Making Political Music:
Contrapuntal Constitutionalism and Indigenous-Settler Relations

by

Neil L. B. Kohlmann
Bachelor of Arts (honours), University of Toronto (2020)

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We acknowledge and respect the lək̓ʷəŋən peoples on whose traditional territory the university stands and the Songhees, Esquimalt and W̱SÁNEĆ peoples whose historical relationships with the land continue to this day.

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Abstract

This thesis applies Edward Said's thought to Canadian settler colonialism. I draw upon Said's idea of *contrapuntal reading* to understand settler colonialism as an interdependent and co-constitutive relationship between domination and resistance. *Contrapuntal* refers to counterpoint in music, where two or more distinct melodic lines occur simultaneously. Each line is independent as a musical phrase but sounds out interdependently in the composition as a whole. I use this contrapuntal approach as a method of analysis and as the foundation for a normative practice of reimagining and rebuilding political community. Using contrapuntal *analysis,* I examine the installation ceremony of Mary Simon as the Governor General of Canada and the installation ceremony of Kevin Hall as the President of the University of Victoria to elucidate the limits of the foundational logic that underpins these attempts to constitute political community. I then consider potential alternative constitutional perspectives, drawn from Indigenous constitutionalisms, that resist and do not rely on settler colonial domination. Contrapuntal *constitutionalism,* the outline of a political practice for Indigenous-settler relations, grows out of what my analysis discloses. By extending Said's use of counterpoint, in conjunction with Indigenous, prefigurative, and music theories, I contend with what a contrapuntal approach to anti-colonial constitutional politics could look like.

The goal of this thesis is threefold: to make the case for the importance of Said's thought to understanding the present manifestations of Canadian settler colonialism; to illuminate the dominating tendencies of Canadian political community dressed in the guise of palliative narratives of multicultural harmony; and to disclose an alternative constitutional relationship that does not further entrench domination as necessary and inevitable.

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Introduction

> The exilic intellectual does not respond to the logic of the conventional but to the audacity of daring, and to representing change, to moving on, not standing still.
>
> – Edward Said, *Representations of the Intellectual*[1]

In the winter of 2003, less than a year before his death, Edward Said reveled in dissonance. "What makes music interesting," he said to David Barsamian, "is the balance between dissonance and consonance, with the weight of a piece really based in dissonance and discord, rather than the other way around." Failing to comprehend dissonance means an "acceptance of what is easy. You forget," Said stressed, "all about the complexities and difficulties."[2] Such complexities, for Said, are not exclusive to music but are an essential part of being in the world. In fact, Said saw the United States' rapacious drive to invade Iraq as the result, in part, of a growing unwillingness to place real weight on complexity, a failure to think with dissonance. Moments before, in his conversation with Barsamian, Said lamented the loss of grand humanist narratives of liberation. "People have lost sight of the important goal," he said, "the rendezvous of victory, where all peoples in search of freedom and emancipation and enlightenment gather."[3] The "rendezvous of victory" —a term that Said borrowed from Aimé Césaire[4]—is seemingly at odds with dissonance. What makes dissonance, and not the United States' purported spread of "freedom" and "democracy", the "rendezvous of victory"? Principally, dissonance, is—to use another of Césaire's phrases— "made to the measure of the world."[5] As Jeanne Morefield

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[1] Edward W. Said, *Representations of the Intellectual: The 1993 Reith Lectures*, 1. Vintage Books ed (New York: Vintage, 1996), 64.
[2] Edward W. Said and David Barsamian, *Culture and Resistance: Conversations with Edward W. Said* (Cambridge, Mass: South End Press, 2003), 191.
[3] Said and Barsamian, 190.
[4] Aimé Césaire, *Notebook of a Return to My Native Land/Cahier d'un Retour Au Pays Natal*, trans. Mireille Rosello and Annie Pritchard, Bloodaxe Contemporary French Poets 4 (Newcastle upon Tyne, England: Bloodaxe Books, 1995).
[5] Aimé Césaire and Robin D. G. Kelley, *Discourse on Colonialism* (New York: Monthly Review Press, 2000), 74.

contends, for Césaire and Said, "'True humanism'… would hold the contradictions of the colonizing and colonized together, in all their fullness, in all of humanity's ranging dimensions."[6] Emancipatory coexistence requires confronting the vibrant complexities of living together. The rendezvous of victory is found by cultivating dissonance, not consonance. Dissonance, therefore, is a *provocation*, a challenge to reimagine, reinterpret, and rebuild a shared world that does not rest on violence and domination. As Said states, the current global system, "based upon profit and power, has to be altered to one of coexistence among human communities that can *make and remake* their own histories and environments *together*. This is the number one priority—there's nothing else of that magnitude [emphasis added]."[7] This kind of coexistence, while more of a means than an end, is what the rendezvous of victory entails. Victory, a word connoting closure and finality, assumes, in Said's interpretation, a dissonance of its own, and this is precisely the point: victory must be regained from those who use it to enforce the last world, erect boundaries, and declare the end of history.

Twenty years on, Said's sentiments still hold real weight. In Canada, where colonial domination and the vestiges of the British Empire continue to shape the face of Indigenous-settler relations, Canadian governments now espouse the terms "reconciliation", "nation to nation relationship", and "land back."[8] While this turn may be cause for celebration and may

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[6] Jeanne Morefield, *Unsettling the World: Edward Said and Political Theory*, Modernity and Political Thought (Lanham, Maryland: Rowman & Littlefield, 2022), 82–83.
[7] Edward W. Said and Gauri Viswanathan, *Power, Politics, and Culture: Interviews with Edward W. Said*, 1st ed (New York: Pantheon Books, 2001), 366.
[8] For example, see Alex Ballingall, "This Federal Minister Says It's Time to Give Land Back to Indigenous Peoples. What Could That Look Like?," *Toronto Star*, December 5, 2021, sec. Federal Politics, https://www.thestar.com/politics/federal/2021/12/05/this-federal-minister-says-its-time-to-give-land-back-to-indigenous-peoples-what-could-that-look-like.html; Crown-Indigenous Relations and Northern Affairs Canada, "Statement from Minister Marc Miller on the Work Completed by Crown-Indigenous Relations and Northern Affairs Canada over the Summer," statements, Government of Canada, September 21, 2022, https://www.canada.ca/en/crown-indigenous-relations-northern-affairs/news/2022/09/statement-from-minister-marc-miller-on-the-work-completed-by-crown-indigenous-relations-and-northern-affairs-canada-over-the-summer.html; Fraser Needham, "Prime Minister Justin Trudeau Admits Reconciliation Is Moving Slowly," *APTN News*, September 30, 2022, https://www.aptnnews.ca/national-news/prime-minister-trudeau-admits-road-to-reconciliation-

appear to be the path to the rendezvous of victory, Said's words ought to give us pause. Rather than commend those in power for embracing terms that suggest transformation, we should—in taking Said's advice—interrogate power, illuminate the complexities and dissonances that remain below the surface to reveal domination in all its forms,[9] and refuse to accept consonant liberatory narratives. This thesis is such an attempt, and, in what follows, I draw on Said and his legacy to critically analyze Canadian settler colonialism, as well as offer one "Saidian" path forward.

Throughout his career, Edward Said worked in dissonance. As a public intellectual, he saw it as his duty to speak truth to power, to highlight injustice, and to stand up for the voiceless.[10] His critical approach, honed from a larger humanist tradition, was not one-directional or pessimistic. Said endeavoured to show how western imperialism had been—and continues to be—a shared and generative experience. Accordingly, Said exposed imperialism's complexity without presenting it in digestible components. Imperialism, for Said, cannot be understood—or justified—as simply metropolitan unidirectional domination or benediction that targeted discernible subjects in disparate contexts. Instead, imperialism ought to be understood as an intrinsically "contested and joint experience": domination *and* resistance are co-constituent parts of a whole.[11] Narratives of imperialism—when lacking in texture and a vision of concurrent forms of governance—reproduce the understanding that domination, in some form or another, is inevitable. These narratives hold that good governance is impossible without bounded

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is-moving-slowly/; "Trudeau Commits to 'nation-to-Nation Relationship' with First Nations," Toronto Star, December 8, 2015, https://www.thestar.com/news/canada/2015/12/08/trudeau-commits-to-nation-to-nation-relationship-with-first-nations.html; "Statement by the Prime Minister on the National Day for Truth and Reconciliation," Prime Minister of Canada Justin Trudeau, September 30, 2022, https://pm.gc.ca/en/news/statements/2022/09/30/statement-prime-minister-national-day-truth-and-reconciliation.

[9] Said and Viswanathan, *Power, Politics, and Culture*, 187–88.

[10] Said, *Representations of the Intellectual*.

[11] Edward W Said and David Barsamian, *The Pen and the Sword: Conversations with David Barsamian* (Toronto: Between the Lines, 1994), 71–73.

hierarchical control to hold everything together. Thus, it is the imperialists' belief that *their* idea of political community—their constitutionalism—is the only viable form of governance, and that it ought to be maintained with a fervent tenacity. For Said, however, it is possible to identify and dispel imperial narratives by reading domination and resistance together. To do so means illustrating how the experience of imperialism is about both an imposed political vision and transcendent alternatives to that vision.

In *Orientalism*, the work that he is most known for, Said illuminates how Orientalists aid in the construction of imperial discourse. In western cultural productions (such as novels, visual artwork, and music), depictions of an "eastern other" are used for control and domination.[12] The Orientalist—whether in admiration or disgust—chronicled the east *for* the west because the description, discursively, only flowed one way. The quote from Marx that Said uses at the start of *Orientalism*, "they cannot represent themselves; they must be represented",[13] sums up this unidirectional sentiment. The "eastern other", therefore, becomes a subject to study and know in a way that makes them controllable and malleable, a people to be acted upon or observed rather than lived with interdependently. Cultural depictions and relations of power, Said contends, do not exist in isolation.

While *Orientalism* is about the "west's" discursive journey into the "east", Said's follow-up to *Orientialism*—1994's *Culture and Imperialism*—completes the journey back to the metropole.[14] Said proposes that imperialism ought to be read as a "contested and joint experience", in which narratives and counternarratives of domination and resistance are seen as

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[12] Edward W. Said, *Orientalism*, 1st Vintage Books ed (New York: Vintage Books, 1979).
[13] Karl Marx, "The Eighteenth Brumaire of Louis Bonaparte," in *The Political Writings*, ed. Tariq Ali and David Fernbach, trans. Ben Fowkes (London ; New York: Verso : Published in association with New Left Review, 2019), 573.
[14] Morefield, *Unsettling the World*, 2022, 58.

dynamically interconnected.[15] Thus, imperialism is *both* triumphant univocal discourse (the perception that the west leads the narration of progress and all others are followers or spectators) *and* anti-imperial resistance that counters this perspective. Said refers to his interconnected mode of analysis as "contrapuntal reading."[16] Drawing from counterpoint in western classical music, in which multiple independent melodies overlap interdependently, Said argues that imperialism ought to be read "with a simultaneous awareness both of the metropolitan history that is narrated and of those other histories against which (and together with which) the dominating discourse acts."[17] Like melodies in counterpoint, the independent melodies of domination and resistance are interdependently audible within the arc of imperialism.

Contrapuntal analysis is a form of mutual illumination that discloses imperialism's "complex and uneven topography."[18] It reveals precisely how domination is presented as natural, inevitable, and univocal, while *also* rupturing this façade to reveal the lines of resistance that run counter to imperial domination. For instance, in *Culture and Imperialism,* Said analyzes canonical works of European literature—such as Jane Austen's *Mansfield Park*—contrapuntally to show that the canon simultaneously relies on the discursive perpetuation of imperial inevitability but also sidelines the colonized rebuttal to that inevitability. By layering the melody of resistance with domination, Said shows how imperial narratives are neither univocal nor uncontested, even though they may *appear* inevitable. In practice, therefore, a contrapuntal reading of imperialism reintroduces not just what is left out but discloses other cultural and political possibilities foreclosed by imperial worldmaking.[19]

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[15]Said and Barsamian, *The Pen and the Sword*, 71–73.
[16] Edward W. Said, *Culture and Imperialism*, 1st Vintage Books ed (New York: Vintage Books, 1994), 66.
[17] Said, 51.
[18] Said, 318.
[19] By worldmaking, I mean the ability to shape the world based on our perception and representations of it. In essence, the ability to turn a narrative of the world into a fact about the world. My use of worldmaking draws from

As such, contrapuntal analysis is a navigational aid for a shared—and not compartmentalized—political future within a multiplicitous world.[20] The barriers that imperialism discursively erects between cultures are conceptually dismantled, reading interdependent cultures interdependently.[21] To read imperialism *contrapuntally* is to see the west as just one melody alongside many others, woven together through space and time. The world, therefore, is a great "atonal ensemble,"[22] where, like a *polyphonic* composition (many simultaneous melodies), cultures are independent melodies but a part of the sound of the whole, shaping each other in the simultaneous production of sound. As Said states, *Culture and Imperialism* attempts to "formulate an alternative both to a politics of blame and to the even more destructive politics of confrontation and hostility."[23] The goal of a contrapuntal approach is to help perceive a path forward that understands both the independency and interdependency of a (post)imperial world.

Canada, containing a multiplicity of cultural narratives,[24] while also dealing with ongoing settler colonial domination and Indigenous resistance, is perfect for this kind of approach. Indeed, as this thesis will demonstrate, Edward Said's contrapuntal analysis is a unique approach that is ideal for theoretically interpreting Canadian settler colonialism as a contested and joint experience, pointing to new and revitalized ways of relating to each other and the land. This thesis elucidates, applies, and then expands upon contrapuntal analysis in the Canadian context.

Amia Srinivasan, "VII — Genealogy, Epistemology and Worldmaking," *Proceedings of the Aristotelian Society* 119, no. 2 (July 1, 2019): 127–56, https://doi.org/10.1093/arisoc/aoz009.

[20] James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity*, The John Robert Seeley Lectures (Cambridge ; New York: Cambridge University Press, 1995), 38.

[21] Bill Ashcroft and D. P. S. Ahluwalia, *Edward Said* (London ; New York: Routledge, 2001), 103.

[22] Edward W. Said, *Culture and Imperialism*, 1st Vintage Books ed (New York: Vintage Books, 1994), 318.

[23] Said, *Culture and Imperialism*, 1994, 18.

[24] Tully, *Strange Multiplicity*.

Constitutionalisms are the institutional subject of my analysis. A constitutionalism encompasses the foundational reasons for organizing political community in a particular way. It contains the underlying justifications for political authority usually according to a certain set of values or logics. Put simply, a constitutionalism is a narrative and corresponding practice of how we ought to live together. Accordingly, by using contrapuntal analysis, I show that settler governments rely on a form of constitutionalism that necessitates imperial tools and colonial hierarchies: I call this *colonial constitutionalism*. This constitutionalism appears inevitable, but it is not. Instead, I show that Indigenous constitutionalisms exist concurrently and interdependently with colonial constitutionalism. Seen together, these constitutionalisms produce a dissonance that points to a political practice of *contrapuntal constitutionalism.* As such, I draw on Said's contrapuntal approach in two ways: as a mode of political analysis (contrapuntal analysis) and as a normative approach to politics (contrapuntal constitutionalism). The former discloses the latter. In chapters One, Two, and Three, I focus on contrapuntal *analysis.* Chapter 4, in turning to and expanding upon the normative implications disclosed in the previous chapters, contends with contrapuntal constitutionalism.

As a method of analysis, Said's contrapuntal approach, while short of being a theoretical framework, is a way to understand Canadian settler colonialism's dissonances and interdependencies without flattening, reducing, synthesizing, or compartmentalizing them. As Said argues, the only way to fully understand struggles over land and the nuanced interplay between domination and resistance is to seriously contend with "intertwined and overlapping histories."[25] Chapter 1 expands on what contending with overlap means and entails. I also provide an overview of contrapuntal analysis's limited discussion in political theory, and I make

[25] Said, *Culture and Imperialism*, 1994, 18.

the case for the power of borrowing, adapting, and expanding upon Said's ideas. As a white settler, I see myself as having certain responsibilities that must be handled with care. This thesis is my own attempt to use my graduate education to learn more about Indigenous constitutionalisms, settler colonialism, and how, as a settler-scholar, I can speak truth to power, power from which I directly benefit. By holding true to Said's pursuit of the rendezvous of victory, it is my goal to try and do my small part in imagining what a possible path could begin look like on these lands, while also critically engaging with other settler efforts. While I strive to make my work valuable to both settlers and Indigenous peoples, I see myself primarily speaking to, and on behalf of, other white settlers. White settlers have a responsibility to learn about their complicity with settler colonialism and help teach other settlers. The anti-colonial struggle must be Indigenous led and settlers ought to divest their power while also doing the work to learn, listen, and teach. We cannot dismantle settler colonialism and imperialism unless we identify its tools and learn how to stop relying on them. Accordingly, I remain open to criticism and change in what is an ongoing, reciprocal, and necessarily imperfect journey.

In Chapters Two and Three, I contrapuntally analyze the overlapping territories and interdependent histories between settlers and Indigenous peoples in what is known as Canada. To focus and ground my analysis, I turn to the constitutionalisms at work in two cases studies: the installation ceremony of Inuk leader and diplomat Mary Simon as Governor General of Canada, and the installation ceremony of Kevin Hall as the President of the University of Victoria. These two cases studies are rich examples of the interdependent "strange multiplicity" that makes contrapuntal analysis so ideal for use on Canadian settler colonialism.[26] As such, these chapters, beyond their explicit arguments, also implicitly make the case for why contrapuntal analysis is a

[26] Tully, *Strange Multiplicity*.

particularly illuminating approach to understand the manifestations and boundaries of (as well as the alternatives to) settler colonialism. It is my hope, therefore, that this approach is used more widely in Canadian settler colonial and constitutional studies.

Chapter 2 focuses on Mary Simon's installation. Using contrapuntal analysis on the ceremony, I identify the characteristics, dynamics, and dominating tendencies of colonial constitutionalism. Focusing on the structure of "attitude and reference" at work in the ceremony,[27] I show how the ceremony used the interdependent histories wrought by settlement and imperialism to legitimize colonial constitutionalism. The ceremony successfully reproduced colonial domination because of a fundamental misunderstanding of the complexities of interdependence at work in Canada. Accordingly, Simon's ceremony is an example of the dangers of finding victory in appeals to difference and diversity that are non-transformative, appeals that "consolidate", "elaborate", and provide "intellectual cover" to the status-quo.[28]

Chapter 3 focuses on Kevin Hall's installation. By using contrapuntal analysis here, I understand it to be an event where colonial and Coast Salish constitutionalisms clashed simultaneously in their conceptions of political community. The resulting dissonance is a provocation, the implications of which can unsettle colonial constitutional hegemony; it is this kind of dissonance that discloses a possible path to the rendezvous of victory. And yet, such dissonance is fleeting—practitioners of colonial constitutionalism are positioned to instinctually drown out any threat to colonial authority. Thus, as in Chapter 2, a contrapuntal understanding of Hall's ceremony discloses both the limits and alternatives to colonialism as a way of life, except that in Hall's ceremony dissonance plays a central role.

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[27] Said, *Culture and Imperialism*, 1994, xiii.
[28] Said and Barsamian, *Culture and Resistance*, 189.

In Chapter 4, I switch gears and look at Said's contrapuntal approach as the foundation for a political practice that I call *contrapuntal constitutionalism*. Contrapuntal *analysis,* as developed in the first three chapters, discloses a way of seeing settler colonialism and the rich interplay between domination and resistance. In doing so, an alternative constitutional path that does not rest on domination is disclosed. In Chapter 4, I illuminate this path. As Said argues, once we comprehensively understand the contours of human-made systems of domination, then we can "provide alternatives to the authoritative and coercive norms that dominate so much of our intellectual life, our national and political life, and our international life above all."[29] In an attempt to provide such an alternative, I draw upon the Canadian opera *Louis Riel* to tie Said's normative political and musical metaphors together. Using Said's ideas regarding dissonance, late style, and prefiguration, I transition from the opera *Louis Riel* to the historical figure Louis Riel and see his actions as *political* dissonance. In the final part of the chapter—and the thesis as a whole—I turn back to Kevin Hall's installation ceremony and elaborate on what it would mean to resolve and to cultivate dissonance politically, and why, ultimately, cultivating dissonance is a promising path forward. It is in this kind of dissonance where the rendezvous of victory can be found, where facile universalism is rejected, and where political community can be remade to the measure of the world.

[29] Said and Viswanathan, *Power, Politics, and Culture*, 367.

Chapter 1: Music as Method

> I don't think of myself as a coherent, single person. I'm many different things. And I don't try to balance between them. I don't see myself as somebody who's trying to patch up all the differences. I try to live in the differences.
>
> – Edward Said to David Barsamian, *Culture and Resistance*[30]

Contrapuntal analysis has been woefully underutilized in Canadian political theory. Indeed, contrapuntal analysis has been largely neglected in political theory in general. Jeanne Morefield notes this lack of contrapuntal analysis in political theory and refers to it as a "strange lacuna", especially considering the field's more recent interest in imperialism.[31] Perhaps overshadowed by *Orientialism*—a discipline-forming text and a landmark in cultural criticism—*Culture and Imperialism* is often relegated as an addendum to the former; Said, as it is perceived, simply added colonized perspectives to his original critique. Seamus Deane, for instance, while appreciative of *Culture and Imperialism*'s "awareness and inclusiveness", argues that this text was the "last attempt on [Said's] part to woo the American academy by means of culture into something approaching an ethical response to imperialism."[32] For Deane, wooing the American academy is akin to "cajoling a cat into altruism", representing a good but ultimately fruitless effort.[33] Contrapuntal analysis has garnered attention in comparative literature and postcolonial literary studies, but, like Deane suggests, it has been seen as largely unapplicable to contemporary politics. Such an absence is understandable if contrapuntal analysis only finds purchase within comparative literature and postcolonial studies. After all, Said was a professor in

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[30] Said and Barsamian, *Culture and Resistance*, 192.
[31] Jeanne Morefield, "Said and Political Theory," in *After Said*, ed. Bashir Abu-Manneh, 1st ed. (Cambridge University Press, 2018), 113, https://doi.org/10.1017/9781108554251.007.
[32] Bashir Abu-Manneh, ed., *After Said: Postcolonial Literary Studies in the Twenty-First Century*, After Series (Cambridge, United Kingdom ; New York, NY: Cambridge University Press, 2018), 67.
[33] Abu-Manneh, 67.

comparative literature and never taught a course on the Middle East. Said, however, as a public intellectual, was never one to remain confined to a discipline. Said saw himself as speaking "truth to power", and as such, he worked from a certain position but communicated *across* artificial disciplinary divides.[34] Thus, Said's work ought to be seen as multidisciplinary and multidimensional, engaging in dialogue with diverse audiences. Simply because contrapuntal analysis is used for literary analysis in *Culture and Imperialism* does not mean that contrapuntal analysis can only be used on works of literature. In fact, Said acknowledges that "nations themselves are narrations"[35] and thus can be read contrapuntally. Furthermore, Said admits that culture manifests in far more ways than just literature: "I do not mean that only the novel was important," Said stated, "but that I consider it *the* aesthetic object whose connection to the expanding societies of Britain and France is particularly interesting to study."[36] Said's cases—while important for their connection to imperial attitudes—were selected out of interest and expertise. Said, after all, was a literary critical comparatist by training, not a political theorist. In this chapter, I make the case for why theorists of Canadian politics ought to give contrapuntal analysis more attention. In doing so, I also reflect on the importance of musical metaphor, as well as the power of borrowing and adaptation.

