be united to Canada as a part of the British Dominions, which Canadian subjects have had the merit of acquiring and retaining for the British Crown.

JURISDICTION.

The question of jurisdiction next comes under consideration, and in this, as regards the Hudson's Bay Company, it is apprehended that the actual exercise of it is widely different from what existing laws would sanction.

The mystery with which this Company have managed to shroud their operations in the interior renders it difficult to say what they do or what they do not do, but it is generally understood that they actually exercise unlimited jurisdiction in every respect, civil, criminal and governmental, and that not only in what has been considered their own territories, but also in the Indian Territories and those parts of Canada not immediately contiguous to settlement, all which existing law positively forbids them to do, it need not be said in Canada, but either in their own territories or in the Indian Territories.

By the Imperial Statute 43 George 3, chapter 138, the jurisdiction over the Indian Territories and all "*parts of America not within the limits of the provinces of Lower or Upper Canada, or either of them, or within any civil government of the United States of America,*" is vested in the said provinces. It is a curious circumstance that the very words of this Act which seem to have been intended to deny all claim to any jurisdiction on the part of the Hudson's Bay Company, should have been taken hold of as the means of questioning its reference to them. The preamble of the Act in giving the reason for the enactment states that, offences not committed within the limits of the Canadas or the United States, as above, "are therefore not cognisable by any jurisdiction whatever." This the Company argued could not mean their territories *because* jurisdiction *did* exist there. The Act, they said, could not mean *all* British America not within the limits of the Canadas, for the assertion that no jurisdiction existed was not true of Nova Scotia or New Brunswick, and therefore might not be true of Hudson's Bay. Thus, in fact, it appears that the framers of the Act having their minds directed to the north-west, where the offences referred to had occurred, forgot to exclude the provinces lying on the opposite side of Canada, on the Atlantic coast, from its operation; and this omission, when the war was carried on between the two Companies in the interior, Lord Selkirk turned to account to throw doubt on the applicability of the Act to the Company's Territories. But the assumption that this Act does not affect their pretensions is doubly futile; for, when more closely considered, it either brings their Territories within Canadian jurisdiction or it ignores them altogether, and in either case it contracts the limits they claim. If they make good their assertion that it does not affect their territories, then it destroys their claim to have their limits extended to the boundaries of Canada. The territories referred to in the preamble of the Act are those not within the limits of *either* Lower or Up-

per Canada, the two provinces being treated *distinctly* as regards the territories not within their limits. Now taking Lower Canada in the first instance, it is bounded by the Ottawa, and a line due north from the head of Lake Temiscamingue, and the places outside its limits on which the Act would have effect, if not the Company's territories must certainly be something between those limits and their territories. But the question is more important as regards the places outside of Upper Canada. If the maps accompanying the "Statement of Rights" submitted by Sir J. H. Pelly be correct, then the territory affected by the Act is about 1500 miles distant in its nearest part from the most remote point in Canada. In other words, Canada ends at the source of Pigeon River, and the Indian Territories begin at the top of the Rocky Mountains, and we are required therefore to assume that the Imperial Legislature meant to commit the absurdity of giving jurisdiction to the courts of Canada over a territory beginning at a distance of some fifteen hundred miles from her frontier, while a different British jurisdiction (that of the Company) prevailed in the intervening space. But assuming for fact, the Company's view of the case that it did not affect their territories, we find the very purpose for which the Act was passed as expressed in the title to be to provide a jurisdiction for "certain parts of North America *adjoining* to the said provinces" of Lower and Upper Canada. Consequently, if the territory affected by the Act only commences at the summit of the Rocky Mountains, as represented by the map submitted by Sir J. H. Pelly, then as it *adjoins* this province, Canada must extend to the summit of the Rocky Mountains, so that on their own shewing the jurisdiction they exercise in the intervening space, at Red River for instance, is out of their own territories, and therefore not only without the sanction of law but in violation of a positive enactment. They must thus either ignore their own pretensions to the territory between what they call the westerly boundary of Canada, and easterly boundary of the "Indian Territories," or they must admit that the Act under consideration (which is still unrepealed) applies to their territories, in which case their jurisdiction in every part would be in violation of the statute.

But if there was any doubt on the subject before it was fully removed by the Act 1 and 2 Geo. 4, Cap. 66, which was passed after all the strife and bloodshed in the north-west, and which after reciting the doubt raised respecting the former Act being applicable to the Hudson's Bay Company's territories, declares at section 5 in the strongest and most comprehensive manner, that the said Act and all its clauses shall be construed to apply to their territories, anything in "any grant or Charter to the Company to the *contrary notwithstanding.*"

This Act, 1 and 2 Geo. 4, Cap. 66, gives jurisdiction as full and complete as language can make it over all the Indian and Hudson's Bay Company's Territories to the Courts of Canada, and it provides for the appointment of Justices of the Peace by the Crown (both for the Indian Territories and Hudson's Bay Company's Territories) to whom the *Canadian Courts are empowered* to issue commissions "to take evidence in any Cause or Suit and "return the same, or try such issue, and for that purpose to hold courts, &c." These courts are most distinctly made subordinate to the Courts of Canada, &c., and can in fact be created by, and exist through them only.

By the 11th and 12th clauses, however, the Crown is empowered to

create Courts of Record, without the intervention of the Canadian Courts, (but without limiting the power to be exercised thro' them), for the trial of small causes and petty offences, the former being limited to civil cases not affecting a larger amount than £200, and the latter to cases in which the offence does not subject the person committing the same to capital punishment or transportation.

By this Act it is repeatedly declared and enacted in the most emphatic manner, that its enactments shall have effect "notwithstanding any" thing contained in any Charter granted to the governor and company of "adventures of England trading to Hudson's Bay."

It is true the last clause of the Act reserves to the Company in the most ample manner all rights and privileges they "are *by law* entitled to claim and exercise under their Charter." This it will be observed is what the "Statement of Rights" refers to when claiming a "*concurrent jurisdiction*" with the Canadian Courts. Now, when it is observed that the Legislature has refrained from expressing any opinion as to what the rights or privileges of the Company really are, and cautiously abstained from recognising any but what they already had "*by law*," it is difficult to suppose that it was the intention of the Act to recognise in them those very powers which it was making the most ample provision for the exercise of by a totally different authority in strong and repeatedly expressed abnegation of their pretensions.

It is also to be observed that the previous Act, 43 Geo. 3, which denies their jurisdiction is still in force, unrestricted in every particular, and not deriving its force from the subsequent statute, which is merely *declaratory* in that particular, of its proper construction.

The question of whether the Company can exercise any legal jurisdiction within their own territories,—limited to their just extent,—loses its importance however in face of the more serious question of its actual exercise both in Canada and the Indian Territories, and that even to the extent of life and death, while the intention of the Imperial Legislature in creating a jurisdiction for those territories, reserved all important cases, either civil or criminal, for trial by the regularly constituted legal tribunals of an organized community, where the *Charter* of British rights would be held as sacred as the interests of a commercial Company who assume to be themselves the Judges where (without any reflection upon them collectively or individually) cases must, in the very nature of things arise in which they ought to be the judged.

It therefore becomes of very great moment to ascertain the truth of certain statements that have been made to the effect that their principal officers at Red River hold their commissions from the Crown, and if so, under what form, for what extent of territory, and how described. Such commissions might no doubt have been issued under the statute 1 and 2 Geo. 4 for the Hudson's Bay Company's Territories and for the Indian Territories, for the trial of small causes and offences of a minor nature as already described, without in the least infringing upon or limiting the right of Canada to intervene; but if the British Government has expressly included the Red River country in any such commissions, it can only have been through a misapprehension of boundaries, which is not to be wondered at from the policy pursued since the union of the Companies, and the

erroneous view of the case they have so constantly disseminated, and no doubt any such powers, if they have been granted, would be withdrawn as soon as the case has been brought fully under the consideration of the Imperial authorities.

In concluding the question of Jurisdiction it is necessary to observe that the Imperial Statutes, herein quoted, which vest the Jurisdiction in Canada to the shores of the Pacific, have been repealed in so far as they relate to Vancouver's Island by the Act 12 and 13 Vic. Cap. 48, which re-invests the Jurisdiction of Vancouver's Island in the Imperial Government until the establishment of a local Legislature, which the Act contemplates.

Vancouver's Island.

At the same time, a charter was granted to the Hudson's Bay Company for the colonization of the Island, conveying a grant of the soil.

Neither the Act nor the Charter, however, confers any jurisdiction upon the Company.

The Company were required by the terms of the grant to colonize the Island within five years, failing which the grant was to become void. It was also stipulated that the grant might be recalled at the time of the expiration of their lease for the Indian Territories upon payment to the Company of the expenses they might have incurred, the value of their establishments, &c.

GENERAL REMARKS.

Before concluding this Report it is desirable to offer a few general remarks upon the subject, which the policy of the Company has kept out of view and which consequently is not generally well understood.

The Hudson's Bay Company claim under three separate titles, the first of which is the Charter of Charles the II, granted in 1670, *for ever*. The second, is the lease originally granted in 1821 to them in conjunction with the North-West Company of Canada for the Indian Territories. The third, is their title to Vancouver's Island, as explained. Under the first they base their claim to government, jurisdiction and right of soil over the whole country watered by rivers falling into Hudson's Bay,—at least, such is the theory, although they have abandoned it south of the present southerly boundary of Canada at Rainy Lake, the Lake of the Woods and along the 49th parallel, to the south of which those rivers take their rise. Under the second, they claim exclusive trade from the Rocky Mountains, west to the Pacific, and from the sources of the McKenzie River to the Frozen Ocean. There is no dispute about their title on this head, but their lease expires in two years, and it is the renewal of this lease for a further period of 21 years which they now seek to obtain.

It will be seen by the question of boundary already treated, that the country about Red River and Lake Winnipeg, etc., which they claim under their Charter, absolutely belongs to Canada; and it will be observed that the abstract right, not the value of the territory, has been dwelt upon, but unfortunately the latter has been as little generally understood as the former, the result of the means the Company have taken to conceal it, for

seldom if ever has the wisdom and foresight of man devised a policy better calculated to the end for which it was intended than that adopted since the union of the Companies in 1821.

Before that union the Canadian Fur Trade gave employment to some thousands of men as mere carriers, or "*Voyageurs*" as they were termed.

In endeavouring to depreciate the national services rendered by the North-West Company during the war of 1812, at the capture of Michilimacinae, &c., Lord Selkirk alludes to this body of men as forming the "*Voyageurs Corps*," but denies credit to the Company for their important services which he admits "in a great measure secured Canada," because they were not constantly employed by the Company, and effected this service at a season of the year when the Company did not require them. Assuming this to be the fact, however, had there been then, as now, no such Company and no such trade, there would have been no such body of men ready for action in the hour of danger.

Selkirk's Pamphlet,
p. 27 to 33.

Had the circumstances of the trade continued the same to the present day, settlement must have followed the route of such a line of traffic, and the continual intercourse between this country and the fertile plains of the "far West" would have placed us as far in advance of our American neighbours in the colonization of those countries, as we are now behind them.

But the policy of the united Companies has been so admirably carried out in all its details, that an erroneous impression respecting the country and everything connected with it had gradually got possession of the public mind, and it is wonderful with what tact such impressions may sometimes be conveyed without any statement being made contrary to truth. The very appellation of "*Hudson's Bay Territory*," as applied for instance to the Red River country, carries a false impression with it, for the waters of the Mississippi and the Red River, the Assiniboine and the Missouri, interlace with each other there, and therefore, the designation of "*Gulf of Mexico Territory*" would just be as correct. But what a different impression it would convey as regards climate? Again, almost every mention of the available parts of the Western Territories, which are well known to possess a soil and climate adapted in the highest degree for successful settlement, is interwoven with some reference to *ice* in some shape or other, which no doubt the Company truly encounter in carrying the trade some eight hundred miles due north through Hudson's Bay.

An admirable specimen of this kind of policy, by which erroneous impressions may be conveyed, is to be found in Sir J. H. Pelly's letter to Lord Glenelg, of 10th February, 1837 :

Parliamentary Papers,
No. 547 of 1842.

"For many years prior to the conquest of Canada, French subjects had penetrated by the St. Lawrence to the frontiers of Rupert's Land; but no competition had occurred between the traders of the two countries within the territories of the Hudson's Bay Company previous to the cession of Canada to Great Britain.

"Subsequent to that period, the greater capital and activity of British subjects led to accumulation, first on the frontier parts, then in the interior, and at last to the formation of a Company, combining all the individuals at that time engaged in the trade, to countries bordering on and west of Lake Superior, under the firm of the North-West Company of Montreal."

This when dissected is a significant paragraph. *Where are "the frontiers of Rupert's land,"* if the French, whose Forts were all around Lake Winnipeg, had not reached them before the cession of Canada to Great Britain? This is an important corroboration of the views of the boundary question explained in the present report.

That "no competition had occurred within the Territories of the Hudson's Bay Company" up to that time may be very true, because the Company had never come up from the shores of the Bay, and the French had not gone down—from their places on Lake Winnipeg—to the Bay. The second paragraph, above quoted, may also be substantially true, but yet it is so framed as to convey to the general reader that the competition arose from the inhabitants of Canada advancing beyond where they had been before; whereas it was the Hudson's Bay Company who then came up, for the first time, from the shores of the Bay, which led to the competition "first on the frontier parts," of Rupert's land, "then in the interior," on Lake Winnipeg, the Saskatchewan, &c., where the Canadians had long enjoyed the trade without competition.

