

Land and the Liberal Project

Canada's Violent Expansion

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UBC Press · Vancouver

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Birthing Canada, 1857–67

1

Given their uncertain prospects in the Old World, British North American settlers hoped for a safe future in the new world they were building, and they presented their politics and institutions as peaceful and civilized. Nonetheless, the settler project was deeply marked by material and epistemic violence. In tracking the emergence of Canada's expansionist state, this chapter looks at the various forms of violence enacted by the 1867 project of Confederation.

In the years leading up to the federation of provinces, three campaigns shaped the formation of Canada as a settler colonial power. The first used science to justify annexing the Northwest. The second used legislation to legitimize the erasure of Indigenous ways of being and knowing. The third secured the first two by constitutionalizing the project of cultural assimilation and territorial expansion on Indigenous lands.

The Northwest as New Settler Space

Deciding the Future of the Hudson's Bay Company

The perspective of the Province of Canada on the expansive region of the prairies shifted drastically during the 1850s. Before 1857, it saw the area as arid and inhospitable, largely unsuitable for settlement.¹ By the end of the 1850s, however, Canadian authorities had renounced their

idea of the Northwest as a “fur trading empire and enduring wilderness” (Owram 1992, 11). Now they saw it as a potential place for British and Canadian emigrants to survey and inhabit.

This ambition to annex the Northwest is recorded for the first time in the report of the Select Committee on the Hudson’s Bay Company. At the beginning of 1857, the British Parliament set up the select committee on the future of the Hudson’s Bay Company (HBC), which was chaired by Colonial Secretary Henry Labouchère. The HBC licence of exclusive trade was soon to expire, but other circumstances also prompted the committee’s establishment. In London and the British North American colonies, critics questioned the HBC administration of Rupert’s Land and its treatment of its Indigenous staff (Owram 1992).² The committee was tasked with deciding whether the status quo should continue or the HBC charter should be revoked. Annulling the charter would undercut the trading economy and promote settlement. Ultimately, the committee recommended that the HBC charter be withdrawn and the fertile regions be opened up for permanent agrarian settlement (Great Britain 1857).

Held in London, the select committee hearings were important to Canadian political development as they allowed, for the first time, Canadian officials to voice their opinion that Rupert’s Land and the North-Western Territory should belong to Canada. It alone had the capacity to improve these rich lands.

Speaking before the committee, four witnesses represented the Province of Canada in differing capacities. John Ross, the first to testify, had been a member of the Canadian government since 1851 and had served as Speaker of the Legislative Council, solicitor general, and attorney general. In his opinion, the extension of the colony of Canada could, by degree, take in “the whole of the habitable part of the Hudson’s Bay territory” (Great Britain 1857, 6). Alfred Robert Roche, a clerk attached to the provincial secretary’s department, agreed. Canada had a right and title to the territory that extended to the “shores of the Pacific.” According to Roche, the continental interior was first “discovered” by Sir Alexander Mackenzie – “a Canadian” (250). He stated that Canadians possessed “the rights of the old French Canadians, who had the right to travel and trade through the country” (251).³ Roche added that the

Northwest was “much more valuable than it has been represented, in minerals, for instance” (249). Canadians would prefer to settle in Rupert’s Land rather than the Ottawa district, as they could “cultivate the prairies much more easily than they can the forest land” (251). Another Canadian representative, Colonel John Ffolliott Crofton, stated that some regions of the Northwest, such as the Red River and Saskatchewan districts, were suitable for settlement and cultivation. Crofton stressed that these areas could “maintain millions” (171).⁴

William Henry Draper, chief justice of the Court of Common Pleas of Upper Canada, conveyed the formal voice of the Province of Canada.⁵ Sent to London to press “whatever [he] deemed necessary for the interest of the province” (*Great Britain 1857*, 210), Draper criticized the HBC role in the Northwest. Echoing what he perceived as a general feeling in the province, he argued that, to safeguard the fur trade industry, the company had deliberately hindered the development and the collection of information about northwestern lands. Referring to the disappointingly poor growth of the Red River Colony, he concluded, “There must be something in the government of [that] country which does not encourage settlement” (221). In his opinion, Canada was too small to contain all the subjects of British North America: “The government at this moment has very little land indeed [for] disposition” (213). Thus, the settlement of land elsewhere should not simply be allowed but promoted. Given the necessity of seizing and settling farmable land before the Americans could do so, Draper recommended that any part of the territory east of the Rocky Mountains “should be brought into settlement and cultivation, [and] ultimately added to the colony of Canada” (215). Appropriation was the only “true policy for [his] country” and the “just policy to the colonists” (215). Eventually, Draper felt, Canada would extend to the shores of the Pacific.

In sum, Canadian authorities expressed their ambition to annex and people northwestern lands.⁶ Their testimony exposed the colonial elites’ perspective that Canada was uniquely entitled to appropriate the Northwest as a potential settler space, a policy that would benefit British North America.

As Canadian authorities testified before the committee, they did not consider Indigenous people. The sole exception was fur trader Alexander

Kennedy Isbister. Born to the fur trade industry in the Red River Colony, Isbister had worked for the HBC as a clerk, postmaster, and junior officer. He criticized the company on a number of grounds, including its “obstruction to the colonising spirit of [settlers]” (Great Britain 1857, 121).⁷ His critique, however, prioritized the fortunes of Indigenous people over those of settlers.

Isbister’s challenge to HBC rule is interesting, as his words informed and reinforced Canada’s official position that the company should lose its monopoly.⁸ However, whereas the Canadian delegates stressed Canada’s capacity to develop the “waste” northwestern lands, Isbister focused on the company’s relationship with Indigenous people. He felt that the monopolistic enterprise was unfavourable to the Métis and First Nations, as it did not pay Indigenous hunters a fair price for their furs.⁹ In turn, that played a key role in furthering their impoverishment, diminishing their ability to feed themselves, and promoting alcohol consumption. Surprisingly, Isbister felt that “opening” the Northwest to settlement would not result in hardship to the First Nations and Métis. In fact, he argued that the HBC hindered Indigenous people from contact with civilized societies and, thereby, from developing toward a civilized state. He concluded that HBC rule should end to foster the “enlightenment and progress in civilisation” of both settlers and Indigenous people (Great Britain 1857, 121).

In 1858, the select committee determined that the HBC charter would expire the following year to allow for Canada’s annexation of the lands then officially under company rule. The committee never contemplated inviting Indigenous leaders to its hearings, even as it examined title to their lands. This absence reflects its failure to consider Indigenous nations as equal partners in trade, treaty negotiations, and military alliances. It also prefigures their absence from the Confederation debates some ten years later.

