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Samuel Gale

NOTICES

ON

THE CLAIMS

OF

THE HUDSON'S BAY COMPANY:

*by Saml. Gale Esq. Jun^r. Advocate
Montreal.*

TO WHICH IS ADDED,

A COPY OF THEIR

ROYAL CHARTER.



LONDON:

JOHN MURRAY, ALBEMARLE STREET.

1819.

NW
972.13
G152.2

NOTICES, &c.

THE disasters which, during successive years, have befallen the Colony established by the EARL of SELKIRK at Red River, have naturally attracted some degree of the public attention. The sentiments of hostility against the Settlement, expressed from the period of its commencement by the members and connections of a numerous association of fur-traders, known by the name of the North-West Company, could not fail to point suspicion towards them as the original cause of these disasters, whatever might be the immediate agency employed. Next to the ruin of the colony, the object in which its destroyers and their associates feel the highest interest, is to prevent its re-establishment. Neither habitation nor settler has been left*. But although this state of things is sufficient for the present gratification of the foes of the Settlement, it promises them no security for the future; for, while the rights subsist under which the colony was founded, the germ from which a new growth might spring, would remain.

* Since these Notices (which formed part of a larger work) were published at Montreal, in 1817, the Red River Settlement has been a second time re-established.

To have destroyed the colony would not answer the object of its enemies, unless the hope of its revival should be also destroyed, and the same anti-colonial spirit, which, while the Settlement was in being, prompted its opponents to seek its annihilation through scenes of devastation and slaughter, is now, since its fall, exerting an equally zealous, although no longer a sanguinary hostility, in endeavours to overturn the authority under which it derived its existence. For this purpose the Hudson's Bay Company, under whose sanction the colony was founded, have been called into the contest; the validity of their ancient Charter has been attacked; and their rights have been denied.

Although many of the evils which have occurred are past remedy, it still imports the friends of established authority, that the success which has attended the attempts against the lives of the colonists, should not extend to the attempts against the rights under which the colony was founded.

The object of these pages is therefore, in the first place, to suggest some considerations respecting the validity of the Hudson's Bay Charter, and the extent of the rights, particularly as to territory, which it must be understood to convey; in the second, to shew the absence of any claim or title on the part of the North-West Company, to hold possessions in the Hudson's Bay Territories, or even what are termed the *Indian Territories*, beyond the limits of the Hudson's Bay Charter.

The Kings of Great Britain have for centuries, in common with the other Sovereigns of Europe, exercised the right of granting Territories for the establishment of Colonies and Plantations. The prerogative of the Crown of England, already so restricted and

limited that its further reduction would be viewed, by those who feel an interest in the support of established governments, with greater alarm than its extension, has, in this point, never been contested, and is founded upon, as well as sanctioned by the law and practice of nations. Under this branch of the prerogative, more has been done towards extending British institutions, laws, and language, than conquests could have effected; boundless forests have been transformed into cultivated countries; solitary wastes have been filled with population; and the settled and social habits of civilized life have been substituted for the wild and wandering condition of the savage.

In 1670, the King of Great Britain by Grant or Charter, established a new colony or plantation as had frequently been done by his predecessors in the case of several of the colonies, now part of the United States of America. This Grant was made in favour of Prince Rupert, the Duke of Albemarle, the Earl of Craven, the Lords Arlington, Ashley, and many others, who with their successors, were, by the Charter, constituted a Company, by the name of the "*Company of Adventurers of England trading into Hudson's Bay.*" The Territory comprehended in this grant to the company, and their successors, was, by the Charter, declared to be one of his Majesty's Colonies or Plantations in America, to be called "Rupert's Land." This Charter is drawn with greater care and accuracy than those by which many of the other colonies in America were established; probably from the high interest felt in the exalted characters in whose favour it was obtained. By this grant, which establishes a separate government, all the inferior regalities and

subordinate powers of legislation were expressly vested in the grantees.

The extent of the rights conveyed, and of the territory granted, is not to be decided by the narrow rules of local ordinances, or those confined regulations of the municipal code, which apply to the termination of differences between individual and individual; but must be determined by more liberal and comprehensive principles,—by doctrines of more general and extensive application. Between individual and individual, length of possession might constitute Right, but between an individual and a Sovereign, or between an individual and a Colony or Government, a claim founded only on prescription could not exist.

The points which seem, on the present occasion, most deserving of consideration, are the exclusive trade and the limits of the Hudson's Bay Territory. On the subject of the Trade, some have laid it down as a principle, that the Crown cannot grant an exclusive right of Trade, without the concurrence or confirmation of Parliament. Differences of opinion rarely arise with respect to those rules which are entitled to the denomination of "principles;" the most frequent subjects of contest concern only their application. But on this position, dignified with the appellation of a "principle," it may be observed, that the only judicial opinion ever given by English Courts on such a subject, declared a grant of exclusive trade by the crown to be legal. This opinion, it is true, was given by Chief Justice Jefferies, and may not, therefore, be considered as entitled to such authority as opinions drawn from other sources might obtain; but it must here be remarked,—and the observation will be conclusive with respect to the pretensions of

the Hudson's Bay Company, even were the above-mentioned judicial opinion admitted to be erroneous,—that where a grant of soil is made at the same time with a grant of exclusive trade, the right of the Crown to confer the latter privilege becomes rather a question of curiosity than of utility; because by the grant of the soil alone, the proprietor becomes legally entitled to exclude all others from any entrance upon, or any establishments within it. If the King's authority should not be considered to entitle him to prohibit to any individuals the exercise of any lawful occupation upon their own domains, because such prohibition might be thought a restraint upon their liberty, incompatible with the freedom of our laws, the royal prerogative unquestionably extends to the founding of Colonies and Plantations, and to the granting of Lands and Territories; and upon every such exercise of the royal prerogative, the right of entering into, or of remaining within, the limits of the Grant, is vested legally and solely in the Grantees, to the exclusion of the other subjects of his Majesty, for whom it would not be possible to carry on a trade in a country into which they were neither entitled to enter nor remain.

That part of the Hudson's Bay Company's Charter which conveys the grant of the trade and country, is in the words following:—“ We have given, granted, and confirmed, and by these presents for us and 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 whatever latitude they shall be, that lie within the entrance of the straits, com-

“ monly 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, sturgeon, 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 afore-
 “ said, and all the mines royal, as well discovered as
 “ not discovered, of gold, silver, gems, and precious
 “ stones, to be found or discovered within the terri-
 “ tories, limits, and places aforesaid; and that the
 “ same 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 succes-
 “ sors, make, create, and constitute, the said Gover-
 “ nor and Company, for the time being, and their
 “ successors, the true and absolute Lords and Pro-
 “ prietors of the same territory, 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 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 Succes-
 “ sors for ever.”

Here, then, we see a complete and perfect conces-

sion of all right of soil in the territories described; and if all that concerns exclusive trade and commerce in the foregoing citation had been expunged, the real effect of the Charter would have remained unaltered, and it would virtually have operated the exclusion of strangers from the trade, until the grantees, or their successors, should have transferred to others a right in their territory, without which the means of carrying on a commerce there could not legally exist.

With respect to the second point,—the limits of the Hudson's Bay territory,—some have laid it down as a rule, which they have also dignified with the name of a "principle," that the king could not grant a territory, which, at the time of the grant, belonged to, and was in the undisturbed occupancy of, the subjects of another Sovereign. It would be useless to make any observations on such a position, until it be shewn how it will apply to the territory granted, in 1670, by the Hudson's Bay Charter. It has, indeed, been said, that the territory was claimed by France; but it will not surely be insisted that all that has been claimed by France, therefore belonged to France, or was in its actual possession. It has been related, that two French Travellers, Mr. Radesson and De Grozeliars, were the first who approached Hudson's Bay by Land; and after visiting the country, these persons returned to France, with an account of their discoveries, which were considered of so little estimation there, as to produce no step towards the occupation of the country. Finding themselves and their enterprises thus neglected in France, it is related that these gentlemen travelled to England, where their representations proved more effectual than they had

done in their own country, and were the cause of an Expedition being fitted out for Hudson's Bay, under one Gillam, who erected the first Fort in that country, and gave occasion to the Grant of the Hudson's Bay Charter itself. Even if this relation were perfectly founded in fact, it is scarcely to be supposed that any one should be so desirous of extending French domination as to insinuate, that because two French Gentlemen travelled through a country, it therefore became the property of France.