Such is the system and policy pursued by the Company to exclude from view and create erroneous impressions respecting the Western portions of this Province, than which there is perhaps no finer country in North America. The same course marks their proceedings at the present moment, for no intimation has been given in this country of their intention to apply for a renewal of the lease of the Indian Territories, though, exercising the privileges they do in countries subject to the Canadian Government, it would not have been unreasonable to expect a different course. Neither does it appear that they have taken any means to inform the inhabitants of those countries, whose rights and interests are most deeply affected by the action to be taken, that they were to make this early application for renewal of their lease. Had it been effected in the quiet manner they seem to have desired,—a consummation which the thanks of the country are due to the Imperial Government for having refused to sanction—*they only* would have been heard in their own case, and the result would have been, alike to the people here and in the more remote territories, a surprise.

Canada has no quarrel with the Hudson's Bay Company, and desires no harsh measures towards them. It would be alike ruinous to them and injurious to the countries over which they hold either legal or illegal sway to put a sudden stop to their operations, but it is an error to suppose that the governing of those countries is a task of uncommon difficulty. The state of anarchy which prevailed in those countries during the warfare of the Companies was the result of the strife between them, where there was no sort of authority, except what they seemed equally to wield, and not arising from any turbulent or ungovernable spirit on the part of the native population. On the contrary, the moment a recognized authority stepped in to control both Companies, implicit obedience was at once yielded to it throughout those vast territories, and either party would have found itself powerless to command followers for any purpose of further aggression. This was upon the occasion of the withdrawal of all commissions of the peace, previously granted to the leading people of the two Companies, the appointment of two special Commissioners, (one of them a member of the Executive Council of Lower Canada), and the issuing of a proclamation

in the name of the Prince Regent by authority of a despatch from Earl Bathurst, of 6th February, 1817, requiring the mutual restitution of all the places and property captured during the strife, to the party who had originally possessed the same, and the entire freedom of the trade to each party, until further adjudicated upon. Galling as this restitution must have been in numerous instances where party feeling, embittered by the loss of many lives, had reached the highest pitch of excitement, it was immediately complied with.

The proper course to pursue, therefore, would be to lay before the Imperial Government the expediency of annexing the Indian Territories to Canada, shewing that by this means only can those countries be retained long in the possession of Great Britain. For colonized they *must and will be*; it is only a question of who shall do it. If we do not, the Americans will, and that in spite of any thing the Company can do to prevent it. That these Territories are fit fields for settlement it is useless to dispute, for one physical fact upsets all theories to the contrary. Where a country is found to sustain *animal life* to such an extent that hundreds of thousands of wild cattle find subsistence there both in summer and winter, there man also can find a home and plenty. Nor is the country possessing this characteristic confined to a narrow strip along the frontier, but continuing to widen to the Westward it is found that the climate, even on the East side of the Rocky Mountains and at a depth of seven degrees North of the American Boundary, is milder than the average of the settled parts of Upper Canada.

On the West side of the Rocky Mountains the climate is mild to a still higher latitude, but Vancouver's Island together with the contiguous main land is perhaps one of the finest countries in the world for colonization. The only drawback is the difficulty of access, a difficulty which the present system will never remove, for it looms larger now than it did forty or fifty years ago, when the North-West Company of Canada poured a continuous stream of traffic across the continent. This Island cannot now of course be annexed to Canada on the same terms as the other Indian Territories, as the existing Charter under which the Island is held (a different and distinct thing, be it remembered, from either the old Charter or the expiring Lease) entitles the Hudson's Bay Company to payment of the value of their establishments if the grant be rescinded, which Canada would naturally be expected to pay, if the Island were conceded to her, and it might be well to see now upon what terms this could be done, because it seems that if it be not done at the expiration of the Lease of the "Indian Territories," it could not be done afterwards, unless indeed the Company have failed to fulfill the conditions required within the first five years.

Twelve years ago, the United States had no communication with their territories on the Pacific except by sea, and during the Oregon negotiations, when proposing strenuous measures upon the subject, the President in his message to Congress 2d December, 1845, says :

"An overland mail is believed to be entirely practicable; and the importance of establishing such a mail at least once a month, is submitted to the favorable consideration of Congress. 3.

How different the circumstances now, and how "entirely practicable" it has proved need not be dwelt upon, but it must be remarked that at no

other point, North of the Gulf of Mexico, are the facilities for communication across the continent anything like equal to what they are through Canada, there being good navigation, three fourths, if not more, of the whole distance; first to the head of Lake Superior, from whence the navigation is broken to Lake Winnipeg (though about 150 miles of this distance is navigable,) then through that Lake to the Saskatchewan, on which there are obstructions, in the lower part, near the Lake, from whence the navigation is unimpeded to the very base of the Rocky Mountains.

It would be very desirable, therefore, and quite practicable, if the British Government will consent to annex the Indian Territories, extending to the Pacific and Vancouver's Island, to Canada, to establish, during summer, a monthly communication across the continent. It is of incalculable importance that these measures should be most forcibly pressed upon the Imperial Government at the present juncture, for on their solution depends the question of whether this country shall ultimately become a Petty State, or one of the Great Powers of the earth; and not only that, but whether or not there shall be a counterpoise favorable to British interests and modelled upon British institutions to counteract the preponderating influence—if not the absolute dominion—to which our great neighbour, the United States, must otherwise attain upon this continent.

No reference has been here made to the controversy between the Company and those who accuse them of exercising a pernicious influence over the Indian population, nor is it necessary to enter into the subject farther than to point out the erroneous impression the Company strive to inculcate to the effect that they are necessary to the Indians. It may well be that the state of things is better, under them, than it was when the two powerful Companies were in hostile array against each other; and it may be that their affairs are as well conducted, with reference to their effect upon the native population, as could well be expected of a Commercial Company, having the primary question of profit and loss as the object of their association. But the question really comes to be, whether those countries shall be kept in *statu quo* till the tide of population bursts in upon them, over an imaginary line, from a country where it has been the rule that the Indian must be driven from the lands the White man covets; or be opened up under the influence of the Canadian Government, which has always evinced the greatest sympathy towards the Indian race, and has protected them in the enjoyment of their rights and properties, not only in their remote hunting-grounds, but in the midst of thickly peopled districts of the country.

CROWN LAND DEPARTMENT,
Toronto, 1857.

JOSEPH CAUCHON,
Commissioner of Crown Lands.

APPENDIX (C.)

THE ROYAL CHARTER for incorporating the HUDSON'S BAY COMPANY, granted by his Majesty King CHARLES the Second, in the 22^d year of his reign, A. D. 1670.

CHARLES THE SECOND, by the grace of God King of England, Scotland, France and Ireland, Defender of the Faith, &c., TO ALL to whom these presents shall come, greeting: WHEREAS our dear and entirely beloved Cousin, Prince Rupert, Count Palatine of the Rhine, Duke of Bavaria and Cumberland, &c.; Christopher Duke of Albemarle, William Earl of Craven, Henry Lord Arlington, Anthony Lord Ashley, Sir John Robinson, and Sir Robert Vyner, Knights and Barons; Sir Peter Colleton, Baronet; Sir Edward Hungerford, Knight of the Bath; Sir Paul Neele, Knight; Sir John Griffith and Sir Philip Carteret, Knights; James Hayes, John Kirke, Francis Millington, William Prettyman, John Fenn, Esquires; and John Portman, Citizen and Goldsmith of London; have, at their own great cost and charges, undertaken an expedition for Hudson's Bay, in the north-west part of America, for the discovery of a new passage into the South Sea, and for the finding some trade for furs, minerals and other considerable commodities, and by such their undertaking have already made such discoveries as do encourage them to proceed further in pursuance of their said design, by means whereof there may probably arise very great advantage to us and our kingdom: AND WHEREAS the said Undertakers, for their further encouragement in the said design, have humbly besought us to incorporate them, and grant unto them and their successors the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits, together with all the lands, countries and territories upon the coasts and confines of the seas, straits, bays, lakes, rivers, creeks and sounds aforesaid, which are not now actually possessed by any of our subjects, or by the subjects of any other Christian Prince or State: NOW KNOW YE, that we, being desirous to promote all endeavors tending to the public good of our people, and to encourage the said undertaking, HAVE, of our especial grace, certain knowledge and mere motion, given, granted, ratified and confirmed, and by these presents, for us, our heirs and successors, to give, grant, ratify and confirm, unto our said Cousin, Prince Rupert, Christopher Duke of Albemarle, William Earl of Craven, Henry Lord Arlington, Anthony Lord Ashley, Sir John Robinson, Sir Robert Vyner, Sir Peter Colleton, Sir Edward Hungerford, Sir Paul Neele, Sir John Griffith and Sir Philip Carteret, James Hayes, John Kirke, Francis Millington, William Prettyman, John Fenn and John Portman, that they, and such others as shall be admitted into the said society as is hereafter expressed, shall be one body corporate and politic, in deed and in name, by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and them by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," one body corporate and politic, in deed and in name, really and fully for ever, for us, our heirs and successors, WE DO make, ordain, constitute, establish, confirm and declare by these presents, and that by the same name

of Governor and Company of Adventurers of England trading into Hudson's Bay, they shall have perpetual succession, and that they and their successors, by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," be, and at all times hereafter shall be personable and capable in law to have, purchase, receive, possess, enjoy and retain lands, rents, privileges, liberties, jurisdictions, franchises and hereditaments, of what kind, nature or quality soever they be, to them and their successors; and also to give, grant, demise, alien, assign and dispose lands, tenements and hereditaments, and to do and execute all and singular other things by the same name that to them shall or may appertain to do; and that they and their successors, by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," may plead and be impleaded, answer and be answered, defend and be defended in whatsoever courts and places, before whatsoever judges and justices, and other persons and officers, in all and singular actions, pleas, suits, quarrels, causes and demands whatsoever, of whatsoever kind, nature or sort, in such manner and form as any other our liege people of this our realm of England, being persons able and capable in law, may or can have, purchase, receive, possess, enjoy, retain, give, grant, demise, alien, assign, dispose, plead, defend and be defended, do, permit and execute; and that the said Governor and Company of Adventurers of England trading into Hudson's Bay, and their successors, may have a common seal to serve for all the causes and businesses of them and their successors, and that it shall and may be lawful to the said Governor and Company, and their successors, the same seal, from time to time, at their will and pleasure, to break, change, and make anew or alter, as to them shall seem expedient: **AND FURTHER WE WILL**, and by these presents, for us, our heirs and successors, **WE DO** ordain, that there shall be from henceforth one of the same Company to be elected and appointed in such form as hereafter in these presents is expressed, which shall be called the Governor of the said Company; and that the said Governor and Company shall or may elect seven of their number, in such form as hereafter in these presents is expressed, which shall be called the Committee of the said Company, which Committee of seven, or any three of them, together with the Governor or Deputy Governor of the said Company for the time being, shall have the direction of the voyages of and for the said Company, and the provision of the shipping and merchandizes thereunto belonging, and also the sale of all merchandizes, goods and other things returned, in all or any the voyages or ships of or for the said Company, and the managing and handling of all other business, affairs and things belonging to the said Company; **AND WE WILL**, ordain and grant by these presents, for us, our heirs and successors, unto the said Governor and Company, and their successors, that they the said Governor and Company, and their successors, shall from henceforth for ever be ruled, ordered and governed according to such manner and form as is hereafter in these presents expressed, and not otherwise; and that they shall have, hold, retain and enjoy the grants, liberties, privileges, jurisdictions and immunities only hereafter in these presents granted and expressed, and no other: **And for the better execution of our will and grant in this behalf, WE HAVE ASSIGNED**, nominated, constituted and made, and by these presents, for us, our heirs and successors, **WE DO ASSIGN**, nominate, constitute and make our