I

What does contrapuntal analysis look like in the hands of a political theorist? While contrapuntal analysis has been largely ignored by political theorists, there have been notable exceptions. Primarily, Jeanne Morefield has been at the forefront of a recent push for political theorists to recognize Said's work. Her 2018 article, "Said and Political Theory", calls for political theorists

[34] Said, *Representations of the Intellectual*.
[35] Said, *Culture and Imperialism*, 1994, xiii.
[36] Said, xii.

to consider Said's approaches. His work, Morefield notes, is important because it pushes theorists "toward what they often avoid: interdisciplinarity and a willingness to engage what Said called 'untidy' modes of inquiry that engage multiple political visions and identities—multiple dreams—simultaneously."[37] Contrapuntal analysis explicitly engages a variety of melodies to fully see the world in its vibrant multiplicity. Furthermore, while Said was primarily interested in historical manifestations of domination and resistance, Morefield notes that contrapuntal analysis forces theorists to centre contemporary manifestations of imperial power.[38] As a theorist investigating international relations, Morefield is primarily interested in the expressions of western imperial domination—specifically by the United States—and applying contrapuntal analysis to IR aligns with Said's role as a public intellectual speaking truth to US global entanglements. Morefield's interest in contrapuntal analysis for IR was preceded by Geeta Chowdhury, who—while recognizing that "contrapuntality" would not fundamentally restructure IR—felt that Said's method could help to "world" the discipline and read in those groups that had been marginalized by IR.[39] Might this idea of worlding, however, be seen as the "cajoling" that Deane was skeptical about? In response we can turn to Morefield's *Unsettling the World*, her book on Said and political theory, which argues that "contrapuntality" is more than reading in, but is instead "reading you in your presence," a reflexive practice that implicitly calls for a restructuring of IR instincts. Rather than express empathy towards those your ideas will affect (a practice that Morefield argues enables liberal imperialism), one ought to imagine those affected as *also* "reader[s], critic[s], and thinkers[s] who [are] actively analyzing *you"*[40] Indeed,

[37] Morefield, "Said and Political Theory," 113.
[38] Morefield, "Said and Political Theory."
[39] Geeta Chowdhry, "Edward Said and Contrapuntal Reading: Implications for Critical Interventions in International Relations," *Millennium: Journal of International Studies* 36, no. 1 (December 2007): 115–16, https://doi.org/10.1177/03058298070360010701.
[40] Morefield, "Said and Political Theory," 209.

understanding the "other" as "*like you*—equally able to make history, equally able to read you—and yet as someone who potentially reads/theorizes/imagines history and the world *differently* from you, facilitates a sense of counterpoint: of familiarity and remoteness, nearness and distance."[41] Here we can see that thinking contrapuntally goes far beyond just wooing the academy; it is a fundamentally different way to think about political reality, relationality, and possibility. In the hands of a political theorist, therefore, contrapuntal analysis can be used to highlight the walls that imperialism erects, but then *also* shatter these barriers, connecting and punctuating the dominating logic *inside* imperialism with the resistance *outside* of it, pointing to transformative relationships that are profoundly relational, dialogical, and agonistic. Morefield illustrates this possibility with the following:

> One can strive to make justice and non-domination a reality, even while critiquing liberal narratives of improvement. One can seek out moments of sympathy in connection, even while interrogating the imperial roots of that connection. One can acknowledge the power of national identity, even while resisting national identity's power. One can refuse to let "who we are" stand in for "what we do." One can tell the story of our deflective imperial age differently. And, ultimately, one can sing a different, contrapuntal song about the world that we all share.[42]

The theorist is a narrator of the ways of the world and its potential, and contrapuntal analysis is a tool for creating a vibrant and multiplicitous portrait. As such, Said's ideas in *Culture and Imperialism* carry significant relevance for the theorist in the world today.

Counterpoint is an ideal metaphor for understanding the manifestations of settler colonialism. While all metaphors are abstract representations rather than precise portraits, metaphors can reveal previously imperceptible dimensions of an issue. For instance, when Karl Marx describes the historical extension of the working day into the night as "quench[ing] the

[41] Morefield, *Unsettling the World*, 2022, 105–6.
[42] Morefield, 204.

vampire thirst for the living blood of labour",[43] he does not literally mean that capitalists drink the blood of their workers. Rather, this metaphor colourfully illustrates capitalism's dependency on workers for surplus production, and that, by withholding their labour, workers can starve their exploiter. Indeed, the musicologist Rokus de Groot, in discussing Said's use of musical metaphors, states that music "has the potential to serve as a powerful 'contrapuntal' voice in the texture of human expressions."[44] Theory, embodied in metaphor, can apply texture to our understanding of the world. In effect, metaphor is a tool in narratives of comprehension. The imagination used in this way is thus "an essential means of becoming and remaining human. It is a tool of the mind."[45] Metaphor, therefore, is method. By exposing the sides of an issue that empirical observation neglects, metaphor is useful for multidimensional understanding.

Accordingly, music is an effective metaphor for describing settler colonialism. Both music and settler colonialism manifests in two ways: spatially and temporally. Primarily, music has a multifaced relationship to space. Physically, it exists as waves of energy that radiate out from their source depending on their strength and frequency. Imagine the sound of an orchestra filling a concert hall, or a busker playing in a crowded subway station fighting to be heard against the bustle of commuters and the roar of trains. Additionally, music—as an artform—has a textured relationship to space, existing not just horizontally throughout space, but also vertically. For instance, the Canadian pianist Glenn Gould, according to Said, played Bach's contrapuntal compositions in such a way that there was "a kind of geographical realization of music" where a listener can see the music "on different levels."[46] Bach's simultaneous melodies,

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[43] Karl Marx, *Capital*, trans. Ben Fowkes (New York: Vintage Books, 1977), 367.
[44] Rokus de Groot, "Edward Said and Polyphony," in *Edward Said: A Legacy of Emancipation and Representation*, ed. Adel Iskandar and Hakem Rustom (Berkeley: University of California Press, 2010), 207.
[45] Ursula K. Le Guin, "The Operating Instructions," in *Dreams Must Explain Themselves and Other Essays, 1972-2004* (London: Gollancz, 2018), 259–60.
[46] Cindi Katz and Neil Smith, "An Interview with Edward Said," *Environment and Planning D: Society and Space* 21, no. 6 (December 2003): 647, https://doi.org/10.1068/d2106i.

alongside Gould's humming, create an experience of sonic layers. Hence, music has a potential that is horizontal (filling a space), but also vertical (simultaneity and texture of sound). For Said, this metaphorical understanding of music is reflected in his use of Gramsci's thought in *Culture and Imperialism.* Gramsci, in his writings, pushes for a spatial understanding of the social world that moves against the current of the predominant temporal understandings of other Marxists working within the Hegelian tradition.[47] Everything in the social world, Gramsci argues, is fundamentally a struggle over land, not of stages of history. Gramsci, Said contends, is not interested in synthesizing or harmonizing melodies but rather "actually working them out as discrepant realities physically, on the ground, where territory is the place that you do it",[48] like a textured, contrapuntal flow through space. Settler colonialism, likewise, is fundamentally about a "struggle over geography."[49] Colonial domination is centered on dispossessing Indigenous peoples of their land, not necessarily in the sense of property (property itself being a colonial imposition) but rather their *relationship* with it.[50] As Margaret Kovach stresses, tribal epistemologies are based in contextual, place-based understandings that are dependent on a reciprocal connection with the living earth.[51] Settler colonialism destroys these connections and replaces them with settler colonial understandings of property and control, enforcing them under a constitutional framework. However, as long as knowledge-holders remain, whether living or in oral or written tradition, Indigenous ways of being in the world remain. As such, there is a contrapuntal tension between these "discrepant realities" over land and the way of life upon it.

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[47] Said and Viswanathan, *Power, Politics, and Culture*, 195.
[48] Said and Viswanathan, 195.
[49] Ashcroft and Ahluwalia, *Edward Said*, 95.
[50] Aaron Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together" (PhD Dissertation, University of Victoria, 2019), 277.
[51] Margaret Kovach, *Indigenous Methodologies: Characteristics, Conversations and Contexts* (Toronto ; Buffalo: University of Toronto Press, 2009), 158–59.

Second, both music and settler colonialism have vital connections to time. The actual manifestation of music exists in the present but is coherent because of its location in the flow of time.[52] Likewise, settler colonialism is integrally connected to time. Canada, as an imagined community,[53] finds its claim to the land in an unbroken tradition of assumed sovereignty. The only way that this claim is coherent is to see it as possessing a past, present, and future. Citizens experience the nation in the present, but they conceive of themselves as a living in a moment connected to the larger narrative history of Canada.[54] Likewise, Indigenous presence and resistance are often conceived of temporally: the notion of "time immemorial" connects present connections to the land to a longer historical relationship. Indeed, land acknowledgements, while addressing the spatial dimensions of Indigenous occupation, are also couched in temporality. For instance, as the University of Victoria's official land acknowledgement states: "we acknowledge and respect the lək̓ʷəŋən peoples on whose *traditional* territory the university stands and the Songhees, Esquimalt and W̱SÁNEĆ peoples whose *historical* relationships with the land *continue* to this day" (emphasis added). Couched within this land acknowledgement, there is an expression of both the spatial and temporal dimensions of Indigenous presence on these lands. It is separate from the university but exists at the same time and in the same space. As such, while the university's "melody" remains unmentioned (and this uncritical assumption of presence is one of the problematic characteristics of this acknowledgement), there is a contrapuntal relationship at play here. There are two melodies: one Indigenous, one settler, both inexorably tied up within settler colonialism. These two melodies overlap and play simultaneously, and thus are interdependent in their connection to colonialism and yet remain independent in the

[52] Daniel Barenboim, *Music Quickens Time*, Pbk. ed (London ; New York : Verso, 2009).
[53] Benedict R. O'G Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, Revised edition (London New York: Verso, 2016).
[54] Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019, 121.

implications of their connections to the land and to time. It is through the metaphor of music, therefore, that these "contradictions, tensions, and necessary complexities"[55] are made understandable without flattening the complexity of the contrapuntal relationship.

Importantly, metaphor cannot be a replacement for naming and identifying ongoing colonial violence. To abstract this kind of harm would mean obfuscating the lived effects of domination. As such, music can illustrate how violence flows through culture and identity, as well as how ideas are sustained through time and space, but the actual harms must be named. Contrapuntal analysis, presented though musical metaphors, is not without its limitations. Indeed, no approach can describe all sides to an issue. Instead, it is one part of a toolbox.[56] Contrapuntal analysis, as a tool, is invaluable for seeing the flows of relationships between domination and resistance—and the potential for a vision beyond it—but metaphor is imprecise at directly naming the manifestations of these phenomena. Accordingly, metaphor must be used in conjunction with direct description. Musical metaphor is helpful to show the interplay of domination and resistance, but this movement must be grounded in a more precise picture of the everyday and direct experiences. Metaphor, therefore, is one piece of the larger puzzle of understanding, but a particularly helpful one.

II

To see the intellectual spirit and potential of contrapuntal analysis applied to Canadian settler colonialism, it is helpful to turn to the work of Canadian political philosopher James Tully. Indeed, as Jeanne Morefield contends, Tully's work in political theory is one of the best contemporary examples of Said's "deeply reflective mode of critique" in practice.[57] For instance,

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[55] Morefield, *Unsettling the World*, 2022, 125.
[56] Sandra Halperin and Oliver Heath, *Political Research: Methods and Practical Skills*, Third edition (New York: Oxford University Press, 2020), 15.
[57] Morefield, *Unsettling the World*, 2022, liii.

in *Strange Multiplicity,* Tully sets out the ideal form of constitutionalism as ongoing and dialogical,[58] and in his more recent work "Reconciliation Here on Earth" he states,

> To view the world from the perspective of the dominant extractive system is to be one-eyed, to lose our depth of vision, our ability to see the extractive system as a recent transformation of a much older and deeper conciliatory and sustainable system that endures and underlies this unsustainable system.[59]

Like contrapuntal analysis, Tully understands the simultaneity of domination and resistance, and the necessity to see beyond our dominated reality. Indeed, as Alexander Livingston states, Said's "'contrapuntal' approach to empire has been an enduring influence on Tully's work."[60] As such, some of the most ground-breaking work in political theory on Canadian settler colonialism has been directly inspired by Said and his legacy.

The key substantive difference between Said and Tully, however, is that Said's writings are also deeply immersed in political struggle with clear affiliations drawn, whereas Tully's work is less explicit in its "partisanship" and "polemicism."[61] On one level, Tully's theory can be seen as more mobile and unsettled. In Tully's estimation, the theorist is an advisor to the people, not to a specific cause, and thus it is easier for a theorist to critically access the larger, dynamic, relationship between practices of government and the governed on a neutral, if still principled, level. Conversely, Said's unwavering commitment to the Palestinian cause—as well as his focus on British and French imperialism—is perhaps one reason why scholars have been more reluctant to apply his approach to other political contexts.

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[58] Tully, *Strange Multiplicity*.
[59] James Tully, "Reconciliation Here on Earth," in *Resurgence and Reconciliation: Indigenous-Settler Relations and Earth Teachings*, ed. Michael Asch, John Borrows, and James Tully (Toronto ; Buffalo: University of Toronto Press, 2018), 112.
[60] Alexander Livingston, *James Tully : To Think and Act Differently*, Routledge Innovators in Political Theory Ser. (Abingdon, Oxon, England ; Routledge, 2022), 20 at note 7.
[61] Morefield, *Unsettling the World*, 2022, liv.

At the same time, however, Said's grounded polemics can enhance—rather than parochialize—Tully's theory. Indeed, by adapting and applying Said's contrapuntal reading to Canadian settler colonialism, we can renew its vivacity and relevancy. For Tully, while theorists move, their theories do not. Theories, Tully contends, only provide "conditional perspectives", none of which "tells us the whole truth."[62] Theories are like snapshots in time, helpful for revealing a part of the whole, yet static in the face of a dynamic "atonal" world. Society, and the history that produced it, is "untidy"—it is far more suited to being interpreted by malleable, dialogic, approaches rather than "master narratives."[63] Theories, as "conditional perspectives", risk becoming flawed master narratives when applied to the atonal ensemble overall. A theorist must be flexible, always attentive to stretching their ideas too far. While Tully's idea of conditional perspectives encourages political philosophers to be self-reflexive, the fact that theories may be "conditional" does not necessarily mean that they are static. In "Travelling Theory Reconsidered", Said argues that when theorists take ideas from one context and apply them to another—move them from one geographical sphere into another—they reignite a theory's "fiery core": the power that made the theory relevant and elucidative in its original context.[64] As Jeanne Morefield contends, *travelling* theory allows us to see, and move beyond, the boundaries of assumed genealogies: the limited narratives that "we" tell about "our" tradition.[65] A theory in motion, therefore, breaks free from the "conditional perspective" from which it was formed. This is not just a matter of a philosopher changing their perspective on an issue, but rather, travelling involves re-interpreting the theory itself as it moves. Thus, the

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[62] James Tully, "Political Philosophy As a Critical Activity," *Political Theory* 30, no. 4 (August 2002): 445, https://doi.org/10.1177/0090591702304005.
[63] Edward W. Said, *The World, the Text, and the Critic* (Cambridge, Mass: Harvard Univ. Press, 1983), 210.
[64] Edward W. Said, "Traveling Theory Reconsidered," in *Reflections on Exile and Other Essays*, Convergences (Cambridge, Mass: Harvard University Press, 2000), 452.
[65] Morefield, *Unsettling the World*, 2022, 78–80.

theory's journey "from one sphere or region into another" is what fully reignites the urgency and accuracy of a theory.[66] In this, we see an expanded form of the type of reciprocal elucidation that is so important for Tully.[67] Travelling thus becomes another method for mutual understanding across contexts and times. As such, theories are not relegated as momentary pictures, but are rather living kaleidoscopes that shift and change like the intellectual terrain on which theorists find themselves.

Perhaps, therefore, Tully sells theory short by saying that it is only capable of perspectival snapshots. Instead, it is theorists who choose to see theories only as snapshots and ignore their inherent transience. Theories are just as capable of moving as theorists. As such, we ought to say that political philosophy is as much a travelling activity as it is a critical one. Indeed, political philosophy enhances the power of its critique *through* travel. This happens in two ways. First, travelling theory avoids "facile universalism or over-general totalizing" by renewing, and not rejecting, a theory's liberatory potential.[68] Theories do not always travel unchanged like divine truths from above but can be adapted to fit their new context. Second, travelling theory shows that theories *will* move, and that genealogy is also in motion and not a stable, confined, tradition. Theory can be seen as existing in a parallax relationship to *itself.* For instance, in *Travelling Theory Reconsidered,* Said illustrates how Frantz Fanon uses Georg Lukacs's subject-object dialectic to describe ongoing settler colonial domination but *also* to show how colonial antinomies can, and must, be overcome. Fanon, by pulling the subject-object dialectic into the colonies, uses Lukacs's theory to go beyond the elucidative potential of

[66] Said, "Traveling Theory Reconsidered," 451.
[67] Tully, "Political Philosophy As a Critical Activity."
[68] Said, "Traveling Theory Reconsidered," 452.

Lukacs's original position.[69] This case is not just a matter of Fanon borrowing theory and using it elsewhere, but instead, it enlarges the critical and liberatory potential of the original theory.

As R. Radhakrishnan contends, Said means to say that "*all* theory travels."[70] Theory, by nature of human interlocution, changes and evolves. Theory is of the world, and our world "is nothing but relational in nature."[71] Importantly, therefore, a particular theory does not "belong" to any one group, school, or person. Marx's theory of primitive accumulation, for instance, is a product of the entire world, and not for the exclusive intellectual use of the German people, Europe, or the "west." "Said would argue," Radhakrishnan writes, "that it is precisely through its transformations in other locations and sites that theory attains its real and effective history."[72] Simultaneously, however, for Said, travelling theory is also an "intransigent practice."[73] This apparent contradiction illustrates that theory does not travel lightly: it moves because its critical implications hold the transformative and uncompromising potential to reimagine society. Indeed, travelling theories, according to Morefield, go beyond "borrowing and adaption" and instead "generate new ways of imagining the world" as a whole.[74] Theory's movement between "publics" is deliberate and connected to real-world struggles, but remains dynamic and critical. Thus, travelling theory remains true to Tully's ideal while also enlarging the critical potential of individual theories. The more explicit "partisanship" and "polemicism" of Said's ideas imbues them with a vibrancy that can be carried into different contexts. While a theorist must take care to avoid applying theories uncritically, a careful application of an "other's" theory to "our" context can highlight lines of connection and affiliation as well as give theory and analysis new

[69] Said, "Traveling Theory Reconsidered."
[70] R. Radhakrishnan, *A Said Dictionary* (Chichester, West Sussex ; Malden, MA: Wiley-Blackwell, 2012), 135.
[71] Radhakrishnan, 135.
[72] Radhakrishnan, *A Said Dictionary,* 168.
[73] Said, "Traveling Theory Reconsidered," 452.
[74] Morefield, *Unsettling the World*, 2022, 78.

life. As such, although Said did not use contrapuntal analysis on Canadian settler colonial theory, his thoughts on travelling theory provide fertile ground for the possibility of contrapuntal analysis to be applied to the Canadian context. In turn, counterpoint's "fiery core" can be reignited once more.

III

How, then, can contrapuntal analysis be travelled and applied to Canadian settler colonialism? While Morefield and Chowdhury push for theorists to use contrapuntal analysis, their focus is primarily on international relations. Although Canada's settler colonialism is a product of the largest empire in history, the British Empire, the current dynamic between settlers and Indigenous peoples is not one of a distant metropole ruling a vast overseas empire. Although Ottawa—from the perspective of certain parts of Canada—can be seen as an imperial centre, settler colonialism is more accurately a case of overlapping settler and Indigenous authorities. There is no longer a metropole for settlers to "return to" because it is all Indigenous land. Thus, Canada, as a [post]-imperial settler colonial entity, is *both* Indigenous and non-Indigenous simultaneously. Both Indigenous peoples and settlers are "here to stay"; it is home for all of us.[75]

A contrapuntal approach, by addressing the simultaneity of resistance and domination, is ideal for analyzing Canadian settler colonialism. The "dense interrelationship" between settlers and Indigenous peoples[76]—a dynamic often obfuscated by hegemonic colonial narratives—lends itself to contrapuntal analysis, which holds both realities together without reducing the force of either.[77] Additionally, Said's contrapuntal vision can point to new ways of envisioning or enacting Indigenous-settler relations. By constructing a new contrapuntal narrative within the

[75] Michael Asch, *On Being Here to Stay: Treaties and Aboriginal Rights in Canada* (Toronto ; Buffalo ; London: University of Toronto Press, 2014).
[76] Ashcroft and Ahluwalia, *Edward Said*, 94.
[77] Morefield, *Unsettling the World*, 2022, 55–85.

interstices of colonial domination,[78] it is possible to chart a path forward that includes *both* Indigenous peoples and settlers in exorable interdependency, rather than carving out separate spaces for each. Contrapuntal analysis is particularly helpful when it comes to questions around integration and inclusion. While integration and inclusion can be seen as the answer to colonialism, contrapuntal analysis shows that—because of imperialism—the colonizer and the colonized are *already* integrated, pulled together under one dominating vision.[79] As such, the question then turns from "how do we come together", to "now that we're in this together, how do we move forward side-by-side?" Contrapuntal analysis is unique in that it shows imperialism as an inclusive, rather than exclusive system, but one that includes and integrates on its own terms, using its own power to enforce boundaries to its rule. Hence, the question becomes one of analyzing how settler colonialism orders the world around it, and how we *ought* to move in the world together. Indeed, inspired by Frantz Fanon and Aimé Césaire, as stated in the introduction, Said championed the grand narrative that there is "room for all at the rendezvous of victory."[80] A just peace is one where settlers and Indigenous peoples can live together, as equals, an approach that—in the case of Israel and Palestine—Said advocated for throughout his entire professorial career.[81] Importantly, seeing imperialism and settler colonialism as inclusive systems helps us to be more aware of how flattened and self-affirming narratives of "victory" can further legitimize domination. More on this in Chapter 2.

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[78] James Tully, "Consent, Hegemony, and Dissent in Treaty Negotiations," in *Between Consenting Peoples: Political Community and the Meaning of Consent*, ed. Jeremy H. A. Webber and Colin M. Macleod (Vancouver: UBC Press, 2010).
[79] Said, *Culture and Imperialism*, 1994, xxi.
[80] Edward W. Said and Gauri Viswanathan, *Power, Politics, and Culture: Interviews with Edward W. Said*, 1st ed (New York: Pantheon Books, 2001), 366.
[81] Timothy Brennan, *Places of Mind: A Life of Edward Said*, First edition (New York: Farrar, Straus and Giroux, 2021).

