

“THE FAMILY-COMPANY-COMPACT”

This paper deals with the relationship between the Hudson's Bay Company and the early administration of Vancouver Island.

When on January 13, 1849, Vancouver Island was granted by Royal Charter to the Hudson's Bay Company for settlement and colonization, few could have realized what a bold undertaking in colonial expansion it would prove to be. Yet by this act:

“It was the first British Colony to be established in due form in Western North America. It was the outward and visible result of a series of incidents which culminated in the rise of British power in the North Pacific. It helped to pave the way for the time when Canada should ‘enter into the northern heritage of old Spain and become a Pacific power’.”¹

Isolated geographically from other British possessions and prevented from ready contact by the barriers of inadequate communications with the Homeland, the administrative affairs of the Colony were soon practically left in the hands of the great fur trading company. However, at first the Island had an independent Governor in the person of Mr. Richard Blanshard, a barrister from England but the pettiness of his office, as mediator in the controversies between the Company and its settlers or employes, soon discouraged the Governor, who saw but little hope of advancement in the near future. Receiving neither salary nor emolument, he had consented to come believing that the Colony once established would soon be able to afford a Civil List but he early realized the futility of maintaining the pretense of an authority that actually reposed in the Chief Factor. Consequently, after two years of service, he retired disappointed and broken in health, leaving the infant Colony to a Legislative Council, consisting of two retired servants of the Company and, as senior member, the resident Chief Factor, who was soon to become Governor and later to assume the title of Sir James Douglas.

Thus at the outset the power of the Company was recognized by applying a very literal meaning to the words of the Charter: “We do . . . make create and constitute the said Governor and Company . . . the true and absolute lords and proprietors of the same territories.”²

¹ Archives of British Columbia: Memoir No. II—Preface—p. 5 (King's Printer, Victoria, B.C.)

² Royal Charter of Grant, dated January 13, 1849.

The Company was not slow to realize the enormous advantages of its position and construed its terms into giving it a monopoly in every phase of the Colony's life. The meagre populace, absolutely dependent upon the Company for advancement and even livelihood, had to be content with its lot. Small credit belongs to the Company, which, although nursing and cradling the Colony in its infancy, yet stultified its growth to meet the interests of a trading monopoly. Although colonization was a primary provision of the Charter it was never taken seriously for always there was: "the incompatibility of a powerful company attempting to colonise."³

Hedged about with the usual requirements of independent means and sufficient servants to man a farm, the prospect was far from attractive for the intending settler. Were he to place credence in the many erroneous reports sent to the Homeland regarding the general lack of fertility of the soil or should he give a moment's thought to the difficulty of reclaiming virgin land, what inducement could tempt him to make the arduous trip "around the Horn" to stake his fortune in so unpromising a land? But should he overlook these difficulties and come to the infant Colony he was faced with the problem of finding an independent market in which to buy and sell. Then he would understand the true meaning of monopoly for, as Governor Blanshard later testified,⁴ there were three several prices in vogue. Officers of the Company could buy at 33% increase upon the cost price, servants and inferior officers at 50 to 100%, while all others had to pay a cash price regulated by the price in California generally at a 300% increase. Similarly for education there was a sliding scale of fees.⁵ Thus any vestige of independence would be rendered well nigh impossible. Yet in spite of overwhelming discouragements the Colony did increase so that within ten years it could support a newspaper which with fearless independence exhorted its readers to:

"Forget not that it was the Company that enforced the claim to the exclusive trade and navigation of British Columbia, when they knew that their Licence to trade only authorized 'exclusive trade with the Indians'; that has retarded our progress and blasted our prosperity for two years; that that Act was disavowed by the Imperial Government; but His Excellency, a Chief Factor, did it. . . Were it not for usurpation of authority then—controlling the Gov-

³ Evidence of James Cooper in "Report from the Select Committee on the Hudson Bay Company" of 1857.

⁴ Report from the Select Committee "On the Hudson Bay Company" of 1857.