said Cousin, **PRINCE RUPERT**, to be the first and present Governor of the said Company, and to continue in the said office from the date of these presents until the 10th November then next following, if he, the said Prince Rupert, shall so long live, and so until a new Governor be chosen by the said Company in form hereafter expressed : **AND ALSO WE HAVE** assigned, nominated and appointed, and by these presents, for **us, our heirs** and successors, **WE DO** assign, nominate and constitute, the said Sir John Robinson, Sir Robert Vyner, Sir Peter Colleton, James Hayes, John Kirke, Francis Millington and John Portman, to be the seven first and present Committees of the said Company, from the date of these presents until the said 10th day of November then also next following, and so until new Committees shall be chosen in form hereafter expressed : **AND FURTHER WE WILL** and grant by these presents, for us, our heirs and successors, unto the said Governor and Company, and their successors, that it shall and may be lawful to and for the said Governor and Company for the time being, or the greater part of them present at any public assembly, commonly called the Court General, to be holden for the said Company, the Governor of the said Company being always one, from time to time to elect, nominate and appoint one of the said Company to be Deputy to the said Governor, which Deputy shall take a corporal oath, before the Governor and three or more of the Committee of the said Company for the time being, well, truly and faithfully to execute his said office of Deputy to the Governor of the said Company, and after his oath so taken shall and may from time to time, in the absence of the said Governor, exercise and execute the office of Governor of the said Company, in such sort as the said Governor ought to do : **AND FURTHER WE WILL** and grant by these presents, for us, our heirs and successors, unto the said Governor and Company of Adventurers of England trading into Hudson's Bay, and their successors, that they, or the greater part of them, whereof the Governor for the time being or his Deputy to be one, from time to time, and at all times hereafter, shall and may have authority and power, yearly and every year, between the first and last day of November, to assemble and meet together in some convenient place, to be appointed from time to time by the Governor, or in his absence by the Deputy of the said Governor for the time being, and that they being so assembled, it shall and may be lawful to and for the said Governor or Deputy of the said Governor, and the said Company for the time being, or the greater part of them which then shall happen to be present, whereof the Governor of the said Company or his Deputy for the time being to be one, to elect and nominate one of the said Company, which shall be Governor of the said Company for one whole year then next following, which person being so elected and nominated to be Governor of the said Company as is aforesaid, before he be admitted to the execution of the said office, shall take a corporal oath before the last Governor, being his predecessor or his Deputy, and any three or more of the Committee of the said Company for the time being, that he shall from time to time well and truly execute the office of Governor of the said Company in all things concerning the same ; and that immediately after the same oath so taken, he shall and may execute and use the said office of Governor of the said Company for one whole year from thence next following : And in like sort we will and grant, that as well every one of the above-named to be of the said Company or Fellowship, as all others hereafter to be admitted or free

of the said Company, shall take a corporal oath before the Governor of the said Company or his Deputy for the time being to such effect as by the said Governor and Company, or the greater part of them, in any public court to be held for the said Company, shall be in reasonable and legal manner set down and devised, before they shall be allowed or admitted to trade or traffic as a freeman of the said Company: **AND FURTHER WE WILL** and grant by these presents, for us, our heirs and successors, unto the said Governor and Company, and their successors, that the said Governor or Deputy Governor, and the rest of the said Company, and their successors for the time being, or the greater part of them, whereof the Governor or Deputy Governor from time to time to be one, shall and may from time to time, and at all times hereafter, have power and authority, yearly and every year, between the first and last day of November, to assemble and meet together in some convenient place, from time to time to be appointed by the said Governor of the said Company, or in his absence by his Deputy; and that they being so assembled, it shall and may be lawful to and for the said Governor or his Deputy, and the Company for the time being, or the greater part of them, which then shall happen to be present, whereof the Governor of the said Company or his Deputy for the time being to be one, to elect and nominate seven of the said Company, which shall be a Committee of the said Company for one whole year from then next ensuing, which persons being so elected and nominated to be a Committee of the said Company as aforesaid, before they be admitted to the execution of their office, shall take a corporal oath before the Governor or his Deputy, and any three or more of the said Committee of the said Company, being their last predecessors, that they and every of them shall well and faithfully perform their said office of Committees in all things concerning the same, and that immediately after the said oath so taken, they shall and may execute and use their said office of Committees of the said Company for one whole year from thence next following: **AND MOREOVER**, our will and pleasure is, and by these presents, for us, our heirs and successors, **WE DO GRANT** unto the said Governor and Company, and their successors, that when and as often as it shall happen, the Governor or Deputy Governor of the said Company for the time being, at any time within one year after that he shall be nominated, elected and sworn to the office of the Governor of the said Company, as is aforesaid, to die or to be removed from the said office, which Governor or Deputy Governor not demeaning himself well in his said office, **WE WILL** to be removable at the pleasure of the rest of the said Company, or the greater part of them which shall be present at their public assemblies, commonly called their General Courts holden for the said Company, that then and so often it shall and may be lawful to and for the residue of the said Company for the time being, or the greater part of them, within a convenient time after the death or removing of any such Governor or Deputy Governor, to assemble themselves in such convenient place as they shall think fit, for the election of the Governor or Deputy Governor of the said Company; and that the said Company, or the greater part of them, being then and there present, shall and may, then and there, before their departure from the said place, elect and nominate one other of the said Company to be Governor or Deputy Governor for the said Company, in the place and stead of him that so died or was removed; which

person being so elected and nominated to the office of Governor or Deputy Governor of the said Company, shall have and exercise the said office for and during the residue of the said year, taking first a corporal oath, as is aforesaid, for the due execution thereof; and this to be done from time to time so often as the case shall so require: **AND ALSO**, our will and pleasure is, and by these presents, for us, our heirs and successors, **WE DO grant** unto the said Governor and Company, that when and as often as it shall happen any person or persons of the Committee of the said Company for the time being, at any time within one year next after that they or any of them shall be nominated, elected and sworn to the office of Committee of the said Company as is aforesaid, to die or to be removed from the said office, which Committees not demeaning themselves well in their said office, we will to be removable at the pleasure of the said Governor and Company, or the greater part of them, whereof the Governor of the said Company for the time being or his Deputy to be one, that then and so often, it shall and may be lawful to and for the said Governor, and the rest of the Company for the time being, or the greater part of them, whereof the Governor for the time being or his Deputy to be one, within convenient time after the death or removing of any of the said Committee, to assemble themselves in such convenient place as is or shall be usual and accustomed for the election of the Governor of the said Company, or where else the Governor of the said Company for the time being or his Deputy shall appoint: And that the said Governor and Company, or the greater part of them, whereof the Governor for the time being or his Deputy to be one, being then and there present, shall and may, then and there, before their departure from the said place, elect and nominate one or more of the said Company to be of the Committee of the said Company in the place and stead of him or them that so died, or were or was so removed, which person or persons so nominated and elected to the office of Committee of the said Company shall have and exercise the said office for and during the residue of the said year, taking first a corporal oath, as is aforesaid, for the due execution thereof, and this to be done from time to time, so often as the case shall require: And to the end the said Governor and Company of Adventurers of England trading into Hudson's Bay may be encouraged to undertake and effectually to prosecute the said design, of our more especial grace, certain knowledge and mere motion, **WE HAVE given**, granted and confirmed, and by these presents, for us, our heirs and successors, **do give**, grant and confirm, unto the said Governor and Company, and their successors, the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, that are not already actually possessed by or granted to any of our subjects, or possessed by the subjects of any other Christian Prince or State, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes in the seas, bays, inlets and rivers within the premises, and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid, and all mines royal, as well discovered as not discovered, of gold, silver, gems and precious stones, to be found or discovered within the territories, limits and places aforesaid,

and that the said land be from henceforth reckoned and reputed as one of our plantations or colonies in America, called "Rupert's Land." AND FURTHER, WE DO by these presents, for us, our heirs and successors, make, create and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits and places aforesaid, and of all other the premises, SAVING ALWAYS the faith, allegiance and sovereign dominion due to us, our heirs and successors, for the same, TO HAVE, HOLD, possess and enjoy the said territory, limits and places, and all and singular other the premises hereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties and appurtenances whatsoever, to them the said Governor and Company, and their successors for ever, TO BE HOLDEN of us, our heirs and successors, as of our manor of East Greenwich, in our county of Kent, in free and common soccage, and not in capite or by Knight's service; YIELDING AND PAYING yearly to us, our heirs and successors, for the same, two elks and two black beavers, whensoever and as often as we, our heirs and successors, shall happen to enter into the said countries, territories and regions hereby granted: AND FURTHER, our will and pleasure is, and by these presents, for us, our heirs and successors, WE DO grant unto the said Governor and Company, and to their successors, that it shall and may be lawful to and for the said Governor and Company, and their successors, from time to time, to assemble themselves, for or about any the matters, causes, affairs or businesses of the said trade, in any place or places for the same convenient, within our dominions or elsewhere; and there to hold court for the said Company, and the affairs thereof; and that, also, it shall and may be lawful to and for them, and the greater part of them, being so assembled, and that shall then and there be present, in any such place or places, whereof the Governor or his Deputy for the time being to be one, to make, ordain and constitute such and so many reasonable laws, constitutions, orders and ordinances as to them, or the greater part of them, being then and there present, shall seem necessary and convenient for the good government of the said Company, and of all governors of colonies, forts and plantations, factors, masters, mariners and other officers employed or to be employed in any of the territories and places aforesaid, and in any of their voyages; and for the better advancement and continuance of the said trade or traffic and plantations, and the same laws, constitutions, orders and ordinances so made, to put in, use and execute accordingly, and at their pleasure to revoke and alter the same or any of them, as the occasion shall require: And that the said Governor and Company, so often as they shall make, ordain or establish any such laws, constitutions, orders and ordinances in such form as aforesaid, shall and may lawfully impose, ordain, limit and provide such pains, penalties and punishments upon all offenders, contrary to such laws, constitutions, orders and ordinances, or any of them, as to the said Governor and Company for the time being, or the greater part of them, then and there being present, the said Governor or his Deputy being always one, shall seem necessary, requisite or convenient for the observation of the same laws, constitutions, orders and ordinances; and the same fines and amerciements shall and may, by their officers and servants from time to time to be appointed for that purpose, levy, take and have, to the use of the said Governor

and Company, and their successors, without the impediment of us, our heirs or successors, or of any the officers or ministers of us, our heirs or successors, and without any account therefore to us, our heirs or successors, to be made : All and singular which laws, constitutions, orders and ordinances, so as aforesaid to be made, WE WILL to be duly observed and kept under the pains and penalties therein to be contained ; so always as the said laws, constitutions, orders and ordinances, fines and amerciements, be reasonable, and not contrary or repugnant, but as near as may be agreeable to the laws, statutes or customs of this our realm : AND FURTHERMORE, of our ample and abundant grace, certain knowledge and mere motion, WE HAVE granted, and by these presents, for us, our heirs and successors, do grant unto the said Governor and Company, and their successors, that they and their successors, and their factors, servants and agents, for them and on their behalf, and not otherwise, shall for ever hereafter have, use and enjoy, not only the whole, entire and only trade and traffic, and the whole, entire and only liberty, use and privilege of trading and trafficking to and from the territory, limits and places aforesaid ; but also the whole and entire trade and traffic to and from all havens, bays, creeks, rivers, lakes and seas, into which they shall find entrance or passage by water or land out of the territories, limits or places aforesaid ; and to and with all the natives and people inhabiting, or which shall inhabit within the territories, limits and places aforesaid ; and to and with all other nations inhabiting any the coasts adjacent to the said territories, limits and places which are not already possessed as aforesaid, or whereof the sole liberty or privilege of trade and traffic is not granted to any other of our subjects : AND WE, of our further royal favour, and of our more especial grace, certain knowledge and mere motion, HAVE granted, and by these presents, for us, our heirs and successors, do grant to the said Governor and Company, and to their successors, that neither the said territories, limits and places, hereby granted as aforesaid, nor any part thereof, nor the islands, havens, ports, cities, towns or places thereof or therein contained, shall be visited, frequented or haunted by any of the subjects of us, our heirs or successors, contrary to the true meaning of these presents, and by virtue of our prerogative royal, which we will not have in that behalf argued or brought into question : WE STRAITLY charge, command and prohibit, for us, our heirs and successors, all the subjects of us, our heirs and successors, of what degree or quality soever they be, that none of them, directly or indirectly, do visit, haunt, frequent or trade, traffic or adventure, by way of merchandize, into or from any of the said territories, limits or places hereby granted, or any or either of them, other than the said Governor and Company, and such particular persons as now be or hereafter shall be of that Company, their agents, factors and assigns, unless it be by the license and agreement of the said Governor and Company in writing first had and obtained, under their common seal, to be granted, upon pain that every such person or persons that shall trade or traffic into or from any of the countries, territories or limits aforesaid, other than the said Governor and Company and their successors, shall incur our indignation, and the forfeiture and the loss of the goods, merchandizes and other things whatsoever, which so shall be brought into this realm of England, or any the dominions of the same, contrary to our said prohibition, or the purport or true meaning of

