Natives And Reserve Establishment
In Nineteenth Century British Columbia

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ABSTRACT

Conventional academic argument has it that reserve establishment in British Columbia was something which was imposed upon a subjugated, oppressed population. This argument suggests that after eighty years of mutually beneficial socio-economic interaction with Europeans, Natives were suddenly unable to cope with the effects of European settlement. Careful scrutiny of relevant documents from reserve commissions, however, tends to suggest a different interpretation. Although faced with the societal effects of depopulation as a result of epidemic disease, and in spite of restrictions placed upon them by European law and Victorian hegemonic beliefs, Natives were able to maintain their cultural integrity and participate effectively within European systems of power. Although the agenda and objectives of Natives with regard to land were not evident to contemporary Europeans, they are beginning to be seen and understood by historians and other observers.
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I. INTRODUCTION

The process of establishing Indian reserves is generally viewed as one of the more detestable acts of British Imperialism. Most often it is cast as an imposition of the Imperial Will upon a powerless indigenous culture. Within the province of British Columbia, where the treaty making process never really took hold, the reserve creation process has been depicted as particularly onerous. Academics have long argued that the more sophisticated imperial authority knowingly removed land from Native control for a pittance. Aided and abetted by disease to which the local inhabitants had little or no resistance and vested with a social manifesto which asserted superiority and excluded mutual understanding in favour of either extinction or assimilation, the Imperial Will, manifested in European social mores and socio-economic power, was, for all intents and purposes, pervasive and irresistible. Natives are said to have existed outside the power nexus. As helpless victims of imperialist power, their claims went unheeded. They were oppressed, marginalized and unable to cope with the onslaught of European settlement after the collapse of the fur trade.¹ Yet, seemingly inexplicably given the forces at work against them, Natives in B.C. were an increasingly forceful presence in the last half of the nineteenth century. They secured jobs in a variety of occupations within the emerging Euro-Canadian commercial economy. More significantly, they agitated for recognition by provincial and Dominion governments of their land rights.² Indeed, one of the ironies of history may be that the imperial forces which sought to eradicate Native control over land in British Columbia paradoxically entrenched it.


While it cannot be denied that imperialistic, hegemonic principles were a dominating force in the relationship between government, settler and Native, a review of the documentation focusing upon reserve establishment indicates that the allotment of reserves was not necessarily the arbitrary process it is usually held to have been. Natives were aware that the consequence of not establishing reserves would have been the complete elimination of their land base. Even in remote areas of the province, settler encroachment upon traditionally held lands underscored the necessity of securing land. The process of reserve establishment provided a point from which Natives could assert their land rights. Achievement of this goal was predicated, at least in part, upon their ability to enter into the European imperialist discourse on land tenure. Although at odds with the desires of settlers, the British Crown held that Natives had an inherent right to land under certain conditions. Enunciated in Eurocentric terms, this right was implicit in the treaties, policies, principles and practices established by the Crown to deal with Natives. The process was seemingly always in a state of flux, and rarely forcefully upheld to the benefit of the Natives, but throughout it Natives participated. The nature of that participation was dictated by Eurocentric conventions, but Natives were not as peripheral to this process as commonly depicted in historical texts to date.\(^3\) From first contact with Europeans, Natives had their own set of objectives which were barely perceived or understood by European traders and immigrants. Within the constrictions placed upon them by Imperial authorities, Natives exerted their own power and authority through a variety of means. Resistance was the most overt of these, but other, more subtle strategies, such as participation within the European power structures and maintaining an ongoing discourse with Europeans, also became effective means of asserting power. Both of these aspects can be seen within the treaty making and reserve establishment processes.

\(^3\) Tennant gives fleeting reference to consultation with Natives during the colonial period (Chs. 2 and 3), but virtually no reference to Natives and the reserve allocation process in the post-confederation period (Chs. 4 and 5); Fisher, *Contact & Conflict* acknowledges a consultative aspect in early treaty and/or reserve establishment, but depicts later reserve allocation as something imposed upon Indians, sometimes without their knowledge (Ch. 3 and pp. 183-204).
II. NATIVE-EUROPEAN RELATIONS IN THE FUR TRADE ERA

Prior to the onset of settlement, Europeans had established economic and social relations with many of the indigenous peoples of B.C. These relations were formed during the era of the maritime and land based fur trade. Historian Robin Fisher has argued that the maritime fur trade period was one of "non-directed culture change" in which the Indians were part of a mutually beneficial relationship over which they exercised a good deal of control. He states that the fur trade was not an unequal endeavour, that Indians were not "passive objects of exploitation" and he decries the characterization of "the maritime fur trade on the Northwest coast as a trade in which gullible Indians were exploited by avaricious and unprincipled European traders."4 Anthropologist/ ethnographer Wilson Duff also supported the notion that the Northwest Coast Natives actively interacted in the maritime trade, controlling it by demanding particular items in return for their furs. Both Fisher and Duff assert that the West Coast Indians of the late eighteenth century were astute, energetic people fully capable of adapting their traditional economic trade practices in order to incorporate Europeans. But Europeans were not only incorporated into an economic system, they were also incorporated into the Native cultural system particularly as it related to perceptions of world order and religious symbolism. Of this adaptation Fisher writes, "[t]he initial phase, when the white men were inexplicable and were perhaps even regarded as supernatural beings, soon passed. It quickly became apparent to the Indians that their visitors were quite human, and though some of their behaviour might be curious, many of their demands and desires were familiar."5 Over the course of more than eighty years, Europeans and Natives accommodated each other. Economically, Natives participated in the fur trade. Socially, chief factors often married into prominent Native families, thus satisfying Native concepts of powerful families forming economic, social and political alliances.

The Fisher-Duff argument offered a new perspective on Native-European socio-economic interaction.

4 Robin Fisher, "Indian Control of the Maritime Fur Trade and the Northwest Coast" in British Columbia: Historical Readings compiled and edited W. Peter Ward, Robert A.J. McDonald, Douglas & McIntyre Ltd., Vancouver, 1981. pp. 96, 98, 106-107. (See also Fisher, Contact and Conflict, chapter 1)

5 Fisher, "Indian Control...", pp. 98-100; Duff, pp. 9, 56-57. Interestingly, one of the "curious" aspects of the European for the Native was that the Europeans were all males.
While the commonly held perception stated that knowingly and wittingly the European traders exchanged goods of little value for something of greater value, Fisher's equally compelling argument held that each party brought sagacity and good judgement to the trade and obtained items which mutually benefitted their respective needs even if that need was not always overtly evident to the other party. Fisher attempted to argue against the hegemonic belief, positing a theory of equality between European and Native while suggesting that culture and communication were not barriers to an effective, mutually beneficial economic partnership. Implicit within the argument was the development of a comprehensible language between trader and European. Fisher’s interpretation of the positions of European and Native modified historical thought for the fur trade era. The way it treated the incorporation of Natives, a marginalized group, into the European power structure refocussed consideration of power relations in that era. Interestingly, within this relationship both parties perceived themselves as superior. The Europeans perceived the Natives as "a primitive partner" in trade; the Natives thought the Europeans were gullible.Nevertheless, co-operation and understanding appear to have been the mainstays of this initial Native-European contact. For over eighty years prior to extensive settlement, a beneficial economic and social interaction existed between Europeans and Natives. Yet, somewhat surprisingly, Fisher’s examination of European-Native relations concludes that with the "unexpected suddenness" of the demise of the fur trade and the onset of settlement "many Indians found they could not cope with the pace of change." The Native position in the European economic power structure, as Fisher conceived it, eroded significantly, if it did not disappear altogether.

Undoubtedly the nature of the relationship between Native and European underwent substantive change during the last half of the nineteenth century, however, it undermines Fisher’s argument concerning the acumen of eighteenth century Natives to suggest that their nineteenth century descendants, who had had the benefit of eight decades of interaction, were less able to adapt and "unable to cope" with societal changes than they had been at time of first contact. In forming his argument, Fisher implied a stable balance of power existed between European and Native. Historian/philosopher Michel Foucault has described power relations


7 Fisher, Contact & Conflict, pp. 116, 210-11; Duff, p. 53.
somewhat differently. Foucault has argued that power relations, economic and non-economic, are unstable and within different "epistemes" are exemplified and defined in different ways. He stated that there was no power which was exercised without a series of aims and objectives. Furthermore, the power relationship is unstable and not necessarily as conceived by the hegemonic belief. Applying Foucault’s theory of power to Fisher’s argument on the fur trade does not diminish Fisher’s theory; instead it becomes possible to see the power relationship which existed during the fur trade era taking on another no less significant form in the early settlement era.

III. VICTORIAN SETTLERS AND THE DOUGLAS LAND POLICIES

The early settlement period in B.C., (from the late 1840s to the turn of the century) became an era when settler and Native vied for another commodity: land. It was also the period when reserve establishment commenced. Rather than the integration and accommodation of the fur trade era, this period saw a confrontation between European and indigenous British Columbian.

Colonization necessarily involved the contact, and practically the collision, of two races of men - one is superior and the other is inferior, the latter being in possession of the soil, the former gradually supplanting it ... Everywhere, in obedience to what appears to be a natural law, the uncivilized native has receded before the civilizer.

Victorian settlers imported a system of hegemonic beliefs which shaped their ability to perceive, order, comprehend and interpret the world which they encountered. Most did not come to B.C. merely to participate in a new economic market. British Victorians came from a land-starved country to one where land was available in abundance. They came to recreate their home in a new world. Values based upon classical and religious thought shaped European self-knowledge and self-definition and firmly entrenched their belief in their own superiority. Within these hegemonic constructs an Indian was inferior to a European. By the nineteenth century the notion of European superiority over indigenous peoples was firmly embedded. It was

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an unquestioned fact of life. A "natural" hierarchy existed which placed the British at the pinnacle and the Native at, or very near, the base. Perceptions of what constituted intellect, an ability to reason, mastery of emotions, the capacity for speech, lifestyle and physical appearance were part of the Victorian criteria for judgement of what constituted a "civilized" person.\textsuperscript{10} Self-expression of the Native was invisible to the settler. The Native migratory lifestyle was unacceptable. Hunting and fishing, two common Native occupations, were viewed by Victorians as the recreational past-times of the aristocracy, not as productive or life-sustaining.\textsuperscript{11} A sedentary, agrarian way of life was a key attribute of a civilized society. Imposition upon the Native of this "superior" way of life was part of the moral obligation of the incoming settler. The "good native" was one who accepted foreign domination and deferred to his superiors. Literary theorist Edward Said has argued that European culture gained in strength and identity by setting itself off against what he termed the \textit{other}. For the most part this self-definition was negatively inferred and negatively evidenced. "We" are what "they" are not, and conversely, "they" are what "we" are not. "We" would always be ascribed positively. It would have cultural implications which would signify a predominant, hegemonic view. "They" would be ascribed negatively. Said stated that European self-expression encompassed a desire to control, manipulate and assimilate what were perceived as manifestly different cultures. Culturally the \textit{other}, by necessity, would be incorporated in the hegemonic construct, but "they" would remain marginalized, peripheral participants in society. Definitions of the \textit{other} were created through legislative enactments so that "they" could be properly identified and classified. The inscrutable, simple native could not possibly understand advanced forms of European self-government.\textsuperscript{12} Hegemony and exclusion or assimilation, not diversity and co-existence, were the guiding principles of European thought.