⁵ Archives of B.C. Minutes of the Colony of Vancouver Island—Memoir No. II, p. 23.

ernment to enrich their exchequer—we would to-day have had a population of fifty thousand in British Columbia, instead of little more than five. Had they not done so, farmers would now have a market for their surplus produce, at handsome prices, instead of no demand; and depression would scarcely have been heard in trade, which has been heard too often.”⁶

What was true of business applied with equal force in government, for throughout this period there is the recurring criticism expressed as follows:

“When we find a Colonial Secretary selecting a Governor for important colonies from among men who have lived all their lives among Indians, swapping baubles and blankets for furs at two thousand per cent profit, when we find that the Governor so selected has sacrificed the best interests of the country to benefit monopoly, then we but do our duty in arraigning the authors of maladministration before the bar of public opinion.”⁷

Yet even before such a vigilant warden of the people’s rights had been founded, “Mr. Mother Country,” that obscure clerk in the Colonial Office, had perhaps seen the sign upon the wall that foreshadowed an early investigation into the affairs of the Hudson’s Bay Company. Although both Governors Blanshard and Douglas had been commissioned to summon “General Assemblies of freeholders,” they both ignored this clause. The former reported that since:

“No settlers have at present arrived I have considered it is unnecessary as yet to nominate a Council. . . for a Council chosen at present must be composed entirely of the officers of the Hudson’s Bay Company, few, if any, possess the qualifications of landed property which is required to vote for members of the Assembly and they would moreover be completely under the control of their superior officers.”⁸

As for Douglas, he was already supported by a Legislative Council whose loyalty to the Company was above reproach since they “Wear their livery, receive their pay and do their bidding, . . . It is idle to expect a paid servant to act an independent part, even if willing. Their bread depends on their subservience, and no reasonable man expects them to do justice to the country.”⁹

Nevertheless the order went out that a Legislative Assembly was to be summoned and when Governor Douglas wrote to the Im-

6 *The British Colonist*, Nov. 25, 1859.

7 *The British Colonist*, Nov. 25, 1859.

8 Blanshard to Earl Grey, April 18, 1850.

9 *The British Colonist*, Dec. 3, 1859.

perial Government outlining some reasons for postponing its establishment, the Right Hon. Henry Labouchere, the Colonial Secretary, answered in part:

"Nevertheless it has been doubted by authorities conversant in the principles of Colonial Law, whether the Crown can legally convey authority to make laws in a settlement founded by Englishmen even for a temporary and special purpose to any legislature not elected wholly, or in part, by the settlers themselves. If this be the case, the clause in your commission on which you relied would appear unwarranted and invalid."¹⁰

So significant did this appear that the Governor in his opening address took occasion to comment that this was: "remarkable as the first instance of representative institutions being granted in the infancy of a British Colony."¹¹

Evidently Douglas was ignorant of the fact that exactly one hundred years previously the same question had been fought out in Nova Scotia in a far more remarkable fashion since it preceded the French conquest and, as was pointed out, "at a time when the Enemy is, as I may say, at our Doors."¹² The bitter loss of the thirteen colonies, the Rebellion of 1837, and the granting of responsible government were lessons unheard of when the rights of British subjects in Nova Scotia were recognized in this far reaching despatch from the Lords of Trade:

". . . although we are fully sensible of the numberless difficulties which will arise in carrying this or any other Plan for an Assembly into execution in the present State of the Province, and that many of the Inconveniences pointed out in your Letter must necessarily attend it; yet we can not but be of the opinion, that the want of a proper Authority in the Governor and Council to enact such Laws as must be absolutely necessary in the Administration of Civil Government, is an Inconvenience and Evil still greater than all these; and altho' His Majesty's Subjects may have hitherto acquiesced in, and submitted to the Ordinances of the Governor and Council, yet we can by no means think that that or any other Reason can justify the continuance of the Exercise of an illegal authority."¹³

Just as Lawrence had opined that it "would serve only to create heats, animosities and disunion amongst the People,"¹⁴ so similarly Governor Douglas objected for, "Never was there a more unpalata-

¹⁰ Labouchere to Douglas, Feb. 28, 1856.

¹¹ Speech from the Throne, (Archives of B.C.—Memoir No. III, p. 13).