To analyze Canadian settler colonialism contrapuntally, it is first important to understand Said's use of both culture *and* imperialism. Broadly, Said recognized culture "as a way of understanding the world."[82] Culture is the narrative form of the collective beliefs and practices that identify being in the world.[83] This can be in the form of a novel, authored by a single person, or it can be a much larger "imagined community" collaboratively authored by all those who imagine themselves within the bounds of a nation.[84] Aaron Mills refers to these foundational beliefs as an "ECO-system": a combination of epistemology, cosmology, and ontology.[85] Accordingly, empire, stemming from a particular ECO-system, is a manifestation of the "active effects of culture" that determine *how* a particular culture can be put into practice.[86] Importantly, this does not mean that western culture necessitates imperialism or that there is a strict naturalist causal relationship between the two. Rather, Said endeavoured to show that western culture was "immensely important in the formation of imperial attitudes, references, and experiences," but neither was entirely dependent on the other.[87] As such, the "west" is not imperialism; instead, certain ideas that gained prominence and acceptance in the west were used to reify the inevitability of imperial domination. Understanding imperialism, therefore, requires understanding the ways in which culture supports and, in some cases, justifies it.[88] Likewise, the culture of the colonized is inexorably tied to resistance. Similar to how western culture finds its form in imperialism, those that resist it are empowered by their own cultural understandings of being in the world. In this sense, cultures and their active products—whether domination,

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[82] Ashcroft and Ahluwalia, *Edward Said*, 89.
[83] Benjamin L. Berger, *Law's Religion: Religious Difference and the Claims of Constitutionalism* (Toronto, ON: University of Toronto Press, 2015), 36–38; Said, *Culture and Imperialism*, 1994, xii–xiii.
[84] Anderson, *Imagined Communities*.
[85] Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019, 24.
[86] Ashcroft and Ahluwalia, *Edward Said*, 90.
[87] Said, *Culture and Imperialism*, 1994, xii.
[88] Said and Barsamian, *Culture and Resistance*, 188–89.

resistance, or something else—are like melodies: musical themes that take place temporally and spatially. While the clashing melodies of domination and resistance can seem like a simple dialectic, synthesizing contrapuntally, Said perceived this differently.[89] Western culture is not always imperialistic, and the culture of those colonized by imperialism is not always formed in resistance. And yet, they have both been irrevocably shaped *by* imperialism. Furthermore, for Said, "Partly because of empire, all cultures are involved in one another; none is single and pure, all are hybrid, heterogenous, extraordinarily differentiated, and unmonolithic."[90] Thus, while there is an independence of culture, all cultures implicated in the imperial struggle are *also* interdependent. This is precisely what makes them contrapuntal: independent melodies that exist interdependently and yet remain un-synthesized. Connection between voices, as Morefield stresses, is inescapable.[91] As such, a contrapuntal approach perceives a dynamic between domination and resistance, but it is not a dialectic relationship: domination and resistance are not antinomic, and, accordingly, they do not need to come together in transcendent synthesis.[92] This is why, for Said, the "rendezvous of victory" (see the introduction of this thesis) cannot be found in harmony and flattened triumphant narratives of hybridity. Instead, the domination and resistance at work in Canadian settler colonialism ought to be understood as intertwined and worked through contrapuntally. The idea that separate ECO-systems are simultaneously independent *and* interdependent can seem mind boggling, and in effect, makes it impossible to chart where one ECO-system ends and another begins. This is precisely Said's point: the [post]imperial world is so interdependent and yet filled with rich heterogeneity that simple

[89] Ashcroft and Ahluwalia, *Edward Said*, 106.
[90] Said, *Culture and Imperialism*, 1994, xxv.
[91] Morefield, *Unsettling the World*, 2022, 60–61.
[92] Said and Viswanathan, *Power, Politics, and Culture*, 56–57.

imperial narratives of "us" and "them" work to justify systems of control and domination.[93] Having coexistence without domination, therefore, *requires* approaching coexistence contrapuntally.

Seeing Canada contrapuntally entails approaching the atonal ensemble "not from a fixed 'certainty about who we are' but from the possibility that 'we' and 'the other' have been—and can be—otherwise."[94] Said was deeply inspired by the thought of Giambattista Vico, an 18th century counter-enlightenment philosopher who opposed the empiricism of Descartes and pushed for a contextual understanding of the world.[95] For Vico, and later for Said, humans create society and make their own history; they are not bound by laws of nature or teleological progression.[96] As such, humans can remake their own societies and futures that are not necessarily bound by domination or discursive limitations. A contrapuntal approach assumes the current interdependence of independent understandings of the world and the ability to remake that reality.

Hence, contrapuntal analysis finds itself both within, and in rejection of, a Foucauldian framework. Michel Foucault explicated the power of discourse to construct reality.[97] Foucault's work greatly influenced *Orientialism,* which charts the western construction of the Orient as not a natural fact but a discursive formation. Inversely, while *Culture and Imperialism* relies on the same Foucauldian foundation as *Orientalism,* the contrapuntal approach of that book is also a critique of the limitations of Foucault's thought. As Morefield notes, during the writing of *Culture and Imperialism,* Said grew disenchanted with "Foucault's unwillingness to fully

[93] Such justifications are dealt with in more detail in chapter 2.
[94] Morefield, *Unsettling the World*, 2022, 51.
[95] Morefield, 94–104.
[96] Morefield, 100–102.
[97] Jonathon Wayne Moses and Torbjørn L. Knutsen, *Ways of Knowing: Competing Methodologies in Social and Political Research*, Third edition (London: Red Globe Press, 2019), 203.

analyze resistance", which, for Said, rendered him a "'scribe of domination' and, at worst, a co-conspirator with the status quo."[98] Foucault masterfully understood how discourse orders reality, but he failed to consider that alternatives exist *simultaneously* to those boundaries. A contrapuntal approach, which analyzes the interconnection of domination and resistance, goes beyond Foucault to see how independent discourses are co-constitutive and can be transcended.

By centering resistance and alternative understandings, contrapuntal analysis can work well alongside many Indigenous methodologies. Critically, a contrapuntal approach, like Indigenous methodologies, operates through a decolonizing lens. In *Indigenous Methodologies,* Margaret Kovach stresses the need to confront domination head on, understand its manifestations, and work against them.[99] Likewise, contrapuntal analysis works to evaluate the constructs of domination to see beyond them. Said's approach holds that long before the west "discovered" them, non-western spaces "were *already* abuzz … with political, artistic, and intellectual activity," which in turn influenced the "west."[100] Other ways of knowing beyond western understandings (such as Indigenous methodologies) form the foundation of the counter melodies central to any contrapuntal approach. Furthermore, while contrapuntal analysis requires multiple melodies—like the multiple truths found in Indigenous methodologies[101]—there is still an overarching "oneness" to this method that is also central to Indigenous methodologies.[102] Like a contrapuntal composition, the independent melodies flow interdependently, and thus there is a holism inherent to counterpoint. Similarly, as Kovach confirms, Indigenous methodologies understand the world holistically—everything is co-constitutive and cannot be independently

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[98] Said, *The World, the Text, and the Critic*, 215.
[99] Kovach, *Indigenous Methodologies*, 21.
[100] Morefield, *Unsettling the World*, 2022, 64; See also David Graeber and D Wengrow, *The Dawn of Everything: A New History of Humanity*, 2021.
[101] Kovach, *Indigenous Methodologies*, 110.
[102] Morefield, *Unsettling the World*, 2022, 74.

studied and divorced without breaking its meaning.[103] While there is a distinction between colonized and colonizer, Indigenous and settler within a settler colonial context such as Canada, the two cannot be isolated or understood as independently formed or existing. Indigenous is a blanket label *because* of colonialism, while Canada is a colonial construct *because* of the way it is formed regarding its treatment of Indigenous peoples and lands. Thus, while contrapuntal analysis is not an Indigenous method, it can work in conjunction and alliance with Indigenous ways of knowing and being.

Furthermore, the concept of the pluriverse, which also draws from Indigenous methodologies, operates within a similar methodological paradigm to contrapuntal analysis. First developed by the early 20th century philosopher William James, pluriversality is the concept that ECO-systems that are radically different still exist interdependently.[104] "Our 'multiverse,'" James contends,

> still makes a 'universe'; for every part, tho [sic] it may not be in actual or immediate connexion, is nevertheless in some possible or mediated connexion, with every other part however remote, through the fact that each part hangs together with its very next neighbours in extricable interfusion.[105]

Like counterpoint, the pluriverse is a "world where many worlds fit", an ensemble that is interdependently composed of independent melodies.[106] Arturo Escobar, one of the leading proponents of pluriversality, echoes the liberating potential of contrapuntal analysis when he states that, "if worlds are multiple, then the possible must also be multiple," broadening horizons beyond the limited truths and rules that imperial worldmaking would have us believe.[107]

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[103] Kovach, *Indigenous Methodologies*, 25.
[104] Kimberly Hutchings, "Decolonizing Global Ethics: Thinking with the Pluriverse," *Ethics & International Affairs* 33, no. 02 (2019): 116, https://doi.org/10.1017/S0892679419000169.
[105] William James, *William James: The Essential Writings*, ed. Bruce W. Wilshire (New York, NY: Harper & Row, 1971), 368.
[106] Arturo Escobar, *Pluriversal Politics: The Real and the Possible*, Latin America in Translation (Durham: Duke University Press, 2020), 6.
[107] Escobar, 6.

Accordingly, contrapuntal analysis finds itself working within a rich methodological tradition of cross-discursive study, although it takes the further step of disclosing a path from a society dominated by imperial inevitability to a society where imperialism as a way of life is rejected. What is needed, Escobar argues, is to chart a path between the discursive formations of pluriversality and the forces that silence them.[108] This is precisely what contrapuntal analysis attempts to navigate, drawing a distinct link not just between worldviews, but between domination and resistance itself.

IV

Contrapuntal analysis does not remain without detractors.[109] Said certainly had no shortage of critics and opponents—his politically engaged nature made sure of that—but some of the most pointed criticism of his use of counterpoint came from those who celebrated many of his other ideas. Seamus Deane, as explored above, is one such example, but there are also skeptics who engage with Said's approach beyond literary criticism. Paul B Armstrong, for instance, finds fault with both Said's metaphor and the practicality of his vision for a better world. In *Being "Out of Place"* Armstrong identifies Said's metaphor of counterpoint as aiming to transform "perpetually divisive conflict into a productive, creative exchange of differences." Armstrong feels that this dream is impractical as, "the will to know may always carry with it a will to power that will disrupt the democratic negotiation of differences by seeking to replace equality with dominance."[110] This, however, is a short-sighted characterization of Said's use of counterpoint. Importantly, Said was finely attuned to the manifestations of power: this is what *Orientalism* focuses on, and his political writings always paid attention to where power lay physically and

[108] Escobar, 60.
[109] See Morefield, *Unsettling the World*, 69–76 for rebuttals to Marxist criticisms of contrapuntal analysis.
[110] Paul B. Armstrong, "Being 'Out of Place': Edward W. Said and the Contradictions of Cultural Differences," *MLQ: Modern Language Quarterly* 64, no. 1 (March 2003): 116.

discursively.[111] Throughout his work, Said highlights what Armstrong calls the "will to power." However, Said stresses that this desire for domination is not some naturalist law of nature that must always characterize cross-cultural interaction. Rather, it is imperialism—with all its accompanying physical and discursive constructs—that corrupts cross-cultural interaction. The belief that *all* dialogue is corrupted by the will to power appeals to the same narrow horizon of imperial inevitability that Said sought to highlight as univocal and deceptive. For instance, in *Culture and Imperialism,* Said contends that Joseph Conrad, an author who wrote on the horrors of imperialism and whose work Said admired, saw imperialism as inevitable and unavoidable, and was incapable of seeing beyond it.[112] Indeed, Armstrong, similarly, in his interpretation of Said, cannot see a way out of knowledge and domination. In fact, Armstrong criticizes Said's view of Conrad and others as "unreasonable in the expectations it sets for a writer to rise above the limitations of his or her own period and enter some realm of transcendent understanding."[113] Said, however, has no pretensions of "transcendent understanding" and notes specifically that writers are "very much in the history of their societies."[114] Instead, a contrapuntal approach requires understanding that imperialism—and the will for domination and hierarchy—is just *one* societal possibility out of many, and that there are other political possibilities that exist concurrently with, but are excluded by, imperialist discourse. To excuse a writer, politician, or historical figure because they were in their "own period" ignores the other voices that were and still are presenting something different and outside of the dominant discourse. To hold that knowledge sharing always ends in a quest for domination is to restrict oneself to a particular imperial narrative of "the way of the world." To think contrapuntally, on the other hand, is to see

[111] Morefield, *Unsettling the World*, 2022, 138–39.
[112] Said, *Culture and Imperialism*, 1994, 165–66.
[113] Armstrong, "Being 'Out of Place': Edward W. Said and the Contradictions of Cultural Differences," 118.
[114] Said, *Culture and Imperialism*, 1994, xxii.

the forms of resistance that simultaneously present alternative, non-dominating, ways of being in the world.

Armstrong also argues that counterpoint is an ineffective metaphor to characterize Said's method. Counterpoint, Armstrong contends, requires harmony, and the goal of a harmonious relationship between melodic lines is "too stable and homogenous" to describe the intersecting movements of histories and cultures. [115] Furthermore, he states that harmony is a poor ideal for cross-cultural relationships. Instead, the goal ought to be "productively discordant" relationships "that are lively, liberating, and mutually enhancing." [116] This, however, is a misunderstanding both of Said's use of counterpoint and the contrapuntal tradition that he draws from. A contrapuntal relationship is precisely the ideal that Armstrong identifies as "productively discordant." As Rokus de Groot emphasizes, counterpoint is not about harmony but rather a "harmonic dimension," describing a workable simultaneity that is not synthesis but "constantly changing complementarities and disparities." [117] A contrapuntal relationship, de Groot argues, "is the unfolding of intertwining histories between voices within a shared harmonic—though not necessarily harmonious—framework." [118] This vision of counterpoint is neither static nor homogenous and much more closely resembles Armstrong's ideal. Indeed, de Groot directly connects his description of counterpoint to Said's conception of contrapuntal analysis, stating, "in Said's view, [contrapuntality] would not necessarily imply the reconciliation of contradictions but an enhanced sensitivity of them."[119] As stated above, Said had no lofty goals of reaching some objective position above the intertwined melodies. Rather, he sought to

[115] Armstrong, "Being 'Out of Place': Edward W. Said and the Contradictions of Cultural Differences," 120.
[116] Armstrong, 120.
[117] de Groot, "Edward Said and Polyphony," 2010, 217.
[118] de Groot, 217.
[119] de Groot, 218.

understand the limits of discourses and counter discourses. Said crossed over and between discourses without synthesizing or resolving them. Hence, counterpoint remains an ideal metaphor for illustrating Said's vision.

Another significant point of criticism comes from Benita Parry in *Countercurrents and Tensions in Said's Critical Practice*, wherein she is unconvinced of the "interdependent" assumption of a contrapuntal approach. This interdependence, Parry contends, is "repeatedly interrupted by observations of inequality, coercion, and contest, of the 'fundamental ontological distinctions'" between the colonizer and the colonized.[120] As such, interdependence cannot be seen as realistically occurring when the two sides are imbalanced and fundamentally different. Parry's contention, however, misses the importance of interdependence *and* independence to contrapuntal analysis. The colonizer and the colonized are interdependent not because they are on even footing, but because imperialism—and thus settler colonialism—has brought them together. They are "connected by imperialism."[121] Indeed, interdependence under settler colonial domination is neither just nor sustainable and is thus parasitically interdependent: the colonizer feeds off Indigenous land while the colonized is made politically and economically dependant on their oppressor. As such, this vicious interdependence will not automatically become virtuous if it is identified as contrapuntal. The relationship itself must be transformed.[122] As R. Radhakrishnan notes, Said's approach seeks to "pit humanism against itself, deconstructively and contrapuntally, so that it might 'self-correct' in response to the principles of a secular and

[120] Benita Parry, "Countercurrents and Tensions in Said's Critical Practice," in *Edward Said: A Legacy of Emancipation and Representation*, ed. Adel Iskandar and Hakem Rustom (Berkeley: University of California Press, 2010), 507.
[121] Said, *Culture and Imperialism*, 1994, 279.
[122] Tully, "Reconciliation Here on Earth," 2018.

'bounded rationality.'"[123] A contrapuntal approach, therefore, requires three steps of understanding. First, it requires understanding that interdependence is a current reality. Second, that this interdependence is a *vicious* cycle caused by the discourse of imperial humanism and freedom. And third, that *virtuous* interdependence is the goal, rather than separation or partition. Thus, interdependence is both the problem and the solution.

Contrapuntal analysis provides exciting possibilities for the study of Canadian settler colonialism. Largely neglected by political theorists, it pushes scholars towards understanding multiple worldviews simultaneously. It centres power and domination but also sees beyond it as just one manifestation of political possibility. This does not make contrapuntal analysis implausible, but rather essential. Indeed, overcoming settler colonialism will not be achieved through segregation or partition, or drawing lines between "us" and "them." Rather, it is about navigating multiplicity through simultaneous independence and interdependence. Like counterpoint, the path forward is a dynamic, ongoing, and unsettled process. In the next chapter, I apply contrapuntal analysis to a case study: the recent installation ceremony of Mary Simon as Governor General of Canada. In doing so, I expand on both the parasitic relationship of settler colonial domination, the simultaneous independence and interdependence of settler colonial reality, and that by failing to see Canadian settler colonialism contrapuntally, we often inadvertently reproduce imperial practices of domination.

[123] R. Radhakrishnan, "Edward Said and the Possibilities of Humanism," in *Edward Said: A Legacy of Emancipation and Representation*, ed. Adel Iskandar and Hakem Rustom (Berkeley: University of California Press, 2010), 445.

Chapter 2: Conducting Cacophony

> Imperialism consolidated the mixture of cultures and identities on a global scale.
>
> – Edward Said, *Culture and Imperialism*[124]

> Reality is inimical to those with power.
>
> – John Berger, *And Our Faces, My Heart, Brief as Photos*[125]

On July 26th, 2021, Mary May Simon was proclaimed the Governor General of Canada. As she ascended the throne, the Governor General's flag was hoisted, a 21-gun salute thundered outside, and a brass quintet from the Canadian Armed forces launched into the "Grand March" from Giuseppe Verdi's opera *Aida.* The "Grand March", a triumphal, florid piece, was apt for the occasion. The march, the salute, the flag, and the throne invoked an august order, a nation presided over by an eternal, if archaic, monarchy.

Except this is not the whole story. In Act 2, Scene 2 of Verdi's opera *Aida,* the "Grand March" celebrates not a monarch's installation but an imperial triumph. In the scene, Radames, the Ancient Egyptian military commander, celebrates his crushing domination of the Ethiopians in war. The scene features a parade held in Radames's honour. It is an unabashed display of military conquest, complete with captured prisoners in chains.[126] While the organizers of Mary Simon's installation surely did not intend to invoke the march's explicit imperial affiliations, the use of the march is a synecdoche for how Canadian settler governments implicitly rely upon imperial tools and aesthetics. This chapter employs Jodi Byrd's concept of *cacophony*,[127] in conjunction with Said's *contrapuntal analysis* to show that Mary Simon's installation ceremony

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[124] Said, *Culture and Imperialism*, 1994, 336.
[125] John Berger, *And Our Faces, My Heart, Brief as Photos* (New York: Vintage International, 1991), 72–73.
[126] Said, *Culture and Imperialism*, 1994, 124.
[127] Jodi A. Byrd, *The Transit of Empire: Indigenous Critiques of Colonialism*, First Peoples: New Directions Indigenous (Minneapolis: University of Minnesota Press, 2011).

rests upon a "structure of attitude and reference"[128] affiliated with imperial practices of governance. In turn, this conclusion exposes how settler colonialism insidiously works its way into other Canadian practices of pluralism and multiculturalism. As such, we can begin to understand how even well-intentioned attempts at reconciliation can reproduce, rather than dismantle, settler colonial domination. At the same time, seeing Canada *contrapuntally* also reveals that settler colonial domination is *not* inescapable. Indeed, it is precisely by understanding how we continue to rely on imperial tools that we can begin to reject them.

I

When we peel back all the layers at work at the ceremony's climax, we see the coalescence of a disparate multiplicity: on Algonquin Anishinaabe land, in what was formerly Ottawa's central train station, an Inuk woman took her place as the representative of Canada's head of state, a British monarch, to the sound of an opera depicting Ancient Egyptian imperial grandeur, written by an Italian nationalist for a rapidly Europeanizing African state. Furthermore, the rest of the ceremony was punctuated throughout with musical performances representing distinct cultures across Canada, such as Newfoundlanders, Québécois, and Métis peoples. This coalescence was no accident or coincidence. It was a *choice* to arrange the ceremony in this way. By reading the ceremony's "ghostly notations" of "affiliations, connections, decisions, and collaborations," we can see a larger "structure of attitude and reference" guiding the ceremony.[129] Explicitly, the ceremony was guided by a need to bring people together and celebrate Canadian diversity. During Prime Minister Justin Trudeau's speech, he repeatedly stressed the need to "build bridges" between Canadians. "Perhaps more than any other place on earth," Trudeau said, "we are defined by our diversity… this is a big place, this is a diverse place… we need people who

[128] Said, *Culture and Imperialism*, 1994, xiii.
[129] Said, xxiii.

build bridges and bring ourselves together."[130] Trudeau singled out Simon as the ideal bridge builder, praising her for her role in negotiating the first land claims agreement between Canada and Indigenous peoples. "We *need* people *like* Ms. Simon," said Trudeau.[131] This speech was indicative of the worldview embodied in the ceremony: Canada is big and diverse, and an ideal Canada is one where everyone is brought together *as* Canadians.

This vision conceptually resembles Charles Taylor's normative recommendations in "The Politics of Recognition." For Taylor, other identities and cultures—especially ones that are "sufficiently different" from *ours*—appear "strange and unfamiliar." Rather than judge their understandings from *our* perspective, we ought to learn their understanding from *their* perspective. What needs to happen, therefore—drawing from Gadamer—is a "fusion of horizons." "We learn to move to a broader horizon," Taylor states, "within which what we have formerly taken for granted as the background to valuation can be situated as one possibility alongside the different backgrounds of the formerly unfamiliar." In turn, by fusing horizons, we can "transform our standards."[132] There is an "us" and "them" who need to come together in pursuit of a more enlightened whole.

Taylor may not have intended for his suggestions to be taken so literally; we need not physically come together to fuse horizons. Indeed, for Taylor, fusing horizons can be as simple as a process of "comparative cultural study."[133] Learning about the other can happen through a single unmediated conversation. However, Taylor's underlying assumption—that there is a distinct "us" and "them" that need to come together—is reflected in the ceremony's attitude

[130] "Mary Simon Installed as Canada's 30th Governor General," *CBC News Special* (CBC, July 26, 2021).
[131] "Mary Simon Installed as Canada's 30th Governor General."
[132] Charles Taylor, *Multiculturalism: Examining the Politics of Recognition*, ed. Amy Gutmann (Princeton, N.J: Princeton University Press, 1994), 67.
[133] Taylor, 73.

towards governance. The ceremony embodied an *interpretation* of the normative implications of Taylor's thought. The ceremony's "structure of attitude and reference" reflected the idea that we ought to move towards interdependence: bridges were laid down over cultural divides, diversity was put on parade, and an Indigenous woman was installed as a foreign monarch's representative.

Committing ourselves to a study of the other can be well intentioned. We should not remain cloistered within ethnocentric and closeminded understandings of the world. Taylor's underlying assumptions about the nature of identity, however, fundamentally misrepresent multiplicity under Canadian settler colonialism. In turn, this misrepresentation was exacerbated in its use in Simon's ceremony and unwittingly provided justification for settler colonial domination. By examining the settler colonial setting of the ceremony, we can complicate ideas of "us" and "them" as well as the effect of "bridge-building" in the ceremony.