Visions of empire, racial superiority and the honour of the Crown guided the British imperial policy maker in establishing the parameters of Native-settler relations and in decisions regarding land. Within British North America the first instance of enunciation of British imperial policy as it related to the inherent rights of Indians was the Proclamation of 1763 wherein it was stated, among other things, that the Crown would purchase title to the land from the aboriginal peoples and ensure the safety of their settlements. Only the Crown, not private citizens, could purchase land from the Indians. The honour of the Crown required that no frauds or abuses would be condoned in purchasing Indian lands. Before land could be acquired by the Crown a public meeting or assembly for the specific purpose of that acquisition was to be held by the Governor or Commander in Chief of the colony. Indians were to be willing participants at this meeting. Thus, the foundation of the treaty making system was put in place. While not specifically noted in the proclamation, European land tenure concepts such as those enunciated in Emmerich de Vattel's 1758 publication *The Law of Nations* were to provide the basis by which the Crown's representatives would act. Vattel stated that "unsettled habitation" did not constitute a "true and legal possession." Other nations were, therefore, lawfully entitled to take possession of and settle these lands. The failure of a people to cultivate the soil meant that they were incapable of occupying the country and were thus in no particular need of most of the land.\[^{13}\]

The development and implementation of colonial land policy in B.C. is often described as unique. Separated from the British government and eastern British North America by thousands of miles, there is a sense of British Columbia being isolated from policies and practices in other parts of the British empire.\[^{14}\]

But, as great as the geographical distance was, the development policies and practices with regard to land and Natives in B.C. remained remarkably consistent with other parts of British North America and the British empire. Within B.C., four men dominated the colonial and post-Confederation era with respect to land issues and settler-Native interaction: James Douglas, Joseph Trutch, Gilbert Malcolm Sproat and Peter O'Reilly. These men held pivotal positions of power which affected decisions regarding land policy and the


\[^{14}\] Fisher, "Joseph Trutch ...", p. 167; Tennant, p. 16; Duff, pp. 60, 65.
establishment of Indian reserves. Of the four, Douglas and Sproat are often portrayed as liberal progressive figures who sympathized with Indian interests while Trutch and O'Reilly are depicted as representatives of settler interests. All four of these men were Victorians. They believed in the superiority of the British and the righteousness of the Imperial authority. Where they differed was in their manner of applying and interpreting the principles of imperialism.

Political scientist Paul Tennant, Fisher and other academics give credit to James Douglas for initiating progressive, pragmatic policies regarding land and Natives. While in power he maintained an almost autocratic control of power especially in relation to Native-settler affairs. As the Chief Factor of Fort Victoria, Douglas became familiar with many Native customs and he was not adverse to using traditional forms of justice when it suited him. He believed that colonization could be encouraged while at the same time protecting the interests of the Indians. Much to his credit, Douglas managed to ensure that outbreaks of violence never resulted in the bloodshed which occurred in the American territories. Yet, as seemingly fair-minded as Douglas may have been, he, like other Victorians, viewed Natives as living in a "primal state of ignorance and natural improvidence" and he regarded the resolution of land issues as a means of safeguarding and protecting the Native communities as much as the non-Native communities.

During his time in office, Douglas' Indian policy shifted from obtaining agreements with Indians to reserve establishment. How extensive Douglas's knowledge was of policies and practices in other parts of the British empire is unclear. What does seem clear, however, is that he was in constant contact with officials in Britain who were knowledgeable of the affairs of other British colonies. When, in 1849, Douglas sought advice on Indian affairs from his Hudson's Bay Company superiors, Archibald Barclay responded:

With respect to the rights of the natives, you will have to confer with the Chiefs of the tribes on that subject; and in your negotiations with them you are to consider the natives as the rightful possessors of such lands only as they occupied by cultivation, or had houses built on, at the time when the island came under undivided sovereignty of Great Britain in 1846. All


other land is to be regarded as waste, and applicable to the purposes of colonization. Where any annual tribute has been paid by the natives to the chiefs, a fair compensation for such payment is to be allowed.\(^{17}\)

These directions conformed with the intent of the Proclamation of 1763, Vattel's concepts of land tenure and established practices in the British Empire. Indeed, the wording for the documents Douglas was to use in negotiating with the Indians was similar to treaties made between Great Britain and the Maoris in New Zealand.\(^{18}\) Whether or not Douglas thought he was entering into a treaty or purchasing title is uncertain, but between 1850 and 1854 Douglas entered into agreements with fourteen Native groups on Vancouver Island.\(^{19}\) Negotiations with the Natives were not always easy. Douglas wrote to Barclay that any discussion of Indian rights produced "troublesome excitement".\(^{20}\) All of the documents signed by Douglas and the Indians contained the same wording. Only the names of the Natives involved and the dates were changed.

Know all men, we, the chiefs and people of ..., who have signed our names and made our marks to this deed on the ..., do consent to surrender, entirely and for ever, to James Douglas, the agent of the Hudson's Bay Company in Vancouver Island, that is to say, for the Governor, Deputy Governor, and Committee of the same, the whole of the lands situate and lying between ...

The condition of or understanding of this sale is this, that our village sites and enclosed fields are to be kept for our own use, for the use of our children, and for those who may follow after us; and the land shall be properly surveyed hereafter. It is understood, however, that the land itself, with these small exceptions, becomes the entire property of the white people for ever; it is also understood that we are at liberty to hunt over the unoccupied lands, and to carry on our fisheries as formerly.

We have received payment ....

In token whereof, we have signed our names and made our marks.

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\(^{17}\) Kennedy, pp. 8-9, quoting from Archibald Barclay to James Douglas, December 17, 1849. HBCo Archives, Provincial Archives of Manitoba, A.5/28, folio 90d-92 12.

\(^{18}\) Kennedy, p. 9; Tennant p. 19; Fisher, Contact & Conflict pp. 66-67.

\(^{19}\) Most of the treaties can be found in Papers Connected with the Indian Land Question, 1850-1875, 1877 Richard Wolfenden, Government Printer, Victoria, 1875, with Supplement 1877, Reprinted Queen's Printer for British Columbia, Victoria, 1987, pp. 5-11 (henceforward identified as PILQ). For an analysis see Wilson Duff, "The Fort Victoria Treaties", B.C. Studies, No. 3, Fall 1969, pp. 3-57.

\(^{20}\) Fisher, Contact & Conflict, p. 67.
Governor Sir James Douglas @1860

[Photograph courtesy of B.C. Archives and Record Service, Victoria]
The arrangements made between Douglas and the Natives are now viewed as treaties in Canada, even though in many respects they seem more like contracts of sale than treaties.\textsuperscript{21} They are considered to secure certain interests regarding resource use but precisely what land was acquired by the Crown remains quite ambiguous. What does seem unquestioned is that the Imperial authority recognized that the Indians had an interest in the land which had to be eliminated. The exact nature of that interest or title is unclear as is what interest the Natives acquired, retained or relinquished. Varying interpretations of the intent of the agreements regarding the land have been suggested. While the distinctions in interpretation are subtle, they are significant because at their heart is the nature of the underlying title to the lands. The critical section is the second paragraph. One interpretation suggests that Douglas purchased \textit{only} the house sites and the cultivated fields and then permitted the Indians to continue to use and occupy what was, by virtue of the treaty, or sale, Hudson’s Bay Company property.\textsuperscript{22} An equally plausible interpretation is that Douglas purchased \textit{all} the Native land and then reserved for the Indians the use of their village sites and cultivated fields by themselves and their descendants. Under both of these interpretations the underlying title to all the land rested with the British Crown. Alternatively, as Tennant asserted, the treaties represented an "unequivocal recognition of aboriginal title." He suggests that Douglas's actions were contrary to Barclay's instructions because Douglas did not regard any land as unowned. "It was "their lands", excepting "their Village Sites and Enclosed Fields [sic]" … that were being "sold to the Company.""\textsuperscript{23} Applying this argument, the village sites and cultivated fields have an underlying aboriginal title. The Indians, therefore, own, in European terms, the title to their land. Interestingly, more than twenty years later, the Joint Indian Reserve Commissioner stated that the lands under these treaties were the "private property" of the Natives.\textsuperscript{24}

Fisher has argued that rather than giving up title to the land, the Indians believed they were giving


\textsuperscript{22} Tennant, pp. 19-20.

\textsuperscript{23} Tennant, p. 20.

\textsuperscript{24} Sproat Letterbook, No. 2, Vol. 1 [Copy held at Natural Resources Canada, Vancouver].
up a right to use. He argues the Indians did not understand the European concept of ownership. By taking the position that the Indians did not understand the meaning of the treaties, Fisher implies that the agreements were not fairly entered into and thereby puts at risk any benefit the Natives may have acquired. The ability of the Natives to comprehend the ramifications of the agreements they entered into is significant because, for an agreement to be valid, both parties must understand and consent to the subject matter of it. Exactly what entailed "ownership" for Natives may have varied from European notions, but an understanding of the significance of land economically, materially and symbolically was pervasive among Native peoples in B.C. As Douglas noted:

...The native Indian population of Vancouver Island have distinct ideas of property in land and mutually recognize their several exclusive possessory rights in certain districts, they would not fail to regard the occupation of such portions of the Colony by white settlers, unless with the full consent of the proprietary tribes, as national wrongs; and the sense of injury might produce a feeling of irritation against the settlers, and perhaps disaffection to the Government that would endanger the peace of the country.

Indeed, among virtually all Native peoples from the interior of B.C. to the Northwest Coast and the Queen Charlotte Islands, complex systems of land and resource ownership formed an integral part of societal structures and territories were mutually respected by Native groups. It therefore seems reasonable to conclude that the Natives did comprehend the concept of ownership and understood the nature of the agreements. Admittedly, the Europeans defined the terms under which the treaties would be negotiated. Natives would be considered the "rightful possessors" only of lands upon which showed evidence of European kinds of use. Equally, however, Native traditional rights of hunting and fishing would be secured. Underlying the agreements was the European political agenda which sought to make land available to incoming settlers while still dealing fairly with the Natives, and the moral agenda which sought to "improve" and


26 Governor James Douglas to the Secretary of State for the Colonies, March 25, 1861, PILQ, p. 16; also quoted in part in Cumming and Mickenberg, "Native Rights: British Columbia", p. 185.

assimilate the Native populace. These alternate aims may or may not have been known to the Natives.
Arguably, they too, had their own objectives, which were not necessarily evident to the European authorities.