But, in truth, a discussion of the right of the King to grant a territory in the occupation of the subjects of another Sovereign, would be perfectly idle, since, if such a right, under any circumstances, could be supposed to exist, it was not on this occasion exerted. The Charter, as appears from the extract already given, grants only such of the lands within the defined limits as were not then (to wit, in 1670), "*actually possessed by, or granted to, English subjects, or possessed by the subjects of any other Christian Prince or State.*" In three modes therefore,—but in three modes only,—it may be shewn, that the territory to the south of Hudson's Bay has not been conveyed by the Charter. One is, that it was in 1670 possessed by, or granted to, English subjects; a second is, that it was possessed by the subjects of some other state; and a third is, that by fair and legal interpretation, it could not be comprehended within the limits of the Grant. It has never been pretended, and it cannot be asserted with truth, that any part of the country in question was granted to, or legally possessed by, any English subjects prior to the date of the Charter. The second cause of exception,—*viz.* the possession of the subjects of some

other state—is next to be considered. In this case, as in others of a similar nature, by the term “pos-
 sessed,” an actual permanent and *bonâ fide* occupancy must be understood to be meant, and not merely a fictitious or emblematic possession, or a delay *in transitu*, on a trading journey or a voyage of discovery. And the best histories of the times, the sole authorities to which on such a subject we can refer for information entitled to credit, contain no mention of any actual or permanent establishments, or occupants of land in 1670, or before that period within an immense distance of any part of the territories ever claimed by the Hudson’s Bay Company. On the contrary, their earliest mention even of trading journeys into those countries is of a date much subsequent to that of the Charter.

It is related by those who are inclined to contest the validity of the Charter, that a Beaver Company was formed in Canada in 1630, who traded to the “interior” for peltries. If the boundaries had been defined which circumscribe that uncertain country alluded to, under the ambiguous denomination of the “interior,” the statement would have been more clearly understood; but if it be intended to import that the Beaver Company formed in 1630, traded into the Hudson’s Bay territories, the assertion would only be entitled to ridicule. Quebec was taken by the English under Kirk, commonly called Sir David Kirk, and the government of the Colony was in 1630, in the hands of his brother Lewis Kirk, and so remained until 1632, when it was restored to France by the treaty of St. Germain*. At the time Quebec

* See Mod. Univ. Hist. vol. xxxix. p. 423-4.

surrendered to Kirk, the number of the colonists scarcely exceeded those of Red River at the period of their last expulsion and massacre by the North-West Company in 1816. The colonists at Quebec, when Kirk appeared before the place, were engaged in hostilities with the Indians, and were in extreme distress for want of the absolute necessaries of life, so that the summons to surrender was hailed as a deliverance from famine and danger. Under these circumstances no person could hesitate as to the credit due to accounts of their forming Beaver Companies, and making establishments for trade in distant and unexplored regions.

That associations for the beaver trade were formed in Canada, both before and after the year 1630, would, however, be sufficiently probable, because the province was originally granted to a society of Merchants, and the commerce of peltries was the earliest occupation of its inhabitants. But were it granted that such associations did exist, what inference could be drawn from the concession? Not, surely, that such associations had traders, and possessions, in the territories comprehended by the Hudson's Bay Charter. It appears from the history of Father Charlevoix and Hennepin,—whose inclination would have certainly led them to give as much extension to the progress of the scattered possessions of the French in North America as the truth would warrant,—that, for some years after the date of the Charter, the French had no established trading posts even as far as Lake Superior, which is far distant from any boundary ever assigned to the Hudson's Bay territories. The very year after the Charter, and probably in consequence of the alarm which that

measure excited, officers were sent from Quebec to take a formal or fictitious possession of the country about Lake Superior, and to establish a correspondence with the natives. Until very many years after this, the French never had any established possession in Hudson's Bay, or on any of the waters which run into it, unless that denomination be given to the emblematical possession usually taken by seamen when new discoveries are made, by planting a post, and setting up the arms of the sovereign; but, as has been already observed, the terms of the Charter imply actual occupancy, and seem to have been inserted expressly to exclude this species of fictitious possession.

From every source, therefore, from which credible authority can be obtained on the subject, it is apparent, that "the possessions of the subjects of any other Christian Prince or State at the date of the Charter," cannot be urged to reduce the extent of the grant to the Hudson's Bay Company. And no subsequent occupancy by any European subjects, if such occupancy has existed, can be considered to have divested the Hudson's Bay Company of any portion of their original claim; because no express permission or grant of *any government* has authorised its subjects to hold lands in the territories in question, while on the other hand, all establishments therein, except under the sanction of the Company, have been expressly prohibited to British and other subjects, by various and repeated interdictions.

The two first and frivolous grounds upon which it has been attempted to lessen the extent of the grant to the Hudson's Bay Company having been sufficiently examined and exposed, it remains for us to

consider the actual limits of the Charter, which conveys "all the lands and territories upon the countries, coasts, and confines, of the seas, bays, lakes, rivers, creeks, and sounds, that lie within the entrance of Hudson's Straits." It must, therefore, appear indisputably evident,

1. That all the rivers into which a vessel can sail from Hudson's Bay, fall under the description of rivers that lie within the entrance of Hudson's Straits.

2. That as the Grant is not limited to lands near the mouths of rivers, nor to any specified distance from the sea, it must include the lands adjacent to the rivers, all the way from the mouth of each to its source. The course of some of them is through lakes, and the lakes and lands upon them are expressly granted by the Charter.

3. That there is nothing to limit the Grant to land adjacent to the main stream of each river. If we follow up one of them from the Bay until it divides into two branches, it cannot be maintained that one of these is a river lying within the entrance of Hudson's Straits, and that the other is not. The Grant must, therefore, apply equally to the lands adjacent to all the subordinate branches of the principal rivers. Those feeders which cannot be called rivers, will fall under the denomination of creeks.

4. That the Grant is not limited to the land within any specified distance back from the banks of the rivers, and that it includes not only the lands upon the "coasts and confines," but also upon "the countries of the rivers," a term well understood in America, as expressing the space which is included.

between the different branches of a river, and to the waters of which that river forms the principal outlet; in other words, that it extends as far as the height of land which divides its waters from those of some other river. Under this construction of the Charter, the lands there described are capable of being reduced to certainty and measure, without any departure from the rules of reason and precedent, in the interpretation of grants, which under any other construction would be impossible.

An interpretation so closely and perfectly consistent with the true, and only legal import of the terms of the Grant, must appear conclusive on the subject; but if the general opinion can be thought to give weight or confirmation to the deductions of reason there is evidence, that at a period when there was no interest to misrepresent the matter, all the country of which the waters run into the Hudson's Bay, was generally considered as included in the Company's Charter. This may be inferred even from the language of Mr. Dobbs, and the other persons who joined with him about the year 1748, in a fruitless application to Parliament to set aside the Charter. It is also shewn from Jeffrey's map, published during the war of 1756, and by a passage in Carver's Travels, published soon after the peace of 1763, in which he describes the country about the Lake Winipic, Red River, &c. &c. as within the acknowledged limits of the Hudson's Bay Company, and speaks of the Trade carried on there from Canada as an encroachment, which, under the peculiar circumstances of the case, the Company was under the necessity of winking at*.

* See p. 110—2nd Edit.

