Joseph Trutch and Indian Land Policy

ROBIN FISHER

> *The Indians really have no right to the lands they claim, nor are they of any actual value or utility to them....*
>
> *It seems to me, therefore, both just and politic that they should be confirmed in the possession of such extents of land only as are sufficient for their probable requirements for purposes of cultivation and pasturage, and that the remainder of the land now shut up in these reserves should be thrown open to pre-emption.*[1]
>
> *They said that first one chief had come, then another and another, all saying the same thing, and all afterwards cutting and carving their lands.*[2]

1864 was a year of change in the administration of the colony of British Columbia; James Douglas retired from the governorship and Joseph Trutch was appointed Chief Commissioner of Lands and Works. In the area of Indian lands these changes in personnel were to be accompanied by a shift in policy, and the effects of these changes were to be profound.

As Chief Factor of the Hudson's Bay Company in Victoria and as Governor of Vancouver Island, Douglas negotiated a series of treaties by which the Indians of southern Vancouver Island surrendered their land "entirely and forever" in return for a few blankets and the reservation of

[1] Trutch, Report on the Lower Fraser Indian Reserves, 28 August 1867, Joseph Trutch, Papers, Manuscripts and Typescripts, Special Collections, University of British Columbia Library (SC). (Hereafter cited as Report). Also in British Columbia, *Papers Connected with the Indian Land Question, 1850-1875*, Victoria, 1875, pp. 41-43. (Hereafter cited as *B.C. Papers*).

[2] Reserve Commissioners to Superintendent General of Indian Affairs, 23 February 1877, Canada Indian Reserve Commission, Correspondence, Memorandums, etc., 1877-1878, Provincial Archives of British Columbia. (PABC).

certain lands for their use.[3] Implicit in these treaties was the notion that the aboriginal race exercised some kind of ownership over the land that ought to be extinguished by the colonizing power, a view that was shared by Douglas and the Colonial Office.[4] By 1858, however, Douglas had relinquished his position as Chief Factor and could no longer dip into the stores of the Hudson's Bay Company for goods that would encourage the Indians to surrender their land. Dependant on other sources of finance, Douglas was unable to compensate the Indians for the alienation of their lands because the Vancouver Island House of Assembly and the Imperial Government each argued that the provision of funds for this purpose was the other's responsibility.[5] Although the shortage of funds placed limitations on the implementation of Indian policy, Douglas continued to defend Indian rights. He made it clear that reserves were to be laid out in accordance with the wishes of the Indians,[6] and once reserves were established insisted that they were not to be reduced, either by the encroachment of individual settlers or by the collective action of the House of Assembly.[7]

In retrospect at least, the Indians of the colony were satisfied with the treatment they had received under Douglas. More than ten years after his retirement they still recalled and praised the manner in which he had dealt with them.[8] In 1864 Douglas himself claimed that his reserve policy "has been productive of the happiest effects on the minds of the natives."[9] Seemingly his remark had some validity, and yet after his retirement many aspects of Douglas's policy were altered: and the man most respon-

[3] Hudson's Bay Company Land Office Victoria, Register of Land Purchases from Indians, 1850-1859, PABC. An analysis of these Treaties in relation to what is known about Songhee ethnography has been written by Wilson Duff, "The Fort Victoria Treaties," *B.C. Studies*, no. 3, Fall 1969, *passim.*

[4] Carnarvon to Douglas, 11 April 1859, *B.C. Papers*, p. 18.

[5] *The Daily British Colonist*, 18 June 1860. Newcastle to Douglas, 19 October 1861, *B.C. Papers*, p. 20.

[6] Moody to Cox, 6 March 1861, Good to Moody, 5 March 1861, Parsons to Turnball, 1 May 1861, Douglas to Moody, 27 April 1863, *B.C. Papers*, pp. 21, 22, and 27.

[7] Douglas to Lytton, 9 February 1859, *B.C. Papers*, p. 15. Douglas to Helmcken, 5 February 1859, Vancouver Island House of Assembly, *Correspondence Book, August 12, 1856 to July 6, 1859, Archives of British Columbia Memoir no. IV*, Victoria, 1918, p. 47.

[8] Lenihan to Superintendent General of Indian Affairs, 7 November 1875, *Report of the Deputy Superintendent of Indian Affairs for 1875*, [Ottawa, 1876], p. 54. (Hereafter cited as *Report on Indian Affairs*).

[9] Minutes of the Meeting of the Legislative Council, 21 January 1864, British Columbia, *Journal of the Legislative Council of British Columbia*, New Westminster, 1864, p. 2.

sible for the reversal was one whom Douglas had recommended for the position of Chief Commissioner of Lands and Works.[10]

Joseph Trutch had come to British Columbia in 1859 with eight years' experience behind him as a surveyor and farmer south of the 49th parallel. His interest in the gold colony in the early years was in building roads and bridges, surveying townships and establishing farms, and in amassing a personal fortune. To him the colony was an area of land requiring development. Consequently anything, or more importantly anyone, who stood in the way of that development had to be moved.