Douglas's treaty making process was short-lived but, while it was in effect, the Indians demonstrated
a willingness to participate in the process. They exerted control over their interests, even, on occasion,
managing to shape the outcome. For example, Douglas had wanted the Indians to receive annuity payments.
The Indians, however, preferred a lump sum and that is what they received. Other Native groups were also
desirous of entering into arrangements and selling their land to Douglas. The Skosappson apparently offered
to sell their land near the Hudson Bay Company fort to Douglas. The Cowichan wanted to "sell" their land
as the Songhees had but Douglas informed the Cowichan that no agreement would be made with them because
settlement was not imminent in that area, a decision which would have profound consequences for Natives
and settlers in the area. Ultimately, politics and inadequate funds kept Douglas from securing agreements
with the other indigenous groups on Vancouver Island and on the mainland.

After 1858 Douglas's practice toward the Indians changed. This came about as a result of a pending
alteration in colonial policy with regard to the underlying title of the land. In February 1859, it was decreed
by proclamation that all lands in Island and Mainland colonies belonged to the Crown. This position was the
same as that already in place in the Maritimes. Consequently, no surrenders or treaties were considered
necessary. As well, the imperial position with regard to the Natives had altered significantly. Douglas was
instructed by Sir E.B. Lytton to consider if he thought

... it might be feasible to settle [the Indians] permanently in villages; with such settlement
civilization at once begins. Law and Religion would become naturally introduced amongst
the red men, and contribute to their own security against the aggressions of immigrants, and
while by indirect taxation on the additional articles they would purchase they would
contribute to the Colonial Revenue, some light and simple form of direct taxation, the

28 Kennedy p. 15; Fisher, Contact & Conflict, pp. 67-68; Tennant, p. 23; Stadfeld, pp. 31-41, 47-51, 60-
61. N.B.: Kennedy identifies the group wanting to sell the land near the HBCo. fort as Skosappson, while
Fisher identifies them as Songhees. Whether a "sale" occurred is unclear, but the land in question is where
the B.C. Legislature now stands.

29 Tennant, pp. 21-24; Fisher, Contact & Conflict, p. 153.

30 E. Brian Titley, A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in
Canada, University of British Columbia Press, Vancouver, 1986, pp. 5-6.
proceeds of which would be expended strictly and solely on their own wants and improvements, might obtain their consent.

Sir George Gray has thus at the Cape been recently enabled to locate the Kaffirs in villages, and from that measure, if succeeding Governors carry out, with judgement and good fortune, the designs originated in the thoughtful policy of that vigorous and accomplished Governor, I trust that the posterity of those long barbarous populations may date their entrance into the pale of civilized life.\footnote{PILQ, p. 15.}

From this despatch the new direction of Indian policy was suggested. Douglas greeted Lytton’s suggestions enthusiastically.

\ldots\text{I have much pleasure in adding, with unhesitating confidence, that I conceive the proposed plan to be at once feasible, and also the only plan which promises to result in the moral elevation of the native Indian races, in rescuing them from degradation, and protecting them from oppression and rapid decay.}\ldots

Anticipatory reserves of land for the benefit and support of the Indian races will be made for that purpose in all the districts of British Columbia inhabited by native tribes. These reserves should in all cases include their cultivated fields and village sites, for which from habit and association they invariably conceive a strong attachment, and prize more, for that reason, than for the extent or value of the land.\footnote{PILQ, p. 16.}

Douglas believed that forming settlements would assist in making the Native population self-supporting. It would also lead to the gradual assimilation of Natives into European society. Douglas’ new position toward the Natives had two elements: firstly, reserves would be the established; secondly, Indians would be allowed to pre-empt land. Priority would be given where settlement was anticipated, otherwise the Natives would be left "almost wholly to their own resources ... to pursue unmolested their favorite calling of fishermen and hunters."\footnote{Ibid.}

The concept of establishing reserves around village sites and cultivated fields conformed to the basic principles within the "treaties" it was, however, unique as a practice of reserve creation. The process, itself, was innovative. Indians were to instruct Douglas’s officials what lands they desired. These agents, often surveyors, were to reserve all lands identified by the Indians.\footnote{Fisher, Contact & Conflict, pp. 151, 154-55; Tennant, pp. 3, 38; PILQ, pp. 20-21, 26-27, 43.} In addition to the village sites and cultivated
fields, burial sites and, as far as possible, traditional resource areas were also to be included in the reserves. Douglas's own recollection of the process some years after his retirement was that

... in laying out Indian Reserves no specific number of acres was insisted on. The principle followed in all cases was to leave the extent and selection of land entirely optional with the Indians, who were immediately interested in the Reserve. The surveying Officers having instructions to meet their wishes in every particular, and to include in each Reserve the permanent Village sites, the fishing stations and Burial Grounds, cultivated land and all the favourite resorts of the Tribes; and, in short, to include every piece of ground to which they had acquired an equitable title, through continuous occupation, tillage, or other investment of their labour. This was done with the object of securing to each community their natural or acquired rights; of removing all cause for complaint on the ground of unjust deprivation of the land indispensable for their convenience or support, and to provide, as far as possible, against the occurrence of agrarian disputes with the white settlers. ... 

Paradoxically, rather than encouraging assimilation, Douglas's policy meant that many aboriginal communities remained resident in ancestral areas and were more easily able to maintain traditional practices and sustain their cultural integrity. Indian perceptions of the new colonial position regarding their land rights are difficult to ascertain. Numerous Indians applied to pre-empt land. Douglas, for his part, continued to meet personally with many Native groups. No detailed accounts of these meetings appear to have survived. Consequently, specific details of what was agreed to, or what assurances were given, remain vague. Historian Duane Thomson has stated that the agreement between Douglas and the Okanagan and interior Indians was regarded by them as tentative, something to be followed by full negotiations which would include compensation for abandoning exclusive ownership of their territory and acknowledgement of the right to pursue their traditional activities of hunting and fishing. The anticipated negotiations never occurred. Instead, reserves were established. The Indians would undoubtedly have perceived a change in the process, but they seem to have adapted to this change and participated in it. Their ability to maintain a discourse on the issue of land was also evident. When they

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36 Tennant, pp. 3, 38.


38 Thomson, pp. 101-02.
believed their requests for land were not being dealt with to their satisfaction, they complained to Governor
Douglas. More often than not, he agreed with their concerns and instructed his surveyors or agents to reserve
lands as the Indians instructed them.\textsuperscript{39} On the surface of it, Douglas’s reserve establishment process seemed
to allow more latitude for Natives to retain land than the treaty making process had. It was framed within the
same European concepts yet it allowed the Indians greater freedom in identifying and, theoretically, securing
lands. The implementation of the system, however, proved problematic.

During the late 1850s and throughout the 1860s, settler demands for land increased and disputes
between settlers and Natives escalated. This arose partly as a result of inconsistent application of Douglas’s
instructions as well as from the land demands of the Natives. In later years Douglas somehow formed the
opinion that these demands had been moderate.

\begin{quote}
\textldots it was found on comparison of acreage with population, that the land reserved, in none
of these cases, exceeded the proportion of 10 acres per family: - so moderate were the
demands of the natives!
\end{quote}

\begin{quote}
It was \ldots never intended that they should be limited or restricted to the possession of ten
acres of land; on the contrary, we were prepared, if such had been their wish, to have made
for their use much more extensive grants.\textsuperscript{40}
\end{quote}

In reality, in many cases original allotments, particularly along the Lower Fraser, were much larger than 10
acres per family. The allotments made by Royal Engineer William McColl ranged from 10.52 acres per capita
(as opposed to per family) to 135.2 acres per capita. Allotments for other bands ranged from 14 acres per
family, for the Cheam Band, to 92 acres per family for the nearby Popcum band.\textsuperscript{41} The allotments by
Assistant Commissioner of Lands, William Cox, were sometimes quite vague and of an undetermined size.
Cox maintained that he followed Douglas’s instructions to "mark out distinctly all the Indian Reserves \ldots and
define their extent as they may be severally pointed out by the Indians themselves", but government officials

\textsuperscript{39} Fisher, \textit{Contact & Conflict}, p. 154; PILQ, pp. 26-28, 43.
\textsuperscript{40} Letter, James Douglas to I.W. Powell, Indian Superintendent, Victoria, October 14, 1874, RG10, Vol.
7786, File 21750-8.

\textsuperscript{41} Tennant, pp. 33-34; PILQ, pp. 44, 47, 149. \textit{N.B.:} The population figures on the two pages vary and
furthermore, the actual figures on McColl’s map, held in the Surveyor General’s office in Victoria, differ from
those published in the book, but this range provides an example.
lamented that the reserves were of such a vast extent and so ill-defined that, in their view, Mr. Cox had given
the Indians 'what was not in his power to grant.' 42 One government official mockingly remarked that in
laying out reserves Cox had 'thrown pieces of paper into the air on a windy day and the spots where they
landed marked the boundaries of the reserve.' 43 Notices in the Government Gazette were supposed to
inform settlers what lands had been reserved. This practice, however, was inconsistently followed. 44
Neither does there seem to have been an official comprehensive list or schedule identifying lands set aside.
Surveys of reserves were sporadically undertaken. Claiming ignorance of, or simply in defiance of land
policy, settlers encroached upon reserved lands, asserting the primacy of their right to take land which
remained uncultivated by Natives. The result of Douglas's policy was discontent on the part of settlers and
Natives alike.

Douglas's reserve establishment practice did not achieve the results he had anticipated. Rather than
an harmonious integration of Native and settler societies, the two became entrenched in their respective camps,
each asserting their rights. Tennant has viewed Douglas' decision to establish reserves as a defacto denial of
aboriginal title. He also claims that Douglas' decision departed from the expectations of the British
government. 45 The passage of the proclamation in 1859 was evidently an attempt to eliminate the issue of
an underlying title. At no time, however, was the British government unaware of Douglas's plans with regard
to Indians and land policy. Indeed, they endorsed his plan to establish reserves around village sites and
cultivated fields and to encourage assimilation through pre-emptions and other means available to him. Native
participation in both the treaty making and the reserve establishment processes indicates they must have firmly
believed they would receive benefit satisfactory to themselves. While, perhaps, seen as a temporary situation

42 PILQ pp. 20, 26, 33-34; N.B.: to "lay out" or "mark out" a reserve was a preliminary step made by a
designated official. Desired lands were identified by the Indians and the area "marked out" so that, at a later
date, a surveyor could officially survey the land. In some instances it was a surveyor who performed the
"marking out" thereby in effect surveying it at the same time.

43 Fisher, Contact & Conflict, p. 187.

44 PILQ, pp. 164-167.

45 Tennant, p. 37.
to be more formally confirmed at a later date, it was never rejected as a means of securing a land base. Indeed, the reserve establishment practice conceived by Douglas was unique in that it sought to accommodate imperialist doctrine and Native needs. It became the foundation upon which all reserves in British Columbia were established. Regrettably, Douglas never codified his policy through legislative enactment. This omission left open the door for subsequent misinterpretation and abuse.