The same inference is supported by the negotiations for the Treaty of Utrecht, in which the right of the Hudson's Bay Company to the property of the country is evidently understood to be co-extensive with the rights of England to the sovereignty. But although it was stipulated by the Treaty of Utrecht, that the boundary line between the Hudson's Bay territories and Canada, and likewise between the other French and English colonies in America, should be determined by Commissioners to be appointed in virtue of the Treaty, and although the parallel of 49° seems to have been afterwards proposed as the boundary of the Company's territories, (probably from the supposition that it would include all the waters emptying into Hudson's Bay,) yet that parallel was never definitively agreed upon as the boundary, and the pretensions of the English and French governments in that quarter, were never finally adjusted before the war of 1756. The conquest of Canada, of course, established the pretensions previously held by England; for a victorious nation could not be supposed to accept as a cession from an enemy, that which they had never previously acknowledged to be theirs. The boundaries fixed by proclamation, after the peace of 1763, for the English colonies lying on the south of Canada, *were the same that England had contended for before the war*; and it is clear, that the same principle was considered as also applicable to the Hudson's Bay territory. This is evident from the manner in which this territory is mentioned in the proclamation of 1763, concerning the boundary of the province of Quebec, and other colonies, and particularly concerning the territory reserved for the Indians. It is certain that before

the war of 1756, the British Government never acknowledged any part of the country lying on the waters running into Hudson's Bay to belong to Canada. And if the French at any time, after the date of the Charter, had assumed the occupancy of any part of that country,—of which there is not the smallest satisfactory evidence,—they would have done no more there, than they are positively ascertained to have done in the British colonies, now the United States, to the south of Canada, where they possessed a long line of forts; and, as the actual possession of the French *south of Canada*, did not induce the English Government to alter the limits it had assigned to its colonies in that quarter, surely the merely imaginary possessions of the French *north of Canada*, could not be any ground for altering, or reducing, the limits of the English colonies or charters on that side.

Upon the waters running into Hudson's Bay, and within the limits of the Hudson's Bay territories, according to the foregoing, and only rational, interpretation of the Charter, the late Settlement at Red River was situated. But so hostile is the spirit felt by the destroyers of the colony, and their friends, against any English settlement in that quarter, that they have of late advanced and supported the opinion, that Red River, although comprehended within the description given by the Charter, has been by our treaties ceded to the United States of America; thus evincing a desire, that the district in question, should rather be considered as belonging to a Foreign Power than become the seat of a British colony, as forming part of the Hudson's Bay territories. A disposition to sacrifice national interests, or national

dignity, for the attainment of individual advantage, or the gratification of personal rancour, is happily not common among Englishmen. But, as such a disposition has been manifested by some persons on this subject, it may not be improper to consider whether the opinion that Red River lies within any of the boundaries of the United States, rests on any solid foundation.

Nothing can be more clear than that it was never, for a moment, contemplated either by the British or by the American Government, that any of the Hudson's Bay territories, or any of the waters running into Hudson's Bay, would be included in the lines assigned as the boundaries between the possessions of Great Britain, and those of the United States. The treaty which was concluded with America in 1794, sufficiently shews, that such an idea never existed in either Government. By the third article of that treaty, —which permits the most perfect freedom of communication and intercourse between the subjects of both nations throughout their respective dominions,—an exception is made of the country within the limits of the Hudson's Bay Company; to be ascertained, of course, in conformity to their Charter from which the Americans are expressly excluded. The terms of the treaty concluded in 1783 with the United States,—agreeably to which, by the recent treaty of 1814, the territorial division between the two powers is to be made,—shew the express intention of both nations to have been, that the northern boundary of the United States, should not, in any part extend further north than the River St. Lawrence, or the lakes and streams which feed or fall into it. It is, however, unfortunately true, that a great part of

the second article of the treaty of 1783, was drawn up in complete ignorance of the geography of the country. It is so full of contradictions, that there is no possibility of laying out a line that shall follow the article literally. In such a case, the only fair mode of solving the difficulty, is by returning to the principle upon which the article was framed.

The object of the American negotiators was, as appears from their correspondence, to obtain a recognition of the right of the United States to the western territory, as far as the St. Lawrence on the north, and the Mississippi on the west. When this was agreed to by our government, it was considered as an important concession; and the American Plenipotentiaries proceeded upon that concession as the principle on which their boundary towards Canada, after it had struck the St. Lawrence, was to be made out. Having brought the line from Nova Scotia to the St. Lawrence, they followed up the main stream of that river, to what they conceived to be its principal source, and what was supposed to approach the nearest to the source of the Mississippi. In imaginary conformity to this intention, the second article of the treaty of 1783, after having carried the line to Lake Superior, stipulates that it shall be continued onwards through the middle of certain water communications to the north-west point of the Lake of the Woods, and thence due west to the Mississippi. The fact, however, is, that the waters of the Lake of the Woods feed streams which fall into Hudson's Bay, but have no communication with any waters which fall into Lake Superior; and it is also the fact, that a line drawn due west from the Lake of the Woods, would never reach the Mississippi, which lies far to the south of such a line.

As far as Lake Superior, the description in the second article of the treaty is accurate, and consistent with the principle by which the boundary was to be determined; and it will be perfectly evident that the article was framed throughout with intention to proceed on the same principle, if we consider what was, at that time, the state of geographical information concerning the country west of Lake Superior.

The country had never been surveyed by men of science; but from the vague and inaccurate descriptions of ignorant "*coureurs des bois*," maps had been constructed, which laid down a large river running from the Lake of the Woods, and falling into Lake Superior. If there had been such a river, there can be no doubt, from the body of waters contained in the Lake of the Woods, that it would have been a much larger stream than any of the feeders of Lake Superior. It was therefore most natural, that the negociators should suppose the Lake of the Woods to be the main source of the St. Lawrence; at the same time this must have appeared to them the point at which the waters of the St. Lawrence approached the nearest to the source of the Mississippi; for, in the same incorrect maps, the Mississippi is laid down as rising four or five degrees of latitude further north than it does in fact, and as coming within a short distance of the Lake of the Woods on the west.

The maps previously published, and containing all these errors, were, of course, in the hands of the negociators at Paris in 1783; and the confidence they reposed in these maps, alone accounts for the inconsistencies involved in the second article of their treaty, and afford the only plausible explanation of their meaning. The description of the boundary line west-

ward from Lake Superior is thus reconciled to the general principles upon which the rest of the line is laid down; while, on any other supposition, the intention of the negociators would be absolutely incomprehensible.

If it had been understood in 1783 (as it is now well known) that the Lake of the Woods had no outlet into Lake Superior, nor any connexion with the waters of the St. Lawrence, the principle on which the negociators proceeded would have led them to continue the boundary line from Lake Superior up one of its largest feeders towards the source of the Mississippi. The only river which answers this condition is the St. Louis, which is the largest feeder of Lake Superior, and, therefore, the true source of the St. Lawrence, and which approaches within a very short distance of the Mississippi near its source. Following up the river St. Louis for fifty or sixty miles, the course is nearly west from Lake Superior; above this it deviates from that direction, forms a great bend, and the rest of its course is from the north-east. Just at the bend the river St. Louis is only about twenty-five or thirty miles from the Mississippi; here it is said a small branch comes in from the west, rising in a little lake, from which a line due west to the Mississippi, would hardly be ten or twelve miles in length, and would touch that river at a very moderate distance from its most northerly sources. No other line can be found so completely conformable to the principle adopted by the negociators in 1783, *viz.* that the St. Lawrence should form the boundary of the United States on the north, and the Mississippi on the west.

It has been argued, however, that since the letter of the treaty of 1783 specified the Lake of the

Woods as a point of the boundary, the line must, in one course or another, be brought to that lake. This argument is altogether inconsistent with the principle of just reasoning. Though the Lake of the Woods be specified in the treaty of 1783, it is also specified that the line from Lake Superior is to be carried thither by the "water communication," and it is likewise specified that one point of the boundary is to be where the line drawn due west from the Lake of the Woods, shall strike the Mississippi. As no water communication exists, it is impossible that the line can be brought to the Lake of the Woods consistently with the letter of the treaty. And as the line stipulated to be drawn due west could never strike the Mississippi, such a line would also be a violation of the letter of the treaty which requires that the line shall reach that river. Since then, the entire letter of the treaty cannot be followed, but a part only can be preserved, while the rest is rejected,—the sole question is, what part shall be retained and what set aside: a question which can only be determined by a reference to the spirit of the treaty, and the principle on which the negociators proceeded. That spirit, and that principle, would require, that the St. Lawrence and its principal sources should be the boundary line, until the point should be reached at which the sources of the St. Lawrence, and the Mississippi, approach nearest to each other; and that, from thence, the shortest line should be drawn which would intersect both. The acquisition of Louisiana by the United States, could afford no just ground of alteration in the boundary of which we have spoken. The boundaries of the United States, attempted to be defined by the treaty of 1783, were intended to de-

termine the limits of territories situated on the east of the Mississippi. With respect to any territories subsequently acquired on the west of the Mississippi, such as Louisiana, the rights of the British and American governments must be measured by ascertaining what were the rights of the Spanish government previously to their cession of Louisiana.