these presents, for which the said Governor and Company shall find, take and seize in other places out of our dominions, where the said Company, their agents, factors or ministers shall trade, traffic or inhabit by virtue of these our letters patent, as also the ship and ships, with the furniture thereof, wherein such goods, merchandizes and other things shall be brought and found; the one-half of all the said forfeitures to be to us, our heirs and successors, and the other half thereof we do by these presents clearly and wholly, for us, our heirs and successors, give and grant unto the said Governor and Company, and their successors: AND FURTHER, all and every the said offenders, for their said contempt, to suffer such other punishment as to us, our heirs and successors, for so high a contempt, shall seem meet and convenient, and not to be in anywise delivered until they and every of them shall become bound unto the said Governor for the time being in the sum of One thousand pounds at the least, at no time then after to trade or traffic into any of the said places, seas, straits, bays, ports, havens or territories aforesaid, contrary to our express commandment in that behalf set down and published: AND FURTHER, of our more especial grace, we HAVE condescended and granted, and by these presents, for us, our heirs and successors, do grant unto the said Governor and Company, and their successors, that we, our heirs and successors, will not grant liberty, license or power to any person or persons whatsoever, contrary to the tenor of these our letters patent, to trade, traffic or inhabit, unto or upon any the territories, limits or places afore specified, contrary to the true meaning of these presents, without the consent of the said Governor and Company, or the most part of them: AND, of our more abundant grace and favour to the said Governor and Company, we do hereby declare our will and pleasure to be, that if it shall so happen that any of the persons free or to be free of the said Company of Adventurers of England trading into Hudson's Bay, who shall, before the going forth of any ship or ships appointed for a voyage or otherwise, promise or agree, by writing under his or their hands, to adventure any sum or sums of money towards the furnishing any provision, or maintenance of any voyage or voyages, set forth, or to be set forth, or intended or meant to be set forth, by the said Governor and Company, or the more part of them present at any public assembly, commonly called their General Court, shall not within the space of twenty days next after warning given to him or them by the said Governor or Company, or their known officer or minister, bring in and deliver to the Treasurer or Treasurers appointed for the Company, such sums of money as shall have been expressed and set down in writing by the said person or persons, subscribed with the name of said Adventurer or Adventurers, that then and at all times after it shall and may be lawful to and for the said Governor and Company, or the more part of them present, whereof the said Governor or his Deputy to be one, at any of their General Courts or General Assemblies, to remove and disfranchise him or them, and every such person and persons at their wills and pleasures, and he or they so removed and disfranchised not to be permitted to trade into the countries, territories and limits aforesaid, or any part thereof, nor to have any adventure or stock going or remaining with or amongst the said Company, without the special license of the said Governor and Company, or the more part of them present at any General Court, first had and obtained in that behalf, any thing before in these presents to the

contrary thereof in anywise notwithstanding : **AND OUR WILL AND PLEASURE IS**, and hereby we do also ordain, that it shall and may be lawful to and for the said Governor and Company, or the greater part of them, whereof the Governor for the time being or his Deputy to be one, to admit into and to be of the said Company all such servants or factors, of or for the said Company, and all such others as to them or the most part of them present, at any court held for the said Company, the Governor or his Deputy being one, shall be thought fit and agreeable with the orders and ordinances made and to be made for the government of the said Company : **AND FURTHER**, our will and pleasure is, and by these presents, for us, our heirs and successors, **WE DO** grant unto the said Governor and Company, and to their successors, that it shall and may be lawful in all elections and by-laws to be made by the General Court of the Adventurers of the said Company, that every person shall have a number of votes according to his stock, that is to say, for every hundred pounds by him subscribed or brought into the present stock, one vote, and that any of those that have subscribed less than One hundred pounds may join their respective sums to make up One hundred pounds, and have one vote jointly for the same, and not otherwise : **AND FURTHER**, of our especial grace, certain knowledge and mere motion, **WE DO**, for us, our heirs and successors, grant to and with the said Governor and Company of Adventurers of England trading into Hudson's Bay, that all lands, islands, territories, plantations, forts, fortifications, factories or colonies, where the said Company's factories and trade are or shall be, within any the ports or places afore limited, shall be immediately and from henceforth under the power and command of the said Governor and Company, their successors and assigns ; **SAVING** the faith and allegiance due to be performed to us, our heirs and successors as aforesaid ; and that the said Governor and Company shall have liberty, full power and authority to appoint and establish Governors and all other officers to govern them, and that the Governor and his Council of the several and respective places where the said Company shall have plantations, forts, factories, colonies or places of trade within any the countries, lands or territories hereby granted, may have power to judge all persons belonging to the said Governor and Company, or that shall live under them, in all causes, whether civil or criminal, according to the laws of this kingdom, and to execute justice accordingly ; and in case any crime or misdemeanor shall be committed in any of the said Company's plantations, forts, factories and places of trade within the limits aforesaid, where judicature cannot be executed for want of a Governor and Council there, then in such case it shall and may be lawful for the chief Factor of that place and his Council to transmit the party, together with the offence, to such other plantation, factory or fort where there shall be a Governor and Council, where justice may be executed, or into this kingdom of England, as shall be thought most convenient, there to receive such punishment as the nature of his offence shall deserve : **AND MOREOVER**, our will and pleasure is, and by these presents, for us, our heirs and successors, **WE DO GIVE** and grant unto the said Governor and Company, and their successors, free liberty and license, in case they conceive it necessary, to send either ships of war, men or ammunition, unto any their plantations, forts, factories or places of trade aforesaid, for the security and defence of the same, and to choose commanders and

officers over them, and to give them power and authority, by commission under their common seal, or otherwise, to continue or make peace or war with any prince or people whatsoever, that are not Christians, in any places where the said Company shall have any plantations, forts or factories, or adjacent thereunto, as shall be most for the advantage and benefit of the said Governor and Company, and of their trade; and also to right and recompense themselves upon the goods, estates or people of those parts, by whom the said Governor and Company shall sustain any injury, loss or damage, or upon any other people whatsoever that shall any way, contrary to the intent of these presents, interrupt, wrong or injure them in their said trade, within the said places, territories and limits granted by this Charter: And that it shall and may be lawful to and for the said Governor and Company, and their successors, from time to time, and at all times from henceforth, to erect and build such castles, fortifications, forts, garrisons, colonies or plantations, towns or villages, in any parts or places within the limits and bounds granted before in these presents unto the said Governor and Company, as they in their discretion shall think fit and requisite, and for the supply of such as shall be needful and convenient, to keep and be in the same, to send out of this kingdom, to the said castles, forts, fortifications, garrisons, colonies, plantations, towns or villages, all kinds of clothing, provision of victuals, ammunition and implements necessary for such purpose, paying the duties and customs for the same, as also to transport and carry over such number of men, being willing thereunto, or not prohibited, as they shall think fit, and also to govern them in such legal and reasonable manner as the said Governor and Company shall think best, and to inflict punishment for misdemeanors, or impose such fines upon them for breach of their orders, as in these presents are formerly expressed: AND FURTHER, our will and pleasure is, and by these presents, for us, our heirs and successors, WE DO grant unto the said Governor and Company, and to their successors, full power and lawful authority to seize upon the persons of all such English or any other our subjects which shall sail into Hudson's Bay, or inhabit in any of the countries, islands or territories hereby granted to the said Governor and Company, without their leave and license in that behalf first had and obtained, or that shall contemn or disobey their orders, and send them to England; and that all and every person or persons, being our subjects, any ways employed by the said Governor and Company, within any the parts, places and limits aforesaid, shall be liable unto and suffer such punishment for any offences by them committed in the parts aforesaid, as the President and Council for the said Governor and Company there shall think fit, and the merit of the offence shall require, as aforesaid; and in case any person or persons being convicted and sentenced by the President and Council of the said Governor and Company, in the countries, lands or limits aforesaid, their factors or agents there, for any offence by them done, shall appeal from the same, that then and in such case it shall and may be lawful to and for the said President and Council, factors or agents, to seize upon him or them, and to carry him or them home prisoners into England, to the said Governor and Company, there to receive such condign punishment as his cause shall require, and the law of this nation allow of; and for the better discovery of abuses and injuries to be done unto the said Governor and Company, or their successors,

by any servant by them to be employed in the said voyages and plantations, it shall and may be lawful to and for the said Governor and Company, and their respective President, Chief Agent or Governor in the parts aforesaid, to examine upon oath all factors, masters, pursers, supercargoes, commanders of castles, forts, fortifications, plantations or colonies, or other persons, touching or concerning any matter or thing in which by law or usage an oath may be administered, so as the said oath, and the matter therein contained, be not repugnant, but agreeable to the laws of this realm: AND WE DO hereby straitly charge and command all and singular our Admirals, Vice-Admirals, Justices, Mayors, Sheriffs, Constables, Bailiffs, and all and singular other our officers, ministers, liege men and subjects whatsoever, to be aiding, favouring, helping and assisting to the said Governor and Company, and to their successors, and to their deputies, officers, factors, servants, assigns and ministers, and every of them in executing and enjoying the premises, as well on land as on sea, from time to time, when any of you shall thereunto be required; ANY STATUTE, act, ordinance, proviso, proclamation or restraint heretofore had, made, set forth, ordained or provided, or any other matter, cause or thing whatsoever to the contrary in anywise notwithstanding. IN WITNESS WHEREOF we have caused these our Letters to be made Patent. WITNESS OURSELF at Westminster, the second day of May, in the two-and-twentieth year of our reign.

By Writ of Privy Seal.

Pigott.

“ An Act for confirming to the Governor and Company trading to Hudson’s Bay their Privileges and Trade.”

“ FORASMUCH as his late Majesty King Charles the Second, by his Letters Patent or Charter under the Great Seal of England, bearing date the second day of May, in the two-and-twentieth year of his reign, reciting, or taking notice, that his then Highness Prince Rupert, Christopher Duke of Albemarle, William Earl of Craven, and divers other Lords therein particularly named had, at their own great costs and charges, undertaken an expedition to Hudson’s Bay, in the north-west parts of America, for the discovery of a new passage into the South Seas, and for finding some trade for furs, minerals and other considerable commodities, and that by such their undertaking they had made such discoveries whereby might probably arise much advantage to his said Majesty and this Kingdom; for which, and for other reasons and motives in the said charter mentioned, his said late Majesty was graciously pleased thereby to incorporate, create and make the said Prince Rupert, Duke of Albermarle, Earl of Craven, and other the Lords and persons therein particularly named, and such others as should be admitted into the Society (as therein is mentioned), one body corporate and politic in deed and name, by the name of the Governor and Company of Adventurers of England trading into Hudson’s Bay, and by that name to have perpetual succession, and to sue and be sued, take, purchase or grant; and by the said letters patent or charter of incorporation provision was made as well for the appointment and constitution of the

first and present, as well as for the choosing, appointing and admitting of all future governors, deputy-governors, committees, members and officers of the said Company, and for the making of laws, constitutions and ordinances, and for the government of the said Company and trade, and otherwise, and the sole trade and commerce of all the seas, streights, bays, lakes, rivers, creeks and sounds, in whatsoever latitude they shall be, that are within the entrance of the streights commonly called Hudson's Streights, together with all the lands and the territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, which were not then actually possessed by or granted to any of his said late Majesty's subjects, or possessed by the subjects of any other Christian prince or state, with divers and sundry privileges, liberties, jurisdictions, franchises, powers and authorities to punish offenders, to sue for and recover penalties, with other powers and authorities, matters and things, in the said letters patent or charter of incorporation mentioned and expressed, were thereby granted to and vested in the same said Company and their successors for ever, in such sort, manner and form as in and by the said charter or letters patent or enrollment thereof, is mentioned and expressed, and as thereby more fully appears: And forasmuch as the said Governor and Company, at their great charges and with much difficulty and hazard, have settled and made great improvements of the trade to the said seas, streights and places aforesaid, which as now and for several years past hath been found to be useful and profitable to this Kingdom and the navigation thereof for furs, minerals and other considerable commodities; and it appearing that the said trade cannot be carried on or managed so advantageously either to the honour or interest of this realm as in a company and with a joint stock, and it being necessary that such a company should have sufficient and undoubted powers and authorities, privileges and liberties to manage, order and carry on the said trade, and to make bye-laws, orders, rules and constitutions for the due management and regulation as well of the said company as trade, and for the punishment of offenders, and recovering of forfeitures and penalties, which cannot be so effectually done as by authority of Parliament: be it therefore enacted, by the King and Queen's most excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, that the present Governor and Company of Adventurers of England trading into Hudson's Bay, and their successors, shall at all times from henceforth stand, continue and be a body politic and corporate in deed and name, by the name aforesaid, and according to the purport and effect of the said letters patent or charter hereinbefore mentioned; and that the said letters patent or charter hereinbefore mentioned, bearing date the said second day of May, in the two-and-twentieth year of the reign of his said late Majesty King Charles the Second, and all things therein contained, be, and by virtue of this present Act shall be from henceforth ratified, established and confirmed unto the present Governor and Company of Adventurers of England trading into Hudson's Bay, and to their successors for ever, and also that the said Governor and Company and their successors shall and may have, do, use, exercise and enjoy all and singular the liberties, privileges, powers, authorities, matters and things in the said letters patent or charter mentioned

to be granted to them, and also that the said letters patent or charter, and all and every the liberties, franchises, immunities, privileges, jurisdictions, powers, authorities, royalties, hereditaments, matters and things whatsoever, and of what nature and kind soever thereby given, granted or demitted, or mentioned to be given, granted or demitted to the said Prince Rupert, Duke of Albemarle, Earl of Craven and other the Lords and persons therein particularly named, and thereby incorporated, and to the Governor and Company thereby created, made or erected, and to their successors, and to all governors, deputy-governors, committees and other members, officers and servants, of or upon the said Governor and Company for the time being, and their successors, or otherwise. Howsoever, with and under such restraints and prohibitions, and subject and liable to such forfeitures and remedies for recovering thereof, as in the said Charter are contained, shall from henceforth be good and effectual, and available in the law, and to all intents, constructions and purposes to the aforesaid new Governor and Company, and their successors for evermore, and shall and may be by the new Governor and Company and their successors from time to time for ever hereafter holden and enjoyed, and put in execution after and according to the form, words, sentences, purport, effect and true meaning of the said letters patent or charter, and that as amply, fully and largely, to all intents, constructions and purposes, as if the same letters patent or charter, and the general matters and things therein mentioned, and thereby granted or mentioned to be granted, were word for word recited and set down at large in this present Act of Parliament, any law, statute, usage, custom or other matter or thing to the contrary notwithstanding. Provided always, and be it further enacted, by the authority aforesaid, that the said Governor and Company shall make at least two public sales of coat beaver in every year, and not exceeding four, and that they shall proportion the same into lots each of about 100*l.* sterling, but not exceeding 200*l.* value; and that in the intervals of public sales the said Company may not sell coat beaver by private contract, and at any lower price than it was set up at the last public sale, and that the coat beaver now in the Company's hands shall be liable to the same rules. Provided always, that this Act shall continue and be in force for the time of seven years, and from thence to the end of the next Session of Parliament and no longer."