The committee hearings were an important landmark in the political development of Canada, as they allowed agents of the Province of Canada to form and voice their ambition to incorporate the Northwest. Their testimonies also foregrounded the arguments that Ottawa would use to defend its prerogative to appropriate and settle Indigenous lands. Although they stressed differing items of colonial liberalism, the

delegates concurred that Canada should annex and improve the Northwest. Indeed, this theme defines the colonial liberal ideology that sustains the “fantasy” of Canadian sovereignty over Indigenous lands (Gaudry 2016). With time, settler colonization replaced fur trade colonization as the dominant economic model in the Northwest. The latter, instigated by the HBC in 1670, required outposts, sojourners, and large pieces of land held for speculative purposes. Over the next decades, settler colonization would alter the lands and lives of Indigenous people far more significantly than fur trade colonization ever had.

The Palliser Expedition

To Select Committee Chair Henry Labouchère, the 1857 hearings magnified the pressing need to collect information on Rupert’s Land and the possibility for settlers to inhabit it. At the time, only a few publications dealt with the Northwest, and most discussed only the southwestern plains and southern Rockies (Spry 1968, xliii). Labouchère therefore recommended to the British Treasury that it finance an expedition to the Northwest. Some weeks into the committee hearings, the British government mandated Captain John Palliser, a Dubliner, to lead an expedition to the Hudson’s Bay territories, where it would undertake scientific observations.

Taken up and developed by the prestigious Royal Geographical Society, the Palliser expedition sailed from Liverpool to New York on May 16, 1857, and arrived at Sault-Sainte-Marie in early June. Its instructions were to “examine the present route of travel with a view to ascertain whether, [if a line of communication were built] between the Canadas and the country west of Lake Superior and north of the 49 parallel, there was any prospect of a result favourable to emigration or agriculture commensurate with the sacrifice” (Palliser 1968, 40).

Although the scientific legacy of the expedition outshines its conclusions on the suitability of the plains for British settlement, they are central to Canadian development. The future Dominion needed to convince the British government that the Northwest would be secure in its hands – and to do so, it needed to validate its suitability for cultivation. This validation would come from scientific experts, including those who travelled with Palliser.

In his report, Palliser (1968, 20) emphasized that the richness of the natural pasture on the plains could “hardly be exaggerated.” Abundantly watered and well wooded, the area was endowed with high-quality “nutritious species of grasses and carices, along with natural vetches in great variety, which remain throughout the winter sound, juicy, and fit for the nourishment of stock” (16). Both cattle and settlers would be well fed in the region. Palliser commented on the “immense quantities of nutritious fish,” which would be critical during the “transition state that a country must endure between the periods when its inhabitants live on wild animals alone, and that period when bread becomes the staff of life and animal food is produced by the care and forethought of civilised man” (20). The expedition geologist and naturalist, James Hector, shared Palliser’s views on the productivity of the Northwest.¹⁰

Palliser wrote that the plains region would be valuable for settlement, as its winters were short and its snow less deep than in Canada. As he put it, the “whole of this land may be compared to lands of Switzerland and the Tyrol, known to be fertile” (Palliser 1968, 20). The absence of heavy timber was also advantageous, as colonists would not “encounter the formidable labour of clearing the land” (22). Fortunately, however, “the forest lands to the north” boasted sufficient quantities of trees that would furnish both fuel and timber for building (9).

The report rarely mentioned Indigenous people, except to assert that potential settlers would not be subject to attacks from them. It did concede that the occasional conflict could potentially arise,¹¹ but it stated that no “organised system of aggression would be attempted against the settlers” (Palliser 1968, 33). In short, Palliser saw the plains almost entirely in terms of European settlement, scarcely ever considering its impact on Indigenous land and lives.¹² In claiming that the wasted land of the Northwest could only benefit from European settlement and that Indigenous people could progress if they were provided with the appropriate training and tools, the report was unambiguously reflective of a colonial liberal ideology.

Interestingly, Palliser also felt that Canada was not yet prepared to settle the plains and civilize Indigenous nations on its own. In a confidential letter to the secretary of state for the colonies, he argued that “no Government which Canada is in the power of conferring could succeed

in attaining” those goals (Palliser 1968, 514). Only a greater power such as Britain should lead so expansive an endeavour. Although Palliser did not endorse Canada’s immediate annexation of the Northwest, his report profoundly shaped Canada as an emerging settler power. Of course, it contributed to framing Rupert’s Land as highly suitable for British emigrants. Most importantly, it defined the ends that British and Canadian authorities should pursue: the Northwest should come under cultivation, and Indigenous people should progress toward civilization.

The Hind Expedition

In July 1857, shortly after the departure of the Palliser expedition, the Canadian government organized and dispatched an expedition of its own. Its purpose was “to ascertain the practicability of establishing an emigrant route between Lake Superior and Selkirk Settlement, and to acquire some knowledge of the natural capabilities and resources of the Valley of Red River and the Saskatchewan” (Hind 1860a, v).¹³ Accompanied by a large crew including Scotland-born engineer Simon James Dawson, the leading scientific figure of the expedition was Henry Youle Hind, a Trinity College chemistry and geology professor. Born in England and educated at Cambridge, he immigrated to British North America some ten years before the launch of the expedition that was to be remembered by his name. Assigned to assess the agricultural and settlement potential of the Northwest, he reported his findings in two stages.¹⁴ At the most general level, the expedition defined anew the geographical and climatological structure of the region between Red River and the Rocky Mountains (Owram 1992). More importantly for our purposes, it directly participated in rebranding Rupert’s Land as an enticing space for Canadian subjects to clear, build on, and inhabit.

Hind (1859, 32) provided a few measurements of the vast northwestern plains, estimating that the “total quantity of arable land included between Red River and the Moose Woods on the South Branch of the Saskatchewan will be 11,100,000 acres.” He also commented on the good potential for grazing. Accessible and exploitable resources appeared to abound: “crude elements of wealth [such as timber, lignite, coal, and iron ore] lie within the limits or on the borders of a region of great fertility, and drained by a river of the first class” (Hind 1860b, 235).

The colonial liberal idea that both wasted Indigenous lands and Indigenous people themselves were in need of improvement first surfaced in the Palliser and Hind reports. Under the right circumstances and with the right improvements, a great civilization could be established in the Northwest. One of the first steps was the eradication of wildfires. Hind (1859, 53) believed that they were “caused by Indians, chiefly for the purpose of telegraphic communication, or to divert the buffalo from the course they may be taking.” A few years of “repose” from the annual fires, which British settler intervention could provide, “would convert vast wastes, now treeless and barren, into beautiful and fertile areas” (31). The fires would “cease as the Indians and the buffalo diminish, events which are taking place with great rapidity” (31).