It has been argued that as the United States are now in possession of both sides of the Mississippi, it has, therefore, become a matter of indifference whether the line to be drawn due west from the Lake of the Woods shall strike the Mississippi, or not, as it may be continued on indefinitely, even until it reach the Pacific Ocean. The British commissioners cannot, however, be supposed so willing to sacrifice the claims of their government, as readily to agree, that the line should be carried to the Lake of the Woods; a lake whose name found its way into the treaty only through mutual and evident error; because, instead of following any "water communication," as the treaty requires, the line must then cross the ridge of mountains which divide the waters running into Hudson's Bay, from those running into the Atlantic Ocean, and the Gulf of Mexico; and because also, in such case, Great Britain instead of possessing any territory at that point between the Hudson's Bay limits and those of the United States, which she unquestionably always contemplated, would have ceded even a part of the Hudson's Bay territories. But even if the British commissioners could be supposed willing to carry their compliance to that extent, yet, still it could not, after such a sacrifice, be presumed that the commissioners could carry their contempt of national dignity or national interests so much farther as to admit of

any other line being drawn from the Lake of the Woods, than one which should strike the Mississippi. If the rights of the United States in Louisiana were, after this sacrifice, to be adjusted according to those possessed by Spain in that country, there would still be a very extensive and delightful country, the table land of North America, uniting the advantages of the purest climate and the most productive soil, reserved to Great Britain between the Hudson's Bay territories and the northern boundary of Louisiana; for the Spaniards never had any military possession beyond the Illinois, and never carried on any trade with the natives further north than the Pawnees and the Mahas on the Missouri, about latitude 42° or 43° , while the British traders have long frequented all the countries on the upper parts of the Mississippi and the Missouri. Where the limits of a country have never been ascertained, the conquest of the contiguous and encroaching territory may be justly considered as establishing the bounds originally claimed by the victorious nation; as has already been observed, with respect to the limits of Canada and the Hudson's Bay territory. But where, between two powers, there have been no defined limits, and no conquests have determined the claims of either, the pretensions of both might be fairly adjusted by laying down, as a rule, that the priority of right should be considered as vested in each, to the respective countries, which each have either principally or exclusively frequented.

If then, the establishments of the Spaniards west of the Mississippi, have not extended nearly so far north as 42° or 43° , and if even their intercourse as traders, has never been carried higher,—while the whole country between those degrees, and the Hud-

son's Bay limits has been long frequented by the British,—on what ground can the Americans,—the successors only to rights derived from the Spaniards,—claim all the country of the Scioux, the Mandans, the Minitarees, and many other nations on the upper branches of the Missouri? The foundation of any such claim yet remains to be shewn; and unless they can produce in support of it, some treaty binding on the British Government, it would be a very gratuitous and preposterous concession to admit such extensive boundaries to their purchase of Louisiana. It is true, that if the line due west from the Lake of the Woods, so often mentioned, were to be adopted as the boundary of Louisiana on the north, not only the whole vast country on the upper branches of the Missouri would be added to the United States; but also a very considerable portion of the Hudson's Bay territories beyond the Lake of the Woods, even including a part of Red River,—although perhaps, not the scite of the late Settlement. But, enough has been said to shew that the adoption of the line due west from the Lake of the Woods, could be justified by no rational or sound construction of the treaties between Great Britain and America, and would be a culpable dereliction of the dignity and interests of the former.

As it is only the northern boundary line of Louisiana which has any relation to our present subject, it would be superfluous to inquire into its limits on the west, although nothing could be more absurd than the idea that Spain ever contemplated the cession of any territory on the Pacific Ocean, under the name of Louisiana.

The treaty concluded between the English and Spanish Governments, after the dispute about Nootka

Sound, would exclude such an interpretation: and indeed, the pretensions of the Americans to any territory west of the Rocky Mountains,—if such should be advanced,—have not the slightest plausibility.

The observations respecting boundaries are here brought to a conclusion, and we trust it has been satisfactorily shewn to all,—except those who may desire the suppression of British establishments,—that Red River is within the limits of the Hudson's Bay Charter, and that Great Britain has not by any treaty divested itself of that portion of her dominions; but is in fact, entitled to a territory even beyond the Hudson's Bay limits on the south*.

The Hudson's Bay Charter, amongst other provisions, expressly forbids all English subjects from entering, without licence or authority, upon the territories of the Hudson's Bay Company. The Governor and Company only, are empowered to grant such authority; and on them also is conferred the right of establishing castles, fortifications, forts, garrisons, colonies, plantations, towns, and villages, in any parts or places within the limits and bounds of their territory; together also with the right of sending ships of war, men, or ammunition, to their colonies, fortifications, or plantations, and of appointing governors, commanders, and officers over them.

In the second year of William and Mary, a private Act of Parliament was passed, confirming, in every particular, the Hudson's Bay Charter for seven years; and because this Parliamentary confirmation was

* Since these Notices were written, the late treaty (of 1818) with the United States, fixes the boundary line to be the 49th ~~parallel~~ of northern latitude.

limited to a certain number of years, some have ridiculously inferred, that at the expiration of that term, the Charter ceased to be valid. A conclusion so absurd would scarcely seem to require refutation; nor could those who pretend to draw the inference, have been ignorant, that if some of the rights conferred by the Charter required the sanction of Parliament, there were other rights conveyed by it, which required no such sanction, because they were within even the limited prerogative of the English Crown. If, at the end of the term for which the Act of William and Mary was passed, such of the provisions of the Charter (if such could be found) as derived their efficacy only from Parliamentary support, should be considered inefficient, still all the rights similar to those of the charters for former governments and plantations in America, within the competency of the Crown to bestow, would continue to subsist: and that they have continued to subsist is apparent, from their having been subsequently maintained, and repeatedly sanctioned, by various treaties of peace, and Acts of Parliament. Even the recent treaty of 1794, between Great Britain and the United States,—after stipulating that the subjects of each government should freely resort to the territories of each other, and freely navigate all the lakes, rivers, and waters, of both countries,—makes, as has been already mentioned, an exception of the country within the limits of the Hudson's Bay Company, from which the Americans are expressly excluded. It will hardly be asserted, that this solitary exception was made with a view to favour the encroachments of any unauthorised association, such as that which caused the settlers at Red River to be expelled in 1815, and, after

their return to their Settlement, procured their massacre in 1816. On the other hand, it must be evident, that the exception was intended to secure the operation of the Royal Charter, conferred upon the Hudson's Bay Company, and to protect its rights, so often solemnly admitted by the English nation.

In various statutes, some of which are still in force, the Parliament has shewn a watchful regard to the rights of the Hudson's Bay Company, and has sanctioned, as to territory and government, the validity of its Charter. By the statute of the 14th of his present Majesty, establishing the limits of the then newly acquired Province of Canada, the Parliament of Great Britain has enacted, that it shall be bounded on the North by "the territory granted to the Merchants, Adventurers of England trading to Hudson's Bay," a boundary which still subsists under the statute.

Having thus noticed some of the rights conferred upon the Hudson's Bay Company, and shewn the limits to which their territory extends, (which will be found to be supported by some of the observations occurring incidentally hereafter), we come now to consider the rights claimed by that association of persons known by the name of the North-West Company, as well in the Indian as in the Hudson's Bay territories.