¹² Lawrence to Lords of Trade, Nov. 3, 1756.

¹³ Lords of Trade to Lawrence, March 25, 1756.

¹⁴ Lawrence to Lords of Trade, Nov. 3, 1756.

ble order received by the Company's Governor. Representative Government was a deadly poison to despotic rule; absolute sovereignty must end or an antidote must be found."¹⁵

But the Governor contented himself by remarking: "There will be a difficulty in finding properly qualified representatives; and I fear that our early attempts at legislation will make a sorry figure; though at all events they will have the effect you contemplate, of removing all doubts as to the validity of our local enactments."¹⁶

Accordingly, with resignation, Douglas and his council divided the settlement into electoral districts and held an election, the nature of which can be gleaned from the following private letter of one of the councillors:

"We have had an election lately of Members of a house of Assembly to assemble in a few days. It is to consist of seven members chosen by about 40 voters, the qualification of a Member is fixed property to the amount of £300 and of an elector to own 20 acres of land. Hitherto affairs were managed by the Governor and his Council consisting of four members, Capt. Cooper, Mr. Tod, Finlayson and myself. I have always considered such a Colony & such a government where there are so few people to govern as little better than a farce and this last scene of a house of representatives the most absurd of the whole. It is putting the plough before the horses. The principle of representation is good, but there are too few people and nobody to pay taxes to cover expenses. We shall see how the affair will work."¹⁷

The forcing of representative Government, however, did not mean the loss of control by the Company for—"Of the seven members comprising the House, only one was wholly Independent; the others were either H.B. Company or Puget Sound Company's servants. Thus the antidote was swallowed with the poison and despotism lived."¹⁸

To further elucidate this point the same source gives an intimate "Who's Who" of the members of what it terms "The Family-Company-Compact." What was true of the elective offices held with even more force in the appointive offices where Governor Douglas did not scruple to appoint members of his own family as well as his satellites in the Company. By many persons, the most obnoxious of such appointments was considered to be the elevation of

15 *British Colonist*, Dec. 18, 1858.

16 Douglas to Labouchere, June 7, 1856.

17 John Work to Edward Ermatinger, Aug. 8, 1856 (Ermatinger Letters typed—Mss.)

18 *British Colonist*, Dec. 18, 1858. See also *Ibid.*, Feb. 12, 1859.

David Cameron, from the position of coal clerk under the Company, to the Chief Justiceship. To these critics, who knew of his lack of legal training, the only qualification he possessed lay in the fact that he was the brother-in-law of the Governor.

Thus in protest *The British Colonist* points out that: "Other colonies have been hampered by Family Compacts, but we have that evil blended with the interests and influences of a chartered monopoly."¹⁹ "Our boasted English system of government under the rule of Governor Douglas, his brother-in-law, sons-in-law, nephews-in-law, and clique, is rapidly becoming unworthy of the nation."²⁰

However, the elective principle having been conceded, it became increasingly more difficult for the Company to assert control. Candidates had to be chosen with care and, even then they, sometimes though not often, asserted their independence. But with the system of open election, intimidation could be used to advantage. Another method was to unseat a member or prove disqualification of intending candidates. Such was the fate of Edward Langford who had to give up his seat in the first parliament through lack of necessary property qualifications but *The British Colonist* preferred to say that "the political agents of the monopoly deprived him of his seat."²¹

Later in 1860 when he chose to run again there was circulated a malicious handbill purporting to be issued by Langford but implying a breach of trust in his stewardship as bailiff of the Puget Sound Company. (Subsidiary of the Hudson's Bay Co.). It was carefully worded so as to contain in parts a literal extract from his agreement. Langford impetuously entered a libel suit, in Chief Justice Cameron's court, against the publisher but failed to get satisfaction since he refused to answer a question which he considered "inquisitorial and harsh in its tendency." Thereupon he was imprisoned for contempt of court. Later, on being informed that the author of the libel was Justice Begbie of the Court of British Columbia (then a separate colony), Langford lay the whole question with other grievances before the Duke of Newcastle.

