

THE COST OF LOYALTY: THE UPPER CANADA REBELLION AND
THE CLAIMS FOR LOSSES COMMISSION, 1837-1840

by

Jonathan Robert Allen Szo

B.Ed., St. Thomas University, 2018

B.A, Crandall University (Hons.), 2017

A Thesis Submitted in Partial Fulfilment of the Requirements for the Degree of

Master of Arts

In the Graduate Academic Unit of History

Supervisor: Elizabeth Mancke, PhD, History
Examining Board: Sean Kennedy, PhD, History
Lee Windsor, PhD, History
Paul Howe, PhD, Political Science

This thesis is accepted by the
Dean of Graduate Studies

THE UNIVERSITY OF NEW BRUNSWICK

September, 2022

© Jonathan Robert Allen Szo, 2022

ABSTRACT

The Upper Canada Rebellion of 1837-1838 was an armed uprising in Toronto from December 4-7, 1837, followed by the ensuing 'Patriot War.' Despite the shock the insurrection caused the government, notably Lieutenant-Governor Sir Francis Bond Head and the 'Family Compact,' the rebellion had been years in the making due to governmental injustices carried out by these individuals. In the aftermath of the rebellion, the legislative assembly of Upper Canada created a Claims for Losses Commission to handle restitution for individuals who suffered losses at the hands of the rebels. The commission not only had to contend with losses far exceeding their initial estimates, but damages caused by their own representatives. Due to the nature and number of losses, the reports of the commissioners from 1838-1840 provide tremendous insight into the impact of the Upper Canada Rebellion on common citizens, and the relationship between the governors and governed at that time.

TABLE OF CONTENTS

Abstract.....	ii
Table of Contents.....	iii
Introduction.....	1
Chapter 1: Setting the Stage for Rebellion.....	14
Chapter 2: The Government’s Representatives.....	51
Chapter 3: Loyalty and Reciprocity.....	100
Conclusion.....	147
Bibliography.....	154
Curriculum Vitae	

INTRODUCTION

In the winter of 1837-38, it would have been difficult for Upper Canada to be more unprepared for fighting off an insurrection and then invasion. A complete migration of British regulars to Lower Canada in the late fall of 1837 had left its defense to the militia. While these militia men were certainly capable of fending off the ragtag rebellion, along with the subsequent 'Patriot War,' tremendous damage was done to property and land in December 1837 and throughout 1838, incurring losses throughout the southern parts of the province, from Windsor to Kingston. While the rebellion shocked the Lieutenant Governor Sir Francis Bond Head and his executive and legislative councils, also known as the 'Family Compact,' it had actually been years in the making. After almost a half century of executive injustices and corruption, common Upper Canadians were finally provoked to armed revolt. While the 'Family Compact' was not generally held together by familial ties, they were bound by something just as important in early 19th-century British North America – loyalty. Appeals to loyalty became a cover for Compact members to exploit their governmental access to land and contracts, such as the appropriation of public funds and clergy lands for personal ventures, and also control of law enforcement, resulting in harassment and imprisonment of those who challenged them. The Compact, along with the lieutenant governor, held a near monopoly on power, with the assembly little more than advisory. They tried, as well, to monopolize the definition of loyalty. The members of the appointed executive and legislative councils were able to reject any proposition tabled by the popularly elected House of Assembly, which had many reform-minded members who disagreed with the amount of power held

by the lieutenant governor and his councils, and imagined they could use the assembly to challenge them.

A few members of Upper Canadian society, in particular William Lyon Mackenzie, John Rolph, and Charles Duncombe, all members of the House of Assembly, began to plan for militant rebellion in 1837, hoping to pressure the lieutenant governor into introducing responsible government, understood as the appointment of council members from the assembly and who were “responsible” to the electorate, not just the governor. After successfully convincing over one thousand similarly disgruntled citizens to join them, no mean feat considering the open expressions of loyalty of most Upper Canadians for the Crown, they planned to meet at a wayside inn known as Montgomery’s Tavern on Yonge Street, Toronto’s main thoroughfare, on the outskirts of the city. The building was owned by rebel sympathizer John Montgomery, but the tavern business was operated by John Linfoot, who was suspected of tory leanings. All went according to plan for the rebels until Colonel James Fitzgibbon, adjutant-general of the militia, was finally successful in convincing the disbelieving Lieutenant-Governor Sir Francis that the rebels could easily take the city of Toronto if the militia was not able to muster.¹ When the militia call-up was issued, thousands took up their muskets to defend the integrity of the Upper Canadian constitution, and by proxy the British connection, against those who wished to implement responsible government. Thus, on December 7, 1837, at present-day Yonge Street and Eglinton, 1200 armed militiamen congregated around the rebel base at Montgomery’s, bayonets in hand and cannon in tow.² The battle was brief, and the rebels

¹ James Fitzgibbon, *An Appeal to the People of the Late Province of Upper Canada* (Montreal: Lovell & Gibson, Printers, St. Nicholas Street, 1847), 14-15.

² William Kilbourn, *The Firebrand: William Lyon Mackenzie and the Rebellion in Upper Canada* (Toronto: Dundurn Press, 1956), 221.

scattered as the victorious militia reduced the tavern to ashes on the orders of the lieutenant-governor.

On December 30, 1837, the legislative assembly of Upper Canada, in the aftermath of the brief rebellion that lasted less than a week (December 4-7), initiated plans to solidify loyalty to the government by agreeing to compensate claimants for losses at the hands of the “insurgents.” A committee drafted a bill for “the indemnification of sufferers by the acts of the rebels,” and opined to the assembly that it thought the “damages sustained will be found very inconsiderable in amount,” and thus not a serious fiscal worry.³ The government, however, had failed to correctly estimate how much damage had occurred, or to realize the rebellion was not over and would continue as the Patriot War with the invasion by American supporters of the Upper Canada rebels. When the rebels fled Upper Canada to escape persecution, many settled in the United States to begin plotting anew, this time for a republican system of government, and successfully convinced numerous Americans to join them in their efforts to implement democracy in the colony, as “a potential Upper Canadian republic represented a political, economic, and social alternative to the United States.”⁴ These Canadian-American insurgents participated in several destructive attacks across the border into Upper Canada, burning, pillaging, and looting as they roamed.

By the mid-1840s, the honoured claims tallied over £43,000, with nearly 3,000 Upper Canadians filing claims over most of a decade (1838-1846). The Commission for

³ “Speech of George S. Jarvis,” in *Journal of the House of Assembly of Upper Canada, in the first year of the reign of Queen Victoria: being the third session of the thirteenth provincial parliament... session 1837-8* [hereafter *Journal, 1837-38*], (Toronto: Printed at the Patriot Office, 1838), 120.

⁴ Maxime Dagenais and Julien Mauduit, *Revolutions Across Borders : Jacksonian America and the Canadian Rebellion. Rethinking Canada in the World* (Montreal: McGill-Queen’s University Press, 2019), 17.

Claims for Losses made regular, at times lengthy reports, first to the Upper Canadian Assembly and later to the Assembly of United Canada. The documentary record is voluminous and, in many instances, includes detailed depositions from claimants.

These claims for losses by Upper Canadian civilians give us rare insight into common persons' responses to the rebellion and the issue of conferring reparations to subjects who had their properties devastated and belongings taken. The sentiments of the civic population are discernable on topics ranging from the conduct of the provincial government, the protections given to commoners, and the armed conflict in 1837-38. The wide array of responses found in these key sources allow for a serious approach into the roles of loyalty, obligation, belonging, dishonesty, and civic unity in Upper Canada during this era of rebellion. Of particular significance are the responses to the excesses of the Upper Canadian militia, which was charged with putting down the insurrection. These excesses were apparent from the beginning, as Sir Francis Bond Head gave the militia license not only to burn the tavern, but the home of a nearby suspected rebel as well. These actions emboldened the militia, and throughout 1838 militia units acted without due care. This early act by Head is a demonstration of the danger of the executive believing he does not have to obey established protocols of justice and acting with impunity to inflict punishment. For the remainder of the rebellion, it created an often strained relationship between military force and civilians, of which the militia were both.

The government of Upper Canada had not anticipated the insurrection. Its lack of foresight coupled with militia excesses suggested that it could not properly protect British subjects. Compensating people for losses became a way to rectify the damage, but it came at a much higher cost than anyone had imagined. In this way, this thesis will work

to examine the tension and relationship between the governors and the governed in Upper Canada during the era of the Upper Canada rebellion, using the claims for losses petitions as a window into the effect of the insurrection on the civic population. By analyzing expressions of loyalty, reciprocity, and obligation in those petitions, we also gain significant insight into how government acts of maltreatment during and after the rebellion affected the citizenry. The militia will also be looked at closely, as the poor conduct of Upper Canada's defenders and their weaponization by Sir Francis Bond Head against defenseless subjects certainly plays a role in not only the claims for losses, but how Upper Canadians situated themselves within the Empire. While the majority of citizens were loyal and defended the Crown, it became clear, judging by the pushback to the commission and the militia's behaviour, that being a loyal British subject did not necessitate blindly following everything that British officials and elites expected. This thesis demonstrates that common subjects in British North America insisted on establishing the terms of loyalty for themselves. They were responsible as conditions demanded and as ability permitted, but imperial officials were still expected to do the same in their spheres of obligation and responsibility.

The first chapter is largely introductory and considers the causes of the rebellion of 1837-38, and the first breaches of trust and responsibility between governors and governed when the lieutenant-governor used the militia force with impunity, destroying the private property of citizens, and then quickly passing legislation to indemnify themselves and the militia against providing payment for the subjects they wronged so egregiously. This Indemnification Act, passed directly prior to the creation of the Claims for Losses Commission, disallowed any petitions for damages resulting from government

actions, including by the militia, and for any petitions from people who had supplied the militia with goods and services.⁵ The Indemnification Act would cast a pall over the proceedings until the early 1840s.

The issue of tolerating the militia's reckless use of its power to destroy the private property of those who opposed the government was compounded as the rebellion wore on. There were repeated abuses of inhabitants in the province by this fighting force made up of citizens themselves, all indemnified by the act. The actions of the militia and the repercussions of the Indemnification Act will be the focus of the second chapter. This section will discuss the several instances of government negligence and deficient conduct that resulted in claims that were easily brushed aside. This analysis is integral to fully grasp the connection between authority figures and subjects during the rebellion years and the inevitable tensions that arose from the administration failing miserably in both the requirement of reciprocity to their subjects and the obligation of protection. The third chapter will discuss both accepted and rejected claims throughout the rebellion, and what additional context these petitions provide us in regard to gleaning a greater understanding of the long-lasting impression the rebellion had on subjects, the importance of loyalty to both the claimants and the commission, and what constituted a fruitful or spurned application for compensation.

While there is extensive scholarship on the December 1837 engagement, and then the involvement of Americans, there is little scholarship on the response to the rebellion

⁵ “An Ordinance for indemnifying persons who, since the twenty-first, day of December, one thousand eight hundred and thirty-eight have acted in apprehending, imprisoning, or detaining in custody, persons suspected of High Treason, or Treasonable Practices, and in the suppression of unlawful assemblies, and for other purposes therein-mentioned”[hereafter “Indemnification Act], in *Journal of the House of Assembly of Upper Canada, in the first year of the reign of Queen Victoria: being the third session of the thirteenth provincial parliament... session 1837-8* [hereafter *Journal, 1837-38*], (Toronto: Printed at the Patriot Office, 1838), 39-41.

by common people, and none that I have identified through the lens of claims for losses. The rebellion in Lower Canada, due to its larger breadth and greater violence, has received the bulk of the attention, along with the 1849 Lower Canadian Rebellion Losses bill as the closing act in that saga. Ian Radforth's article "Political Demonstrations and Spectacles during the Rebellion Losses Controversy in Upper Canada" (2011) speaks in depth to the political unrest that surrounded the implementation of the Rebellion Losses Bill of 1845 for Lower Canadians, but he does not seem to recognize that Upper Canadians had been receiving compensation for nearly a decade, that those claims totaled over £43,000, and that in 1846, the assembly of the United Canadas passed legislation to fund them. J. K. Johnson's article "Claims of Equity and Justice, Petitions and Petitioners in Upper Canada 1815-1840" (1995) touches on the rebellion losses claims in a sentence, but the bulk of this work is dedicated to petitioners seeking other services from the government. Carol Wilton's *Popular Politics and Political Culture in Upper Canada, 1800-1850* (2000) also only makes a mention of the 1849 Rebellion Losses Bill for Lower Canada, but nothing about the claims in Upper Canada.⁶

Of great import is the recognition that the conventional narratives of the Upper Canada Rebellion also neglect to meaningfully mention the claims for losses commission and its staggering impact on the people of Upper Canada. William Kilbourn's *The Firebrand: William Lyon Mackenzie and the Rebellion in Upper Canada* (1956) provides an excellent narrative of the rebellion from December 4-7 and the immediate aftermath of William Lyon Mackenzie's time in America, but makes no mention of the claims commission. J.C Dent's incredibly researched and detailed *Story of the Upper Canadian*

⁶ Carol Wilton, *Popular Politics and Political Culture in Upper Canada, 1800-1850* (Montreal: McGill-Queen's Press, 2000), 218-219.

Rebellion (1885), only mentions the claims in the briefest of moments. Most of Dent's work appears to serve the purpose of abusing Mackenzie and includes repeated attacks on his sanity. Dent does mention that Dr. Horne, a victim of Mackenzie's ire who had his home burned by the rebels, received compensation from the commission, but the remainder of his discussion on rebellion losses focusses on a brief reference to the 1849 bill from Lower Canada, and a longer discussion on Mackenzie's futile attempts to receive compensation from the government, an aspect not touched on in the claim reports from 1838-40.⁷

Charles Lindsay's 1862 biography of William Lyon Mackenzie provides meaningful discourse on the rebellion at length, but as Mackenzie's son-in-law, Lindsay is more preoccupied with clearing Mackenzie's name and improving his reputation than balanced historical analysis. Lindsay's only mention of claims for losses is the petitions stemming from the devastation from the War of 1812. W. Stewart Wallace's *The Family Compact: A Chronicle of the Rebellion in Upper Canada* (1920) provides excellent insight into the brewing insurrection throughout the early 19th century but fails to mention the commission at all. Colin Read, an eminent scholar on the Upper Canada rebellion, briefly mentions the importance of the Indemnification Act in his 1985 work *Rebellion of 1837 in Upper Canada*. While Read includes one example of documentary evidence of a claimant who was rejected due to the Indemnification Act that protected the government, the rest of the book is silent on the claims for losses reports and the vast losses of numerous citizens, often at the hands of the militia itself. Read's 2018 work, *The Rising in Western Upper Canada 1837-38 the Duncombe Revolt and After*, also makes almost

⁷ John Charles Dent, *The Story of the Upper Canada Rebellion, vol. II* (Toronto: C. Blackett Robinson, 1885), 106, 142, 421.

no mention of the claims for losses from the rebellion but does spend some time discussing the injustice of the largely unpaid claims from the War of 1812.

Edwin Guillet's *Lives and Times of the Patriots* (1938) is an excellent recounting of the rebellion in Toronto and the subsequent American "invasion" into Upper Canada. While Guillet perhaps gives the greatest time to the claims for losses of any author, it is still negligible. Guillet mentions the first claims for losses report from 1838 in the *Appendix to the Journal of the House of Assembly* and descriptively mentions the losses of a few citizens without elaborating further or analyzing them in depth. Guillet's notes on claims includes a brief reference to John Montgomery's eventual compensation for the egregious destruction of his tavern by the militia. Of all discussions on the claims for losses commission reports from 1838-1840, Guillet's fleeting reference to the petitions is the most detailed, a strong indicator that the claims for losses reports are surprisingly underutilized in the current scholarship.

More generally, the secondary scholarship on the Upper Canadian rebellion as a whole is lacking. The most detailed works, such as J.C Dent and Charles Lindsay's, were written in the 19th century and are heavily biased. W. Stewart Wallace and Edwin Guillet's books also suffer bias and are dated. William Kilbourn's *The Firebrand* is a fascinating read but is written in a fashion that attempts to make Mackenzie a martyr. The lack of attention to the rebellion is disappointing, while the historical whitewashing of the massive misuse of power by the executive throughout the rebellion and claims for losses is surprising, precisely because it would have supported Mackenzie's position, that the

government was acting irresponsibility. The absence of any analysis of the claims in a book favouring those who criticized the government is disturbing.⁸

It is important to realize that the lack of analysis of the claims and their import for understanding wider abuses of gubernatorial power before and after the rebellion is not just in the academic scholarship. The discussion of the rebellion in textbooks has been woefully inadequate, and any dialog surrounding the losses nonexistent. In the textbook *Canadian Identity* (2006), both the Upper and Lower Canadian Rebellions are reduced to a small paragraph that concludes that “both rebellions were dismal failures, but they managed to gain the attention of the British government.”⁹ The textbook *Canadian History: Pre-Confederation* (2020) discusses the Family Compact in some detail and mentions the burning of Montgomery’s Tavern, but says nothing of the repercussions from it and the dangerous precedent set of excessive government force against private property, sanctioned and engaged in personally by the lieutenant-governor, who inexcusably passed judgement without due process and acted violently. This textbook approach to the rebellion goes back into the mid-20th century. In *Canada and Her Story* (1942), *The Land and People of Canada* (1947), and the French textbook *Histoire du Canada: Des Origines au Regime Royal* (1964), the insurrection is passed off as an

⁸ Ian Radforth, "Political Demonstrations and Spectacles during the Rebellion Losses Controversy in Upper Canada," *Canadian Historical Review* 92, no. 1 (2011); J. K. Johnson, "Claims of Equity and Justice": Petitions and Petitioners in Upper Canada 1815-1840," *Histoire sociale/Social History* 28, no. 55 (1995); Wilton, *Popular Politics and Political Culture in Upper Canada, 1800-1850*; William Kilbourn, *The Firebrand: William Lyon Mackenzie and the Rebellion in Upper Canada* (Toronto: Dundurn Press, 1956); Dent, *The Story of the Upper Canada Rebellion vol. II*; Charles Lindsay, *The Life and Times of Wm. Lyon Mackenzie* (Toronto: P.R. Randall, 1862); William Stewart Wallace, *The Family Compact* (Toronto: Glasgow, Brook & Company, 1915); Colin Read and Ronald John Stagg, eds. *The Rebellion of 1837 in Upper Canada: A Collection of Documents* No. 134. (Montreal: McGill-Queen's Press, 1985); Colin Read, *The Rising in Western Upper Canada 1837-8: The Duncombe Revolt and After* (Toronto: University of Toronto Press, 2018); Edwin C. Guillet, *The Lives and Times of the Patriots*, (Toronto: University of Toronto Press, 1968).

⁹ Avis Fitton, Robert Kenyon, Rick MacDonald, and Larry Parker, *Canadian Identity* (Toronto: Nelson, 2006), 216.

ineffectual and incompetent grouping of individuals who were quickly beaten, as the focus then quickly turns to Lord Durham's arrival in 1839 and his well-known *Report*.¹⁰

It appears that Canadian historians simply do not realize the extent of the Upper Canadian claims, their voluminous documentation, and the supporting evidence they provide for government abuses. Work on the claims for losses reports from 1838-40 is practically nonexistent, leaving a sizeable gap in understanding of the common citizens' reaction to the rebellion, the consequences of government overreach, and the implications for the movement for responsible government. Much of the existing scholarly work at this juncture has been the analysis of the 1849 rebellion losses bill to indemnify Lower Canadians, modelled after the 1838 and 1841 versions for Upper Canada. The missing context of the claimants' actual stories and struggles to receive compensation is conspicuous, as the petitions submitted provide invaluable insights into previously unexplored governmental abuses and overreach in the destruction and damaging of private property. Absent from these historical accounts of the rebellion, in both academic and educational work, is a focus on what the rebellions tell us regarding the relationship between governor and governed, the dangers of government overreach through self-indemnification, the impact of the rebellion on the common subject, and issues of questions of loyalty and reciprocity. The claims provide meaningful insight into these queries and should be regarded as an invaluable and irreplaceable source in Canadian history.

¹⁰ Fitton et al., *Canadian Identity*; John Douglas Belshaw, *Canadian History: Pre-Confederation* (2nd ed.), (Victoria, B.C.: BCampus, 2020); Mary Graham Bonner, *Canada and Her Story* (New York: Alfred A. Knopf Inc., 1942); Frances Aileen Ross, *The Land and People of Canada* (Toronto: Longmans, Green and Company, 1947); Gustave Lanctot, *Histoire du Canada: Des Origines au Regime Royal* (Montreal: Librairie Beauchemin Limitee, 1964).

Through examining common persons' responses to the loss of valuable possessions and in some instances their livelihoods in the Upper Canadian Rebellion of 1837-38, often at the hands of their own militia as well as the rebels, and lack of government's concern to exhibit appropriate protection to British subject, we are able to get invaluable insight into the thoughts and feeling of people who are usually absent from the pages of history, while being able to cross-reference these thoughts and feelings with some of the leading figures of the day and the legislation that upheld their views. The most crucial sources are the reports of the claims for losses commission from 1838, 1839, and 1840. These reports, available online and present in the Appendix to the House of the Journal of the House of Assembly from all three years, are abundant in detail. They not only include the statements of the commissioners themselves, but also the detailed depositions of the petitioners and the character witness declarations included to ameliorate a claim's chance at compensation. These reports are the paramount sources for this text, and their vivid and nuanced detail will be used to capture the widespread and profound impact the rebellion had on common people. The Appendix documents also provide vital pieces of communication between the Upper Canadian government and the British Crown, including letters and the reports on the state of the province. These interactions will be utilized throughout this thesis as they provide additional context on the burden the rebellion placed on both governor and governed.

This work also makes use of the personal accounts of Sir Francis Bond Head, William Lyon Mackenzie, and Colonel James Fitzgibbon. As Bond Head was the lieutenant-governor of Upper Canada during the outbreak of rebellion, his input on events is crucial, as is William Lyon Mackenzie's, the organizer of the rebel side. James

Fitzgibbon, Upper Canadian hero from the War of 1812, also played a key part in the opening stanzas of the rebellion as the leader of the militia and the reluctant tool of Bond Head in burning the private property of suspected rebels, underlining the importance of the inclusion of his own statement of what occurred.

Key legislation from March 1838 will also be used at length. The Indemnification Act that successfully removed all financial responsibility from the government for the actions of their representatives in putting down the rebellion will be thoroughly examined and cited, as will the act passed directly after, the piece of legislation that created the claims for losses commission itself by authorizing the appointment of commissioners. These pieces of legislation are available online, on the British North American Legislative Database.

In my analysis of all the primary evidence – the petitions for claims, the claims commissioners’ reports, the legislative record, the memoirs, and the official correspondence – I pay particular attention to how different groups of people used the language of loyalty, responsibility, and an expectation of reciprocity for their fealty when examining the claims. It is clear through the repeated submission of depositions with detailed petitions that the common Upper Canadian was confident they would receive compensation for their losses, and that their loyalty was steadfast. However, the cost of their loyalty would be a point of contention for the government for over a decade as claims became an enormous expense. In doing this research, the agency of Upper Canadians in their relationship with the empire becomes clearer. Far from being passively loyal, many were determined to forge their own paths in dealings with the empire.

CHAPTER 1: Setting the Stage for Rebellion

On December 4, 1837, roughly a thousand irate and armed Upper Canadians who had long called themselves “reformers” gathered at Montgomery’s Tavern in Toronto to escalate their calls for reform into rebellion. The reformers understood their actions on that night to be a rebellion, a violent show of disobedience in opposition to one’s sovereign, or in this case the sovereign’s representatives, in a bid to achieve greater freedom or liberty. In the colony of Upper Canada, these reformers turned rebels saw as their adversaries the lieutenant-governor, executive council, and the legislative council, representing a cadre of elite men who became known as the “Family Compact” and who wielded considerable political and economic power. On the side of the reformers were many members of the legislative assembly. The reformers-turned-rebels were self-selected, men such as William Lyon Mackenzie and Dr. Charles Duncombe, as well as hundreds of disaffected Upper Canadians who were angry at the privileges of the “Family Compact” at their expense.

In taking up arms, the rebel-reformers hoped to pressure the government to enact responsible government, understood as making the legislative and executive councils of the colony responsible to the electorate by selecting them from elected members of the assembly. If members of councils abused their authority, then the electorate could vote them out of office, and they would be replaced. In this way, the increasingly heavy yoke of the unelected and unaccountable members of the Family Compact, who the lieutenant-governor hand-picked, would be lifted. Although members of the Family Compact were not always particularly wealthy, their political and economic influence were astonishingly vast. Due to the structure of the Upper Canadian constitution, the

lieutenant-governor and the legislative council could veto legislation put forward by the legislative assembly, making their political power close to being absolute.¹¹ The fact that the constrained legislative assembly was the governmental branch chosen by popular election was not lost on many Upper Canadians as the remonstrations for reform became the rumblings of rebellion. Even when the electors voted for reform-minded legislators, their plans for progressive change were summarily dispatched by the legislative council as dangerous "republican" ideas.¹² Repeated impasses resulted in a corrupt system of nod and wink politics where the most powerful citizens looked out for each other's interests, which resulted in financial gain and partisan power for a few at the expense of the many, and which increasingly put the colony in financial danger of bankruptcy.

While the Upper Canada Rebellion technically began on December 4, 1837, it had been decades in the making, a gathering storm brewing throughout the early 1800s.¹³ All was not well in Upper Canada prior to the insurrection. Anger at the Family Compact and its repeated abuses of power, to the detriment of common Upper Canadians, allowed for rebellious sentiment to grow exponentially. Crucially, the rebellion occurred after years of abuse by members of the government, and people had warned of possible unrest. How it unfolded on December 4 reflected developments of prior years, and the consequences were felt for over a decade afterwards. Thus, this analysis of the claims commission after the rebellion begins by discussing the events leading up to it. As this chapter will show, those events culminating in rebellion are indivisible from the critical thematic elements of loyalty, obligation to the sovereign, reciprocal protection, and the tumultuous and often

¹¹ Wallace, *The Family Compact*, 1.

¹² *Ibid*, 44.

¹³ Kilbourn, *The Firebrand*, 137-138.

abusive relationship between the governors and the governed that had developed in Upper Canada. That last reflects executive power that had been unchecked for too long.

An early and notable casualty of the social control the Family Compact could exercise in Upper Canada was Robert Gourlay, whose baffling tale captures the complete and utter unfairness he experienced. A well-educated Scotsman, Gourlay emigrated to Upper Canada in 1817 and became a land agent, attempting to create a system that would encourage large-scale emigration from the British Isles to Canada to bolster the population of the fledgling colony.¹⁴ While Gourlay was a loyal subject and citizen and espoused no ideals of large-scale reform (he would later be a stout critic of William Lyon Mackenzie and the other reformers, dubbing them traitors), but his actions in starting business angered the Compact.¹⁵

The incident that drew their ire appears rather inconspicuous but succeeded in leaving Gourlay's life in shambles. To gain a more robust understanding of his new home in Upper Canada and how he could contribute to it, Gourlay circulated a letter throughout the colony that asked a rather unremarkable question: "What, in your opinion, retards the improvement of your township in particular, or the province in general, and what would most contribute to the same?"¹⁶ Gourlay's enquiry elicited, somewhat surprisingly, an immense outpouring of public disgruntlement with how the colony was run, such as the donation of government lands to Family Compact members and the failure of the British government to pay the claims for losses from the War of 1812.¹⁷ Fascinated with the

¹⁴ Wilton, *Popular politics and political culture in Upper Canada, 1800-1850*, 29.

¹⁵ S. F. Wise, "GOURLAY, ROBERT FLEMING," in *Dictionary of Canadian Biography*, vol. 9, University of Toronto/Université Laval, 2003.

¹⁶ Jean-Guy Prevost and Jean-Pierre Beaud, *Statistics, Public Debate and the State, 1800–1945: A Social, Political and Intellectual History of Numbers* (New York: Routledge, 2016), 39.

¹⁷ Wallace, *The Family Compact*, 30.

replies received and alerted to the possible corruption of several members of the Family Compact, Gourlay went on the offensive. He verbally attacked high-ranking Compact members like John Strachan as a "monstrous little fool of a person" and decried the entire Compact as "the vile, loathsome and lazy vermin of Little York."¹⁸ The Compact had Gourlay arrested on counts of libel, but he was found innocent. Gourlay, however, had irreparably damaged his reputation with the Family Compact and set events in motion that could not be undone: they had been shamed by what they viewed as radicalism, and their legal retribution was a powerful tool.

Lieutenant-Governor Peregrine Maitland joined the attack, encouraging the passage of laws that made the meetings Gourlay held to discuss the governmental abuses illegal on the grounds of sedition.¹⁹ Still, Gourlay's meteoric notoriety could not be stopped. Juries refused to convict him because what he said was true, even if the government thought it seditious. Finally, however, the Family Compact devised a plan that Gourlay could not escape.

Drawing upon the seldom used and largely forgotten Alien Act of 1804, passed to keep early Irish and American settlers in check, the Compact caught Gourlay in their snare.²⁰ The Alien Act allowed council members to arrest anybody deemed seditious who had not been a province resident for six months and had not taken the oath of allegiance. However, presuming the act was being used correctly, the crown had little case against Gourlay. All who knew him were aware of his loyalty to the Empire- his issue was with the Compact's use of governmental privilege to usurp land. Furthermore, it was common

¹⁸ S.F. Wise, "GOURLAY, ROBERT FLEMING."

¹⁹ Wallace, *The Family Compact*, 35.

²⁰ *Ibid*, 36.

knowledge that he had been a resident of Upper Canada for 18 months.²¹ These facts were of no consequence to the Family Compact, as some lesser government members were eager to fabricate evidence on their behalf to gain favour. Isaac Swayzie, described as a "disreputable and illiterate member of the Legislative Assembly, who was a hanger-on of the government," gave testimony that Gourlay was seditious, had not taken the oath of allegiance, and had been a resident for under six months.²² Gourlay gave excellent evidence to refute all accusations against him but to no avail. The destruction of Gourlay was set in motion, and anything less than imprisonment or banishment would be considered a failure. Despite Gourlay's strong evidence, the government imprisoned him for months while awaiting trial due to a stipulation in the Alien Act that bail was not permitted.

When Gourlay finally saw his day in court, he was a shadow of his former self. His confinement had unhinged him, and he reportedly laughed maniacally or sat in a stupor throughout his trial, unable to properly defend himself.²³ Gourlay was found guilty of trumped-up charges and banished from the colony, taking up residence in America. The Family Compact had, in its view, enjoyed a resounding victory. One of their biggest threats and most vocal naysayers had been thoroughly beaten, and a warning given to all Upper Canadians who dared speak against administrative power.

As evidenced by the sorry treatment of Robert Gourlay, the Upper Canadian legislative and executive councils, the latter headed by the lieutenant-governor, were ethically deficient in several categories. Their willingness to accept false evidence to jail

²¹ Ibid, 37.

²² Ibid, 38.

²³ Ibid, 40.

a subject and banish him from the colony under pain of death is telling of their overall motives, namely to silence individuals like Gourlay who posed a threat to their monopoly on land grants and financial support for business ventures.

From the ashes of Gourlay's failure to curb Family Compacts' power, another critic began to gain momentum, growing tremendously in influence throughout the 1820s and 30s, eventually becoming the primary organizer and leader of the rebellion itself. William Lyon Mackenzie came to Upper Canada from Scotland in 1820. In 1824, he began publishing his newspaper, the *Colonial Advocate*. Mackenzie spared few from his acerbic pen, as he incessantly criticized government members for corruption. Reform sentiment continued to percolate throughout the 1820s, and Mackenzie helped give voice to a movement that had long been lacking direction. In 1824, many were shocked when reform-minded individuals, those who were mainly against the control exercised by the unelected legislative and executive councils, won the majority of seats in the popularly elected House of Assembly. Unfortunately, this assembly was unable to make meaningful political change because the unelected legislative council blocked all initiatives for reform. That obstruction, however, underscored how much participatory government was a fiction in Upper Canada.²⁴

Mackenzie appreciated the obvious issues concerning a lack of governmental responsibility to the citizenry and redoubled his efforts in the *Colonial Advocate*, often insulting Compact members ferociously in its pages. Repeatedly, he openly questioned why American-style democracy could not be implemented in Upper Canada. John Beverly Robinson, the attorney general of Upper Canada, made his judgement of the

²⁴ Conrad Black, *Rise to Greatness, The History of Canada Volume I: Colony* (New York, McClelland & Stewart, 2014), 200.