No legal sanction has ever been conferred upon the North-West Company, nor has it ever received even a tacit recognition by any provision of the Legislature. It is only an unauthorised combination of individuals, who were induced by common interest, to unite about thirty years ago, in order to avoid the

expenses incident to a competition in trade; and who after their association, determined, at all hazards, and in defiance of justice, to exclude all his Majesty's other subjects from any participation in the branch of Commerce in which they were engaged; although as far as it was legal to them, it was equally open to all. From the regular gradations of authority,—the complete system of dependence and subordination,—and the perfect obedience and submission of the inferiors to the commands of their superiors, by which this concern is distinguished, it appears to approach more nearly to the character of a military government, than one of any other description. To promote their illegal views, the members of this new association extended themselves over a vast territory, and even according to their own accounts proceeded to erect forts, in various districts, which were situated as well in the Hudson's Bay, as in the Indian territories.

After time had given some experience, and this new organization had acquired strength and consistency, measures were resorted to, to drive from the country all competitors in trade. It is true, that in the Hudson's Bay territories this new association had no right to remain at all, and no right elsewhere superior to other subjects. But the situation of the countries wherein the North-West Company had established themselves, was admirably calculated to enable them to exercise violence, and to secure impunity. They were at an immense distance from any civilized government, or any legal authority; and their combination gave them a decided superiority of force over individual traders in those regions.

The remoteness of their situation they knew would detract much from the interest which the community would otherwise feel, either to watch over their conduct, or to resist their oppressions. And from the same remoteness of situation, their power and influence could be exerted with much effect, to prevent the attendance of the witnesses who would be required in any cases of complaint or accusation against them. Thus circumstanced, and with these advantages, they began to molest and commit depredations upon the unassociated traders from Canada, whom the prospect of gain had allured into the same regions.

Innumerable were the modes of intimidation and injury resorted to.—It will be sufficient to notice a few.—In some places where delays might be expected to be most injurious, these traders frequently found the portages, over which it was necessary for them to travel, blocked up by numbers of trees, felled for the purpose of opposing an obstacle to their progress. In some instances the navigation of the smaller rivers was obstructed in a similar manner. At other places their canoes, the principal vehicle as well for the transportation of goods, as for their own conveyance, were destroyed or rendered unfit for service. Sometimes on rising in the morning, they would find that the casks containing liquors for their trade had been pierced during the night, and that the contents had escaped; at other times their packages of goods were cut to pieces and thrown about the ground.

When the precaution and vigilance of these private traders was so great, as to leave no opportunity for the commission of these acts unseen, recourse was had to open violence, and they were assailed with

such superior force as to render resistance unavailing. Their goods were destroyed, and even their tents cut down, while their lives were also threatened and in danger. If it be said that those who sustained these injuries should have sought legal redress, it may be answered, that the immediate agents employed on these occasions, were generally such as possessed nothing, and who remained for years, and sometimes perpetually, out of the jurisdiction of any courts. Nor could it be expected, that the instigators should give written instructions to their agents, most of whom were unable to read. Thus it would necessarily have been difficult to trace out the orders given to the servants by their employers. It would also be difficult to procure witnesses from so great a distance, even if no other obstacle existed; but the difficulty was rendered almost insurmountable by the influence and power of the Company, which enabled them to deter or prevent witnesses from appearing. On some occasions indeed, where, after being emboldened by a long exercise of successful tyranny, some of the principal partners,—at places nearer the jurisdiction of courts,—neglected the usual precaution of employing subordinate agents, and became themselves actors in the personal aggressions and destruction of property, the sufferers instituted actions at Montreal, for the recovery of damages. After great delays and expenses, the most successful obtained judgment for the bare loss sustained. But the anxiety endured, the prospects blasted, and the personal danger incurred, remained without compensation. The success met with by the sufferers in their appeal to law, could not be considered of a

nature to encourage either themselves or others to attempt any further trade to the Indian country. The North-West Company, and their agents, having, therefore, by a system of violence and terror, succeeded in excluding the rest of his Majesty's Canadian subjects from any participation in the trade of extensive countries, neglected no measures which they thought likely to secure the continuance of the dominion they had usurped. They planted their forts and trading posts over a wider range of territory, and established a more despotic rule, than could be found to exist even in any Asiatic government.

The situations chosen for their posts were generally such as afforded the best prospect of preserving the dominion of the country; such, of course, as a military government would have selected. The policy of the Company requires the shew of a large force. The permanence of the sovereignty they have assumed, may also be considered as dependent upon it. Vast numbers of servants known under the name of *engagés*, are therefore employed in the concern. The wages of these servants, if they were actually paid, should be more than sufficient to absorb the profits of the trade. A more advantageous mode of discharging the wages, than actual payment, is, therefore, adopted. The vices of their servants are encouraged by every incentive, and form a subject of gainful and degrading speculation, to which, no parallel can be found. The servants are easily induced to run in debt; their propensity for liquor is strong, and to be without one or more favourites amongst the women, who are always to be found about the

establishments of the North-West, would be represented as a want of spirit. Whatever is purchased, must be taken at such advance upon its original value, as the cupidity of the master induces him to demand*. A transitory indulgence in liquor, and the purchase of a few articles for the gratification of a mistress, absorb the wages of years, and,—what is always desired by his employers,—load the servant with a debt from which he is afterwards unable to extricate himself. If the debtor should be desirous of returning to his family and friends at the expiration of the term of his engagement, it has not been unusual, where his departure did not suit the convenience of the Company, to cause him to be put in irons, or to be cast into some loathsome place of confinement, until his sufferings induced him to consent to a renewal of his engagement. In such modes the servants of the Company, although they are engaged in Canada at high nominal wages, are reduced, after the lapse of many years, to a state of greater wretchedness, and more deplorable poverty than when they first entered the service. It is also customary for the Company, to exact of those whom they allow to quit their service and return to Canada, acknowledgments for considerable sums of money, by which means the servants are retained in perpetual bondage, even after their servitude has nominally ceased; and their former masters possess the power of punishing them, if their disclosures or their conduct should give offence to the Company. From practices such as these, the profits of the North-West Company have been accu-

* Sometimes at an advance of one thousand per cent. upon its Montreal price.

mulated, and their conduct for a series of years has escaped the exposure, disgrace, and punishment it merited; but it cannot be supposed that that Company would have possessed either the means or the audacity to carry on so vile and degrading a traffic, or to have caused the commission of the many enormities that have taken place, if they had not been successful in expelling and excluding from the country they frequent, all competitors amongst their Canadian fellow-subjects.

By what has preceded, it appears, that the attention of the North-West Company is not confined to the transport of goods to the place of sale or barter, and to their profitable disposal or exchange, when they have reached their destination; but, what is a phenomenon in trade, an army of consumers must be transported along with the articles of traffic, and these new militants must receive a new education in the North-West, and be trained for some time to debauchery, before they can be fit for the commerce in which they are engaged. A numerous body of young and vigorous men, often of religious principles, and of sober and industrious habits, are thus annually withdrawn from the beneficial pursuits of agriculture to the baneful trade of the North-West. As they are not used as servants merely, but are wanted besides in the double capacity of military forces against their fellow-subjects, and consumers of the merchandize of their employers, the numbers engaged exceed, by many times, what would be necessary, if the trade were conducted on principles of honesty and decency: And the loss of such numbers from a country so unimproved, and a population so deficient as that

of Canada, cannot but be severely felt. But the diminution of the population of the country is not the greatest evil; because to induce the engagés to become profitable customers, their employers must, as we have before remarked, be at great pains to corrupt their morals, and to introduce habits of vice and profligate expenditure amongst them. Those who are permitted to return to Canada, generally return with broken constitutions, savage manners, and depraved and dangerous principles,—evils which are not confined to themselves, but which they soon introduce and extend amongst the lower classes. Should any engagé possess sufficient firmness to resist the united influence of precept and example, and to persevere in a course of sobriety and economy, he would have to encounter the severity of his masters, and would probably be sent to distant posts, where such difficulties and dangers would await him, as would speedily rid his employers of an unprofitable servant, or if notwithstanding his contumacy, he were treated with extreme indulgence, he would be dismissed the North-West Company's service, as a "scoundrel, who would not spend his wages*."