APPENDIX (D.)

CROWN GRANT to the HUDSON'S BAY COMPANY of the exclusive Trade with the Indians in certain parts of North America, for a further term of Twenty-one Years, and upon the Surrender of a former Grant.

VICTORIA R.

(L. s.) **VICTORIA**, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To all to whom these Presents shall come, greeting.

WHEREAS by an Act passed in the Session of Parliament holden in the first and second year of the reign of his late Majesty King George the Fourth, intituled, "An Act for regulating the Fur Trade, and establishing a Criminal and Civil Jurisdiction within certain parts of North America," it was amongst other things enacted, that from and after the passing of the said Act, it should be lawful for his said Majesty, his heirs or successors, to make Grants, or give his or their Royal License, under the hand and seal of one of his or their Principal Secretaries of State, to any body corporate or company, or person or persons, of or for the exclusive privilege of trading with the Indians in all such parts of North America as should be specified in any such Grants or Licenses respectively, not being part of the lands and territories theretofore granted to the Governor and Company of Adventurers of England trading to Hudson's Bay, and not being part of any of our Provinces in North America, or of any lands or territories belonging to the United States of America, and that all such Grants and Licenses should be good, valid and effectual for the purpose of securing to all such bodies corporate, or companies or persons, the sole and exclusive privilege of trading with the Indians in all such parts of North America (except as hereinafter excepted) as should be specified in such Grants or Licenses, any thing contained in any Act or Acts of Parliament, or any law to the contrary notwithstanding; and it was further enacted, that no such Grant or License made or given by his said Majesty, his heirs or successors, of any such exclusive privileges of trading with the Indians in such parts of North America as aforesaid, should be made or given for any longer period than 21 years, and that no rent should be required or demanded for or in respect of any such Grant or License, or any privileges given thereby under the provisions of the said Act for the first period of 21 years; and it was further enacted, that from and after the passing of the said Act, the Governor and Company of Adventurers trading to Hudson's Bay, and every body corporate and company and person to whom any such Grant or License should be made or given as aforesaid, should respectively keep accurate registers of all persons in their employ in any parts of North America, and should once in each year return to the Principal Secretaries of State accurate duplicates of such registers, and should also enter into such security as should be required for the due execution of all processes criminal and civil, as well within the territories included within any such Grant, as within

those granted by Charter to the Governor and Company of Adventurers of England trading to Hudson's Bay, and for the producing or delivering into safe custody, for the purpose of trial, all persons in their employ or acting under their authority, who should be charged with any criminal offence, and also for the due and faithful observance of all such rules, regulations and stipulations as should be contained in any such Grant or License, either for gradually diminishing and ultimately preventing the sale or distribution of spirituous liquors to the Indians, or for promoting their moral and religious improvement, or for any other object which might be deemed necessary for the remedy or prevention of any other evils which had hitherto been found to exist : And whereas it was in the said Act recited, that by a convention entered into between his said late Majesty and the United States of America, it was stipulated and agreed, that every country on the North-west coasts of America to the westward of the Stoney Mountains should be free and open to the citizens and subjects of the two powers for the term of ten years from the date of the signature of that convention ; and it was therefore enacted, that nothing in the said Act contained should be deemed or construed to authorize any body corporate, company or person to whom his said Majesty might, under the provisions of the said Act, make or grant or give a License of exclusive trade with the Indians in such parts of North America as aforesaid, to claim or exercise any such exclusive trade within the limits specified in the said article, to the prejudice or exclusion of any citizens of the said United States of America who might be engaged in the said trade ; with a proviso, that no British subject should trade with the Indians within such limits without such Grant or License as was by the said Act required :

And whereas by an instrument under the hand and seal of the Right honourable Earl Bathurst, then one of his said late Majesty's Secretaries of State, and dated the 6th day of December 1821, after reciting therein, as or to the effect aforesaid, and also reciting that the said Governor and Company of Adventurers of England trading to Hudson's Bay, and certain Associations of persons trading under the name of "The North-west Company of Montreal," had respectively extended the fur trade over many parts of North America which had not been before explored, and that the competition in the said trade had been found, for some years then past, to be productive of great inconvenience and loss, not only to the said Company and Associations, but to the said trade in general, and also of great injury to the native Indians and of other persons his said Majesty's subjects ; and that the said Governor and Company of Adventurers trading to Hudson's Bay ; and William M'Gillivray, of Montreal, in the Province of Lower Canada, esquire ; Simon M'Gillivray, of Suffolk-lane, in the city of London, merchant ; and Edward Ellice, of Spring-gardens, in the county of Middlesex, esquire ; had represented to his said Majesty that they had entered into an agreement, on the 26th day of March last, for putting an end to the said competition, and carrying on the said trade for 21 years, commencing with the outfit of 1821, and ending with the returns of the outfit of 1841, to be carried on in the name of the said Governor and Company exclusively, and that the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice had humbly besought his said late Majesty to make a Grant and give his Royal License to them jointly of and for the

exclusive privilege of trading with the Indians in North America, under the restrictions and upon the terms and conditions specified in the said recited Act: his said late Majesty, being desirous of encouraging the said trade, and remedying the evils which had arisen from the competition which had theretofore existed therein, did give and grant his Royal License, under the hand and seal of one of his Principal Secretaries of State, to the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice, for the exclusive privilege of trading with the Indians in all such parts of North America to the northward and to the westward of the said lands and territories belonging to the United States of America, as should not form part of any of his said Majesty's Provinces in North America, or of any lands or territories belonging to the said United States of America, or to any European government, state or power; and his said late Majesty did also give and grant and secure to the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice, the sole and exclusive privilege, for the full period of 21 years from the date of that Grant, of trading with the Indians in all such parts of North America as aforesaid (except as hereinafter excepted), and did thereby declare that no rent should be required or demanded for or in respect of that Grant and License, or any privileges given thereby for the said period of 21 years, but that the said Governor and Company of Adventurers trading to Hudson's Bay, and the said William M'Gillivray, Simon M'Gillivray and Edward Ellice, should, during the period of that Grant and License, keep accurate registers of all persons in their employ in any parts of North America, and should once in each year return to his said Majesty's Secretary of State accurate duplicates of such registers, and enter into and give security to his said Majesty, his heirs and successors, in the penal sum of £5,000 for ensuring, as far as in them might lay, or as they could by their authority over the servants and persons in their employ, the due execution of all criminal processes, and of every civil process in any suit where the matter in dispute shall exceed £200, by the officers and persons legally empowered to execute such processes within all the territories included in that Grant, and for the producing or delivering into custody for purposes of trial all persons in their employ or acting under their authority within the said territories, who should be charged with any criminal offence; and his said Majesty did thereby require that the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice, should, as soon as the same could be conveniently done, make and submit for his said Majesty's consideration and approval, such rules and regulations for the management and carrying on of the said fur trade with the Indians, and the conduct of the persons employed by them therein, as might appear to his said Majesty to be effectual for diminishing or preventing the sale or distribution of spirituous liquors to the Indians, and for promoting their moral and religious improvement; and his said Majesty did thereby declare, that nothing in that Grant contained should be deemed or construed to authorize the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice, or any persons in their employ, to claim or exercise any trade with the Indians on the North-west coast of America to the westward of the Stoney Mountains, to the prejudice or exclusion of any citizens of the United States

of America who might be engaged in the said trade; and providing also by the now recited Grant, that no British subjects other than and except the said Governor and Company, and the said William M'Gillivray, Simon M'Gillivray and Edward Ellice, and the persons authorized to carry on exclusive trade by them on Grant, should trade with the Indians within such limits during the period of that Grant:

And whereas the said Governor and Company have acquired to themselves all the rights and interests of the said William M'Gillivray, Simon M'Gillivray and Edward Ellice, under the said recited Grant, and the said Governor and Company having humbly besought us to accept a surrender of the said Grant, and in consideration thereof to make a Grant to them, and give to them our Royal License and authority of and for the like exclusive privilege of trading with the Indians in North America, for the like period and upon similar terms and conditions to those specified and referred to in the said recited Grant: Now know YE, That in consideration of the surrender made to us of the said recited Grant, and being desirous of encouraging the said trade, and of preventing as much as possible a recurrence of the evils mentioned or referred to in the said recited Grant; as also in consideration of the yearly rent hereinafter reserved to us, We do hereby grant and give our License, under the hand and seal of one of our Principal Secretaries of State, to the said Governor and Company, and their successors, for the exclusive privilege of trading with the Indians in all such parts of North America, to the northward and to the westward of the lands and territories belonging to the United States of America, as shall not form part of any of our provinces in North America, or of any lands or territories belonging to the said United States of America, or to any European government, state or power, but subject nevertheless as hereinafter mentioned: And we do by these presents give, grant and secure to the said Governor and Company, and their successors, the sole and exclusive privilege, for the full period of 21 years from the date of this our Grant, of trading with the Indians in all such parts of North America as aforesaid (except as hereinafter mentioned): And we do hereby declare, that no rent shall be required or demanded for or in respect of this our Grant and License, or any privileges given thereby, for the first four years of the said term of 21 years; and we do hereby reserve to ourselves, our heirs and successors, for the remainder of the said term of 21 years, the yearly rent or sum of 5s. to be paid by the said Governor and Company, or their successors, on the first day of June in every year, into our Exchequer, on the account of us, our heirs and successors; and we do hereby declare, that the said Governor and Company, and their successors, shall, during the period of this our Grant and License, keep accurate registers of all persons in their employ in any parts of North America, and shall once in each year return to our Secretary of State accurate duplicates of such registers; and shall also enter into and give security to us, our heirs and successors, in the penal sum of 5,000*l.*, for ensuring, as far as in them may lie, or as they can by their authority over the servants and persons in their employ, the due execution of all criminal and civil processes by the officers and persons legally empowered to execute such processes within all the territories included in this our Grant, and for the producing or delivering into custody for the purposes of trial all persons in their employ or acting under their authority within

the said territories who shall be charged with any criminal offence: And we do also hereby require, that the said Governor and Company, and their successors, shall, as soon as the same can be conveniently done, make and submit for our consideration and approval such rules and regulations for the management and carrying on the said fur trade with the Indians, and the conduct of the persons employed by them therein, as may appear to us to be effectual for diminishing or preventing the sale or distribution of spirituous liquors to the Indians, and for promoting their moral and religious improvement: But we do hereby declare, that nothing in this our Grant contained shall be deemed or construed to authorize the said Governor and Company, or their successors, or any persons in their employ, to claim, or exercise any trade with the Indians on the North-west coast of America to the westward of the Stoney Mountains, to the prejudice or exclusion of any of the subjects of any foreign states, who, under or by force of any convention for the time being between us and such foreign states respectively, may be entitled to and shall be engaged in the said trade: Provided nevertheless, and we do hereby declare our pleasure to be, that nothing herein contained shall extend or be construed to prevent the establishment by us, our heirs or successors, within the territories aforesaid, or any of them, of any colony or colonies, province or provinces, or for annexing any part of the aforesaid territories to any existing colony or colonies to us, in right of our Imperial Crown, belonging, or for constituting any such form of civil government as to us may seem meet, within any such colony or colonies, province or provinces:

And we do hereby reserve to us, our heirs and successors, full power and authority to revoke these presents, or any part thereof, in so far as the same may embrace or extend to any of the territories aforesaid, which may hereafter be comprised within any colony or colonies, province or provinces as aforesaid:

It being nevertheless hereby declared, that no British subjects other than and except the said Governor and Company, and their successors, and the persons authorized to carry on exclusive trade by them, shall trade with the Indians during the period of this our Grant within the limits aforesaid, or within that part thereof which shall not be comprised within any such colony or province as aforesaid.

Given at our Court at Buckingham Palace, 30th day of May, 1838.

By Her Majesty's command.

(L. S.)

(Signed)

Glenelg.

COVENANT by the Hudson's Bay Company for performance of Conditions and Reservations contained in the Crown Grant of even date.—(Dated 30th May, 1838.)