Foundationally, imperialism and settler colonialism made Simon's installation possible. Imperialism and settler colonialism, however, are not unidirectional processes. Settlers did not shape an inert, untouched wilderness full of passive Indigenous peoples. Indigenous peoples had been actively and intentionally constituting political community for thousands of years before settlers arrived. This means that Indigenous peoples reckoned with the arrival of settlers—and the eventual solidification of colonial rule—with nuance, heterogeneity, and rich dialogical debate, a readily available fact that has gone largely ignored in mainstream political theory.[134] Both Indigenous peoples and settlers continue to navigate a shared reality; as such, settlement of what is now known as Canada is an integrative endeavour. When settlers make their home on Indigenous land, settler "horizons" become part of the constitutive character of the land

[134] Graeber and Wengrow, *The Dawn of Everything*; Jeanne Morefield, *Unsettling the World: Edward Said and Political Theory*, Modernity and Political Thought (Lanham, Maryland: Rowman & Littlefield, 2022), 64.

alongside Indigenous horizons. While different people experience and understand settlement differently (from immense suffering to great profit), all form a constitutive part of the whole. Settlement, therefore, is a chaotic, cumulatively indescribable jumble of overlapping horizons. In *Transit of Empire,* Jodi Byrd uses the term "cacophony" to describe this chaos. Cacophony, Byrd writes, is the "discordant and competing representations of diasporic arrivals and native lived experiences" in what is known as North America.[135] Settlers and Indigenous peoples understand and experience settlement differently, each group with their own rich internal heterogeneity. Each horizon, when communicated or enacted, is like a musical melody. When all these melodies play simultaneously in the same place, therefore, they produce a combination that is harsh or discordant, like the noise of a hectic-rush hour or a packed market. "Cacophony" aptly describes the overlapping and intertwined cumulative experience of settlement. Canada, therefore, ought to be understood as an "atonal ensemble": not a harmonious multiplicity but a shared endeavour that is contradictory, dissonant, and chaotic. [136]

In such a chaotic environment, Taylor's understanding of "us" and "them" is attractive. Horizons appear to us as convenient comprehensible packages, whereas trying to comprehend cacophony as one tightly tangled "thing" can be overwhelming. Cacophony, however, is much more manageable conceptually when it is understood *contrapuntally*. As discussed in the previous chapter, in *Culture and Imperialism,* Edward Said understands the process of imperialism to be like musical counterpoint. As such, Said argues that imperialism, as a process, ought to be read *contrapuntally,* that is, with "a simultaneous awareness both of the metropolitan history that is narrated and of those other histories against which (and together with which) the

[135] Byrd, *The Transit of Empire*, xiii.
[136] Said and Barsamian, *The Pen and the Sword*; Tully, *Strange Multiplicity*.

dominating discourse acts."[137] Cacophony, likewise, can be read contrapuntally. Rather than discursively package up each melody within cacophony as its own distinct horizon, we ought to understand cacophony's constitutive parts simultaneously as being *both* independent and interdependent. Contrapuntal analysis, therefore, has a key difference to Taylor's understanding of horizons: it holds that imperialism and settlement have *already* brought together diverse melodies. "Partly because of empire", Said writes, "all cultures are involved in one another; none is single and pure, all are hybrid, heterogenous, extraordinarily differentiated, and unmonolithic."[138] Indigenous and settler realities, as Aaron Mills states, are *already* "deeply interwoven" with each other.[139] The musicologist Wouter Capitain notes that, "throughout Said's elaborations on counterpoint, the common theme is that multiple voices interact; they are irreducible to one another, but cannot be separated either as they resonate with each other in the historical, political, biographical, or musical experience."[140] On the other hand, Taylor's use of horizons means that while horizons can exist concurrently in the same place, they can only become interdependent once they have been fused—harmonized—into a more enlightened whole. Thus, arguing that there is a "them" with experiences and understandings that are "strange and unfamiliar" to us is to discursively break apart what has been *already* fused together under cacophony.

As an additional illustration of the fundamental conceptual difference here, in 1989, both Said and Taylor commented on the Rushdie affair. In an article in the journal *Public Culture*,

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[137] Said, *Culture and Imperialism*, 1994, 51.
[138] Said, xxv.
[139] Aaron Mills, "Rooted Constituionalism: Growing Political Community," in *Resurgence and Reconciliation: Indigenous-Settler Relations and Earth Teachings*, ed. Michael Asch, John Borrows, and James Tully (Toronto ; Buffalo: University of Toronto Press, 2018), 141.
[140] Wouter Capitain, "From Counterpoint to Heterophony and Back Again: Reading Edward Said's Drafts for *Culture and Imperialism*," *Journal of Musicological Research* 41, no. 1 (January 2, 2022): 22, https://doi.org/10.1080/01411896.2020.1787793.

Taylor describes *The Satanic Verses* as a "profoundly western book."[141] For Taylor, Rushdie's novel is part of the venerated "western" tradition of religious criticism. Rushdie erred because he failed to take the other—Muslim—horizon seriously, which takes far greater offence to unbelief and blasphemy. "Rushdie's book," Taylor writes, "is comforting to the western liberal mind, which shares one feature with that of the Ayatollah Khomeini, the belief that there is nothing outside their world-view which needs deeper understanding, just a perverse reflection of the obviously right."[142] Said, in an article in the journal *The Black Scholar,* understands *The Satanic Verses* differently. Rushdie's book, for Said, "is an astonishing and prodigiously inventive work of fiction. Yet it is, like its author, in history, the world, the crowd and the storm."[143] The novel is neither a product of "us" nor "them" but is instead cacophonic. "There is," Said writes, "no pure, unsullied, unmixed essence to which some of us can return…Rushdie's work is not just about the mixture; it is that mixture itself."[144]

Critically, a contrapuntal approach does *not* mean that categories like settler and Indigenous are nonsensical and emptied of significance. We cannot claim that Canada is a "Métis nation."[145] Identities, whether cultural or racial, still have lived effects that cannot be ignored. There are still independent (and group) experiences and understandings—melodies—but they manifest co-constituently. In music, counterpoint is not about harmony where sounds conjoin into a universal whole. As mentioned in the previous chapter, the musicologist Rokus de Groot emphasizes that counterpoint relies on a "harmonic dimension" of "constantly changing

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[141] Charles Taylor, "The Rushdie Controversy," *Public Culture* 2, no. 1 (January 1, 1989): 122, https://doi.org/10.1215/08992363-2-1-118.
[142] Taylor, 122.
[143] Edward W. Said, "'The Satanic Verses' and Democratic Freedoms," *The Black Scholar* 20, no. 2 (April 1989): 17.
[144] Said, 18.
[145] See John Ralston Saul, *A Fair Country: Telling Truths about Canada* (Toronto: Penguin Canada, 2009) for his description of Canada as a "Métis nation".

complementarities and disparities."[146] Counterpoint is unsettled and dynamic interplay; melodies are not one thing because they are always in motion.[147] As such, contrapuntal analysis does not require recognizing discrete categories of "us" and "them" but instead necessitates engaging "multiple political visions and identities—multiple dreams—*simultaneously*."[148]

II

By applying Said's contrapuntal approach to Canada, we can see how settler colonial governments *use* cacophony. While it may seem chaotic, cacophony is not ungovernable anarchy. Indeed, cacophony has been a vital part of justifying certain *constitutionalisms.* Canadian governments use two main practices of governance in response to cacophony. In the first, one melody is superior. Settlers—through both imperial and state apparatuses—ensconced the belief that Indigenous lands were *terra nullius*: empty and in need of governance and order. In turn, settler governments used—and continue to use—this understanding to justify occupying Indigenous lands and bodies.[149] In this way, Canada has been built upon violence and repression and been passed off as a necessary extension of political community.[150] In effect, one dominant understanding and experience—one melody—was forced upon the entire atonal ensemble. The eliminatory and racist governance at work here is precisely the type of extreme cultural chauvinism that Taylor warns against.[151] These imposed labels of savagery and lawlessness inflict a "grievous wound" upon Indigenous peoples.[152] Importantly, however, when we see

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[146] Rokus de Groot, "Edward Said and Polyphony," in *Edward Said: A Legacy of Emancipation and Representation*, ed. Adel Iskandar and Hakem Rustom (Berkeley: University of California Press, 2010), 217.
[147] See Chapter 1 sec. V for further discussion on this point.
[148] Morefield, "Said and Political Theory," 113.
[149] Byrd, *The Transit of Empire*.
[150] Corey Snelgrove, Rita Dhamoon, and Jeff Corntassel, "Unsettling Settler Colonialism: The Discourse and Politics of Settlers, and Solidarity with Indigenous Nations," *Decolonization: Indigeneity, Education & Society* 3, no. 2 (September 29, 2014): 7–8, https://jps.library.utoronto.ca/index.php/des/article/view/21166.
[151] Taylor, *Multiculturalism*, 71–72.
[152] Taylor, 26.

settler colonial elimination contrapuntally, we also see that Indigenous peoples never accepted overt settler colonial domination passively.[153] The legacy of resistance to empire is as old as the history of empire itself, and Canadian settler colonialism is no exception.[154] As such, settler colonial eliminatory—or even assimilatory—policies can be effective for settler colonial governments but provoke no shortage of resistance and resentment, let alone the immense suffering and violence at colonial hands.

Accordingly, the second, more accommodating approach involves conducting the entire atonal ensemble. While Canadian settler colonialism is built on genocidal practices,[155] the Canadian state is also built on tolerance and coexistence. Canadian history is marked by traditions of accommodation and pluralism that continue into the present.[156] Canadian governments entrench themselves by governing cacophony *overall*. This requires *mediating* cacophony, arranging its constituent parts in a specific configuration so as to maintain peace, order, and independence. Thus, while Canadian history is marked by settler attempts to drown out Indigenous melodies at the expense of their own, it is also marked by attempts to maintain a degree of pluralism, a project that both Indigenous peoples and settlers have had a hand in shaping.[157] Needless to say, this second endeavour has been far less repressive and murderous than the first. Indeed, it has led to arrangements of self government and accommodation for

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[153] Said, *Culture and Imperialism*, 1994, xii.
[154] Leanne Betasamosake Simpson, *As We Have Always Done: Indigenous Freedom through Radical Resistance*, Indigenous Americas (Minneapolis: University of Minnesota Press, 2017); Priyamvada Gopal, *Insurgent Empire: Anticolonial Resistance and British Dissent* (London ; New York: Verso, 2019).
[155] Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (December 1, 2006): 387–409, https://doi.org/10.1080/14623520601056240.
[156] David Schneiderman, "Canadian Constitutional Culture: A Genealogical Account," in *The Oxford Handbook of the Canadian Constitution*, ed. Peter C. Oliver, Patrick Macklem, and Nathalie Des Rosiers (New York, NY: Oxford University Press, 2017); John Borrows, *Freedom and Indigenous Constitutionalism* (Toronto ; Buffalo ; London: University of Toronto Press, 2016).
[157] E. A. Heaman, *Civilization From Enlightenment Philosophy to Canadian History* (Montreal: McGill-Queen's University Press, 2022).

Indigenous peoples and francophone settlers.[158] For instance, The Royal Proclamation of 1763 ensured Indigenous autonomy and sovereignty over their lands.[159] The Royal Proclamation laid the foundation for subsequent treaty-making,[160] an intentional relationship between the Crown and Indigenous peoples.

The "structure of attitude and reference" that underlay Simon's ceremony matches this second approach to cacophony. Particularly, the ceremony was a reminder that this second approach is the preferred, and noble, purpose of Canada's constitutional monarchy. The monarchy presides over a harmonious—ordered—multiplicity. Viewed favourably, the ceremony's celebratory bridge-building was an attempt to counteract settler colonialism's eliminatory and ethnocentric tendencies. The ceremony's mediation of cacophony, therefore, appears to be antithetical to pushing forward one melody at the expense of all others. In Simon's ceremony, people were brought together in harmony, not enmity. Critically, however, a contrapuntal view of cacophony complicates this second approach to governance. Accommodation, contrapuntal analysis shows, is not the only thing that this "structure of attitude and reference" is doing. If "us" and "them" are already interdependent because of cacophony, what does building bridges do? What makes it necessary or the right thing to do? What is the constitutional logic that animates the understanding that there is a discernable "us" and "them"?

Critically, the idea that there is an "us" and "them" is not universal but is part of the foundational logic justifying the need for bridge building. In "Travelling Theory Reconsidered",

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[158] James Tully, "Consent, Hegemony, and Dissent in Treaty Negotiations," in *Between Consenting Peoples: Political Community and the Meaning of Consent*, ed. Jeremy H. A. Webber and Colin M. Macleod (Vancouver: UBC Press, 2010).
[159] Martin Papillon, "The Two Faces of Treaty Federalism," in *Canadian Politics*, ed. James Bickerton and Alain Gagnon, Seventh edition (Toronto ; Buffalo ; London: University of Toronto Press, 2020), 220.
[160] Yasmeen Abu-Laban, "Diversity in Canadian Politics," in *Canadian Politics*, ed. James Bickerton and Alain Gagnon, Seventh edition (Toronto ; Buffalo ; London: University of Toronto Press, 2020), 350.

Said argues that Fanon, in *travelling*[161] Lukacs's concepts of reification and the subject-object dialectic, came to notions of identity based on a distinction between "us" and "them"—as a "manifestly European" cultural formation that carves false lines between lands and peoples.[162] The understanding that there is an us and them that need to come together is a central part of an imposed vision of governance, an imposed constitutionalism. Constitutionalisms *are* culture: they are not predicated on universal truths but instead form from the same understandings and experiences of the world that make up cacophony.[163] The idea that we ought to build bridges and fuse horizons is, ironically, based around the values of one horizon. As such, there is a paradox to Taylor's fusion of horizons: "us" and "them" have separate horizons that need to be fused so that we can understand each other, but the idea that there is a distinct "us" and "them" that can come together is itself the product of one form of constitutionalism that has already been imposed upon the other.

Furthermore, the two practices of governance explored above—elimination and accommodation—are not antithetical but complementary. Elimination and accommodation on a continent-wide scale are *both* facilitated by imperialism. Empires, Said emphasizes, provide "the ability to be in far-flung places, to learn about other people, to codify and disseminate knowledge, to characterize, transport, install, and display instances of other cultures… and above all rule them."[164] Thus, constitutional documents like the Royal Proclamation were possible because of imperialism. And European empires gained a profound ability to mediate the world through a successful combination of elimination, accommodation, and accumulation. Imperial

[161] See chapt 1, Sec. III of this thesis.
[162] Said, "Traveling Theory Reconsidered," 448, 451.
[163] Benjamin L. Berger, *Law's Religion: Religious Difference and the Claims of Constitutionalism* (Toronto, ON: University of Toronto Press, 2015), 35–60.
[164] Said, *Culture and Imperialism*, 1994, 108.

worldmaking enabled the nascent Canadian settler colonial state to slowly solidify its authority over "Canada"; and as Canada gradually gained autonomy within the British Empire, the tools of empire increasingly became the tools of the state.

Even with pluralistic and decentralized policies, empires still retained the ultimate authority over the foundations of political community. Indeed, pluralistic and autonomous acts of imperialism, like the Royal Proclamation, protected Indigenous rights while *also* asserting that the British empire was the one providing, ensuring, and enforcing those rights.[165] As such, the ability, commitment, and success of settler governments in mediating cacophony increasingly contributed to an ideology that imperial worldmaking was not just justified but necessary. It came to be believed that this colonial constitutionalism was not a "culture" like other constitutionalisms but rather the natural way of the world.[166] Settler colonial mediation of cacophony, this constitutionalism holds, is not a choice but a necessity. This logic is summed up in a letter that Giuseppe Verdi, the composer of *Aida,* wrote to Giulio Ricordi in 1871. "I don't concede the right to 'create' to singers," declared Verdi. Allowing singers to "create" ultimately means that they will "bungl[e] [their role] and produc[e] all sorts of contradictions… it is a principle that leads into the abyss."[167] Singers are free to sing their melodies, but the overarching power of composing—how those singers will interact and perform alongside one another—must remain with one "composer." Any other approach tempts a plunge into disorder. This *attitude* to governance is what imperialism is fundamentally about: not a "thing" per se but a *constitutionalism,* an underlying orientation to the necessary foundations of political community that is passed off as the natural order of things. James Tully, drawing from Glen Coulthard,

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[165] Abu-Laban, "Diversity in Canadian Politics," 351.
[166] Said, *Culture and Imperialism*, 1994; Berger, *Law's Religion*, 2015.
[167] Hans Busch, *Verdi's Aida: The History of an Opera in Letters and Documents*, NED-New edition (University of Minnesota Press, 1978), 150, http://www.jstor.org.ezproxy.library.uvic.ca/stable/10.5749/j.cttts4k6.

refers to this as the "hegemony problem", where the terms of the Canadian state "dominates the field, yet it is presented as grounded in the (hypothetical) rational consent of all those subject to it."[168] Imperialism, therefore, is the conjunction of two elements: a "structure of attitude and reference" that necessitates controlling the destinies of "others" and the power to implement such a structure.[169] Thus, colonial constitutionalism is a retooling of the structure and power of empire when the metropole no longer calls the shots. Settler colonial independence, in this case, simply means that imperialism is repurposed as a tool of the settler colonial state.

III

With all of this said, why is this arrangement—in line with Verdi's notion of music-making—unacceptable? Especially when distinct groups can receive respect and appropriate treatment, and the Crown itself is effectively powerless, does this not enable relative freedom within Canada? Primarily, when imperial worldmaking is seen not as a choice but as a necessity—when it is ingrained into the constitutional essence of a nation—settler colonial authority becomes a self-legitimating process.[170] The settler colonial state, wielding the power of imperialism, is the only power capable of maintaining a sense of "bounded order."[171] As such, the state cannot divest its ultimate authority lest its citizens "bungle their roles." The state has a monopoly not just on violence but also on mediation. Someone *must* be in charge, and since the Crown is able to be in charge, and is the one currently in charge, it is rightfully in charge. *De-facto* authority that functions as *de-jure* authority, however, is effective, but precarious. Consider Canadian courts'

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[168] Tully, "Consent, Hegemony, and Dissent in Treaty Negotiations," 2010, 241.
[169] Said, *Culture and Imperialism*, 1994, xxiii.
[170] Shiri Pasternak, *Grounded Authority: The Algonquins of Barriere Lake against the State* (Minneapolis: University of Minnesota Press, 2017).
[171] Caroline Elkins, *Legacy of Violence: A History of the British Empire*, First edition (New York: Alfred A. Knopf, 2022), 71.

unwillingness to question Crown sovereignty.[172] Canada's entire political system is predicated around the Crown's pre-eminence. Overturning Crown sovereignty would mean overturning the right of the Crown to mediate cacophony. Overturning the right of the Crown to mediate cacophony would mean questioning the necessity of colonial constitutionalism as a whole.

The roots of colonial constitutionalism, however, run deep. Stacie Swain, drawing on Dian Million and Sarah Hunt, uses the term "concretization" to describe the sense of "permanence or inevitability" of colonial constitutionalism.[173] The interdependence of cacophony, therefore, remains but it is a far more fixed interdependency, lacking the substantive elements of independence. Capitalism and extractivism, parallel structures of colonial constitutionalism, are entrenched alongside it. Many, especially those who use the entrenched systems to their advantage, benefit immensely from this mediation of cacophony. Many, however—notably Indigenous peoples on whose land these parallel systems rely on—suffer deeply and are unable to escape. In turn, the interdependence wrought by the perceived and enforced inevitability of colonial constitutionalism is a parasitic interdependence.[174]

R *v.* Van der Peet is an excellent example of colonial constitutionalism's "bounded order" in practice. According to the Supreme Court of Canada, section 35 of the Canadian constitution, which states that "[t]he existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed", is only applicable when Indigenous constitutionalisms are

[172] For instance, see: R. v. Van der Peet (2 S.C.R. 507 1996); Tsilhqot'in Nation v. British Columbia, No. 34986 (SCC 44 June 26, 2014); Ktunaxa Nation v. British Columbia (Forests, Lands and Natural Resource Operations), No. 2017 SCC 54 (Supreme Court of Canada November 2, 2017).
[173] Stacie Swain, "Cracking the Settler Colonial Concrete," in *Democratic Multiplicity: Perceiving, Enacting, and Integrating Democratic Diversity*, ed. James Tully et al. (Cambridge, United Kingdom: Cambridge University Press, 2022), 236–37.
[174] James Tully, "Reconciliation Here on Earth," in *Resurgence and Reconciliation: Indigenous-Settler Relations and Earth Teachings*, ed. Michael Asch, John Borrows, and James Tully (Toronto ; Buffalo: University of Toronto Press, 2018).

"framed in terms cognizable to the Canadian legal and constitutional structure."[175] Indigenous constitutionalisms, therefore, are permitted only as long as they stay relegated to a role that is "cognizable" to the ultimate creator: the Canadian state.

Such cognition is not an aspiration but, because of the power of imperial worldmaking, is a necessity. In a process that Aaron Mills refers to as "constitutional capture," when Indigenous constitutionalisms are made "cognizable" to settler governments, they are co-opted.[176] Because such constitutional comprehension occurs on very uneven terrain, it becomes a form of "interactive hegemon-subaltern rule."[177] As the hegemonic political order, colonial constitutionalism rises above culture and becomes the bounds of political possibility itself.[178] Ktunaxa Nation *v.* British Columbia illustrates this point. In this case, the Supreme Court ruled that the mandate of the provincial Minister of Forests, Lands, and Natural Resource Operations did not hinder the Ktunaxa nation's freedom of religious belief or the ability to manifest it.[179] The minister's mandate, however, was "administering Crown land and disposing of it in the public interest."[180] It was an *a priori* assumption, therefore, that the state had authority over the land and a particular vision of how to "dispose" of it. Blessed with a mandate from the "people" the minister was assumed to be the overarching "creator" of the jurisdiction covered by his portfolio. Colonial constitutionalism sat above question, while the Ktunaxa nation's constitutionalism was relegated to a "religious belief" discernable under section 2(a) of the

[175] R. *v.* Van der Peet, [1996] 2 S.C.R. 507, para. 5
[176] Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019, 47.
[177] Tully, "Reconciliation Here on Earth," 2018, 109.
[178] Berger, *Law's Religion*, 2015, 12.
[179] Ktunaxa Nation *v.* British Columbia (Forests, Lands and Natural Resource Operations), 2017 SCC 54, [2017] 2 S.C.R. 386
[180] Ktunaxa Nation *v.* British Columbia (Forests, Lands and Natural Resource Operations), 2017 SCC 54, [2017] 2 S.C.R. 386

Charter.[181] Importantly, as Tully stresses, there is still considerable "room for maneuver" within colonial constitutionalism. Limited self-government, cultural recognition, and compensation are possible, but settler colonial domination is reproduced, rather than deconstructed.[182] Thus, the Canadian state is entrenched "in its own unseeing."[183] Settler colonialism—enacted through institutions, perspectives, norms, and practices—is considered natural and inevitable.

Furthermore, settler colonialism requires maintenance. Attempts to transcend the "bounded order" of settler colonialism are unacceptable. Pluralism and accommodation are permissible only insofar as the "singers" do not become "creators." Transgression of this limit, therefore, is not without its consequences. Maintaining the settler colonial cacophony can necessitate repressing or eliminating those who try to crack through the concrete.[184] Accordingly, the two practices of settler colonial governance—elimination and accommodation—are not just both enabled by imperialism but are themselves co-constitutive parts of colonial constitutionalism as a whole. "Liberal imperialism endured," Caroline Elkins writes in a history of the British Empire, "because reforms and repression were *both* inherent to [the British Empire's] idiom and symptoms."[185] A bounded pluralistic order presided over by an enlightened monarch means nothing unless there exists the means—or even the realistic threat—to impose order when necessary. Colonial constitutionalism is a "structure of attitude and reference" to political community that encompasses *both* practices of settler colonial governance.

In turn, retrenching colonial constitutionalism justifies the entire conceptual package: both accommodation and elimination. Simon's installation ceremony, by using Verdi's "Grand

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[181] Benjamin L. Berger, "Is State Neutrality Bad For Indigenous Religious Freedom?," in *Indigenous Spirituality and Religious Freedom*, ed. Jeffrey Hewitt, Beverly Jacobs, and Richard Moon (University of Toronto Press, Forthcoming), 4–6.
[182] Tully, "Consent, Hegemony, and Dissent in Treaty Negotiations," 2010, 242.
[183] Morefield, *Unsettling the World*, 2022, 200.
[184] Swain, "Cracking the Settler Colonial Concrete."
[185] Elkins, *Legacy of Violence*.