Whereas Palliser mentioned Indigenous people only occasionally, Hind dedicated long passages to their alleged behaviour. In a lengthy description of a buffalo hunt, he concluded that it afforded “a terrible picture of degraded humanity” and allowed “the savage barbarity of the wild prairie Indian [to show] itself in its true colours” (Hind 1859, 113). Hind and Palliser disagreed as to how much effort was required to elevate Indigenous people into rational and industrious tillers of the soil. Palliser thought that, given appropriate training and implements, they could become successful farmers. Hind painted a more pessimistic picture. Not only were they “backward” and in need of “enlightenment,” but they were also “degraded” and “savage.” Only sustained and concerted efforts could redeem them. Convinced that they were prey to superstitious fears, he wrote that “the prospective condition of the Indian race in Rupert’s Land will be greatly dependent upon the steps which may be taken by the future government of the country, to provide for their instruction in the Christian religion, their assumption of a settled mode of life, and their consequent advancement in civilisation” (Hind 1860b, 178). According to Hind (1859, 112), the duty of civilizing Indigenous people should be taken up by priests and ministers. Like Palliser, he prescribed European emigration as a remedy for these problems.

Hind believed that the Province of Canada was best positioned to bring about the necessary improvements, and his report expressed his

enthusiasm for the appropriation of the Northwest. Imagining a brilliant future, Hind (1860b, 235) wrote,

Bounded on the west by British Columbia, whose gold-wealth will ensure her marvellously rapid progress, and on the east by the powerful, energetic, and loyal colony of Canada, which now, in conjunction with the sister provinces, contains a population exceeding by ONE MILLION that of the thirteen United States during the Revolutionary War, is it likely that the British enterprise and patriotism will permit the intervening country to remain a wilderness, or pass into the hands of a foreign government?

His conclusion was clear: the plains possessed a “singularly favourable disposition of soil and climate” (Hind 1860b, 235). In fact, the expedition had discovered that a belt of fertile land stretched all the way to the Rockies. Using an all-caps format so that no one could possibly miss its significance, Hind (1860b, 234) wrote that the belt “CAN BE SETTLED AND CULTIVATED FROM A FEW MILES WEST OF THE LAKE OF THE WOODS TO THE PASSES OF THE ROCKY MOUNTAINS.” Manifest in his report, and absent from the Palliser report, is the recommendation that the Northwest should be annexed by Canada, if not by a union of Canada and the Maritimes. In the longer term, Hind dreamt that Canada could even extend to the colonies of British Columbia and Vancouver Island. The destiny of the Red River Colony thus lay in its capacity to link “the Atlantic and Pacific oceans together with a chain of British dependencies” (234).

The legacies of the Hind report are numerous. Like Palliser’s, the Hind expedition helped define a region then named the “fertile belt” (Hind 1860a, vi). The land at the Red River Colony had proved to be productive, and the idea of a fertile belt suggested that farming could be continued farther to the west.¹⁵ In contrast to Palliser’s more cautious findings, Hind argued that the area fit for settlement was very large. The fertile belt afforded Canadian expansionists a precious instrument: planting British institutions and civilization in the North American continent was not only desirable but now highly feasible.

The most critical legacy of the Palliser and Hind reports is a shift in the Canadian narrative about the Northwest. From an inhospitable

wilderness, suited only to fur trade colonization, it became the perfect site for European settlement. What is more, the Hind report – like the select committee hearings – manifested the project of federating British North America for the purpose of northwest expansion. Redefining the prairie region, henceforth geographically and climatologically detached from the Arctic, magnified its suitability for agriculture.¹⁶

Although it was received as science, the Hind report easily functioned as a form of boosterism for Canadian nation building. Unsurprisingly, expansionists found it useful in justifying the appropriation of the Northwest and were fond of excerpting passages from it, such as the following comment from Hind (1860a, 134), which reads like an advertisement for settlement: “The vast ocean of level prairie which lies to the west of Red River must be seen in its extraordinary aspects, before it can be rightly valued and understood in reference to its future occupation by an energetic and civilised race, able to improve its vast capacities and appreciate its marvellous beauties.” In passages such as these, the report both reflected and served the emergence of Canada as a settler colonial power that sought to appropriate Indigenous lands beyond the Great Lakes.

In the late 1850s, settler authorities employed two expansion strategies – lobbying before the select committee and producing vital knowledge via the Palliser and Hind expeditions. In later years, Canada would mobilize many other strategies to achieve its expansionist ends, including constitutional design and law promulgation. I refer to these as “elimination strategies.” James Tully (2008a, 262) calls them “strategies of extinguishment,” whereas Cole Harris (2004, 165) uses “disciplinary technologies.” Regardless of which wording is used, all refer to the various instruments that have materialized settler colonization’s logic of elimination.

Colonizing, Enfranchising, and Other “Gentle Means of Coercion”

The Gradual Civilization Act

In the 1860s, Canada devised a plan to assimilate the Indigenous peoples within its borders. This largely relied on the adoption of specific policies, including those enshrined in the 1857 Gradual Civilization Act.¹⁷ The act did not represent Canada’s first attempt to regulate its relationship

with Indigenous nations, as various assimilative programs had already been in place for at least twenty-five years. Most failed to produce the desired end, which, according to Lord Elgin – then governor general of Canada – was for Indigenous people to “arrive at a sufficiently enlightened condition to be emancipated from [the] stage of pupillage in which they have been maintained” (Miller 2000, 139). In the 1850s, various policies had aimed at affording Indigenous people certain forms of protection, which simply nurtured their condition of forced tutelage.¹⁸ The failure of the policies convinced authorities to change their tactics: the passage of the Gradual Civilization Act signalled their turn to a policy of enfranchisement.

The preamble of the act stated that “it is desirable to encourage the progress of Civilization amongst the Indian Tribes in this Province.” Under the terms of the act, any Indigenous man who satisfied a number of criteria, adjudicated by a special board of examiners, could be enfranchised. That is, he would become a citizen of the province. However, to qualify, he must be “of the male sex, and not under twenty one years of age” (s. III). He must be “able to speak, read and write either the english or the french language readily and well” (s. III), be “sufficiently advanced in the elementary branches of education,” and be “of good moral character and free from debt” (s. III). The “wife, widow, and lineal descendants” of an enfranchised man would become enfranchised as well (s. VIII). Any distinction between the legal rights and liabilities of an enfranchised man and those of other British subjects “shall cease,” such that “any Indian so declared to be enfranchised [shall] no longer be deemed an Indian” (s. III).

The act was clearly reflective of a colonial liberal ideology in its commitment to “encourage the progress of Civilization” for Indigenous people. Its language translated to a developmental view of human history, which stipulated that individuals must pursue certain endeavours in particular ways to achieve their full potential. Specifically, to become enfranchised, an Indigenous man must speak English or French, the languages of the settler authorities. Of course, English- and French-speakers had no need to master an Indigenous language, as they had already attained a higher form of humanity. The act was also gendered: no Indigenous woman could become enfranchised unless her husband

or father did. Formal schooling was also essential to enfranchisement, for such “training” furthered the elimination of Indigenous lifeways through the internalization of Euro-Canadian “ways, modes, and notions,” to borrow the words of John Locke (1877, 48). In sum, the act fostered an aggressive policy of assimilation that sought to eliminate Indigenous peoples as peoples by enfranchising them so that they would no longer be deemed Indian.