WHEREAS Her Majesty hath, by an instrument under the hand and seal of the Secretary of State, the Right Honorable Charles Lord Glenelg, bearing even date herewith, granted and given Her Royal License to us, the Governor and Company of Adventurers of England, trading into Hudson's Bay, and our successors, the exclusive privilege of trading with the Indians in all such parts of North America to the northward and to the westward of the lands and territories belonging to the United States of

America as shall not form part of any of Her Majesty's provinces in North America, or of any lands or territories belonging to the United States of America, or to any European government, state or power, and hath secured to us, the said Governor and Company, and our successors, the sole and exclusive privilege for the full period of 21 years from the date of the said grant, of trading with the Indians in all such parts of North America as aforesaid (except and with such restrictions as thereafter excepted), and hath thereby declared that no rent shall be required or demanded for or in respect of the said grant or license, or any privileges given thereby, for the first four years of the said term of 21 years, and hath thereby reserved to Her Majesty, her heirs and successors, for the remainder of the said period of 21 years the yearly rent of 5s., to be paid by us, the said Governor and Company, and our successors, on the 1st day of June in every year, into Her Majesty's Exchequer, on account of Her Majesty, her heirs and successors: We, therefore, the said Governor and Company of Adventurers of England trading into Hudson's Bay, do hereby covenant and bind ourselves and our successors, that we and they shall yearly and every year, and on every 1st day of June, from and after the expiration of the first four years of the said term of 21 years, and thenceforth during the continuance of the said Grant and License, pay or cause to be paid the said yearly rent of 5s. into Her Majesty's Exchequer, and on account of Her Majesty, her heirs and successors, and that we and our successors shall, during the period of the said Grant and License keep accurate registers of all persons employed by us or our successors in any parts of North America, and shall once in each year return to Her Majesty's Secretary of State accurate duplicates of such registers; And we, the said Governor and Company, do hereby bind ourselves and our successors in the penal sum of 5,000*l.*, that we will, as far as in us may lie, ensure the due execution of all criminal and civil processes by the officers and persons legally empowered to execute such process within all the territories for the time being included in the said Grant, and for the producing or delivering into safe custody for the purpose of trial of any person in our employ or acting under our authority within the said territories who may be charged with any criminal offence; And we do also hereby covenant that we will, as soon as the same can be conveniently done, make and submit to the consideration and approval of Her Majesty such rules and regulations for the management and carrying on the said fur trade, and the conduct of the persons employed by us therein, as have appeared or may appear to us to be most effectual for gradually diminishing and ultimately preventing the sale or distribution of spirituous Liquors to the Indians, and for promoting their moral and religious improvement. Witness the Seal of the said Company the 30th day of May, 1838.

By Order of the Governor and Committee.

[L. S.]

(Signed)

W. G. SMITH,

Assistant Secretary.

Sealed under the common seal of the within-mentioned Governor and Company, and delivered by William Gregory Smith, their Assistant Secretary, pursuant to their order and appointment, being first duly stamped in the presence of

(Signed)

THOMAS CROSSE,

Threadneedle Street,
Solicitor.

APPENDIX (E.)
VANCOUVER'S ISLAND.

ROYAL GRANT.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to all to whom these Presents shall come, greeting :

WHEREAS by the Royal Charter or Letters Patent of his late Majesty King Charles the Second, bearing date the 2d day of May, in the 22nd year of his reign, his said late Majesty did (amongst other things) ordain and declare that the Governor and Company of Adventurers of England trading into Hudson's Bay, thereby incorporated, and their successors by that name, should at all times thereafter be personable and capable in law to have, purchase, receive, possess and enjoy and retain lands, rents, privileges liberties, jurisdictions, franchises and hereditaments, of what nature or kind soever they were, to them or their successors : And also to give, grant, demise, alien, assign and dispose lands, tenements and hereditaments, and to do and execute all and singular other things by the same name that to them should or might appertain to do :

And his said late Majesty did thereby for himself, his heirs and successors, give, grant and confirm unto the said Governor and Company and their successors, the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they should be, that lay within the entrance of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, that were not already actually possessed by or granted to any of his said late Majesty's subjects, or possessed by the subjects of any other Christian prince or state, with the fishing of all sorts of fish, whales, sturgeons and all other royal fishes in the seas, bays, inlets and rivers within the premises, and the fish therein taken ; together with the royalty of the seas upon the coasts within the limits aforesaid, and all mines royal, as well then discovered as not then discovered, of gold, silver, gems and precious stones to be found or discovered within the territories, limits and places aforesaid, and that the said land should be from thenceforth reckoned and reputed as one of his said late Majesty's plantations or colonies in America :

And further, his said late Majesty did thereby for himself, his heirs and successors, make, create and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits and places aforesaid, and of all other the premises (saving always the faith, allegiance and sovereign dominion due to his said late Majesty, his heirs and successors, for the same) ; to hold, possess and enjoy the said territory, limits and places, and all and singular other the premises thereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties and appurtenances whatsoever to them the said Governor and Company and their successors for ever ; to be holden of his said late Majesty his heirs and successors, as of his manor of East Greenwich, in the county of Kent, in free and common soccage, and not *in capite* or by knight's service ;

yielding and paying yearly to his said late Majesty, his heirs and successors, for the same, two elks and two black beavers whensoever and as often as his said late Majesty, his heirs and successors, should happen to enter into the said countries, territories and regions hereby granted :

And whereas by an Act passed in the Session of Parliament held in the 43d year of the reign of his late Majesty King George the Third, intituled, "An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada, to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of North America adjoining to the said Provinces," it was enacted, that from and after the passing of that Act all offences committed within any of the Indian territories or parts of America not within the limits of either of the said provinces of Lower or Upper Canada, or of any civil government of the United States of America, should be and be deemed to be offences of the same nature, and should be tried in the same manner and subject to the same punishment as if the same had been committed within the provinces of Upper or Lower Canada, and provisions were contained in the said Act regulating the committal and trial of the offenders :

And whereas by an Act passed in the Session of Parliament holden in the first and second years of the reign of his late Majesty King George the Fourth, intituled, "An Act for regulating the Fur Trade, and establishing a Criminal and Civil Jurisdiction within certain Parts of North America," after reciting, among other things, that doubts had been entertained whether the provisions of said Act of the 43d of George the Third, extended to the territories granted by charter to the said Governor and Company, and that it was expedient that such doubts should be removed, and that the said Act should be further extended, it was enacted (amongst other things), that from and after the passing of said last-mentioned Act, it should be lawful for his then Majesty, his heirs and successors, to make grants, or give his royal license, under the hand and seal of one of his Majesty's Principal Secretaries of State, to any body corporate or company, or person or persons, of or for the exclusive privilege of trading with the Indians in all such parts of North America as should be specified in any of such grants or licenses respectively, not being part of the lands or territories theretofore granted to the said Governor and Company of Adventurers of England trading into Hudson's Bay, and not being part of any of his Majesty's provinces in North America, or of any lands or territories belonging to the United States of America, subject to the provisions and restrictions in the said Act mentioned :

And it was thereby further enacted, that the said Act of the 43d of George the Third, and all the clauses and provisos therein contained, should be deemed and construed, and was and were thereby respectively declared to extend to and over, and to be in full force in and through all the territories theretofore granted to the said Company of Adventurers trading to Hudson's Bay

And whereas by our grant of royal license, bearing date the 13th day of May 1838, under the hand and seal of one of our then Principal Secretaries of State, we granted and gave our license to the said Governor and Company and their successors, for the exclusive privilege of trading with the Indians in all such parts of North America to the northward and west-

ward of the lands and territories belonging to the United States of America as should not form part of any of our provinces in North America, or of any lands or territories belonging to the United States of America, or to any European government, state or power, subject nevertheless as therein mentioned :

And we did thereby give and grant and secure to the said Governor and Company and their successors, the sole and exclusive privilege, for the full period of 21 years from the date thereof, of trading with the Indians in all such parts of North America as aforesaid, except as therein mentioned, at the rent therein reserved, and upon the terms and subject to the qualification and power of revocation therein contained :

And whereas by a treaty between ourselves and the United States of America, for the settlement of the Oregon boundary, signed at Washington on the 15th day of June 1846, it was agreed upon and concluded (amongst other things) as follows :—That from the point of the 49th parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the said United States terminated, the line of boundary between our territories and those of the United States should be continued westward along the said parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of De Fuca's Straits to the Pacific Ocean : Provided, however, that the navigation of the whole of the said channel and straits south of the 49th parallel of south latitude should remain free and open to both parties :

And whereas certain of our lands and territories in North America lie to the westward and also to the northward of the territory granted to the said Governor and Company by the hereinbefore recited grant or letters patent of his said late Majesty King Charles the Second, and which is, pursuant to the direction in that behalf contained in such grant or letters patent, called or known as Rupert's Land, and to the eastward of the territories the boundary line of which is defined by the hereinbefore recited treaty with the United States of North America :

And whereas under the said last-mentioned grant or letters patent, and also under our hereinbefore recited grant or license of the 13th day of May, 1838, the said Governor and Company have traded as well within as beyond the limits of the lands and territories granted to them by the said grant or letters patent of his said late Majesty King Charles the Second, and have, in connexion with and for the protection of their trade beyond the said limits, been in the habit of erecting forts and other isolated establishments without the said limits, and some of such forts and establishments of the said Governor and Company are now existing in that part of our said territories in North America, including Vancouver's Island, the boundary line between which and the territories of the said United States is determined by the hereinbefore recited treaty between ourselves and the said United States :

And whereas it would conduce greatly to the maintenance of peace, justice and good order, and the advancement of colonization and the promotion and encouragement of trade and commerce in, and also to the protection and welfare of the native Indians residing within that portion of our territories in North America, called Vancouver's Island, if such island

were colonized by settlers from the British dominions, and if the property in the land of such island were vested for the purpose of such colonization in the said Governor and Company of Adventurers of England trading into Hudson's Bay; but nevertheless, upon condition that the said Governor and Company should form on the said island a settlement or settlements, as hereinafter mentioned, for the purpose of colonizing the said island, and also should defray the entire expense of any civil and military establishments which may be required for the protection and government of such settlement or settlements (except, nevertheless, during the time of hostilities between Great Britain and any foreign European or American power):

Now know ye, that we, being moved by the reasons before mentioned, do by these presents, for us, our heirs and successors, give, grant and confirm unto the said Governor and Company of Adventurers of England trading into Hudson's Bay, and their successors, all that the said island called Vancouver's Island, together with all royalties of the seas upon the coasts within the limits aforesaid, and all mines royal thereto belonging:

And further we do, by these presents, for us, our heirs and successors, make, create and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territories, limits and places, and of all other the premises (saving always the faith, allegiance and sovereign dominion due to us, our heirs and successors for the same); to have, hold, possess and enjoy the said territory, limits and places, and all and singular other the premises hereby granted us aforesaid, with their and every of their rights, members, royalties and appurtenances whatsoever to them, the said Governor and Company, and their successors for ever, to be holden of us, our heirs and successors, in free and common soccage, at the yearly rent of seven shillings, payable to us and our successors for ever, on the first day of January in every year:

Provided always, and we declare, that this present grant is made to the intent that the said Governor and Company shall establish upon the said island a settlement or settlements of resident colonists, emigrants from our United Kingdom of Great Britain and Ireland, or from other our dominions, and shall dispose of the land there as may be necessary for the purposes of colonization; and to the intent that the said Company shall, with a view to the aforesaid purposes, dispose of all lands hereby granted to them at a reasonable price, except so much thereof as may be required for public purposes; and that all monies which shall be received by the said Company for the purchase of such land, and also from all payments which may be made to them for or in respect of the coal or other minerals to be obtained in the said island, or the right of searching for and getting the same, shall (after deduction of such sums by way of profit as shall not exceed a deduction of 10 per cent. from the gross amount received by the said Company from the sale of such land, and in respect of such coal or other minerals as aforesaid) be applied towards the colonization and improvement of the island, and that the Company shall reserve for the use of us, our heirs and successors, all such land as may be required for the formation of naval establishments, we, our heirs and successors, paying a reasonable price for the same; and that the said Company shall, once in every two years at the least, certify under the seal of the said Governor and Company, to one of our Principal Secretaries of State, what colonists

shall have been from time to time settled in the said island, and what land shall be disposed of as aforesaid :

And we further declare, that this present grant is made upon this condition, that if the said Governor and Company shall not, within the term of five years from the date of these presents, have established upon the said island a settlement of resident colonists, emigrants from the United Kingdom of Great Britain and Ireland, or from other our dominions ; and if shall at any time, after the expiration of such term of five years, be certified to us, our heirs or successors, by any person who shall be appointed by us, our heirs or successors, to inquire into the condition of such island, that such settlement has not been established according to the intent of this our grant, or that the provisions hereinbefore mentioned respecting the disposal of land, and the price of lands and minerals, have not been respectively fulfilled, it shall be lawful for us, our heirs and successors, to revoke this present grant, and to enter upon and resume the said land and premises hereby granted, without prejudice, nevertheless, to such dispositions as may have been made in the meantime by the said Governor and Company of any land in the said island for the actual purpose of colonization and settlement, and as shall have been certified as aforesaid to one of our Principal Secretaries of State :

And we hereby declare, that this present grant is and shall be deemed and taken to be made upon this further condition, that we, our heirs and successors, shall have, and we, accordingly reserve unto us and them, full power, at the expiration of the said Governor and Company's grant or license of or for the exclusive privilege of trading with the Indians, to repurchase and take of and from the said Governor and Company the said Vancouver's Island and premises hereby granted, in consideration of payment being made by us, our heirs and successors, to the said Governor and Company, of the sum or sums of money theretofore laid out and expended by them in and upon the said island and premises, and of the value of their establishments, property and effects then being thereon.