Colonial Advocate quite clear, declaring Mackenzie, "Another reptile of the Gourlay breed What vermin!"²⁵ These expressions of disdain culminated in an incident in 1826. After several extraordinarily personal and belligerent attacks on the Compact in Mackenzie's paper, tempers finally reached a boiling point. Over a dozen "young gentlemen" sons, nephews, and friends of the Family Compact, though no members of the executive council itself, took it upon themselves to perform what they deemed much-deserved vigilante justice.²⁶ Aware that Mackenzie was away from the city, the young men, eager to defend their fathers' honour, strode down to his printing shop, smashed the windows, destroyed his workshop, and tossed the printing press into the bay.²⁷ These shocking events had the exact opposite effect the young men had striven towards. Rather than cowing Mackenzie and destroying his credibility, he became a martyr, the symbol of the working-class man fighting against the tyranny of repressive government. After a jury afforded him the massive sum of £625 for losing his printing press, Mackenzie knew it was time to take advantage of his newfound financial freedom to expose the corruption of Upper Canada's elite.

For the small, fiery Scotsmen, a political journey beckoned. In 1827, the people of York County elected him to represent them in the legislative assembly. His legislative responsibilities did not deter him from unfailingly publishing the *Colonial Advocate*, and he was no less unrestrained than before his political career. His verbal newspaper aggressions led to repeated expulsions from the assembly for libel, leading him to decry his peers as "sycophants" and the executive council as a "useless executive."²⁸ Despite

²⁵ Kilbourn, *The Firebrand*, 54.

²⁶ *Ibid.*, 71.

²⁷ *Ibid.*

²⁸ William Lesueur, *William Lyon Mackenzie* (Montreal: McGill-Queen's University Press, 1979), 163.

repeated expulsions from the assembly, public support was strong. Whenever he was ejected from the legislative assembly, his loyal supporters unfailingly voted him back. In 1832, he won by-elections by staggering margins of 119-1 and 628-23.²⁹ The loyalties of the ordinary citizen of Upper Canada were crystallizing. Reformers increasingly dominated elections and gained further control of the legislative assembly, holding large majorities over their tory counterparts in the early 1830s. However, a vital aspect of this tale is the inability of the assembly to effect any significant reforms. Despite their robust presence in the lower house, any reform-minded bill passed on to the legislative council was smothered swiftly and efficiently.³⁰

Exasperated and out of patience with the stagnant state of Upper Canadian politics that allowed for un-elected individuals to have complete control over the lives of commoners, Mackenzie decided the time nigh for unprecedented action. The lieutenant-governor and members of the executive and legislative councils had had no political equals in Upper Canada to hold them accountable, but they were still answerable to the British Colonial Office. Thus, in 1832, he left for England to discuss these apparent issues with the colonial secretary, the lieutenant-governor's superior. Mackenzie made a good impression on Lord Goderich, the colonial secretary, but then Goderich was replaced by other secretaries who were less inclined to follow through with reform-leaning policies.³¹ Before his departure, however, Goderich acquiesced to some of Mackenzie's requests. Regardless of Mackenzie's frequently odd conduct and agitated manner, his detailed reports from Upper Canada troubled Goderich. While not being

²⁹ Ibid, 177-78

³⁰ Kilbourn, *The Firebrand*, 80.

³¹ Ibid, 114-115.

entirely convinced by Mackenzie and his pronounced disdain for the executive council, Goderich sent a dispatch to Lieutenant-Governor John Colborne and insisted it be made public. While the dispatch was not entirely critical of either faction, tory or reformer, Goderich did state that clergy members should step down from their place on the executive and legislative councils (Archdeacon John Strachan was notorious for "donating" vast amounts of government land to the clergy) and rebuked several acts that had attempted to place the Bank of Upper Canada even further under Compact control.³²

When the executive and legislative councils learned of Mackenzie's trip to England, they were infuriated, barring him from the assembly to prevent further actions they saw as treasonous and to curb any movement towards reform.³³ Confident in their political positions, Attorney-General Henry Boulton and Solicitor-General Christopher Hagerman refused to allow the dispatch to be published, called Goderich a fool, and led another initiative in expelling Mackenzie from office.³⁴ Goderich, displeased by this affront, swiftly stripped Hagerman and Boulton of their positions in government for their disrespect and insubordination. Disappointingly for reformers, after intense groveling, and a trip to England to plead their case, both were granted positions in government once again. Even more of an affront to the reformers, these political elites ignored and evaded several of Goderich's suggestions, primarily due to the constant changing of the colonial secretary's office guard.³⁵ Lieutenant-Governor John Colborne remained aloof and disinterested. Mackenzie, who had remained in England during these developments, was disappointed. Clearly, members of the government were too comfortable in their

³² Ibid, 112.

³³ Ibid, 80.

³⁴ Wallace, *The Family Compact*, 85.

³⁵ Kilbourn, *The Firebrand*, 114.

positions. They had become too powerful, largely due to the distance between themselves and the British home government. Now more than ever, Mackenzie questioned the necessity of a continued connection with Britain and began discussing the possibility of implementing American-style republicanism in Upper Canada.³⁶ While rebellion was not yet wholly afoot upon Mackenzie's return to the colony in 1833, the ideas were in place to allow it to occur.

Upon his return to Upper Canada, the tories in the assembly treated Mackenzie as a political pariah, while members of the legislative and executive councils despised him for his actions in England, and they took the illegal and unprecedented step of physically blocking the diminutive Mackenzie from his seat in parliament. They barred the door and threatened him with violence should he try and return, notwithstanding his position as an elected member. While they succeeded in barring Mackenzie from the legislature, obviously with no outward repercussions due to their station, their actions had intense consequences in the region of Toronto. The general population, indignant at Mackenzie's unfair removal, surged to his defence. He was not only re-elected to the House of Assembly in 1834 but was elected Toronto's first mayor, as well.³⁷ As reformers primarily populated the house, they gave Mackenzie a job for which he was only too well suited, the committee chairman on grievances. More than any prior work Mackenzie had done, his work for the grievances committee caught the eye of the Colonial Office and would directly contribute to the rebellion. Mackenzie used his position to perform a significant inquiry into the inner workings of the government and the Family Compact; what he unearthed was deplorable. Not only did he pen grievances on the paltry power of

³⁶ Ibid, 115.

³⁷ Ibid, 128.

the House of Assembly, but he also discussed the land grants to Compact members, and their overwhelming control over "local magistrates, customs officers, land agents, the agents of the Bank of Upper Canada, and the Roman and Anglican priests."³⁸ No matter where Mackenzie turned, the executive council seemingly had power and influence over most aspects of the government and economy of the colony. Still, the most damning evidence Mackenzie could unearth was government mismanagement of the Welland Canal. That maladministration reverberated long after the rebellion and affected the payment of the claims for losses in an unambiguous and profound way.

The Welland Canal was, and remains to this day, a tremendously expensive waterway that connects the Great Lakes of Ontario and Erie. Its creators aimed to aid commerce, as it would enable large vessels to enter the hub of North America more quickly and efficiently, providing an expected boom in trade. Due to the executive council's ability to make significant decisions without consequence, it was straightforward for the Family Compact to appropriate huge sums of public money for the growing expenses of the channel. Its success was vital to them as the primary shareholders in the Welland Canal Company as its 'relations with the Upper Canada government were close and intimate', and 'the majority of the directors of the Canal Company were members of the Family Compact.'³⁹ They provided themselves with '£25,000 in 1826, £50,000 in 1827, £25,000 in 1830, £50,000 in 1831, £7,500 in 1833, £50,000 in 1834, and a magnificent promise of £245,000 in 1837'.⁴⁰ Of course, this final

³⁸ Ibid, 155.

³⁹ Hugh J. Aitken, "The Family Compact and the Welland Canal Company," *The Canadian Journal of Economics and Political Science* Vol. 18, No. 1 (Feb., 1952), 63-64.

⁴⁰ Ibid, 72.

promise was made before the outbreak of the rebellion, which curbed the amount accessible to them.

Lower ministry members, including many future rebels, were exasperated at what they saw as government malfeasance. Mackenzie was irate and constantly bombarded the members of the Family Compact with comments in his newspaper that reflected his disdain for their blatant corruption. Despite their later misgivings, most reformers and civilians in Upper Canada initially viewed the Welland Canal favourably before the closely intertwined connection between government gifts of land and money at taxpayers' expense became perceptible. As many of the eventual rebels were rural individuals and farmers who would benefit from lower transportation costs, the canal was something they initially supported without a qualm.⁴¹

Mackenzie also approved of the Welland Canal in its early stages: he believed, along with many others, that the canal would primarily benefit average Upper Canadians. He expressed his support by using his sharp wit in his newspapers not to eviscerate, as usual, but instead to praise the waterway. He even signed a government report in 1830 that gave his support to the project.⁴² Despite high initial approval, it quickly dissipated into fury as the amounts of financial aid allocated to the project by the government between 1826–1834, over £200,000, came under scrutiny by the reformers. Dr. Charles Duncombe, a prominent reformer who led the rebellion from the Western District, stated:

Would this be prudent or wise legislation, to allow a company to control one of our principal sources of advancement, to use at their convenience the large funds of public money which they have in their hands at present, and the additional

⁴¹ Ibid.

⁴² Ibid, 73.

sums that must be granted to save what has already been expended in the work? I think it would not.⁴³

Despite occasional dissent, the Family Compact did not face widespread criticism until Mackenzie began to investigate the Welland Canal Company further. He unearthed damning evidence that the land for this publicly funded project was being given to members of the Family Compact.⁴⁴ He also determined that the Compact members were the only ones allowed a majority stake in the canal's ownership. Mackenzie fearlessly published his findings as proof of government exploitation in his newspaper as antigovernment sentiment expanded in the province. The Welland Canal was not the only example of mismanagement and dishonesty that plunged the province into massive debt. Nevertheless, it was undoubtedly prominent due to the canal's enormous liability caused by going over budget by thousands of pounds and paying Compact members in bonds, dividends, and material goods.⁴⁵

Mackenzie's final composition on the matter, "The Seventh Report on Grievances," found its way into the hands of the King of England, William IV, and the newest Colonial Secretary, Lord Glenelg, who decided to recall Lieutenant Governor John Colborne in 1836 due to his ineptitude in handling the flagrant governmental abuses.⁴⁶ At this juncture, it appeared as though the reformers had finally won their breakthrough. The Colonial Office, to some degree, acknowledged Mackenzie's assessment of the government abuse in Upper Canada and deigned to replace the lieutenant-governor because of it.

⁴³ Ibid, 74.

⁴⁴ Lindsay, *The Life and Times of Wm. Lyon Mackenzie*, 346-347.

⁴⁵ Ibid, 347-350.

⁴⁶ Black, *Rise to greatness, The History of Canada*, 216.

Colborne's replacement was Sir Francis Bond Head, and a more confusing choice would not be possible. Giving Head such an important position as the monarch's representative in Upper Canada was puzzling. He had little political experience, had never been to the colony, and had little knowledge of it.⁴⁷ Sir Francis did not even want the job, as he fought through his surprise at the request and denied the post before relenting after he was promised he would be made a baron if accepted.⁴⁸ Indeed, Sir Francis was such a poor choice for the position, rumours began to swirl that the post had been offered to him by accident and that he had been mistaken for a far superior choice with the same surname.⁴⁹

Despite the oddness of Head's appointment as lieutenant-governor, reformers greeted him with great fanfare and excitement upon his arrival in 1836. As Colborne had been sacked due to his perceived closeness and support of the Compact, it stood to reason that his successor, apparently carefully chosen by Glenelg, would be of a different ilk. Upon his arrival to Toronto to take up his new office, a bewildered Head was met in the streets by cheers from eager spectators, who had put up a huge sign that read "Sir Francis Head, a Tried Reformer."⁵⁰ Head was, of course, nothing of the sort. In fact, it would have been nigh impossible to find a stuffier, more rigid adherer to Toryism and more arrogant and conceited lieutenant-governor than Head. In his view, Upper Canadians could be split into two camps: the loyal and the disloyal.⁵¹ While those he deemed loyal to the British crown were to be commended and appreciated, the disloyal were despised.

⁴⁷ Kilbourn, *The Firebrand*, 161.

⁴⁸ Wallace, *The Family Compact*, 101.

⁴⁹ *Ibid*, 100.

⁵⁰ David Breakenridge Read, *The Lieutenant-Governors of Upper Canada and Ontario, 1792-1899* (Toronto: William Briggs, 1900), 157.

⁵¹ Kilbourn, *The Firebrand*, 167.

Upon his very first meetings with the reformers, his intense dislike of them became palpable. In his view, these were disloyal men, not contented with the British colonial system and obviously untrustworthy. After their first meeting, William Lyon Mackenzie quickly and unsurprisingly became the most grievous offender of "disloyalty" in Head's estimation. In his memoir of this time in Upper Canada, he wrote:

Mr. Mackenzie's mind seemed to nauseate its subjects even more than Mr. Bidwell's. Afraid to look me in the face, he sat, with his feet not reaching the ground and his countenance averted from me, at an angle of seventy degrees; while, with the eccentricity, the volubility, and indeed the appearance of a madman, the tiny creature raved.⁵²

The disrespectful way Sir Francis treated those who wished to implement responsible government was too insulting for many members of government, and he even alienated very politically moderate individuals like Marshall Bidwell and Robert Baldwin, potential allies that, even in their moderate political leanings, were unacceptable to Head.⁵³ He considered those who desired responsible government unintelligent and incapable of comprehending the delicate importance of his position. It cannot be said that Head was lazy or uninspired; quite to the contrary. But rather than using his leadership position to understand the plight of commoners by thoughtfully considering the opinions of the House of Assembly, he ignored advice from both the members of the assembly and the executive council and acted as he saw fit.⁵⁴ Unsurprisingly, this behaviour invited

⁵² Sir Francis Bond Head, *A Narrative*, 3rd Edition (London: John Murray, Albemarle Street, 1839), 45.

⁵³ Kilbourn, *The Firebrand*, 165-167.

⁵⁴ Kilbourn, *The Firebrand*, 168.

outrage in the House and throughout the city of Toronto, as Head's disregard of those he viewed as beneath him became public knowledge.

Head, meanwhile, remained utterly aloof to the growing anger within the colony. He reported to Glenelg that "The people of Upper Canada detest Democracy, they revere the Constitutional Charter and are staunch in allegiance to their King."⁵⁵ The lieutenant-governor was correct in some respects. While many in Upper Canada wished for reform and to lessen the influence of the Family Compact, very few wished to actually break from the empire and abandon the Mother Country.⁵⁶ Head played magnificently on this fact in the Upper Canada elections of 1836. Personally campaigning, he asked Upper Canadians the simple yet compelling question of whether their loyalty and support of the British Empire was steadfast. Alternatively, as phrased in his memoir, if citizens "live on bad terms with the mother country, you will, to use a homely phrase, only quarrel with your bread and butter."⁵⁷ Notwithstanding any nuance, Upper Canadians spoke decisively in 1836. While many questioned the methods of the executive council, Head's brusque method of questioning the loyalty to the British Empire of Upper Canadians was effective, as Upper Canadians demonstrated the importance they placed on the connection with England. The reformers were all but obliterated from the House of Assembly, with only two keeping their seats. William Lyon Mackenzie suffered defeat at the polls and took the loss hard. The Colonial Office urged Head to give some reformers positions in government to placate them and stave off frustrations, but Head gloated at the election sweep he had orchestrated and refused all suggestions of reconciliation as

⁵⁵ Head, *A Narrative*, 107.

⁵⁶ Wallace, *The Family Compact*, 108-109.

⁵⁷ Kilbourn, *The Firebrand*, 173.

their replacements were “members firmly attached to British institutions.”⁵⁸ A letter of congratulations from the King only buttressed his smug dismissal of any suggestions to compromise with the reformers.⁵⁹

From these momentous political losses, insurrection and rebellion began to take shape. The lieutenant-governor and the Family Compact had won their greatest victory in a decade, and Head took no time in using his viceregal authority to advocate for legislation that would bolster executive power.⁶⁰ Despite the thrashing they had taken at the polls, reformers, based on their conversations with supporters throughout Upper Canada, primarily rural farmers, were still confident that responsible government was the proper remedy and would benefit all Upper Canadians.⁶¹ The Tories had promised an economic upturn in 1837, but when they failed to deliver on it, people began to grow restless. Mackenzie returned to form and began to share more frequently letters with Lower Canadian radicals like Louis-Joseph Papineau, who were planning their own rebellion and urged Mackenzie to gather followers and do likewise.⁶²

Mackenzie knew that his ability to enact change in the colony through institutional change had ended. Still, the agitator remained a household name, beloved in some circles, and his skills as an orator were undiminished. In the summer of 1837, he began to recruit followers and hold meetings to convince other reformers to participate in rebellion, which he believed was his right due to his contention that the government was tyrannical and oppressive. Mackenzie recruited heavily for the rebellion throughout the

⁵⁸ Sir Francis Bond Head, *The Emigrant* (London: J. Murray, 1852), 148-149.

⁵⁹ Kilbourn, *The Firebrand*, 180.

⁶⁰ F.H. Buckley, *The once and future king: the rise of crown government in America* (New York: Encounter Books, 2014), 94-95.

⁶¹ Read, *The Rising in Western Upper Canada 1837-8: The Duncombe Revolt and After*, 3,12.

⁶² Alfred D. Decelles, *The 'Patriotes' of '37: A Chronicle of the Lower Canadian Rebellion*, Translated by William Stewart Wallace (Toronto: Glasgow, Brook & Company, 1916), 72.

rest of 1837, tramping throughout the province and convincing men that the time had come for the corrupt government to be overthrown. He was successful in his enterprise, and he soon convinced hundreds to follow him in open rebellion.

Sir Francis Bond Head was completely aware of most of these proceedings. He had full knowledge of Mackenzie's meetings with other reformers and was given reports regarding their drilling and training. However, he "discounted much of the reports of it as fiction or simply as evidence that there must exist in any society the posturing bravado of a few lunatics."⁶³ Head certainly had no respect for any organization led by Mackenzie, for whom he constantly voiced disdain. Such was Head's confidence that the reformers were mere "lunatics" and of no real threat that in October of 1837, he authorized all British regular troops stationed in Upper Canada to go to Lower Canada, sending them to support troops there against the rebels who had taken to the streets. This shocking order demonstrated Head's belief in Upper Canadians' loyalty and his condescension toward the reformers and any authority they might have had with the populace. With the colony emptied of professional troops, the only means left for its defence was the militia, modestly trained civilians who could be armed in times of conflict.

Colonel James Fitzgibbon is a central figure in any analysis of the Upper Canada militia and the rebellion. An important leader and commissioned officer in the War of 1812, he took the role of Assistant Adjutant-General of the militia after the war.⁶⁴ A staunchly loyal British subject, he reacted strongly when the first whispers of rebellion reached him. As he tells it in his writing *An appeal to the people of the late province of Upper Canada*, he had several frustrating conversations with Head concerning the militia

⁶³ Kilbourn, *The Firebrand*, 188.

⁶⁴ Ruth McKenzie, *James Fitzgibbon: Defender of Upper Canada* (Toronto: Dundurn, 1996), 24.

and the removal of the British regular troops. Fitzgibbon and Head frequently saw each other on their morning walks along Lake Ontario. These interactions were often quite painful and awkward for Fitzgibbon as he battled with Head's stubbornness. He was especially concerned when Head told him that "ALL" British regular troops would be sent to Lower Canada after the fighting broke out.⁶⁵

When a final, small detachment of British regulars was making its way through Toronto en route to Quebec, the embattled Fitzgibbon again pled with Head to "keep it in the City, to be a nucleus for the Militia to rally round."⁶⁶ Despite this advice from an experienced and loyal veteran, Head cast aside Fitzgibbon's concerns. Head seemed to believe that if a rebellion were to take place, the mettle of the Upper Canadians themselves would have to be proven to stop it. To a disbelieving Fitzgibbon, he stated: "No, not a man! the doing so would destroy the whole morale of my policy: if the militia cannot defend the Province, the sooner it is lost the better."⁶⁷ Finally, Fitzgibbon thought he had found an opening in the governor's argument that could be exploited. If the militia was the only way to defend the province, why not call them out and arm them? Even though Fitzgibbon pointed out this apparent logical fallacy, it was quickly brushed aside by Head, who imposed his will on the organization of the militia by stating: "No, I will do nothing. I do not apprehend a rebellion in Upper Canada."⁶⁸

In Head's letters to Lord Glenelg after the December battle at Montgomery's Tavern, he stated that because a rebellion had already broken out in Lower Canada, "a

⁶⁵ Fitzgibbon, *Appeal*, 10.

⁶⁶ *Ibid*, 10.

⁶⁷ *Ibid*, 10.

⁶⁸ *Ibid*, 10.

corresponding insurrection was naturally to be expected in the Upper Province,"⁶⁹ a statement directly contradicting Fitzgibbon's recollection. Head also claimed that "If I had been governing by force of arms, they would have been sufficient; but, having yielded to the Lower Province his Majesty's troops, I had nothing left to support me,"⁷⁰ implying he had no choice but to send the troops. In a letter to Glenelg on December 19, 1837, Head stated that he had "long earnestly anticipated" the rebellion and that he had "no sooner received the intelligence that the rebels were within four miles of the city... I at once proceeded to the City Hall, in which about 4000 stand of arms and accoutrements had been deposited."⁷¹ Head then paints a highly heroic picture of the militiamen who took up arms. In Head's telling, the rebels were an extremely small and radical group who had managed to convince a much larger group to join them through the lies and deceit of the incorrigible William Lyon Mackenzie.⁷²

Head largely ignored Fitzgibbon in the book he wrote immediately upon returning to England about his time in Upper Canada, simply titled *A Narrative* and published in 1839. He only mentions the militia's key orchestrator in a brief sentence in a letter to Glenelg that stated the Colonel was indeed the one who led the strike on the insurrectionists, without providing context on Fitzgibbon's important role in having knowledge of the rebellion and working tirelessly to stop it.⁷³ Fitzgibbon is clearly stung by this slight when writing *Appeal*, his open letter to Upper Canadians, nine years later, stating that a better and more honest leader would have appreciated his role in

⁶⁹ Head, *A Narrative*, 218.

⁷⁰ *Ibid*, 218.

⁷¹ *Ibid*, 327.

⁷² *Ibid*, 327.

⁷³ *Ibid*, 332.

apprehending the rebellion before any others.⁷⁴ These differing perspectives on the Upper Canada militia are far from trivial when attempting to understand the civic response to the rebellion. One of the most crucial roles of government is protecting its citizenry in times of conflict. Due to his past decisions, Head was unwilling, perhaps incapable, of it, evidenced by his lack of good sense and humility in sending away the Regulars and entirely depending on a militia force he would not arm.

Attempting to decipher the initial response of the militia in the rebellion is even more complicated when further examining the testimony of Fitzgibbon. Fitzgibbon recounts that in the week leading up to the revolt, he strongly suspected that the rebels would attempt to gain access to the store of weapons at the city's center before storming the government buildings.⁷⁵ Fitzgibbon was clearly on edge. He spent days scouring the city, attempting to round up loyal citizens who could arm themselves against the suspected rebellion and stand guard over danger areas.⁷⁶ According to Fitzgibbon, Bond Head “pettishly refused” his offer of a volunteer militia manning the city.⁷⁷ The beleaguered Colonel even penned Governor Head a letter stating that the colony needed to call out the militia post-haste. Instead of heeding this advice, Sir Francis had the letter printed in the newspaper the following day to discredit the threat and argue that peace would prevail. Frustrated, Fitzgibbon remarked that Bond Head felt he could “keep all in peace and safety with his own Goose Quill.”⁷⁸

⁷⁴ Fitzgibbon, *Appeal*, 20.

⁷⁵ *Ibid*, 11.

⁷⁶ *Ibid*, 11-12.

⁷⁷ *Ibid*, 11.

⁷⁸ *Ibid*, 11.

Meanwhile, the insurrectionists had amassed in respectable numbers at Montgomery's Tavern, a roadside inn on Yonge Street outside of Toronto. The call for their rendezvous and the attack on Toronto had gone out the month prior, after it was known the regulars had departed the province and large amounts of guns and ammunition remained behind, unguarded.⁷⁹ Mackenzie chose the tavern because of its size and attendance of owner John Montgomery at previous reform meetings, even though Montgomery's willingness to host the reformers and even his willingness to be involved in armed insurgency is a matter of contention.⁸⁰ A different man, however, named John Linfoot had recently rented the tavern from Montgomery for use as his own business, taking possession of it on December 1, the day before rebels began to trickle in.⁸¹ While Montgomery continued to own the building that housed the tavern, he lived nearby while Linfoot leased the building and ran the day-to-day operations. This was unknown to the rebels until their arrival. Instead of being greeted by the potentially sympathetic Montgomery, they were met with by the stout tory supporter Linfoot who had no patience and little sympathy for reformers.⁸² Unaware or uncaring of the change in proprietorship, men from the rural areas outside the city steadily continued to convene at the tavern until they numbered almost 1000. Whatever William Mackenzie was, he was far from a capable military commander. Along with the other rebel "commanders" Dr. John Rolph, Samuel Lount, and Peter Matthews, they had not adequately prepared for the arrival of so

⁷⁹ Kilbourn, *The Firebrand*, 188.

⁸⁰ Edwin C. Guillet, "MONTGOMERY, JOHN (d. 1879)," in *Dictionary of Canadian Biography*, vol. 10, University of Toronto/Université Laval, 2003.

⁸¹ Margaret McBurney and Mary Byers, *Tavern in the town: Early inns and taverns of Ontario* (Toronto: University of Toronto Press, 1987), 109.

⁸² Read and Stagg, *Rebellion of 1837 in Upper Canada*, 148.

many men, and many abruptly deserted shortly after their arrival due to a deficiency of provisions.⁸³

As the rebels amassed at Montgomery's, Fitzgibbon was forced to take matters into his own hands. Told by the Chief Justice and Head that he was needlessly alarming people, he quietly readied a militia force. On the night of December 4, an escaped prisoner of the rebels arrived in the city and informed them that he believed the rebel fighting force to be several thousand strong and on the march.⁸⁴ At this time, the stories of both Bond Head and Fitzgibbon finally intersect. After months of disagreements, slander, and arguments, Bond Head was finally forced to accept that rebellion was imminent, and the militia must be officially assembled. And assemble it did, as 1200 armed men and several cannons gathered over the coming days and began to prepare for their march on Montgomery's Tavern.⁸⁵

Before the militia fully muster, however, the rebels began their "assault." About 700 rebels who accompanied one of the revolt leaders, Samuel Lount, began to march towards the city.⁸⁶ Even though several hundred of the insurgents lacked guns, in hindsight, this attack had the highest chance of success out of any rebel-led engagement for the duration of the uprising. The city was still practically defenseless while Fitzgibbon scrambled to assemble troops; initially, the only resistance was a small detachment of 27 militiamen who defended the road at the garden of a Toronto citizen. Upon meeting the rebels on the road, the sparse militia force immediately opened fire, downing a single rebel in the action. The rebels who were actually armed returned fire with a quick volley

⁸³ Dent, *The Story of the Upper Canada Rebellion*, 67.

⁸⁴ *Ibid*, 79-81.

⁸⁵ Kilbourn, *The Firebrand*, 221.

⁸⁶ Dent, *The Story of the Upper Canada Rebellion*, Vol. 2. 146-147.

but could not hit their mark, and all militiamen remained standing.⁸⁷ What happened subsequently sums up much of the essence of the rebellion as a whole. After the front line of rebels fired their fruitless volley, they dropped to the ground to allow their fellows behind them to continue the fight as they reloaded rifles and muskets. However, to the men in the column's rear, it looked as if the sharpshooting militia had just decimated the entire front line of their force. Pandemonium rained as the rebels turned in flight, pelting back up the road to the relative safety of Montgomery's Tavern and leaving the victorious militia feeling bemused at their victory against a fighting force of 700 with their tiny guard of 27.⁸⁸

The next day, the bulk of the militia had gathered in Toronto and was prepared to march to the rebellion headquarters at Montgomery's. Thus, the forces of the Upper Canadian militia for fighting the rebellion was finally assembled. Certainly overdue but keen for a battle, they immediately began to make their way outside of the city to greet the rebels. By midafternoon on December 7, the heavily armed loyalist forces stood in front of the makeshift rebel base. Armed with shiny bayonets and powerful cannons, spurred on by drums and led by Lieutenant-Governor Head, this amateur force stepped up ably as replacements for the British Regulars. However, the rebels were prepared. They opened fire on the government's forces with some of their detachment hidden in the nearby woods. The militia responded in kind, blasting a cannonball that went straight through the tavern's window and exploded on the other side, along with their volley of musket fire. Such devastation was all the rebels needed to see. For many who desired a bloodless insurrection, the risk of capture or death was a difficult option to accept.

⁸⁷ Ibid, 147.

⁸⁸ Ibid, 147-149.

Reformers fled from the tavern and sprinted across fields back to their quiet lives of relative obscurity on farms and villages. The 'battle' of Montgomery's Tavern was over as soon as it had begun, lasting no more than a few minutes. One rebel lay dead, while a handful of combatants on each side were wounded.

The victorious government forces cheered at the sight of the fleeing rebels while many took off in pursuit after them. Montgomery's tavern now stood empty, damaged by the cannon but otherwise unscathed. It seemed like the fighting was over, and the rebellion had been broken. Francis Bond Head, however, was not finished. Parading around grandly on his large stallion at the head of a victorious 'army,' he believed a show of force was needed, something that would symbolize the victory over those who had sought to destabilize the British Empire. In a gesture meant to "mark and record, by some act of stern vengeance, the important victory that had been achieved" Head ordered the tavern burned to commemorate that the loyalist militia had "triumphed over their perfidious enemy, responsible government."⁸⁹ Sir Francis seemingly did not care that the edifice was privately owned by John Montgomery. While Montgomery was a suspected reformer, that allegation was never proved; still, it seemed as though the Head could rationalize his decision this way.

While Montgomery's Tavern burned, Francis Bond Head made another choice that would reverberate through Upper Canadian politics and the claims for losses petitions in the coming years. He was well aware that the home of another suspected rebel, David Gibson, was nearby. Sir Francis dispatched several militia members to give the same treatment to Gibson's house that had been given to Montgomery's building.

⁸⁹ Head, *The emigrant*, 185.

While Gibson was not at home, his family was, a detail of no consequence to the militia. They ushered Gibson's wife and children into the snow, burned their house to the ground, and made off with all of the man's valuables and livestock.⁹⁰

The rebels' rout had already been completed and victory was assured for the loyalists when Head decided to incinerate the erstwhile base of the rebels. It stood empty and forlorn as the rebels escaped.⁹¹ Head, however, never seemed to be a man prone to considering future consequences for present actions. He clearly felt a gesture had to be made. For a government that initially felt that "not 50 men could be found to take up arms against the province,"⁹² finding close to 1000 rebels holed up in a tavern and ready to challenge British colonial power in Upper Canada must have shocked Head. To make a final point on the tense relationship between Fitzgibbon and Head concerning the handling of the militia, Fitzgibbon was openly displeased and angered by the burning of the tavern, as well as Gibson's home. He felt that committing such an act against a thoroughly defeated enemy, and on private property, was not conducive to military integrity and should be avoided by any honourable commander.⁹³ While Fitzgibbon was a loyal soldier first and foremost, his opinion as a vital member of civic society should also be valued.