Upon investigation Begbie neither denied nor affirmed its authorship but asserted that the statements were a true parody on Langford's agreement which he had read "being," as he notes, "on terms of personal intimacy with the officials both of the Government and of the Hudson's Bay Company." For his interest, or part in the affair, Begbie received an official rebuke from the Duke of New-

¹⁹ *Ibid.*, July 7, 1860.

²⁰ *Ibid.*, Nov. 28, 1860.

²¹ *Ibid.*, Jan. 12, 1861.

castle but no objections were raised against the conduct of Chief Justice Cameron although Langford had maintained that the Court proceedings "were of an improper, illegal and vexatious character."²²

If the capital city provided irritating opposition to the Hudson's Bay Company's candidates, there was at least one constituency which unflinchingly gave an acclamation to any candidate whom the Company chose. This was Nanaimo, a district possessing no qualified electors except the Company's representative. Consequently, again and again, the farce of an election was repeated but with equal regularity the seat was declared vacant as few wished to sacrifice themselves to represent such a constituency. Indeed it was no compliment for a member to be told that: "The historian will write the farce down as the constituency of one, the majority of one, the representative of one, and that the election was won by Gov. Douglas' able administration."²³

Nor was it flattering to be told some months, after the event, that Governor Douglas, "did thrust Dr. Kennedy on the House as representative for Nanaimo without an election."²⁴ Again one might read in the newspaper that: "During a desultory discussion about adjournment Mr. Skinner inquired when a writ would be issued for the election of a member for Nanaimo. He hoped this time that we would have an English election and not have a member *smuggled* into the House as the last member for Nanaimo (sic) had been."²⁵

It was cold flattery for the new member to be welcomed with the eulogy that: "He will no doubt serve his clients well in the case of the H. B. Company vs. the public interest."²⁶ Weak in humor but epitomizing the general disgust *The British Colonist* refers to another legislator as follows: "Mr. Green is another green member. What is he but the appointee of Mr. Dallas for Nanaimo, to represent the Hudson's Bay Company? It is a farce to say that he was elected. And the rotten borough for which he sits is equally discreditable to the country as his conduct in nodding an unintelligent assent to obstructive measures."²⁷

Surprising as it may seem, the fact is that candidates were divided into two classes,—Hudson's Bay Co. supporters and reformers, as the following record of an open election testifies: "Pursuant to notice, the Sheriff appeared at the school house yesterday to

²² *Papers, British Columbia* (Archives of B.C.)

²³ *British Colonist*, July 1, 1859.

²⁵ *Ibid.*, Dec. 27, 1858.

²⁵ *Ibid.*, April 16, 1859.

²⁶ *Ibid.*, May 2, 1859.

²⁷ *Ibid.*, June 21, 1860.

receive the nominations of candidates to represent the above district. On the Reform side, Messrs. A. Waddington, James Yates, and C. A. Bayley were nominated; on the side of the Hudson Bay Company, Messrs. Tolmie and Crease. When a show of hands was called, the declaration of the sheriff returned Waddington, Tolmie and Crease. A poll however was demanded. . . . The time fixed for voting was from 11 A.M. to 4 P.M. to-day. The electors should make no split vote with the H. B. Company's candidates from any motive. Vote on principle and for reform principles, win or lose. From all we can hear, the reform candidates are certain of election."²⁸

It was useless to urge the voters that: "In every hand let it be written on the wall over the candidates of the Hudson's Bay Company:—'Weighed in the balance and found wanting'."²⁹

With less than six hundred voters for the whole island³⁰ the electorate could be easily managed for in "The Reform Act of 1859" the administration had succeeded in passing what was popularly called a "Misrepresentation Bill" being characterized as: "An act to restrict the representation to the Family Company-Compact—and contract the elective franchise so as to enable them to monopolize the Government for three years longer, for their individual aggrandizement at the public expense."³¹

This was distinctly class legislation for it retained, in part, the old property qualification but permitted the graduates of British and Colonial Universities to vote without property qualifications. Everyone was required to pay a poll tax of one dollar for registration and, if property was owned in more than one district, a vote could be recorded in every district for which such person registered. Yet with all these safeguards, should subversive elements endeavour to weaken the administration, there were coercive measures that could be applied. One instance of this occurred when a member suggested the election by the House of its own clerk. The speaker, who was the son-in-law of the Governor, informed the House that it was a prerogative of the Governor. But the member insisted upon his contention. Finally, Mr. Speaker: "Assured the House, in rather an unparliamentary manner that he would use all his influence to induce the Governor to reject the election."³²

However the House was not without some independence as was clearly shown when Douglas wrote requesting the Assembly to vote

28 *Ibid.*, Jan. 12, 1860.