In witness whereof, We have caused these our letters to be made patent. Witness ourselves, at Westminster, the 13th day of January 1849, in the twelfth year of our reign.

By Writ of Privy Seal.

APPENDIX (F.)

43 GEO. III, CAP. CXXXVIII.

An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of *Lower* and *Upper Canada*, to the Trial and Punishment of Persons guilty of Crimes and Offences within certain parts of *North America* adjoining to the said Provinces.

[11th August, 1803.]

‘ WHEREAS Crimes and Offences have been committed in the *Indian* Territories, and other Parts of *America*, not within the Limits of the Provinces of *Lower* or *Upper Canada*, or either of them, or of the Jurisdiction of any of the Courts established in those Provinces, or within the Limits of any Civil Government of the United States of *America*, and are therefore not cognizable by any Jurisdiction whatever, and by reason thereof great Crimes and Offences have gone and may hereafter go unpunished, and greatly increase:’ For Remedy whereof, may it please your Majesty that it may be enacted, and be it enacted by the King’s most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That, from and after the passing of this Act, all Offences committed within any of the *Indian* Territories, or Parts of *America* not within the Limits of either of the said Provinces of *Lower* or *Upper Canada*, or of any Civil Government of the United States of *America*, shall be and be deemed to be Offences of the same Nature, and shall be tried in the same Manner and subject to the same Punishment, as if the same had been committed within the Provinces of *Lower* or *Upper Canada*.

II. And be it further enacted, That it shall be lawful for the Governor or Lieutenant Governor, or Person administering the Government for the Time being of the Province of *Lower Canada*, by Commission under his Hand and Seal, to authorize and empower any Person or Persons, wheresoever resident or being at the Time, to act as Civil Magistrates and Justices of the Peace for any of the *Indian* Territories or Parts of *America* not within the Limits of either of the said Provinces or of any Civil Government of the United States of *America*, as well as within the Limits of either of the said Provinces, either upon Information taken or given within the said Provinces of *Lower* or *Upper Canada*, or out of the said Provinces in any Part of the *Indian* Territories or Parts of *America* aforesaid, for the Purpose only of hearing Crimes and Offences, and committing any Person or Persons guilty of any Crime or Offence to safe Custody, in order to his or their being conveyed to the said Province of *Lower Canada*, to be dealt with according to Law; and it shall be lawful for any Person or Persons whatever to apprehend and take before any Persons so commissioned as aforesaid, or to apprehend and convey, or cause to be safely conveyed with all convenient Speed, to the Province of *Lower Canada*, any Person or Persons guilty of any Crime or Offence, there to be delivered into safe Custody for the Purpose of being dealt with according to Law.

III. And be it further enacted, That every such Offender may and shall

be prosecuted and tried in the Courts of the Province of *Lower Canada*, (or if the Governor or Lieutenant Governor, or Person administering the Government for the Time being, shall, from any of the Circumstances of the Crime or Offence, or the local Situation of any of the Witnesses for the Prosecution or Defence, think that justice may more conveniently be administered in relation to such Crime or Offence in the Province of *Upper Canada*, and shall by any Instrument under the Great Seal of the Province of *Lower Canada*, declare the same, then that every such Offender may and shall be prosecuted and tried in the Court of the Province of *Upper Canada*), in which Crimes or Offences of the like Nature are usually tried, and where the same would have been tried if such Crime or Offence had been committed within the Limits of the Province where the same shall be tried under this Act; and every Offender tried and convicted under this Act shall be liable and subject to such Punishment as may by any Law in Force in the Province where he or she shall be tried be inflicted for such Crime or Offence; and such Crime or Offence may and shall be laid and charged to have been committed within the jurisdiction of such Court, and such Court may and shall proceed therein to Trial, Judgment, and Execution, or other Punishment for such Crime or Offence in the same Manner in every Respect as if such Crime or Offence had been really committed within the Jurisdiction of such Court; and it shall also be lawful for the Judges and other Officers of the said Courts to issue Subpœnas and other Processes for enforcing the Attendance of Witnesses on any such Trial; and such Subpœnas and other Processes shall be as valid and effectual, and be in full Force and put in Execution in any Parts of the *Indian Territories*, or other Parts of *America* out of and not within the Limits of the Civil Government of the United States of *America*, as well as within the Limits of either of the said Provinces of *Lower or Upper Canada*, in relation to the Trial of any Crimes or Offences by this Act made cognizable in such Court, or to the more speedily and effectually bringing any Offender or Offenders to Justice under this Act, as fully and amply as any Subpœnas or other Processes are, within the Limits of the Jurisdiction of the Court, from which any such Subpœnas or Processes shall issue as aforesaid; any Act or Acts, Law or Laws, Custom, Usage, Matter or Thing to the contrary notwithstanding.

IV. Provided always, and be it further enacted, That if any Crime or Offence charged and prosecuted under this Act shall be proved to have been committed, by any Person or Persons not being a Subject or Subjects of his Majesty, and also within the Limits of any Colony, Settlement, or Territory belonging to any *European* State, the Court before which such Prosecution shall be had shall forthwith acquit such Person or Persons not being such Subject or Subjects as aforesaid of such Charge.

V. Provided nevertheless, That it shall and may be lawful for such Court to proceed in the Trial of any other Person, being a Subject or Subjects of his Majesty, who shall be charged with the same or any other Offence, notwithstanding such Offence shall appear to have been committed within the Limits of any Colony, Settlement, or Territory belonging to any *European* State as aforesaid.

1 & 2 GEO. IV, CAP. LXVI.

An Act for regulating the Fur Trade, and establishing a Criminal and Civil Jurisdiction within certain Parts of *North America*.

[2d July 1821.]

‘ **W**HEREAS the Competition in the Fur Trade between the Governor and Company of Adventurers of *England* trading into *Hudson’s Bay*, and certain Associations of Persons trading under the Name of “The North West Company of *Montreal*,” has been found for some Years past to be productive of great Inconvenience and Loss, not only to the said Company and Associations, but to the said Trade in general, and also of great Injury to the native *Indians*, and of other Persons Subjects of His Majesty: And Whereas the Animosities and Feuds, arising from such Competition, have also for some Years past kept the Interior of *America*, to the Northward and Westward of the Provinces of *Upper* and *Lower Canada*, and of the Territories of the United States of *America*, in a State of continued Disturbance: And Whereas many Breaches of the Peace, and Violence extending to the Loss of Lives, and considerable Destruction of Property, have continually occurred therein: And Whereas, for Remedy of such Evils, it is expedient and necessary that some more effectual Regulations should be established for the apprehending, securing and bringing to Justice all Persons committing such Offences, and that His Majesty should be empowered to regulate the said Trade: And Whereas Doubts have been entertained, whether the Provisions of an Act passed in the Forty-third Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada, to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of North America adjoining to the said Provinces*, extended to the Territories granted by Charter to the said Governor and Company; and it is expedient that such Doubts should be removed, and that the said Act should be further extended: Be it therefore enacted by The King’s Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act, it shall be lawful for His Majesty, His Heirs or Successors, to make Grants or give His Royal Licence, under the Hand and Seal of One of His Majesty’s Principal Secretaries of State, to any Body Corporate, or Company, or Person or Persons, of or for the exclusive Privilege of Trading with the *Indians* in all such Parts of *North America* as shall be specified in any such Grants or Licences respectively, not being Part of the Lands or Territories heretofore granted to the said Governor and Company of Adventurers of *England* trading to *Hudson’s Bay*, and not being Part of any of His Majesty’s Provinces in *North America*, or of any Lands or Territories belonging to the United States of *America*; and all such Grants and Licences shall be good, valid and effectual for the Purpose of securing to all such Bodies Corporate, or Companies, or Persons, the sole and exclusive Privilege of trading with the *Indians* in all such Parts of *North America* (except as hereinafter excepted), as shall be specified in such Grants or Licences;

any thing contained in any Act or Acts of Parliament, or any Law to the contrary notwithstanding.

II. Provided always, and be it further enacted, That no such Grant or Licence, made or given by His Majesty, His Heirs or Successors, of any such exclusive Privileges of trading with the *Indians* in such Parts of *North America* as aforesaid, shall be made or given for any longer Period than Twenty-one Years; and no Rent shall be required or demanded for or in respect of any such Grant or Licence, or any Privileges given thereby under the Provisions of this Act, for the first Period of Twenty-one Years; and from and after the Expiration of such first Period of Twenty-one Years, it shall be lawful for His Majesty, His Heirs or Successors, to reserve such Rents in any future Grants or Licences to be made to the same or any other Parties, as shall be deemed just and reasonable, with Security for the Payment thereof; and such Rents shall be deemed Part of the Land Revenues of His Majesty, His Heirs and Successors, and be applied and accounted for as the other Land Revenues of His Majesty, His Heirs or Successors, shall, at the time of Payment of any such Rent being made, be applied and accounted for.

III. And be it further enacted, That from and after the passing of this Act, the Governor and Company of Adventurers trading to *Hudson's Bay*, and every Body Corporate and Company and Person to whom every such Grant or Licence shall be made or given as aforesaid, shall respectively keep accurate Registers of all Persons in their Employ in any Parts of *North America*, and shall, once in each Year, return to His Majesty's Secretaries of State, accurate Duplicates of such Registers, and shall also enter into such Security as shall be required by His Majesty for the due Execution of all Processes criminal and civil, as well within the Territories included in any such Grant, as within those granted by Charter to the Governor and Company of Adventurers trading to *Hudson's Bay*, and for the producing or delivering into safe Custody, for Purpose of Trial, of all Persons in their Employ or acting under their Authority, who shall be charged with any Criminal Offence, and also for the due and faithful Observance of all such Rules, Regulations and Stipulations as shall be contained in any such Grant or Licence, either for diminishing or preventing the Sale or Distribution of Spirituous Liquors to the *Indians*, or for promoting their moral and religious Improvement, or for any other Object which His Majesty may deem necessary for the Remedy or Prevention of the other Evils which have hitherto been found to exist.

IV. And Whereas by a Convention entered into between His Majesty and the United States of *America*, it was stipulated and agreed, that any Country on the North West Coast of *America*, to the Westward of the *Stony Mountains*, should be free and open to the Citizens and Subjects of the Two Powers, for the Term of Ten Years from the Date of the Signature of that Convention; Be it therefore enacted, That nothing in this Act contained shall be deemed or construed to authorize any Body Corporate, Company or Person, to whom His Majesty may have, under the Provisions of this Act, made a Grant or given a Licence of exclusive Trade with the *Indians* in such Parts of *North America* as aforesaid, to claim or exercise any such exclusive Trade within the Limits specified in the said Article, to the Prejudice or Exclusion of any Citizens of the said United

States of *America*, who may be engaged in the said Trade: Provided always, that no *British* Subjects shall trade with the *Indians* within such Limits, without such Grant or Licence as is by this Act required.

V. And be it declared and enacted, That the said Act passed in the Forty-third Year of the Reign of His late Majesty, intituled *An Act for extending the Jurisdiction of the Courts of Justices in the Provinces of Lower and Upper Canada, to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of North America adjoining to the said Provinces*, and all the Clauses and Provisoes therein contained, shall be deemed and construed, and it is and are hereby respectively declared, to extend to and over, and to be in full force in and through all the Territories heretofore granted to the Company of Adventurers of *England* trading to *Hudson's Bay*; any thing in any Act or Acts of Parliament, or this Act, or in any Grant or Charter to the Company, to the contrary notwithstanding.

VI. And be it further enacted, That from and after the passing of this Act, the Courts of Judicature now existing, or which may be hereafter established in the Province of *Upper Canada*, shall have the same Civil Jurisdiction, Power and Authority, as well in the Cognizance of Suits, as in the issuing Process, mesne and final, and in all other Respects whatsoever, within the said *Indian* Territories, and other Parts of *America* not within the Limits of either of the Provinces of *Lower* or *Upper Canada*, or of any Civil Government of the United States, as the said Courts have or are invested with within the Limits of the said Provinces of *Lower* or *Upper Canada* respectively; and that all and every Contract, Agreement, Debt, Liability and Demand whatsoever, made, entered into, incurred or arising within the said *Indian* Territories and other Parts of *America*, and all and every Wrong and Injury to the Person or to Property, real or personal, committed or done within the same, shall be and be deemed to be of the same Nature, and be cognizable by the same Courts, Magistrates or Justices of the Peace, and be tried in the same Manner and subject to the same Consequences, in all Respects, as if the same had been made, entered into, incurred, arisen, committed or done within the said Province of *Upper Canada*; any thing in any Act or Acts of Parliament, or Grant or Charter, to the contrary notwithstanding: Provided always, that all such Suits and Actions relating to Lands, or to any Claims in respect of Land, not being within the Province of *Upper Canada*, shall be decided according to the Laws of that Part of the United Kingdom called *England*, and shall not be subject to or affected by any Local Acts, Statutes or Laws of the Legislature of *Upper Canada*.

VII. And be it further enacted, That all Process, Writs, Orders, Judgments, Decrees and Acts whatsoever, to be issued, made, delivered, given and done by or under the Authority of the said Courts, or either of them, shall have the same Force, Authority and Effect within the said *Indian* Territory and other Parts of *America* as aforesaid, as the same now have within the said Province of *Upper Canada*.