IV. JOSEPH TRUTCHE AND THE "POLICY OF ADJUSTMENT"

In the eleven years following Douglas's retirement from office in 1864, Joseph Trutch initiated what Fisher has euphemistically termed a "policy of adjustment". This decade marked a period of exclusion of Natives from any form of participation in European power processes, except those which either punished them or limited their rights. Trutch, acting first as Chief Commissioner of Lands and Works, and later as Lieutenant Governor, exercised an obsessive control over land issues. He epitomized settler interests in their least flattering form. He vilified Natives and had no regard for any claim they may have made with respect to personal or land rights. Despite considerable contact with Native people his opinion of them as 'bestial savages' never changed.

In reshaping colonial policy Trutch denied that there had ever been any recognition of an Indian interest in land. Determined to open up as much area for settlement as possible, he reinterpreted Douglas's statements on reserve size from a minimum of ten acres per family of five to be a maximum of ten acres per family of five. He then revoked Douglas's pre-emption policy and implemented the practice of reserve reduction. Although it was recognized that Native consent to reduction was obligatory under British policy, consent was rarely, if ever, obtained. Land deemed to be of no use to the Natives, including in some cases village sites, was removed from reserves. The lack of explicit records of Douglas's allotments, and of their

46 Fisher, Contact & Conflict, p. 164.


48 Tennant, pp. 39-41.

49 Fisher, Contact & Conflict, p. 165.
exact size and location, makes it difficult to ascertain the exact extent of reserve reduction effected under Trutch's authority. It can, however, be determined that in one instance in the Chilliwack area some 40,000 acres were removed from reserves surveyed in 1864 by William McColl. All of Cox's reserves were reduced. Reserves originally allotted in the area of Okanagan Lake and Penticton were reduced as were reserves laid out along the Lower Fraser. Natives were now without an ally in government. Complaints by them went unheeded. Invariably surveyors and government agents reported the Indians to have been "well satisfied", if not better off, as a result of the adjustments.50

The most significant event during Trutch's term of office was B.C.'s entry into Confederation in 1871. Trutch himself represented B.C.'s interests at the negotiations. More specifically, he represented the interests of settlers. Victorian hegemonic beliefs did not allow for consideration of the interests of other immigrants, of women or of Natives; everyone's interests were assimilated to those of immigrant British land owners.51 When the Dominion government insisted on the inclusion of a statement regarding B.C.'s Native people, Trutch prepared Article 13 for inclusion in the Terms of Union. This controversial, often quoted clause stated, among other things, that the Dominion Government would assume the "trusteeship and management of the lands reserved for [the Indians'] use and benefit ... and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union."52 In the previous seven years, Trutch had restricted Native rights and diminished the Native land base. The policies enacted by the British Columbia government had been anything but "liberal". Although Native issues had not been a topic of interest during the Confederation debates, historian G.E. Shankel, in his examination of Indian policy in B.C., has suggested the B.C. legislature would "not have permitted the perpetuation of so grim a joke." The Dominion Government, upon realizing the exact nature of the "liberal policy" which had been pursued by the B.C. government, also thought that "the insertion of a clause

50 PILQ, pp. 34-36, 41-47, 52-53; Tennant, p. 43; Fisher, Contact & Conflict, pp. 167-168; Fisher, "Joseph Trutch ...", pp. 163-64.

51 Fisher, Contact & Conflict, p. 176.

52 Cumming and Mickenberg, "Native Rights in Canada: British Columbia", p. 194.
The Honourable Sir Joseph W. Trutch, KCMG, Lieutenant Governor of B.C., @1875
[Photograph courtesy of B.C. Archives and Record Service, Victoria]
guaranteeing the aborigines of British Columbia the continuance ... of the liberal policy heretofore pursued by the Local Government, seems little short of a mockery of their claims." More interestingly, however, it would appear that Trutch, after having significantly misrepresented the nature of Indian policy in B.C., also misrepresented the extent of lands set aside for Natives.

One of the terms under which B.C. entered Confederation was that "the various tracts of land held under reserve by the [colonial] Government for the use and benefit of the Indians" were to be identified. To this end, Trutch directed the Chief Commissioner of Lands and Works, B.W. Pearse, to prepare a list and provide maps. Although Pearse had been involved with the surveying of Indian reserves for a number of years, his list, nevertheless, contained a number of interesting omissions. Notably absent were many of the lands set aside under the Douglas treaties. Reserves in the interior where settlement was expected were not identified and the reserves in the Chilliwack area which had been reduced by Trutch a few years earlier were also omitted. All told more than 60 pieces of land set aside for Natives were not included in the 1871 schedule prepared by B.C. Curiously, while the tracts of land were omitted from the Reserve Schedule, tracings and plans of the reserves were handed over to the Dominion Government. Still, it took approximately three years before the B.C. government was forced to acknowledge the unintentional omissions.

Trutch's term in office coincided with significant alterations in the traditional patterns of Native life. Utilizing the powers of non-Native law, Trutch extended settlement onto traditionally held Native land, thus making previously held traditional territories and resource areas inaccessible to Native users. Even when Natives did employ European land tenure methods by fencing and cultivating their fields, creating irrigation flumes or making other improvements to their lands, these modifications often went unseen by Europeans. Many traditional economic practices were no longer adequate. Equally serious, however, were the societal

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implications of depopulation. One of the more immediately pernicious aspects of settlement upon the Native community was the "importation" of disease. Contact with Europeans in the late eighteenth century brought with it exposure to infectious disease to which Native populations had virtually no immunity. Influenza, measles, "fevers", and ague infected Native groups throughout the Northwest resulting in deaths across the population spectrum.\textsuperscript{56} But the most virulent and recurrent of the epidemics was smallpox. "Genocidal" and "catastrophic" are adjectives commonly used to describe the impact of the virus. Historic and demographic evidence leaves little doubt that every Native group in B.C. was touched by disease of non-Native origin. The epidemics of the 1852-53 and 1862 occurred at a critical juncture of settlement and no doubt affected Native ability to "cope with settlement". Duff estimated that at the onset of the 1862 epidemic the Indian population was approximately 60,000, but by the time the epidemic had "burned itself out two or three years later" Natives numbered about 40,000.\textsuperscript{57}

Foucault classifies such societal crises as periods of "discontinuity" wherein the discourse under which a society operates and defines its self-knowledge undergoes significant alteration.\textsuperscript{58} Literary theorist Edward Said views these crises as periods of adaptation and resistance to overwhelming forces, while anthropologist Clifford Geertz sees a process of "strategies of adaptation" arising out of a need to order, or re-order, conceptions of the world, the self and relations between them.\textsuperscript{59} Historian Sabine MacCormack has drawn an analogy to the "antique Mediterranean" where Christians were deeply divided as to how much of their pagan past could be permissibly salvaged and how much simply had to be salvaged if meaningful


existence was to continue.\textsuperscript{60} More tellingly, Antonio Gramsci observed that a "traditional culture, tottering on the edge of an historical abyss", with another culture at its back, "may turn around and grasp its executioner in an effort to save itself."\textsuperscript{61}

Survival, resistance and adaptation became the cornerstones upon which Native culture rebuilt itself. Faced with internal re-ordering of societal structures as a result of the severe depopulation and ongoing changes in economic relations with Europeans, it remained impossible for Natives to ignore the non-Native world which was enfolding the traditional one. Natives were not reduced to irrelevance within the European economy; instead they took advantage of other economic livelihoods.\textsuperscript{62} European economic practices were accommodated within traditional occupations. During the latter part of the nineteenth century, the traditional seasonal round incorporated wage work in canneries, on commercial fishing boats, and at hop fields, thus creating a neo-traditional economic round. Societal restructuring manifested itself in part by the abandonment of village sites and the amalgamation or incorporation of survivors into other villages and kin structures.\textsuperscript{63} Securing an adequate land base also remained a critical issue and Natives asserted their land rights repeatedly throughout the latter half of the century. Reserve establishment became the means by which Natives retained access to the land and maintained a discourse on issues of concern with Europeans.

By the time B.C. entered Confederation, the 1859 colonial proclamation declaring all land to be Crown land had been repealed. The difficulties of trying to persuade the B.C. government to further alter its practices and policies with respect to its Native population no doubt influenced the Dominion government decision to approach the matter of securing lands for Natives from an alternate position. Tennant credits Trutch with the shift to reserve establishment. He suggests that in refocussing the issue before the Dominion

\textsuperscript{60} MacCormack, p. 11.


\textsuperscript{62} Knight, pp. 9-18, 177-181.

government from title to reserve establishment Trutch and his allies achieved a "major, but unheralded, victory". He argues that from this point forward, such debate as there was ... centered not upon the fundamental question of title but on the lesser issue of reserve size. This issue involved no deep principle, but rather simply the degree of generosity the Crown should display in allowing Indians to use land to they had no claim to.\textsuperscript{64}

Given Trutch's advocacy of settler land rights, permitting any additional lands to be reserved for Native use could only have been seen as a concession on his part, not a victory. Furthermore, should any additional lands be set aside, title to those lands would be vested in the Dominion Crown, out of provincial jurisdiction. Trutch was determined to retain effective control, or at the very least substantial influence over Indian land matters. He persistently defended his colonial policy of allotting 10 acres per family of five although reserves were being established east of the Rockies with a minimum of 160 acres per family. In 1872, Trutch wrote to Prime Minister Sir John A. Macdonald, describing the Natives of the province as "utter savages" and arguing that control of Indian affairs should be vested in the Lieutenant Governor, that is, himself.\textsuperscript{65} A short time later, when it was suggested that a Board be established to review Native land matters, Trutch, as Lieutenant Governor, lobbied to be head of it. But, by this time the Dominion Government was acutely aware of the error it had made with respect to B.C.'s Indian policies. Trutch was duly informed that it was quite doubtful "whether the [Dominion] Government would be prepared to delegate any person in British Columbia the general control of Indian affairs in the Province."\textsuperscript{66} The Dominion government disallowed legislation proposed by the new province as adversely affecting Natives and pursued the issue of establishing additional reserves. Ultimately, the B.C. government capitulated and agreed to the organization of a Reserve Commission to deal with the matter of Indian reserve establishment.\textsuperscript{67} The provincial government, however, did not

\textsuperscript{64} Tennant, p. 41.


concede that the issue of "Indian title" should be a part of this process.