29 *Ibid.*, Nov. 25, 1859.

30 See Voters List—published in *British Colonist*, Dec. 1 & 3, 1859.

31 *British Colonist*, Feb. 26, 1859.

32 *Ibid.*, March 13, 1860.

supplies for a postal system and public roads.³³ The answer was the old cry of "No taxation without representation." expressed in these words: "The House is humbly of the opinion that it would be unconstitutional to levy taxes until the Legislature be more complete and the towns represented as well as the district, and the House further conceives before such a step were taken, as that of raising taxes, the entire revenue ought to be placed under the control of the Legislature of this Island, to be by them appropriated as might be deemed most expedient to the welfare of the Colony."³⁴

On another occasion Douglas had written to the Assembly advising it that: "The Hudson's Bay Company, without much inconvenience, can not any longer dispense with the use of the apartment in which the House of Assembly has hitherto met."³⁵

Proceeding under a blanket clause in the Charter of Grant of the Island given to the Hudson's Bay Company, the Governor erected new buildings with company funds according to the terms whereby the Company would be reimbursed when the Charter was revoked. In vain the Assembly appealed: "That as His Excellency the Governor has determined on removing some of the Government offices from a central position of the town to the south end of it, as well as having a bridge constructed 800 feet in length leading thereto, the erection of which and removal of Government offices has not been brought before the representatives of the people for their consent, therefore the House protests against the action adopted by His Excellency and declares the same to be unconstitutional and a breach of privilege."³⁶

The same complaint was echoed in the press time and again: "We might enumerate fact after fact to show how James' Bay was spanned by a bridge; how the Public Buildings were erected out of town, to the public inconvenience; how the property of the Company has consequently been enhanced in value; and how the Colony has been financially wronged from time to time."³⁷

Thus the real grievance implied speculation on the part of both the Governor and Company who held considerable property adjoining the new site. An amusing side-light to the affair is the following description of the buildings which had early acquired the familiar title of "The Bird Cages": "A traveller placed suddenly among the buildings would consider that he was surrounded by a farm

33 Archives of B.C.—*Memoir III.*, p. 34.

34 *Ibid.*, *Memoir III.*, p. 34.

35 *Memoir IV.*, Feb. 21, 1859.

36 Archives of B.C.—*Memoir IV.*, May 4, 1859.

37 *British Colonist*, May 9, 1861.

house, with an outhouse on each side and a blacksmith shop and two barns in the rear. When he examined the gingerbread brick finish,—the want of style, order, or proportion in the architecture, he would assert that the proprietor and architect had been to town once in their lives and had seen a town clock, and had bought a picture of a chinese house, and that from these had been formed the plan.”³⁸

Seemingly it was useless to attack the powerful monopoly. Thus when the Legislature passed a bill to prevent the storing of gunpowder in unsuitable buildings, the Company continued to ignore the bill. With resignation, the editor comments: “Verily there is one law for the Hudson’s Bay Company and another for the balance of the people in this colony.”³⁹

Thus it is interesting to read in the Assembly Minute Book the record of a conference between the Governor and the Assembly in which the following appears: “His Excellency remarked that he had been actuated by motives, in the first place, to do every justice to the Hudson’s Bay Co., and secondly, to promote by every legitimate means the welfare and prosperity of the Colony.”⁴⁰