In 1837 and beyond, Lieutenant Governor Sir Francis Bond Head was generally viewed by the British ministry as having done a poor job of handling the rebellion. The Prime Minister in 1837, Lord Melbourne, refused Head's attempts to plead his case to

⁹⁰ Fitzgibbon, *Appeal*, 29.

⁹¹ Guillet, *The Lives and Times of the Patriots*, 25-26.

⁹² Kilbourn, *The Firebrand*, 198.

⁹³ Fitzgibbon, *Appeal*, 28.

clear his name and to receive another colonial posting.⁹⁴ When Head petulantly complained to Melbourne that he deserved recognition for saving the colony, Melbourne's dry rebuttal reputedly was, "You see Head, you are such a damned odd fellow."⁹⁵ It was widely known that much of the disaster could have been averted if Head had heeded the clear rumblings of insurrection that continued to grow throughout the province. Lord Durham's famed "Report on the Affairs of British North America" was no kinder to Head's legacy, criticizing the lieutenant-governor for instigating the rebels and allowing them to assemble.⁹⁶ Instead of confronting the discontent, the government allowed it to fester until it led to a violent national incident that was put down only with violence and arson against the population, demonstrating the government's overreach. Glenelg, who remained silent on Head's dispatches after recalling him due to constant insubordination regarding his treatment of reformers and his actions in the rebellion, still received Head's letters of the happenings in the province and was unimpressed by them, as were other members of parliament. As one cabinet minister said: "At our meeting today we had read to us a most ludicrous dispatch from Head, giving an account of his defeat of Mackenzie's attempt upon Toronto. Glenelg also read to us a private letter from Head, equally absurd."⁹⁷

While discontent and anger against the government had been growing for some time, once the dust settled after the rebellion in Toronto and the insurrectionists were scattered throughout the colony and into the United States, where they plotted anew, the

⁹⁴ Buckley, *The once and future king*, 95-97.

⁹⁵ *Ibid*, 96.

⁹⁶ John Lambton, Earl of Durham, *The Report on the Affairs of British North America* (London: J.W. Southgate, 1839), 79-80.

⁹⁷ Monica Muga, "The Hapless Hero who Saved Upper Canada," *Macleans Magazine*, October 16, 1965.

work was just beginning for the government of Upper Canada. Head departed in March 1838, but his legacy of willful destruction against citizens remained. The losses and damages suffered by the civic population that December convinced the government that these citizens deserved compensation. Citizens whose homes and property had been damaged by rebels submitted requests to the government for compensation. As a result, the assembly authorized a claims for losses commission to adjudicate claims by petitioners. On March 6, 1838, legislation titled 'An Act to authorise the appointment of Commissioners to investigate the claims of certain inhabitants of this Province for Losses sustained during the late unnatural rebellion' passed.⁹⁸

Once commissioners began examining claims for losses from irate citizens, several details became of immediate concern. First, many people lodged complaints against government representatives themselves, in particular against the militia, which accounted for the bulk of these damages. Their actions within the colony and against their own people were often disturbing and violent. While the militia consisted of commoners, they were weaponized in a harsh and punitive manner by the executive as a means of cowering other commoners, such as with the events concerning Montgomery's Tavern and Gibson's home. Rather than simply dispersing the rebels and claiming victory, Head used the militia to further his punitive goals, paying no heed to the importance of principles of military restraint or of the civilian justice system. Rather, he punished members of the civic population by destroying their private property and denying them any sort of compensation. At this juncture, the relationship between governed and governors had taken a clear and drastic turn into abuse of power, with the militia being paradoxically

⁹⁸ "Act to authorize the appointment of Commissioners to investigate the claims of certain Inhabitants of this Province, for losses sustained during the late unnatural rebellion," in *Journal, 1837-38*, 39-41.

weaponized against their fellow commoners by the executive. Even beyond December 1837, the militia behaved poorly throughout the colony, bolstered by their confidence in indemnification given to them by the assembly.

Of equal or greater importance was the lack of government acknowledgement of responsibility for the destructive actions of their representatives. As stated, the claims for losses commission was implemented on March 6 to appease certain people, as well-known and respected individuals had lost property in the affair. However, the assembly passed another bill on March 6, 1838, immediately before the act creating the losses commission. The passage of an "Indemnification Act," would profoundly shape the saga of the claims for losses. The Indemnification Act was passed to absolve people involved in putting down the rebellion of all responsibility, which meant the governors would have the least amount of accountability to the governed.⁹⁹ The full title of the legislation was 'An Act for indemnifying persons who since the Second of December, one thousand eight hundred and thirty-seven, have acted in Apprehending, Imprisoning, or Detaining in Custody, persons suspected of High Treason, or Treasonable Practices, and in the Suppression of Unlawful Assemblies, and for other purposes therein mentioned.' Several of the early petitions were against the government due to the militia excesses and impressment of ships to transport troops and cargo. The act became a way for the government to reject responsibility and avoid paying claims, regardless of deservedness. In its opening meeting, the claims commission rejected many claims on the basis of the Indemnification Act and from the particular language in the act that created the claims for losses commission. Both were used effectively as a means of self-indemnification for the

⁹⁹ "Indemnification Act," in *Journal, 1837-38*, 39-41.

government as they continued their decades-long abuse of power in Upper Canada. The large amount of rejected claims exacerbated an already existing issue.

John Montgomery suffered one of the larger losses for the burning of his building but was unable to submit a claim until years after the event. Politically moderate, he attended Mackenzie's early meetings but wanted no part of an armed revolt, and yet became swept up in the events against his will.¹⁰⁰ Regrettably, it seems as though Montgomery's only crime was having the tavern named after himself. After the battle and the destruction of the edifice, Montgomery was quickly arrested. According to his written account, his trial was an utter farce with unsubstantiated claims and questionable testimony by those blinded by a hatred of responsible government.¹⁰¹ After escaping his imprisonment and fleeing to the United States, Montgomery was eventually pardoned and returned to Upper Canada. Upon his return, he attempted to recoup his massive losses from the wanton destruction of his property at the hands of the militia and Sir Francis Bond Head.

Montgomery's petitions give further evidence that the government did not take kindly to the claims for rebels' losses, proven or suspected. In his 1861 petition, Montgomery was still battling against the obvious injustice of his lost business.¹⁰² Even a quarter-century after the rebellion, Montgomery was still harshly victimized for the unfounded charges for which he'd been cleared. Concerning civic opinion, it is clear why individuals would be willing to explicitly claim unwavering loyalty rather than end up

¹⁰⁰ "Petition of John Montgomery," In *To the Honourable the Legislative Assembly of the Province of Canada, In Provincial Parliament Assembled: The Humble Petition of John Montgomery, of the city of Toronto, Hotel-Keeper... 4th Session, 6th parliament, 24 Victoria* (Quebec: Thompson, Hunter, & Co, 1861), 1-3.

¹⁰¹ Ibid.

¹⁰² Ibid.

like John Montgomery. In his 1861 claim, Montgomery claims loyalty to the crown and condemns the rebellion as a whole, but was rejected due to past prejudices.

John Montgomery attempted three times to receive compensation from the government for his burned tavern and was rebuffed each time until 1873, when, near the end of his life, a private commission deemed him entitled to \$15,000 for his loss. Despite that recommendation, he was given only \$3,000. Gibson and his family received a similar treatment, as the government had dangerously overstepped its boundaries by indemnifying itself against almost all claims placed against it.¹⁰³

John Linfoot's claim for losses provides a fascinating case to be studied regarding the initial governmental abuse of its citizenry and neglect to compensate them. While Gibson and Montgomery were targeted and initially disallowed from the claims process due to their "crimes," Linfoot was the very definition of collateral damage. Linfoot was leasing the tavern from the more reform-minded Montgomery. Unlike the building proprietor, he was a stout tory and had little patience or sympathy for the reformers.¹⁰⁴ Upon the arrival of close to one thousand irate protestors who were prepared to agitate for reform, Linfoot stayed the course of a pro-government ally. As a single tory bobbing in a sea of rebels, his chances of halting the insurrection were zero. However, Linfoot still made life for the rebels miserable by forcing Mackenzie to set out an installment of funds before he would even attempt to serve them.¹⁰⁵ By doing this, he became a noisome irritant to the rebel instigator who "shrieked and screamed at him, shook him by the collar, and threatened the direst consequences."¹⁰⁶ The modest funds Mackenzie had

¹⁰³ Guillet, "MONTGOMERY, JOHN".

¹⁰⁴ Read, *Rebellion of 1837 in Upper Canada*, 148.

¹⁰⁵ Dent, *The Story of the Upper Canada Rebellion*, 48

¹⁰⁶ Ibid.

procured were already at a dangerously low level for a man who wished to lead a successful campaign against the British Empire.

In the conflagration of the tavern ordered by Head, Linfoot and his family lost all their moveable possessions. In his petition from January 19, 1838 Linfoot provided pages of lists of items lost to support his claim, as he lost all his belongings and the food, liquor, utensils, and furniture required to keep an adequate hotel and tavern.¹⁰⁷ The commission accepted the veracity of Linfoot's claim, as they even stated in their report that "it is well known that the said Inn with its contents was destroyed by the constitutional force which attacked the rebels at the said inn."¹⁰⁸ The commissioners finish their report by stating that "your Committee, from the examination of the evidence, consider the said John Linfoot justly entitled to the £350 for the loss he has thus sustained."¹⁰⁹ While the commissioners supported Linfoot in his attempt at compensation, the Indemnification Act prohibited the commissioners from recommending the sum of £350 to which they deemed him to be entitled. Significantly, the commissioners made recommendation, the final decision on claims was left to the government and the lieutenant-governor. They could refuse claimants based on the previous legislation they had passed or decline to make payment when unable to do so. While the commission was usually forthright about rejecting claimants who attempted to accuse the government of wrongdoing, their treatment of Linfoot's claim and attempted acceptance of it is fascinating. Of course, the nature of his claim is unique compared to others, as a known tory forced to remain with

¹⁰⁷ "Claim of John Linfoot," in "Report of Commissioners on Claims for Losses" (hereafter "Claims for Losses"), In *Appendix to Journal of the House of Assembly of Upper Canada, in the first year of the reign of Queen Victoria: being the third session of the thirteenth provincial parliament... session 1837-8* (hereafter *Appendix, 1837-1838*), (Toronto: Printed at the Patriot Office, 1838), 409-412.

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*

the rebels through no fault of his own. In contrast, Montgomery and Gibson could easily be brushed off due to their perceived allegiance to the rebels. However, Linfoot was regarded with a much kinder eye by the commission, as loyalty played a massive role in the entire claims for losses saga.

Suspiciously enough, however, it must be noted that Linfoot had the chance to flee the tavern and perhaps even warn Lieutenant-Governor Francis Bond Head and other officials of a forthcoming assault on British sovereignty and chose not to.¹¹⁰ Perhaps the sense of loyalty that beat so passionately in the breasts of certain citizens surrounding this event was lost on Linfoot as he considered the profit that could be made from being the grudging landlord to a group of rebels. Alternatively, as he attempted to argue in his petition to the losses commissioners to bolster his claim, he was "taken prisoner by the rebels and detained by them."¹¹¹ Regardless of Linfoot remaining, he seems to have been a trusted citizen, based on his claim for losses after militia destroyed the tavern and his possessions. For his claim, he appeared before a justice of the peace to plead his compensation case and was accepted with little question, as he "wasted no time in self-righteously proclaiming his blamelessness."¹¹² This call for blamelessness has caused other writers, such as JC Dent, to believe that Linfoot was not a faithful Tory but rather a man who was only concerned with his profits. However, the two do not have to be mutually exclusive, nor is it impossible for there to be considerable nuance in one's loyalties. As Dent says, "He was simply a man of no politics whatsoever, who believed in

¹¹⁰ Murray F. Greenwood and Barry Wright, eds. *Canadian State Trials, Volume II: Rebellion and Invasion in the Canadas, 1837-1839* (Toronto: University of Toronto Press, 2002), 73.

¹¹¹ "Claim of John Linfoot," in "Claims for Losses," In *Appendix, 1837-1838*, 409-410.

¹¹² Mcburney and Byers, *Tavern in the Town*, 109.

looking sharply after his own interests."¹¹³ This viewpoint is contrary to other works concerning this topic, such as Colin Read's *Rebellion of 1837 in Upper Canada* which explicitly states Linfoot to have been a tory.¹¹⁴ Clearly, everything pertaining to the claim of John Linfoot must be viewed with a certain amount of healthy skepticism. There are enough conflicting statements on Linfoot's true loyalties from contemporary sources and from later authors to allow for a certain amount of legitimate questioning about his account's accuracy. However, we can deduce through the evidence in the claim and witness accounts that specific actions were proof of his motives, even when they were not clearly expressed. For example, Linfoot's reluctance to flee the rebels upon their arrival tells that his loyalties may have been connected to currency rather than empire. Far from being a baseless knock on the character of Linfoot, it is a more realistic look into the motivations of all those who submitted claims, and that a gray area between loyalty and reform is not an unreasonable possibility.

Linfoot probably felt he had to remain at the tavern in an attempt to guard his valuable property instead of rushing off and leaving everything in the hands of the rebels, even though his claim explicitly declared that his efforts were for naught. This was the same argument, albeit with very different results, used by the defendants in the treason trial of John Montgomery, as they stated he remained behind to ensure the safety of his livelihood.¹¹⁵ The difference therein lies in the perceived notion that Montgomery was a reformer and Linfoot a tory. Regardless of loyalties, however, Linfoot was unable to overcome the indemnification legislation of the Upper Canadian government and was

¹¹³ Dent, *The Story of the Upper Canada Rebellion*, 48-49.

¹¹⁴ Read, *Rebellion of 1837 in Upper Canada*, xlii.

¹¹⁵ "Petition of John Montgomery," In *"To the Honourable the Legislative Assembly,"* 1-3.

thus left off the 1839 act to provide payment for those the commission and government deemed worthy of compensation from December and January 1837.¹¹⁶ The rejection of Linfoot, recognized by the government as one of their own, is quite telling. While loyalty and allegiance were praised as being of the utmost importance for citizens, the government established in the rejection of his claim that fealty was not always the precursor to pecuniary protection in the claims for losses.

Beyond protecting the colonial powers from the losses originating from Sir Francis Bond Head's actions, the Indemnification Act also gave the militia and government the unprecedented ability to commit crimes against non-combatants and civilians throughout the conflict without fear of repercussion. The militia likely drew significant confidence while under the brief yet mercurial command of Lieutenant-Governor Head, as they were not only allowed to burn the business and homes of Montgomery, Gibson and Linfoot, but encouraged to do so. As the Indemnification Act protected these radical actions, the government was spared from handling the expenses. The decision of Sir Francis Bond Head to burn Montgomery's Tavern and Gibson's home to the ground is a perplexing one and became the root of a more significant issue as the rebellion progressed. Regardless of whatever threat to British sovereignty was assumed by Sir Francis Bond Head and his loyal militia force, they acted irresponsibly, demonstrating the dangers of government overreach by destroying the private property of Upper Canadian citizens. As Fitzgibbon's writings assert, he believed that the militia had begun the conflict poorly. In this respect, Fitzgibbon was right to be concerned about the

¹¹⁶ "An Act to make provision for the payment of certain losses, sustained by sundry individuals therein named. Passed 11th May, 1839," in *Journal of the House of Assembly of Upper Canada, in the second year of the reign of Queen Victoria: being the fourth session of the thirteenth provincial parliament. Session 1839* [hereafter *Journal, 1839*], Vol. 1. (Toronto: James Cleland, 1839), 246, 388.

destruction of private property when viewing these questions through the lens of the claims for losses. In the following years, not only was Fitzgibbon's prediction of an assembled rebel force correct, and Head wrong to ignore it, his knowledge of the law as a veteran soldier and the criminality and consequences that could arise from giving the militia free reign to loot and destroy should be recognized as well. Due to the excesses allowed them early in the rebellion and the act that protected the government from repaying their damages, the militia and the government were responsible for over 50 petitions between 1838-1840.

As is clear from the story of political disagreements and quarrelling throughout the early 19th century in Upper Canada, multiple cases of abuse of governmental power existed and were used against the populace. Robert Gourlay's unfortunate spat with the Family Compact, the fiscal woes caused by the corruption surrounding the Welland Canal, William Lyon Mackenzie's grievances and audience with the colonial secretary, and the abuses of Sir Francis Bond Head all culminated in the rebellion of 1837. The fractured relationship between the governed and governors could theoretically have been rectified to a degree by the potential support from the claims for losses commission. However, the Indemnification Act and general rejection of the vast majority of petitions exacerbated the issue further. Chapter two will deal with the rejected claims stemming from the militia and the government in greater detail. It is clear that the executive's actions before and during the rebellion tainted the militia, and its ability to act with impunity spurred on by their governor. Not only was the government responsible for the loss of Montgomery's business, Linfoot's possessions, and Gibson's home between December 4-7, but also damage to several ships docked for the winter in the Toronto

harbour. The ships, mostly fishing vessels, were impressed into service and damaged while transporting militia troops and other cargo at the government's behest at the beginning of the rebellion. Many of them incurred damages, and many were also met with rejection from the claims commission, much to their surprise. By indemnifying the militia, the assembly and government refused responsibility by putting the burden on individual citizens, and the burden becomes such that the petitions begin to mark a new burgeoning protest.

CHAPTER 2: The Government's Representatives

While examining the Claims for Losses from 1837-40, it quickly becomes apparent that the commissioners summarily rejected many claims. Despite their initial propensity to successfully acknowledge requests that were the consequence of rebel violence during the preliminary fighting in December of 1837, generosity from the government was short-lived. After the passage of the act, the first round of appeals that brought the Claims for Losses Commission to life accepted all claims placed against the rebels- something that would never occur again. However, the initial round of petitions also put pressure on the commission regarding complaints inimical to the government. Such letters were often critical of the administration and pressured the colony to accept liability for the extensive damages. Unfortunately for many citizens of Upper Canada, claims that could even be slightly construed to accuse the government of misconduct were found to "not be within the scope" of the commission.¹¹⁷

In taking a strong stance against accepting any blame for any losses suffered by civilians during the rebellion, the government not only indemnified itself, but it rejected responsibility for its citizen-militia. An inspection of the disallowed claims addresses several key questions, such as what the government viewed its responsibility to be when they themselves were responsible for losses, and how the rejected claims impacted the citizens who suffered the losses. Those answers, in turn, provide crucial insight into the rebellion of 1837-38. Firstly, the petitions themselves give poignant information on how common people experienced the rebellion and how it affected them. The impact on the

¹¹⁷ "Claims for Losses," in *Appendix, 1837-1838*, 409-411.

populace was considerable, and probably greater than other scholarship has shown. While thousands took up muskets or pikes, some in rebellion, some on behalf of the government, thousands more remained relatively inactive until forced into the governmental record through the actions of government representatives and the militia. This chapter focuses on claims for damages that petitioners saw were caused by the government and militia. It begins with a description of the events centered directly on Toronto in December 1837 and the damages incurred, specifically the losses sustained by various individuals who owned watercraft that were put into service for the government's use. The focus then shifts to claims against the militia itself during 1838. The Upper Canadian militia played a substantive role in the insurrection, as it was the civilian institution that bridged the gap between governed and governors. The executive used it forcefully to destroy the properties of commoners, and in turn gave it license to continue in their destruction as the rebellion dragged on. John Montgomery, John Linfoot, and David Gibson were far from the only petitioners to suffer at the hands of the civilian defenders of Upper Canada. These other claimants, along with their petitions and the events they describe, demonstrate the questionable conduct of the militia. These petitions will be examined as a means of better understanding the role Upper Canada's volunteer defenders played in the rebellion, the infractions, if not crimes, against its citizens, and what the response was from the claims for losses commission. These petitions provide valuable insights into the often abusive relationship between governors and governed, and breakdown of the obligations of protection and reciprocal responsibility to the other at the heart of sovereignty and society.

A common theme in conflict is the necessity of citizens to take on additional responsibility in support of the cause of suppressing the rebellion. The disjointed rebellion was a far cry from a traditional military encounter, but the opening stages of the insurrection were cause for serious concern. Francis Bond Head's dismissive denial of the brewing situation and his dispatching of all British troops to Lower Canada left Toronto utterly bereft of British regulars, and the militia had yet to muster. When an attack on the city was imminent, a mere 150 militiamen were found to defend the city against far greater numbers of rebels, who stood at 800.¹¹⁸ The lack of regulars called for more militiamen to muster, and many citizens rose spectacularly to the call, as was expected of them as loyal subjects.

From December 4-7, 1837, militia officers and government officials asked for civilian vessels to be put in the water to aid the cause, resulting in three of them sustaining serious damages. The initial report on the claims for losses shows that the government could reasonably be held to account for the damage to them, but the commissioners denied their claims. The effects of the Indemnification Act were a basis for the indignation of various petitioners who unhappily discovered their applications were 'outside the scope' of the commission after suffering debilitating losses. When the rebellion commenced, several privately owned ships were impressed into public service. The term 'impressment' is used loosely, as some petitioners accepted payment for use of their vessels while others initially allowed their vessels to be used in defence of Toronto without charge.

¹¹⁸ William Lyon Mackenzie, *Mackenzie's own narrative of the late rebellion with illustrations and notes, critical and explanatory: exhibiting the only true account of what took place at the memorable siege of Toronto, in the month of December, 1837* (Toronto: Palladium Office, 1838), 12.

One of these vessels was the schooner *Prosperity*, owned by Mr Cleghorn and Mr Blain.¹¹⁹ They had put *Prosperity* up for the winter, and thus it was out of service in early December when the attack on Toronto that set the insurrection in motion was anticipated. According to the petition, the owners were ‘ordered to get her ready’ to bring volunteer militiamen to Toronto to bolster the city’s defences against the startling number of irate reformers. Apparently, Cleghorn and Blain had no concerns about the schooner being pressed into service and conveyed the militia to Toronto from Port Credit.¹²⁰

Upon arrival in the city, other government officials approached Cleghorn and Blain, attempting to ensure the schooner could continue performing the government’s bidding. The officials did not coerce the proprietors to allow the continued use of *Prosperity* without payment. Instead, they were offered £23 15 shillings, ‘a sum higher than the usual rate’, to continue to Port Dalhousie and collect pork and flour to guarantee the new influx of troops would remain provisioned.¹²¹ As they stood to gain financially from the request, Cleghorn and Bain acquiesced to the plan with no misgivings. However, strong winds ensured they never made it to Port Dalhousie, and they were forced to drop anchor in Toronto Harbour on December 9, 1837. Unfortunately for the owners of *Prosperity*, these same strong winds made the schooner drag anchor causing sustain considerable damage in the night, amounting to £150.¹²² The commissioners valued the schooner at £300, and thus the damage was half its value.

¹¹⁹ “Claim of Cleghorn and Blain,” in “Claims for Losses,” in *Appendix, 1837-1838*, 409-410.

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² *Ibid.*

Despite solid evidence corroborated by witnesses, the owners' claim for *Prosperity* was unfilled by the government.¹²³ This is not to insinuate that the refusal was due to a lack of proof or the commissions' disbelief. Because of the very narrow definition of what constituted 'acceptable' damages, the commissioners openly doubted the possibility of the claim's fulfilment and questioned whether the government or the petitioners should furnish the cost.¹²⁴ Obviously, the administrators did not feel capable of deciding on the issue and instead passed the question to the House of Assembly for consideration. The following year, an act was approved that ensured payment of accepted claims from the original petitioners. However, the names of Mr Cleghorn and Mr Blain are conspicuously absent, indicating that they were never granted their claim.

From the standpoint of government responsibility, the case for Cleghorn and Blain seems complicated to argue. A key realization is that they had already docked their schooner for the winter and it was 'ordered' into service by the government.¹²⁵ The schooner was significantly damaged in service to the government, but the owners were not reimbursed. The *Prosperity* would never have been in service in December or docked in Toronto without the government's interference, and it would have escaped damage if it had remained in Port Credit.

The act to create the commission on losses, passed in March 1838, provides insight into how the government could absolve itself of blame. In 'An act to authorize the appointment of Commissioners to investigate the claims of certain Inhabitants of this Province, for losses sustained during the late unnatural Rebellion,' the legislation states

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Ibid.

that the act was passed to reimburse Upper Canadians who lost dwellings to the rebels. The opening line stated: ‘Whereas during the late unnatural Rebellion, certain Inhabitants of this Province sustained much loss and damage, by the destruction of their Dwellings and other Buildings by the Rebels.’¹²⁶ Due to this technicality, and due to the Indemnification Act, the authorities could reject any claim for damage not sustained by a dwelling or other building and not caused by the rebels. Despite being responsible for the petitions rather than the legislation, the commissioners felt unable to consider losses outside the letter of the act.¹²⁷ In this case, a damaged ship fell outside their jurisdiction. It should not be stated, however, that the commissioners washed their hands of Cleghorn and Blain's claim after finding it outside their scope; rather, they sent the petition to the House of Assembly for its consideration. The petitioners were seemingly never reimbursed for this loss, evidenced by the commissioners' final report in 1839 regarding the initial losses caused by the rebels in Toronto. This report does not mention Cleghorn and Blain, nor any subsequent report until the final commission of 1845.¹²⁸ Not only did the legislation specify the damage needed to be done to buildings by the rebels, but the Indemnification Act, which removed responsibility from the government's representatives, allowed the claims to be rejected as well. The act allowed for the following:

¹²⁶“Act to authorize the appointment of Commissioners to investigate the claims of certain Inhabitants of this Province, for losses sustained during the late unnatural rebellion,” in *Journal of the House of Assembly of Upper Canada, in the first year of the reign of Queen Victoria: being the third session of the thirteenth provincial parliament... session 1837-8* [hereafter *Journal, 1837-38*], (Toronto: Printed at the Patriot Office, 1838), 39.

¹²⁷ “Claim of Cleghorn and Blain,” in “Claims for Losses,” in *Appendix, 1837-1838*, 409-410.

¹²⁸ 1837-38 Rebellion Losses of Upper Canada (publ. 1849), image reprint CD, (Milton, Global Heritage Press/GlobalGenealogy.com Inc., 2013).

all possible measures for apprehending, securing, detaining, and bringing to justice, persons charged or suspected of joining in the said insurrection, or of aiding and abetting the same, or of other Treasonable Practices dangerous to the peace of this Province, and the security of its Government, and also for the purpose of defeating and putting down the said insurrection, and for maintaining the peace of this Province, and securing the lives and properties of the inhabitants thereof.¹²⁹

The Indemnification Act, obviously far reaching and thorough, would be available as a reinforcement throughout the commission's tenure to ensure the claims did not require payment and was conveniently passed directly prior to the creation of the commission, as insurance against potential petitions inimical to their interests.

In the case of Cleghorn and Blain, it is more difficult to ascertain the party responsible for the damages than with most other claims. While they were not paid for their first contribution as a passenger vessel for loyalist volunteers, their decision to accept very generous pay and take a subsequent voyage to collect provisions may have doomed their chances of a successful claim, or the same consideration that was afforded the others. The first act of compliance was under orders; the second was a contract. The administrators examining the case could have considered the contract as grounds for the dismissal of the petition, as it was undertaken willingly and for considerable pay. Furthermore, the damage to the ship itself was not caused by rebels or even in service to the government: it was docked at the time and damaged by winds. Therefore, the

¹²⁹ "Indemnification Act," in *Journal, 1837-38*, 39-41.

commissioners could have had a difficult time convincing themselves that the government was liable. However, when considering the entire affair, the initial blame could still be viewed as remaining with the government, as they ordered *Prosperity* into the water when it had been put up for the winter. Clearly, Cleghorn and Blain believed their claim was worth submitting a petition, as it also suggests they were loyal men eager to support the government. A review of the claims from vessel owners shows that many were loyalists who worked to support Upper Canada, and by extension the Empire.

The *Prosperity* was not the only vessel to sustain significant harm in the storm on the night of 9 December, nor was it the only vessel whose damage caused a claim for losses. The schooner *Jane*, owned by Thomas Collins and Michael McNeeson, was also impressed into service at Port Credit on the same evening as the *Prosperity* to bring volunteer militia to Toronto.¹³⁰ Like other craft on the water that night in the government's service, the *Jane* was blown far off course and had to land downwind from the city of Toronto. The militia soldiers, the sole defenders of Upper Canada at this juncture, were able to safely make their way across a peninsula to begin fortifying the city against future attacks. Regrettably, *Jane* suffered in the harbour, with 'her bottom to being stove in', resulting in £23 of damage.¹³¹

The commissioners confidently stated in their report that the sum of £23 was an amount the petitioners were entitled to, and thus attempted to accept their reasonable claim.¹³² This assessment is at odds with the events surrounding the reconciliation of the

¹³⁰ "Claim of Michael McNeeson and Thomas Collins," in "Claims for Losses," in *Appendix, 1837-1838*, 410.

¹³¹ *Ibid.*

¹³² *Ibid.*

Prosperity's claims, in which the commissioners openly questioned its validity due to its contractual nature. Regardless of the commissioners' intent, the claim of Collins and McNeeson was left unfulfilled, as the 1839 legislation to fund the approved claims did not include them.¹³³ Some claimants were also reimbursed directly, confirmed by vouchers from the government, payable to the applicant and copied directly into the report. Collins and McNeeson were not granted this either. Therefore, despite clear evidence and an unabashed expression of government power in impressing *Jane*, the claim was rejected for the duration of the rebellion and was not resolved despite subsequent changes to the claims for losses legislation.¹³⁴

There is a fundamental dissimilarity in the administrative responses to the two very similar claims regarding *Prosperity* and *Jane*. In the case of *Jane*, the authorities freely believed that the relatively modest claim of £23 was an amount to which 'the owners seemed entitled'.¹³⁵ Despite an optimistic recommendation by the commissioners, the governmental powers above them evidently felt otherwise. Claims placed against the government itself were very unlikely to be honoured due to the language of the claims act, that damages be "by the Rebels" and by the Indemnification Act of 1838. The Indemnification Act acknowledges that the militia caused damage, and the government excluded any claim for which it might be responsible. Only in exceptionally unique or extraordinary cases was it even considered, and even then, compensation rarely materialized. Even cases like Collins and McNeeson's, despite appearing straightforward, were rejected on the premise that they were performing their duty to the government as

¹³³ "An Act to make provision for the payment of certain losses," in *Journal*, 1839, 246.

¹³⁴ *1837-38 Rebellion Losses of Upper Canada* (publ. 1849), image reprint CD.

¹³⁵ "Claim of Michael McNeeson and Thomas Collins," in "Claims for Losses," in *Appendix, 1837-1838*, 410.

an impressed vessel. The impact on the common citizen of this policy is difficult to overstate. Despite a willingness and enthusiasm to assist, the ministry did not deem their contributions worthy of recompense. This striking admission and rejection of responsibility by the executive seems a dereliction of duty.

The damage to *Jane* was also the cause for another submission: Collins, one of the proprietors, had a smaller boat aboard the schooner completely destroyed, along with a new fishing net. Collins submitted a separate claim, as these items were owned exclusively by Collins and amounted to £12 10s.¹³⁶ Of further detriment to Collins is that he also lost the means of his livelihood as a direct consequence of the damage, as he could no longer be employed as a fisherman without his boat or net.¹³⁷ The commissioners understood Collins' plight and recommended to their superiors that Collins be fully reimbursed £12 10s. Collins was not indemnified for his loss until 1846, when the final claims for losses bill indemnified all claimants found to be worthy of compensation.¹³⁸ Assuredly, this would have severely angered Collins. Despite proving his loyalty by allowing *Jane* to go into service to protect the government, he was not afforded the same protection in return. Such unfairness is at the very heart of the issue of rejected claims and government responsibility. While Collins fulfilled his end of the bargain, the silence from government administrators is notable. Collins had lost his ability to work and support himself, and the government turned a deaf ear to his pleas, notwithstanding the backing of the commissioners.

¹³⁶ "Claim of Thomas Collins," in "Claims for Losses," in *Appendix, 1837-1838*, 410.