V. THE JOINT INDIAN RESERVE COMMISSION

In 1876 the first commission was established. It was known as the Joint Indian Reserve Commission (JIRC). Fisher has characterized the work of this commission as an "exercise in futility". In his view, the Joint Indian Reserve Commission failed because it did not "effect any significant change in the Indian policy." 68 At this point in provincial-Dominion and settler-Native relations, however, the establishment of the Joint Indian Reserve Commission was, in and of itself, a significant change in Indian policy. After more than a decade of settler incursion on traditional Native lands, the Dominion government established a process through which B.C. Natives would have at least some of their traditional lands secured for them. The principles of reserve creation implemented under Douglas were reinstated. In consultation with the Indians, village sites, cultivated fields, resource areas and any other land deemed to be of beneficial use to the Indians were to be set aside. It was, nonetheless, portentous that B.C. eliminated the words "speedy" and "final adjustment" from its version of the terms of the Commission. 69

Three men were appointed to this initial Indian Reserve Commission; all of them having had first-hand experience with B.C. Natives in the past. Alexander Anderson, the Dominion representative, and Archibald McKinley, the Provincial representative, were both former Hudson's Bay Company employees with considerable experience in the field with Indians. In fact, Anderson and McKinley had apparently gone into business together after their retirement from the Hudson's Bay Company. 70 Gilbert Malcolm Sproat was a businessman who had first come to B.C. in 1860. He had recently returned from Britain where he had held a number of self-created positions, including chair of the "London Committee for Watching the Affairs of British Columbia" and Agent General of British Columbia. During his initial stay in B.C., Sproat had become

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68 Robin Fisher, "An Exercise in Futility: The Joint Commission on Indian Land in British Columbia, 1875-1880" Okanagan Historical Society: Forty First Annual Report, 1977, p. 8. (N.B.: while the article is relied upon here, the same issues are discussed in Ch. 8, Contact & Conflict)

69 Shankel, pp. 124-125; Fisher, Contact & Conflict, p. 188.

70 Sproat to the Honourable Minister of the Interior, August 27, 1877, RG10, Vol. 3653, File 8702.
familiar with the Indians of the west coast of Vancouver Island; he wrote a number of papers and a book about them.  

Also affiliated with the JIRC were surveyors such as Edward Mohun, who had had considerable experience during the colonial era surveying Indian lands, and George Blenkinsop, another former Hudson’s Bay Company employee, who was acting as census taker. Blenkinsop’s enumeration of the Indians was particularly important as it was the first serious undertaking of its kind. It would also serve to provide the province with per capita acreage figures.

The Dominion Government’s intent regarding reserve establishment was reflected in the instructions it issued to its Commissioner, Alexander Anderson, and to the Joint Commissioner, Gilbert Malcolm Sproat.

You will assure the Indians of British Columbia of the friendly feeling of the Government of the Dominion towards them, and that it is the anxious desire of the Government to deal justly and reasonably with them ... The aim and object of the Dominion Government in their general Indian policy in British Columbia, as in other portions of the Dominion, is to assist Indians in their efforts to raise themselves in the social and moral scale, so that they may ultimately enjoy all the privileges and advantages which are enjoyed by their fellow white subjects ...  

... While it appears theoretically desirable as a matter of general policy to diminish the number of small reserves held by any Indian nation, and when circumstances will permit to concentrate them on three or four large reserves, thus making them more accessible to missionaries and school teachers, you should be careful not even for this purpose to do any needless violence to existing tribal arrangements, and especially not to disturb the Indians in the possession of any villages, fishing stations, fur-trading posts, settlements or clearings, which they may occupy and to which they may be specially attached, and which may be to their interest to retain. ... You will in determining the number of reserves to be assigned to any particular Indian nation be guided rather by the special circumstances of that nation, their habits, tastes, pursuits and physical surroundings, than by any fixed theoretical rule. ... They should ... be encouraged to preserve in the industry or occupation they are engaged in, and with that view should be secured in the possession of the villages, fishing stations, fur-posts, or other settlements or clearings which they occupy in connection with that industry or occupation, unless there are some special objections to so doing, as for example, where the Indian settlement is in objectionable proximity to any city, town, or to a village of white people. ...

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72 Kennedy, pp. 94-95, 97; Shankel, p. 137.

73 Kennedy, pp. 88-90, 93, quoting from Memorandum of Instructions to the Dominion Commissioner, August 25, 1876, RG10, Vol. 3633, File 6425-1.
McKinley's instructions were similar in tone. He was, however, instructed "not to imperil the progress of white settlement by conceding unnecessarily large reserves" and he was to report upon anything which in his opinion "may tend to militate against the interest of the province or may require remedying." Neither the Dominion nor the provincial instructions stipulated that the decisions of the JIRC would be final. Indeed, while obviously reflecting non-Indian interests, the mandate still gave the Commissioners latitude in dealing with the Natives. The instructions under which the Commissioners were to operate indicate that, as with Douglas's system, Indians were to participate in the process of land selection and not be at the mercy of unilateral decisions.

In its two years of work, the JIRC travelled fairly extensively, going from village to village meeting Native representatives, allotting reserves and adjusting existing ones. Adjustment in this instance often meant enlarging. The JIRC met with numerous Indian groups up Howe Sound, along Burrard Inlet, on the Lower Mainland, on Vancouver Island and in the Interior, where it quelled a potential uprising by local Natives. Natives expected justice with respect to their grievances and the JIRC listened to the Natives's complaints. The Commissioners accommodated Native concepts of time and methods of negotiating. This change in position from Trutch's policies was not lost upon the Indians. Sproat noted that they "have been troubled about their land reserves hitherto and have no intelligent notion of their true position in the community." Frequently, in their Minutes of Decision, the Commissioners would note that the Indians were the "oldest owners or occupiers of the soil" and that rights to water and other available resources were to be accessible to them. Occasionally they allotted lands to more than one Native group, to be used in common. Village sites were invariably set aside. As far as was possible, the Commission attempted to deal diplomatically and fairly with the Natives.

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74 Kennedy, p. 92.
75 Kennedy, pp. 94-104.
77 Sproat to the Minister of the Interior, October 3, 1877, RG10, Vol 3656, File 9064.
The Joint Indian Reserve Commission - Gilbert Malcolm Sproat [on the left leaning back], Archibald McKinley [with dog], Alexander C. Anderson [standing beside dog], Edward Mohun, Surveyor [bearded man to the right of Anderson], note the Indians in the group.

[Photograph courtesy of B.C. Archives and Record Service, Victoria].
Availability of lands not taken by pre-emption or Crown grant made allotments difficult. Reserve establishment versus settlement became an ongoing issue within British Columbia. The power of the JIRC to deal with and resolve problems related to settlement was limited. One telling incident of settler and Native interests clashing over lands allotted by the JIRC occurred in the Osoyoos area. Lands to be set aside as reserves were clearly identified upon a map, however a misinterpretation of roman numerals on the map led the local magistrate to take advantage of the situation and purchase for himself land clearly designated for the local Natives. Despite notifying provincial authorities of the error, the Commission was ineffective in cancelling the sale.79 Indians and settlers appeared before the Commission and, to the chagrin of many settlers, Commission decisions were not de facto recognition of their interests. In one instance, a settler was found not to have complied with provisions of the Pre-emption Act by virtue of his being an absentee land owner and holding more than one pre-emption. Consequently, the JIRC found that the land was not legally open to pre-emption. This evidence was combined with compelling testimony from the local Indians that the land was traditionally held by them. The Commission declared the area vacant Crown land and then allotted it as an Indian reserve. It was Sproat’s opinion that settlers such as this “knowingly risked the dangers of non compliance with the law in the hope of getting more, and they have lost the game.”80

Despite having come to an agreement in writing, the provincial government obstructed and delayed the work of the JIRC as much as it could. The balance of power remained in the hands of the two governments who retained the right to review all decisions made by the Commission. Citing expensive operating costs, among other things, the provincial government made representations that the Commission should be discharged. Finally, in March, 1878, the three man Commission was disbanded.

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80 Sproat to the Superintendent General of Indian Affairs, Ottawa, October 3, 1877, RG10, Vol. 3612, File 3756-22.
VI. GILBERT MALCOLM SPROAT AS SOLE INDIAN RESERVE COMMISSIONER

With the dissolution of the three-man commission, Gilbert Sproat, the Joint Commissioner, suggested he remain as the sole Indian Reserve Commissioner. Sproat was a verbose and opinionated man as well as a prolific writer.\(^{81}\) It is from his writings that some academics derive the belief that Sproat was a more progressive individual and a stronger advocate of Indian rights than he really was. Depicting Sproat in this manner makes him appear a mercurial, enigmatic figure. Fisher, for example, credits Sproat for noting the intolerance of settlers toward Indians and for being an ally of the Natives, but he also criticizes him.

Sproat found it difficult to obtain knowledge of Indian religious ideas because [the Indians] commonly assumed that no white man was capable of understanding such mysteries. In Sproat's case they were correct. He went on to say that little reliance could be placed on Indian explanations of religions matters because in nine out of ten cases they were full of "lies and misstatements", either aimed at mystifying the inquirer "or owing to the mental weakness of the savage on religious subjects."\(^{82}\)

Only by remembering that Sproat was a typical Victorian do his sometimes contradictory opinions become more understandable.

In many ways, Sproat's attitudes and conduct as sole Indian Reserve Commissioner emulated James Douglas. Like Douglas, he believed firmly in the Victorian principles of British superiority and progress as well as the need for acculturation and assimilation of Natives. He believed that he, and other Europeans, had the right to intrude upon Native land for the purpose of development. He fully affirmed the Imperial principle that lands not "used" by Natives should be made available to settlers, while at the same time acknowledging the Natives' rights to a land base to sustain themselves. Like many Victorians he envisaged a hierarchy of Natives which was primarily based upon physical appearance. Those whose looks appealed to Victorian sensibilities were deemed to be more advanced than those whose looks were unappealing. But, under the guiding hand of non-Native tutelage, in time, all Natives could be "civilized". The means to accomplishing this end was for Natives to realize that they had to adjust their traditional ways and integrate themselves into European society. Altering their forms of worship and adopting an agrarian lifestyle were two signs of

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\(^{81}\) Lillard, The Nootka..., p. xxi; Kennedy p. 94; Fisher, "An Exercise in Futility...", p. 10; Fisher Contact & Conflict, p. 189.

\(^{82}\) Fisher, Contact & Conflict, pp. 90-92.
advancement in Sproat's opinion. He had no hesitation in informing Natives of the coming new order.

I said, generally, that the heart of the great chief at Ottawa towards them was what the heart of Sir James Douglas had been; that he wished them to have land to work on, but not land to lie on their backs and look at; that the government wished Indians and whites to be the same; and that all present special arrangements for the Indians were temporary; they could not read nor write, and as on this account white men might cheat them, the government, in some degree, intervened and protected them; all talk about the "Great Mother" I said, was "gabble"; the Queen was just and kind to Indians as to whites, but they must not suppose that they were children; they were strong men, and their aim should be to be like good white men - meanwhile, as they were the old people of the country, they got land for nothing and paid no taxes. White men paid for their land and paid taxes. The Government was a Kind [sic] friend, but not an indulgent mother. Their fate was in their own hands; if they did not work, they would die off. The old fashion was passing; they must adopt the new fashion ...

Like his mentor Douglas, Sproat wanted to have Indian matters placed entirely under his control. Sproat firmly believed that he knew what was best especially in relation to Indian interests and Indian policy and he had no hesitation in sharing his vision with officials in Ottawa and Victoria at every opportunity. He expected both Native and non-Native alike to acquiesce to his position. While he succeeded to some degree with the Natives he encountered, his sphere of influence among contemporary Victorians remained limited and this ultimately affected his ability to act constructively as Indian Reserve Commissioner.

