Emptying the Den of Thieves: International Fugitives and the Law in British North America/Canada, 1819-1910

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Emptying the Den of Thieves: International Fugitives and the Law in British North America/Canada, 1819-1910

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Abstract (summary):
This thesis examines how the law dealt with international fugitives. It focuses on formal extradition and the cross-border abduction of wanted criminals by police officers and other state officials. Debates over extradition and abduction reflected important issues of state power and civil liberty, and were shaped by currents of thought circulating throughout the imperial, Atlantic, and common law worlds. Debates over extradition involved questioning the very basis of international law. They also raised difficult questions about civil liberties and human rights. Throughout this period escaped American slaves and other groups made claims for what we would now call refugee status, and argued that their surrender violated codes of law and ideas of justice that transcended the colonies and even the wider British Empire. Such claims sparked a decades-long debate in North America and Europe over how to codify refugee protections. Ultimately, Britain used its imperial power to force Canada to accept such safeguards. Yet even as the formal extradition system developed, an informal system of police abductions operated in the Canadian-American borderlands. This system defied formal law, but it also manifested sophisticated local ideas about community justice and transnational legal order. This thesis argues that extradition and abduction must be understood within three overlapping contexts. The first is the ethos of liberal transnationalism that permeated all levels of state officials in British North America/Canada. This view largely prioritised the erosion of domestic barriers to international cooperation over the protection of individual liberty. It was predicated in large part on the idea of a common North American civilization. The second context is Canada's place in the British Empire. Extradition and abduction highlight both how British North America/Canada often expounded views on legal order radically different from Britain, but also that even after Confederation in 1867 the empire retained real power to shape Canadian policy. The final context is international law and international legal order. Both extradition and abduction were aspects of law on an international and transnational level. As a result, this thesis examines the processes of migration, adoption, and adaptation of international law.

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