The Gradual Civilization Act also pursued dispossession. A man who became enfranchised received money and twenty hectares “out of the lands reserved or set apart for the use of his Tribe” (s. VII). Both the land and the money “shall become the absolute property of [an enfranchised] Indian” (s. VII).¹⁹ The point of this process was to fracture Indian reserves, usually held communally, by transferring portions to individual ownership as private property. Hectare by hectare, it imposed a settler colonial understanding of landownership and thereby eroded Indigenous ties of kinship, community, and solidarity.²⁰

Enacting the material violence of dispossession through land alienation and the epistemic violence of assimilation through eradicating Indigenous lifeways, the Gradual Civilization Act represented another critical landmark in the emergence of Canada as an expanding and consuming dominion. Indigenous people fought back, campaigning for its repeal and declining to cooperate with colonial authorities in its application (Carter 2008; Milloy 1983; Titley 1986). Twenty years after the act had passed, only one candidate had sought enfranchisement (Dickason 1997).²¹

The Pennefather Report

The 1857 Gradual Civilization Act paved the way for the violence of assimilation and dispossession by means of legislation. A report written in 1858 by Superintendent-General of Indian Affairs Richard Pennefather called for further legislative and discursive strategies. Most importantly, the Pennefather Report assigned to the Canadian government – as opposed to that of Britain – a primary responsibility in dispossessing and assimilating Indigenous peoples.

In 1856, Governor General Edmund Head nominated three special commissioners to investigate Indian affairs in Canada. One of them was

Pennefather, from whom the resulting commission and report take their names.²² The commissioners were to inquire into and report on the “best means of securing the future progress and civilization of the Indian Tribes in Canada, and [the] best mode of so managing the Indian property as to secure its full benefit to the Indians, *without impeding the Settlement of the Country*” (Canada, Legislative Assembly 1858, 27, emphasis added).²³ In referring to civilizing Indigenous peoples and facilitating settlement, their mandate was obviously grounded in the imperatives of assimilation and dispossession. The commission was also expected to help lower the costs of running Indian Department programs in British North America.

In the Pennefather Report, the three commissioners identified several problems, one of which inevitably revolved around land:

We cannot but fear that the day may be approaching when the pressure of the tide of immigration into the country may overpower all the barriers which now fence the Indian possessions, when the demands of the White population for land may become too strong to be successfully withstood, and that the Redman may be deprived of all that still remains to him of his once wide domain. (Canada, Legislative Assembly 1858, 123)

The settler urge to possess land could come at the cost of large-scale Indigenous dispossession. That urge was primordial and inexorable. As the commissioners explained, “In a country like Canada the tendency to take possession of waste lands is irresistible.” In the same breath, they added that “the feelings of the country at large will always sympathize with the Squatter, who is earning his living by his labour” (Canada, Legislative Assembly 1858, 123). The theme that Indigenous land was being wasted and that it could not achieve its full potential until it was owned and farmed by a hard-working settler justified its appropriation. In racialized and gendered language – the settler was invariably Euro-Canadian and male – the report thus naturalized and valorized the dispossession of Indigenous land.

Aware that conflict could potentially arise between the newcomers and Indigenous nations, the commissioners looked to the government

for solutions: “It will be for the Government to remove the risk of [confrontation] by adopting such measures as may secure the Indian rights at the same time that, so far as may be possible, they throw open for settlement the unoccupied land” (Canada, Legislative Assembly 1858, 123). This understanding of Canada as mediator – a peace-making force – helped the government take full responsibility for regulating the relationship between Indigenous and non-Indigenous people, despite its obvious conflict of interest in favouring the latter.

Once the land was appropriated, the question of how to apportion it would need to be addressed. The commissioners contemplated two models of settlement, which they assessed in relation to their capacity for promoting civilization among Indigenous people. In the first, Indigenous people would live in total seclusion from white settlers. This had already been attempted on Manitoulin Island in Lake Huron, which had been set aside for Indigenous people in hopes of separating them from “improper influences, and at the same time giving them the advantages of religious and secular instruction and supervision.” However, the experiment had failed, as many of its advantages were “lost upon the Indians, who [were] allowed to relapse into their vagrant habits in pursuit of game and fish, instead of being actively encouraged, or incited by example to adopt a life of industry” (Canada, Legislative Assembly 1858, 149). The seclusion model had also failed in the United States, so the commissioners determined that it had more drawbacks than benefits and discarded it as impracticable.

In the second model, Euro-Canadians would be allowed to settle close to Indigenous people, where they would “endeavour to make the Indians by degrees an integral and useful portion of the population of the Country” (Canada, Legislative Assembly 1858, 150). This second model had the best chance of promoting civilization, for “lawlessness and want of self-restraint are likely to be rife in proportion to the distance from regular and established authority” (150). The proximity of Indigenous and non-Indigenous settlements should have numerous other benefits for First Nations, most notably on their health. Drawing on examples of “compact Reservations surrounded by the Whites” in the United States, the commissioners ultimately recommended that British North America should implement similar settlement patterns, which would

be most conducive to the “progress of the Red Man” (151). Under the terms of the Gradual Civilization Act, individuals who had progressed far enough on the road to civilization would be rewarded with a grant of land. In the meantime, the apportionment of reserved lands would help the remainder to attain that state.

In discussing the failure of the various assimilation programs implemented in the Province of Canada, the report cited three causes: the lack of resources allocated to the Indian Department, the neglect and maladministration of the imperial government, and the “helplessness” of Indigenous people (Canada, Legislative Assembly 1858, 125). The idea that, far from being helpless, Indigenous people were actively *resisting* assimilation apparently did not occur to the commissioners.

The Pennefather Report championed other genocidal strategies of “improvement,” one of which was education. If Indigenous people were “to adopt a life of industry,” their children must be sent to school. This idea was far older than the Pennefather Commission. Although it can be dated back to John Locke in the seventeenth century, it first emerged in Canada in 1828 as a recommendation by Major General H.C. Darling, military secretary to the governor general. That year, the Society for the Propagation of the Gospel in New England founded the Mohawk Institute as a day school on the Six Nations of the Grand River Reserve, in present-day Brantford, Ontario. In 1844, the Bagot Commission expounded on the proposal to build manual labour schools as the most suitable institution to improve Indigenous people (Lavoie and Vaugeois 2010). In 1847, two such institutions were erected, both in Ontario: one at Alderville, Alnwick, in the County of Northumberland (modern-day Coburg), and one named Mount Elgin at Muncey, in the County of Middlesex (modern-day Strathroy-Caradoc). Their intent was to remove Indigenous children from their parents’ guidance at an early age to expose them most directly to the “advantages of religious and secular instructions and supervision” (Canada, Legislative Assembly 1858, 149). According to the Bagot Report, such supervision could “reform” Indigenous children into “rational” citizens, and the focus on manual and agrarian labour would instill “industriousness” in the pupils.