¹³⁷ *Ibid.*

¹³⁸ *1837-38 Rebellion Losses of Upper Canada* (publ. 1849), image reprint CD.

A final claim for damages from the night of 9 December, 1837 was submitted for damage to the sloop *Nancy*, owned by Powell, Cairnes, and Bailey. According to their petition, *Nancy* was ‘safely moored at Nicholson’s Wharf, in Toronto, and at the time of the rebellion was loosed from her mooring, and fastened at McDonald’s Wharf, in Toronto, by direction of the authorities, to prevent any rebels escaping in her’.¹³⁹ The sloop was improperly fastened at her new mooring and during the night, the strong winds that caused damage to the other ships also took their toll on the *Nancy*, causing £60 in damage to a vessel the commission described as ‘old’.¹⁴⁰

The commissioners opined that the *Nancy*’s owners ‘are entitled to’ the sum, a variance from the report addressing the loss of *Jane*, in which it was only stated that the petitioners ‘seem entitled to’ compensation.¹⁴¹ Such a discrepancy may seem minor, but the semantics may also be meaningful. Surely, the owners of *Nancy* were the most deserving of any of the claimants with vessels. The sloop had been moved at the behest of the authorities for the sole purpose of keeping the risk of rebel escape at a minimum, a somewhat lame excuse. Nevertheless, the claimants followed the same trend as their fellow vessel owners and were not remunerated for their loss.

Despite the commissioners’ recommendations, they were potentially impeded by the language in the legislation that created their position. While they seem to have been unable to pass all claims when there was any doubt regarding responsibility, they were also inhibited by the precise language of the act. As explicitly specified that the act only

¹³⁹ “Claim of Powell, Cairns, and Bailey,” in “Claims for Losses,” in *Appendix, 1837-1838*, 409.

¹⁴⁰ *Ibid.*

¹⁴¹ “Claim of Michael McNeeson and Thomas Collins, in “Claims for Losses,” in *Appendix, 1837-1838*, 409.

encompassed “dwellings” in its parameters, all other types of lost or destroyed property could be disallowed based on a technicality alone. Of course, this was not consistently applied. As demonstrated in subsequent chapters, several claims were accepted and paid out despite not fulfilling the requirements of being a dwelling.¹⁴² It is difficult to say whether the government used this language to protect themselves in case of government wrongdoing or if they merely made the straightforward and uncomplicated assumption that it would, of course, be the rebels as the guilty party for damages, and highly unlikely the government would cause enough damage to warrant this language being put in place by design. It should be noted, however, that it was possible the government used the specific language regarding dwellings on purpose, as it was known that wealthy and loyal Torontonians had lost property to the rebels, and their positions as “tory partisans” would require reimbursement.¹⁴³

The actions in Toronto in December of 1837 were the preliminaries in what would become a far-reaching conflict, stretching throughout the southern region of Upper Canada. After the destruction of the rebel base, Montgomery’s Tavern, many insurgents took the opportunity to wash their hands of the relatively ineffectual insurrection. Several men were immediately pardoned by Sir Francis Bond Head, while others simply returned home, hoping to resume everyday life and forget their treasonous actions. They felt they had been led on by Mackenzie’s grandiose promises of victory, which had fueled their burning desire for large-scale reform.¹⁴⁴

¹⁴² “Act to authorize the appointment of Commissioners,” in *Journal, 1837-1838*, 39-41.

¹⁴³ Alexander Mackay, *The Crisis in Canada; the vindication of Lord Elgin and his cabinet, as to the course pursued by them in reference to The Rebellion Losses Bill* (London: James Ridgway, 1852), 30.

¹⁴⁴ Dent, *The Story of the Upper Canada Rebellion*, 450.

Other rebels were less fortunate: they did not have their transgressions overlooked or the luxury of relegating the rebellion to the past. Samuel Lount and Peter Matthews – leading, famous rebel leaders – were executed on 12 April 1838, for their roles in inciting the rebellion. Unlike many others who abandoned the rebellion for fear of persecution, Lount and Matthews held steadfastly to their confidence in the cause. Lount’s final words at his hanging were, ‘Be of good courage boys, I am not ashamed of anything I’ve done. I trust in God, and I’m going to die like a man.’¹⁴⁵

Many of Matthews and Lount’s compatriots did not share these admirable sentiments on their role in the fighting. James Nickalls, the president of the Board of Inspectors for the Provincial Penitentiary, penned his ‘Report’ in 1838, which examined the individuals who were arrested and sentenced for their part in the troubles. It stated that many condemned their own actions in the rebellion. Nickalls did this at the behest of the lieutenant-governor, who desired to know the ‘circumstances and conditions of life’ of these accused rebels.¹⁴⁶ These prisoners claimed they were unaware of the lengths to which the leaders were willing to go in their hunt for reform, and that they had no desire to fight against the government.¹⁴⁷ Many of the arrested rebels served quite short prison sentences, from a month to several years, while others found guilty of more serious crimes were sent to Van Diemen’s Land (Australia).¹⁴⁸

¹⁴⁵ E.C Kyte (editor), *Old Toronto: a selection of excerpts from Landmarks of Toronto, by John Ross Robertson* (Toronto: Macmillan, 1954), 133.

¹⁴⁶ James Nickalls, “James Nickalls Report, 1838.” In *Penitentiary Patriots: Upper Canada Rebellion, 1838*, ed. Linda Corupe and Brian Latham, (Bolton: 2015), i.

¹⁴⁷ *Ibid.*

¹⁴⁸ *Ibid.*, 13.

Although most rebels either blended back into traditional society or served time in prison, the leaders did not have this luxury. They included Lount and Matthews, Dr John Rolph, Dr Charles Duncombe in the Western District, and the most famed agitator of all, William Lyon Mackenzie. They escaped the wrath of the empire by fleeing across the border into the United States, a bastion from which they could plan subsequent invasions.

Mackenzie, in particular, was very successful in inciting US citizens to throw themselves into the fray. While the Canadian rebels had been almost entirely suppressed, hundreds of Americans desired to join the struggle for republicanism. In fact, the desire to establish republicanism, rather than monarchism, in the British Empire was the driving factor in convincing American ‘Patriots’ to venture to Upper Canada to wreak as much havoc as possible.¹⁴⁹ Despite their small numbers (the Patriots probably never numbered over 1000), they created severe discontent in Upper Canada, burning and pillaging in numerous forays across the border. They were probably no better systematized or prepared than their rebellious Canadian counterparts who had tried to overthrow the government at Montgomery’s Tavern. However, while their organization was inadequate, the Patriots had a penchant for destruction, unlike the Canadians. As is demonstrated by the claims for losses, very few of the losses incurred were caused by Upper Canadians themselves. Despite damages caused by the militia and William Lyon Mackenzie, it seems the ordinary Upper Canadian citizen, even an insurrectionist, was unlikely to burn or attack friends and neighbours’ homesteads.

¹⁴⁹ Guillet, *The Lives and Times of the Patriots*, chap. VII, para. 10.

This is not a trivial point. The earliest claims for damages dating from 1837–38 demonstrate a low inclination for destruction from the Canadian rebels. Of the 10 claims considered at the commissioners' first meeting, the majority were not caused by the rebels. John Linfoot's claim was caused by the actions of the government, as were the petitions of the owners of the ships *Nancy*, *Prosperity*, and *Jane*, which suffered damage at the hands of the elements due to governmental mismanagement. The claim of a Mr. Usher was against the militia, as was the future claim of John Montgomery, the result of the conflagration that caused Linfoot's complaint.

The damages caused by the rebels were restricted to a few events, which nevertheless resulted in several claims on each side. The destruction of Dr Robert Horne's residence on 4 December 1837 was committed by William Lyon Mackenzie due to a personal vendetta.¹⁵⁰ Mackenzie seemed crazed as he forced entry into the house and screamed at Horne's family before setting the large dwelling ablaze, injuring no humans but killing the family dog.¹⁵¹ These hectic events resulted in claims from Dr Horne and his servants, who lost possessions. One of the only other major claims that may be attributed to the Canadian rebels was that of Margaret Washburn, whose extensive property with multiple buildings was burned on the night of 7 December 1837, precipitating a claim for losses that was submitted on February 24, 1838.¹⁵² Horne and Washburn were likely targeted due to their wealth as large property owners; they may have been viewed as beneficiaries of the government.¹⁵³ Less wealthy Upper Canadians, whether loyalists or reformers, were unlikely targets due to personal friendships that were

¹⁵⁰ Dent, *The Story of the Upper Canadian Rebellion*, 51.

¹⁵¹ Kilbourn, *The Firebrand*, 211.

¹⁵² "Claim of Margaret Washburn," "Claims for Losses," in *Appendix, 1837-1838*, 409.

¹⁵³ Mackay, *The Crisis in Canada*, 29-30.

not dependent on political leanings or economic and cultural similarities. It would probably have been unlikely for a poor Upper Canadian farmer or blacksmith to wish to attack another farmer in the same social class in the name of political reform. This simply would not be a practical motivation, considering the reasons for the rebellion and the targets of the rebels' anger.

This analysis does not apply to attacks launched by Patriots from the United States. Gathered in backwoods bases known as 'Hunters' Lodges', these men were often criminals, bandits, and drifters, enticed by Mackenzie's promise of land, the desire for plunder, or simply a yearning for fighting and adventure.¹⁵⁴ Therefore, the Patriots had no qualms about attacking the defenseless homesteads of the politically ambivalent. They likely had no idea whose houses they were attacking and probably destroyed numerous homes of both reformers and loyalists in their raids into Upper Canada. While the motives of some may have been unclear, some fought for republican ideals. However, it is unclear if these men genuinely believed that their scattered bands of several hundred men would be able to overthrow the British Empire or cause meaningful change in the political policy of the province.

As the US-based Patriots made numerous incursions into Canada throughout 1838, the petitions of incensed citizens for compensation for their losses increased rapidly. The burning of homes and barns was commonplace, as were robberies and assaults. The workload of the claims commissioners Alexander Wood, Robert Stanton, and Thomas Carfrae increased drastically, as the amount of claims rose 600% from the

¹⁵⁴ Guillet, *Life and Times of the Patriots*, 29.

previous year.¹⁵⁵ While attacks continued and losses mounted at the hands of American invaders, the government often only provided military protection, in the form of a militia, which was a superficial contribution at best.

A year to the very day after the rebels launched their first disorganized attack on the city of Toronto, the loyalist forces, now a passable and large militia spread over the entire colony, had to contend with a surprise threat from the opposite side of the border. On the night of December 4, 1838, in what would be the last large-scale violent conflict of the rebellion, American brigands and their rebellious Canadian allies sailed smoothly and silently across the water from Detroit, aware that stealth was the only way to topple the well-armed Canadian forces.

In a stroke of luck, there was a glimmer of hope for the insurgents in an advantage they did not even know existed. While a large contingent of militia defended the Western District at the time, some of the officers were decidedly incompetent and negligent, such as Captain Lewis, who commanded the Windsor detachment.¹⁵⁶ Despite the sketchiness of certain officers and the overall poor conduct of the militia, the commander of the Western District forces was the enigmatic and capable Col. John Prince. Extremely intelligent with unending confidence and an unyielding personality, he was a wealthy politician, lawyer, militia officer, and gentleman of Upper Canada. Prince was a well-

¹⁵⁵ “Report of Commissioners on Claims for Losses” (hereafter “Claims for Losses”), in *Appendix to Journal of the House of Assembly of Upper Canada, in the second year of the reign of Queen Victoria: being the fourth session of the thirteenth provincial parliament. Session 1839* (hereafter *Appendix, 1839*), Vol. 1. (Toronto: Robert Stanton, 1839).

¹⁵⁶ “Battle of Windsor,” *Canadiana*, <https://www.canadiana.ca/view/oocihm.51827>.

known and well-connected figure, a perfect choice to lead the detachment in the greater Windsor area, including Sandwich and Malden.¹⁵⁷

As the militia's discipline in Windsor was wanting, the covert attack of the 'Hunter Patriots' landed undetected as they began to wind their way through the town of Windsor. Their target was the militia barracks, an obvious choice for destruction and was known to carry arms and ammunition that would bolster the insurgents while crippling the royalists.¹⁵⁸ The town was taken quite unaware, notwithstanding the high alert the rest of the province was under and despite an explicit warning to be on guard against a night attack. Captain Lewis and the rest of the militia performed their duties poorly indeed:

Night after night was Capt. Lewis was detected by the Volunteer Patrols in the most culpable negligence. His sentinels were placed without judgement, and their duties were performed in the most slovenly and unsoldier-like manner. Indeed, it became too apparent to every reflecting observer that the post was liable and likely to be surprised whenever the enemy might think proper to make the experiment.¹⁵⁹

Captain Lewis's failure in preparing his troops and performing due care in choosing his sentries would almost be the undoing of the town. The initial part of the conflict swung in favour of the insurgents as they burst into Windsor and opened fire on the sentries outside the militia barracks, taking them completely unaware.¹⁶⁰ Despite the

¹⁵⁷ Ibid.

¹⁵⁸ Samuel Snow, *The Exiles Return: or narrative of Samuel Snow, who was banished to Van Dieman's Land, for participating in the Patriot War in Upper Canada in 1838* (Cleveland: Smead and Cowles, 1846), 4.

¹⁵⁹ "Battle of Windsor," *Canadiana*, <https://www.canadiana.ca/view/oocihm.51827>.

¹⁶⁰ Ibid.

bravery of a Canadian sentinel who roused the men in the barracks and quickly mounted a spirited resistance, they were outnumbered and quickly overwhelmed by the rebels. Several fled the battle scene, while others surrendered to the Americans and became prisoners.¹⁶¹ The insurgents had fulfilled their first objective with ease and were now free to loot the barracks of all arms and munitions. Their task complete, they set fire to the quarters and surrounding buildings, both of which would become future petitions in the claims for losses.

The detachment of militia in Windsor was in full flight from the town with Captain Lewis at their head, the insurgents now freely burning and killing in the town.¹⁶² They next targeted the wharf and the valuable steamship *Thames*, reducing both to cinders. Perhaps their most cruel act was the murder of a black man known only as "Mills." Roused from his sleep by the sounds of the battle, he went outside to investigate the disturbance. Quickly taken prisoner by the brigands, Mills was given the choice of joining their force or death. Mills refused to join and voiced his support for the Queen, and was then barbarically shot and killed by the insurgents, who continued their path of devastation.¹⁶³ While the Windsor militia under Capt. Lewis had failed, other citizens had not. Seeing the danger, several volunteers went on horseback to warn Col. Prince and others of the attack on the town. Rallying his troops, Prince gathered the Essex militia and other volunteers to him and set off towards the burning town at the head of 130 men.

¹⁶¹ Snow, *The Exiles Return*, 4.

¹⁶² "Battle of Windsor," *Canadiana*, <https://www.canadiana.ca/view/oocihm.51827>.

¹⁶³ *Ibid.*

Still, they hardly held any advantage. The brigands numbered 140 and had only lost a single fighter in the initial foray.¹⁶⁴

In a stroke of incredible luck, Prince's oncoming force happened upon the raiders as they briefly rested in an orchard on their way to attack Sandwich.¹⁶⁵ At this interval, the circumstances were reversed from the initial encounter, for royalists had now caught their enemy in a vulnerable position. The militia opened fire on the brigands, spurred on by Prince, killing several men and wounding many others.¹⁶⁶ The shock of the attack and losing dozens of men was too great for the insurgents as they broke ranks in every direction, vacating the battlefield.¹⁶⁷ Almost half of their number was taken prisoner, and the Battle of Windsor was effectively over, and victory assured. At this juncture, Col. Prince took controversial action, in a fashion that harkened back to Francis Bond Head burning Montgomery's Tavern and David Gibson's home to symbolize victory and demonstrate what would happen to those who challenged British sovereignty after the battle was won.

As prisoners were rounded up, it seemed a foregone conclusion that they would be handled much like a host of other apprehended American and Canadian revolutionaries. They would all have their day in court, where they would be sentenced to death, prison, or exile.¹⁶⁸ Prince, however, decided to implement frontier justice on his prisoners. He ordered five rebels to be summarily executed without trial, which his

¹⁶⁴ Ibid.

¹⁶⁵ Snow, *The Exiles Return*, 4.

¹⁶⁶ Ibid.

¹⁶⁷ Ibid.

¹⁶⁸ James Nickalls, "James Nickalls Report, 1838." In *Penitentiary Patriots: Upper Canada Rebellion*.

militiamen did without question.¹⁶⁹ The raiders were not only executed, but often killed in brutal and unforgiving fashion. One man was shot while he sat with a shattered leg, unable to move and certainly of no risk to escape.¹⁷⁰

Public opinion after Prince's actions was incredibly divided on both sides of the border. Some believed him to be a crazed lunatic who would bring about war with the United States, while others commended his willingness to act decisively and ensure the safety of Upper Canada. Even if Prince was the saviour of Upper Canada, his conduct shocked the British government enough to compel them to court-martial him. Despite solid evidence, he avoided conviction. While the story of John Prince is compelling, of more importance to this story are the arguments brought up in Prince's hearing regarding the militia. The hero of Waterloo, the Duke of Wellington, oversaw the proceeding and was appalled at the comportment of the militia units of Upper Canada and contended that the colonies "must be defended by disciplined regular troops, not uncontrollable militia."¹⁷¹ Furthermore, the colonial secretary decried the action as unbecoming for one representing honourable Britain, that "it is not for the honour of the British name that unresisting men should, however culpable, suffer death otherwise than by the sentence of a Legal Tribunal."¹⁷²

The harsh condemnation of John Prince and his compatriots' actions tells how greatly the militia was lacking in its ability to suitably defend British North America.

¹⁶⁹ F. Murray Greenwood, "The Prince Affair: 'Gallant Colonel' or 'The Windsor Butcher?'" *Canadian State Trials, Volume II: Rebellion and Invasion in the Canadas* (Toronto: University of Toronto Press, 2002), "Public Expressions of Belief in the Outlawry Concept."

¹⁷⁰ Ibid.

¹⁷¹ Ibid, "Assessing Responsibility."

¹⁷² Ibid.

However, the Empire could only blame itself for the circumstances, as their representative Francis Bond Head had ordered the departure of these “disciplined regular troops” from the colony despite clear evidence given by James Fitzgibbon. In the immediate aftermath of the Battle for Windsor, claims for losses began to pour in, stemming from the damages the people had suffered due to the both the insurgents and the militia's dereliction of duty. The militia became a more frequent sore spot for the Upper Canadian government as the rebellion wore on. As the Duke of Wellington rightly observed, the militia was not created for the large-scale defence of British North America and should never have been entrusted with the task. Their noted negligence under Captain Lewis further proved their inability to cope with such a threat, and the proceeding claims for losses should be viewed as the government's responsibility, as they had dismissed the regulars and allowed untrained civilians to guard their border.

The first claimant was Francois Janise, who submitted a sizeable claim of £200 on March 21, 1839 for the loss of a building to arson in the assault on Windsor.¹⁷³ Janise's building was directly beside the barracks in Windsor that were also burned, and so he also submitted several eyewitness accounts to corroborate his tale that the rebels indeed burned the house. In a fascinating turn of events, Janise chose John Prince as his lawyer for the case.¹⁷⁴ As Prince was an elected member of the legislative assembly and a high-ranking gentleman in Upper Canadian society, this was a wise financial decision. Prince was known to have an excellent personal relationship with the new Lieutenant-Governor

¹⁷³ “No. 1, Claim of Francois Janise,” in “Report of Commissioners on Claims for Losses” (hereafter “Claims for Losses”), in *Appendix to Journal of the House of Assembly of Upper Canada, from the third day of December, 1839 to the tenth day of February, 1840 (both days inclusive), in the third year of the Reign of Queen Victoria, being the fifth session of the thirteenth provincial Parliament. Session 1839-1840* (hereafter *Appendix, 1839-1840*), Vol. 1 (Toronto: W.J. Coates, 1840), 493-495.

¹⁷⁴ *Ibid.*

of Upper Canada, Sir George Arthur, who had taken a personal interest in the claims for losses petitions, which could only benefit those close to him.¹⁷⁵

P.H Morin, another close friend of Prince, also enlisted his help as the attorney for his claim, as the destroyed edifice that housed the militia belonged to him.¹⁷⁶ Morin's petition is fascinating as he includes a personal message to Prince, speaking about their friendship and clearly hoping his influence as a magistrate could pay dividends for his claim.¹⁷⁷ The requests of Morin and Janise were also massive, the most considerable amounts requested in the 1840 round of petitions. Janise's claim was for £200, placed on March 18, 1838, while Morin's was £450. However, it should not be implied that the men were not entirely deserving of the amounts requested. Both submitted several eyewitness accounts of the events to prove their honesty, and statements from carpenters and builders from Windsor who were cognizant of the structures and could speak knowledgeably about the amount necessary to replace them.¹⁷⁸ Morin, in particular, took it upon himself to procure a large number of witnesses to support his petition, from militia volunteers to townspeople.¹⁷⁹ Despite the great effort taken by the two men to ensure a successful claim, both were left waiting until 1846 to receive any payment and had been rejected in their initial attempt.¹⁸⁰ The same occurred for petitioner Henry Banwell, who owned the home connected to the barracks. While hardly necessary due to the vast amount of work

¹⁷⁵ Sir George Arthur, *The Arthur Papers*, ed. Charles R. Sanderson (Toronto: University of Toronto Press, 1947), 279.

¹⁷⁶ "No. 2, Claim of P.H. Morin," in "Claims for Losses," in *Appendix, 1839-1840*, 495-500.

¹⁷⁷ *Ibid.*

¹⁷⁸ "Claim of P.H. Morin" and "Claim of Francois Janise," in "Claims for Losses," in *Appendix, 1839-1840*, 494-500.

¹⁷⁹ "Claim of P.H. Morin," in "Claims for Losses" in *Appendix, 1839-1840*, 497-498.

¹⁸⁰ "Claim of P.H. Morin," and "Claim of Francois Janise," in "Claims for Losses," in *Appendix, 1839-1840*, 494-500.

taken on by Morin in proving the loss, Banwell also enlisted the help of carpenters to verify his loss of £70, for which he presented a claim on October 24, 1839. However, like the others, he was given nothing for the damage.¹⁸¹

As has been previously stated, the Upper Canadian militia was an unmitigated disaster in many respects that could reasonably be held responsible for the enormous losses sustained at Windsor. Captain Lewis was a cipher, and the rest of his troops decried as lazy and uninspired. Despite their vastly superior numbers throughout the province, the militia had been repeatedly caught unaware on border attacks, despite being often informed of where the enemy was located.¹⁸² Windsor is a prime example of their inexperience but is far from the only occurrence. The Battle of the Windmill near Prescott was bloody and caused thousands of pounds of damage to nearby citizens as the militia was again taken by surprise, and none of the citizens were compensated until 1846. Despite their preliminary fervor and impressive numbers, the militia quickly became a massive disappointment. In the 1839 "Report on the State of the Province" sent to the British Parliament, the House of Assembly of Upper Canada took a similar approach in their viewpoint on the militia as the Duke of Wellington. The very first recommendation of the report proclaimed: "The next suggestion to which your Committee beg to draw to the attention of your Honourable House is the necessity (now too painfully obvious) of keeping up a respectable military force within both Provinces."¹⁸³ The British regular troops sent to Lower Canada had shattered the

¹⁸¹ "No. 14, Claim of Henry Banwell," in "Claims for Losses," in *Appendix, 1839-1840*, 514.

¹⁸² "Battle of Windsor," *Canadiana*, <https://www.canadiana.ca/view/oocihm.51827>.

¹⁸³ "Report from the Select Committee of the Legislative Council of Upper Canada on the State of the Province," (Toronto: J. Cleland, 1839), 111.

rebellion there with great success, and the Upper Canadian ministry surely rued the day Francis Bond Head had sent their entire professional defence force away.

While the citizens of Upper Canada looked to their government for financial relief from the losses sustained due to the absence of professional soldiers, the colony's government looked to the home country as questions regarding liability and accountability grew. Was it the fault of the empire that the colony was understaffed with soldiers and thus necessitated the migration of the meagre force in Upper Canada to Lower Canada to deal with the revolt? Or was the fault with the Upper Canadian ministry for taking the rather rash action of sending all regulars away in a period of evident unrest? In a letter penned to the Queen of England in 1839 by the House of Assembly and Speaker Allan MacNab, the government directly asked the Sovereign to take on liability in paying the claims, which they professed to be unable to pay the majority of due to the "embarrassed state of our finances."¹⁸⁴ Despite being unable to pay the majority, MacNab and the rest of the Assembly wished to make it known that they had paid for *some* claims at least, although they obviously believed that had been done for expediency and not out of an admission of responsibility.¹⁸⁵ In the letter to the Queen, they stated that they had a "...conviction that they are charges which, to a great extent, are not such as should be made upon our Provincial Revenue."¹⁸⁶ Continuing this logic, the letter placed an assumption of obligation directly on the shoulders of the British treasury in a immensely direct statement, that the "...claims, which, we humbly submit, should, for the greater part, be paid by the Imperial government," before concluding the letter in this way:

¹⁸⁴ "Address To the Queen's Most Excellent Majesty," in *Journal*, 1839, 364-65.

¹⁸⁵ *Ibid.*

¹⁸⁶ *Ibid.*, 365.

We, however, rely with confidence on the justice and integrity which have ever distinguished the Sovereigns of the powerful Empire to which it is our pride to owe allegiance, and feel assured that when we shall have ascertained the amount and character of the various demands that we may be called upon to satisfy, Your Majesty will be graciously pleased to cause the same to be reimbursed to us from the Imperial Treasury.¹⁸⁷

Beyond the careful flattery and flowery language, there is a clear expectation that the home country would inevitably take action in paying for the claims and would be unable to reject the necessities of their devoted overseas subjects. The entire situation is a fascinating dynamic. The Upper Canadians expected protection from the Imperial government first in the form of a military force, which, by their account, they did not adequately receive. When this failed, their attention then turned to financial protection. Their viewpoint is identical to that which the civic population of Upper Canada had towards its own government. When the militia was unable to ensure their safety, despite being a direct cause of several claims due to their ineptitude, the attention of the common people then turned to financial recompense.

The demand of the ministry of the Imperial government was a fascinating development, albeit with the expected result. The reply from Downing Street was not at all favourable, as the Queen expressed “regret that she cannot hold out any prospect that Parliament will grant the indemnity to the Provincial Treasury, proposed in this

¹⁸⁷ Ibid.

address.”¹⁸⁸ The reasoning given for the rebuff was quite simple- Britain felt they had already taken on too much fiscal responsibility for the colony:

In undertaking the whole charge of the military defence of the Province, Parliament has subjected the revenue of this kingdom to a burden of very great extent and pressure, and it does not appear to the Queen probable that the house of Commons would think it just towards the people of this country, to subject them to the additional charge contemplated by the House of Assembly.¹⁸⁹

Thus, the attempt to receive Imperial help to pay losses was denied. It is perhaps the most honourable course of action in any manner when considering the reasoning behind many petitions. While the House of Assembly took great pains to ensure the Crown knew American insurgents caused countless damages in their appeal to the Queen, they also conveniently neglected to mention that several petitions, amounting to well over £1000 in damages, had been caused by their militia forces committing crimes against their citizens they had sworn to defend. The Imperial government should not have been liable for such expenditures, as it was a local issue. However, the colony refused to compensate damages caused by militia misconduct, because its legislation only allowed compensation for damage by the rebels. Consistently, the Upper Canadian government and the claims for losses commission denied paying for such claims and indemnified

¹⁸⁸ “Despatch respecting address to Her Majesty on compensation for losses consequent on the rebellion,” in *Journal of the House of Assembly of Upper Canada, from the third day of December, 1839 to the tenth day of February, 1840 (both days inclusive), in the third year of the Reign of Queen Victoria, being the fifth session of the thirteenth provincial Parliament. Session 1839-1840* (hereafter *Journal, 1839-1840*), Vol. 1 (Toronto: H. Scobie, 1840), 103.

¹⁸⁹ *Ibid.*

themselves against the necessity of providing payment. Despite recognition of wrongdoing on behalf of the militia by the ministry, no payments reached the claimants.

In March 1838 when the Claims Commission Act passed, the government might not have expected people to make claims against it, though the Indemnification Act indicates they were aware of the possibility, and within a few months it was a common occurrence that demanded reconciliation. In the first round of claims in 1838, Mr. Edgeworth Usher requested indemnity from losses sustained at the hands of the volunteer soldiery, amounting to £235.¹⁹⁰ In its report to the House of Assembly, the commissioners said they could not decide on Usher's claim "as several of the charges would form a claim again the troops who occupied his house while they were stationed at Chippewa."¹⁹¹ Delving deeper into the story of Mr. Usher paints an even stranger picture. The "Report of the Legislative Council on the State of the Province" from 1838 speaks of a violent incident on the residence of a man named "Captain Usher" in Chippewa on December 13, 1837, by reformer-rebels. "They put several balls (six-pound shot) through a house, in which a party of Militiamen were quartered, and which is the dwelling-house of Captain Usher, a respectable inhabitant."¹⁹² Much like the claims for losses mentioned prior, "Captain Usher" also housed men from the militia. The odds of several men with the surname Usher in the town of Chippewa housing militia and being the victims of damaged homes during the rebellion are incredibly slim, especially when considering the rural population of the region. So, we must assume that "Captain Usher" and "Edgeworth

¹⁹⁰ "Claim of Mr. Usher," in "Claims for Losses," in *Appendix, 1837-1838*, 410.

¹⁹¹ *Ibid.*

¹⁹² "Report from the Select Committee of the Legislative Council of Upper Canada on the State of the Province," (Toronto: R. Stanton, 1838), 9.

Usher" are the same individual. However, the outcome of his claim is highly puzzling based on the testimony from the 1838 document.

In the original petition seeking recompense for losses, it is plainly specified that much of the harm to the edifice was the fault of the militia itself, creating an awkward situation where the commissioners felt they could not support reparations for damages done by the government's forces. However, the "State of the Province" narrative was written on January 8, 1838, before the claims commission was even established and states the damage was caused by rebels.¹⁹³ Of course, it is imperative to make note of the potential embellishment in the "State of the Province," as it was prepared by the legislative council to which the Family Compact belonged. In this tale, it was distinctly the "several" rebel cannonballs that were blasted through the house of Usher that caused the majority of the £235 worth of damage, instead of whatever the militia did to his property while it was in use as a barracks. Then, why is the claim left undecided? Mr Usher's claim was not accepted and paid for another eight years, so it is difficult to ascertain why he was initially denied when a government report suggests that the rebels committed the bulk of whatever destruction was done to the dwelling. Perhaps the use of Usher's home as a quarters for the militia was enough to dissuade the commissioners from supporting his claim. Despite their potential innocence in the ruination of Usher's home, their presence was certainly the driving factor behind the rebel attack. As the home was only attacked due to a militia presence there, it could be conceivable that the commission rejected the claim on these grounds. There is also a possibility that the volunteer unit behaved reprehensibly while quartered in Mr. Usher's home and caused

¹⁹³ Ibid, 9-10.

severe damages in this way, a common occurrence when further examining the claims of others who had the militia as unwelcome guests. Usher's complaint would not be the sole claim that would result in a puzzling decision. Concerning the broader discussion on civic opinion, it is difficult to fathom how a loyal citizen like Captain Usher would react to such an affront. Clearly stated to be a faithful resident in the 1838 State of the Province and being at risk of losing several hundred pounds, it is challenging to comprehend the government initially abandoning such a devoted inhabitant in a trying time, although the possibility of the legislative assembly providing a highly biased report must be considered.