VIII. And be it further enacted, That it shall be lawful for the Governor or Lieutenant Governor or Person administering the Government for the time being of *Lower Canada*, by Commission under his Hand and Seal, to authorize all Persons who shall be appointed Justices of the Peace under the Provisions of this Act, within the said *Indian* Territories, or other Parts

of *America* as aforesaid, or any other Person who shall be specially named in any such Commission, to act as a Commissioner within the same, for the Purpose of executing, enforcing and carrying into Effect all such Process, Writs, Orders, Judgments, Decrees and Acts, which shall be issued, made, delivered, given or done by the said Courts of Judicature, and which may require to be enforced and executed within the said *Indian Territories* or such other Parts of *North America* as aforesaid; and in case any Person or Persons whatsoever residing or being within the said *Indian Territories*, or such other Parts of *America* as aforesaid, shall refuse to obey or perform any such Process, Writ, Order, Judgment, Decree or Act of the said Courts, or shall resist or oppose the Execution thereof, it shall and may be lawful for the said Justices of the Peace or Commissioners, and they or any of them are and is hereby required, on the same being proved before him, by the Oath or Affidavit of One credible Witness, to commit the said Person or Persons so offending as aforesaid to Custody, in order to his or their being conveyed to *Upper Canada*; and that it shall be lawful for any such Justice of the Peace or Commissioner, or any Person or Persons acting under his Authority, to convey or cause to be conveyed such Person or Persons so offending as aforesaid to *Upper Canada*, in pursuance of such Process, Writ, Order, Decree, Judgment or Act, and such Person and Persons shall be committed to Gaol by the said Court, on his, her or their being so brought into the said Province of *Upper Canada*, by which such Process, Writ, Order, Decree, Judgment or Act was issued, made, delivered, given or done, until a final Judgment or Decree shall have been pronounced in such suit, and shall have been duly performed, and all Costs paid, in case such Person or Persons shall be a Party or Parties in such Suit, or until the Trial of such Suit shall have been concluded, in case such Person or Persons shall be a Witness or Witnesses therein: Provided always, that if any Person or Persons so apprehended as aforesaid shall enter into a Bond Recognizance to any such Justice of the Peace or Commissioner, with Two sufficient Sureties, to the Satisfaction of such Justice of the Peace or Commissioner, or the said Courts, conditioned to obey and perform such Process, Writ, Order, Judgment, Decree or Act as aforesaid, then and in such case it shall and may be lawful for the said Justice of the Peace or Commissioner, or the said Courts, to discharge such Person or Persons out of Custody.

IX. And be it further enacted, That in case such Person or Persons shall not perform and fulfil the Condition or Conditions of such Recognizance, then and in such case it shall and may be lawful for any such Justice or Commissioner, and he is hereby required, to assign such Recognizance to the Plaintiff or Plaintiffs, in any Suit in which such Process, Writ, Order, Decree, Judgment or Act shall have been issued, made, delivered, given or done, who may maintain an Action in the said Courts in his own Name against the said Sureties, and recover against such Sureties the full Amount of such Loss or Damage as such Plaintiff shall prove to have been sustained by him, by reason of the Original Cause of Action in respect of which such Process, Writ, Order, Decree, Judgment or Act of the said Courts were issued, made, delivered, given or done as aforesaid, notwithstanding any thing contained in any Charter granted to the said Governor and Company of Adventurers of *England* trading to *Hudson's Bay*.

X. And be it further enacted, That it shall be lawful for His Majesty, if He shall deem it convenient so to do, to issue a Commission or Commissions to any Person or Persons to be and act as Justices of the Peace within such Parts of *America* as aforesaid, as well within any Territories heretofore granted to the Company of Adventurers of *England* trading to *Hudson's Bay*, as within the *Indian Territories* of such other Parts of *America* as aforesaid; and it shall be lawful for the Court in the Province of *Upper Canada*, in any case in which it shall appear expedient to have any Evidence taken by Commission, or any Facts or Issue, or any Cause or Suit ascertained, to issue a Commission to any Three or more of such Justices to take such Evidence, and return the same, or try such Issue, and for that Purpose to hold Courts, and to issue Subpoenas or other Processes to compel Attendance of Plaintiffs, Defendants, Jurors, Witnesses and all other Persons requisite and essential to the Execution of the several Purposes for which such Commission or Commissions had issued, and with the like Power and Authority as are vested in the Courts of the said Province of *Upper Canada*; and any Order, Verdict, Judgment or Decree that shall be made, found, declared or published by or before any Court or Courts held under and by virtue of such Commission or Commissions, shall be considered to be of as full Effect, and enforced in like Manner, as if the same had been made, found, declared or published within the Jurisdiction of the Court of the said Province; and at the time of issuing such Commission or Commissions shall be declared the Place or Places where such Commission is to be opened, and the Courts and Proceedings thereunder held; and it shall be at the same time provided how and by what Means the Expenses of such Commission, and the Execution thereof, shall be raised and provided for.

XI. And be it further enacted, That it shall be lawful for His Majesty, notwithstanding any thing contained in this Act, or in any Charter granted to the said Governor and Company of Adventurers of *England* trading to *Hudson's Bay*, from time to time, by any Commission under the Great Seal, to authorize and empower any such Persons so appointed Justices of the Peace as aforesaid, to sit and hold Courts of Record for the Trial of Criminal Offences and Misdemeanors, and also of Civil Causes; and it shall be lawful for His Majesty to order, direct and authorize the Appointment of proper Officers to act in aid of such Courts and Justices within the Jurisdiction assigned to such Courts and Justices in any such Commission; any thing in this Act, or in any Charter of the Governor and Company of Merchant Adventurers of *England* trading to *Hudson's Bay*, to the contrary notwithstanding.

XII. Provided always, and be it further enacted, That such Courts shall be constituted, as to the Number of Justices to preside therein, and as to such Places within the said Territories of the said Company, or any *Indian Territories*, or other Parts of *North America* as aforesaid, and the Times and Manner of holding the same, as His Majesty shall from time to time order and direct; but shall not try any Offender upon any Charge or Indictment for any Felony made the Subject of Capital Punishment, or for any Offence or passing Sentence affecting the Life of any Offender, or adjudge or cause any Offender to suffer Capital Punishment or Transportation, or take Cognizance of or try any Civil Action or Suit, in which the

Cause of such Suit or Action shall exceed in Value the Amount or Sum of Two hundred Pounds; and in every case of any Offence subjecting the Person committing the same to Capital Punishment or Transportation, the Court or any Judge of any such Court, or any Justice or Justices of the Peace, before whom any such Offender shall be brought, shall commit such Offender to safe Custody, and cause such Offender to be sent in such Custody for Trial in the Court of the Province of *Upper Canada*.

XIII. And be it further enacted, That all Judgments given in any Civil Suit shall be subject to Appeal to His Majesty in Council, in like manner as in other cases in His Majesty's Province of *Upper Canada*, and also in any case in which the Right or Title to any Land shall be in question.

XIV. And be it further enacted, That nothing in this Act contained shall be taken or construed to affect any Right, Privilege, Authority or Jurisdiction which the Governor and Company of Adventurers trading to *Hudson's Bay* are by Law entitled to claim and exercise under their Charter; but that all such Rights, Privileges, Authorities and Jurisdictions shall remain in as full force, virtue and effect, as if this Act had never been made; any thing in this Act to the contrary notwithstanding.

12 VICT., CAP. XLVIII.

An Act to provide for the Administration of Justice in *Vancouver's Island*.

[28th July 1849.]

WHEREAS an Act was passed in the Forty-third Year of King George the Third, intituled *An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of North America adjoining to the said Provinces*: And whereas by an Act passed in the Second Year of King George the Fourth, intituled *An Act for regulating the Fur Trade, and establishing a Criminal and Civil Jurisdiction, within certain Parts of North America*, it was enacted, that from and after the passing of that Act the Courts of Judicature then existing or which might be thereafter established in the Province of *Upper Canada* should have the same Civil Jurisdiction, Power, and Authority, as well in the Cognizance of Suits as in the issuing Process, mesne and final, and in all other respects whatsoever, within the *Indian Territories* and other Parts of *America* not within the Limits of either of the Provinces of *Lower* or *Upper Canada* or of any Civil Government of the *United States*, as the said Courts had or were invested with within the Limits of the said Provinces of *Lower* or *Upper Canada* respectively, and that all and every Contract, Agreement, Debt, Liability, and Demand whatsoever made, entered into, incurred, or arising within the said *Indian Territories* and other Parts of *America*, and all and every Wrong and Injury to the Person or to the Property, real or personal, committed, or done within the same, should be and be deemed to be of the same Nature, and be cognizable by the same Courts, Magistrates, or Justices of the Peace, and be tried in the same Manner, and sub-

ject to the same Consequences in all respects, as if the same had been made, entered into, incurred, arisen, committed, or done within the said Province of *Upper Canada*, and in the same Act are contained Provisions for giving Force, Authority, and Effect within the said *Indian Territories* and other Parts of *America* to the Process and Acts of the said Courts of *Upper Canada*; and it was thereby also enacted, that it should be lawful for His Majesty, if He should deem it convenient so to do, to issue a Commission or Commissions to any Person or Persons to be and act as Justices of the Peace within such Parts of *America* as aforesaid, as well within any Territories theretofore granted to the Company of Adventurers of *England* trading to *Hudson's Bay* as within the *Indian Territories* of such other Parts of *America* as aforesaid; and it was further enacted, that it should be lawful for His Majesty from Time to Time by any Commission under the Great Seal to authorize and empower any such Persons so appointed Justices of the Peace as aforesaid to sit and hold Courts of Record for the Trial of Criminal Offences and Misdemeanors, and also of Civil Causes, and it should be lawful for His Majesty, to order, direct, and authorize the Appointment of proper Officers to act in aid of such Courts and Justices within the Jurisdiction assigned to such Courts and Justices in any such Commission, provided that such Courts should be constituted, as to the Number of Justices to preside therein, and as to such Places within the said Territories of the said Company, or any *Indian Territories* or other Parts of *North America* as aforesaid, and the Times and Manner of holding the same, as His Majesty should from Time to Time order and direct, but should not try any Offender upon any charge or Indictment for any Felony made the Subject of Capital Punishment, or for any Offence or passing Sentence affecting the Life of any Offender, or adjudge or cause any Offender to suffer Capital Punishment or Transportation, or take cognizance of or try any Civil Action or Suit in which the Cause of such Suit or Action should exceed in Value the Amount or Sum of Two hundred Pounds, and in every Case of any Offence subjecting the Person committing the same to Capital Punishment or Transportation, the Court, or any Judge of any such Court, or any Justice or Justices of the Peace before whom any such Offender should be brought, should commit such Offender to safe Custody, and cause such Offender to be sent in such Custody for Trial in the Court of the Province of *Upper Canada*; And whereas, for the Purpose of the Colonization of that Part of the said *Indian Territories* called *Vancouver's Island*, it is expedient that further Provision should be made for the Administration of Justice therein: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the Proclamation of this Act in *Vancouver's Island* the said Act of the Forty-third Year of King *George* the Third, and the said recited Provisions of the Second Year of King *George* the Fourth, and the Provisions contained in such Act for giving Force, Authority, and Effect within the said *Indian Territories* and other Parts of *America* to the Process and Acts of the said Courts of *Upper Canada*, shall cease to have Force in and to be applicable to *Vancouver's Island* aforesaid; and it shall be lawful for Her Majesty from Time to Time (and as well before as after such Pro-

clamation) to make Provision for the Administration of Justice in the said Island, and for that Purpose to constitute such Court or Courts of Record and other Courts, with such Jurisdiction in Matters Civil and Criminal, and such equitable and ecclesiastical Jurisdiction, subject to such Limitations and Restrictions, and to appoint and remove, or provide for the Appointment and Removal of such Judges, Justices, and such ministerial and other Officers, for the Administration and Execution of Justice in the said Island, as Her Majesty shall think fit and direct.

II. Provided always, and be it enacted, That when and so soon as a local Legislature has been established in *Vancouver's Island*, it shall be lawful for such Legislature, from Time to Time, by any Law or Ordinance made in the Manner and subject to the Conditions which may be by Law required in respect of Laws or Ordinances made by such local Legislature, to make such Alterations as to such Legislature may seem meet in the Constitution or Jurisdiction of the Courts which may be established in the said Island, and to make all such other Provisions as to such local Legislature may seem meet for and concerning the Administration of Justice in the said Island.

III. Provided always, and be it enacted, That all Judgments given in any Civil Suit in the said Island shall be subject to Appeal to Her Majesty in Council, in the Manner and subject to the Regulations in and subject to which Appeals are now brought from the Civil Courts of *Canada*, and to such further or other Regulations as Her Majesty with the Advice of Her Privy Council shall from Time to Time appoint.

IV. And be it enacted, That all such Islands adjacent to *Vancouver's Island* or to the Western Coast of *North America*, and forming Part of the Dominions of Her Majesty, as are to the Southward of the Fifty-second Degree of North Latitude, shall be deemed Part of *Vancouver's Island* for the Purposes of this Act.

V. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

TORONTO:—PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
Printer to the Queen's Most Excellent Majesty.

1857.