Several obstacles prevented the schools from conferring the desired “habits of propriety and order” (Canada, Legislative Assembly 1858, 115).

For instance, according to the Pennefather Report, the students were too old when they first entered one of the three schools. In an upsetting passage, it affirmed that due to the delay in admission, children had “acquired idle, filthy, and in some cases vicious habits, and have arrived at an age when it is difficult to attain any control over them, or eradicate the evil practices to which they may be disposed” (118). The report also noted that children attended Alnwick and Mount Elgin too briefly for the benefits of their training to take hold. Indigenous parents resisted sending their children to the institutions and often removed them, with the result that attendance was poor and “civilizational” targets were not attained.²⁴ Because maintaining Alnwick and Mount Elgin was costly, resources were wanting, and the benefits were barely perceptible,²⁵ the report reluctantly concluded that the “benevolent experiment” had failed and that the schools should be shut down (199).

However, this suggestion did not mean that the commissioners had abandoned their faith in the usefulness of manual labour schools as vehicles for the imposition of Christianity, civilization, and rationality. On the contrary, they felt that Indigenous people were entitled to the “special care and protection of the British Crown” (Canada, Legislative Assembly 1858, 125) and that the Canadian government should now take on this responsibility. If it were to do so, it would need funds to build and maintain the schools. The commissioners hoped that London would continue to support “Indian offices” in British North America. However, if it declined to do so, as it eventually did, the colonial governments would need to shoulder the burden. After all, Indigenous peoples had a strong claim on them. Indeed, the colony of Canada was “the actual recipient at present of the advantages arising from the cessions of [their] territories” (141).

The commissioners also considered requiring that Indigenous people defray the costs of maintaining manual labour schools and of managing Indian affairs. “Viewing, as we do, the Indian territory in the light of a private estate, rather than of a public domain,” they affirmed that the conversion of Indigenous lands into funds used to support their own “schooling” and “management” was “a just [principle]” (Canada, Legislative Assembly 1858, 127).²⁶ In this disturbing passage, the commissioners reiterated the colonial liberal conviction that land must be

owned privately and that the dispossession of Indigenous peoples – the selling of their land to settler governments – would pay for their own assimilation.

Like the Gradual Civilization Act, the Pennefather Report was grounded in the two foundational commitments of colonial liberalism: that both land and individuals must be improved. The former needed to be owned and cultivated, usually by a family in a patrilineal society. Improvement for the latter involved the acquisition of rationality and industriousness, the essential attributes of civilized individuals. A rational person would have completed some years of formal schooling, which conferred upon him (the civilized person was usually male) the “advantages of religious and secular instruction and supervision” (Canada, Legislative Assembly 1858, 159). Rational people would exercise self-restraint, “have a keen knowledge of their own interest, [and were] capable of managing their own affairs” (75). They were also industrious, earning their living through labour, usually farming, not via the nomadic “pursuit of game and fish.” They would be “well clothed” and “anxious to possess furniture” (104). Finally, the report expressed the colonial liberal idea that civilization developed in stages: in comparing the progress of some First Nations to that of others or to white populations, it commonly referred to the “scale of civilization” and the “social scale” (88, 86).

For their part, Indigenous people were depicted as uncivilized – lawless, lacking in self-restraint, “idle,” and helpless. Importantly, reclaiming them “from their savage state” would involve placing them on compact reserves surrounded by white settlements (Canada, Legislative Assembly 1858, 127). They would attend Euro-Canadian schools, typically run by missionaries. Learning English or French and renouncing “heathenism” were also expected to have “humanizing” effects on Indigenous children (173).²⁷

The colonial liberal language that framed these objectives revealed the paradox of violence that was intrinsic to Canadian political development during the period. The Pennefather Report stated that, until Indigenous people were raised “as a body to the social or political level of their white neighbours” (Canada, Legislative Assembly 1858, 127), they were entitled to special care and protection from the Crown (125).²⁸ Establishing manual labour schools for Indigenous children would fulfill the

Crown's duty to protect and care for Indigenous people. And if Indian agents or other colonial officials encountered resistance, "*gentle means of coercion* might be applied without prejudice to [their] real interests" (155, emphasis added). In a word, the commissioners not only failed to see – and report – the material and epistemic violence of genocide that they promoted, but they also cloaked their recommendations in a deceiving language of generosity and peace.

Perhaps the most important legacy of the Pennefather Report was the authority it bestowed upon the Canadian government in dispossessing and assimilating Indigenous peoples. In 1857, the Gradual Civilization Act had also secured a critical role for the government in this respect: it would confer enfranchisement on "deserving" candidates. Building on that responsibility, the report regarded the emerging Canadian state as the key actor in improving Indigenous lands and peoples. Accordingly, it called for the institution of a strong and permanent leadership in a dedicated department of the Province.

The 1860 Devolution of Indian Affairs

Until Confederation, the Indigenous peoples of the plains "retained a great deal of political and economic power in their interactions with fur trade companies" (Wildcat 2015, 398). That would change in the subsequent phase of colonial organization in the expanding Canadian settler state. This is especially true with the onset of the Indian policy, which was initiated in 1860 and took hold in the 1870s.

By the time the Pennefather Report was tabled in 1858, only a few years had elapsed since London conferred self-government on the British North American colonies. Their powers were still limited in number and extent. One important power that London had not yet devolved was jurisdiction over Indian affairs. Through the Gradual Civilization Act of 1857 and the Pennefather Report, the Canadian government prepared to take over Indian policy. It hoped to prove to the imperial government that it was autonomous and resourceful enough to legislate on and exercise sovereignty over everyone who inhabited its territory – and beyond (Gohier 2013).

Of course, regardless of whether they were imperial or colonial, British or Canadian, all such claims to jurisdiction and control over Indian

affairs usurped Indigenous authority systems. Shiri Pasternak (2017, 22) notes that “jurisdiction has been enacted by the state as a form of power to usurp the inherent laws of Indigenous peoples and replace their authority” with the “delegated” authority of imperial, federal, and provincial governments. By definition, then, the power exercised by imperial and settler governments over Indian affairs is arrogated (see also Schmidt 2022). In 1860, London devolved jurisdiction over Indian affairs and lands reserved for Indigenous peoples to its North American colonies.