In other words the company was to be considered first and then came the welfare of the Colony “by every legitimate means” but no sinister inference should necessarily be attached to the qualifying phrase. Small wonder that the demand should arise that: “Downing Street must be taught by the English, British Americans, and aliens who reside in the country that it must practice as well as preach; that it must not merely say, the officials of this Colony and British Columbia must be wholly disconnected from the Hudson’s Bay Company,—but it must see that the order is peremptorily carried out,—and that men are inducted into office who are independent of every interest but the public welfare.”⁴¹

Finally the policy advocated above was carried out and the painter, that held the Hudson’s Bay Company and the Administration, was cut. Although Governor Douglas naturally retained strong ties of attachment to his old employers, yet it was an admirable quality in him, be it noted, that when vital issues arose he could champion the cause of the Colony with independence and fervour backed by his very complete knowledge of its historical development. On no issue is this more clearly exemplified than over the question of the rights of the Company to certain Public Springs and also over

38 *Ibid.*, July 20, 1859.

39 *Ibid.*, Jan. 1, 1861.

40 Archives of B.C.—*Memoir No. III.*, p. 59.

41 *British Colonist*, May 30, 1859.

the right of ownership of lands presumably acquired by the Company prior to the title of grant. The latter was a most contentious problem causing untold inconvenience since until it was settled "A title cannot be given to a foot of land in the Colony, except endorsed by the Company's agents here, and countersigned by the 'Governor and Adventurers' in England."⁴² Thus the very validity of land sales was open to question unless they bore the seal of the Hudson's Bay Company.

The issue was taken to court and the colonists felt they had a strong case but: "Means however were found by some party to prevent the question being heard before the Privy Council, and to have it referred to arbitrators, whose decision is a virtual robbery of the Colony, though perhaps not intentionally so; but may, probably be due to imperfect information respecting the value of the property in dispute, on the part of the Crown, and to the ex-parte statements of the Hudson's Bay Company. On no other grounds of public honesty can this remarkable decision of the arbitrations be accounted for."⁴³

The settlement of the arbitrators was in effect a recognition of the Company's claim in the payment of a compromise sum of £32,500 by the Imperial Government whereby they resumed ownership of these public lands. In the Colony the Agreement was received with disgust. Douglas, in writing to Newcastle, assured him that by this agreement the Hudson's Bay Company were making no concession as might appear on the face of the document but to the contrary: "All their actual outlay in connection with their tenure of Vancouver Island has been generously repaid in money by Her Majesty's Government. And what does Her Majesty's Government take by the agreement? A few acres of comparatively valueless land on the sea coast, and a few town lots that would have been sold long ago had anybody considered them worth buying."⁴⁴

The complaint was that although by the charter of grant the Company was only entitled to one-tenth of the gross proceeds it had taken more than half of them as well as one-tenth of the remaining portion.⁴⁵ Consequently "there is not a scintilla of evidence or a color of reason, to show cause why the Hudson's Bay Company should retain the \$688,893.30, or why the Crown should allow them

42 *British Colonist*, May 31, 1861. See also despatches—Douglas to Newcastle, Jan. 10, 1861, Newcastle to Douglas, April 15, 1861.

43 Report of the Committee on Crown Lands of Vancouver Island (Third Parliament—First Session 1863-64 House of Assembly of V.I.)

44 Douglas to Newcastle, Dec. 19, 1862.

45 Report of the Committee on Crown Lands of V.I., etc.

to withhold this amount and appropriate it to their private use instead of the purposes of colonization and it is our firm conviction that no half and half measures should be taken, no delay permitted, in adopting the most speedy and vigorous measures to compel at once the restoration of this immense sum, now virtually lost to the Colony; that it may be applied to the original purposes intended by the Crown, and to the professed object of the Hudson's Bay Company when they accepted the royal grant of the Island in 1849."⁴⁶

But the indenture of arbitration being binding, the Imperial Government made this generous settlement and henceforth the Colony was independent of the Company. Although these events may seem very remote from present day politics, let him who doubts ride along the roads of Victoria where again and again he may see the familiar land post marking property for sale by the Hudson's Bay Company. Let him view a map of early Victoria and then he will realize who were "the true and absolute lords and proprietors of the same territories."

LIONEL H. LAING.

⁴⁶ *Ibid.*