Sproat's procedure for reserve establishment during his tenure as Indian Reserve Commissioner differed little from that of the Joint Indian Reserve Commission. Blenkinsop still travelled with him as census taker and he obtained the services of a Native interpreter as needed. Early on in his work, Sproat remarked that:

from my limited experience as a single Commissioner so far, I think that the Indians did not quite appreciate [sic] the constitution of the three-man commission. It was too complex for them to understand. They had, moreover, an idea that some of the gentlemen of the Commission were officially placed there to see that they did not get their due. This made them [the Indians] argue among themselves, and proffer large demands, and withhold confidence to some extent.

83 Sproat to the Honourable Superintendent General of Indian Affairs, Ottawa, November 6, 1878, RG10, Vol. 3669, File 10,691; Sproat, The Nootka..., pp. 4-5, 20-26.; Fisher, Contact & Conflict, pp. 91-92; Roine, pp. 1, 3-5, 8.

84 Sproat to the Honourable Superintendent General of Indian Affairs, Ottawa, November 6, 1878, RG10, Vol. 3669, File 10,691.

85 Sproat to the Honourable Superintendent of Indian Affairs, Ottawa, June 12, 1878. RG10, Vol. 3612, File 3756-17.
Sproat met with the Natives and discussed with them issues which were of concern. He noted he had
... given them plenty of time [to state their own views and requirements] and visited every
place they asked me to look at, without confusing them by hurry and fuss, which they do not
like nor understand.\(^{86}\)

At some point, either during the course of his work with a particular group, or shortly thereafter, Sproat
prepared detailed notes or field minutes of each of his encounters with the Indians, outlining the problems in
the area and identifying the lands set aside as reserves. More explicit minutes of decision, identifying the
geographical parameters of the allotted land, were also prepared. The field minutes and minutes of decision
were used by surveyors who went back to the areas of Sproat’s allotments to conduct formal surveys. Sproat’s
work also involved re-allotting and in some cases re-defining reserves originally surveyed in the colonial
era,\(^{87}\) and he also obtained consensual surrenders of land from two groups along the Lower Fraser.\(^{88}\)

Sproat was innovative in establishing reserves. He carried on with the practice begun with the JIRC
of creating "commonages" for many Native groups to use as grazing areas or for other agricultural pursuits.
Faced with the difficulty that in many areas all the good land had been taken up by settlers, regardless of
whether or not it was in violation of existing land ordinances protecting Native habitations and cultivations,
Sproat did what he could to allot land of agricultural value. He attempted to ensure that, when land of
agricultural potential was available, water for irrigation was also included as part of the reserve allotment.
He also allotted "temporary reserves" a practice which seemed designed to hold land for Natives until "legal
claims" could be assessed and "final adjustment" could be made.\(^{89}\)

Sproat gained the confidence of the Natives he encountered and induced many groups to leave

\(^{86}\) Sproat to the Honourable Superintendent of Indian Affairs, Ottawa, June 12, 1878. RG10, Vol. 3612, File
3756-17.

\(^{87}\) These reserves include Nohomeen, Klahkamich, Inkluckcheen and Nickelpalm for the Lytton Indians.
Albert Flat for the Yale Indians, Katzie reserves nos. 1 and 2, Ashnola and Bonaparte and reserves along the
Lower Fraser including Sumas.

\(^{88}\) Canada Land Survey Records Field Book 31529, pp. 9, 86-87 [also numbered 6-7]. [Copy held by
Department of Natural Resources, Vancouver]; "Minutes of Decision & Report on Bands" - G.M. Sproat,
Vol. 21 (Reg. No. 7470-2440) [Copy held at DIA, Vancouver], pp. 327-28.

\(^{89}\) Minutes of Decision - G.M. Sproat: Vol. 1 (Reg. No. 64639); Vol. 2 (Reg. No. 64640); Vol. 3 (Reg. No.
64641) [Copies held at DIA Vancouver].
decisions in his hands. Sproat observed that certain areas were "linked to the hearts of the people by many associations" and remarked that Natives were not so much interested in acreage and arable land as they were in "the old places of fun up in the mountains or some places of fishing". Rocks and stones of the "old loved localities" taken up by whites held more appeal than other land. On one occasion Sproat even set aside a race course.

Beyond what he perceived as sentimental appeal, the value of these tracts of land was apparently lost on Sproat. Even with his prolonged interaction with Natives, Sproat, like many Europeans, often had a deficient understanding of the behaviour he observed. His interpretations remained ethnocentric and possibly erroneous. From another perspective it would seem that despite the loss of elders from epidemic disease and other causes, the sense of value of traditional places was apparently not lost upon the surviving population. They appear to have chosen to secure those places as reserves whenever they could. No doubt these "sentimental" choices were predicated in part upon land availability. Still, Sproat's observation of their preferences suggests another motive which eluded him.

During Sproat's tenure as Reserve Commissioner, Native participation in the reserve establishment process increased substantially. Indians waited impatiently for Sproat to meet with them. William Teague, Government Agent in Yale, informed the Chief Commissioner of Lands and Works that the chiefs in his area were anxiously awaiting the arrival of the Indian Reserve Commissioner to settle their land issues. Large delegations of Indians often met with Sproat. At one point, unannounced, fifteen Chiefs and one hundred representatives from the tribes between Yale and Lytton appeared at Sproat's camp apparently to say goodbye and to indicate their support for the Queen. At another meeting of over five hundred Lytton Natives "various
important questions had arisen which would not be lost sight of, but which could not be settled at present."\(^{94}\)

These "important questions" may well have related to the issue of title, which Sproat was not empowered to deal with. In 1878 a deputation of six chiefs representing all the chiefs and people between the mouth of the Fraser and Yale travelled to Victoria to meet with Sproat to inform him they would "willingly negotiate" with him. According to Sproat they "earnestly begged that their district should be attended to."\(^{95}\) The Thompson, or "Neklakapamuk" people were also extremely anxious to conform to European standards and to have a "clear understanding with the Government."\(^{96}\) Both the Thompson and the Fraser-Yale Indians desired to reconstitute their traditional societies in ways which would, they believed, be acceptable to the Dominion authorities. Such actions clearly indicate not only a desire to participate in the reserve establishment process, but also demonstrate that the Natives were capable of altering their discourse with Europeans.

While Sproat apparently developed a strong rapport with the Natives he met, he increasingly alienated government officials whose allegiance he required to effect any changes in Indian policy. His support from the provincial government from the outset was conditional.\(^{97}\) And while the Dominion government endured his lengthy missives detailing the iniquities of Indian affairs in B.C., ultimately their support for him waned as he became less and less accountable to Dominion authorities. Fisher described Sproat's approach to his work as "meticulous"\(^{98}\), but this hardly seems to have been the case. Sproat's field minutes and minutes of decision, while replete with observations about the Natives, were often inconsistent in the information they supplied. As Sproat spent the majority of his time in the Interior where settler encroachment was most pronounced, many of his letters reflect the difficulty he had in securing land appropriate to Native needs. Sproat's descriptions of reserves were sometimes inadequate, making it difficult, if not impossible, for

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95 Sproat to the Superintendent General of Indian Affairs, Ottawa, April 10, 1878, RG10, Vol. 3641, File 7567.

96 Sproat to the Superintendent of Indian Affairs, Ottawa, November 6, 1878, RG10, Vol. 3669, File 10,691.

97 Kennedy, p. 109.

98 Fisher, Contact & Conflict, p. 201.
surveyors to locate the land. Edward Mohun, Surveyor, to Colonel Powell, Indian Superintendent, Victoria, June 8, 1880, Vol. 2 (Reg. No. 64640) [Copy held at DIA Vancouver].

His conduct not only irritated provincial authorities, it also provoked his Dominion superior, Indian Superintendent I.W. Powell. Sproat became remiss in following instructions from Dominion officials. He began submitting inaccurate reports of his activities. By 1880, two years had passed since he had been in the interior, yet he had still not submitted final reports of his work to Powell. Powell wanted reserve establishment to proceed in the areas of Cache Creek, Williams Lake and Lillooet, all areas experiencing incoming settlers. Sproat, however, went to the Island and allotted reserves for the Sliammon, Klahoose and Homalco as well as bands in the Johnstone Strait area and the Lekwiltok people and Kwakwala-speaking tribes. He then proceeded to the West Coast of the island to allot lands at the area around Barclay Sound and along the Coast. Here, rather than following the usual protocol of meeting with the Natives and examining the lands desired, Sproat chose to remain in his tent and, using an admiralty chart, simply drew the proposed allotments onto the map. Such conduct went completely against the procedures of consultation and "on the spot" reviewing of land and infuriated Powell. The consequence of Sproat's actions was that not only would the work in the West Coast need to be re-done, but areas requiring Sproat's presence had not been dealt with. Sproat's attendance at a meeting with the Thompson Indians which was designed to establish a constitution for the reorganization of their tribal life proved to be his last act as Indian Reserve Commissioner. He attended the meeting at the request of the Indians and also because he supported their plan of creating a constitution for themselves. In Sproat's view this was a logical, evolutionary step in the advancement of the Thompson people. His attendance, however, was in defiance of the express wishes of the Dominion government. Sproat was instructed by his superiors to discourage the Indians in their efforts. Opposed to doing so, Sproat resigned in March, 1880.

Sproat held an unusual place in the settler-Native power-knowledge nexus. Aware of imperialist

99 Edward Mohun, Surveyor, to Colonel Powell, Indian Superintendent, Victoria, June 8, 1880, Vol. 2 (Reg. No. 64640) [Copy held at DIA Vancouver].


101 Kennedy pp. 122-23.

102 Kennedy, pp. 123-124; Tennant, pp. 54-55; Fisher, Contact & Conflict, 198.
initiatives to secure a land base for Natives and assimilate them into European society, he attempted to use innovative measures, such as creating temporary reserves, and encouraging what he perceived to be progressive principles amongst Native groups. Aside from his West Coast work, all his decisions were made in consultation with the Natives. Natives demonstrated an increasing awareness of the reserve establishment process and gave every indication of wanting to participate in it. Supportive of the Victorian agricultural agenda, Sproat sought to secure an agrarian land base, while at the same time securing the traditional "old places of fun" identified by the Natives. Although Fisher has stated that Sproat felt bound to speak for the Indians,\textsuperscript{103} it seems apparent that the Natives were quite capable of communicating their grievances and objectives to Sproat. In attempting to create a constitution and re-organize their traditional structures, the Thompson people gave clear indication that they were prepared to alter their societal structures and mould their discourse into something they perceived, from Sproat's support, would be acceptable to Europeans. Where Sproat failed was in his inability to interact effectively with other government officials. He believed himself to be the best judge of Indian matters and refused to acknowledge their authority. His conduct resulted in alienating those whose influence he needed most and in his being relegated to the periphery of the sphere of power. Except for reserves within the Yale District, none of Sproat's allotments were formally confirmed by the B.C. government.