A number of Indigenous leaders fiercely objected to this development, just as they had petitioned London to repeal the colonial legislation that threatened their rights and lands.²⁹ London had hesitated before taking the devolution step. It felt that such jurisdiction was best exercised by the (white) government that was most remote from local concerns, and it saw colonial governments as too closely intertwined with the interests of settlers and corporations to take Indigenous views and claims into account (Grammond 2009). The self-appointed duty of the Crown to “protect” Indigenous people, including from land-hungry settlers, however, conflicted with the Colonial Office’s willingness to promote self-governance among its settler colonies (Clarke 1953; Freeman-Maloy 2018; Russell 2017). The latter concern triumphed in 1860.

Ignoring Indigenous opposition and dispensing with one of its last responsibilities with regard to its settler colonies, Britain transferred its claimed jurisdiction over Indian affairs to the colonial governments of British North America in 1860 (Carter 2008; McHugh and Ford 2013; Grimshaw, Reynolds, and Swain 2001). Anxious to exercise all the powers that they viewed as “internal” to settler colonies, colonial governments had for some time been investing treaty powers devolved by the Colonial Office, therefore building local bureaucracies and acquiring new coercive capabilities (Bumsted 2008; Greer and Radforth 1992). That, since the 1850s, they had formulated several policies related to Indigenous peoples indicates their growing willingness to exert sovereignty over both them and their lands (Beaulieu 2013). In the years preceding 1860, the colonial capitals of St. John’s, Charlottetown, Halifax, Fredericton, Toronto, and Quebec City increasingly made decisions that directly affected Indigenous people. Nonetheless, the 1860 devolution was a critical moment in the history of relations between Indigenous and non-Indigenous

people in British North America. In fact, it smoothed the path for settler governments to wield even more power over the lands and lives of Indigenous people as they gained legislative, executive, and judicial autonomy from Britain.³⁰

The Negotiation and Founding of Canada as a Settler State

Many studies of the debates that preceded Confederation discuss internal political instability as a motive for union or concentrate on the best way to appoint senators.³¹ I take a different approach by working through an absence: that of Indigenous peoples. First Nations, the Métis, and the Inuit are virtually nowhere to be found in the debates on the purpose, parameters, and future of the union. Instead of reifying the silence of the “Founding Fathers,” I concur with Brian Gettler (2016) that it is critical to centre Indigenous peoples and lands in the study of Confederation. The negotiation and enactment of the British North America Act is a critical moment in Canadian political development, as the various colonies then embarked on a project to unite for the purpose of expanding. The objective of eliminating Indigenous peoples had not changed, but colonial authorities determined in 1867 that the territorial breadth covered by that project of elimination would be much larger and its pace accelerated.

Foundational Violence

Like other settler authorities, Canadian statesmen entertained a paradoxical relationship with violence. Against uncertain prospects in the Old World and threats of aggression from south of the border, they projected a secured future within the colony they were building. At the same time, they enacted violence against Indigenous peoples in an effort to dispossess and assimilate them (Veracini 2010). That dual process is visible in the debates on Confederation: first through the perceived threat of American invasion and, second, through the projection of peacefulness onto Confederation negotiations. I illustrate the other half of the equation – settler colonial violence – by showing how policies of expansion, immigration, and liberties furthered Indigenous genocide.

The idea of union was not new in the 1860s.³² However, 1864 was the starting point of the negotiations that ultimately resulted in

Confederation.³³ The outbreak of the American Civil War in April 1861 prompted the talks to unite the British North American colonies (Bernard 2005). The perception of their vulnerability heightened as the Canadian Parliament failed in 1862 to adopt a bill providing for the creation of a local armed force. The Civil War gave prominence to the question of union among the colonies, and it also precipitated British support for colonial self-government, as the cost of defending colonies escalated (Brownlie 2009; Waite 1987). Finally, in the years preceding 1867, Fenian raids exposed the perils of colonial isolation and disunion. Based in the United States, the Fenians were an Irish Republican organization that pressured the British to withdraw from Ireland. Some Fenian raids targeted British North America. Clashes between the Irish American insurgents and Canadian soldiers were at their most prominent in the Battle of Ridgeway, fought in June 1866 near the town of Fort Erie in Canada West (modern-day Ontario). Fenian attacks were instrumental in serving the union of British colonies, as they reinforced the sense of vulnerability among colonial authorities (Waite 1962). The Civil War, the withdrawal of the British military commitment, and the Fenian raids combined to create an environment in which colonial elites endorsed the project of union, including for the military possibilities it would open.

During the Confederation discussions, Walter Shanly, MP for Grenville South, remarked, “It would be in vain to attempt to conceal from ourselves that Canada is at this moment approaching the most critical period of her hitherto existence” (Waite 1968, 153). “Threatened with aggression from without,” he explained, “we are not in a gratifying condition of prosperity within ... Great and momentous events are transpiring just beyond our frontier” (153). George Brown, leader of the Clear Grit (Liberal) Party and self-proclaimed “special advocate of opening up the Great West” (Legislature of Canada 1865, 103), echoed Shanly’s sentiments. He favoured union because it would protect the British colonies from the United States: “The Americans are now a warlike people. They have large armies, a powerful navy, an unlimited supply of warlike munitions, and the carnage of war has to them been stripped of its horrors” (Waite 1968, 73). Like numerous other MPs, John A. Macdonald felt that the threat from the south was serious and that it necessitated securing a union to shield British settlers from violence.³⁴

Contrasting with this looming threat was the peacefulness that colonists projected onto their negotiations. As George Brown put it, “two distinct races, speaking different languages,” had come together to address their problems and their future (Waite 1968, 58). Citing the political turmoil in Europe and the United States, he praised Canadian exceptionalism:

Here we sit, patiently and temperately discussing how these great evils and hostilities may justly and amicably be swept away forever. We are endeavouring to adjust harmoniously greater difficulties than have plunged other countries into all the horrors of civil war. We are striving to do peacefully and satisfactorily what Holland and Belgium, after years of strife, were unable to accomplish. We are seeking by calm discussion to settle questions that Austria and Hungary, that Denmark and Germany, that Russia and Poland, could only crush by the iron heel of armed force. We are seeking to do without foreign intervention that which deluged in blood the sunny plains of Italy. We are striving to settle forever issues hardly less momentous than those that have rent the neighbouring republic and are now exposing it to all the horrors of civil war. (Waite 1968, 58)

Brown lauded the magnanimity and benevolence of the British and Canadian rule over non-British communities, most importantly those of French Catholics (for more examples, see Ajzenstat et al. 1999, 15). These claims – that violence existed outside of the colonies and that peace was internal to them – reveal the paradox of violence in the development of Canada as a settler state. Even as they moved to protect themselves from violence, colonial authorities adopted genocide as a policy. It may not have been as extreme as the variant that drenched the sunny plains of Italy in blood as the Italian states unified, but in 1885 it would take the lives of many Indigenous leaders and families. What is more, it had the particularity of being authorized by the government.