March", explicitly celebrated a benevolent eternal monarchy but *also* implicitly legitimized the captured prisoners in chains that are in the opera's subtext. Seeing the ceremony—and settler colonialism overall—contrapuntally involves "an acute sense not of how things are separated but how they are connected, mixed, involved, embroiled, linked."[186] The ceremony and Canadian governments' commitments to building bridges may be in the spirit of reconciliation and pluralism, but if we do not see the ways in which these actions maintain a certain concretized parasitic interdependency, then the co-constitutive acts of elimination and state repression appear to merely be "unfortunate exceptions" and not at all who "we" are.[187]

A further dive into Simon's ceremony reveals the depths of its imperial affiliations. "Empire's heroes, symbols, and rituals, nationalism's lifeblood, endured," Elkins writes, because of the ability of Britain and colonial governments "to develop and work out in ever more complex ways liberal imperialism's meanings, policies, and practices."[188] Colonial constitutionalism is constantly perfecting itself, and its power enables it to do so.[189] A grand spectacle like Verdi's *Aida* and the artistic vision behind it is illuminating because it discloses how empire remakes and then performs the world according to its own specifications. [190] For Said, what is important is that *Aida*—and the conditions surrounding its creation—embodies "the authority of Europe's *version* of Egypt at a moment in its nineteenth-century history."[191] Accordingly, Simon's installation ceremony embodied colonial constitutionalism's *version* of cacophony. And by performing that version, the ceremony legitimized it. In *Authority:*

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[186] Edward W. Said, *Reflections on Exile and Other Essays*, Convergences (Cambridge, Mass: Harvard University Press, 2000), 430.
[187] Elkins, *Legacy of Violence*, 24; Jeanne Morefield, *Empires Without Imperialism: Anglo-American Decline and the Politics of Deflection* (Oxford University Press, 2014), https://doi.org/10.1093/acprof:oso/9780199387328.001.0001.
[188] Elkins, *Legacy of Violence*, 15.
[189] Swain, "Cracking the Settler Colonial Concrete."
[190] Said, *Culture and Imperialism*, 1994, 116–17.
[191] Said, *Culture and Imperialism*, 1994, 125.

Construction and Corrosion, Bruce Lincoln argues that authority, rather than being an entity, is an effect that requires cultivation and the collaboration of legitimizing identities. Authority, therefore, is "produced by a specific conjunction",[192] the right combination of setting, timing, actors, and performance. Furthermore, in the case of the British Empire, nothing produced the "specific conjunction" quite like "royal pageantry on full display with its literal and symbolic reminders of empire," writes Elkins. "Such rituals unfolded on distant shores where, time and again, they reminded British subjects of the benevolent hand that ruled over them."[193] These displays are effective because they reaffirm a constitutional order that has *already* been successful in appearing natural and inevitable. As Said notes, in Cairo, where *Aida* was first performed, *Aida's* "Egyptian identity was part of the city's *European* façade, its simplicity and rigor inscribed on those imaginary walls."[194] Likewise, in Simon's ceremony, all the disparate elements at play (an Italian opera, an Indigenous Governor General, Anishinaabe land, Egyptian imperial triumph, as well as all the other performers) were part of the settler colonial mediation of cacophony. As such, the ceremony, using "narrative to dispel contradictory memories and occlude violence,"[195] justified settler colonial domination.

To live in Canada is to live in cacophony. Mary Simon's installation ceremony was an attempt to bring together disparate melodies within that cacophony in harmony. Instead, by failing to recognize that "building bridges" is just one settler colonial way of governing cacophony—one constitutionalism—the ceremony reified colonial constitutionalism as the *only* possible form of governance. Vitally, settler colonialism is clearly not the only form of constitutionalism on these lands. Indigenous peoples, as mentioned above, have been constituting

[192] Bruce Lincoln, *Authority: Construction and Corrosion* (Chicago: University of Chicago Press, 1994), 11.
[193] Elkins, *Legacy of Violence*, 28.
[194] Said, *Culture and Imperialism*, 1994, 129.
[195] Said, 131–32.

political community for thousands of years. Indigenous constitutionalisms have been developed alongside and with the land, and many justify political systems that are based around interdependency, mutual aid, and deep non-hierarchal governance.[196] Although supressed by colonial constitutionalism, Indigenous constitutionalisms persist as co-constitutive parts of cacophony. Navigating the melodies of cacophony requires drawing further on Said's musical metaphors. For Said, music can be "a mode for thinking through or thinking with the integral variety of human cultural practices, generously, non-coercively, and yes, in a utopian cast, if by utopian we mean worldly, possible attainable, knowable."[197] Rather than mediating cacophony, we ought to navigate it without trying to control it. If we are to chart a course towards a decolonial future, we ought to learn how to make political music together, music that is non-coercive, collaborative, and contrapuntal. To start building this relationship, we must first understand that this ideal of political music-making is both possible and desirable. And to do this, we must refute the discursive mediations of the state, mediations that lock-in settler colonial domination as the natural and necessary order.

In Mary Simon's installation ceremony as Governor General, we have seen how the state uses multiplicity as a tool for renewing its own authority. Recognized groups may have their own ECO-systems and melodies, and may be given some room to maneuver, but the ultimate terms of political possibility—the overarching ability to create—still rests with crown sovereignty. If we are to fully appreciate Canada's multiplicity, we must get comfortable letting go. We must learn to move with the currents that cannot be pinned down and "recognized", but instead worked *with*

[196] Darcy Lindberg, "Nêhiyaw Âskiy Wiyasiwêwina: Plains Cree Earth Law and Constitutional/Ecological Reconciliation" (PhD Dissertation [unpublished], University of Victoria, 2020); Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019; Morales, Sarah, "Snuw'uyulh: Fostering an Understanding of the Hul'qumi'num Legal Tradition" (PhD Dissertation [unpublished], University of Victoria, 2014).
[197] Edward W. Said, *Musical Elaborations*, Wellek Library Lectures (New York: Columbia Univ. Press, 1993), 105.

in a contrapuntal flow. Multiplicity is thus about working on a virtuous relationship rather than achieving harmony or reconciliation. This is a path that necessarily starts small, but in doing so, we can begin to see that this journey is possible. We can imagine freedom as something that we build together, in concert with one another, from the shards that we share.

As explored above, horizons have already been fused by imperialism, settlement, and settler colonialism. We do not need to come together or build bridges but instead need to learn to transform our parasitic interdependency into symbiotic interdependency.[198] Although it is important to learn each other's perspective and engage in meaningful dialogue, settler colonialism is not a problem of failing to see through the "others'" perspective, but a problem of control. Unless we interrogate the "structures of attitude and reference" that we often instinctually depend on and perceive as inevitable, we will fail to notice the dissonances that other constitutionalisms present. The goal, therefore, is to reach a point where the logic of the state, of Crown sovereignty holding us together, will appear nonsensical and unhelpful. Perhaps, then, we can reach a point where we can realize Aimé Césaire's vision to make a humanism not in distinct parts but from the entire co-constitutive "measure of the world."[199]

[198] Tully, "Reconciliation Here on Earth," 2018, 113–14.
[199] Césaire and Kelley, *Discourse on Colonialism*, 74.

Chapter 3: A Moment of Dissonance

> Rather than the manufactured clash of civilizations, we need to concentrate on the slow working together of cultures that overlap, borrow from each other, and live together in far more interesting ways than any abridged or inauthentic mode of understanding can allow.
> – Edward Said, 2003 preface to *Orientalism*[200]

In the previous chapter, I examined cacophony, competing representations, and how settler governments justify colonial constitutionalism's mediation of cacophony. My contrapuntal examination of Mary Simon's installation ceremony revealed that practitioners of colonial constitutionalism wield both elimination and accommodation dressed up in the narrative of multicultural harmony. Consequently, settler colonial governments camouflage domination as the natural and inevitable mediation of cacophony, rather than as a foundation of one *particular* type of governance. Contrastingly, however, Indigenous constitutionalisms, although battered by settler colonialism, are still constitutive parts of the atonal ensemble. In this chapter, I will examine the contrapuntal relationship *between* Indigenous and settler constitutionalisms. Constitutionalisms—as vibrant cultures in their own right—are like independent melodies that manifest interdependently. By focusing on the contrapuntal relationship between constitutionalisms, this chapter will highlight their contradictions, rather than trying to resolve or harmonize them.

To ground this analysis, I will turn to Kevin Hall's installation ceremony as the President of the University of Victoria. On September 8, 2021, Dr. Kevin Hall was formally installed as President of UVic. This ceremony was noteworthy because it was the first to follow Coast Salish tradition and protocol: Hall asked for permission to work on the land, and it was granted by Elder Dr. Skip Dick and Chief Ron Sam from the Songhees First Nation. At the end of the ceremony,

[200] Said, *Orientalism*, xxix.

Sam recognized Hall's actions by stating, "It's not always easy to stand with our people. Courageous sir, I lift my hands to you for taking that step."[201] Hall himself felt that ceremony was an "important step in decolonizing" the university, believing that "no one can continue at a snail's pace any longer when it comes to truth and reconciliation."[202] Hall's installation was courageous in setting precedence, but was it a step on a larger road to decolonization, or was it an isolated moment, imperceptible in the din of settler colonial domination? Kevin Hall's installation ceremony, I argue, was a flash of political dissonance between constitutionalisms: a moment of agonistic tension that illuminated both the coopting power of colonial constitutionalism as well as an alternative Indigenous constitutional order. It is in this dissonance between constitutionalisms that a pathway to a new relationship between settlers and Indigenous peoples emerges that does not depend on overarching crown sovereignty or necessitate mediation and "bridge building."

I

As discussed in chapter 2, sec. II, constitutionalisms *are* culture, rather than free-floating objective or natural formations.[203] They are conceived contextually and experientially, and no form of governance is inevitable or inherent. What largely sets constitutionalisms apart from other forms of culture, however, is their explicit goal of how political community ought to be justified.[204] Taken together with Said's understanding of culture, as "attitudes—about rule, control, profit and enchantment and suitability" that remain tightly bound to identity in a "geographically conceived world,"[205] constitutionalisms are "structures of attitude and reference"

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[201] Jody Paterson, "Welcome to the Territory and Installation Ceremony for UVic President," *The Ring*, September 28, 2021, para. 14.
[202] Paterson, para. 8.
[203] Berger, *Law's Religion*, 2015.
[204] Constitutionalisms also, especially in the modern tradition, form the foundation for laws and institutions that spring from a constitutionalism's logic. See Aaron Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together" (PhD Dissertation [unpublished], University of Victoria, 2019); Tully, *Strange Multiplicity*.
[205] Said, *Culture and Imperialism*, 1994, 52.

that aim to organize how people ought to live together politically. Likewise, for Aaron Mills, a constitutionalism is the "logic and structure of community given by a particular creation story."[206]Constitutionalisms do not always necessitate the state or even an overarching government. Rather, the product of a constitutionalism, at its basic level, is simply "persons practising governance together."[207] Constitutionalisms answer the question of *how* and *why* belonging in a community ought to work.[208] They are the reasoning that "creates, sustains, and justifies" political communities,[209] derived from foundation myths, steeped in an imagined past that is carried forward.[210] In the settler colonial context, a constitutionalism, as an idea, is a narrative of how political community ought to navigate cacophony.

As such, colonial constitutionalism carries certain underlying assumptions. The central structural embodiment of colonial constitutionalism, the *how*, is citizenship and the state: "the intentional, ideal community."[211] This structure is in turn bolstered by the idea of the nation, the *why.* This narrative aspect is particularly clear in Benedict Anderson's *Imagined Communities*: a nation is "an imagined political community—and imagined as both inherently limited and sovereign."[212] The nation, in the case of Canada, is thus the narrative counterpart of the state, hence the *nation-state*.[213] This narration is projected through time, taking on a past, present, and future.[214]

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[206] Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019, 25.
[207] Mills, 43.
[208] Mills.
[209] Mills, 17.
[210] Berger, *Law's Religion*, 2015, 57–58. See also Chapter 1 of this thesis for a discussion on the temporal nature of political communities
[211] Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019, 57.
[212] Anderson, *Imagined Communities*, 6. Said acknowledges that Anderson's idea of an "imagined community", while useful, is misleadingly narrow, advising the reader to reject Anderson's "mistakenly linear periodizations." See Said, *Culture and Imperialism*, 1994, 232.
[213] Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019, 25.
[214] Aaron Mills, 'Rooted Constitutionalism: Growing Political Community', in *Resurgence and Reconciliation: Indigenous-Settler Relations and Earth Teachings*, ed. Michael Asch, John Borrows, and James Tully (Toronto ; Buffalo: University of Toronto Press, 2018), 143.

Critically, there is a difference between a constitutionalism as an idea and as a practice. The preceding paragraphs of this chapter discuss constitutionalism as an idea or narrative, but what about the substantive products of a constitutionalism? Consider a piece of music, such as the *Grand March* from *Aida* discussed in chapter 2. The *Grand March* exists as musical notation written on sheet music, a distinct, independent cultural idea.[215] This score is the idea or narrative of the march. It is to music as a constitutional narrative is to governance. But a score cannot be physically heard on its own, just as a constitutional narrative is not laws or institutions. The *Grand March* is heard when it is performed, and a constitutional narrative is realized when it is implemented. Both the score and the performance *are* the *Grand March*, but they are different forms of it. Principally, for our purposes, the performance of both music and constitutionalisms differ from their narrative forms because the performance inhabits space and exists interdependently with the world.[216] The *Grand March* sounds different (and takes on a different meaning) if I heard it performed live in the Senate Chamber of Canada versus if I listened to it with headphones on a bus, *even* if the latter is an unedited recording of the former. The same goes for the enactment of a constitutionalism.

As such, although colonial constitutionalism determines the existence of the nation-state and citizenship, the enactment of its ideas (like institutions of government, policy, state apparatuses) are not fixed designs. The enactment of constitutionalisms is always in "a state of constant flux."[217] The lived expression of colonial constitutionalism, therefore, is not a static

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[215] Musical notation is not universal and, in many cases, musicmaking is done without ever writing it down or formally composing it. For example, improvisation, as in Jazz, is the act of composing *through* performance. Improvisation, however, still depends on a certain "structure of attitude and reference." Even in improvisatory Jazz, there is still a difference between the ideas underpinning the music and the performance of that music. Similarly, some political communities, such as Canada, have a written constitution, where some political communities have no formal constitution and yet still operate according to a constitutionalism. Furthermore, even in the most codified political communities there is still room for improvisation.

[216] See Chapter 1, sec. II of this thesis.

[217] Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019, 25.

construct that will always act in particular ways. It has nuance, texture, and dynamism, but still operates based on a particular logic, upon a score. Indeed, Canadian federalism reflects these wrinkles: provincial jurisdiction and determination, as well as party politics and differing conceptions of national identity mean that colonial constitutionalism is not a settled matter, but an ongoing performance based on a score or logic.

Moreover, constitutionalisms manifest in cacophony. The *Grand March* of colonial constitutionalism is not the only constitutionalism performed on the lands that it claims to control.[218] Indigenous and settler constitutionalisms play out simultaneously in the "atonal ensemble."[219] Battered by settler colonial domination, Indigenous constitutionalisms are nowhere near the strength of colonial constitutionalism's triumphant march. Indeed, Mary Simon's installation ceremony (the case study in chapter 2) showcased the Canadian settler colonial state at the height of political consonance. Colonial constitutionalism was not infallible or resistant to reformation, but in the ceremony it would have appeared inevitable to most, to be the beginning and end of viable political community. Colonial constitutionalism tends to be presented *homophonically,* that is, as a composition where there is one hegemonic melody (the settler state) and where all other constitutionalisms are reduced to cultural adornments to play in accompaniment. Mary Simon's installation ceremony, as well as R *v.* Van der Peet and Ktunaxa Nation *v.* British Columbia are good examples of homophony in practice.[220] As Bruce Lincoln notes, it is very difficult to see beyond authority that is effective, triumphant, and not in crisis.[221]

[218] See Chapter 2 Sec. 5
[219] Tully, *Strange Multiplicity*.
[220] See Chapter 2, Sec. III of this thesis.
[221] Lincoln, *Authority*, 11.

Such authority is deafening, bombastic, and overwhelming, and yet, by virtue of its hegemony, may *seem* to be completely silent and invisible.[222]

There are, however, other occasions when Indigenous constitutionalisms are more perceptible amid the din of colonial constitutionalism, and Kevin Hall's installation ceremony was one such occasion. Kimberly Hutchings, drawing upon the notion of the "pluriverse",[223] argues that moments of dissonance occur when constitutionalisms clash in their conception of political community.[224] In *Humanism and Terror,* Maurice Merleau-Ponty stresses the need to view a society through its everyday relationships, rather than just its constitutional ideals. "To understand and judge a society," Merleau-Ponty contends, "one has to penetrate its basic structure to the human bond upon which it is built; this undoubtably depends upon legal relations, but also upon forms of labour, ways of loving, living, and dying."[225] Hall's installation embodied this kind of "human bond." While the ceremony drew from the rich traditions of both western and Coast Salish constitutionalisms, it was, at its core, a moment of human connection, where constitutional connection was grounded and unfolded in the everyday. And accordingly, the local is more nebulous and unbound by the state, but still affected by it. It is a relationship that occurs under the strong sway of colonial constitutionalism's score,[226] as it is assumed that Canada and crown sovereignty has the final say over all within the state's boundaries.

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[222] Notably, a contrapuntal approach holds that there is *always* resistance no matter deafening domination may be. This is precisely why in chapter 2 we can see how the settler state's mediation of cacophony is not natural and inevitable.
[223] Escobar, *Pluriversal Politics*, 6.
[224] Kimberly Hutchings, "Decolonizing Global Ethics: Thinking with the Pluriverse," *Ethics & International Affairs* 33, no. 2 (2019): 121, https://doi.org/10.1017/S0892679419000169.
[225] Maurice Merleau-Ponty, *Humanism and Terror: The Communist Problem*, 2017, xiv, https://search.ebscohost.com/login.aspx?direct=true&scope=site&db=nlebk&db=nlabk&AN=1551257.
[226] Berger, *Law's Religion*, 2015, 194.

Although the university is not a direct subordinate part of the Canadian state, it operates on the "cultural terrain" of colonial constitutionalism.[227] Universities exist in a contextual world, they are not objective observers that have risen beyond the state.[228] The University of Victoria, therefore, is not a detached institution but is part of the "liberal constellation."[229] Furthermore, universities occupy a unique middle-ground between civil-society and the state. They are not integral state apparatuses like the courts, public schools, or police, but are still "key site[s] through which colonialism… is produced, consecrated, institutionalized and naturalized."[230] Hall, however, was not installed as governor general but as president of the university, a role that is not as directly tied to colonial constitutionalism. As such, the peripheral setting of Hall's installation to the Canadian state put him in a position where domination was less triumphant.

II

Colonial constitutionalism was still a constituent part of the ceremony as severe power imbalances remained unchallenged. Although the ceremony rested upon Hall's "asking for permission" from the Coast Salish peoples, a "courageous act" in isolation, by September 2021, Hall had already been acting as president for a year, he was recognized by the state, and assumed his position in an institution that has been operating on unceded territory for more than 100 years.[231] Hall was not a newcomer bearing nothing but his person. Like in chapter 2, it is important, therefore, to see this ceremony as having been made possible by settler colonial domination. Asking for permission to live and work on someone else's land looks much different

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[227] Margaret Kovach, *Indigenous Methodologies: Characteristics, Conversations and Contexts* (Toronto; Buffalo: University of Toronto Press, 2009), 156.
[228] Edward W. Said, *Reflections on Exile and Other Essays*, Convergences (Cambridge, Mass: Harvard University Press, 2000), 400.
[229] Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019, 63.
[230] Gurminder K. Bhambra, Dalia Gebrial, and Kerem Nişancıoğlu, eds., *Decolonising the University* (London: Pluto Press, 2018), 5.
[231] Prior to 1963, what is now the University of Victoria operated as Victoria College

when settler domination forms the *a priori* terms of negotiation. As such, without questioning the primacy of crown sovereignty, asking for permission appears to be just another tool of control and legitimation drawn from the imperial arsenal.

Furthermore, Hall was the focus of the ceremony. Although the Coast Salish peoples were a large part of the ceremony—it was conducted according to their protocol—Kevin Hall remained at the centre. It was *his* installation; *he* was legitimized as president. Kevin Hall was courageous, and he recognized his privilege, but in a way that centered himself. "I'm going to use that privilege," Hall said, "to drive meaningful and necessary change—to drive truth, respect and reconciliation; to combat racism here on the campus and the region; and to ensure that all members of our community feel included, and have increased access to education."[232] A noble statement indeed, but one where the power for change remains with himself, the president. Janet Austin, the Lieutenant Governor of British Columbia, in echoing this sentiment, acknowledged the drive in Hall "to do better, to be better, to make things better."[233] Change can happen, but on the president's terms, time, and motivation. This is not to criticize Hall's good intentions or his drive; those are commendable. Rather, it is to highlight how vesting authority in an executive figure remained instinctual and unquestioned in the ceremony.[234] Like Trudeau using Mary Simon's power as a bridge builder and believing that it is necessary for the state to bring people together, power remained with Kevin Hall to steer the ship of change.

Meanwhile, Coast Salish constitutionalisms,[235] featuring prominently in the ceremony, rang out alongside colonial constitutionalism. By reading the ceremony contrapuntally—drawing

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[232] Paterson, "Welcome to the Territory and Installation Ceremony for UVic President," para. 15.
[233] Paterson, para. 20.
[234] James Tully, *Public Philosophy in a New Key*, vol. 1, Ideas in Context 93–94 (Cambridge ; New York: Cambridge University Press, 2008), 32.
[235] I use the plural constitutionalisms and not the singular constitutionalism to describe the Coast Salish because there are many political orders under the umbrella term "Coast Salish." There is no one Cost Salish way of

out the political implications of Coast Salish constitutionalisms against the colonial ones described above—the dissonance between constitutional orders can be emphasized, revealing new narratives of possibility.[236]

To read Coast Salish constitutionalisms contrapuntally alongside colonial constitutionalism involves understanding Coast Salish protocol in the ceremony as a moment of radical resurgence. Drawing from Leanne Simpson, radical resurgence includes both cultural and political Indigenous revitalization.[237] Importantly, for Simpson, "Radical resurgence means *non-hierarchical* relationships between land and bodies, bodies meaning the recognition of our physicality *as* political orders, and our intellectual practices, emotions, spirituality, and *hubs* of networked relationships" (emphasis added).[238] These logics lie outside the logic of colonial constitutionalism, but exist geographically within what the state claims to control. Thus, when examining Coast Salish protocol, it is important to read it without the logic of the state, but within attempted settler colonial domination. It is precisely resurgent resistance because it presents a counter melody to colonial homophony.

What follows are broad strokes but show that Coast Salish constitutionalisms contain logics and practices that go beyond the "bounded community" of colonial constitutionalism. As a settler, steeped in the culture of colonial constitutionalism, I have much to unlearn and learn. My account, therefore, is inadequate and skewed by colonial constitutional narratives and practices. Nevertheless, my goal is to illustrate how Coast Salish constitutionalisms need not be made cognizable to colonial constitutionalism to be understandable by settlers. I speak as an outsider,

politically organizing, and therefore "Coast Salish protocol" is a nebulous term that draws from multiple political orders.

[236] Said, *Reflections on Exile and Other Essays*, 2000, 526.

[237] Leanne Betasamosake Simpson, *As We Have Always Done: Indigenous Freedom through Radical Resistance*, Indigenous Americas (Minneapolis: University of Minnesota Press, 2017), 48–50.

[238] Simpson, 44.

an uninvited guest on the land where Coast Salish constitutionalisms have existed, and continue to exist, since time immemorial.