Frequently, the commissioners did not provide reasoning for their decision that a case was "outside the scope" of its mandate. Disregarding the apparent conflict of interest that existed when claims were being placed at the feet of the government due to the negligence and criminal behaviour of their representatives, certain cases appeared to be relatively straightforward based on the events that caused them. This was the issue in the relatively short claims of John E. Ebbs of Toronto and John Sales. Ebbs simply enquired for reimbursement for providing the militia butter and candles, resulting in a meagre claim of £4 19s, while Sales allowed the militia to use his horses for an even more modest claim of £1 10s. Despite the relatively insignificant sums, both were deduced to be outside the scope of the commission, so their claims were disallowed despite having their applications supported by a Colonel of the militia, the famed William Dunlop, who strongly recommended they be filled. Due to his endorsement, the evidence and deservedness of the petitioners were also undeniable. However, upon close review, the issue finds basis in the inability or unwillingness of the commission to accept claims

placed either in accusation or in reimbursement for contributing to suppressing the rebellion. Interestingly, this puts the responsibility for the province's defence almost solely at the feet of the Upper Canadian civic population. Civic responsibility was demonstrated in the military capacity by the defence of the province being left exclusively to its inhabitants by way of the militia, for as Sir Francis Bond Head believed when he said that if the militia was not able to defend the province, "the sooner it is lost the better."¹⁹⁴ This statement was primarily uttered out of pique by the unfortunate timing of ordering British regulars from the province to fight the sister rebellion in Lower Canada, but the point remained that the defence of Upper Canada would be taken on by its numerous volunteers. However, based on other frequent claims, it seems that Upper Canadians, even those not taking up arms in its defence, were expected to shoulder an appropriate amount of responsibility. Of course, the government unmistakably decided on an "appropriate" amount of responsibility, reflected in the claims for losses. Although several did not join the fray, it was still presumed that they were faithful citizens, eager to prove assistance through the donation of goods, moveables, and services. Despite the relative insignificance of Ebbs and Sales' petitions, the rejection symbolizes the part that all members of Upper Canadian society were expected to play moving forward. Of course, *services* done for the ministry were some of the few claims that almost guaranteed acceptance. However, the government was still able to exploit loopholes cemented in "An Act for Quartering and Billeting on certain occasions His Majesty's

¹⁹⁴ Fitzgibbon, *Appeal*, 10.

Troops and the Militia of this Province,” passed in 1809, that ensured those who donated goods had no avenue from which to secure any repayment.¹⁹⁵

Ebbs was not the only individual who suffered rejection for supporting the war effort in the form of goods, nor was his claim the sole appearance of William Dunlop in the claims. "Tiger" Dunlop, as he was known, was a central influence in the Huron district during the rebellion as the man responsible for raising the militia there, nicknamed the "Bloody Useless."¹⁹⁶ "Bloody Useless" was an apt name for Dunlop's troops, as they saw no action in the rebellion and contributed nothing other than being a presence to deter potential rebel attacks. In reality, the only tangible impact the Bloody Useless had on the rebellion was inconveniencing the civic population by obtaining goods from them in the form of food, horses, carpentry work, and the use of their homes as militia barracks. This is not meant to be disparaging towards Dunlop or his troop—rather, it is far more likely that Dunlop believed those who aided his troop would be able to receive compensation from the claims commission, unaware they only compensated damages caused by the rebels, not costs incurred from the militia.

Based on Colonel Dunlop's repeated attempts to procure compensation for those who provided these goods and services and thus suffered losses, he was confident that the citizens would be able to have their claims filled as he vouched for them personally.¹⁹⁷ However, the commission and the legislative assembly found the claims unacceptable

¹⁹⁵ "An Act for Quartering and Billeting on certain occasions His Majesty's Troops and the Militia of this Province, passed 5th March, 1809," in *Statutes of Upper Canada, Passed in the first session of the fifth Provincial Parliament, met at York, on the second day of February, and prorogued on the ninth day of March following, in the forty-ninth year of the reign of George III*, 253-255.

¹⁹⁶ Gary Draper and Roger Hall, "DUNLOP, WILLIAM, Tiger Dunlop," in *Dictionary of Canadian Biography*, vol. 7, University of Toronto/Université Laval, 2003.

¹⁹⁷ "Claims for Losses," in *Appendix, 1839-1840*, 507-510.

due to their inherent theme of paying for damages caused by rebels. Despite the virtuous intentions of “Tiger” Dunlop and his Bloody Useless, their actions left several citizens in what could have been a dire financial situation.

One petitioner in particular, Robert Brown, was the victim of unfortunate conditions stemming from his contributions to many different militia units. Brown was a carpenter tasked with providing for Her Majesty's forces by performing several services, such as: creating 66 pike handles, a hardwood chest, a table, two large boxes for holding guns, repairing a sleigh, saws, the repair of several buildings, 20 bedsteads, and the repair of the home of a Mr. Sutherland, marred by the unit of militiamen who occupied it as barracks.¹⁹⁸ The work expected from Brown was sizeable, by he was happy to comply based on the reasonable assumption that he would be compensated.

Brown claimed £70 14s 10d on May 7, 1839, for work completed between January 15 and March 17, 1838. Brown was reimbursed £21 15s for repairing the schoolhouse and courthouse at the orders of a militia commander, £14 5s for repairing Mr. Sutherland's house, and 8 shillings for repairing the sleigh at the order of Lieutenant McGregor. In total, Brown received £36 8s leaving £34 6s unpaid. The reasoning for the commissioner's slight was their conclusion of the remaining claim to be "not from the nature of the service" and not "payable out of the military chest."¹⁹⁹ The work Brown was reimbursed for was restoring several buildings damaged through occupation by the militia. The issue of militia rendering the dwellings they used as makeshift barracks unusable and severely damaged is a common theme throughout the claims for losses, as

¹⁹⁸ “No. 9, Claim of Robert Brown,” in “Claims for Losses,” in *Appendix, 1839-1840*, 508-509.

¹⁹⁹ *Ibid.*

such buildings were often left with costly damages that required large sums of money to correct.

Housing militia units was an uncomfortable experience for many in Upper Canada. The billeting of military forces had long been contentious in British life, stretching back to the 17th century when standing armies became more widespread and more dwellings were required to house them.²⁰⁰ Of course, the entire point of the militia's involvement in this conflict is that it was *not* a standing army, as those troops had been dispatched to Lower Canada. Historically, in the expected absence of barracks, it was routine for even professional soldiers to find themselves staying in private dwellings of all kinds, such as homes, barns, taverns, and stables.²⁰¹ While it was satisfactory to keep these men in dwellings other than barracks, it was known to also lead to breakdowns in discipline as soldiers were able to lead a more lackadaisical existence.²⁰²

The issue of billeting had been observed in England as far back as the English civil war in the 1600s when the owners of private dwellings became angered when their property rights were usurped by soldiers requiring lodgings.²⁰³ In subsequent centuries in England, the issue of billeting and soldier conduct while staying with civilians evolved into an issue of even greater importance. Due to their conduct, people simply did not desire their presence in homes or businesses, leading to anti-military sentiment and a strong push toward barracks in England in the 19th century. Britain's colonial territories also had to contend with their share of unwanted guests in British soldiers. The

²⁰⁰ John Childs, "Barracks and Conscription: Civil-Military Relations in Europe from 1500," *European History Online*, (2011): 4.

²⁰¹ *Ibid.*

²⁰² *Ibid.*, 5.

²⁰³ *Ibid.*

Quartering Act of 1765, passed in the aftermath of the Seven Years' War in 1765, allowed British troops to occupy private dwellings in the colonies if there was insufficient housing for them while the assembly was still required to reimburse some expenses for soldiers accommodation to the proprietors of the homes and businesses as well.²⁰⁴ Of course, this is not to imply that soldiers did not usurp private dwellings in the Seven Years War itself, as it was common practice.²⁰⁵ The colonists were confused and irritated at this turn of events. The Mutiny Act was meant to be in place to protect their property rights and keep British soldiers away from their private dwellings.²⁰⁶ The Quartering Act was despised by colonists who recognized it as a show of British dominance over them, and most colonies worked hard to prevent its use.

This contextual information provides insight into how commoners have viewed the interjection of soldiers into their midst within the colonies and the confines of Europe. However, the militia adds a layer of context to the theme of unwanted military guests. As the militiamen were commoners themselves and not trained soldiers, it could be presumed that the attitudes on both sides would be more positive. These were friends and acquaintances walking away from their farms and jobs to risk their lives against the enemy with little training and often at significant cost to themselves, both economically and personally. While the Quartering Act and the Mutiny Act were interesting circumstantial examples, it is crucial to realize that the militia and troops of Upper

²⁰⁴ *An act to amend and render more effectual, in his Majesty's dominions in America, an act passed in this present session of parliament, intituled, An act for punishing mutiny and desertion, and for the better payment of the army and their quarters, passed 24 March 1765* (London, Great Britain: Printed by Benthem, for C. Bathhurst, 1762-1869), Avalon Project, Yale University, [https://avalon.law.yale.edu/18th_century/quartering_act_165.asp]

²⁰⁵ Fred Anderson, *Crucible of War* (New York: Vintage, 2000), 456.

²⁰⁶ *Ibid.*

Canada were bound by separate, although similar in essence, rules from British armies in America or Europe. Provincial laws and statutes regulated the militia, and the most notable of these for the current dialogue was "An act for quartering and billeting, on certain occasions, his Majesty's troops, and the militia of this province." This act was passed in Upper Canada in 1809 and was included again in 1838 when all militia laws were reduced into a single act that would streamline militia rules and regulations in Upper Canada.²⁰⁷ This act explicitly stated that

every house owner therein shall furnish them, when required, in manner hereinafter mentioned, with house-room, fire, and utensils for cooking, and in cases of emergency, by actual invasion or otherwise, it shall and may be lawful... to impress horses, carriages, oxen, as the service may require...²⁰⁸

It is also noted that those who had horses, carriages, and oxen impressed into service would be compensated for their use at a rate of 2 shillings and 6 pence a day. The role of billeting was a predicament for the ordinary citizen of Upper Canada. If the militia arrived at a homestead and required assistance concerning lodgings or provisions, compliance was expected. However, the act stipulated that they were also within their rights in sending a militia troop away with nothing- at the cost of a forty shilling fine.²⁰⁹ 40 shillings was certainly a deterrent, if the fine was levied.

The petitions for losses indicate that militia troops would often simply inhabit a private dwelling that had been temporarily vacated. Wealthy petitioners who had multiple

²⁰⁷ "An Act to amend, and reduce into one Act, the Militia Laws of this Province, Passed 6th March, 1838," in *Chap VIII. 1st Victoria, A.D. 1837-8, Third Session.*

²⁰⁸ "An Act for Quartering and Billeting on certain occasions His Majesty's Troops and the Militia of this Province," *Statutes of Upper Canada*, 7.

²⁰⁹ *Ibid*, 7.

properties were shocked and appalled to witness the militia's damage done to their estates in their absence. Furthermore, the number of militiamen staying at a single private residence was supposed to be capped at six, although it is difficult to suggest that this rule was followed closely, as the damages done to private dwellings often seemed as though they were the fault of many. An inconspicuous omission in the act is any information or guidance on the proper legal avenues to take if the petitioners' horses, carriages, or oxen were damaged or killed during their impressment. A further but related omission was the same lack of recourse when the militia damaged a private dwelling used as barracks. The only form of attention paid to the rights of the civic population was regarding how they should adequately complain if more than six militiamen were lodged in their homes, with all other issues ignored. The lack of context in this regard is vital in the greater discussion on claims for losses, as most complaints levelled against the militia were due to damages inflicted on their private dwellings. As the militia act gave them no avenue for compensation, their only hope was to petition the commissioners.²¹⁰ Strangely, in a related manner, there was an unsigned general order given to the Canadian militia officers in Kingston during the War of 1812 that seems to contradict the militia act in a way. It stated that:

and when Soldiers are quartered in the Houses or Barns of the Inhabitants they are to conduct themselves in an orderly peaceable manner, and are not to presume to take any Wood for Fuel or Provisions or in any way to injure or destroy the

²¹⁰ Ibid.

property of the Inhabitants-any Soldier so misbehaving is to be punished for the same, and to make due compensation to the Proprietor.²¹¹

The militia act is a fascinating document that claims any militia member found to have damaged the property of a private citizen would be required to pay them for such damages. It is impossible to claim that this definitively occurred but based on knowledge of how the militia dealt with other discipline breakdowns, it is more likely that it did not. In the matter of discipline in 1812, members of the militia who unashamedly disregarded the guidelines were not treated nearly as harshly as British regulars would be in the same position. For example, militia units were not governed by the same “iron discipline as regular regiments. Militia punishments were less severe than those of the regular army, and cases of corporal punishment were rare”.²¹² The more flexible rules allowed for breakdowns during the war, a common theme that carried over into the rebellions 25 years later.

The war of 1812 has several similarities regarding militia behaviour that allow for a legitimate comparison with the Upper Canada rebellion and give further context to how the general population viewed them. Much like in the rebellion, several Canadian militia members from 1812 behaved exceedingly poorly during their service, mentioned in the claims for losses of Lower Canada from the War of 1812. In these claims, it was stated that:

²¹¹ Unsigned Letter from Kingston, 29th June 1813, *Narrative Documents - Group VIII: Operations on the Montreal Frontier, 1813 — Miscellaneous Select British Documents of the Canadian War of 1812*, volume II (January 2013): 473.

²¹² Martin F. Auger, “French Canadian Participation in the War of 1812: A Social Study of the Voltigeurs Canadiens,” *Canadian Military History* vol. 10, 3 (2001): 11.

The quartering of troops on local farms often caused great damage. Houses and furniture were broken, while the presence of soldiers in the fields often meant the destruction of crops. Troops stole farm produce and equipment to meet their needs. There were many cases of unauthorized foraging... At one point, troops stole a calf, two turkeys, 13 chickens, two potato pouches, and some logs from one single farmer.²¹³

As will be discoursed in more detail, it is necessary to note that these issues surrounding militia behaviour resulting in substantial claims for losses were a common issue that transcended Canadian life in the early 1800s. However, it was equally typical for militia to be protected in these situations by government, as seen in the case of the 1837 rebellion. Despite the ill feelings which plainly existed between the commoner and the commoner turned soldier in these instances, it seemed as though public opinion was never swayed enough to allow for dereliction of duty when danger was imminent.

In 1837-38 the rebellion required militia action, and thousands of Upper Canadians enthusiastically took up the call.²¹⁴ Their eagerness was not inconsequential, as calls to assemble were sometimes met with mixed emotions or resisted entirely, as happened in Lower Canada in the 1790s, where many revolution-minded Lower Canadians ignored Lord Dorchester's demand to assemble.²¹⁵ Despite the raucousness of the militia units in Canada and the clear rebellious leanings of some Upper Canadians in the 1830s, the British Empire need not have worried about losing their colonial holdings through a lack of civic involvement. As only a little over two decades had passed since

²¹³ Ibid.

²¹⁴ Robert Garcia, "This Period of Desperate Enterprise": British efforts to secure Kingston from rebellion in the winter of 1837-1838," *Ontario History* 101, no. 2 (2009): 149, 159.

²¹⁵ Robert Bothwell, *The Penguin History of Canada* (Toronto: Penguin, 2006), 136.

the last mustering of the militia in a time of conflict, countless men would have been liable for service once again, as all men aged 16-60 were expected to take up arms in the militia and many who had fought against the Americans in 1812 would still fall within this age range.²¹⁶ Worth mentioning is that there were probably several individuals who served in 1812 who served again in 1837. James Fitzgibbon can be counted among this number. In December of 1837, Fitzgibbon, the commander of the militia, was also an officer in the War of 1812 who is well known for being the first British Officer to meet with Laura Secord after her brave dash through the wilderness to warn of an impending American attack. It could also be assumed that the culture surrounding the militia would have remained much the same in the generation between these conflicts. However, according to some literature, it had gotten worse, as “the proficiency of Upper Canada's part-time military force had been allowed to degenerate after the War of 1812” as most eligible citizens purposefully ignored the call to muster for drilling in the intervening years.²¹⁷ This is noted in studies on the 1830s Upper Canadian militia, although the criticism is levelled at their soldierly aptitude rather than their eagerness to defend the colony.²¹⁸

Despite the seriousness in which militia members responded to the call and the importance of the organization of such a group, the claims against them are impossible to ignore. There are claims where the evidence is insurmountable against Her Majesty's troops. Christopher Leggo's claim for losses in 1839 is a strong example of this, as the criminality of the militia was exposed. Leggo was a shop owner in Brockville in the

²¹⁶ Garcia, “This Period of Desperate Enterprise,” 150.

²¹⁷ Ibid.

²¹⁸ Ibid.

winter of 1838. Located in the Johnstown district in Eastern Upper Canada, it was a hotbed of rebel activity as American insurgents would be responsible for almost 100 claims for losses and thousands of pounds worth of damage by the rebellion's conclusion.²¹⁹ Because of the imminent threat, the volunteer militia was unquestionably needed to play a prominent role in the area. However, as his April 24, 1839 petition states, the militiamen's actions left much to be desired. In the case of Leggo's claim, the militiamen felt they were entitled to the contents of his shop: "...said shop was forcibly entered by some of the "Volunteers" on actual service stationed in that place, for the protection of the inhabitants, without any cause or provocation, and for which some of the said Volunteers were tried, arraigned, and convicted."²²⁰ Leggo's claim offers a shocking description. Not only did several members of the militia act in a criminal manner against a citizen they were meant to be protecting, they caused £246 worth of damage in the process.²²¹ As this claim was validated by several government officials, along with the convictions of the guilty parties, it would seem highly improbable that Leggo would be unable to get reimbursed for his substantial damages.

Unfortunately, this is precisely what transpired. Leggo's claim was disallowed by the commissioners, who nonetheless appreciated the obvious issue at hand and passed it on to the Governor-General, Lord Durham. Durham, in turn, sent the petition on to Sir George Arthur. However, even the highest-ranking officials in British North America were unable to settle Leggo's claim.²²² According to the petition, Arthur "expressed his

²¹⁹ "Johnstown District" in *1837-38 Rebellion Losses of Upper Canada* (publ. 1849), image reprint CD.

²²⁰ "Claim of C. Leggo" in "Claims for Losses" in *Appendix, 1839*, 837.

²²¹ *Ibid.*

²²² *Ibid.*

regret that he knew of no fund from which it was in his power to pay Mr. Leggo,”²²³ adding further confusion to this debacle that seemed, at face value, to be a simple case. While Leggo was unable to be paid by the government for these vague, unspecified reasons, obviously rooted in the Indemnification Act from 1838, it should not be said that the government did not take the problem seriously. The commissioners harshly criticized the militiamen in their discussion of the events, stating that they "express their strong condemnation of the conduct of the Volunteers and their sincere regret that any part of a force, so distinguished for loyalty, courage, and patriotism, should thus sully their well-won honours by acts of insubordination and outrage.”²²⁴ It is also important to note that the commission did not stop at these ringing statements of denunciation against the militia. Accepting that there was no way to justify paying Leggo using funds for the claims for losses, they decided to take matters even further. Reasoning that the men who committed the acts represented Her Majesty the Queen, she should hear the claim herself and decide on its outcome.²²⁵ However, as was previously mentioned, the Queen declined providing more monetary help than had already been given to the colony, as the Imperial government was already responsible for the colony's defence in the form of British regulars that the lieutenant-governor had sent away at his behest, the event that gave the rebels the confidence to initially assemble. Leggo's claim was rejected, and all the well-meaning words from the commission and other politicians were clearly perfunctory and useless. The conviction of the militiamen is a fascinating development, as it appears the

²²³ Ibid.

²²⁴ Ibid.

²²⁵ Ibid.

Indemnification Act was able to protect the government's purse but not the freedoms of all its representatives.

Like in C. Leggo's unrealized claim, damage done by the militia while fulfilling their duty as protectors of the province was unfortunately not uncommon. While Leggo's claim is undoubtedly jarring due to the apparent criminal aspect of breaking into a shop, there are still other petitions that include an unashamed disregard for the property of others. In the 1839-40 round of claims, the complaint of Mary Hall, put forward on December 12, 1839, stands out for the shocking disregard the militia had for the property of the citizens and the sheer amount of damage that the Upper Canadian government could ignore if its representatives perpetrated it. When Hall left Sandwich (present-day Windsor) in 1837 to visit family in America, she would have had no idea of the devastation that would greet her upon her return. The petition states that her home was used as a barracks in her absence, and she is blunt and uncompromising in her statement of what she discovered upon coming home. It seemed as though the militia had not only abused her home but also robbed her, as locks and wood had been stripped off and taken. Based on Hall's claim, it is obvious that the unit did not even attempt to act in a civilized manner.:

...that while the premises were used as Barracks, the fences which enclosed an extensive garden were wantonly broken down, and in consequence many valuable, fruit trees and a large variety of shrubbery destroyed by cattle. The interior of the house was, if possible, still more abused; upward of one hundred squares of glass and several sashes were broken- the panels were dashed out of the doors- all the door-locks, except three were removed, the plaster was defaced

and broken, and in many places stripped from the walls and ceilings- the mantles were destroyed by fire, and many portions of the floors injured in the same way, and the entire premises presented on the return of the subscriber with the motherless children of her deceased sister, a heart-sickening scene of desolation.²²⁶

It is difficult to fathom what the militiamen using Hall's residence could have been doing to create such destruction. The magnitude of things decidedly broken on purpose, such as the plaster being "defaced and broken," is impossible to justify as being accidental or caused by carelessness. Regardless of whether the interior of Hall's house was ransacked as a means of theft or during overly zealous festivities, her case should have been a simple decision when considering compensation. However, Hall reiterated many times that these damages were not done by rebels, which had caused the entire petition to be thrown into question. Of even greater stress to Hall and adding to the larger issues was the knowledge that these men had been posted in her home for protection, and had done exactly the opposite, appearing to enjoy themselves tremendously in her home, abandoning all pretense of protection and reciprocal respect. After having the damages estimated at £150, along with an additional £87 of necessary cost to rent a different home, Hall asked that two individuals, Messrs. L & H Davenport, present her claim for her to the commission. Perhaps sensing that a minor claim would pay out faster dividends, or perhaps to demonstrate loyalty, Hall only claimed £50 for the extensive vandalism done to her home.²²⁷ The claim was not accepted even after claiming less than

²²⁶ "Claim of Mary Hall" in "Claims for Losses," in *Appendix, 1839-1840*, 520-521.

²²⁷ *Ibid.*

a third of the proper amount for losses. In a further attempt to get compensation for her losses, she asked her brother-in-law, Mr. Cowan, to go to Toronto for an audience with the commissioners on the subject. However, according to Hall, he also "could obtain no satisfaction from the commissioners on claims."²²⁸

A key point about Hall in terms of civic response and opinion is that she was markedly a well-known and loyal citizen. Unlike Montgomery, who had his claim rejected based on suspicion of pro-rebel leanings, Hall fell into the category of the pro-government elite. She was consistent with the proper language in reiterating loyalty and fealty throughout the claim and in a statement in the petition. In this declaration, she innocuously asserted about her home, "that which your Excellency honoured by your presence when last at Sandwich."²²⁹ As this petition had been addressed directly to the Lieutenant-Governor Sir George Arthur (who had just replaced Bond Head after his sacking), the inference can confidently be made that Mary Hall was a relatively well-known and wealthy figure to be able to have the lieutenant-governor of Upper Canada as a guest with whom she was on friendly terms. However, despite her connections and carefully crafted petition, there is no mention of any remuneration being rewarded to her. If we can connect this claim with that of C. Leggo, we can also infer that the lieutenant-governor would again not have been able to find an avenue through which Hall could have been paid, and was perhaps pleased to have the near infallible Indemnification Act protecting government interests.²³⁰

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ "Claim of C. Leggo" in "Claims for Losses" in *Appendix, 1839*, 837.

The 1839-40 round of claims submitted to the commissioners is the largest and most comprehensive before the massive but undetailed report in 1845. The 1839-40 report also contains several petitions that dealt directly with claims against the militia. Perhaps the most significant of these complaints was that of E. Durham and 40 others from January 14, 1840. Writing on behalf of his neighbors who also lost personal property due to militia damage, Durham verbally berated the militia and the government itself throughout his claim. Like the claim of Mary Hall, Durham wrote his claim after receiving a rejection for comparable reasons as his neighbors – the inability or unwillingness of the government to pay out funds for damages caused by its representatives. Durham said as much in his petition, stating that “during the period the Board of Claims sat at Drummondville, your petitioners submitted to them their several claims for losses and destruction of property, fully expecting that Her Majesty’s Government would, under all the circumstances, cause a fair and reasonable compensation to be made.”²³¹ Based on Durham’s description of the events, along with the backing of the 40 other unnamed petitioners with similar complaints, the militia acted horrendously. Durham and his fellow petitioners were certainly viable candidates for remuneration, although the commissioners and council persevered in their policy of rejection.

Durham’s explanation of the damages was very similar to Hall’s, as he also spoke at great length regarding the problem of shattered and smashed windows and mantelpieces, burned and cut up floors, and stated that they “committed every species of depredation.”²³² While other petitioners were clearly wary about how ruthless they were

²³¹ “Claim of E. Durham + 40 others,” in “Claims for Losses,” in *Appendix, 1839-1840*, 521-522.

²³² *Ibid.*

in degrading the militia, or were at least keen to temper it with constant reminders of their loyalty, Durham did nothing of the sort. He harshly condemned their action of forcing citizens out of their homes to stay with friends before firing another verbal barb into the claim: "... the greater part was plundered and destroyed and taken from them by those very men to whom they looked for protection, and from whom better conduct might have been suspected."²³³ To his credit, Durham and his 40 fellow petitioners made no allusions to being content with the protection of the militia or the government in the slightest. He did not become a toady and thank the militia for their service – he criticized their actions as a certifiable fiasco. Interestingly, Durham’s disapproval did not stop with the militia. He also said that he and his fellows were concerned that their petition would have a similar outcome as the petitions from the War of 1812, where the government’s tardiness resulted in a 20-year delay in receiving compensation.²³⁴

He continued in this same fashion for some time, also criticizing the favouritism that he believed was shown to those applying for reparations from the “Home District” in Toronto, forcing those from his district of Niagara to wait.²³⁵ This adds an interesting angle to the larger theme of civic response. The thought that individuals closer to the capital would receive preferential treatment is essential, and perhaps justified when taking into account the accepted claims of Dr. Horne and Margaret Washburn. In a similar fashion to other claims placed against the government, Durham said of their prior correspondence that they were "informed by the Commissioners of said board that their instructions were such, that nothing could be done with respect to damages to houses, or

²³³ Ibid.

²³⁴ Ibid.

²³⁵ Ibid.

for the loss of property, until the meeting of the legislature."²³⁶ Durham's petition stated that the legislature had already met, and there had still been no resolution, which is crucial for this secondary petition.

The plight of E. Durham and the 40 other persons within the claim adds considerable depth to the question of civic response to the Upper Canada rebellion through the lens of the claims for losses, and the role of the militia. Firstly, he made no qualms about the issues at hand by making the seemingly apparent statement that those protecting them should have been doing just that, rather than destroying valuable property. Secondly, his point regarding the difficulty in receiving remuneration from claims from the War of 1812 adds another layer to the complexity of the situation, allowing a belief that the Upper Canada government may not have been in the good graces of numerous irate citizens.

As the report on the state of the province succinctly said, it was "painfully obvious" after the debacle of the Upper Canada Rebellion and "Patriot War" that an adequate defence force was required in the colonies. The display of uninhibited enthusiasm was the hallmark of the militia but also what led to their downfall. While their numbers swelled to a force easily capable of defeating the mere several hundred American and Canadian brigands, their conduct as defenders of the colony was unacceptable, leaving a black mark on their reputation and becoming a source of anger for several citizens. Of great enough seriousness were the claims for losses precipitated by the militia, but of even greater import was the refusal, unwillingness, and perhaps

²³⁶ Ibid.

inability of the Upper Canadian ministry to reimburse the citizens who had suffered a worse material fate at the hands of their defenders than they did the rebels themselves.

The militia and their role in the Upper Canada rebellion are not only an imperative study because of the sheer number of claims for losses they were responsible for, but as an important thematic angle into studying government abuses and the impact on the civic population who they were meant to be protecting. Often failing in their cause to defend the population, the militia in this conflict are a fascinating bridge between the gap of the governors and governed. While made up of commoners, they were controlled by the executive. By studying the militia's actions and the claims for losses they caused, which were all indemnified, this sheds light on a largely unexplored avenue of scholarship that speaks volumes to the larger themes of loyalty, reciprocity, and obligation on both sides of the issue. Chapter three will discuss these important thematic examples in more detail by examining other rejected claims and shirking of government responsibility, while also making note of the few accepted claims and their important role in deciphering what the executive viewed as their responsibility to their citizenry.

CHAPTER 3: Loyalty and Reciprocity

Invocations of loyalty to the distant British Crown permeated Upper Canadian life in the early 19th century, and until the 1830s virtually everyone shared it. And then, in that decade, it became a partisan issue. Members of the Family Compact, and Tories more generally, used claims of loyalty as a political tool, and charged reformers with disloyalty. They believed that “Upper Canada was, and should remain, a bastion of British power and influence in North America. Its institutions, its laws, its traditions, and, obviously, its people, they believed, must clearly reflect and actively support this.”²³⁷ Despite obvious misgivings from the reformers, some of whom would turn to rebellion, it appeared that many in Upper Canada adhered to the sentiment expressed by the Compact. If the 1836 Upper Canada election can be any indication, loyalty was strong in the province, or at least was able to be coaxed out of subjects if the only other option was to be dubbed disloyal, if not a traitor: “There was no room in Upper Canada, the Tories asserted, for anyone or any idea which overtly or even implicitly challenged the British constitution as they understood it.”²³⁸ While most reformers had no issue challenging the colony’s British constitution in the rebellion, either implicitly or explicitly, the preponderance of citizens had no desire to “quarrel with their bread and butter” as former Lieutenant-Governor Head expressed it. These devout citizens had no wish to participate in the insurrection, but it still affected them. The rebels, and in 1838 rebels mixed in with

²³⁷ Jane Errington, *The Lion, the Eagle, and Upper Canada: A Developing Colonial Ideology* (Montreal & Kingston: McGill-Queen’s University Press, 2012), 182.

²³⁸ *Ibid.*

American Hunter Patriots, were the provocation that resulted in substantial material losses in the province.

Loyal subjects, confident in the protection provided to them by the empire, as was the nature of the reciprocal relationship between colony and mother country, looked to their government for aid. Confidence in complete compensation for property losses from the protection and financial protection was high. The government had protected its own interests through the Indemnification Act, but approximately half the damages had been caused by rebels. For even the most idealistic commoner, blind loyalty was foolish; loyalty implied a reciprocal relationship between a subject and the Crown or royal officials and included the promise of protection. Where military defense had obviously failed them in the rebellion, pecuniary protection was still rightfully expected. So, claims were submitted. The government was unprepared the claims it received, or for addressing the range of issues they contained. The first commission report from 1838 addressed 16 petitions. From these claims, all of which included detailed explanations, £4,930 in damages was requested and £4100 was reimbursed to 10 claimants, an average of £410 for each claim. The total requested in the six that were refused compensation amounted to £830 pounds, averaging a little over £138 per claim. All six rejected claimants were rebuffed on the grounds of the Indemnification Act, as their claims would have required the government to admit responsibility for their losses. The report from 1839 addressed 96 claims or a 600 percent increase. Those claims totaled £29,529, of which only £131 was paid on three claims, and all for services to the government. Many of those claims pertained to the sinking of the *Sir Robert Peel*, as will be discussed below. The 1840 report was for 23 claims totalling £1,480. Fourteen claims were compensated, but only

£240 was paid, and for items of relatively low cost like firearms. Those who had suffered their losses while in the government's employ or had their property lost and damaged by the government's representatives, particularly the militia, were left wanting. Thus, the total claims from 135 petitioners from 1838-40 totaled nearly £36,000, of which only £4,470 was paid, resulting in an 88% rejection rate.