VII. PETER O'REILLY, INDIAN RESERVE COMMISSIONER

Sproat's successor was Peter O'Reilly. Academics have depicted O'Reilly's term in office as a return to the reductionist, settler-oriented policies of his brother-in-law, Joseph Trutch.\textsuperscript{104} Unlike Sproat, O'Reilly was firmly entrenched within the B.C. elite. Former Gold Commissioner, Magistrate, and Victoria businessman, and married to Joseph Trutch's sister, Caroline, O'Reilly came out of retirement in 1880 to accept the position of Indian Reserve Commissioner. His conduct in his former positions had earned him a

\textsuperscript{103} Fisher, Contact & Conflict, p. 194.

\textsuperscript{104} Fisher, Contact & Conflict, pp. 199; Tennant, p. 50-51; Kennedy, pp. 128-29, 133.
place of respect among his Victorian peers.\textsuperscript{105} The Dominion Government readily accepted O'Reilly's nomination, no doubt perceiving the value of someone well-connected provincially carrying out the work of allotting reserves under Dominion guidelines and authority. O'Reilly's instructions advised him to act at his own discretion upon the suggestions of the Chief Commissioner of Lands and Works and Indian Superintendent, I.W. Powell. He was to be guided by the Terms of Union having "special regard to the habits, wants and pursuits" which Natives "may be profitably following or engaged in" as well as to the claims of settlers.\textsuperscript{106} O'Reilly was the longest serving Indian Reserve Commissioner. He held the position from 1880 until his retirement in 1898. Numerous developments occurred within the province during O'Reilly's tenure. B.C. was connected to the rest of Canada by the railway. Settlement expanded to unanticipated parts of the province. Indian agencies were established by the Dominion government throughout the province. And, most significantly, by 1891, the non-Native population outnumbered the original Native inhabitants.\textsuperscript{107}

During the course of his work, O'Reilly re-traced and re-evaluated allocations made by Sproat, assessing the temporary reserves and reducing and adjusting other allotments. One of his more controversial decisions was the elimination of the commonages created by Sproat. Amidst Native protests the Okanagan commonage and the Douglas Lake commonage were thrown open to pre-emption in 1888 and 1889 respectively.\textsuperscript{108} O'Reilly travelled extensively within B.C. returning to some locales two or three times.\textsuperscript{109} G.E. Shankel has remarked that O'Reilly's entourage was "highly mobile". Although Shankel states that O'Reilly travelled with only one assistant and an interpreter,\textsuperscript{110} O'Reilly's own correspondence indicates that his group was normally slightly larger. As he travelled from village to village, O'Reilly acquired the services

\textsuperscript{105} Fisher, \textit{Contact & Conflict}, pp. 199-200.

\textsuperscript{106} Kennedy, pp. 126-27.

\textsuperscript{107} Kennedy, p. 128; Fisher, \textit{Contact & Conflict}, p. 201.

\textsuperscript{108} Kennedy, pp. 128-29, 133.

\textsuperscript{109} For example, O'Reilly visited the West Coast of Vancouver Island in 1882, 1889 and 1890, the Nass River area in 1882 and 1892, the Nahkwockto people in 1882 and 1889, Kispiox in 1891 and 1892, and Keremeos in 1885 and 1889.

\textsuperscript{110} Shankel, pp. 141-42.
of local interpreters who were paid. Usually the interpreters were Natives who were acceptable to the community, but occasionally non-Natives who were versed in the local language were used. The non-Native interpreters were also acceptable to the local Natives. A secretary also accompanied O'Reilly, taking minutes of meetings. As well a surveyor and possibly and chainman marked out the reserves and made sketches which would be used to assist surveyors when they returned to formalize the boundaries. Whenever possible the Indian Agent accompanied O'Reilly. Finally, it would seem that, on occasion, O'Reilly took along his son.\(^{111}\)

Fisher has criticized O'Reilly's procedures as being "in marked contrast to the meticulous care with which Sproat worked",\(^{112}\) but the extensive correspondence, field notes and minutes of decision produced by O'Reilly belie this allegation.\(^{113}\) The methodical consistency with which O'Reilly filed his reports and detailed his activities indicate that O'Reilly was extremely meticulous in the execution of his duties. Every field minute includes dates of meetings with Native groups, identification of chiefs and or their representatives, population figures, livestock statistics, identification of the economic pursuits, an estimate of the size of the reserves and an assessment of living conditions and the agricultural value of the reserve. Each reserve was identified by name and/or number. This method enabled O'Reilly to specify how many reserves were set aside and, if he returned to the area, he would carry on with consecutive numbering of reserves. The minutes of decision provided greater detail of the proposed reserve boundaries, occasionally including chainage, which was undoubtedly supplied by the surveyor accompanying him. All the information pertaining to the allotments was subsequently sent to the Chief Commissioner of Lands and Works for approval. Virtually every allotment was approved without alteration.

In setting aside land, O'Reilly was guided by the principles of Dominion policy and the instructions given to him by the Dominion authorities. Village sites were customarily reserved. Burial grounds were also

\(^{111}\) Shankel, p. 141, fn. 58.

\(^{112}\) Fisher, Contact & Conflict, p. 201.

\(^{113}\) N.B.: As part of the research for this thesis the 25 volumes of field minutes and minutes of decision held by the Department of Indian Affairs (DIA) were reviewed.
regularly identified and included within reserves, although some burial grounds were on lands pre-empted by settlers. O'Reilly was limited in his ability to reclaim these grounds, and not all burial sites he did reserve were finally surveyed and secured for the Indians. Typically, Natives who either demonstrated agrarian habits and cultivated land, or who promised to begin pursuit of them, were often granted larger tracts of land. The quality of that land was, however, often suspect. In some areas, such as Lytton and the Chilcotin, most of the land had been taken up by pre-emptions. In one instance the Dominion government purchased several pre-emptions in order to establish a reserve of reasonable size and quality. O'Reilly was particularly diligent in securing resource sites for Natives. In dealing with hunting areas, O'Reilly refused to reserve large tracts of land, but assured Natives that they would be able to continue to hunt over unoccupied Crown lands. Interestingly, he attempted to secure the exclusive use of fishing sites for the Native users. Unfortunately, the Department of Fisheries and Oceans would not allow these allocations and O'Reilly had to give up the practice, although he did continue to reserve desired fishing sites.

It also seems apparent that O'Reilly had, at the very least, a working knowledge of tribal affiliations. How deep that understanding was is uncertain. It is quite possible that the Native representatives, either speaking directly or through the interpreter, informed him of their local structures. It is equally possible that Indian Agents or local missionaries provided the information. In any event, O'Reilly thought the information significant and regularly identified the different groups residing in the area. On the West coast O'Reilly noted that the group identified as the "Clayoquot tribe" was divided into four branches, viz, the Clayoquot, Ahousat, Kelsemart and Manhouset, each branch having a distinct chief, but they are no so intermarried, and intermixed, that it is

114 Kennedy, p. 130.
diffficult to do otherwise than treat them as one tribe.\textsuperscript{117} O'Reilly also noted that the Manhouset band was "practically extinct." The "Laich-quiil-tach/Eu-claw-taw" and Hagwilget are among the many tribes O'Reilly described. O'Reilly also provided some commentary on local situations. He noted arrangements between local Indian groups regarding various matters, including resource use. In the case of the Kitsun and Hagwilget Indians, O'Reilly noted that the Hagwilget Indians "pay a nominal tribute" to the Hazelton Indians for the "privilege" of utilizing a fishery. Visiting the McLeod Lake people, O'Reilly was struck by the living conditions. He noted that "sickness and destitution often prevail" and that mortality had been great in the past year (that is, 1891-92). Indeed, he observed that "no less than three" funerals took place during his "stay in the neighbourhood."\textsuperscript{118}

Fisher has alleged that O'Reilly rushed into an area, made a decision with little or no consultation, imposed it upon the Natives and then wondered why they were dissatisfied.\textsuperscript{119} As an example of O'Reilly's "customary clumsiness" Fisher cites O'Reilly's interaction with the Kootenay nation. Fisher asserts that O'Reilly was unable to assess the needs of the Indians because he was unable to take a census and that the local Chief, "Isadore", refused to accept O'Reilly's allocations. O'Reilly made at least two trips to the Kootenay area and his account of the visits differs significantly.

In his field minute regarding his meeting in July, 1884, O'Reilly notes that he was met by chief "Isidore", accompanied by "most of his tribe." O'Reilly explained the purpose of his visit and "invited them to shew me what lands they most desired to have reserved."\textsuperscript{120} O'Reilly recognized that many of the requests made by the Indians in this area were based upon their knowledge of the size and extent of American
reservations. Not surprisingly he was faced with what he deemed excessive demands. Without a competent interpreter to assist him, O'Reilly deferred consideration of the Kootenay land question and proceeded to deal with other groups who resided in the area. After spending nearly three weeks with the Tobacco Plains people, where he secured the services of an interpreter, O'Reilly returned to meet with Isidore and his people. Isidore continued to be rather unco-operative and refused to supply census figures, but O'Reilly obtained them from "an old resident", who spoke the Kootenay language and knew "every Indian in the district". For several days, O'Reilly met with Isidore and other representatives trying to come to terms. O'Reilly informed the Indians that it was impossible to accede to their extensive demands, and that he could not form any idea of what land the Kootenays required until he visited it. "After a good deal of persuasion" Isidore agreed to personally show O'Reilly the land. This "examination" took another several days. Based upon his observations taken on his excursion with Isidore, O'Reilly allotted a reserve which consisted of 18,150 acres. Interestingly, while this area was considerably less than the area originally requested, O'Reilly was criticized by provincial authorities for having allotted to much land. In 1887, O'Reilly returned to the area at the request of Isidore. On this trip, O'Reilly was accompanied by the Chief Commissioner of Lands and Works, F.G. Vernon, and Dominion Indian Superintendent I.W. Powell. O'Reilly noted that it was "to be regretted" that Isidore and many of his band were absent, but O'Reilly, Powell and Vernon were aware of his requests. After examining the area, three additional reserves were set aside. Dr. Powell informed Isidore of the decisions made jointly by the two governments. In both these instances, O'Reilly acceded to the desires of the Natives as far as was possible. His interaction with the Kootenay people was indicative of the procedures he took with all Native groups. Fisher's allegations that the process was without consultation and rushed seem unfounded.

Examining O'Reilly's minutes of decision without reference to his field minutes it is possible to draw

123 Dominion of Canada Sessional Papers, Dept. of Indian Affairs Annual Reports, 1889, pp. 154-55.
the erroneous conclusion that O'Reilly conducted his work hastily. Many of the minutes of decision contain a single date for all reserves allotted. For instance, the minutes of decision for the Hagwilget Indians are all dated September 19, 1891. In his field minutes, however, O'Reilly states that these people "occupy scattered settlements from the Hagwilget River to Fort George on the Frazer [sic] river, a distance of about two hundred miles."124 Given this distance, it seems highly unlikely that O'Reilly travelled the entire area on one day. Equally confusing is that the dates of some minutes of decision overlap with dates given for visits to nearby communities.125 The most plausible explanation for these anomalies is that O'Reilly had the practice of writing and/or finalizing his minutes of decision as he travelled from place to place. In most cases it appears he did conclude the minutes of decision while in the field because they generally pre-date the summary of work in his field minute.