As Robert Clifford contends, the WSÁNEĆ do not distinguish between the political and the cultural.[239] Umeek, a Nuu-chah-nulth hereditary chief and up island neighbour of the Coast Salish, echoes this sentiment with the concept of *tsawalk*: everything is one.[240] Umeek describes tsawalk as an "alternative stance" where beyond just the political and cultural, the physical and spiritual realms are interlinked as well.[241] As such, Coast Salish constitutionalisms carry political implications for Hall and the University of Victoria that ought to be seen as carrying just as much, if not more, authority than colonial constitutionalism. Thus, Coast Salish protocol, in the ceremony, can be understood as more than just a longstanding university practice, or simply a cultural adornment or addition to colonial constitutionalism.[242]

Coast Salish constitutionalisms also centre the nature of relationships. Everything is seen in deep relationship, nothing is separated out or compartmentalized.[243] A good political community, therefore, is one that maintains positive relations between all of creation, not just other humans. For Umeek, this results in the development of protocols that "advance harmony and balance."[244] Solving political issues or healing divisions within the community entails tending to the relationships themselves,[245] rather than focusing on specific actors or political

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[239] Robert Clifford, 'WSÁNEĆ Law and the Fuel Spill at Goldstream.' LLM Thesis [unpublished], University of Victoria, 2014, 21.
[240] E. Richard (Umeek) Atleo, *Tsawalk A Nuu-Chah-Nulth Worldview.* (Univ of British Columbia Pr, 2005).
[241] (Umeek) Atleo, 133.
[242] Importantly, however, just because the political implications were present does not mean that Coast Salish constitutionalisms were immune to being tokenized. We can understand the dissonance ringing out between constitutionalisms while remaining pessimistic about the transformative success of that dissonance. As discussed below, dissonance is a provocation, but it is entirely possible – and often likely – that dissonance will be unacknowledged, ignored, or quickly resolved.
[243] Clifford, "WSÁNEĆ Law and the Fuel Spill at Goldstream," 14.
[244] (Umeek) Atleo, *Tsawalk A Nuu-Chah-Nulth Worldview.*, 130.
[245] Clifford, "WSÁNEĆ Law and the Fuel Spill at Goldstream," 4.

structures. Problems and their solutions occur within flows between relations, rather than centered in individuals or structures that can then choose to enter consensual contractual relationship with each other. Umeek, for this reason, sees individual rights and responsibilities—the basic building block of colonial constitutionalism—as nonsensical.[246] For Coast Salish constitutionalisms, there is no such thing as an isolated citizen who has a social contract with the state. The colonial constitutional ideal of a citizen, who can freely choose when, where, and with whom to enter relationship, holds no bearing when relationships are an intrinsic part of the self. Relationships are not contractual choices, but the foundations of being. For Umeek, the individual never exists outside of community, which includes the non-human living world. Thus, community is a given reality, not something that can be opted in or out of.[247] This does not necessitate the state, but rather sees the "state of nature" as a connected community with a series of inherent freedoms and responsibilities.

Furthermore, authority and responsibility, in Coast Salish constitutionalisms, are largely non-hierarchical.[248] This means that humans are not placed above other living things, and individuals are not centered.[249] For Robert Clifford, "the WSÁNEĆ do not have an authority over the islands within their territory; rather, they each (the WSÁNEĆ and the TETÁĆES [the island relatives]) have a series of responsibilities in relation to one another."[250] Humans are not in charge or vested with hierarchical power, they are part of a web of responsibilities guided by the living earth. The ideal community is how things were "meant to be from the beginning"

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[246] (Umeek) Atleo, *Tsawalk A Nuu-Chah-Nulth Worldview.*, 58.
[247] (Umeek) Atleo, 12.
[248] There is significant variation within this point, and again, there is a difference between describing the idea of a constitutionalism and enacting a constitutionalism. While there may be structures that resemble hierarchy within Coast Salish constitutionalisms, they do not near the scale or totalizing power of the imperial and state hierarchies found in colonial constitutionalism.
[249] Clifford, "WSÁNEĆ Law and the Fuel Spill at Goldstream"; Morales, Sarah, "Snuw'uyulh: Fostering an Understanding of the Hul'qumi'num Legal Tradition"; Borrows, *Freedom and Indigenous Constitutionalism*, 2016.
[250] Clifford, "WSÁNEĆ Law and the Fuel Spill at Goldstream," 86.

rather than stemming from a purported social contract.[251] Authority, therefore, is conceived of as "power-with", in a process of "co-creativity" rather than the kind of "power-over" that the bounded order of crown sovereignty necessitates.[252]

Accordingly, by asking for permission to work and live on the land according to Coast Salish protocol, Hall invoked Coast Salish constitutionalisms. As a visitor and a settler, Kevin Hall was an outsider to the learned, environmental relationships at the centre of Coast Salish practice.[253] He was a visitor not because of any laws of citizenship, but because he had not yet learned the precise flow of relationships and the demands of the earth. Giving Hall permission to work on the land, therefore, meant giving him formal permission to enter these relationships.[254] Hall was not given the authority to act *over* the land or even the university, but rather in concert with it. Hall's legitimacy does not rest under crown sovereignty, but with the land and its traditional custodians: the Coast Salish. Hall, therefore, in his role as president, has a part to play in revitalizing good relationships with the land and the people. In the ceremony, Rob Hancock stated that the gift given to Hall of a red and black hood "give him the power and wisdom that he will need to do his job," connecting "UVic to the traditional territories of the Coast Salish Peoples, the land, the water, the air, and to the life cycles of the ancient knowledge of the past being brought into the future."[255]

III

As we can see, there were multiple constitutionalisms at work in Hall's installation ceremony, constitutionalisms that clash in their notions of good governance. For colonial constitutionalism, we can see the same craving for "bridge building" and wielding power that was at work in

[251] (Umeek) Atleo, *Tsawalk A Nuu-Chah-Nulth Worldview.*, 39.
[252] Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019, 162.
[253] Kovach, *Indigenous Methodologies*.
[254] (Umeek) Atleo, *Tsawalk A Nuu-Chah-Nulth Worldview.*, 34.
[255] Paterson, "Welcome to the Territory and Installation Ceremony for UVic President," para. 25.

Simon's ceremony. However, the ceremony was not a "fusion of horizons" or a "building of bridges." No constitutionalisms were brought together. Instead, what occurred was a deliberate acknowledgement of the *already* existing interdependency of constitutional orders. For Coast Salish constitutionalisms, granting permission to Hall entailed acknowledging him as being in intentional relationship with all living things on their lands, and the need for Hall to be a good relative according to Coast Salish ideals. Hall's ceremony, therefore, was dissonant because both these constitutional orders rang out simultaneously, and both carry political implications for the event.

Thus, the question then becomes, how do we move from here? When constitutionalisms are at an impasse, it appears to be a zero-sum game. Under the hegemony of colonial constitutionalism, any dissonance is often swiftly resolved in favour of the settler state; the status quo certainly benefits the colonial interpretation of Hall's installation ceremony.[256] Like in Van der Peet, colonial constitutionalism captures Indigenous constitutionalisms. Or—severe power imbalances notwithstanding—what if the University of Victoria and Kevin Hall abandoned the settler state altogether for Coast Salish constitutionalisms? Dissonance appears like a choice between one constitutionalism and another. Indeed, Aaron Mills argues that constitutional logics are fundamentally incommensurable; there is no going part way or compromising, there must *always* be a choice between two orders of governance.[257] When we see constitutionalisms contrapuntally, however, we understand that they are not just independent but *also* interdependent. Thinking back to the music analogy of the *Grand March* above, as well as the co-constitutive nature of cacophony, the enactment of colonial constitutionalism was performed in the same place and at the same time as Coast Salish constitutionalisms. It is as if an orchestra

[256] Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019, 25.
[257] Mills, 25.

performing the *Grand March* and an orchestra performing Richard Strauss' *Metamorphosen,* for example, played simultaneously. The resulting dissonance is both independent *and* interdependent. When the sound of the *Grand March* mingles with the sound of *Metamorphosen,* both pieces of music cease to be experienced as just independent, even if they logically exist interdependently as a score, or as an idea. As such, while Mills argues that a choice must always be made between constitutionalisms, in cacophony, it can be hard, and perhaps impossible, to delineate where one constitutionalism begins and another ends. In many cases, elements of both Indigenous and colonial constitutionalisms have been influenced by each other,[258] driving home the point again that the problem is not a choice between "us" and "them" or to bring "us" and "them" together, but to learn to structure a relationship that does not depend on parasitic interdependency. Accordingly, for Hutchings, dissonance, rather than hardening boundaries of who "we" are in relation to "them", questions the very notion of what living together entails.[259] We must push across seemingly incommensurable divides to create new understandings of political community. Dissonance itself, therefore, can be a workable foundation for political community. Such is the co-constitutive nature of cacophony. In the same way that there is no pure manifestation of culture, so too is there no pure performance of a constitutionalism. All are "involved in one another",[260] *especially* in the Canadian context.

Kevin Hall's installation ceremony was a moment of dissonance. It witnessed Coast Salish constitutionalisms vibrantly sounding out against hegemonic colonial constitutionalism. By reading this event contrapuntally, it is possible to see that there is always something beyond hegemony. While homophony may seem instinctual, this is a fabrication of the settler colonial

[258] Heaman, *Civilization From Enlightenment Philosophy to Canadian History*; Graeber and Wengrow, *The Dawn of Everything*.
[259] Hutchings, "Decolonizing Global Ethics: Thinking with the Pluriverse," 121–22.
[260] Said, *Culture and Imperialism*, 1994, xxv.

state. Indeed, colonial constitutionalism is just one melody within the atonal ensemble that pervades the land that is known as Canada. The state maintains its ascendancy by either silencing or capturing other constitutionalisms, and while it has been effective in drowning out the rest of the ensemble, the other melodies still flow like a resurgent theme under a bombastic orchestra. Dissonance presents a problem that may seem like a choice between one constitutionalism and another. Said's contrapuntal understanding of culture, however, troubles this simple dichotomy. In the next chapter, I take the dissonance in Kevin Hall's installation ceremony to be a provocation for a different type of constitutional relationship that does not depend on choosing one constitutionalism over another, or for breaking them apart and mediating them into separate things. Instead, I explore the possibility of a *contrapuntal* approach to constitutional politics that sustains, rather than resolves, the tensions that dissonance presents. Such a contrapuntal politics I argue, is a promising path to a better, decolonial, future that takes seriously the overwhelming power that colonial constitutionalism wields, and yet strives for the possibility of non-dominating, non-bounded, and decolonial forms of political community. Chapter 4 marks the transition from seeing Said's contrapuntal approach as a mode of analysis to expanding it into a vision of a political practice.

Chapter 4: Living Contrapuntally

> Said lived in, worked in, fought in, laughed in, wrote in, was mad as hell in the unsettling tension between dreams, between longing for home and loss of home, between community and intellectual solitude, between difference and human comity, between multiplicity and universality, between imperial violence and imperial connection, between discipline and resistance, between the victims and the victims' victims. Said never resolved these tensions. He simply painted richer, more complicated portraits of the whole while simultaneously looking loss in the face and demanding a better world.
>
> – Jeanne Morefield, *Unsettling the World* [261]

What would a contrapuntal approach to politics look like? While Said never explicitly presented counterpoint as a political practice in and of itself, his normative approach to politics—especially late in life—was contrapuntal. His work was about "the polyphony of many voices playing off against each other, without…the need to reconcile them."[262] In one sense, this meant that Said's approach to politics was never siloed from his approach to music, literature, and philosophic reflection. In another sense, however, for Said, there was a never a "solution" to a problem, or a compromise between visions, or a higher harmony to strive for. Rather than overcoming cacophony, we ought to work *with* and *within* it. Frustratingly, therefore, this means that Said's suggestions for what ought to be done *also* resist reconciliation. As an academic, he fervently opposed any attempts to propose or follow any specific school or discipline,[263] and even shunned post-colonial studies, a field that he largely spurred into existence. In fact, it could be argued that Said's conclusions resist being pressed into service as a coherent political practice. This, in line with resisting harmony, was likely his intention.

Trying to say precisely what Said intended ought to be done, therefore, can be a frustrating, even impossible, task. Jeanne Morefield, in *Unsettling the World,* describes wanting

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[261] Morefield, *Unsettling the World*, 2022, 206.
[262] Said and Viswanathan, *Power, Politics, and Culture*, 99.
[263] Said claimed that he was influenced by Marxism but always stopped short of calling himself a Marxist. For instance, see Said and Viswanathan, 158–59.

to throw one of Said's books across a coffee shop, exasperated at trying to find out exactly what Said implied.[264] Wouter Capitain argues that Said's work itself ought to be understood contrapuntally. Because Said's thought contained significant variations and, in some cases, inconsistencies, his work needs to be seen as a larger conversation between the interacting melodies of his thought.[265] In an interview, Said welcomed charges of inconsistency, saying, "I am invariably criticized by younger post-colonialists … for being inconsistent and untheoretical, and I find that I like that. Who wants to be consistent?"[266] This unsettled perspective extended to his own self-perception. At the end of his memoir, Said concludes, "I occasionally experience myself as a cluster of flowing currents,"

> I prefer this to the idea of a solid self, the identity to which so many attach so much significance… they require no reconciling, no harmonizing. They are 'off' and may be out of place, but at least they are always in motion, in time, in place, in the form of all kinds of strange combinations moving about, not necessarily forward, sometimes against each other, contrapuntally yet without one central theme. A form of freedom, I'd like to think, even if I am far from being totally convinced that it is.[267]

While this disposition, academically, is frustrating, it is in this contrapuntal approach that there lies an invigorating political trajectory to join the "strange combinations" in their flow, rather than try to compartmentalize or fix them down. Accordingly, it is the elements of Said's thought that *resist* a coherent political practice that present us with a path forward. As I show in this final chapter, Said's thought provides the foundations for what contrapuntal constitutionalism can look like. And not only is this an intriguing application of a contrapuntal approach to politics, but

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[264] Morefield, *Unsettling the World*, 2022, xxi.
[265] Wouter Capitain, "From Counterpoint to Heterophony and Back Again: Reading Edward Said's Drafts for *Culture and Imperialism*," *Journal of Musicological Research* 41, no. 1 (January 2, 2022). https://doi.org/10.1080/01411896.2020.1787793.
[266] Bill Ashcroft, "Conversation with Edward Said.," *New Literatures Review*, no. 32 (June 1, 1996): 8.
[267] Edward W Said, *Out of Place: A Memoir* (New York: Vintage Books, 2000), 300.

it opens an alternative and promising horizon to think about decolonial action and symbiotic relationships.

Said's perspective on musicmaking, mentioned in chapter 2, provides a good starting point. For the sake of reminder, for Said, music has the potential to be,

> an art not primarily or exclusively about authorial power and social authority but a mode for thinking through or thinking with the integral variety of human cultural practices, generously, non-coercively, and yes, in a utopian cast, if by utopian we mean worldly, possible, attainable, knowable.[268]

Said's perspective is one of "human cultural practices." As a professor of comparative literature, Said was always interested in the deep multiplicity and interdependency of "cultural practices." For the purposes of this thesis, I am interested in looking at the specific cultural practices of constitutionalisms in what is now known as Canada: the animating values and logic that underpin, animate, and outline political community. While the previous chapters have critically thought through the cacophony of constitutionalisms on this land contrapuntally, what would it mean to extend Said's ideal of music making into an actual political practice, so that the act was no longer just "thinking through" but instead "performing through"? To start, the political *practice* to aim for, to adapt the above quote, would look as such:

> A political practice not primarily or exclusively about authorial power and social authority but a mode for [performing] through or [performing] with the integral variety of [constitutionalisms], generously, non-coercively, and yes, in a utopian cast, if by utopian we mean worldly, possible, attainable, knowable.

This reimagined quote gestures towards moving with constitutionalisms as if they were in counterpoint with each other: a practice of contrapuntal constitutionalism. The remainder of this chapter reckons with this idea, teasing out what contrapuntal constitutionalism could possibly look like and why it is transformative and promising for Canadian constitutional politics. At the

[268] Said, *Musical Elaborations*, 105.

end of the chapter, I outline what this practice would look like when used as a follow-up to Kevin Hall's installation ceremony (an event discussed in the previous chapter). To begin, I turn to an obscure yet pertinent source: the 1967 Canadian opera *Louis Riel.*

I

During the prelude of the 1969 CBC Television production of Harry Somers's opera *Louis Riel,* two quotes from Pierre Trudeau are used. The first, narrated, states, "A democracy is judged by the way that a majority treats a minority." A cornerstone of Trudeau's liberal worldview, he originally made this statement in 1968 in Regina while invoking Riel. "Louis Riel's battle is not yet won,"[269] he added. The second quote, appearing as text, discloses another side of Trudeau's worldview. "If a minority uses violence to blackmail the majority," the quote reads, "our government and no government of Canada can back down in the face of such a threat." It is unclear where this quote is from, as no source is given, but, stated sometime before the October Crisis in 1970, Trudeau was likely referring to the FLQ bombings in the late 1960s. Regardless, its use as an opening for *Louis Riel* is illuminating as, seen alongside the historical events performed in the opera, Trudeau's quotes, taken together, encapsulate both the extent and limits of colonial constitutionalism. Such extents are expressed in section 1 of the Charter of Rights and Freedoms, which states citizens' freedoms are, "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." Canadian governments ought to treat minorities well, as Trudeau stresses in the first quote, but they also must enforce the limits of what is politically permissible. The terms "violence", "blackmail" and "threat" are clear when it comes to the bombing of civilians. Such violence is unjustifiable. Applied to Riel and the North-West Rebellion, however, those terms are hazier. What reasonably counts as a

[269] Association of Métis and Non-status Indians of Saskatchewan, ed., *Louis Riel: Justice Must Be Done* (Winnipeg: Manitoba Métis Federation Press, 1979), IV; "Louis Riel" (CBC TV, 1969).

threat to the colonial state—especially when the state is the one that determines it—is far from universal. Indeed, Christie Blatchford, during the Idle No More movement, called Chief Theresa Spence's hunger strike "intimidation, if not terrorism: She is, after all, holding the state hostage to vaguely articulated demands."[270] Furthermore, what it means to not "back down" to a threat is similarly hazy. For John A. Macdonald, not backing down in the face of Riel's threat meant an even larger show of violence in return, culminating in the largest mass hanging in Canada's history.[271] Trudeau's two quotes, taken together, create a compelling dissonance: Riel's struggle for his people is a cause that ought to be championed by any virtuous democracy, and yet, his struggle was also an existential threat to the state that had to be contained. While it could be argued that coercion and a bounded constitutionalism are essential for the maintenance of any political community—that we must draw a line at some point—contrapuntal analysis has shown the ways in which this idea of a bounded constitutionalism in Canada solidifies settler colonial inevitability. In the case studies in chapters two and three of this thesis—Mary Simon and Kevin Hall's installation ceremonies—we see this process at work. Furthermore, these case studies highlight the ongoing—non-violent—tension in Canada between domination and resistance at the intersection of political orders.

An investigation into the opera itself enriches the tension between Trudeau's quotes. Commissioned for the 1967 centenary, Harry Somers's opera is a work of "radical modernism" that embraces dissonance.[272] Dissonance, in music, is "an aural quality arising from a combination of tones that seem unstable and in need of resolution."[273] It creates a feeling of

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[270] Quoted in Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*, Indigenous Americas (Minneapolis: University of Minnesota Press, 2014), 161.
[271] "Fort Battleford National Historic Site," Parks Canada, January 6, 2022, https://parks.canada.ca/lhn-nhs/sk/battleford/culture/histoire-history.
[272] SherryD. Lee, "Radical Modernism, Operatic Failure, and Louis Riel 's Challenge to Reconciliation," *University of Toronto Quarterly* 87, no. 4 (2018): 22–28, https://doi.org/10.3138/utq.87.4.03.
[273] Lee.

discomfort or tension. Dissonance is the opposite of consonance, and thus often carries opposite connotations, such as disharmony, strife, and conflict. In western classical music, dissonance is often used to build tension before it is resolved into consonance. Doing so means that when a composition reaches harmonic resolution, it is more satisfying and relieving, like "returning home." Thus, sustained dissonance can feel almost unacceptable: that there is something out of place that must be put back in its spot.[274] Harry Somers, however, confronts this unacceptability head on in *Louis Riel*'s score by sustaining dissonance throughout the entire opera. The score mirrors—and refuses to resolve—the *political* dissonance between the Métis Nation and Canada. The opera's dissonant language "overtly eschews resolution."[275] For a difficult historical event that questions, rather than celebrates, unabashed triumphant nationalism, radical modernism is the ideal form for the score. *Louis Riel,* therefore, can be seen as a performance of Canadian cacophony that does not resolve its inherent dissonances.[276]

By *political* dissonance, I am referring to when one *enactment* of a constitutionalism non-violently surpasses the bounds of another. This dynamic is discussed in detail in chapter 3 regarding Kevin Hall's installation ceremony. Kimberly Hutchings describes this kind of dissonance as occurring when we run into "a particular limit imposed by an alternative mode of being in the world."[277] How to navigate our dissonant interconnectedness is the main conundrum that living in cacophony presents us with (as discussed in chapter 2). Dissonance, if confronted, forces us to contend with how and why we constitute political community.[278] *Louis Riel,*

[274] Note the parallels here to Said's idea of himself as "out of place". See Said, *Out of Place*. For the idea that dissonance is unacceptable, see Lee, 'Radical Modernism, Operatic Failure, and Louis Riel's Challenge to Reconciliation'.
[275] Lee, "Radical Modernism, Operatic Failure, and Louis Riel 's Challenge to Reconciliation," 25.
[276] Michael J. Shapiro, *Methods and Nations: Cultural Governance and the Indigenous Subject*, Global Horizons (New York: Routledge, 2004), 75.
[277] Hutchings, "Decolonizing Global Ethics."
[278] Hutchings, "Decolonizing Global Ethics: Thinking with the Pluriverse," 121–22.

therefore, by maintaining and refusing to resolve its subject matter's dissonance, challenges us to provide our own interpretations on the ideal way to constitutionally navigate our interconnectedness.

Resolving dissonance into consonance, as seen in Mary Simon and Kevin Hall's installation ceremonies, is the dominant method of navigation. Resolving dissonance means ending the clash between constitutionalisms. As such, it is possible, compelling even, to resolve *Louis Riel*'s dissonances in our interpretation of it. Two interpretations seek resolution. The first interpretation sees Riel and Macdonald's clash of constitutionalisms as a zero-sum tragedy. *Louis Riel* was intended to supplement the celebrations of Canada in its 100th year. But, as Michael Shapiro argues, *Louis Riel* is one of those few operas that challenges, rather than reaffirms, Canadian nationalism and state building.[279] Sarah Kobal and Taryn Dubois call the opera "decidedly un-celebratory" and contend that it vilifies the Canadian government.[280] And indeed, the opera does seem to do this: Riel is the tragic romantic protagonist while John A. Macdonald is his scheming drunkard rival. Both are consumed by their political visions, setting up a zero-sum fight out from which Macdonald achieves victory tainted by domination. Critically, the opera is bookended by two executions: one of the Orangeman Thomas Scott by Riel's government, and the other of Riel by Macdonald's government. In both scenes, Riel and Macdonald use the same justification: "I cannot let one foolish man / stand in the way of a whole nation!"[281] Both leaders, in their own radical way, echo the second quote from Pierre Trudeau, that those who blackmail the nation by standing outside of its bounds ought to be ruthlessly contained. Thus, in this interpretation, *Louis Riel* appears to show that constitutional dissonance

[279] Shapiro, *Methods and Nations*, 75.
[280] Sarah Koval and Taryn Dubois, "Can Opera Listen? Canada's (Sesqui) Centennial Opera, *Louis Riel*," *University of Toronto Quarterly* 87, no. 4 (October 1, 2018): 60, https://doi.org/10.3138/utq.87.4.08.
[281] Mavor Moore and Harry Somers, *Louis Riel: Music Drama in 3 Acts*, 1969.

is a tragedy in which only one side can come out victorious, but no one really wins in the end. Each side is incommensurable to the other—Riel and Macdonald cannot afford to leave room for the significantly different "other."