The destruction inflicted throughout 1838, lasting until 4 December, wrote a new chapter in the claims for losses saga. It rapidly became evident that many petitioners would be left wanting. The government and claims commission were quickly overwhelmed, both politically and financially, by an onslaught of additional petitioners they had never anticipated when they initially passed the legislation for the claims commission in March 1838. It also quickly became apparent that most petitioners were extremely disgruntled with the proceedings surrounding the claims for losses and the bumbling administrators who seemed intent on pleasing the government rather than the people of Upper Canada. Regardless of their self-proclaimed intent to compensate deserving subjects, the government was unable to pay until 1846. It is very clear, based on the reinvigoration of the claims for losses commission in 1841, that the citizens of Upper Canada were dissatisfied with the work of the first commission and pushed strongly for a restart.

The government did not ignore all claimants and abandon their constituents entirely. Accepted claims, while an exception, still occurred. The first report in 1838 shows the commission was particularly generous with the opening claims of tory partisans. As the conflict progressed, however, successful claimants became a rarity and usually required adherence to a specific set of guidelines. In the second and third reports

of the commissioners, the petitioners who submitted their claim on the grounds of service to the government had the best possibility of acceptance. These services took many forms that will be discussed in this chapter, but all share the commonality of providing support to the militia during the insurrection, whether through the donation of firearms, recruitment, use of horses, or in actual employment as constables to apprehend and capture rebels.

The claims, both those disallowed and accepted, offer insights into several key issues during the rebellion of 1837–38, more generally. They make it possible to appreciate how the typical person reacted during the uprising and how they were affected by the behaviours of the rebels and their own government and militia. The impact on the populace was considerable, and the claims provide excellent insight into this impact. While thousands took up muskets or pikes in rebellion or on behalf of the government, thousands more remained relatively inactive until forced into the pages of history through the actions of both royalist and rebel forces. The importance of the claims for losses petitions is that they provide a window into the lives of the civic population: their professions, their loyalties, and pieces of their larger stories. Furthermore, they provide insight into the government: the decision to accept or deny a petition might seem arbitrary but was conceivably linked to connections, loyalty, cost, and expediency. This chapter examines certain petitions that either enjoyed acceptance or suffered refusal by the claims for losses commission, and analyzes what these claims can tell us about civic society, the impact of the rebellion, and how the actions of the claims for losses commissioners affected the role of both governors and governed within Upper Canada. Numerous key themes within the claims will be explored to ensure sufficient context in

responding to the question of societal impact and the civic response. These issues include the role of government legislation, the refusal to accept accountability and provide payment, the poor state of the Upper Canadian economy, and various nuances in petitions that could doom an application or improve its chances of securing payment. The theme of loyalty and reciprocity will also be discussed at length. In the petitions themselves, the Upper Canadians remained constant in what they knew best, and what they obviously believed was the most likely avenue to a successful petition: proof of loyalty. Statements providing proof of loyalty litter the claims for losses, as subjects wished to make it known that they were steadfast in their support of the government against unwelcome threats. While no guarantee of success, claimants obviously felt these professions of loyalty were a necessary addition to their petitions.

Lieutenant-Governor Head and the Family Compact strategically weaponized loyalty in the 1836 Upper Canada elections when the Tories successfully made it the cornerstone of their campaign and won handily.²³⁹ The use of loyalty as propaganda was an advantageous tool for the Tories, as was the discrediting of any who called himself “reformer”. By asserting themselves to be the only ones loyal to the Empire, anyone who questioned them were surely rebels. Even moderate reformers who agreed with the premise of responsible government but who rejected armed mutiny as a way to achieve it were still tagged as disloyal, as “the whole body of liberals (reformers) were proscribed and treated as rebels in disguise.”²⁴⁰ By making themselves the very picture of

²³⁹ Wallace, *The Family Compact*, 111.

²⁴⁰ Mackay, *The Crisis in Canada*, 15.

faithfulness to the Crown, the Family Compact effectively monopolized loyalty, while those who vehemently disagreed with them, they dubbed traitors.²⁴¹

The first claimants to receive indemnification from the government need not have worried about rejection or questions regarding their devotion, as the claims commission was created for their benefit.²⁴² These successful claimants suffered in the earliest part of the rebellion and benefitted from several circumstances. Firstly, most were well known and wealthy individuals who had been targeted by Mackenzie for being close to the government.²⁴³ While claims caused by the government were unreservedly brushed aside, claims for damages caused by rebels were looked at favourably by the commission. Secondly, in the first few months of the commission, the rebellion was in its infancy. While the accepted claims from the first commission were high in cost, £4100, this amount was still minute in comparison to the additional £36,000 the administration would be tasked with handling by the rebellion's conclusion.

One citizen who the rebels targeted was a well-known bank executive and resolute tory, Dr Robert Horne. On 5 December 1837, Mackenzie was in an implacable mood. Marching at the head of a contingent of almost 600 reformers, he finally had the influence to humble those who had aggrieved him. Horne, a pompous and wealthy member of the despised and corrupt (in the eyes of the reformers) Bank of Upper Canada, was unquestionably at or near the top of Mackenzie's list. Horne symbolized all that the reformers were fighting against: nepotism, wealth extraction at the expense of the

²⁴¹ Ibid.

²⁴² Ibid, 30.

²⁴³ Dent, *The Story of the Upper Canadian Rebellion vol. II*, 51.

province's residents, and the Family Compact, whom Mackenzie had attacked in his editorials.²⁴⁴

Although Horne represented the enemy, he was more the victim of Mackenzie's personal vendetta than a threat to the reformers' goals. The agitators wished to fight for responsible government and against executive control via the Family Compact, not against individual Upper Canadians who were small cogs in the machine the rebels viewed as corrupt. Fellow reform leader Samuel Lount said as much in his statement on the events before he was condemned to the gallows, stating that he disapproved of Mackenzie's antics, notably the burning of Dr Horne's residence.²⁴⁵ After this debacle, the other reformers were 'disgusted at this exhibition of petty malignity, and some of them expressed their disgust in forcible language to Mackenzie himself'.²⁴⁶ Attacks on private citizens under the guise of rebellion was not part of the strategy. It should not be forgotten that most Canadian reformers were common men with no desire to harm their neighbours. Their desire was not to punish those who followed or accepted the status quo but to affect change through policy stemming from the home country. If this required armed conflict against the soldiers employed to defend the Empire and the political systems, so be it.

However, based on the evidence, most damages during the rebellion were caused by Americans from the Hunter's Lodges and other brigands in 1838. The Upper Canada rebellion itself was intended to be as bloodless as possible. As J. C. Dent claimed, writing in 1885, 'They had been led to believe that there would be no bloodshed: that the city

²⁴⁴ Ibid, 141.

²⁴⁵ Ibid, 100.

²⁴⁶ Ibid, 142.

would fall into their hands without the striking of a blow.²⁴⁷ The hope of a non-violent takeover of the capital city of Upper Canada seems preposterous, yet many reformers believed that this would have been achieved if they had stayed the course, and continued to the undefended city center rather than abandoning the march.²⁴⁸ Lount also had to restrain Mackenzie from rashly attacking other homes, such as that of Sheriff Jarvis. He pleaded with Mackenzie and others to spare the house, as Jarvis' wife was quite ill.²⁴⁹ Mackenzie, as the expedition leader, reluctantly relented.

Still, Mackenzie could rationalize anything in his arguably impassioned mental state in the days surrounding the rebellion.²⁵⁰ The fiery Scot harboured a long-held grudge against Horne for a perceived personal slight and a rejection from the Bank of Upper Canada. According to reformer John Hawk who was questioned after the rebellion, he heard Mackenzie state he wanted to attack Horne because he was the 'worst Tory in the city.'²⁵¹ The attack on Horne's home was ruthless and resulted in thousands of pounds worth of damages. On December 5, 1837 Mackenzie entered the premises in a rage and ushered Horne's family out into the December cold before re-entering to complete his mission. Back inside the residence, the diminutive reformer was attacked by the family dog, which Mackenzie felled with a shovel before kicking over the kitchen stove and setting the house ablaze.²⁵² Horne relayed all this evidence to the claim's commissioners, and it seemed a foregone conclusion that he would be believed.

²⁴⁷ Ibid, 142.

²⁴⁸ Ibid, "Statement of John Hawk," 51.

²⁴⁹ Ibid, "Statement of Samuel Lount," 100.

²⁵⁰ Ibid, 151.

²⁵¹ Ibid, "Statement of John Hawk," 51.

²⁵² Kilbourn, *The Firebrand*, 211.

An analysis of the petitions and commissioners' decisions reveals that they used specific prerequisites and standards that, if met, could be predictive of a successful claim. A plaintiff like Horne satisfied the requirements, meeting the strict guidelines outlined in the rebellion losses act of being a claimant who had lost their dwelling by actions of the rebels. Beyond fulfilling those conditions, expressions of loyalty undoubtedly helped with the claim's commissioners. Not only was Horne staunchly devoted, he was a close friend of the Family Compact. He obtained a lucrative position at the Bank of Upper Canada with no other qualifications than being married to the bank president's sister. Horne was not technically a Compact member, but the Bank of Upper Canada was under their control like other institutions of note in the colony. The bank's president, William Allan, was a member of the executive council and thus part of the Compact.²⁵³ Horne was understood to be a dedicated tory and, because of his position with the bank, he was as close to the Family Compact as possible and undeniably in their good graces.²⁵⁴

Compared to other claims made in the two succeeding years, Horne's claim was massive at £2369 given that his house would have matched his wealth and high standing in York (Toronto) society.²⁵⁵ However, other claims this substantial were disallowed, seemingly for no reason other than the nearly empty coffers of the Upper Canadian government, which made the commissioners unwilling to recommend compensation. Interestingly, Horne asked for preferential treatment, the accumulation of interest on his claim if unable to be paid, because he contended that Mackenzie burning his house was a defining event that saved the city. In his petition, Horne implored the commissioners to

²⁵³ Pierre Berton, *War of 1812* (Anchor Canada, 2011), 817.

²⁵⁴ Dent, *The Story of the Upper Canadian Rebellion vol. II*, 94.

²⁵⁵ "Claim of Dr. Robert C. Horne," in "Claims for Losses," in *Appendix, 1839*, 1028.

be aware that ‘the burning of my house saved the whole City from destruction, by exposing to many of the insurgents the true nature of the conspiracy, and by exciting a more determined spirit among the loyalists.’²⁵⁶

While Horne’s statement regarding his role in averting disaster is self-serving, he was correct on one of his two points. The burning of his home certainly soured the opinion of many reformers regarding Mackenzie and threw his reputation as a leader into serious doubt. It was probably hyperbole, however, for Horne to claim that the enthusiastic response of the militia volunteers was attributable to the demolition of his house. Rather, it was the death of loyalist Colonel Moodie at the hands of reformers that finally spurred Head to call out the militia.²⁵⁷ Furthermore, many of the arriving members of the militia were from well outside the city; men began to arrive by boat from other districts in response to the summons.²⁵⁸ It is improbable that all the 1200 men who stood outside Toronto city hall on 7 December knew of Horne’s ruined home. Nevertheless, Horne’s claim was fruitful, as it was always bound to be, and he was fully reimbursed.²⁵⁹

It was common practice for claimants with a close connection to the government to proclaim it. Two other applicants from the initial round of submissions were directly related to Horne. Jane Milligan and Michael Murnan were his servants at the time of the attack, and both submitted modest claims to cover the cost of replacing their lost belongings. Horne, of course, vouched for their character and confirmed their destroyed possessions, and the commissioners honoured their claims without qualifications.²⁶⁰ The

²⁵⁶ Ibid, 1033.

²⁵⁷ McKenzie, *James Fitzgibbon: Defender of Upper Canada*, 125-128.

²⁵⁸ Ibid, 135.

²⁵⁹ Dent, *The Story of the Upper Canadian Rebellion vol. II*, 142.

²⁶⁰ Ibid.

servants' accounts are shocking: Michael Murnan stated that the insurgents would not let him remove any of his possessions prior to departing and attempted to take him prisoner.²⁶¹ Despite their modest social standing, the commissioners were exceedingly fair with Milligan and Murnan. Milligan appears again in the 1840 report, when the commissioners deduce that they had underpaid her in their first recommendation, based on her possessions, and stated that she was due an additional £11.²⁶²

Another claimant, John Osterhout of the Niagara district, also benefited from having advantageous connections. Osterhout, an innkeeper and loyal subject at the time of the rebellion, supported the military effort by permitting Upper Canadian troops to lodge at his inn in June of 1838.²⁶³ Shortly after the troops departed Osterhout's inn, a band of rebels violently attacked and robbed him on June 21, 1838. Osterhout's losses were numerous. The brigands smashed all the windows and doors and shot the building before robbing the innkeeper of his cash, food, and liquor.²⁶⁴ In a compelling claim, Osterhout includes that the rebels attacked his inn due to the previous presence of royalist troops even though they had left.²⁶⁵ The new Lieutenant-Governor Sir George Arthur clearly felt the innkeeper's plight was severe enough that he visited him to assess the damages personally, a visit which was a far from common occurrence for petitioners.²⁶⁶ Only the province's most significant claims, such as the burnings of the steamships *Thames* and *Sir Robert Peel*, seem to have been addressed personally by a top official, due to their far-reaching consequences and impact on the general population.

²⁶¹ "Claim of Michael Murnan," in "Claims for Losses," in *Appendix, 1839*, 667.

²⁶² "Claim of Jane Milligan," in "Claims for Losses," in *Appendix, 1839-1840*, 492.

²⁶³ "No. 4, Claim of John Osterhout," in "Claims for Losses," in *Appendix, 1839-1840*, 503.

²⁶⁴ *Ibid*, 503.

²⁶⁵ *Ibid*.

²⁶⁶ *Ibid*.

Osterhout, however, explicitly references how Arthur visited him at his inn after the attack, assessed the damage, and stated that Osterhout would be reimbursed for his losses.²⁶⁷ Arthur's statement was not a minor decision, as it was much more common for a claimant to be rejected despite solid evidence of loss at the hands of rebels. However, Arthur, who took a great interest in the claims for losses, ensured that Osterhout was reimbursed the £29.5s he requested.²⁶⁸

Osterhout's claim is worth further examination as an outlier. Despite the acceptance of many claims in the opening months of the claims for losses commission, the number with a positive outcome dwindled as the rebellion reached its conclusion in late 1838. There are several reasons for this, such as the wording of the rebellion losses bill, which implies it was only for the events between the 4th and 7th of December 1837, and that it would only include damages caused to buildings by the rebels. However, despite these questions of semantics, a further issue in repaying citizens was the debt-ridden state of Upper Canada at the time. While Osterhout was the victim of damage to his building, the attack on his inn occurred in the summer of 1838, well past the earliest outbreaks but still before the bloodiest conflicts, which occurred later that year. The amount of his claim must also be considered: £29 was not a small sum, but it still paled compared to the massive, disallowed claims that reached hundreds of pounds or more. It is possible the lieutenant governor could have viewed Osterhout as easy to appease with a relatively small amount, which was an impossibility with other petitions. Osterhout's loyalty was also plainly mentioned in his request, as was good practice. A justice of the

²⁶⁷ Ibid.

²⁶⁸ Ibid.

peace, John Clark, who served as a character witness, informed the commissioners that the innkeeper was the son of a United Empire Loyalist and was a ‘loyal and good subject.’²⁶⁹

Oosterhout bridges an important gap in the discussion on accepted claims. As a petitioner who had met personally with the lieutenant-governor, he can confidently be placed into the camp of well-connected and loyal claimants. But unlike Horne and the other successful applicants, Oosterhout had also provided a service to the ministry, by allowing the royalists to use his inn. Before and after the attack, he states that his inn was a common meeting place for the troops: ‘...your petitioner was visited by the Queen’s troops from different parts of the province when your petitioner cheerfully furnished forage and rations to those requiring them.’²⁷⁰ Few common folk could have survived the financial burden of such losses, whether material damages or loss of employment, without help from the government in the form of compensated losses. Despite the ministry’s massive shortcomings in failing to believe most claims, their willingness to accept was bolstered by a substantial proof of fealty such as actions that helped to suppress the insurrection. Acceptance of claims for services and employment occurred frequently, with over £400 paid to claimants who suffered losses or incurred costs while in the government’s hire during the rebellion. These petitions could be termed employment claims, and rejection of and refusal to pay employees of the empire might well be considered worse than ignoring claimants who suffered losses in an armed conflict. Payment for employment was a necessity for the ministry. For claims regarding

²⁶⁹ Ibid, 504.

²⁷⁰ Ibid.

services and employment, the loss in question was frequently the time of the petitioners. The claimants were often farmers and working men, and the forfeiture of time at their usual tasks was not inconsequential. Several applicants lost far more in their service as government agents than valuable days toiling in the fields: horses were common casualties, as were crops and wagons. These were vital commodities for survival in 19th-century Upper Canada, the loss of which could create far-reaching consequences for commoners.

Based on the claims for losses, we can be certain that many subjects wished to help the government suppress the rebellion and risked a good deal to lend their aid. Charles Lemmon was a Black man residing with his family in Toronto who was tasked with recruiting fellow Black Upper Canadians to join the militia to assist in halting the revolt. Lemmon was apparently efficacious in his task, as his claim was successful. The implications of this event are critical. The involvement of troops from south of the border troubled many Black Canadians who were worried slavery would return in the British Empire if Americans overran it. Although the rebellion was a predominantly Canadian issue, the involvement of Americans created unease within the Black community of Canada. As Fred Landon notes, ‘the success of the invaders would break the only arm interposed for their security and destroy the only asylum for African freedom in North America’. This belief was a valuable tool to persuade many Black Canadians to fight with the Empire.²⁷¹

²⁷¹ Fred Landon, “Canadian Negroes and the Rebellion of 1837,” *The Journal of Negro History* 7, no. 4 (1922): 378.

The unwelcome sight of the burning American steamer *Caroline* being sent tumbling over Niagara Falls by British forces incensed Americans and added fuel to an already heated disagreement. This incident caused further unease among Blacks in Canada, who worried that Yankees would soon begin pouring over the border in retaliation.²⁷² The reformers often had their numbers bolstered by Americans who believed strongly in the shared cause of implementing responsible government and democracy. William Lyon Mackenzie even created the short-lived Republic of Canada on Navy Island between Canada and the United States, and his numbers were greatly reinforced by Americans who supported his cause of overthrowing British dominion.²⁷³ This information provides context to Lemmon's claim and the powerful impetus behind Blacks fighting with the royal forces: their motivation for fighting was inextricably linked to a sense of survival and of commitment and duty to the empire.

John Mercier MacMullen in *The History of Canada: From its First Discovery to the Present Time* (1868) stated that Blacks in Canada were 'the poor hunted fugitives from America slavery, who had at length found liberty and security under the British flag.'²⁷⁴ Due to their fear of being forced back to America, Black soldiers flocked to the British flag to fight against the insurrection. Francis Bond Head was very proud of this and remarked how the Black community stood behind Upper Canada to 'defend the glorious institutions of Great Britain.'²⁷⁵ Head also smugly remarked that Black soldiers

²⁷² Ibid, 378-379.

²⁷³ Read and Stagg, eds, *Rebellion of 1837 in Upper Canada*, lxxxv.

²⁷⁴ John Mercier McMullen, *The History of Canada: From Its First Discovery to the Present Time*, Vol. 2. (Brockville: McMullen & Company, 1892), 145.

²⁷⁵ Landon, "Canadian Negroes and the Rebellion of 1837," 378.

chose to defend not the side who claimed all men were born equal but the side who would help formerly enslaved people.²⁷⁶

Charles Lemmon's claim for his labour to recruit fellow Black militiamen illustrates the civic responsibility felt by Black residents and their reaction to the rebellion. It also proves how seriously the government took claims for losses when they were repaying faithful citizens who had performed admirable services at their own expense. Numerous other Upper Canadians also acted out of allegiance and patriotism, but Blacks also acted out of fear that their freedoms might be severely handicapped by any victory that involved the Americans, no matter how distantly. Lemmon received a considerable sum for his part in aiding the enlistment of Black militiamen. He raised 'a number of colored men in defence of the Province' in an extensive effort that 'very much inconvenienced his family,' and he felt that his services were worth a staggering £150 39s.²⁷⁷ Lemmon did not receive that amount, but he did receive £62.10s. for his recruiting, still a sizeable sum.

It is unclear why Lemmon did not receive the total amount requested, and it is not possible to determine whether this was for racial reasons or another instance of an applicant overstating their worth or simply suggesting an inflated figure. The petition was presented for consideration directly to the lieutenant-governor, who recognized the importance of Black soldiers and was aware of their loyalty to the cause, but this was not sufficient to alter the amount authorized.²⁷⁸ Unfortunately, there is also no record of how long his recruitment excursion took, but based on the price it can easily be inferred that it

²⁷⁶ Ibid.

²⁷⁷ "No. 8, Claim of Charles Lemmon," in "Claims for Losses," in *Appendix, 1839-1840*, 506.

²⁷⁸ Ibid.

included a heavy workload of travel lasting some months. This was an impressive feat and display of devotion for a man who, according to the claim, had a family that was dependent on him for subsistence. A successful claim of £60 is still significant, and the reciprocal relationship between subject and sovereign is displayed visibly through Lemmon.

Militia members were also volunteers and faced unique issues and obstacles, requiring them to submit claims. As these men had risked making the ultimate sacrifice for the crown, the ministry surely knew that they were accountable for any losses suffered by the militiamen and their families while acting in the absence of the regular army. Militia volunteer and farmer James Swift submitted an appreciable claim in 1840 that illustrates this sensibility. In the 19th century farmers contended with wearisome trials, even without a rebellion occurring during the harvest season. However, Swift, an Irishman, faced this dilemma in 1837 concerning a choice between his duty to the sovereign and his valuable crop of turnips. Swift was on the list of men expected to present themselves for militia duty to help stave off rebel attacks occurring throughout Upper Canada. The situation was unfortunate for Swift, as the peaceful farmer only wished to remain at his homestead to continue his labours.²⁷⁹ Torn between duty and responsibility, Swift took decisive action. His turnips and livelihood would have to remain at home unattended. He decided that his loyalties were not to his crop and profession but to his 'duty as a true subject of Great Britain, and for which I would not take any pay for the same'.²⁸⁰

²⁷⁹ "No. 18, Claim of James Swift," in "Claims for Losses," in *Appendix, 1839-1840*, 517.

²⁸⁰ *Ibid.*

Swift, who submitted his claim on January 2, 1839, stated his sacrifice amounted to £22, an amount large enough to have caused harm to a man doing his duty for the country. Swift's well-crafted claim appealed for approval, stating that the money lost from his crop was 'too hard for a poor man to lose at this period of the year.'²⁸¹ Swift's service was impressive, as a farmer's crop was his livelihood.

Initially the militia of Upper Canada during the 1837–38 rebellion was composed of volunteers.

While most adult males between the ages of 16 and 60 were liable for service very few did and the annual muster day on the king's birthday was more often a social occasion only slightly inconvenienced with actual military training. There were exceptions such as the volunteer units that trained and equipped themselves at their own expense.²⁸²

Swift could have endeavored to evade the muster, but his claim portrays him as a man with strong views on what loyalty and duty encompassed. Swift's language also says much about his feelings towards the crown and its representatives; for example, he addressed the lieutenant-governor of Upper Canada as follows: 'I trust on your humanity, which you have been known for in the Province since your arrival.'²⁸³

Swift's claim should be taken seriously as an example of the realistic impact on common Upper Canadians. Militia duty included the risk of death, especially since Swift was being sent to Kingston, an area that was expected to be attacked by the rebels.²⁸⁴

²⁸¹ Ibid.

²⁸² Garcia, "This Period of Desperate Enterprise," 150.

²⁸³ "No. 18, Claim of James Swift," in "Claims for Losses," in *Appendix, 1839-1840*, 517.

²⁸⁴ Garcia, "This Period of Desperate Enterprise," 156.

Another critical point is that this claim remained unresolved until 1840, almost two years after the event Swift details and requests remuneration for. During this period Swift would have had no certainty that his claim would be accepted. Swift's allegiance to the crown outweighed his sense of obligation to earn his daily bread, and his reimbursement in full demonstrates that his fealty and unwavering service to the government were rewarded in kind.

While the ministry was unable to pay several deserving claimants between 1837 and 1840, they certainly took their responsibility to the militia very seriously. As Swift's claim aptly demonstrates, services afforded in defence of the Colony were considered favourably, often resulting in accepted claims and quick repayments while other deserving subjects were made to wait over a decade for relief.

The claim of John Butler further illustrates this theme. A member of the volunteer militia, Butler left his home on 7 February 1838, to perform his duties, as hundreds of rebels were still at large in the province after the destruction of Montgomery's Tavern. Taking advantage of Butler's absence in the Niagara district, a hotbed of rebel activity, rebels fell on Butler's undefended home at midnight, setting it alight while the rest of the family of seven was still inside.²⁸⁵ The family escaped unscathed and quickly gathered neighbours to help remove possessions from the inferno. It was too late. The entire home was lost, along with the family's belongings. The family, however, could not prove the rebels committed the arson, a point the commissioners considered when discussing the claim: 'The evidence is not so clear and pointed in this case, as in all the others, as to the

²⁸⁵ "Claim of John Butler," in "Claims for Loses," in *Appendix, 1839*, 652-653.

act having positively been that of the rebels. In all the other cases no doubt whatever remains on this point, as the acts of destruction took place in open day in the presence of several witnesses.’²⁸⁶

John Butler was not willing to accept the commissioners’ decision. His household included his son Richard, a militia member who had been ‘meritoriously employed’ as a defender of the colony since December 1837. Richard travelled to the commissioners and presented his testimony in person. At £102, the Butler claim was not modest, but the commissioners were evidently inclined to have confidence in a citizen who had provided valuable service and proved trustworthy: ‘The presumption in the opinion of the Commissioners was strongly in favor of the belief of the witness, that the house was fired by incendiaries from the rebels, and as they see no cause to doubt the reasonableness of the charges made for the several items of property lost, they recommend this claim for payment.’ Butler’s claim was accepted, and the family paid.²⁸⁷ If Butler had not been a soldier with solid character witness statements from his officers, it is difficult to say whether it would have been accepted when almost identical petitions from other common folk were ignored.

The claim of Truman Burritt for the loss of two horses falls into several categories concerning its acceptance and recompense by officials. As the rebels scattered from the ruins of Montgomery’s Tavern on 7 December 1837, the need to apprehend them before they could find refuge across the border in the United States became great. As the possessor of two mounts, Burritt volunteered to help the militia capture the offenders in

²⁸⁶ Ibid.

²⁸⁷ Ibid.

what became a multi-day chase. The criminal they were chasing, William B. Wells, was said by the magistrates to be ‘no doubt guilty of treason.’²⁸⁸ .

Under the command of a militia officer, Burrirt and several other men joined the chase. While returning home on 16 December, disaster struck crossing the River Rideau, and Burrirt’s horses were swept away and drowned due to ‘the badness of the roads and inclement weather.’²⁸⁹ Although Burrirt’s loss occurred in December 1837, a claim was not submitted until January of 1839 and not by Burrirt. Aware of Burrirt’s costly loss, several gentlemen of Prescott took it upon themselves to file on Burrirt’s behalf to ‘obtain any remuneration for a loss which [...] he could ill afford’.²⁹⁰ The individual submitting the claim, Colonel Plomer Young, explained that ‘some of the neighborhood gentlemen have requested me to recommend the case to his Excellency.’²⁹¹ This humane effort of Young and the other Prescott gentleman on Burrirt’s behalf was successful. The commissioners granted him £43 for his claim: £40 for the two lost horses and £3 for his four days of service.²⁹²

Services resulting in losses like Burrirt’s were a prevalent cause of petitions in the wake of the rebellion, and many were honoured by the commissioners. Many petitioners who made claims stemming from damages caused by the insurgents had their loyalty to Crown and country ignored. Nevertheless, others proved their loyalty through actions and put the government in their debt to benefit from reciprocity. Claims for services to the Upper Canadian defenses were generally succinct and without detailed explanations of

²⁸⁸ “No. 3, Claim of Trueman Burrirt,” in “Claims for Losses,” in *Appendix, 1839-1840*, 500-503.

²⁸⁹ *Ibid.*

²⁹⁰ *Ibid.*

²⁹¹ *Ibid.*

²⁹² *Ibid.*

worthy deeds and loyalty with character witnesses to indicate fealty. The petitioners' deeds were proof enough, as was the case for John Eplett.

Eplett spent 16 days in the government's employ looking after prisoners, guarding the property of known fugitives, and supervising a vacated store.²⁹³ Eplett's contribution was minute when contrasted with the considerable political upheaval that the rebellion had set in motion. However, the dedication of many in ensuring Upper Canada remained free from republicanism is quite significant, indicating the widespread response of the civic population. Eplett was reimbursed the £4 owing to him for his lost time without question.

Numerous other men can be grouped in the same category as Eplett regarding performing essential services for the government. In John Sales' claim, he explains he had allowed his horses and sleigh to be rented by the militia who were attempting to capture fleeing rebels for their day in court. Richard Mackay, another petitioner, volunteered to help track down the insurgents before they could find a bastion of safety in America and successfully arrested four. Both men had their modest claims for their services quickly accepted in a matter of months.²⁹⁴

As Charles Lemmon had mustered Black men for militia service, petitioner William Webster recruited citizens of Gore District for an extended time at the behest of Family Compact member Allan MacNab.²⁹⁵ From 7 December 1837 to 20 March 1838, Webster worked diligently as a non-combatant, and his services are outlined in detail in

²⁹³ "No. 16, Claim of John Eplett," in "Claims for Losses," in *Appendix, 1839-1840*, 516.

²⁹⁴ "No. 10, Claim of Richard McKay," and "Claim of John Searles," in "Claims for Losses," in *Appendix, 1839-1840*, 510, 518.

²⁹⁵ No. 15, Claim of William Webster," in "Claims for Losses," in *Appendix, 1839-1840*, 515.

his petition. For 104 days Webster travelled the colony, trumpeting the need to muster the militia.²⁹⁶ The magistrates gave Webster a list of names of suspected criminals and the responsibility to journey to their homes and confiscate all weapons to blunt the force of any further uprisings. In addition, Webster was tasked with arresting proven rebels and escorting them to receive justice. The busy petitioner was further responsible for finding adequate horses and sleighs to allow the militia to travel throughout the colony effectively, and he allowed his own mounts to be used for this purpose.²⁹⁷

Webster was due £47 6s for his work on behalf of the ministry. Still, Webster's dedication brought him dangerously close to financial ruin. In his petition to the commissioners, Webster described himself as an extremely 'humble and obedient' servant of the realm and expressed wariness of overstepping any boundaries in his request. Aware that the government owed him a substantial sum for his loss of income, Webster bought a house on the expectation of the government payment for his loss of income during his service. Taking a loan against claims for losses may seem irresponsible, but it was also perhaps the actions of a man who had complete trust in his government. In October 1839, almost two years after the fact, Webster's loan was being called in, and he still had not been compensated. Webster's circumstances became so precarious that he was arrested for his outstanding loans. He concluded his petition by stating that 'if I have not wherewith to satisfy that claim in a short time, I shall suffer

²⁹⁶ Ibid.

²⁹⁷ Ibid.

very materially.²⁹⁸ Luckily for Webster, the government hurriedly accepted and paid his claim, not a moment too soon, conceivably allowing his debts to be settled.²⁹⁹

Many details of Webster's claim deserve further attention. While it was acknowledged and eventually paid, the elapsed time between the service rendered and compensation almost caused a citizen of unquestionable loyalty to be jailed and lose his home. Webster's claim was not a modest one, and it was well known that Upper Canada was debt-stricken and teetering on the verge of bankruptcy, and clearly was a factor in the lateness of Webster's compensation. Despite the petition's ultimate success, one wonders if the measures Webster found necessary to save himself from financial ruin had the consequence of discrediting the government.

The claims for losses commission and the payments to deserving citizens was rooted in government responsibility. If the Upper Canadian government was unable to protect its populace from debilitating losses using its military might, another form of protection was needed. Protection in the form of financial compensation was a viable solution, but only if executed fairly and in a timely fashion. Hundreds of citizens waited almost a decade to receive the funds due to them. Some, like Webster, were ill-equipped financially to carry such a burden. While the government had promised it would pay its debts to its loyal citizens, financial losses were a time-sensitive issue. Webster's situation rankled even more severely because it was his employment that resulted in losses.