If military subordination, *esprit de corps*, and personal bravery be not deficient, the more vicious and depraved the servant is, the more useful he will be generally considered, because he is the fitter tool for the commission of any crime that may promote the interest of the Company. The commission of one crime must produce further submission on the part of the engagé, because, should obedience to orders be

* The statements we have given are drawn from the accounts of persons who have heretofore belonged to the North-West Company, and cannot therefore be suspected of exaggeration.

refused, his employers can cause him to be brought to punishment for his former offence. As his wages, according to the system adopted, have been swallowed up in the advance upon the goods, of which he is tricked into the purchase, the chains by which he is bound are rendered indissoluble by his poverty.

On one side therefore, to the submission of the poor and unlettered servant, is added the dependence of the debtor, and the subjection of the criminal; and on the other side, to the dominion of the master is united the power of the creditor, and the authority of the magistrate. This threefold dependence, and this thrice riveted authority, produce that perfect subordination and unlimited obedience, which have often been directed even to the commission of murders; towards which, except it be for the timely interposition of Government, they are not unlikely to be again directed.

Many of the servants, who are employed by the North-West Company, are frequently desirous of passing their lives in some of the more fruitful countries frequented by them. And to a few of these, the Company graciously vouchsafe permission (for no one is allowed to remain there without their consent) to continue in the country after their time of service has expired, on condition; that, like obedient subjects, they hold themselves in readiness to render aid to the Company, if their exigencies should require it; and that they give no succour or assistance to any who resort to the country unconnected with the North-West Company. These favoured few are distinguished by the appellation of the "*Free Canadians*," a designation to which indeed they have no real claim, but which seems intended to contrast

their situation with the more distressed and slavish state of those of their countrymen, whom the North-West Company still retain in perfect servitude. These free Canadians are, however, very few in number, and the dread of the power of their former masters is a feeling which quits them but with life.

They are not permitted to become agriculturists, because an agricultural settlement would not be consistent with the views of the North-West Company, as it might tend to lessen their tyrannical authority, by affording to their engagés a refuge to which they could retire from oppression, and which could afford them repose and plenty in the decline of life.

The free Canadians form too insignificant and dependent a proportion of the population to acquire any influence. Exclusive of these, the permanent population of the countries over which the North-West Company has assumed the supreme control, may be divided into two classes; the native Indians, who compose the only numerous and important part of it, and the "*bois brulés*," or "*metifs*,"—appellations which are given to the spurious offspring of the partners, clerks, and servants of the Company. These last are designations calculated for disguise, by which persons unacquainted with the demi-christian origin of the "*bois brulés*," might be induced to suppose that they were some powerful Indian nation. The fact is, however, that many of these have received, from the laudable care of their parents, the rudiments of education,—can read, write, and keep accounts, and are employed as clerks by the North-West Company. A large proportion of the others whose education has been less attended to, are employed as servants of the same Company.

It has been advanced on behalf of the North-West Company, that the countries they have appropriated to themselves were frequented by predecessors in the Indian trade; and, of consequence, that a kind of prescriptive right must be considered to vest in themselves. Nothing could, certainly, be more weak than an attempt to justify their occupation and sovereignty over immense territories by so ridiculous a pretext. In the first place it would become them to prove in what manner those whom they style their predecessors transferred their rights to them. On this subject they have nothing to shew, and it would be found upon examination, that the occupation of the North-West Company, without a shadow of peculiar privilege, is founded on the forcible and illegal exclusion of their Canadian fellow-subjects from any participation in the fur trade. This does not bear the appearance of deriving legal titles from the claims of their predecessors. There is not a single fort or trading post belonging to the North-West Company in the Hudson's Bay territories, except those built by the North-West Company themselves, and not by any of their predecessors.

But how did their predecessors acquire rights? And, if they had occupied the forts and trading posts now in the possession of the North-West Company, on what authority could they rely to support their occupation? By the Hudson's Bay Charter, all British subjects are expressly charged and commanded, "that none of them do, directly or indirectly, visit, haunt, frequent or trade, traffic or adventure into, or form any of the said territories, limits or places thereby granted, or any or either of them, other than the said Governor and Com-

“ pany of Hudson’s Bay, their agents, factors, and
 “ assigns, unless it be by the licence and agreement
 “ of the said Governor and Company, in writing first
 “ had and obtained.”

By the treaty of Utrecht, whose provisions in this particular are confirmed by subsequent treaties, it is stipulated that all of the subjects of France, who might be established in the Hudson’s Bay territories, should be withdrawn.

Upon the conquest of Canada, His Majesty, by his proclamation of 1763, before alluded to, after reserving under his sovereignty and protection, for the benefit of the Indian natives, all the lands and territories not included within the limits of Quebec, East Florida, and West Florida, or within the limits of the Hudson’s Bay Company, and, after expressly prohibiting all his subjects from seating themselves even on Indian lands, beyond the limits of these countries, without authority from Government,—
 “ strictly enjoins and requires all persons whatsoever,
 “ who have wilfully and inadvertently,” (which imports without a legal title,) “ seated themselves upon
 “ any lands *within the countries above described*, or
 “ upon any other lands, which, not having been
 “ ceded to, or purchased by His Majesty, are still
 “ reserved to the said Indians as aforesaid, FORTH-
 “ WITH TO REMOVE THEMSELVES FROM SUCH
 “ SETTLEMENTS.” It is plain therefore, that, if any predecessors of the North-West Company were ever to have been found in the Hudson’s Bay territories, they must have been trespassers, and could have transferred no legal right to others: but these pretended predecessors since the conquest have been none other than merely transient persons or traders,

moving from place to place, without any *permanent* establishments.

The foundation of prescriptive right between individual and individual is the presumption, that the actual possessor *has held a title*, although it cannot, from some casualty, be produced in support of his possession. But no such presumption could exist in the present case, or between an individual and a government, because the original grants being public documents, must be always supposed to be preserved: but the existence of such grants in favour of the North-West Company has never been even pretended.

If then the North-West Company could even shew, in support of their claim to the forts and possessions they hold, a transfer of *imaginary rights* from their alleged predecessors, whose shades they now vainly invoke to their assistance, still it could avail them nothing, because no claim, unless derived from the *Sovereign* of France or of England, or from the Governor and Company of the Hudson's Bay, could be, under any circumstances, esteemed of any validity. But the supposition is idle;—the North-West Company have no transfer of rights, and no claims of territory.

The robust title of occupancy, assumed in daring violation of justice, and in contempt of repeated prohibitions contained in royal charters, proclamations, statutes, and treaties of peace, is the only pretension they can advance; and it is a new doctrine of that unlicensed and obtrusive race, that a violation of the laws can confer a title.

The occupation even of the Indian lands beyond the limits of the Hudson's Bay territories is, as already remarked, prohibited by proclamation, and yet the

North-West Company, have not only seated themselves upon those lands, but also upon lands in the Hudson's Bay territories, and have erected trading posts and forts in each. It is the peculiar province of Government to inquire into the invasion of any of its rights; but yet, it is impossible to hear the forts of an unlicensed association of daring adventurers spoken of, without feelings of surprise, indignation, and alarm.—Surprise, that the conduct of its subjects should not have excited inquiry on the part of Government,—indignation at this presumptuous and lawless assumption of the privileges of Royalty,—and alarm at the extensive and dangerous oppression and tyranny which it might enable subjects, if traitorously disposed, to exercise. The right of building forts and places of strength, belongs not to subjects*. The sole and entire prerogative as well of erecting, as of manning and governing them, appertains to His Majesty, and to those whom he shall invest with his royal authority for that purpose. This authority, as we have before seen, has been conferred by their Charter upon the Governor and Company of the Hudson's Bay territories. But the North-West Company, in the plenitude of their power, have thought fit to exercise this branch, as well as others, of the Royal prerogative, of their own mere motion, and independently of any sanction from their sovereign. It therefore becomes a matter

* See Stat. 13 Car. II. 1, 6, 2 inst. 30, and Black. Com. Sir Edward Coke says, that no subject can build a castle, or house of strength embattled, or place defensible, without licence from the King, by reason of the danger which might ensue if every man at his pleasure could do it.