However, just because *Louis Riel* portrays Riel as the tragic hero and Macdonald as the villain does not necessarily mean that the opera can be interpreted as questioning or not celebrating Canada and cross-cultural relationships. With 82 years between the execution of Riel in 1885 and the premiere of the opera in 1967 (132 when the opera was restaged for the sesquicentenary in 2017), the second interpretation that resolves the opera's dissonance applauds a contrasting multicultural nationalism that Canada now embraces. "Today," Justin Trudeau said on Louis Riel Day in 2020, "I encourage all Canadians to recognize Louis Riel's contributions to the development of Canada and the role that the Métis Nation has played, and continues to play, in building a fairer and more inclusive country."[282] Riel's resistance, rather than Macdonald's chauvinism, is the *real* Canada. Riel, Justin Trudeau declared, "paved the way for the Canada we know today." Similarly, John Ralston Saul, in *A Fair Country, Telling Truths About Canada,* argues that Canada is a "Métis civilization." Indigeneity is one of the main pillars of who "we" are as a country, that how we constitute ourselves as a political community is "deeply Aboriginal."[283] Canada has made the mistake of misrecognizing its own foundations, and this, for Saul, is colonialism: "the denial of the reality of self in favour of an imaginary special position inside the mythology of someone else's empire."[284] As such, Macdonald's execution of Riel in 1885 was the "lowest moment in our history" because the prime minister turned his back

[282] "Statement by the Prime Minister on Louis Riel Day," Prime Minister of Canada Justin Trudeau, November 16, 2020, https://pm.gc.ca/en/news/statements/2020/11/16/statement-prime-minister-louis-riel-day.
[283] John Ralston Saul, *A Fair Country: Telling Truths about Canada* (Toronto: Penguin Canada, 2009), 14.
[284] Saul, 28.

on Canada's true identity and affiliated himself with foreign British imperialism.[285] While the opera *Louis Riel* is critical of Macdonald's particular style of nationalism, it ostensibly acclaims a contrasting national "métissage."[286] What makes Canada "Canada" is its minorities just as much as its majorities. Thus, like Pierre Trudeau's first quote contends, a country is measured against how it treats its minorities, and our "Aboriginal" roots exemplify this quality.[287] Reasonable accommodation, not revolution or reaction, is the answer. Seen this way, *Louis Riel*—both the opera and the historical figure—sends the message that neither revolution nor reactionary reprisal are conducive to a healthy political community. Rather, it is liberal multicultural progress—a careful balance between political freedoms and limits—that leads to a proper recognition of who "we" are as a nation. In this interpretation, Canada can have its cake and eat it too: Macdonald's actions were regrettable, and it is a shame that Riel ended his life as an enemy of the state, but Canada learned from its mistakes and Canada now sees Riel's struggle not as a threat to be contained but as a cause to be carefully contained and championed.

This interpretation closely resembles the "bridge-building" of Mary Simon's installation ceremony, as described in chapter 2. While Saul is right about Macdonald's imperial affiliations, like Simon's installation ceremony, this interpretation still necessitates the same approach of bridge-building that reproduces, rather than deconstructs, settler colonialism. Settler colonialism is not a problem of the denial of the reality of self but rather the perpetuation of parasitic interdependency. "Saul's attempt to recognize Canada's aboriginal roots," M. Max Hamon

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[285] Saul, 29.
[286] "Métis" here is seen as a simple mixture of races and cultures, rather than a nation with political implications. "Métissage" is used to describe Canada as a mixed and multicultural place, effectively erasing Métis as an independent people. See Colette Simonot-Maiello, "'Decolonizing' Riel," *University of Toronto Quarterly* 87, no. 4 (October 1, 2018): 75, https://doi.org/10.3138/utq.87.4.09; "The Métis-Ization of Canada: The Process of Claiming Louis Riel, Métissage, and the Métis People as Canada's Mythical Origin," *Aboriginal Policy Studies (Edmonton, Alberta, Canada)* 2, no. 2 (2013), https://doi.org/10.5663/aps.v2i2.17889.
[287] Saul, *A Fair Country*, 2009.

argues, dismisses "the marginalization of people by centuries of exploitation and dispossession."[288] As the previous chapters of this thesis have shown, we can acknowledge the Indigenous influences on colonial constitutionalism while also identifying how those influences have been pressed into the service of a particular *enactment* of political community. As long as political community is constituted on the exploitation of Indigenous lands and bodies, Canada is not a Métis-civilization, no matter how much soul-searching or recognizing we do. To say that Canada is a "Métis-civilization" is the kind of flattened narrative of "who we are" that Said warned against. It finds the "rendezvous of victory" in consonance, comforting, rather than disrupting or unsettling, those in power.[289]

Dissonance is an uncomfortable situation to be in, so it is understandable that the instinct is to find a solution to this conundrum. Indeed, both interpretations of *Louis Riel* considered thus far (the un-celebratory and tragic clash of constitutionalisms and the Justin Trudeau/John Ralston Saul story of multicultural redemption) navigate the political dissonance that the opera presents by seeking to resolve it—end the clash between constitutionalisms—in two separate ways. In the first, "un-celebratory" interpretation, Macdonald and Riel seem to occupy incommensurable positions that can never coexist, and therefore their clash is destructive, not productive. Either one position must be chosen (often leading to tragedy), or both go their separate ways. In the second, celebratory multicultural interpretation, the settler colonial state must learn from Riel's resistance and accommodate his worldview only insofar as it does not threaten the ultimate authority of colonial constitutionalism. Both approaches are virtually opposed to one another, the latter proposing reform, the former resistance or revolution. Both, however, if successful, resolve

[288] M. Max Hamon, *The Audacity of His Enterprise: Louis Riel and the Métis Nation That Canada Never Was, 1840-1875* (Montreal ; Kingston ; London ; Chicago: McGill-Queen's University Press, 2019), xi.
[289] Said and Barsamian, *Culture and Resistance*, 188–91.

the dissonance that *Louis Riel* presents them with. Furthermore, both ultimately agree with Pierre Trudeau's second quote above that the "government" must enforce the bounds of political community, they just differ on the way in which it is determined and enacted.

These two interpretations of *Louis Riel* resemble normative approaches to governance that seek to resolve the dissonance in Indigenous-settler relations. Specifically, some trends in the major decolonial paradigms of resurgence and reconciliation see dissonance as a problem in need of a solution. In his essay "Rooted Constitutionalism", Aaron Mills explicates resurgence and reconciliation.[290] Resurgence, he says, "calls for a turn away from the settler state and a turn towards a revitalized sense of Indigenous identity."[291] Reconciliation, on the other hand, argues that Canada's constitutionalism must take account of the Indigenous legal orders that are already a part of itself. Canada must include Indigenous peoples by reforming or transforming the setting upon which constitutionalisms interact to better enact Indigenous cultural and political practices.[292] Critically, and as Mills also notes, these descriptions of resurgence and reconciliation are broad outlines, more poles on a spectrum than a binary, and about as broad as positions like reform versus revolution. What the "turn away" means, as well as what reformation and transformation require, are ongoing and important debates.[293] For my purposes, however, I want to differ between approaches that seek to resolve dissonance and those that seek to cultivate dissonance. Indeed, it is possible to interpret resurgence and reconciliation, like *Louis*

[290] Mills, 'Rooted Constitutionalism: Growing Political Community'. Beyond Said, Mills's work has had the most profound influence on me and the writing of this thesis.
[291] Mills, 140.
[292] Mills, 144–45.
[293] See the nuanced and diverse discussion contained in Michael Asch, John Borrows, and James Tully, eds., *Resurgence and Reconciliation: Indigenous-Settler Relations and Earth Teachings* (Toronto ; Buffalo: University of Toronto Press, 2018); For a detailed discussion of the "turn away" see Simpson, *As We Have Always Done*, 2017; Gerald R. Alfred, *Wasa'se: Indigenous Pathways of Action and Freedom* (Peterborough, Ont. ; Orchard Park, N.Y: Broadview Press, 2005); Coulthard, *Red Skin, White Masks*.

Riel, as calling for an end to dissonance: either owning up to our tragic incommensurability and going our separate ways or fusing our horizons to create a more enlightened whole.

II

What if, however, we hold dissonance as the foundation for political community? What if the tensions between constitutionalisms ought to be cultivated, rather than resolved? Contrapuntal constitutionalism urges such an approach. Contrapuntal constitutionalism would be a sustained *performance* of one constitutionalism beyond the limits of another. As such, by resisting the urge to resolve *Louis Riel's* dissonances and sustain them instead, it is possible to elucidate the foundations of contrapuntal constitutionalisms. Accordingly, *Louis Riel* is an interpretive foundation for contrapuntal constitutionalism.

Louis Riel provides us with a vision of contrapuntal constitutionalism if we see it as a work of "late style." Said referred to works that remain unsettled and unresolved artistically, aesthetically, and politically—like *Louis Riel*—as "late style." In *On Late Style,* a collection of posthumously published essays, Said explores artists—such as authors, composers, poets, and performers—who created works that exhibit a creative unsettlement, a "nonharmonious, nonserene [sic] tension, and above all, a sort of deliberately unproductive productiveness going against."[294] This kind of art works to trouble agreed upon notions of closure and finality. For instance, Beethoven's late masterpiece *Missa Solemnis* "abandons communication with the established social order of which he is a part and achieves a contradictory, alienated relationship with it."[295] For Said—as well as for Adorno, one of Said's key influences— "Beethoven's late works remain unreconciled, uncoopted by a higher synthesis … their irresolution and

[294] Edward W. Said, *On Late Style: Music and Literature against the Grain*, 1st ed (New York: Pantheon Books, 2006), 7.
[295] Said, *On Late Style,* 127.

unsythesized fragmentariness are constitutive."[296] Late style unsettles artistic self-assuredness in the same way that "speaking truth to power" in international relations, Said's ideal for an intellectual, attempts to deflate liberal internationalist chauvinism.[297] Late style is a provocation in the form of something new, based on response to, but also rejection of, its context. As such, "late style is *in,* but oddly *apart* from the present,"[298] existing as an interdependent part of the dialogue of cultural formation but constituted independently from the boundaries of that dialogue. Working in late style, therefore, is not a turn away but instead adds a contrapuntal line to society, challenging and unsettling comfortable traditions and assumptions. Accordingly, in creating *Louis Riel,* Harry Somers took nationalist opera—an art form normally used to celebrate and implicitly approve of the already existing limits to political community—and used it to reopen the question of what it means to constitute Canadian political community. The opera does not inherently question nationalism, as Michael Shapiro suggests, but instead forces us to face and learn to inhabit our cacophonic reality.

The potential of late style is in its dissonant implications as a counterpoint to the prevailing bounds of political community. Adorno, whose exilic approach to theory was a major influence on Said, used a philosophy of dissonance for "thinking about the interrelations between aesthetics and politics."[299] This philosophy, Asaf Angermann argues, enables us to uncover "currently possible counterpoints": a way of thinking that sees a path forward in maintaining, rather than resolving, the transgressive elements of late style. Late style need not be limited to arts and aesthetics. Louis Riel, the historical figure, can be seen as embodying a political late

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[296] Said, 127.
[297] Said, *Representations of the Intellectual*; Morefield, "Said and Political Theory."
[298] Said, *On Late Style*, 7.
[299] Asaf Angermann, "Dissonance and Dissidence: Aesthetic and Political Counterpoints in Adorno," *The Germanic Review* 90, no. 4 (2015): 234, https://doi.org/10.1080/00168890.2015.1095615.

style. M. Max Hamon, in his recent biography of Louis Riel from 1840-1875, argues that it is incorrect to see Riel as a rebel, resistance leader, or symbol of Canadian multiculturalism. Rather, Riel's life can be seen as "an allegory for the tensions that make up the broader issues of nineteenth-century North America."[300] As settler colonial state solidification loomed on the horizon, Riel did not directly seek to stop the expansion of the Canadian state, nor did he seek to negotiate a spot for himself and his people within it. Instead, he represented a counter-constitutional order that challenged Canada's conception of itself. By "respond[ing] creatively to the discourses that attempted to define and limit individual agency,"[301] Riel, in the same way that late style achieves an "alienated relationship" with the established order, participated in Canadian state building to illuminate—and push beyond—its limits. Riel forced Canada's hand by placing himself and his people as a contrapuntal line relative to Canadian expansion.[302] In doing so, Riel's actions show that resistance to domination can be part of contrapuntal co-constitution, not antinomic confrontation.

Importantly, this view gives Riel agency not as a rebel but as a builder of what Canadian interconnectedness can and ought to look like. Practitioners of late style aim to identify and push past politically imposed limits. Viewing this kind of work as only resistance misses the generative aspect of dissonance.[303] Indeed, we ought to see Riel's late style as politically prefigurative. Prefigurative politics is the practice, broadly, of constructing a new form of community within the shell of the old. It is, "a commitment to planting the seeds of the society of the future in the soil of today's."[304] Practitioners of prefigurative politics build institutions and

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[300] Hamon, *The Audacity of His Enterprise*, 6.
[301] Hamon, 19.
[302] Hamon, 17.
[303] Hamon, 16.
[304] Paul Raekstad and Sofa Gradin, *Prefigurative Politics: Building Tomorrow Today* (Cambridge, UK ; Medford, MA: Polity, 2020), 8. In this work, Raekstad and Grandin offer an excellent overview of prefigurative politics.

relationships in the present that resemble the type of world that they want society as a whole to transform into. As such, this kind of activity occurs *within* the already existing structures of contemporary society but *outside* the political bounds of that society.[305] It does not protest the government for change but *is* the change. Raekstad and Gradin define prefigurative politics as "the deliberate experimental implementation of desired future social relations and practices in the here-and-now." Prefigurative political action shows, rather than explains, an alternative way of navigating interdependency. Accordingly, Riel enacted the type of political community that he—and the Métis nation that he represented—wanted to live. The Métis challenged Canada with this reality and sought for it to respond. Riel and the Métis nation did not resist Canada directly but worked creatively to challenge it by *performing* an alternative form of political community interdependently within the process of Canadian state formation.

Prefigurative politics are often affiliated with strains of anarchism. This type of anarchism holds construction, not destruction, as its primary goal. Indeed, by building radically different institutions within the interstices of hegemonic society, prefigurativists argue that the state will eventually "wither" as its usefulness is replaced by prefigurated alternatives.[306] Notably, anarchist prefiguration has parallels in Said's thought. As Tsen and Wesley argue in "Revisiting Said's 'Secular Criticism'", "Said can be reconsidered as a critic affiliated with the ethical concerns of the anarchist tradition."[307] Prefigurative politics' radical democratic practice is precisely the kind of action that Said argued enables critics—whether academics or everyday

[305] See Raekstad and Gradin, *Prefigurative Politics*.
[306] Raekstad and Gradin.
[307] Wesley, Charlie and Tsen, Darwin H., "Revisiting Said's 'Secular Criticism': Anarchism, Enabling Ethics, and Oppositional Ethics," in *The Geocritical Legacies of Edward W. Said: Spatiality, Critical Humanism, and Comparative Literature*, ed. Robert T. Tally, Geocriticism and Spatial Literary Studies (New York, NY: Palgrave Macmillan, 2015), 127.

citizens—to speak truth to power.[308] Prefigurative politics, therefore, is a vector for embodied criticism: enacting an alternative way of organizing society exposes the inadequacies of our current political confines.

While prefigurated institutions often aim to be non-hierarchal and based around mutual aid, such as tool libraries, non-market housing cooperatives, and radically democratic community councils, they do not all share the same animating goals or political positions. They all, however, aspire to enact the type of society that their organizers want to live in. As such, prefigurative politics need not embrace a grand vision or utopian narrative. In *Ugly Freedoms*, Elisabeth Anker argues that prefiguration can come from places that lack grand narratives or large-scale struggle. Seeing struggles for a better world as only "majestic practice[s] … discounts many ways that freedom can be exercised productively in otherwise dispiriting, opaque, or 'uncivilized ways.'"[309] Furthermore, prefigurative politics need not even be "productive" to be generative. In *Wayward Lives, Beautiful Experiments,* Saidiya Hartman chronicles the lives of young Black women in turn of the century in the urban northeast United States. These women—oppressed by the state, hounded by the police, attacked by racists—were anything but free. They chose to live their lives, however, *as if* they were free. They lived under the law but "refused to live in its clauses and parentheses," living lives that, to the "respectable" white middle class, were scandalous, unthinkable, and reprehensible.[310] They were dissidents who sought out pleasurable and joyous lives in circumstances that deprived them of pleasure and joy. "To wander through the streets of Harlem," Hartman writes, "to want better than what she had, and to be propelled by

[308] Wesley, Charlie and Tsen, Darwin H., "Revisiting Said's 'Secular Criticism': Anarchism, Enabling Ethics, and Oppositional Ethics."
[309] Elisabeth R. Anker, *Ugly Freedoms* (Durham: Duke University Press, 2022), 16.
[310] Saidiya V. Hartman, *Wayward Lives, Beautiful Experiments: Intimate Histories of Social Upheaval*, First edition (New York: W.W. Norton & Company, 2019), 256.

her whims and desires was to be ungovernable. Her way of life was nothing short of anarchy."[311] These women's lives were prefigurative but not in the hopes of overthrowing the state or ushering in a new reality. Instead, they were fleeting experiments of living otherwise, lived for their own sake. It was their everyday actions, their "rhythm and stride" that "announced the possibilities" of living beyond the imposed bounds of political community.[312] Thus, it was these acts' impossibility and unintelligibility to white liberal sensibility that made them transformative. "The aesthetic inheritance of 'jargon and nonsense'", Hartman argues, "was nothing if not a philosophy of freedom that reached back to slave songs and circle dances—the sonic gifts of struggle and flight, death and refusal, became music or moanin' or joyful noise or discordant sound."[313] This late style was "a raucous polyphonic utterance that sounded beautiful and terrible,"[314] a political dissonance that sounded against the limits of political community.

We can see, therefore, how Said's idea of late style as "nonharmonious, nonserene tension, and above all, a sort of deliberately unproductive productiveness going against"[315] finds political purchase. Contrapuntal constitutionalism is the addition of dissonant prefigurative lines to society that, in late style, trouble, unsettle, and perforate the perceived bounds of political community. Seeing both Louis Riel and the opera *Louis Riel* as exhibiting late style enables us to see their *dissonant* prefigurative qualities. While Louis Riel sought to productively create a Métis political order and nation, what is transformative and generative about his vision for contrapuntal constitutionalism is not necessarily its productiveness but rather its *dissonance* in relation to the Canadian state. Taken together, we can see how dissonant works and events—like the opera

[311] Hartman, 230.
[312] Hartman, 234.
[313] Hartman, 285.
[314] Hartman, 285.
[315] Said, *On Late Style*, 7.

Louis Riel and the life of Louis Riel—demonstrate, in their dissonance, a *dissident* practice of political late style that uses the bounds of political community as a starting point to be intentionally and non-violently transgressed. Sustaining this transgression *as* a way of constituting political community is at the core of contrapuntal constitutionalism. At first glance, this seems to be a precarious, unpredictable, and dangerous way to organize a political community. Sustaining dissonance, however, enacts alternative ways of living together that do not necessitate ruthlessly policing the bounds of political community. Furthermore, Indigenous resurgence can also be seen as late style, as cultivating dissonance. Glen Coulthard, in his use of "grounded normativity", calls for enacting Indigenous alternatives to capitalist and colonial dispossession.[316] "Indigenous resurgence", Coulthard writes, "is at its core a prefigurative politics."[317] As such, the "turn away" of resurgence politics need not seek to resolve dissonance but can work prefiguratively *as* a dissonant provocation.

Indeed, seeing Riel's actions as late style—as adding a prefigurative, contrapuntal line to political community—challenges the notion that constitutionalisms must be free of dissonant political orders, bound, to function or be resurgent. In "Postcolonial Studies and the Study of History", Frederick Cooper calls for a critical reinterpretation of imperialism and the idea of a shared history. Principally, Cooper calls for postcolonial theorists to do two things: first, paint a more nuanced picture of the historical workings of colonial domination, both in its limits and irregularities; and second, provincialize Europe effectively as neither the rightful hegemon of global progress nor as *only* Enlightenment values.[318] The global history of imperialism and settler colonialism is marked by dissonance. "Colonial studies," Cooper contends, "has been so

[316] Coulthard, *Red Skin, White Masks*, 172.
[317] Coulthard, 171–72.
[318] Frederick Cooper, "Postcolonial Studies and the Study of History," in *Postcolonial Studies and Beyond*, ed. Ania Loomba et al., 2005, https://doi.org/10.1515/9780822386650.

intent on taking apart the narrative of Western progress that it has remained rather incurious about exploring the implications of looking backwards in time or toward the variety of forms of state power that shared the temporal field of modernity."[319] Only by properly understanding the limits that this Eurocentric approach has taken can we truly uncover new and forgotten "possibilities of political imagination,"[320] such as the lives that Hartman chronicles. Riel's late style, therefore, is not an anomaly but is indicative of the larger generative contrapuntal struggle of imaging and enacting political community. Approaches that necessitate closing the bounds of political community foreclose some of the more exciting experiments of political worldmaking. As such, we can see how Canada, in responding to Riel's actions, chose to resolve, rather than engage in, his dissonance. The bounds of colonial constitutionalism were bolstered in the face of such a threat. "It was not Riel who refused or was unwilling to accept a new modernity," Hamon writes, "it was a colonial world which was unable to accept Indigenous world views."[321] When colonial constitutionalism captures, or is separated from, Indigenous constitutionalisms, we are prevented from understanding the *ongoing* transformative elements that late style can provide.[322] "We have not yet produced," Said laments in the essay "Representing the Colonized", "an effective national style that is premised on something more equitable and noncoercive than a theory of fateful superiority, which to some degree all cultural ideologies emphasize."[323] Riel's late style disrupts Canada's "fateful superiority" by engaging with it contrapuntally.

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[319] Cooper, 409.
[320] Cooper, 417.
[321] Hamon, *The Audacity of His Enterprise*, 269.
[322] Hamon, 269.
[323] Edward W. Said, "Representing the Colonized: Anthropology's Interlocutors," in *Reflections on Exile and Other Essays*, Convergences (Cambridge, Mass: Harvard University Press, 2000), 304.

III

We can begin to see, therefore, the outlines of contrapuntal constitutionalism. Said's modified block quote from above takes on a new clarity. A political practice not primarily or exclusively about authorial power and social authority but a mode for *performing* through or *performing* with the integral variety of *constitutionalisms* is one where political community is maintained through an ongoing contrapuntal relationship between diverse constitutionalisms. Alternative ways of conceiving political community are enacted prefiguratively to illuminate—and push beyond—the bounds of the constitutional order that came before. But why go through all the trouble to *enact* constitutional orders? Why not stick to the safer approach of conceiving of constitutional change as a dialogue? Or, as Benjamin Berger advocates, of a mix between *humility* and *fidelity*?[324] While these approaches are both capable of making change, it is only by enacting and working through constitutionalisms that citizens can really come to *see* and *feel* what non-parasitic interdependency can look like. As explained in chapter 3, sec. I, the performance of a constitutionalism is very different from the idea of a constitutionalism. To understand what symbiotic interdependency actually requires, constitutionalisms cannot be worked through as discreet scores, but must be performed together.