Other non-military services were equally integral to the war. The contractors of the Cataraqui toll bridge in Kingston, James Williamson and William Ferguson, allowed

²⁹⁸ Ibid.

²⁹⁹ Ibid.

a considerable number of soldiers and suppliers to travel across the bridge. Between 8 December 1837 and 31 January 1838, Williamson and Ferguson allowed 3,580 men, over 800 horses, 54 wagons, and 556 sleighs to cross their bridge at no charge.³⁰⁰ As Colonel Bonnycastle of the Kingston militia, a witness for the petition, stated, Williamson and Ferguson helped immensely in expediting the security of the colony.³⁰¹

By allowing the government to delay their payment by one year, Williamson and Ferguson enabled militiamen to travel more quickly than if they had to detour, or if each soldier had to pay and request compensation. Of course, considering the demand, it is difficult to imagine how Williamson and Ferguson could have denied the militia this courtesy, but they still endured a substantial pecuniary burden from their actions. The president of the Cataraqui Bridge Company summarizes the issue in his addition to the claim. He succinctly states that ‘the toll contractors must have lost a good deal of money during the hurry and confusion occasioned by the late commotions in the country’.³⁰²

The government agreed with this assessment and compensated Williamson and Ferguson £99 18s 9d so they in turn could clear their debt.³⁰³ It is unsurprising that the government accepted the contractors’ claim, as they had a clear responsibility to compensate them. To not pay this claim would have been akin to robbing petitioners and despite the financial situation of Upper Canada, services rendered were generally honoured, notably in an instance where important infrastructure was endangered.

³⁰⁰ “Claim of James Williamson and William Ferguson”, in “Claims for Losses,” in *Appendix, 1839*, 675-676.

³⁰¹ *Ibid.*

³⁰² *Ibid.*

³⁰³ *Ibid.*

A consistent foundation for a successful claim was loyalty that transcended words and included services rendered. Services took many forms, and generally the commission treated them in comparably. Demonstrations of commitment to Crown and country through militia duty, clerical duties, donations of time and goods, or constabulary duties were all integral to the defence of the province and were treated as such by the claims for losses commissioners. Repayment for individuals who had rendered these services was often swift, as the government aimed to validate and ensure the protection of those who reciprocally depended on them.

Several claimants used of pro-government language to prove unwavering allegiance. The use of powerful language in support of the government is so consistent, it almost seems a prerequisite for the approval of a claim. The claim of William Macmullen Ross, a volunteer militiaman, is distinguished for its use of flowery and sycophantic language in his request to have a lost firearm compensated. Ross, a farmer who enlisted to do battle with rebels, clearly aimed for the good graces of those reading his claim: ‘your petitioner is well aware of the painful and arduous duties of your Excellency’s high office and unwilling to occupy one moment of that time so valuably employed toward the public welfare.’³⁰⁴ Ross uses this obsequious politeness to prime the commissioners to accept his claim. Like several other petitioners, Ross spoke proudly and plainly about his militia service, describing himself simply as ‘a loyal volunteer’ to defend against the impending rebel attack and he supplied his own weapon.³⁰⁵ Ross eventually supplied the reason for his petition: he lost a personally owned firearm that he traded in at the

³⁰⁴ “Claim of William Macmullen Ross,” in “Claims for Losses,” in *Appendix, 1839*, 693.

³⁰⁵ *Ibid.*

beginning of his service for a gun better fitted for warfare. Unlike other petitioners making similar claims who usually restricted their requests to a few sentences, Ross did not risk making a succinct claim, but rather expressed at considerable length his devotion to Queen and country. Ross stated that ‘the loss, though trifling in a national point of view, is severely felt by myself’ then ended his letter with complimentary closing flourish: ‘Your Excellency’s most dutiful, obedient, and devoted servant’.³⁰⁶ Ross’s striking sign-off, when others with similar claims simply signed their name, or affirmed themselves to be ‘humble’ or ‘obedient’ was excessive with three adjectives and unlike other claimants with relatively small claims.

Samuel Clift submitted a similar claim for the loss of two expensive guns for militia duty. He had lent them to others, and they were never returned. His claim was rather unremarkable until the final sentence: ‘Your petitioner begs to express his loyalty to our sovereign, and that he has been, and will always be ready to aid, as far as in his power, against Her Majesty’s enemies.’³⁰⁷ Clift’s spare statement of his claim, in contrast to Ross’s, makes his closing statement of loyalty more striking, and possibly contributed to the commissioners honouring his request.

Of the 16 petitioners who submitted claims due to lost firearms, 15 were immediately successful, while another was contingent on the petitioner contacting the militia unit who took his.³⁰⁸ Claimants offered diverse reasons for misplaced guns, likely underscoring their importance in rural households. Significantly, all but two claimants received compensation with no issue. Their requests were relatively modest, amounting

³⁰⁶ Ibid.

³⁰⁷ “Claim of Samuel Clift,” in “Claims for Losses,” in *Appendix, 1839-1840*, 518-519.

³⁰⁸ Ibid.

to £1 15s or less, and by honouring them consistently, the commissioners conveyed a sense of reciprocal responsibility to a cluster of citizens at modest expense. It was doubtless less trouble for the commissioners and legislative assembly to accept claims than handle the disaffection, if not anger, that might follow denials. The only unsuccessful supplicant had his application neither confirmed nor denied by the commission. The requester, John Searles, had given two bird guns to the Gore district militia. They both had value to him beyond that of a monetary sense for him, and he desired to find them rather than receive payment for them.³⁰⁹ His claim functioned as both a public record of his loss and a request for the guns' return. The parties were likely awaiting a final verdict on whether Searles was able to retrieve his firearms before compensating him.

The 16 claims for lost firearms are distinctive for the consistency in how the commissioners handled them, unlike other categories of claims. Appeals to the value of allegiance assuredly played a part: maintaining loyalty, especially in times of uncertainty, would have been a powerful motivator for a beleaguered government. The commissioner who signed off on John Murray's claim for a firearm noted that 'from what I have seen and heard, I believe he has proved himself a loyal subject, and as such do recommend him', an explicit reference by a commissioner to the importance of loyalty in honouring claims.³¹⁰

While firearms claims were financially modest, it is telling that this category of claim is the only one in which the average compensation was greater than the amount

³⁰⁹ "Claim of John Searles," in "Claims for Losses," in *Appendix, 1839-1840*, 517-518.

³¹⁰ "No. 17, Claim of John Murray," in "Claims for Losses," in *Appendix, 1839-1840*, 516-517.

rejected. Upper Canadians submitted 17 claims under £15; 16 were for firearms, and one for a saddle and bridle. The total amount claimed was £65: £46 was admitted and disbursed, £15 was pending as the search for John Searles guns continued, and only £4 3s was rejected. The average claim of petitioners for moveable goods under £15 value was £4; the commissioners compensated the claims at an average of £3 and rejected only an average of 5 shillings. This number is noticeable when considering the overall acceptance rate of claims between 1837-1840 was 12 percent, while in this instance it was 75 percent.

Compared to all 135 claims submitted between 1838–40, these statistics are striking. The compensation requested in the initial claims averaged £420 of which the commissioners compensated an average of £66 and declined an average of £354. This compensation rate left the civic population disgruntled as their legitimate requests were rebuffed. In contrast, the near universal compensation of the firearms petitions suggests that the commission's reduction, at times rejection, of the earlier and much larger claims may have been an inability to pay due to their empty coffers.

The accepted claims of firearms and other smaller losses are possibly due to this pecuniary deficiency, as are subsequent rejections of larger claims. The near economic failure of the province was likely part of the justification for denying claims or reducing claims of people who suffered losses in 1838. When Lord Durham arrived in Upper Canada for an assessment of the uprisings in the Canadas, and which led to his famous report and the union of the Canadas, he remarked that the province was 'waste and desolate,' while on the other side of the border, America was thriving in both industry

and population.³¹¹ The outward signs of lack of progress were reflected in Upper Canada's fiscal condition: debt was over £2 per capita, and in 1838 the province's annual revenue of £70,000 paled compared to its expenses of £120,000.³¹² As William Lyon Mackenzie poetically wrote as he watched the economic failure of Upper Canada from the relative shelter of America, 'Ill fares the land to hastening ills a prey, Where DEBT accumulates and men decay'.³¹³

Of course, large portions, if not the majority, of the debt had been incurred by the government and the Family Compact themselves, and, as the advocates of responsible government contended, they thus were arguably accountable for the rebellion through their mismanagement.³¹⁴ Various financial ventures blurred the lines between the personal interests of the Family Compact and the interests of the population. The rebellion of 1837, coupled with the claims for losses, compounded the financial woes and accelerated the deterioration of the government's already shaky economic position. In 1838, the Assembly wrote to the Queen pleading for financial relief only to be rejected, being told the British Parliament had done quite enough for the Upper Canadians already. In a letter from 1838, Lieutenant-Governor Sir George Arthur reiterated the poverty-stricken state of the colony to the Colonial Office Secretary, Lord Glenelg, describing it as "embarrassing."³¹⁵

³¹¹ Lambton, *Report on the affairs of British North America*, 212

³¹² Ronald Stewart Longley, "Emigration and the Crisis of 1837 in Upper Canada," *Canadian Historical Review* 17, no. 1 (1936): 32.

³¹³ *Ibid.*

³¹⁴ Aitken, "The Family Compact and the Welland Canal Company," 63-64.

³¹⁵ Arthur, "Despatch from Arthur to Glenelg (no.91)," *The Arthur Papers*.

The unfortunate tale of the *Thames* steamer further contextualizes the tension between economic instability and unfair resolutions to claims. The *Thames*, a large and expensive steamer owned by Duncan MacGregor, was totally destroyed by the rebels through incendiarism in the attack on Windsor on December 4, 1838. In preparing his claim, McGregor asked ship builder Henry Larned to estimate the costs of replacing the *Thames*. Larned knew the ship well and stated that the steamer “cannot be built at this time for less than four thousand five hundred, or five thousand pounds.”³¹⁶ MacGregor stated that the steamer cost £3500 to build, but added the caveat that he was not calculating the charge for the lumber used from his mill, nor the use of his cattle.³¹⁷ MacGregor had allowed the government to use the *Thames* to “transport blankets and provisions for the troops” to reinforce their ability to combat the insurrectionaries.³¹⁸ Because MacGregor “unhesitatingly” allowed the government to use the *Thames*, it “prevented her return for the winter to a place of safety on the River Thames.”³¹⁹

The damage to the *Thames*, much like the earlier damage to the *Jane*, *Nancy*, and *Prosperity*, had happened while being used by the government to fight the rebels, rather than docked safely, which would otherwise have been the case. While the losses for the other vessels were denied due to the Indemnification Act, the loss of the *Thames* had much greater financial implications. The other vessels were smaller, the repairs less costly, and fewer people depended on them. The *Thames*, in contrast, was an expensive vessel that the people of Windsor depended on for various necessities of daily life. The claims commission and the government soon learned that the Indemnification Act would

³¹⁶ “Claim of Duncan Macgregor,” in “Claims for Losses,” in *Appendix 1839*, 678.

³¹⁷ *Ibid*, 679.

³¹⁸ *Ibid*, 676.

³¹⁹ *Ibid*, 676.

be insufficient to shield themselves from the anger of citizens when it rejected MacGregor's claim for *Thames*.

In correspondence to Colonel Rowan, the Military Secretary of British North America stated that 'numerous applications have been made for compensation for the loss of the steamer "Thames."³²⁰ MacGregor's support was undoubtedly strong as pressure mounted on the government to compensate him. Perhaps more than any other claim, the loss of the *Thames* bound the citizens of the Western District into something the reformers had long attempted: to make the citizenry angry enough at the government to strongly push for reform. MacGregor's supporters were not rebels. In rejecting MacGregor's petition, the claims commission raised the hackles of Upper Canadians rather than appeased them, which was the goal of the commission. As the petition on Macgregor's behalf states, he was "backed in the strongest manner by all the most influential and respectable inhabitants of the Western Frontier, and neighborhood of Chatham, who view the loss of the boat as a great public calamity, as, to the existence of the "Thames" is mainly to be attributed the prosperity of the town of Chatham in particular."³²¹

Unsurprisingly, Lieutenant-Governor Sir George Arthur initially supported the rejection of MacGregor's claim and suggested he be paid out of the military chest for the loss.³²² Arthur still recognized the importance of the claim. The petitioners were surely aware that the government's funds to settle losses were depleted, which is why the government requested the claim be paid from the imperially funded military chest. Arthur

³²⁰ Ibid.

³²¹ Ibid, 676.

³²² Ibid, 677.

was not opposed to compensating MacGregor; for him it was a question of the fund from which he would be paid. Rowan, at the behest of Arthur, stated that: “I am directed to acquaint you that the commander of the forces does not think himself authorized to order any sum to be paid from the military chest, as indemnification for the loss of property in these provinces without previously communicating with Her Majesty’s Government.”³²³ So MacGregor, who had demonstrated unwavering commitment and loyalty to the cause and was described by those who submitted petitions on his behalf as a “most loyal patriotic, and enterprising man”, was rebuffed in his attempt at compensation.³²⁴

The tale of the *Thames* provides an important connection between numerous thematic elements, such as the economic hardship of the province, loyalty, and the reciprocal nature of claims when there were services rendered. This petition for the loss of the steamer included valid evidence that it was destroyed while providing a service in the wake of rebellion, and the claimant was known to be a loyal man. However, it still suffered rejection. It is an important realization that loyalty, while a necessary inclusion in a petition, did not guarantee success. In instances such as this one, the lack of mutual understanding between the governors and governed become quite clear. While the citizens were obviously confident in protection being afforded them as loyal citizens, they were often sadly mistaken.

As the American brigands cut a swath of violence through Upper Canada throughout 1838, masquerading as rebels fighting for republican ideals, the damage and losses increased to an alarming degree. Some losses were particularly catastrophic to the

³²³ Ibid.

³²⁴ Ibid.

civic population, most particularly the steamer *Sir Robert Peel* on May 29, 1838, on Wells Island, a more costly vessel than the *Thames*. In June 1839, British politician Lord Normanby informed the Upper Canadian government that “until the close of the pending negotiations with the Government of the United States” concerning American liability in losses caused by American citizens, Her Majesty’s Government would be unable to decide on how the loss of the *Peel* and all other petitions for damages caused by Americans, including that of the *Thames*, would be compensated.³²⁵ In August 1839, Normanby reiterated that “it will be necessary to ascertain whether such redress cannot be obtained by proceedings before the Judicial Tribunals of the States.”³²⁶ The claimants were never compensated by Britain, evidenced by the final report and plan for payment of losses of Upper Canada from 1845, nor by the Americans, who refused to pay for damages.

The American government was furious at the irresponsible and unsanctioned decision of some members of their populace to insert themselves into a foreign conflict by destroying the *Peel*. Americans, however, had been roused by the speeches of fleeing reformers, such as Charles Duncombe and William Lyon Mackenzie, who established a base of operations on Navy Island, an islet located in the Niagara River in Ontario.³²⁷

The American steamship *Caroline* was used by Mackenzie and his supporters to provision Navy Island, a fact well-known to the Canadian militia, who found this to be

³²⁵ “Normamby to Arthur,” in *Journal, 1839-1840*, 45.

³²⁶ *Ibid.*

³²⁷ Andrew Drew, *A Narrative of the Capture and Destruction of the Steamer 'Caroline' and Her Descent Over the Falls of Niagara on the Night of the 29th of December, 1837: With a Correspondence* (London: Spottiswoode & Co., 1864), 6.

highly problematic. To deter the gathering force of rebellious Canadians and eager Americans, the royalist forces were aware of the need to eliminate the *Caroline* to cut the supply line to the island. Colonel Sir Allan MacNab, an eminent member of the Family Compact, led a mission to ensure the ship could no longer be used to undermine British authority. On December 29, 1837, the battle for the *Caroline* was swift and conclusive, as the crew was taken unawares. Shots were fired, and one American crewman was killed, an African American man named Amos Durfee. His body was placed in front of a bar in Buffalo, New York, by “sympathizing patriots” who desired to entice others to join their fight against the British.³²⁸ MacNab and his men towed the *Caroline* out into the river and set it ablaze, letting it tumble over Niagara Falls.³²⁹

Despite the relative insignificance of the vessel itself, this incident nearly created an international incident, known as the ‘*Caroline* Affair’.³³⁰ Americans were enraged that British forces had lightly defied American sovereignty by destroying an American ship in peacetime, while the British countered that the ship was an agent of treasonous activities and posed a threat to British sovereignty.

While the turmoil slowly died down with no greater political consequences, the American desire for revenge grew among the lower ranks of society. In retaliation, on 29 May 1838, a large group of American ‘Patriots’ and Upper Canadian rebels attacked the massive steamship, *Sir Robert Peel*, as it was docked for reprovisioning.³³¹ The *Peel*, a striking and impressive vessel at 115 metres in length, was also a new addition to Upper

³²⁸ Robert Budd Ross, “The Patriot War,” *Detroit Evening News*, (1890), 11.

³²⁹ Drew, *A Narrative of the Capture and Destruction of the Steamer 'Caroline'*, 1.

³³⁰ “Claim of Jonas Jones and David B.O. Ford,” in “Claims for Losses,” in *Appendix, 1839-1840*, 681-682.

³³¹ *Ibid.*

Canadian waters, as construction was only completed in 1837. Because of its size, stature, and importance, it became the target for American invaders seeking revenge. While the aggressors were Americans, it is essential to note that the US government in no way sanctioned this invasion. The countries of Britain and the United States were not at war, and both were keen to avoid provoking the other. It is also important to note that the *Peel* was not being used in a military capacity on this voyage: it was simply carrying passengers. The insurgents, disguised as Indigenous people and led by Captain Bill Johnson, robbed the travelers, and sank the ship in the Saint Lawrence River, shouting ‘Revenge for the *Caroline!*’ in reference to the loss of the American steamer earlier in the year.³³² The destruction of the *Sir Robert Peel* was a huge economic loss for the province of Upper Canada, as voyagers were common on its deck. Several of the travelers were financially impacted by the events, and their losses appear in the claims for losses petitions.

The first claimants were the owners of the *Peel*. The ship’s title was split into four equal parts belonging to George Sherwood, William Bacon, Henry Jones, and David Ford.³³³ Based on the size and newness of the vessel, it was obvious that the claim would be immense. The owners presented their claim for *Sir Robert Peel* to the 1839 meeting of the commissioners: the claim was for a staggering £12,737.³³⁴ The *Thames* claim, presented in the same sitting, compounded the issue of alarming amounts of money being requested by claimants. By far the most significant claim in the commission’s short history, it included damages for the ship, its furniture, cash, the crew’s clothing, and

³³² Ibid.

³³³ Ibid.

³³⁴ Ibid.

contracts.³³⁵ The hijacking and destruction of *Sir Robert Peel* shocked Upper Canadians. The steamboat was simply on a regular voyage, one that was ‘for the peaceable and lawful transport and conveyance of passengers and freight’, independent of the ongoing rebellion.³³⁶ The owners of the *Peel* were enraged at the loss of their valuable business property and were well aware the perpetrators were Canadian rebels who had fled south and American brigands searching for loot and revenge. Interestingly, the petitioners also claimed that the sole reason the brigands attacked when they did was to take advantage of the vessels’ location in American waters. They believed the plan was to ‘enjoy the protection of the laws of the United States’ and to widen the growing distrust between the two countries due to the actions of American citizens on Canadian soil.³³⁷

In the owners’ joint petition, it is evident they are confident in reimbursement for what they saw as a clear example of gross injustice against defenseless British subjects. They underlined several truths regarding the event that, in their opinion, could only result in complete compensation for the ‘outrage’ committed.³³⁸ The petitioners knew the destruction of the *Peel* was primarily in retribution for the similar fate of the American *Caroline*. They make explicit in their petition that they had only suffered this tremendous loss due to an ‘act justified and approved of by the Government.’³³⁹ The petitioners remain exceedingly respectful throughout. However, the tone throughout hints at an unspoken question regarding responsibility: if the attack was in revenge for a Canadian government–sanctioned attack, should not the Canadian government be held accountable

³³⁵ Ibid.

³³⁶ Ibid.

³³⁷ Ibid.

³³⁸ Ibid.

³³⁹ Ibid.

for the financial losses stemming from said revenge? They did not think so, as the claims for losses petition for *Sir Robert Peel* was rejected and disputed until it was finally resolved for the two Canadian owners of the steamer only, and paid in the final report of the commissioners in 1846, eight years after the loss.³⁴⁰

The passengers of the doomed steamer also suffered greatly from the brigands' destruction. Their possessions were either destroyed in the blaze or taken by the insurgents, creating a problematic situation. As the proprietors of the ship were not reimbursed, it was exceedingly unlikely that the claims of the passengers would have a positive outcome either. A further issue, aggravated by the complete demolition of the vessel, was providing proof of losses, restricting passengers in their ability to submit evidence. George Auldgo requested £3252 for losses, almost a quarter of the value of the entire ship. Auldgo's losses, ostensibly precious objects, were not easily provable.³⁴¹ Some were supposedly expensive suits and caps, gold rings, watches, and books, as well as several thousand pounds in cash and banknotes: £1118 in loose bills and paper monies and another £1483 'promisary notes, cash bonds, and other securities.'³⁴² An additional £500 was submitted for papers from an insolvent estate, of which the 'value was difficult to be estimated in money'.³⁴³

Auldgo and his fellow passengers were strongly opposed to allowing their destiny to rest in the hands of the Upper Canadian claims for losses commission alone.

Complaints about the commission's handling of claims seemed to be circulating. As the

³⁴⁰ "Johnstown District," in *1837-38 Rebellion Losses of Upper Canada* (publ. 1849), image reprint CD, 4.

³⁴¹ "Claim of George Auldgo," in "Claims for Losses," in *Appendix, 1839*, 682-683.

³⁴² *Ibid*, 683.

³⁴³ *Ibid*, 682.

attack and destruction had occurred in American waters and the culprits were mainly American citizens, Auldgo stated that he and other petitioners also submitted claims to the American government. They appeared to be reasonably confident of receiving an indemnification, either from the Canadian or the American government. The petition states that the Governor-General of Canada had intervened directly on their behalf with the Americans. Auldgo and the others fostered the reasonable belief that the United States would accept some portion of the blame if pressured strongly enough by the Upper Canadian government.³⁴⁴ Notwithstanding any Canadian opinions regarding their responsibility, the Americans bristled with indignation on being accused of wrongdoing, strongly resisting any admission of guilt and rejecting requests to reimburse the Canadian petitioners.³⁴⁵ The Upper Canadian government berate their southern neighbours at length in the 'State of the Province' report of 1839:

No offer of indemnity has yet been made by the nation responsible for this great injury to our fellow subjects, and insult to the British flag, nor does it appear to be considered necessary by the American government, for the maintenance of its national honour, to do this plain act of justice.³⁴⁶

Although the Americans refused to indemnify the irate Canadians, it cannot be said that nothing was done to pacify them: arrest warrants were issued for the culprits, as they were well-known bandits and criminals. This act, however, was not enough to mollify the Canadians, as the reward money for apprehending the insurgents was a 'paltry sum,' making it a practically thankless task. While the attacking group consisted of more

³⁴⁴ Ibid.

³⁴⁵ "The Report of the Select Committee on the State of the Province," in *Appendix, 1839*, 112-113.

³⁴⁶ Ibid, 111.

than 20 men, only two were ever detained, possibly due to the ineffective reward offered. Once they were detained, it seemed probable that the owners and passengers aboard the *Peel* would finally enjoy justice. Despite their optimism, it rapidly became apparent that the United States justice system suffered from the same partisanship described by Lord Durham's report: a jury consisting of peers who strongly identified with their cause were almost guaranteed to acquit, despite any evidence. Even in the face of 'the plainest evidence of their guilt' in capturing the *Peel* and burning it, the jury quickly and 'without hesitation' cleared them of all charges.³⁴⁷

At this point, it had become increasingly unlikely that the Upper Canadian plaintiffs would receive any attention from the American government regarding the destruction of the *Peel*. Unfortunately, the likelihood of receiving remuneration from the Canadian government was equally uncertain. The steamer's owners received no financial relief nor did its passengers. As the amounts requested totaled almost £20,000, it was simply impossible to provide this financial relief, considering the ruinous condition of Upper Canada's economy. In all likelihood, this is why the government pushed the Americans so vigorously to accept responsibility and indemnify the Canadians: they were aware that they could never do so.

George Auldgo's role in the claims for losses story concluded in a rather unhappy fashion. After being ignored in his plight during his initial attempt at indemnification from the 1839 claims for losses commission, he was also one of the very few to be rejected in the concluding report of the commission in 1845, on the grounds of

³⁴⁷ Ibid, 113.

insufficient evidence.³⁴⁸ Such a verdict was a blow for Auldgo, as the 1845 commission was far-reaching and lenient in accepting claims. Many who had been unable to receive their due in the 1830s had favourable outcomes in 1845, although they were unable to receive payment until 1846.

Auldgo was not the only passenger on the steamer to allegedly suffer from the loss of thousands of pounds worth of banknotes. Another individual, James Holditch, submitted a petition for the loss of £1675 of banknotes and cash.³⁴⁹ He states that £1025 of the total were his notes, and the remaining £650 were the notes belonging to bankers in Plymouth.³⁵⁰ In his testimony, Holditch attempted to prove the reality of the loss of his Bank of England notes by contacting the bank directly and attempting to have the notes removed from circulation. The bank, however, was ignorant of the numbers on the notes and thus powerless to provide assistance.³⁵¹ Holditch's claim, like Auldgo's, was twice disallowed by the commissioners. As with the other victims aboard the sunken steamship, it was relatively unremarkable for Auldgo and Holditch's claims to be ignored in 1839 due to the context surrounding the ship's destruction by Americans in American waters. Holditch, however, was also one of the few to suffer a rejection in 1845, treatment usually reserved for known traitors and rebels.³⁵² The lack of evidence may have worried

³⁴⁸ *1837-38 Rebellion Losses of Upper Canada* (publ. 1849), image reprint CD.

³⁴⁹ "Claim of James Holditch," in "Claims for Losses," in *Appendix, 1839*, 683.

³⁵⁰ *Ibid.*

³⁵¹ *Ibid.*

³⁵² Hugh E. Montgomerie and Alexander Morris, *The Question Answered, "Did the Ministry Intend to Pay Rebels?": In a Letter to His Excellency the Right Honourable the Earl of Elgin and Kin Cardine, K.T., Governor General of British North America, &C. &C. &C.* (Montreal: Armour & Ramsay, R. & C. Chalmers and J. M'Coy, 1849), 4-6.

the commissioners, as it could obviously not allow false claims and dishonesty to creep into the petitions.

Despite the inability or unwillingness of the government to pay claimants, Upper Canadians continued to submit petitions anyway as their only means of compensation. The tale of petitioner Isaac Preston, a farmer from Amherst Island, is especially provocative and speaks to several key themes. Isaac Preston was lying in bed late at night on 6 June 1837, when he heard a knock at his door. Preston occupied the house with his wife and his three sons. He immediately had misgivings, so Preston demanded the visitors announce themselves and their purpose. When they declared that they were men on the Queen's duty, searching for provisions, Preston immediately let them in and had his wife cook them a meal. The two newcomers asked Preston if he would also provide provisions for their journey, and the generous host acquiesced, provided that they would be able to fetch a basket, and one man left on this errand.

Some time passed, and Preston's suspicions were again aroused by the delay in a task as simple as retrieving a basket. When he went outside to check on the man's whereabouts, he was greeted by a chilling sight. Men had surrounded his house, standing at each window, and the man who had supposedly gone to retrieve the basket was standing apart from the rest, clutching a sword. Preston, being a former soldier himself, acted. Slipping back inside his home, he roused his two eldest sons and told them to ready themselves. The insurrectionists posing as Queen's soldiers knew their charade had failed. Abandoning all pretense, the rebel remaining inside the house lunged for the guns hanging from the ceiling. At once, Preston moved to prevent this as his eldest son James also charged into the room to lend a hand. The rebels stationed outside the house took the

opportunity to barge inside, firing a pistol and striking James in the hand, removing two of his fingers. Pandemonium reigned inside the house. Preston was struck repeatedly with the butt of a pistol, and his younger son, David (16 years old), was struck violently on the temple as he attempted to aid his brother and father. Preston the elder was battered and bruised. Gushing blood from his wounds, heavily outnumbered, and with two incapacitated sons, he had no choice but to allow himself and his kin to be held at gunpoint while his house was plundered of all valuables by those who had initially spoken as friends to gain entrance.³⁵³

Isaac Preston's incredible story of rebel actions, told in his claim for losses, demonstrates his loyalty to the crown and, by extension, the sense of allegiance many citizens felt. Preston stated in his petition that these visitors said they were 'on the Queen's duty, and wanted provisions – upon which your petitioner immediately rose and opened the door'.³⁵⁴ Preston obviously wished to show that there was no delay in supporting his fellow dutiful subjects, including a willingness to donate provisions. As he stated, Preston was not a rich man: his occupation was farming, a demanding profession that rarely resulted in riches. However, according to his claim, he unhesitatingly assisted those he believed were acting against the rebels, donating to a cause he felt was right and just.

In dissecting claims, it often appears that petitioners used past actions in support of the Empire as proof of loyalty. Their aim was to prove they were subjects deserving of proper compensation for loyalty shown, whether in the past or present. Preston is no

³⁵³ "Claim of Isaac Preston," in "Claims for Losses," in *Appendix, 1839*, 694-696.

³⁵⁴ *Ibid*, 695.

different. In fact, he opens his petition by reminding the claims for losses commissioners of his many years of military service in the 23rd Light Dragoons until his discharge in 1802. He states that one of his sons also served in the militia at Kingston, while two others served as volunteer guards close to his farm, where it was believed an attack was imminent.³⁵⁵ From an observer's standpoint, the loyalty of the Preston family had been firm for decades, with no realistic expectation that they would join the rebel forces.

Preston estimated his losses were at least £60, a sobering reminder of the monetary amounts at stake in these claims: sums that could fundamentally alter the course of a petitioner's life if unfulfilled. The reasoning behind Preston asking for this sum in compensation is interesting and relevant to the question of proving loyalty. Preston claimed that he did not attempt to glean the largest possible sum from the commissioners: he understood the amount of £60 to be 'at a low calculation.'³⁵⁶ Perhaps Preston contented himself with this reduced claim due to an awareness of the difficulty of proving his various losses. It is also possible that Preston, along with other claimants, felt strongly enough in their support of the government that they were willing to forgo some recompense to demonstrate their support. A distinctly less heroic option is that they were merely seeking to receive at least some money for their losses and were taking a calculated risk. They requested a lesser amount while prostrating themselves before the claims commission or lieutenant-governor to reinforce their claim as just and reasonable.

The commission's response to Preston's claim was that it was 'not coming within the scope of the jurisdiction conferred on the Commissioners by the statute.'³⁵⁷ Due to

³⁵⁵ Ibid, 695.

³⁵⁶ Ibid, 695.

³⁵⁷ Ibid, 694.

this technicality, the commission sent the case to the lieutenant-governor. Preston was within the jurisdiction of the claims for losses commissioners, as he was an inhabitant of Upper Canada who had been dealt a devastating blow by losses incurred by the rebels. There was no reason for his case to be shunted to the lieutenant-governor, and no detailed decision was given at the time.

It is possible that the financial woes of the government forced the commissioners to snub Preston, a justified claimant. This is a troubling yet reasonable hypothesis considering the government's near bankruptcy. In 1839, the House of Assembly debated writing to the Queen, hoping the imperial government would pay the claims they were unable to meet.³⁵⁸ In the Assembly's opinion, American involvement had escalated the conflict into an international issue, so it was now the responsibility of the home government. The explicit mention, however, of the Upper Canadian government's inability to pay and the ramifications on the civic population were also mentioned.³⁵⁹

The events on Amherst Island are a poignant reminder of the damage and terror that even a small number of rebels could inflict. Preston's story also underlines the importance of claims for losses in ensuring that the damage was not severely detrimental to the financial future of those involved.