of some importance, as well as interest, to ascertain with what views they have thus taken military possession of a country in which they were prohibited all permanent establishments, and to learn whether their forts in the Indian, as well as Hudson's Bay territories, are maintained not merely as trading places, but as places of refuge, or points of union to those ferocious hunters, who occasionally sally out to destroy defenceless settlements, and to butcher or expel inoffensive inhabitants. It would, therefore, seem, that the only step befitting the dignity and security of Government, would be to divest them of the possessions they have illegally assumed, and of the forts and establishments by which they are enabled to despise the administration of the laws and the authority of the sovereign; and to exclude them from any further intercourse with that country, until they shall have exculpated themselves from all imputations of agency, or encouragement in the crimes which have been committed. If a part of the members of the North-West Company should succeed in proving themselves to have been neither the Agents nor Promoters of the destruction of British settlements, as humanity would induce us to hope, they ought not, even in that case, to be allowed to renew their trade in the Indian country, except by the special licence of Government. By the proclamation of 1763 the trade with the Indians, in the Indian territories (not in those of the Hudson's Bay) is thrown open to *all British subjects*, upon the express condition of their obtaining previously a licence, for that purpose; although they are at the same time prohibited from erecting buildings, or making any permanent establish-

ments in the countries in which they are permitted to trade.*

If, therefore, we were to admit so great an absurdity as that every member of the North-West Company was untainted with guilt, the preliminary measure of exclusion, and the subsequent adoption of licences, could not be justly considered a hardship. For if any have been in the practice of exercising prohibited employments, or occupying forbidden ground, there can be no wrong or hardship in reducing them under the operation of the law. And in a case

* The North-West Company have never obtained any licences, but even if they had done so, such a precaution would have been by no means the only one which it would have been proper for our government to have taken to prevent abuse in their intercourse with the Indians. The French government of Canada,—and it ought to be mentioned to its honour,—was far more attentive to prevent injury to the primitive inhabitants of the country, than the English have ever been. Not only was all trade with the Indians prohibited except by licences, but priests were always sent as missionaries, who overlooked the practices of the licensed traders; and if their conduct, by the undue introduction of liquors, or in any other mode, became prejudicial to the health or morals of the natives, a representation was made by the missionary, in consequence of which, the offending trader was deprived of his licence. Even now, by the laws of Canada, whoever shall sell spirituous liquors to the Indians residing in this Province, will be liable to a pecuniary penalty. And yet, (strange inconsistency) the North-West Company are allowed to carry any quantity of those spirits, that go under the denomination of high wines, or any other deleterious distillation, to the Indians of the North, without any restriction. These Indians are often kept in the forts of the North-West Company in a state of intoxication, until they are deprived of all they possess. An attempt was made some years ago in London by the Hudson's Bay Company, to put some restraint upon the trade in liquors with the Indians, but several persons associated with the North-West Company so strenuously opposed the measure at the meeting, that no alteration was effected.

like the present, where undue influence, always dangerous to authority, may be, and has been, exerted with such fatal effect ;—where the facilities and temptations to the commission of crimes, and the difficulties of legal detection are so great,—it is becoming the paternal care of government to watch over the wanderings of its subjects, and to preserve them all within the reach of its protecting or avenging arm.

It is an old observation, that the government which protects unlicensed traders, is bound by every call of duty to see whether a continuance of their trade will be beneficial or injurious : and the utmost that should be granted to private interest, would be a neutral trade, by which the country could not be injured, though it might not be benefited : and by which the established claims of others might not be invaded.

The North-West Company themselves have indeed been in the habit of representing their concern as essentially contributing to the general welfare of Britain ; possibly in the expectation that their crimes might be overlooked in consideration of the great advantages they pretended to confer. But this favourable opinion has not extended to others acquainted with their system of proceedings, the most charitably disposed of whom are of opinion, that if the claims of the Company to reputation should be founded only on the benefits they have conferred, it would not be within the compass of human means to save them from infamy.

The North-West Company seems, however, on some occasions to have set forth its pretensions with far more arrogance than has been just mentioned ; because, from one of their publications it might be inferred,—however absurd the opinion may seem to the understandings of all unconnected with the Company,—

that the power and prosperity of the British Empire were dependent upon the North-West trade from Canada!

For interested parties to proportion their estimation of any object to its real importance, seems a task of uncommon difficulty,—if it may be allowed to pronounce any thing difficult in which few attempts have succeeded. The warmth of friendship, or the zeal of interest, may be so injudicious, as to attempt to confer influence and distinction where no weight or honour is deserved, and to represent what greatly concerns the few, as highly important to the many. But the heat of imagination bestows ideal consequence to no purpose.—Those who are uninterested are not likely to be imposed upon.

In the publication last alluded to, the writer states that one of the conditions without which the Canadas could not be effectually defended, was, “the friendship of the western Indians.” He afterwards asserts that a “direct trade from Canada by British traders” (which of course must mean only the North-West Company, as they have excluded all others), “was essential to the preservation of Indian attachment and friendship;” and, at the conclusion of his dissertation he says, “that the question about the Canadas cannot safely be *insulated*. That their loss, *therefore*, would bring about that of Nova Scotia and New Brunswick: that their loss would lead to that of Newfoundland, and all the British transatlantic fisheries, and finally that the West India Islands must follow; as they could not be supported and defended after the British North American Colonies, Newfoundland, and the Fisheries, were gone. Then farewell to our maritime

“ greatness and power. The heart sickens at the
 “ contemplation of the possible additional ruin con-
 “ sequent upon such a state of things.” To sum up
 all in fewer words, and, leaving out the intermediate
 gradations, to come at once to the splendid result, the
 North-West trade from Canada is essential to the
 maritime greatness and power of Britain, perhaps to
 its existence as an independent nation.

“ WHAT GREAT EVENTS ARISE FROM TRIVIAL THINGS !”

A discovery which none of our greatest politicians had been enabled to make, however profound their investigation, and however minute their researches, is here given to the public. The combination of causes on which the power of the Queen of Isles depends, is here disclosed. The latent sources of English greatness are here laid open to the astonished eye; and we see the fountains, rising in weakness, form at first the humble stream, whose waters gathering strength and increase as they roll along, become at length the magnificent and resistless flood, which pours over half the globe the riches and influence of Britain.

After recovering from the emotions of surprise into which the very extraordinary discoveries of this writer had thrown us, we were led, as soon as we could reduce our ideas to the level of common considerations, to inquire what was the extent to which the manufactures of the Mother Country, were immediately benefited by the trade of the North-West Company. Our ideas of its importance suffered material diminution upon finding that the amount of its annual importation of British manufactures was only about

£.30,000; an amount inferior to the importations of many unassociated individuals.

It would be readily conceded, that it would be desirable to preserve the friendship and attachment of the Indians from motives of humanity, and with a view to ameliorate the condition of this portion of our fellow beings. But that the Canadas should be held by so insecure a tenure, as the duration of the fickle friendship of this savage race, would be a preposterous supposition. Still more ridiculous would be the opinion, that the preservation of the Canadas, however great the advantages which may be derived from them, are of *vital* importance to the mother country. But of whatever consequence they may be, it might be reasonably doubted whether exciting the savages to war in our defence would be justifiable. During the late war, the greater part of the Indian nations were fighting their own battles, and prosecuting hostilities of earlier date than those between Great Britain and the United States. They were not involved in war by our policy, but being already engaged in it, might indeed have been led to greater efforts and longer perseverance, when they found that the English were forced into the contest. The English did not merit the imputation of *inducing* savage tribes to arm themselves for the commission of barbarities against their christian brethren. Such a course would be neither consistent with the dignity nor the principles of humanity for which the nation is distinguished.

The friendship of the Indians which an enlightened and a virtuous race ought rather to desire, with a view of conferring than of receiving advantages, would be far more beneficial to us, and much more likely to

be preserved and increased, were the intercourse which is permitted with them, conducted on principles of honesty and justice. From the manner in which the trade of the North-West Company is carried on, the natives are subjected to continual and grievous oppressions and cruelties, and their race is menaced with speedy extinction.