Furthermore, performing constitutionalisms and cultivating their dissonances is a form of *inventio* (invention). In the essay "The Virtuoso as Intellectual" from *On Late Style*, Said draws upon the idea of *inventio* to investigate the potential of late style. Stemming from the Roman rhetorical practice, *inventio* is a process of bringing about a new understanding of something by

[324] For Berger, practitioners of Canadian constitutionalism ought to act with humility and fidelity. Humility means understanding that Canadian constitutionalism is just one constitutional form among many, and not the exclusive way of organizing political community or the ultimate authority from which to derive meaning. Fidelity means that practitioners of Canadian constitutionalism must own up to their constitutional logics and commitments and live by them. Taken together, humility and fidelity entail a commitment to constitutionalism that works to live alongside, rather than supersede, other constitutionalisms, cultures, and religions. See Berger, *Law's Religion*, 2015, 170-177. For further detail on "institutional humility, see Avigail I. Eisenberg, *Reasons of Identity: A Normative Guide to the Political and Legal Assessment of Identity Claims* (Oxford ; New York: Oxford University Press, 2009).

working through its possible variations. *Inventio,* therefore, is more about uncovering, reinterpreting, and remaking than about producing for the first time. Applied musically, *inventio*, for Said, is "a form of creative repetition and reliving" that involves "the finding of a theme and developing it contrapuntally so that all its possibilities are articulated, expressed, and elaborated."[325] Accordingly, the performance becomes another occasion for composition, learning, and development, revealing things that could not otherwise emerge.

Said, in his explanation of *inventio,* turns to his muse Giambattista Vico, for whom *Inventio* was a key part of his *New Science.* Vico, Said writes, uses *inventio* to "see human history as something made by the unfolding capacity of the working human mind."[326] Vico wanted to know how and why humanity decided to go about things differently at different times in history. The answer, for Vico, was that we would bring our past into dissonant conversation with the present, thus revealing *new* ways of being ourselves, based on *old* ways of being. [327] Creatively performing old ways of being in the present reveals new ways of moving forward. As Eelco Runia argues, by awakening "dogs that lie sleeping—by making 'non-sense' of the here and now", we can "reinvent the discontinuities that are stored in what we take for granted."[328] Furthermore, *inventio* does not just arise out of what is old. *Inventio* is the generative outcome when any "lost" world is dissonantly contrasted with the present. *Inventio* can occur by reintroducing disappeared, suppressed, decimated, excluded, or exploited ways of being. Indigenous constitutionalisms, therefore, having been suppressed, decimated, excluded, or otherwise exploited by settler colonialism, can find resurgence with *inventio.*

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[325] Said, *On Late Style*, 129.
[326] Said, 128.
[327] Eelco Runia, "Inventing the New from the Old - from White's 'tropics' to Vico's 'Topics,'" *Rethinking History* 14, no. 2 (2010): 229–41, https://doi.org/10.1080/13642521003710763.
[328] Runia, 237.

Accordingly, for contrapuntal constitutionalism, sustaining dissonance—performing Indigenous constitutionalisms independently *within* colonial constitutionalism—is an occasion for *inventio*, revealing new ways of moving forward together. Contrapuntal constitutionalism, therefore, achieves two things. First, it works to reanimate Indigenous political orders that have been disappeared, suppressed, decimated, excluded, and exploited and kept that way by the enforced limits of Canadian governance. And second, it *invents* new ways of enacting Indigenous-settler relations that do not rely on imperial affiliations. Dissonance reveals how we can begin to move from parasitic interdependency to symbiotic interdependency. *Inventio*, for Runia, achieves Hayden White's desire to "understand what is fictive in all putatively realistic representations of the world, and what is realistic in all manifestly fictive ones."[329] Canadian recourse to a bounded constitutionalism enforced through imperial affiliation can be revealed not as a necessity but as an addiction, a fiction that appears "putatively realistic."[330] At the same time, the *inventio* of contrapuntal constitutionalism reveals ways to draw the foundations for political community from the needs and gifts of one another, rather than some outside metaphysical justification. We get a glimpse of "life reconstructed along radically different lines,"[331] opening up, in Said's words, a path to a form of governance that is "an organized interplay that derives from the themes, not from a rigorous melodic or formal principle outside the work."[332] Jeanne Morefield, in *Unsettling the World*, expands on Said's idea of an "organized interplay" by referencing Glenn Gould's piano playing:

> As anyone who has ever listened to a recording of Gould's "Goldberg Variations" knows, while the Variations themselves may be known, Gould's experimentation, his barely audible vocalization underneath the melody, the tension between music and sound, opens up vistas for the listener to occupy, see, and feel even though

[329] Runia, 240.
[330] Runia, 240.
[331] Hartman, *Wayward Lives, Beautiful Experiments*, 197.
[332] Said, *Culture and Imperialism*, 1994, 5.

> the expressions of those feelings and visions—the way Gould picks up and puts down various modes of invention each time he performs—can't be anticipated. And yet there is an order there. It may not exist in "formal principles" rigorously imposed on the work from the outside, but the variations themselves—the changes in tone, timbre, or rhythm that settle and unsettle—these *are* the work.[333]

The dissonant interplay between constitutionalisms *is* the work, the system of governance. Political community, therefore, is an intentional maintenance of our cacophonic, contrapuntal, independent, and interdependent relationships. In Saidiya Hartman's thundering prose, this form of radical reconnection "elaborates and reconstructs the passage, conjures the death in the fields and the death on city pavements, and reanimates life; it enables the felled bodies to rise, plays out in multiple times, and invites all to enter the circle, to join the line, to rejoice, and to *celebrate with great solemnity."*[334]

IV

In this final section, I will explain what contrapuntal constitutionalism can look like when applied to the installation ceremony of Kevin Hall, illustrating what it would mean to sustain a moment of dissonance into a political practice. In the previous chapter, I argued that the installation ceremony was a flash of dissonance: a performance of Coast Salish constitutionalism that carried political implications beyond the limits of colonial constitutionalism. For a brief moment, the justification for Hall's ability to participate in political community in what is known as Victoria was not based on contract, citizenship, the state, or crown sovereignty, but rather on the legal foundations of the Coast Salish peoples. This did not destroy colonial constitutionalism and its settler colonial structures but rather rung out simultaneously alongside them. As I also argued, however, while the ceremony was well-intentioned and precedent-setting, by following

[333] Morefield, *Unsettling the World*, 2022, 56.
[334] Hartman, *Wayward Lives, Beautiful Experiments*, 197.

the status quo and failing to engage with the manifestations of parasitic interdependency, the ceremony risks further legitimizing, rather than deconstructing, settler colonial domination.

In what follows, I want to sketch out two different approaches to the ceremony's dissonant provocations that *do* confront settler colonial domination. The first aims to resolve dissonance, the second, sustain it. The latter approach is an outline of what contrapuntal constitutionalism can look like in practice. My goal here is to show that both approaches are promising and can be effective, but also that contrapuntal constitutionalism, by being the only approach that *sustains* the dissonance of the ceremony, provides a path forward that emphasizes centering political late style and *inventio* in Indigenous-settler relations. I also comment on how resurgence and reconciliation can be used to either resolve or sustain dissonance, but ultimately, the promises of resurgence and reconciliation are at their best when they embrace dissonance. Importantly, in sketching out these different approaches, I do not want to try and speak on behalf of what Indigenous peoples *would* or *should* do. As an academic, I want to draw out the potential of the *enacted* implications of these approaches. As a white settler, I want this to be an exercise in trying to imagine how myself and other white settlers—like Kevin Hall—can take action to engage in good relationship with Indigenous peoples while also taking responsibility for the implications and consequences of those actions.

1. Resolving Dissonance

There are multiple approaches to the dissonance of Hall's ceremony. As explored in the interpretations of *Louis Riel,* the approach to resolving dissonance is a spectrum. On one end is complete isolation, the other, complete integration. Starting with the poles, full isolation would entail complete separation, narratively and practically, between "us" and "them." If the problem of settler colonialism is parasitic interdependency, then one solution is to end interdependency

altogether. Drawing from the extreme end of the "turn away" in the resurgence paradigm,[335] when used to resolve dissonance, each side must completely reject the other's constitutional framework.[336] Those who support isolation, at the extreme end, would likely not participate in Kevin Hall's installation in the first place. Or, if they did, it would be to reject Hall's request for permission to live and work on the land. The University of Victoria is a capitalist, settler colonial, and European imposition on unceded Coast Salish lands. It cannot help or "lift up" the Coast Salish, it will ultimately, due to severe power imbalances, only appropriate and exploit them for its own development. Practitioners and members of Coast Salish constitutionalism would turn their back on Kevin Hall and the university. They would refuse to contribute their time, energy, experience, and gifts to UVic. Instead, these resources would be turned to Coast Salish communities and used to rebuild political community *without* the university and any other settler colonial institution. Perhaps independent educational institutions would be constructed according to Coast Salish practices. Kevin Hall and other settlers might assist the Coast Salish in their turn away. They could contribute money, time, and labour to the isolation effort. They would not "help" by taking the lead or using settler colonial institutions. They would actively divest themselves of their settler colonial affiliations and lifeways. [337] If Hall were particularly dedicated, he would work to dismantle the university altogether. The institution is beyond reform, so it must be rejected.

On the other end of the spectrum, Hall's installation ceremony could be the starting point for complete integration and synthesis between Indigenous and settler lifeways. If isolation is not

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[335] Note that this is just one interpretation of the turn away. Contrapuntal constitutionalism uses a different interpretation. For a thorough discussion of the "turn away", see Alfred, *Wasa'se*; Asch, Borrows, and Tully, *Resurgence and Reconciliation*; Simpson, *As We Have Always Done*, 2017. For a thoughtful critique of the turn away, see Mills, "Rooted Constituionalism: Growing Political Community."
[336] Mills, "Rooted Constituionalism: Growing Political Community," 145.
[337] Simpson, *As We Have Always Done*, 2017, 107.

possible or desired, settler colonialism's parasitism can be addressed by fusing Indigenous and settler constitutionalisms so that there is space for all. The Indigenous elements that are already a part of Canada must be properly recognized, affirmed, and instituted.[338] Drawing from certain aspects of reconciliation that emphasize consonance,[339] we ought to strive for a political framework where Indigenous and settler constitutionalisms can exist together harmoniously. If we read the installation ceremony generously—with an added emphasis on the parasitism of colonial domination—we can see it as an attempt at constitutional harmony. An effort was made to make Coast Salish protocol part of the way the university functions. Coast Salish elders spoke as did the Lieutenant Governor. We see here a similar process of ceremonial "bridge building" that happened in Mary Simon's installation. The next step, if real action is to be taken, would be to continue what the ceremony started. There would need to be greater Indigenous representation and inclusion in the university. More Coast Salish faculty and staff would be hired, and more Coast Salish students would be admitted and funded to attend UVic. The university would do its part to lift local communities up and ensure that more is done to let Coast Salish peoples be successful on their own land. The university would increase courses and degrees in Coast Salish history, culture, politics, and law. The Indigenous law degree at UVic can be seen as one example of the kind of initiative that the university could replicate. Following Charles Taylor's ideals, the University of Victoria would become a place where horizons are fused. Students would be able to study other cultures through the logics of those cultures' constitutionalisms. Neither Coast Salish nor colonial constitutionalisms would be fundamentally altered—their

[338] Mills, "Rooted Constituionalism: Growing Political Community," 145.
[339] Asch, Borrows, and Tully, *Resurgence and Reconciliation*; John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010); Borrows, *Freedom and Indigenous Constitutionalism*, 2016.

underlying justifications for existing would stay the same—but the structure in which they both coexist—in this case the university—would be reformed to accommodate them both.

Realistically, any approach would likely be a mixture between the two poles of isolation and integration. Regardless, the aim would still be to draw the boundaries political community. Success would mean that constitutionalisms are no longer clashing. Isolation seeks to resolve dissonance by either separating constitutionalisms or abolishing one. Integration seeks to make constitutionalism palatable to each other; constitutionalisms would no longer be threating to bounded orders but instead be different ways of approaching a shared constitutional framework.

2. Contrapuntal Constitutionalism (Cultivating Dissonance)

Settler colonialism's parasitism, as explored in chapter 2, is maintained in part by imperial affiliation. The justifications for and the bounds of political community are constrained to parasitic non-Indigenous forms of governance. Settler governments use "empire as a way of life"[340] to maintain authority and mediate cacophony on the lands that they claim. The path forward, therefore, is to enact Indigenous constitutionalisms prefiguratively. This includes large-scale collective action (think Riel's Métis nation) and the individual everyday (think Hartman's *Wayward Lives, Beautiful Experiments*). This achieves two things. 1. Indigenous constitutionalisms can be rebuilt and experienced in the interstices of colonial constitutionalism *despite* colonial constitutionalism. And 2. By maintaining the dissonances between constitutionalisms, this practice discloses forms of political community that do not rely on imperial affiliation and parasitic interdependence. In doing so, both Indigenous and non-

[340] William Appleman Williams, *Empire as a Way of Life: An Essay on the Causes and Character of America's Present Predicament along with a Few Thoughts about an Alternative* (Brooklyn, N.Y: Ig Pub, 2007); Alexander Livingston, *Damn Great Empires! William James and the Politics of Pragmatism* (New York, NY: Oxford University Press, 2016).

Indigenous peoples see other ways of living that draw the foundations for political community from thousands of years of deep interrelationship with the natural and non-human world.[341] This kind of prefiguration is inherently threatening to a constitutionalism that relies on the militant enforcement of its political boundaries. As such, small-scale, local acts of dissonance are an effective start. The goal is not to build counter-hegemony but rather plant the seeds for a political system where hegemony is no longer necessary. The University of Victoria is an ideal place for this kind of work to happen. Seen contrapuntally, Hall's installation ceremony was a moment of dissonance, presenting Coast Salish constitutionalisms alongside colonial constitutionalism. To maintain this dissonance, Coast Salish constitutionalisms would be prefigured throughout UVic. This does not involve the kind of representation and inclusion required by multicultural integration. Instead, it would involve embracing the "constitutive character" of Coast Salish political orders.[342] While this is something that can only be experienced in practice, the elements of Coast Salish constitutionalisms that intentionally go beyond colonial constitutionalism would be emphasized to create the sense of "unproductive productiveness going against."[343] For example, in the ceremony, Hall's legitimacy as president, according to Coast Salish protocol, was based on being granted permission by the Coast Salish leadership in the presence of representatives from local communities, rather than the permission of British Columbia. On its own, this is not transformative. It can, however, be sustained. Coast Salish institutions (governance councils, educational systems, housing, food systems, etc.) that exist independently of foundational settler institutions (such as capitalism, consumerism, land ownership, certain types of hierarchical management) would be developed within UVic.

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[341] John Borrows, *Freedom and Indigenous Constitutionalism* (Toronto ; Buffalo ; London: University of Toronto Press, 2016), 5.
[342] Borrows, 12.
[343] Said, *On Late Style*, 7.

Sarah Morales, in *Snuw'uyulh,* outlines Hul'qumi'num (a language branch of Coast Salish) constitutionalism.[344] She writes that Snuw'uyulh ("our way of life") is a condition produced by the enactment of seven teachings. These teachings, broadly, are Sts'lhnuts'amat ("Kinship/Family"), Si'emstuhw ("Respect"), Thu'it ("Trust"), Hw'uywulh ("Sharing/Support"), Nu stl'i ch ("Love"), Mel'qt ("Forgiveness"), and Sh-tiiwun ("Responsibility").[345] The Hul'qumi'num legal system is not predicated on reaching justice or conclusive pronouncements on law but is rather a process, the ongoing cumulative effect of enacting certain teachings. Law, as Darcy Lindberg discusses in reference to Plains Cree constitutionalism, "is a verb."[346] As such, prefiguration becomes a more holistic way to study the substantive elements of law than just through texts and oral evidence. Constructing Coast Salish institutions so as to sustain *Snuw'uyulh* performs an entirely different way to justify political community. Coast Salish constitutionalisms would be enacted as a contrapuntal melody to colonial constitutionalism in UVic.

Unlike integration, the goal of this process would not be to have Canadian and Coast Salish constitutionalisms exist side-by-side. Instead, the goal would be to intentionally provoke and unsettle those who are stuck within colonial constitutionalism. There would be no fusion of horizons but rather the creation and maintenance of an intentional relationship where participants can consciously decide the type of political community they would like to enact. Under settler colonialism, colonial constitutionalism is the only possible choice. While there might be considerable internal variation within it, colonial constitutionalism is discursively and physically bounded. Performing constitutions dissonantly provides us with a choice of how we want to

[344] Morales, Sarah, "Snuw'uyulh: Fostering an Understanding of the Hul'qumi'num Legal Tradition."
[345] Morales, Sarah, 221.
[346] Darcy Lindberg, "Nêhiyaw Âskiy Wiyasiwêwina: Plains Cree Earth Law and Constitutional/Ecological Reconciliation."

maintain our relationships. It begs Said's exilic provocation to "regard experiences *as if* they were about to disappear: what is it about them that anchors or roots them in reality? What would you save of them, what would you give up, what would you recover?"[347] Contrapuntal constitutionalism, therefore, would illuminate new directions both for Indigenous-settler relations *and* democratic decision-making overall.

This kind of prefiguration draws from both resurgence and reconciliation. Practitioners, like those in *Wayward Lives, Beautiful Experiments,* live as if they were free,[348] rejecting and turning away from the perceived inevitability of colonial constitutionalism.[349] At the same time, a relationship with colonial constitutional is not abandoned, but is transformed into a dissonant one. Indigenous constitutionalisms, which are *already* co-constitutive parts of colonial constitutionalism,[350] are reinvented to expose—and move beyond—the settler bounded community. Prefiguring Indigenous constitutionalisms in late style creates a dissonance. This dissonance, if sustained, can disclose the limitations of political community that we considered "natural" before. Our comfortable freedom and pursuit of a good life can seem not so idealistic anymore. Then, presented with the question of what we would save, what would we give up, and what would we recover, we can answer that question a little wiser, braver, and more open to transformation so that we can endeavour to live right by all our relations.

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[347] Said, *Culture and Imperialism*, 1994, 336.
[348] Hartman, *Wayward Lives, Beautiful Experiments*.
[349] Coulthard, *Red Skin, White Masks*; Audra Simpson, *Mohawk Interruptus: Political Life across the Borders of Settler States* (Durham: Duke University Press, 2014).
[350] Borrows, *Canada's Indigenous Constitution*.

Conclusion

> It is a slow and painful way to learn, this imperial burning of finger after finger to find out that the stove is hot. Let us save our thumbs to grasp a non-imperial future"
>
> – William Appleman Williams, *Empire as a Way of Life*[351]

On the eve of the United States' invasion of Iraq, Edward Said worried that humanity had lost faith in the "rendezvous of victory." True freedom and emancipation for all was no more than a broken promise, a utopia in ruins. Imperial narratives of beneficently imposed enlightenment, meanwhile, were stronger than ever. Empires continued to justify their actions by talking about construction, not destruction. Systems need to be consolidated, bridges built, melodies harmonized.[352]

It is tricky to make the case that Canada is an empire in the grand sense of its British predecessor, and an argument beyond the scope of this thesis. Canada does, however, rely upon imperial tools and sensibilities to maintain and justify its political community. Colonial constitutionalism rests, ultimately, on a bounded order of power and control. Such a bounded order is tempting, and—in many cases—provides massive benefits to those with power. The "Grand March" of imperial triumphalism is awesome, settled, and safe. It is also, however, flattened and easy—"dulled and anesthetized."[353] Colonial constitutionalism is not freedom and emancipation for all, it is freedom and emancipation for some, hoisted upon the shoulders of others.

As this thesis has shown, Edward Said's concept of contrapuntal analysis has tremendous potential for understanding Canadian settler colonialism. Canada is the ideal subject for the musically informed approaches that were at the core of Said's intellectual sensibility. In Chapter

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[351] Williams, *Empire as a Way of Life*, 210.
[352] Said and Barsamian, *Culture and Resistance*, 190.
[353] Said and Barsamian, 191.

1, I contended that counterpoint, where multiple independent melodies play out interdependently, reintroduces vital texture and dynamism to the study of Indigenous-settler relations. Contrapuntal analysis identifies and moves beyond imperial and colonial narratives of benevolence and inevitability. In Chapter 2, I applied contrapuntal analysis and Jodi Byrd's idea of "cacophony" to the installation ceremony of Mary Simon. I exposed that when well-intentioned practices of multicultural inclusion fail to understand the parasitic interdependency of settler colonialism, they rely upon and naturalize imperial governance. Settler governments, in turn, remain affiliated with colonial constitutionalism: a "structure of attitude and reference" that necessitates a hierarchical bounded order policed with imperial tools of elimination and accommodation. In Chapter 3, I contrapuntally analyzed the installation ceremony of Kevin Hall as a case study of political dissonance: where the enactment of one constitutionalism violates the bounds of another. In moments of dissonance, Indigenous forms of governance that are suppressed by settler political community erupt to the surface in an unignorable clash of sound. Accordingly, I show how Coast Salish constitutionalisms challenged the perceived inevitability of colonial constitutionalism. Dissonance is a provocation. It can either be resolved back into harmony—much in the same way that cacophony was mediated into consonance in Simon's ceremony—or it can be sustained to elaborate dissonance's possibilities. In Chapter 4, I expand Said's contrapuntal method into a political practice called contrapuntal constitutionalism. Turning Said's critical approach into a political practice is not simple. Indeed, contrapuntal constitutionalism can be thought of not as a specific practice but rather as an orientation to how we approach constitutional politics. Contrapuntal constitutionalism is a commitment to keeping political dissonance unresolved, the boundaries of political orders fluid, and an openness to going about our shared relationships in a completely different way. The occasions for "acting

otherwise" that contrapuntal constitutionalism affords resembles James Tully's ideal of public philosophy and democratic citizenship.[354] The key focus of contrapuntal constitutionalism, however, is to use dissonance as a bridge to Tully's vision. A contrapuntal approach to politics connects and discloses other ways of being, a step that Tully acknowledges is a central requirement.[355] When confronted with Said's question of what would be given up and what recovered, choice here is not the resolution of dissonance but the progression to the next dissonant choice. The contrapuntal composition progresses as we perform it together. While this may be a more uncertain way to approach constitutional politics, it foregrounds questions that other approaches seek to avoid or resolve. And by resolving, rather than sustaining, dissonance, we can inadvertently sustain parasitic interdependency.

Aaron Mills, in *Miinigowiziwin,* argues that Canadian and Indigenous constitutionalisms are incommensurable. Mills, rejecting synthesis, contends that there always must be a choice made between constitutionalisms. There is no ideal middle ground or fusion between two. For Mills, all inhabitants of Mikinaakominis (what is known as Canada) ought to choose Indigenous constitutionalisms.[356] I agree that constitutionalisms are harmoniously incommensurable (resolving dissonance). As this thesis has shown, however, constitutionalisms are *contrapuntally* commensurable (sustaining dissonance). I also agree that Indigenous, rooted, constitutionalisms provide better visions for how we ought to organize political community. But when a choice must be made between a constitutionalism that very effectively maintains ascendancy over "Canada" and constitutionalisms that have been grievously harmed and suppressed by the

[354] James Tully, *Public Philosophy in a New Key*, vol. 2, 2 vols., Ideas in Context 93–94 (Cambridge ; New York: Cambridge University Press, 2008); James Tully, "Political Philosophy as a Critical Activity," *Political Theory* 30, no. 4 (2002): 533–55.
[355] Tully, "Reconciliation Here on Earth," 2018.
[356] Mills, "Miinigowiziwin: All That Has Been Given for Living Well Together," 2019.

colonizing power, I worry that many Canadians would choose what they are comfortable with and currently see as “freedom.” The spectacle and security of the “Grand March”, in the absence of any tangible alternatives, remains the way of the world. However, by cultivating dissonance, by focusing on the texture, complexity, and vibrancy of human interdependency, we can begin to enact, as well as imagine, a better future. It is there, in contrapuntal constitutionalism, where the “rendezvous of victory” is found. It is not triumphant, it is not congruous, but it is a way of life that unsettles, rather than reaffirms, the need for domination, hierarchy, and walls. It is a political community where we can all live.

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