Expansion, Immigration, Liberties

Underpinning the federal project was a clear program of territorial enlargement. In fact, as Kiera Ladner and Myra Tait (2017, 11) argue,

dispossession and assimilation were the “only real concern” of John A. Macdonald, George Brown, George-Étienne Cartier, and their peers at the confederal conferences. As Ken Coates (1999, 149) suggests, the birth of Canada was in part fuelled by a pressing aspiration to settle what Euro-Canadian authorities regarded as “hitherto untouched territories” (see also Brownlie 2009; Bumsted 2008; Chevrier 2006; and Waite 1962). Whereas some parliamentarians felt that Canada was too small, they dreamt of a future in which the new country contained the whole of the HBC territories. Citing Hind (1860b), which first envisioned the Northwest as fertile land, Alexander Morris – MP for South Lanark in Canada West – described the Red River Valley and a large portion of the country near the Assiniboine as a “paradise of fertility” (Legislature of Canada 1865, 445). Referring to “sources of wealth that are perfectly inexhaustible” on the northern shores of Lake Superior, Alexander MacKenzie, MP for Lambton in Canada West, corroborated Morris’s claims on the quantity and quality of riches in the territory – territory that he demanded be annexed upon union (Legislature of Canada 1865, 430).³⁵ Brown argued that the Northwest should be opened to the “blessings of British civilisation” (Waite 1968, 60). MP William McGiverin foretold that the plains would become a great “grain-producing district” (Ajzenstat et al. 1999, 139).

Some Canadian parliamentarians were more committed than others to the incorporation of the Northwest Territory and British Columbia into the Canadian union. “I object to the [Confederation] scheme for the reason that it makes the opening up of such a country a mere contingency,” remarked Thomas Scatcherd, MP for West Middlesex, voicing the ambitions of the most enthusiastic expansionists (Legislature of Canada 1865, 751).³⁶ Representatives for Canada West were more committed to the union as a means to expansion than those of Canada East or the Atlantic provinces (Russell 2017), but there were exceptions. John A. Macdonald was an important one. Although he stated in 1865 that he wished he could forget about the West, he later expressed fears that the Americans would invade and settle it. He therefore embraced the project of northwestern annexation.³⁷ Opposition to Canadian expansion also included Joseph Howe, former premier of Nova Scotia, who resisted the “new Dominion’s stepping into imperial shoes” (William Morton 1964, 225).

“We cannot jump all at once from the position of colonists to that of colonizers,” cautioned Walter Shanly, MP for Grenville South (Legislature of Canada 1865, 905) – denying that Canadians had been in the position of colonizers for quite some time.³⁸ Despite some opposition, attendees at the 1864 Quebec City Conference established that the development of trade and communication with the Northwest was of the “highest importance” to the provinces to be federated (Browne 1963, 165). Provision would also be made in the future constitution for the imminent admission of the Red River Colony into the union (Browne 1963).³⁹

Increased immigration went hand in hand with the idea of enlarging the new intercolonial union. To George Brown, there was hardly a problem “suggested by this union that does not find its best solution in a large influx of immigration,” which Confederation would stimulate:

The larger our population, the greater will be our productions, the more valuable our exports, and the greater our ability to develop the resources of our country ... And in this question of immigration is found the only true solution of our problem of defence. Fill up our vacant lands, double our population, and we will at once be in a position to meet promptly and effectually any invader who may put his foot with hostile intent upon our soil. (Legislature of Canada 1865, 103)

This passage reinforces colonial liberal assumptions about vacant land and the need to fill it with settlers. Taking in more immigrants would also enable Canada to defend itself against intruders and to build a peaceable kingdom.

Other parliamentarians, including future New Brunswick premier Peter Mitchell, shared Brown’s understanding that the union would greatly benefit from the arrival of settlers (Ajzenstat et al. 1999, 132). Brown regarded this new stream of immigration as “greater, and of a better class, than we ever had before” (136). John A. Macdonald expressed the hope that it would help the unified colonies to “become a nation of eight or nine millions” (205). Alexander Vidal, member of the Legislative Council of Canada (1863–67), expanded on Brown’s portrayal of the (able-bodied, industrious, and male) newcomers: “As we are, in our present

isolated condition, we either fail to attract emigrants or do not manage to retain them; but if we were known as one great country, we should find homes for many of those able-bodied, enterprising and industrious men who constitute the great strength and wealth of a State” (*Legislature of Canada 1865*, 308). When Canada could boast large quantities of such immigrants, it would finally “be worthy of being sought by the great nations of the earth” (308). The peopling policy thus comprised both the necessity for the new country to be settled by immigrants and the political incentives for these newcomers to join. Indeed, these plans for massive immigration and settlement translated to dispossession and assimilation for Indigenous people.

Confederation was also seen as a vehicle for the protection of settlers’ rights and progress. According to Peter Mitchell, the isolation of British colonies was “dangerous to our liberty and destructive to our progress” (*Ajzenstat et al. 1999*, 132). The future union would secure constitutional liberties, which, according to John A. Macdonald, extended to some minority populations. As he explained, under the Confederation scheme,

We will enjoy that which is the great test of constitutional freedom: we will have the rights of the minority respected. In all countries the rights of the majority take care of themselves, but it is only in countries like England enjoying constitutional liberty, and safe from the tyranny of a single despot or of an unbridled democracy, that the rights of the minorities are regarded. (*Ajzenstat et al. 1999*, 206)

Brown concurred with Macdonald: under the Canadian federal regime, “prejudices of race and language and religion,” or “sectional [antagonisms],” would be suppressed (*Ajzenstat et al. 1999*, 115). Even Étienne-Paschal Taché, the French Catholic premier of Canada (1864–65), agreed with Macdonald and Brown that an intercolonial union would secure equal rights for “all its inhabitants, without distinction of race or creed” (*Waite 1968*, 24).

During a debate on Confederation, George-Étienne Cartier revealed that, despite its claims to universality, the definition of racial, linguistic, and religious minorities was quite narrow: it encompassed the “Catholic and Protestant, English, French, Irish, and Scotch” communities

of British North America (Ajzenstat et al. 1999, 231). As Thomas Heath Haviland noted, constitutional liberties would also apply to the “stranger the moment he landed on our shores” (198).

No one suggested that constitutional protection could extend to Indigenous people.

Erecting a Great Britannic Empire of the North

If they were to attain “national greatness,” in the words of George-Étienne Cartier, the British colonies in North America would need to merge. Canada already possessed a significant amount of territory and population, but it longed for the “maritime element” – unfettered access to the sea (Ajzenstat et al. 1999, 184). Positioning himself as the champion of French Canada, Cartier assumed that most, if not all, colonial officials would rally to the cause of empire building. Most importantly, once the colonies had united as a Canadian federation, they would become a great nation, which would possess a large territory and a large population and would have easy access to the ocean.