Their attachment to us might be rendered inalienable, were the government to prevent the continuance of the injuries they have suffered, and to take into its own hands the possessions its unauthorised subjects have assumed.

The North-West Company, in consequence of being charged with the highest crimes, which human depravity ever perpetrated, have endeavoured to recriminate upon their accusers. That the guilty should make an open acknowledgment of their crimes, is not to be expected. That those who are unable to offer any justification of their conduct should have recourse to recrimination, with a view to diminish the indignation felt against themselves, by shewing that others were involved in an equality of crime, is not surprising.—But to expect that in this instance, recrimination could avail them; where the acts on the one side, have been committed under the authority and in the support of chartered rights, and have at the utmost amounted to little more than civil trespasses, and where on the other side, recourse has been had to violence in the furtherance of illegal practices, and have extended to the premeditated destruction of an English Colony, and the murder and massacre of fellow-subjects; would be the extreme of folly and audacity.

With a similar view of prepossessing the public

with an idea of equality in their respective situations, the Partners of the North-West Company have accustomed themselves to the terms of "*rivals*," and "*rival companies*," in their discussions respecting their own lawless association and the Hudson's Bay Company. It is not surprising that the arrogance of a set of men, rising criminally to sudden influence, should be gratified at the supposition of rivalry with a Company which has so long existed under the sanction of the laws, and which has often been the subject of particular stipulations in our treaties with foreign powers. But that they should imagine, they could impose upon the public the belief of their being rivals, could not fail to excite astonishment. Equal or mutual rights or claims must be understood to be included in the meaning of rivalry. But here the rights are all on one side, and unfortunately all the *irreparable* wrongs have been endured by those in whom the rights are vested. Buonaparte might, with as much propriety have called himself the rival of his Majesty, in his right to Hanover, as the members of this recent and criminal association can style themselves the rivals of the ancient and chartered body, whom they endeavour to expel from their own territories. The numerous and atrocious murders of the North-West Company, contrasted with the long and patient forbearance of the Hudson's Bay Company, could not be more dissimilar, than the long line of just and sanctioned pretensions on the one side, and the total absence of legal claims on the other.

We have dwelt here at sufficient length to give a general view, the only one our limits will permit, of the character and policy of the North-West Company; which, whether it be considered in relation to

the criminality of its proceedings, or the wide range of country over which it extends, or the unauthorised sovereignty which it has assumed, has never had a parallel in the British dominions; and, blending inconsistencies, combines the ferocity and ambition of a military despotism, with the meanness and jealousy of the petty trader. The intercourse of the North-West Company with the Indians is not, indeed, entitled to the appellation of a trade; but, under the semblance and disguise of commerce, is an organized system of rapine, and a conspiracy against all other British subjects, carried on by the daily repetition of robbery, and the occasional intervention of murder, whenever the interests of the concern appear to require it.

THE
ROYAL CHARTER,
FOR
INCORPORATING
THE
HUDSON'S BAY COMPANY,

GRANTED BY

HIS MAJESTY KING CHARLES THE SECOND, IN THE
TWENTY-SECOND 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, Antony, Lord Ashley, Sir John Robinson, and Sir Robert Vyner, Knights and Baronets, 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 Undertak-

Preamble.

ing, 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 Kingdome. ~~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, Streights Bays, Rivers, Lakes, Creeks and Sounds, in whatsoever Latitude they shall be, that lie within the Entrance of the Streights commonly called Hudson's Streights, together with all the Lands, Countries and Territories, upon the Coasts and Confines of the Seas, Streights, 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~~

Grant of Incorporation.

~~ye~~, That We being desirous to promote all Endeavours tending to the publick 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, ~~do~~ give, grant, ratify, and confirm, unto our said Cousin Prince Rupert, Christopher, Duke of Albemarle, William, Earl of Craven, Henry, Lord Arlington, Antony, 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 Politique, 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 Politique, 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 Pre-

Names of Original Grantees.

Body Corporate to be styled the Governor and Company of Adventurers of England, trading into Hudson's Bay.

sents, 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 in 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 to 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 here-

Rights and Privileges, &c. of the Governor and Company.

Grant of a Common Seal.

A Governor
and Commit-
tee to be
chosen.

after 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

Prince Rupert
to be the first
Governor.

Names of the
First Commit-
tee.

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.

Power to elect a Deputy Governor.

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 publick 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.

Oath to be administered to him.

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

Future Governors, how elected.

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 publick 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 traffick 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

Oath to be administered to them,

and to each Member of the Company.

Annual Election of a new Committee.

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 removeable at the Pleasure of the rest of the said Company, or the greater Part of them which shall be present at their publick 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

Oath to be administered to the Committee.

Vacancies in the Offices of Governor and Deputy Governor, how filled up.

Governor or Deputy Governor may be removed,

and others
elected.

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~~ **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 removeable 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

Members of
the Committee
may be remov-
ed,

and others
elected.

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, Streights, Bays, Rivers, Lakes, Creeks, and Sounds, in whatsoever Latitude they shall be, that lie within the Entrance of the Streights commonly called Hudson's Streights, 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 Suc-

Grant of the Trade, Lands, Mines, Minerals, Fisheries, &c.

The Territory to be reckoned one of His Majesty's Plantations in America, and the Governor and Company to be the Lords Proprietors of the same for ever.

cessors, 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~~ **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 Governours

Governor and Company may assemble and make Laws, Ordinances, &c. for the good Government of their Territory and the Advancement of their Trade.

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 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 Amerciaments 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~~ shall 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 Amerciaments, be reasonable, and not contrary or repugnant, but as near as may be agreeable to the Laws, Statutes or Customs of this Our Realm. ~~We have~~ **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, ~~to~~ grant unto the said

And may impose Penalties and Punishments, provided the same are reasonable, and not repugnant to the Laws of England.

Further grant of Trade.

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 Traffick, 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 Traffick 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 Traffick 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~~ ~~strictly~~ 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 the said Territories, Limits or Places, hereby granted, or any, or either of them, other than the said Governor and Company, and such

And no Subjects of His Majesty to trade within the Company's Territories without Leave from the Company, in Writing, under their Common Seal.

particular Persons as now be, or hereafter shall be, of that Company, their Agents, Factors and Assigns, unless it be by the Licence 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 traffick 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 of 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 traffick into any of the said Places, Seas, Streights, 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

Nor will Liberty of such Trade be given by His Majesty to any Person, without Consent of the Company.

Persons free of the Company, failing to pay the Sums respectively engaged to be furnished by them in the Adventure of the Company, may be removed and disfranchised.

Successors; that We, Our Heirs and Successors, will not grant Liberty, Licence, or Power, to any Person or Persons whatsoever, contrary to the Tenor of these Our Letters Patent, to trade, traffick 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 publick 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 Licence 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 Bye-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

What Persons may be admitted into the Company.

All Lands, &c. aforesaid, to be under the Government of said Company; who may appoint Governors and other Officers to preside within their Territories, and judge in all Causes, civil and criminal, according to the Laws of England;

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 severall 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, or 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 Licence, 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

or Criminals
may be sent
to England
for Trial.

The Governor
and Company
may employ,
for the Protec-
tion of their
Trade and
Territory,
Armed Force,
appoint Com-
manders, erect
Forts, &c.

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 Cloathing, 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 Licence in that Behalf first had and obtained, or that shall contemn or disobey their Orders, and send them to Eng-

No Persons allowed to inhabit in the Company's Territories without their Permission.

land; 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 streightly 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

The Governor and Company may authorise their Presidents, Agents and others, to, administer Oaths, in certain Cases.

All Admirals and others his Majesty's Officers and Subjects, to be aiding and assisting in the Execution of the Powers, &c. granted by this Charter.

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 any wise notwithstanding. In Witness whereof, we have caused these Our Letters to be made Patent; Witness Ourselves at Westminster, the Second Day of May, in the Two and Twentieth Year of Our Reign.

By Writ of Privy Seal,

PIGOTT.

FINIS.