In many ways O'Reilly's interaction with various Native groups was quite similar to that of Sproat. Sproat had informed Natives that they must adapt to the "new fashion" and use their land. O'Reilly made these same points. When meeting with the Nass River people at Zaul-zap in September 1888, O'Reilly explained that the land was good, but unless he [Yum-dah] cultivated a part of it there was no incentive [?] for the Gov't to give him it. If he promised to clear and cultivate it the Commr. would give it him [sic].126

In a meeting at Alert Bay the chief, Tlogo-glas, wanted O'Reilly to force a settler off land the chief considered his and to secure the river for Indian use.

The Indian reserve over at the river belongs to me now. I do not wish Mathers to go there. I was born here, and the river ought to be mine, it is where we get our food and we don't want that man to live there. ... We do not want to have a row [i.e. an argument] but we want that man to get another place. We make our money and canoes and fish from the river. We make lots of money there ... 

Comm. You know very well that what you say about the country belonging to the Indians is nonsense. It belongs to the Queen. The reserves have been set apart for the Indians as


125 For example, Minutes of Decision & Correspondence - P. O'Reilly, Vol. 7 (File 29858-3, Vol. 4, Reg. No. B-64645) [Copy held at DIA Vancouver], pp. 356-65, 379.

126 Extract of minutes of meeting found in B.C. 459 [Copy held at Natural Resources Canada, Vancouver].
they have elsewhere from here to Kootenay. This man ... is not on the reserve. If he trespasses on your reserve complain to your agent ... I have no power to send [him] off ... 

Chief The Queen did not put us here. God put us here.

Comm. Everyone knows the country belongs to the Queen, and you cannot expect to be treated other than other Indians are. You had better make use of the opportunities to work that you have. No one has interfered with you, what more do you want. I have no power to stop white men settling here ... 127

Such animated discussions were, undoubtedly, not uncommon. They demonstrate both O'Reilly's position as well as the ability of Natives to discuss issues of concern succinctly. While some groups chose initially not to meet with O'Reilly, most welcomed him and identified those areas they desired. 128 William, a Sliammon Chief, stated, "I am sorry my land is not surveyed that's why I am glad to see you." 129 Marqua, a chief of the Nahkwocoto Indians, remarked,

We are very glad to hear what you have said, it shows us you have a love to us that you should come and tell us a lot of white men are coming so that we sh'd have no land to live on. We know if the white man came and take our camps we sh'd lose our food. My son will answer your questions and point out to you our places. 130

Like Sproat, O'Reilly was perplexed by some of the requests Indians made for land. In meeting with the Homalco, O'Reilly remarked, "I intend to give you the good land about your houses, but what is the use of giving you these bare rocks.[sic]" 131 In allotting land for the Lower Kootenay Indians, O'Reilly wrote,

127 Extract of minutes of meeting at Alert Bay, July 17, 1889, found in B.C. 459. [Copy held at Natural Resources Canada, Vancouver].

128 The Kispiox people refused to have reserves set aside in 1891, but later requested that O'Reilly return to their area, Minutes of Decision & Correspondence - P. O'Reilly Vol. 9. (File 29858-5, Vol. 6, Reg. No. B-64647) pp. 7-11; Vol. 10, (File 29858-6, Vol. 7, Reg No. B-64648) pp. 417-21 [Copies held at DIA Vancouver]. The Nahkwocoto Indians were reluctant to meet with O'Reilly because they did not want to reveal the location of their fishing sites. After meeting again amongst themselves they requested that O'Reilly return and did identify their fishing sites.

129 Extract from minutes of meeting, August 8, 1888, found in B.C. 459. [Copy held at Natural Resources Canada, Vancouver].

130 Extract of minutes of meeting held August 13, 1888, Blunden Harbour, found in B.C. 459 [Copy held at Natural Resources Canada, Vancouver].

131 Extract of minutes of meeting, August 8, 1888, found in B.C. 459. [Copy held at Department of Natural Resources, Vancouver].
I acceded to their request, and made reservation though most reluctantly, for a more worthless piece of land in its present condition cannot well be imagined.\textsuperscript{132}

O'Reilly's most consistent comment with regard to Native land selection was that the land was valueless. Time and again throughout O'Reilly's field minutes and minutes of decision this remark, or words of similar effect, can be found. He offers no explanations for the Indians' choices. Neither is there any indication in O'Reilly's material that he arbitrarily imposed these land selections upon the Indians. There is, however, the sense that O'Reilly did not aggressively attempt to secure arable land for Native use as Sproat had done. Some requests he deemed excessive and did not grant, thus leaving land open for settlers. By and large, however, despite Fisher's admonitions to the contrary, O'Reilly appears to have been fair and to have operated with a modicum of liberality. He consulted with the Natives and, despite occasional reluctance, more often than not, granted their requests.\textsuperscript{133}

\textbf{VIII. CONCLUSION}

It is difficult to discern the motives and rationale behind the decisions made by Natives in regard to their interaction with Europeans, especially as they relate to land. The exact nature of the Native agenda remains elusive, but its elusiveness to Euro-Canadians does not mean it did not exist as a concept for the Natives. Detailed land use and occupancy studies assist in identifying larger traditionally held territories which may have been lost through European incursion as well as in ascertaining the value of areas chosen as reserves. Such investigations require substantial ethnohistorical, anthropological and archaeological research and have only been undertaken in a few areas of B.C. One such report examines the area on the west coast of Vancouver Island. A comparison of reserve selection with the additional information from the report indicates that the reserves identified by the Natives nearly one hundred years earlier were valuable resource

\textsuperscript{132} Minutes of Decision & Correspondence - P. O'Reilly, Vol. 7 (File 29858-3, Vol. 4, Reg. No. B-64645) [Copy held at DIA, Vancouver]. p. 44.

\textsuperscript{133} G.E. Shankel, pp. 141-144, esp. p. 142.
areas owned by chiefs as well as seasonal villages and new village sites. Such selections imply that the Natives understood the necessity of retaining access to a valuable resource, as well as securing what they perceived was adequate land. These decisions were undoubtedly made not only with their own present-day needs in mind, but to ensure land and resources would be available to their descendants.

Assertions by academics that the reserve establishment process allowed government officials to determine the size and location of reserves and impose their decisions upon Natives must be questioned. The documentary evidence strongly indicates that government representatives, usually Indian Reserve Commissioners, were directed to listen to the wishes of Natives and adhere to their requests as far as possible. Beginning with James Douglas, there was a continuity of approach consistent with British Imperial principles. While the Proclamation of 1763 did not technically apply to the colony of B.C., the principles enunciated within it, particularly with regard to securing land for Natives and consulting with them about land matters, were enacted in combination with other European notions of land use. After a brief lapse during Trutch’s term in office, these principles were reasserted by the Dominion government through the reserve creation process. While not dealing directly with the issue of title, reserve establishment secured a land base for Natives. Tennant has stated that establishing reserves gave a lesser form of interest in land to Natives. Current legal decisions indicate that this is not the case. Indeed, the reserve creation process marked the first effective step in securing lands affected by aboriginal title for Natives. Aboriginal title is vested in reserves in B.C.

There seems little doubt that Natives believed an injustice had been done to them with regard to the alienation of their lands. Yet, precisely what Natives in the nineteenth century thought they would gain by entering into agreements remains uncertain. Under Douglas’s "treaty making", Natives were only allowed to retain land which they used or occupied. Nevertheless, they were willing to enter into agreements with


135 Tennant, pp. 41, 30.

Douglas. It would appear that they believed they would gain surety of title, resource allocation and, possibly, compensation. In acquiring these things they attained what they believed was necessary for their survival. The reserve creation process initiated by Douglas afforded Natives the opportunity to secure traditional lands. Douglas believed that they would select only those lands which they used, and he instructed his officials to set aside all that they desired. After B.C. entered Confederation the basic principles of Douglas’s policy were reinstated and overseen by the Dominion government. As European settlement expanded, and pressure upon Natives grew, the reserve creation process became an expedient means for Natives to secure the land they needed for survival. The same principles of securing land and resources continued to guide the choices of Natives. As with the "treaty making" process, Natives actively sought to pursue their interests through the means available to them. The delegations of Indians who sought out Sproat are prime examples of Native interest in the reserve creation process.

Settler-Native relations in the nineteenth century were not a simple form of imperial subjugation of Native people. The hegemonic view predominates in written records and only with great difficulty is it possible to "see" the power Natives were still managing to exercise. From first contact Europeans failed to perceive the Native agenda. They saw only their own economic benefit and acted in ways intended to ensure a relationship wherein they would be superior. For Natives, the ability to preserve any relationship with the Europeans was further complicated by depopulation and the resultant socio-economic stresses placed upon Native communities. Nevertheless, Natives maintained a discourse with Europeans and over time that discourse became increasingly sophisticated. Examples of this are found in the minutes of meetings taken when O'Reilly was at Orford Bay, Alert Bay and other areas around the province. These were not brief meetings held on a single day. In accordance with Native concepts of time and negotiation, they were often spread over many days. Natives, then, not only learned to speak in terms Europeans could understand, they also attempted to educate Europeans to Native ways of speaking and Native concepts of land. This was manifested in the consultative processes used in reserve establishment, where, quite often, the Reserve Commissioners were compelled to accommodate Native methods of discussion, decision making and land selection. Additionally, the Natives could control the agenda. If they refused to discuss issues with the
Reserve Commissioners or to identify lands, there was nothing the Reserve Commissioner could do except return at a time when the Natives were prepared to negotiate. By participating in the reserve creation process Natives lost nothing. Participation, as opposed to resistance, is too often viewed as an abrogation or relinquishment of rights or interests when, in fact, it can be quite the opposite. Participation was merely another means utilized by Natives to achieve their objectives and from which they could assert their rights and interests.

Within imperialist doctrine Native and European sought to meet their respective needs. Victorians believed that through a variety of methods they could assimilate Natives into European society. Their strategies did not achieve the desired results. The imposition of legislation, such as the Indian Act, and subsequent Indian policy, represented the means by which governments attempted to enforce their hegemonic views. Instead, like so many strategies employed by Europeans, these acts entrenched Natives as a separate group, "a race apart", and rather than eliminating distinctions, preserved the "corporate and distinct character of Indian society." Reserve establishment was another example of this. Creating reserves allowed Natives to secure a land and resource base, thereby permitting Native culture to survive. The restrictions placed upon Natives by European society prevented Natives from being able to take full control of their affairs. Yet, within the limitations imposed upon them, they manifested their power to control their lives in subtle but effective ways. Ultimately, both the Europeans and the Natives were guided by their own principles. The paradox of reserve establishment was that the process allowed both Europeans and Natives to believe they were serving the best interest of their descendants.

137 Carter, pp. 23-25; Titley, p. 4.
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