For many Founding Fathers, union meant independence, prestige, and elevation beyond localisms.⁴⁰ Most importantly, it meant empire (Buckner 2008b; Chevrier 2006; LaSelva 1996; Desmond Morton 1979; Owram 1992). The parliamentarians’ references to empire are too numerous to offer in full, but some examples include the “erection of a future empire” (George Brown, in Ajzenstat et al. 1999, 286), a “great Britannic Empire of the North,” and a “Russia, but yet an English Russia, with free institutions, with high civilization, and entire freedom of speech and thought” (Alexander Morris, in *Legislature of Canada 1865*, 445).⁴¹ Parliamentarians from across the political spectrum and of various backgrounds all sketched schemes of imperial grandeur. More than once, George Brown formulated his vision that Canada would become the third maritime nation of the world, just behind Great Britain and the United States: “May we not even entertain the hope that, at some future day, a still higher position is not beyond our reach, when the days of puberty have been passed and the strength of manhood has been reached?” (*Legislature of Canada 1865*, 102). Built into Brown’s gendered and ableist vision is an understanding that settler states develop in stages, from childhood to mature manhood. Although Canada was still in its

adolescence, it could potentially attain an enviable position among the other nations of the world. Such grandiose views of the future union, captured by Morris's phrase "great Britannic Empire of the North," were not grounded in imperialism as political theorists define it today. Canada's empire would not be situated overseas (Arneil 2017). Instead, it would be home-grown on appropriated Indigenous lands.

All the colonial parliaments examined the Quebec resolutions, the seventy-two directives that would form the basis of the constitution, and only Nova Scotia and Canada did not consult their citizenry through a general election. To say that many communities lacked political representation at the Charlottetown and Quebec City Conferences and in the subsequent negotiations in legislative assemblies would be an understatement. Only a handful of French-speaking Catholics attended the Charlottetown Conference, and no women did. As Christopher Moore (1997) underlines, French Canadians were drastically underrepresented, and no Acadian attended any of the constitutional conferences in Charlottetown, Quebec City, or London. Most remarkably, the negotiations leading to the adoption of the British North America Act fully excluded Indigenous peoples. No settler authority ever raised the question of their partnership: the First Nations and the Métis, not to mention the Inuit, "simply did not figure in any political equation that Victorian politicians and bureaucrats attempted to solve" (Miller 2000, 200; see also Dickason and Newbigging 2010; and Papillon 2009, 2012).

It was not the first time – and nor would it be the last – that Canadian authorities failed Indigenous peoples by not consulting or even informing them about changes that would drastically affect their lands and lives.⁴² Some scholars explain their exclusion by citing the belief of settler authorities that Indigenous peoples were in the process of being assimilated and would thus soon be indistinguishable from Euro-Canadian society (Blake et al. 2011; Christopher Moore 1997). Of course, as we have seen, settler authorities had a history of assimilation attempts, ranging from the Gradual Civilization Act to the Pennefather Report, so they may potentially have hoped that making provisions for Indigenous peoples was unnecessary. However, this is contradicted by section 91(24) of the British North America Act, which awards jurisdiction over "Indians, and Lands reserved for the Indians" to Ottawa.

Some scholars suggest that colonial statesmen regarded Indigenous peoples as foreigners, especially those living beyond the colonies, and that Canada's relationship with them would be most effectively regulated through treaties rather than inclusion in parliamentary politics. British America had a long history of treaty making.⁴³ However, there is no mention of these treaty relationships in the debates and final scheme of the Canadian founding. In fact, parliamentarians viewed Indigenous peoples neither as foreigners nor as integral to the settler population.

The British North America Act finally entered into force as Canada's constitution on July 1, 1867. Under its terms, responsibility for Indigenous affairs fell to the federal government, rather than the provincial governments. London hoped that Ottawa would safeguard the interests of Indigenous people against the territorial ambitions of the provinces (Grammond 2009). Yet, Canada had settler colonial impulses of its own. Section 146 of the British North America Act, which dealt with the admission of other colonies, provided for the incorporation of the Red River Colony, the Northwestern Territory, and Rupert's Land, whose annexation required only the consent of the Crown and of Parliament. In other words, the act specified that the consent – not to mention the consultation – of First Nations and the Métis could be dispensed with as Canada installed its settler colonial regime in their regions. Finally, section 91(24), which lists “Indians, and Lands reserved for the Indians” as an exclusive jurisdiction of the federal government, constitutionalized the settler view that Indigenous peoples were not treaty partners but numbered objects of government jurisdiction (Papillon 2009; Ross-Tremblay 2015).

Conclusion

In many ways, the Dominion of Canada was not born in 1867. Several of its civic and constitutional traditions – parliamentarism, monarchy, and constitutionalism – were established by the end of the American Revolution (Russell 2017). Yet, only in 1867 did Canada emerge as the peaceable kingdom it has since claimed to be.

During the half-century that preceded Confederation, the British Crown and its representatives in North America had built relationships with Indigenous peoples in conjunction with religious organizations (in

the early 1800s) and military administration (until the 1830s). Following 1860, civil powers in the colonies took over that role. In 1867, a relatively autonomous state power, moved by its own appropriative aspirations, was born in British North America. It proclaimed its development program to be peaceable and peacemaking, but it was imagined and implemented at the cost of the lives and lands of Indigenous people. The words, ideas, and projects of those who shaped the 1867 Canadian union – be they witnesses at the HBC hearings, explorers of the Northwest in 1857, drafters of the Gradual Civilization Act, commissioners of Indian Affairs, or Founding Fathers – disclose an untold narrative of Canada's founding. It was an expansionist settler state that, as demonstrated by its relationship with Indigenous peoples, was violent rather than peaceable.

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Library and Archives Canada Cataloguing in Publication

Title: Land and the liberal project : Canada's violent expansion / Éléna Choquette.

Names: Choquette, Éléna, author.

Description: Includes bibliographical references and index.

Identifiers: Canadiana (print) 2023059431X | Canadiana (ebook)

20230594344 | ISBN 9780774869805 (hardcover) |

ISBN 9780774869812 (softcover) | ISBN 9780774869836 (EPUB) |

ISBN 9780774869829 (PDF)

Subjects: LCSH: Indigenous peoples—Colonization—Canada, Western—History—19th century. | LCSH: Indigenous peoples—Government policy—Canada—History—19th century. | LCSH: Canada, Western—Ethnic relations—History—19th century.

Classification: LCC E78.C2 C465 2024 | DDC 971.200497—dc23



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UBC Press gratefully acknowledges the financial support for our publishing program of the Government of Canada, the Canada Council for the Arts, and the British Columbia Arts Council.

This book has been published with the help of a grant from the Canadian Federation for the Humanities and Social Sciences, through the Scholarly Book Awards, using funds provided by the Social Sciences and Humanities Research Council of Canada, and with the help of the University of British Columbia through the K.D. Srivastava Fund.

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