The inconsistency of the claims for losses commission and the government was an unfortunate characteristic for Upper Canadian petitioners between 1838-40. While the loyalty of claimants was steadfast, the same dedication by the administrators was often missing. The accepted claims from the rebellion, which were few, had important

³⁵⁸ "Address To the Queen's Most Excellent Majesty," in *Journal*, 1839, 332.

³⁵⁹ *Ibid*, 364-365.

qualifications that were difficult or impossible for many to demonstrate. Beyond loyalty, it became obvious that accepted claims would only include those with advantageous connections like Robert Horne, proof of service and employment, or the donation of firearms. However, the accepted claims for employment come with an important caveat, and it would be contextually inaccurate to view them solely as indicators of the government's generosity. Rather, such claims demonstrate that the commission often accepted petitions, when necessary, rather than focusing on protecting their citizens. The claims for firearms also require a qualifier, as the negligible sums requested for them made such petitions more of a nuisance to ignore than to quickly accept and brush aside.

The rejected claims from the rebellion were plentiful, with only some of the more compelling discussed here. The loss of the *Peel* and *Thames* were momentous disasters for the colony, with consequences that would reach England and even cause friction with the bordering United States. The tale of Isaac Preston is also symbolic of what several other claimants faced- abandonment in the face of hardship when they required the government's aid the most. The economic crisis that Upper Canada was facing was undoubtedly a factor in the rejection of claims, but the fact remains that the claims commission was created to conciliate the people of Upper Canada after the government's unbelievably poor handling of the rebellion, notwithstanding the antics of the militia, and the rejection of the majority of claims reflects very poorly on the government indeed. The claim of the *Thames* perhaps most accurately reflects the brewing situation regarding the commission, as citizens began to react and insist that claims be accepted in the wake of avoidable disasters if the government had sufficiently protected them. Protection is a key aspect of the claims and is intertwined closely with the theme of loyalty. Too often this

protection was ignored by the governors, despite the governed fiercely upholding their end of the bargain. In this regard, it is likely that the commission for losses had the opposite of the desired effect, forcing citizens to question unqualified loyalty that was not rewarded and becoming aware that the transactional nature of their dealings with the government was often unfair. The anger at the claims commission and willingness of claimants to take further action to receive compensation is a demonstration that even loyalty had its limits, and the people of Upper Canada were willing to question the intersection between loyal subject of the empire and citizen of Upper Canada.

CONCLUSION

In the aftermath of the first confrontation between rebels and the Upper Canadian government in early December 1837, the House of Assembly passed legislation to compensate people who had sustained damages by the rebels to their property, but only after passing legislation indemnifying the government against claims for damages that it had caused. It appears to have been a calculated strategy to signal to Upper Canadians that the government would protect them financially from damages wreaked by rebels. But by March 1838, the Lieutenant-Governor Francis Bond Head had been recalled and chastised by the Colonial Office for excessive use of force when he ordered the burning of Montgomery's Tavern and Gibson's house. In subsequent months, as skirmishes with rebels continued, now joined by American allies, the claims commission found itself rejecting claims and sowing anger, in some cases because the damages had been caused by the Upper Canadian militia, in others, such as the claim for the sinking of the steamer the *Sir Robert Peel* by Americans, because the cost was so high and a claim had also been submitted to the United States government. Thus, at its core, this study of the Upper Canadian claims for losses commission is an examination of the relationship between governors and governed, and the importance of mutual respect and reciprocal commitment to the other. The previously unexplored claims for losses add a plethora of information and context to the story of the Upper Canada rebellion and its aftermath, but also to the larger question of the relationship between colonial subjects and an increasingly detached British imperial government, and the part obligation and loyalty had to play.

As evidenced by the claims, the petitioners appeared to be under the impression that loyalty remained the currency of the realm, and that devoted subjects would be rewarded for their steadfast commitment. Redeeming that currency, however, became a tremendous obstacle for the Upper Canadian government. The dismal financial condition of the colony in 1836 and 1837 that had contributed to calls for reform was exacerbated by the outbreak of the rebellion, as costs for the defense of the colony mounted, compounded further by the issue of losses. The continent-wide economic crisis of the 1830s had been aggravated in Upper Canada due to mistimed and profligate, if not corrupt, economic ventures and appropriation of taxpayer dollars, as witnessed with the debacle of the Welland Canal. The lack of funds came to weigh heavily on the ability to pay the claims for losses. The 1839 letter to the Queen from the House of Assembly explicitly referenced the poor financial state of the colony before appealing to Britain's "justice and integrity" and reiterating their humble allegiance before requesting the claims be paid from the Imperial treasury.³⁶⁰ In her reply, the Queen was noncommittal on whether the British Parliament could be swayed to pay for losses in the province, even as sums reached £40,000.

Beyond the claims that the Upper Canadian government maintained it was incapable of paying, other petitions provided evidence of excessive violence among those in the administration's employ, most notably the Upper Canadian militia. The militia took a central role in the rebellion and its aftermath after their resounding victory in Toronto in December 1837, capped by the shocking and impulsive destruction of rebel base Montgomery's Tavern, which also held proprietor John Linfoot's possessions. In the

³⁶⁰ "Address To the Queen's Most Excellent Majesty," in *Journal*, 1839, 364-65.

following months, people submitted claims for damages by militia units that were shockingly destructive, but likely took license from the early excesses by Lieutenant-Governor Head on the night of December 7, 1837. Head sanctioned the burning of Montgomery's building as the symbolic 'defeat' of the movement for responsible government before ordering the unprecedented burning of suspected rebel David Gibson's home, which he ordered the militia to carry out.³⁶¹ As the rebellion progressed, numerous other citizens also suffered greatly at the hands of the militia. It is also possible that those with knowledge of the passage of the Indemnification Act in March of 1838 understood that the government granted complete immunity to itself and its representatives from paying claims for losses they had caused. In clearly intentional fashion, the Indemnification Act was passed directly prior to the Claims Commission Act. Aware that the militia had already caused excessive damages to both dwellings and to the fishing vessels impressed to transport the militia, the government took decisive action in removing responsibility from itself. In a tale that centers around the reciprocal relationship between governors and governed, the actions of the administration in refusing to pay claimants they had obviously wronged is striking in its unfairness. These moves by the Upper Canadian government to indemnify itself while impugning the rebels seems to have contributed to the discrediting of the government, a part of the history of the rebellion that has long been ignored.

The reprehensible actions of the militia did not stop in Toronto. Numerous claimants detailed the damages that the militia, ostensibly mustered to defend them, caused when occupying their homes as barracks before proceeding to rob them and

³⁶¹ Head, *A Narrative*, 322.

destroy their possessions. When colonists' claims were denied, they were surely left questioning the government's promise to protect them, and whether that government deserved the loyalty they had given. Petitioner E. Durham, submitting his claim for a second time in 1840 along with 40 others who suffered losses, openly questioned the actions of those who were meant to defend them, as did applicant Mary Hall.³⁶² While many petitioners would eventually receive compensation for their losses thanks to the United Canada's legislation for appropriations to pay Upper Canadian claims, passed in 1846, others would never be compensated. As even the highly contentious Lower Canadian Rebellion Losses Bill (1849) treated rebels and loyalists equally in regard to payment, the lack of payment to unfailingly loyal Upper Canadian citizens whose only flaw on their petitions for claims was that the damage was caused by the Upper Canadian militia.

In many ways, the creation of the claims commission was an extension of the posturing of the executive and legislative councils of Upper Canada, abetted by the lieutenant-governor, as the acme of loyal subjecthood and steadfast to British values, while those who desired reform were lacking in loyalty and wanted to undermine British standards. The text of the claims demonstrates how much the people of Upper Canada adopted those expressions of loyalty espoused by the Family Compact. The language used by petitioners was striking in this respect, and several, like Isaac Preston, had been devoted to the empire their entire lives. The owner of the *Thames* steamer is equally important in this conversation. As a loyal petitioner who willfully and supportively

³⁶² "Claim of E. Durham" and "Claim of Mary Hall," in "Claims for Losses," in *Appendix, 1839-1840*, 520-522.

allowed his vessel to be used before its destruction by rebels, his petition was also supported by members of the community who recognized its importance. Still, claimants such as these were routinely rejected and forced to wait a decade to receive funds. In fact, the only times petitioners for large claims who had their petitions accepted were the original tory devotees from 1838. Those who performed services in the government's employ during the rebellion and lost other employment time in doing so, these claims, modest in cost, were technically for employment, and the government was obliged to pay them.

For the majority, however, their claims totaling close to £36,000 were rejected. The impact this would have had on the province is difficult to calculate, as those who were the most affected were the poor and working class already, but it can be assumed that the un-compensated loss of homes, barns, and possessions was insurmountable for many common folk of Upper Canada. These losses must be placed at the feet of the Upper Canadian government. It not only failed to provide adequate military or financial protection to citizens but shielded government officials from paying the majority of claims by passing the Indemnification Act and suggesting to the Imperial government that it was the responsibility of their government. For citizens, the claims commission exposed that the cost of loyalty would be dangerously high when government officials not just refused to reciprocate but used legislation to indemnify themselves.

When the violence between rebels and royalists abruptly ceased in December 1838, unrest was still prevalent in Upper Canada. The insurrectionists had been beaten, albeit with losses, and the safety of the province all but assured in the military sense. However, questions of a political nature still prevailed. The joint rebellions in both Lower

and Upper Canada had profoundly shaken the home government in Britain. Taking action on the Canadian discontent, they appointed John Lambton, 1st Earl of Durham, to the post of Governor General of Canada to perform a thorough investigation into the causes of the rebellion and to provide a thorough report. Lord Durham's suggestions in "Report on the Affairs of British North America" displayed a strong understanding of the situation in Upper Canada, as he recognized the citizens of the province were loyal and could easily be reconciled with the home country if given greater autonomy and self-government, such as what they perceived as reality in the greater economic hub of the United States.³⁶³ This assessment is in stark contrast to former Lieutenant-Governor Francis Bond Head's assessment on grievances in Upper Canada. In response to William Lyon Mackenzie's report on grievances, Head stated that he would "mercilessly destroy them root and branch, I felt perfectly confident that I should soon be able proudly to report that the grievances of Upper Canada were defunct- in short that I had veni-ed, vidi-ed, and vici-ed, them."³⁶⁴ What Durham seemed to have understood much more completely than Head is that the reformer-rebels picked up musket and pike not against the British Empire itself, with which they had no desire to lose their connection, but instead in a willful struggle for greater constitutional rights, that they thought men like Head were violating.

Even with the Durham Report recommending eventual implementation of responsible government, the issue of the claims for losses had not been dealt with after the rebellion. In 1841, legislation was passed to build off the Upper Canadian losses act, titled "An Act to ascertain and provide for the payment of all just claims arising from the

³⁶³ Durham, *The Report on the Affairs of British North America*, 113-114.

³⁶⁴ Kilbourn, *The Firebrand*, 164.

late Rebellion and Invasions of this Province,” and gave the promise of £40,000 being provided for the payment of losses.³⁶⁵ This promise, however, amounted to little as the funds to pay claimants were still nonexistent and the British government had dug in their heels against taking responsibility for their payment. Thus, no action was taken and the issue of financing claims in Upper Canada continued until 1845, when, after several years of waiting, new legislation was passed to use the monies from marriage licenses and tavern licenses to pay long-suffering claimants.³⁶⁶ However, an important caveat to be cognizant of is that petitioners who accused the militia of wrongdoing were never compensated. It is also crucial to note that suspected rebels in Upper Canada could not be compensated for their losses, which explains Montgomery’s lengthy delay in receiving his due.³⁶⁷ While it may appear distinctly unfair that loyal citizens were essentially placed within the same camp as rebels in this regard, it is obvious that the Upper Canadian government remained rigidly set in removing responsibility from itself when possible, very much like in March 1838 with the passage of the Indemnification Act. While some petitions would eventually be settled and paid in full, the decade-long question of the claims for losses in Upper Canada illustrates a vivid picture of the considerable societal impact they had, and provides important context of the relationship between common citizen and those to whom they looked for protection.

³⁶⁵ “Journals of the Legislative Assembly of the Province of Canada, from the 14th day of June to the 18th day of September, in the year of our lord 1841, and in the 4th and 5th years of the reign of our sovereign lady, Queen Victoria. Being the first session of the first provincial parliament of Canada. Session 1841,” (Kingston: Desbarats & Cary, 1842): 69, 226, 295.

³⁶⁶ “An Act to provide for the payment of Claims arising out of the Rebellion and Invasion in Upper Canada, and to appropriate the duties on Tavern Licenses to Local purposes, passed 29th March, 1845,” *8th Victoria Chapter 72*; “An Act to provide for the payment of certain Rebellion Losses in Lower Canada, and to appropriate the proceeds of the Marriage License Fund, passed 9th June, 1846,” *9th Victoria Chapter 65*; “An Act to authorize the issuing of Debentures to pay the balance due to Claimants for losses during the Rebellion and Invasion in Upper Canada, passed 28th July, 1847,” *10 & 11 Victoria Chapter 33*.

³⁶⁷ Montgomerie and Morris, *The Question Answered, "Did the Ministry Intend to Pay Rebels?"* 13, 18.

Bibliography

Primary Sources:

“An Act for Quartering and Billeting on certain occasions His Majesty’s Troops and the Militia of this Province, passed 5th March, 1809.” in *Statutes of Upper Canada, Passed in the first session of the fifth Provincial Parliament, met at York, on the second day of February, and prorogued on the ninth day of March following, in the forty-ninth year of the reign of George III.*

“An Act to amend, and reduce into one Act, the Militia Laws of this Province, Passed 6th March 1838.” in *Chap VIII. 1st Victoria, A.D. 1837-8, Third Session.*

An act to amend and render more effectual, in his Majesty's dominions in America, an act passed in this present session of parliament, intituled, An act for punishing mutiny and desertion, and for the better payment of the army and their quarters, passed 24 March 1765. (London, Great Britain: Printed by Benthem, for C. Bathhurst, 1762-1869), Avalon Project, Yale University.

[https://avalon.law.yale.edu/18th_century/quartering_act_165.asp]

“An Act to authorize the appointment of Commissioners to investigate the claims of certain Inhabitants of this Province, for losses sustained during the late unnatural rebellion,” in *Journal of the House of Assembly of Upper Canada, in the first year of the reign of Queen Victoria: being the third session of the thirteenth provincial parliament... session 1837-8.* Toronto: Printed at the Patriot Office, 1838, 39-41.

“An Act to make provision for the payment of certain losses, sustained by sundry individuals therein named. Passed 11th May, 1839,” in *Journal of the House of Assembly of Upper Canada, in the second year of the reign of Queen Victoria: being the fourth session of the thirteenth provincial parliament. Session 1839.* Vol. 1. Toronto: Robert Stanton, 1839.

“An Act to provide for the payment of Claims arising out of the Rebellion and Invasion of Upper Canada, and to appropriate the duties on Tavern Licenses to Local Purposes,” 29th of March, 1845, Montreal: Printed by Stewart Derbyshire and George Desbarats, Law Printer to the Queen’s Most Excellent Majesty.

“An Ordinance for indemnifying persons who, since the twenty-first, day of December, one thousand eight hundred and thirty-eight have acted in apprehending, imprisoning, or detaining in custody, persons suspected of High Treason, or Treasonable Practices, and in the suppression of unlawful assemblies, and for other purposes therein-mentioned.” in *Journal of the House of Assembly of Upper Canada, in the first year of the reign of Queen Victoria: being the third session of the thirteenth provincial parliament... session 1837-8.* Toronto: Printed at the Patriot Office, 1838.

Arthur, Sir George. *The Arthur Papers*, ed. Charles R. Sanderson. Toronto: University of Toronto Press, 1947.

“Battle of Windsor.” *Canadiana*. <https://www.canadiana.ca/view/oocihm.51827>.

“Bill to Appoint Commission of Losses.” *Journal of the House of Assembly of Upper Canada, from twenty-eighth day of December, 1837, to Sixth day of March, 1838, (both days inclusive) in the first year of the Reign of Queen Victoria, being the third session of the of the thirteenth provincial parliament.... Session 1837-1838*. Toronto: Jos. H. Lawrence, 1838. Pp. 120.

“Despatch respecting address to Her Majesty on compensation for losses consequent on the rebellion,” in *Journal of the House of Assembly of Upper Canada, from the third day of December, 1839 to the tenth day of February, 1840 (both days inclusive), in the third year of the Reign of Queen Victoria, being the fifth session of the thirteenth provincial Parliament. Session 1839-1840*. Vol. 1 Toronto: H. Scobie, 1840.

Drew, Andrew. *A Narrative of the Capture and Destruction of the Steamer 'Caroline' and Her Descent Over the Falls of Niagara on the Night of the 29th of December, 1837: With a Correspondence*. London: Spottiswoode & Co., 1864.

Fitzgibbon, James. *An Appeal to the People of the Late Province of Upper Canada*. Montreal: Lovell & Gibson, Printers, St. Nicholas Street, 1847.

Head, Sir Francis Bond. *A Narrative*. 3rd Edition. London: John Murray, Albemarle Street, 1839.

Head, Sir Francis Bond. *The emigrant*. London: John Murray, Albemarle Street, 1847.

Journal of the House of Assembly of Upper Canada, in the first year of the reign of Queen Victoria: being the third session of the thirteenth provincial parliament. Session 1837-8. Toronto: Printed at the Patriot Office, 1838.

Journal of the House of Assembly of Upper Canada, in the second year of the reign of Queen Victoria: being the fourth session of the thirteenth provincial parliament. Session 1839, Vol. 1. Toronto: James Cleland, 1839.

Journal of the House of Assembly of Upper Canada, from the third day of December, 1839 to the tenth day of February, 1840 (both days inclusive), in the third year of the Reign of Queen Victoria, being the fifth session of the thirteenth provincial Parliament. Session 1839-1840, Vol. 1 Toronto: H. Scobie, 1840.

Lambton, John, Earl of Durham. *The Report on the Affairs of British North America*. London: J.W. Southgate, 1839.

Lindsay, Charles. *The Life and Times of Wm. Lyon Mackenzie*. Toronto: P.R. Randall, 1862.

Mackay, Alexander. *The Crisis in Canada; the vindication of Lord Elgin and his cabinet, as to the course pursued by them in reference to The Rebellion Losses Bill.* London: James Ridgway, 1852.

Mackenzie, William Lyon. *Mackenzie's own narrative of the late rebellion with illustrations and notes, critical and explanatory: exhibiting the only true account of what took place at the memorable siege of Toronto, in the month of December, 1837.* Toronto: Palladium Office, 1838.

Montgomerie, Hugh E., and Alexander Morris. The Question Answered, "Did the Ministry Intend to Pay Rebels?": In a *Letter to His Excellency the Right Honourable the Earl of Elgin and Kin Cardine, K.T., Governor General of British North America, &C. &C. &C.* Montreal: Armour & Ramsay, R. & C. Chalmers and J. M'Coy, 1849.

Nickalls, James. "James Nickalls Report, 1838." In *Penitentiary Patriots: Upper Canada Rebellion, 1838*, ed. Linda Corupe and Brian Latham, 1-63. Bolton: 2015.

"Petition of John Montgomery." *To the Honourable the Legislative Assembly of the Province of Canada, In Provincial Parliament Assembled: The Humble Petition of John Montgomery, of the city of Toronto, Hotel-Keeper... 4th Session, 6th Parliament, 24 Victoria.* Quebec: Thompson, Hunter, & Co, 1861. Pp. 1-3.

"Rebellion losses bill (Canada): copies or extracts of the Votes and proceedings of the House of Assembly of Canada, relating to the rebellion losses bill. Votes of the House of Assembly, Canada relating to the rebellion losses bill." *Return to an address of the Honourable the House of Commons*, dated 11 June 1849. London: 1849.

"Remarks on the Earl of Elgin's despatch, on the subject of rebellion losses in Canada." Dated the 5th of May 1849, London: Saville and Edwards, 1849.

"Report from the Select Committee of the Legislative Council of Upper Canada on the State of the Province." Toronto: R. Stanton, 1838

"Report from the Select Committee of the Legislative Council of Upper Canada on the State of the Province." Toronto: J. Cleland, 1839.

"Report of Commissioners on Claims for Losses." *In Appendix to Journal of the House of Assembly of Upper Canada, from the third day of December, 1839 to the tenth day of February, 1840 (both days inclusive), in the third year of the Reign of Queen Victoria, being the fifth session of the thirteenth provincial Parliament. Session 1839-40.* Vol. 1. Toronto: W. J. Coates, 1840. Pp. 492-521.

"Report of Commissioners on Claims for Losses." *In Appendix to Journal of the House of Assembly of Upper Canada, in the second year of the reign of Queen Victoria:*

being the fourth session of the thirteenth provincial parliament... session 1839.
Vol. 1. Toronto: Robert Stanton, 1839. Pp. 651-696.

“Report of Commissioners on Claims for Losses.” *In Appendix to Journal of the House of Assembly of Upper Canada, in the first year of the reign of Queen Victoria: being the third session of the thirteenth provincial parliament... session 1837-8.*
Toronto: Printed at the Patriot Office, 1838. Pp. 409-412.

Ryerson, Egerton, and John George Hodgins. *The Story of My Life*. W. Briggs, 1883.

Snow, Samuel. *The Exiles Return: or narrative of Samuel Snow, who was banished to Van Dieman's Land, for participating in the Patriot War in Upper Canada in 1838*. Cleveland: Smead and Cowles, 1846.

Unsigned Letter from Kingston, 29th June 1813. *Narrative Documents - Group VIII: Operations on the Montreal Frontier, 1813 — Miscellaneous Select British Documents of the Canadian War of 1812, volume II*. January 2013.

"Western District. Minutes of the Rebellion Losses Commissioners, 1845." *Harris Family Papers, vol. 1. Collection 144*. Regional History Collection. London: Western University.

1837-38 Rebellion Losses of Upper Canada (publ. 1849), image reprint CD, (Milton, Global Heritage Press/GlobalGenealogy.com Inc., 2013).

Secondary Sources:

Aitken, Hugh J. “The Family Compact and the Welland Canal Company.” *The Canadian Journal of Economics and Political Science* Vol. 18, No. 1 (Feb., 1952): 63-76.

Anderson, Fred. *Crucible of War*. New York: Vintage, 2000.

Auger, Martin F. “French Canadian Participation in the War of 1812: A Social Study of the Voltiguers Canadians.” *Canadian Military History* vol. 10, 3 (2001): 23-41.

Belshaw, John Douglas. *Canadian History: Pre-Confederation* (2nd ed.). Victoria, B.C.: BCampus, 2020.

Berton, Pierre. *War of 1812*. Anchor Canada, 2011.

Black, Conrad. *Rise to Greatness, The History of Canada Volume I: Colony*. New York, McClelland & Stewart, 2014.

Boissery, Beverley. *A Deep Sense of Wrong: The Treason, Trials, and Transportation to New South Wales of Lower Canadian Rebels after the 1838 Rebellion*. Toronto: Dundurn Press, 1995.

Bonner, Mary Graham. *Canada and Her Story*. New York: Alfred A. Knopf Inc., 1942.

Bothwell, Robert. *The Penguin History of Canada*. Toronto: Penguin, 2006.

- Boyce, Betsy. *The Rebellion in Hastings: a New Look at the 1837-38 Rebellion in Hastings County, Based on the Rebellion Losses Claims of 1845*. Belleville, 1982.
- Breakenridge, David Read. *The Lieutenant-Governors of Upper Canada and Ontario, 1792-1899*. Toronto: William Briggs, 1900.
- Buckley, F.H. *The once and future king: the rise of crown government in America*. New York: Encounter Books, 2014.
- Canniff, William. *The Medical Profession in Upper Canada, 1783-1850: An Historical Narrative, with Original Documents Relating to the Profession, Including Some Brief Biographies*. W. Briggs, 1894.
- Childs, John. "Barracks and Conscription: Civil-Military Relations in Europe from 1500." *European History Online*, (2011): 1-20.
- Dagenais, Maxime and Julien Mauduit, eds. *Revolutions across Borders: Jacksonian America and the Canadian Rebellion*. Montréal and Kingston: McGill-Queen's University Press, 2019.
- Decelles, Alfred D. *The 'Patriotes' of '37: A Chronicle of the Lower Canadian Rebellion*. Translated by William Stewart Wallace. Toronto: Glasgow, Brook & Company, 1916.
- Dent, John Charles. *The Story of the Upper Canada Rebellion*. Vol. 1. Toronto: C Blackett Robinson, 1885.
- Dent, John Charles. *The Story of the Upper Canada Rebellion*. Vol. 2. Toronto: C. Blackett Robinson, 1885.
- Douglas, R. Alan, ed. *John Prince 1796-1870: A Collection of Documents*. University of Toronto Press, 1980.
- Draper, Gary and Roger Hall. "DUNLOP, WILLIAM, Tiger Dunlop." *Dictionary of Canadian Biography*, vol. 7. University of Toronto/Université Laval, 2003.
- Ducharme, Michel. *The Idea of Liberty in Canada during the Age of Atlantic Revolutions, 1776-1838*. Montréal and Kingston: McGill-Queen's University Press, 2014.
- Ducharme, Michel, and Constant Jean-François, eds. *Liberalism and Hegemony: Debating the Canadian Liberal Revolution*. Toronto: University of Toronto Press, 2009.
- Dunham, Aileen. *Political Unrest in Upper Canada, 1815-1836*. Vol. 10. McGill-Queen's Press-MQUP, 1963.
- Errington, Jane. *The Lion, the Eagle, and Upper Canada: A Developing Colonial Ideology*, 2nd ed. Montreal & Kingston: McGill-Queen's University Press, 2012.

- Fitton, Avis, Robert Kenyon, Rick MacDonald, and Larry Parker. *Canadian Identity*. Toronto: Nelson, 2006.
- Garcia, Robert. "'This Period of Desperate Enterprise': British efforts to secure Kingston from rebellion in the winter of 1837-1838." *Ontario History* 101, no. 2 (2009): 142-163.
- Greenwood, F. Murray, and Barry Wright, eds. *Canadian State Trials, Volume II: Rebellion and Invasion in the Canadas, 1837-1839*. Toronto: University of Toronto Press, 2002.
- Greer, Allan. *The Patriots and the People: The Rebellion of 1837 in Rural Lower Canada*. Toronto: University of Toronto Press, 1993.
- Greer, Allan. "1837-38: Rebellion Reconsidered." *Canadian Historical Review* 76, no. 1 (1995): 1-18.
- Guillet, Edwin C. *The Lives and Times of the Patriots*. Toronto: University of Toronto Press, 1938.
- Guillet, Edwin C. "MONTGOMERY, JOHN (d. 1879)." *Dictionary of Canadian Biography*, vol. 10. University of Toronto/Université Laval, 2003.
- Johnson, J.K. "Claims of Equity and Justice": Petitions and Petitioners in Upper Canada 1815-1840." *Histoire sociale/Social History* 28, no. 55 (1995): 219-240.
- Kennedy, Scott. *Toronto Local History 3-Book Bundle: Don Mills/200 Years at St. John's York Mills/Willowdale*. Toronto: Dundurn Press, 2017.
- Kilbourn, William. *The Firebrand: William Lyon Mackenzie and the Rebellion in Upper Canada*. Toronto: Dundurn Press, 2008.
- Kyte, E.C. (editor). *Old Toronto: a selection of excerpts from Landmarks of Toronto, by John Ross Robertson*. Toronto: Macmillan, 1954.
- Lanctot, Gustave. *Histoire du Canada: Des Origines au Regime Royal*. Montreal: Librairie Beauchemin Limitee, 1964.
- Landon, Fred. "Canadian Negroes and the Rebellion of 1837." *The Journal of Negro History* 7, no. 4 (1922): 377-379.
- Landon, Fred. "The Common Man in the Era of the Rebellion in Upper Canada." In Report of the Annual Meeting, vol. 16, no. 1, pp. 76-91. *The Canadian Historical Association/La Société historique du Canada*, 1937. Little, J. I. *Loyalties in Conflite: A Canadian Borderland in War and Rebellion, 1812-1840*. Toronto: University of Toronto Press, 2008.
- Lesueur, William. *William Lyon Mackenzie*. Montreal: McGill-Queen's University Press, 1979.

- Longley, Ronald Stewart. "Emigration and the Crisis of 1837 in Upper Canada." *Canadian Historical Review* 17, no. 1 (1936): 29-40.
- McKenzie, Ruth. *James FitzGibbon: Defender of Upper Canada*. Dundurn, 1996.
- McNairn, Jeffrey. *The Capacity to Judge: Public Opinion and Deliberative Democracy in Upper Canada, 1791-1854*. University of Toronto Press, 2017.
- McBurney, Margaret, and Mary Byers. *Tavern in the town: Early inns and taverns of Ontario*. University of Toronto Press, 1987.
- McMullen, John Mercier. *The History of Canada: From Its First Discovery to the Present Time*. Vol. 2. Brockville: McMullen & Company, 1892.
- Mugan, Monica. "The Hapless Hero who Saved Upper Canada." *Maclean's Magazine*, October 16, 1965.
- Palmer, Bryan D. "Popular Radicalism and the Theatrics of Rebellion: The Hybrid Discourse of Dissent in Upper Canada in the 1830s." In *Marxism and Historical Practice* (Vol. I), pp. 69-101. Brill, 2015.
- Prevost, Jean-Guy and Jean-Pierre Beaud. *Statistics, Public Debate and the State, 1800–1945: A Social, Political and Intellectual History of Numbers*. New York: Routledge, 2016.
- Radforth, Ian. "Political Demonstrations and Spectacles during the Rebellion Losses Controversy in Upper Canada." *Canadian Historical Review* 92, no. 1 (2011): 1-41.
- Read, Colin. *The Rising in Western Upper Canada 1837–8*. University of Toronto Press, 2019.
- Read, Colin, and Ronald John Stagg, eds. *The Rebellion of 1837 in Upper Canada: A Collection of Documents*. No. 134. McGill-Queen's Press-MQUP, 1985.
- Ross, Frances Aileen. *The Land and People of Canada*. Toronto: Longmans, Green and Company, 1947.
- Ross, Robert Budd. "The Patriot War." *Detroit Evening News*, (1890): 1-101.
- Wallace, Stewart. *The Family Compact: A Chronicle of the Rebellion in Upper Canada*. Toronto: Glasgow, Book & Company, 1915.
- Watt, R. C. "The Political Prisoners in Upper Canada, 1837-81." *The English Historical Review* 41, no. 164 (1926): 526-555.
- Wilton, Carol. "'Lawless Law': Conservative Political Violence in Upper Canada, 1818–41." *Law and History Review* 13, no. 1 (1995): 111-136.

Wilton, Carol. *Popular Politics and Political Culture in Upper Canada, 1800-1850*.
McGill-Queen's Press-MQUP, 2000.

Wise, S.F. "GOURLAY, ROBERT FLEMING." in *Dictionary of Canadian Biography*,
vol. 9. University of Toronto/Université Laval, 2003.

CURRICULUM VITAE

Jonathan Robert Allen Szo

Universities attended

Crandall University. Bachelor of Arts, History (Hons.), 2017

St. Thomas University, Bachelor of Education, 2018

University of New Brunswick. MA, 2020-

Publications

“Cautionary Tales: The Upper Canada Rebellion and the Freedom Convoy,” April 19, 2022, *Borealia: Early Canadian History*,
<https://earlycanadianhistory.ca/2022/04/19/cautionary-theses-the-upper-canada-rebellion-and-the-freedom-convoy/>.

Presentations:

Guest Lecturer. April 4th, 2022. University of New Brunswick, Canadian History from 1876-Present. Topic: The Environment in the 21st Century