Moreover Trutch was very much a product of imperial England's confidence in the superiority of her own civilization. Other races came somewhat lower on the scale of human existence than the English, and the North American Indian was barely part of the scale at all. In a reference to the Indians of Oregon Territory Trutch used revealing terminology. "I think they are the ugliest & laziest creatures I ever saw, & we shod. as soon think of being afraid of our dogs as of them . . ."[11] The indigenous American tended towards the bestial rather than the human to Trutch; and his view was essentially unmodified by continued contact with the Indians. During the years between 1859 and 1864 he employed Indians on his public works projects in British Columbia,[12] and as Chief Commissioner of Lands and Works he visited Indian villages in many parts of British Columbia. Yet he continued to see the Indians as uncivilized savages. In 1872 he told the Prime Minister of Canada that most of the British Columbian Indians were "utter Savages living along the coast, frequently committing murder and robbery amongst themselves, one tribe upon another, and on white people who go amongst them for the purpose of trade."[13]

Trutch had stereotyped the Indians as lawless and violent, and was frequently preoccupied with the need to suppress them by a show of force. Douglas, on the other hand, had argued "that they should in all respects be treated as rational beings, capable of acting and thinking for themselves."[14] He had been firm in dealing with Indian "lawlessness,"

[10] Douglas to Newcastle, 14 September 1863, British Columbia, Governor's Despatches to the Colonial Office, 1858-1871, vol. III, SC. (Hereafter cited as Governor's Despatches).

[11] Trutch to Charlotte Trutch, 23 June 1850, Trutch, Papers, folder A1.b.

[12] Trutch, Diaries 1859-1864, *passim*, PABC.

[13] Trutch to Macdonald, 14 October 1872, Sir John A. Macdonald, Papers, vol. 278, Public Archives of Canada.

[14] Douglas to Lytton, 14 March 1859, Governor's Despatches, vol. I. Also in *B.C. Papers*, p. 17.

but also had an appreciation of the possible value of the Indians as allies and avoided offending them unnecessarily. Douglas had to cope with the potentially dangerous situation that followed the influx of miners in 1858, and in doing so he trod with great caution. Subordinates who also dealt circumspectly with disputes between miners and Indians were praised, while those who interfered hastily were reprimanded. Douglas's personal capacity for settling disputes was strikingly demonstrated at Hill's Bar in 1858. Strong words were said to each side, but he also took one of the Indian leaders involved in the affray into the government service. Douglas wrote that the man was "an Indian highly connected in their way, and of great influence, resolution and energy of character," and he proved to be "exceedingly useful in settling other Indian difficulties."[15] It was an action that Trutch would have been quite incapable of taking. Rather he enunciated the typical colonialist's misconception that the indigenous people had no mechanism for ending hostilities,[16] an attitude that would render him incapable of using Indians to settle disputes. Violence amongst the Indians themselves was bad enough, but violence directed against Europeans was the ultimate breakdown of the colonial situation. What was needed in such cases, thought Trutch, was a theatrical demonstration of European power. The dispatch of warships to coastal trouble spots, for example, would produce "a salutary impression" on the Indians.[17] Douglas wanted the law to operate "with the least possible effect on the character and temper of the Indians,"[18] while Trutch insisted that English law must be "enforced at whatever cost."[19]

Douglas most often referred to the "Native Indians," but Trutch seldom called them anything other than "savages," and was skeptical about their capacity for "improvement." After twenty years on the northwest coast, and even a visit to Metlakatla, he was to remark that

[15] Douglas to Stanley, 15 June 1858, Great Britain, *Papers Relating to British Columbia*, Part I, Cmd. 2476, p. 16.

[16] British Columbia, *Report and Journal by the Honourable Chief Commissioner of Lands and Works, of the Proceedings in Connection with the Visit of His Excellency the Late Governor Seymour to the North West Coast, in His Majesty's Ship Sparrowhawk*, Victoria, 1869, p. 1. It would appear that even the twentieth century historian is not immune from this kind of nonsense. See Morris Zaslow, "The Missionary as a Social Reformer: the Case of William Duncan," *Journal of the Church Historical Society*, vol. VIII, no. 3, September 1966, pp. 54 and 63.

[17] Trutch to the Secretary of State for the Provinces, 16 November 1871, British Columbia Lieutenant-Governor, Despatches to Ottawa, 14 August 1871 to 26 July 1876, PABC.

[18] Douglas to Colonel Hawkins, 1 July 1861, Vancouver Island Governor, Correspondence Outward, 27 May 1859 to 9 January 1864, Private Official Letter Book, PABC.

[19] British Columbia, *Report and Journal*, p. 3.

"I have not yet met with a single Indian of pure blood whom I consider to have attained even the most glimmering perception of the Christian creed."[20] The reason for this situation, according to Trutch, was that "the idiosyncrasy of the Indians of this country appears to incapacitate them from appreciating any abstract idea, nor do their languages contain any works by which such a conception could be expressed."[21] There is no evidence that Trutch was particularly fluent in any of the Indian languages, or that he had made any study of Indian religion, poetry or art. But then stereotypes are seldom based on concrete evidence; they are more often than not the product of ignorance.

It was these views regarding colonial development and the total inferiority of the Indian that governed Trutch's attitude to the question of Indian land. His attitudes coalesced to produce something of an obsession with the idea that the Indians were standing in the way of the development of the colony by Europeans. The absolute superiority of English culture implied an obligation to colonize new areas. Therefore, to men like Trutch, the Indians had to be relieved of as much land as possible, so that it could be "properly" and "efficiently" used by Europeans. For Trutch British Columbia's future lay in agriculture. The colony's development had to be fostered by "large and liberal" land grants to settlers,"[22] and Indian claims to land could not be allowed to hinder this development. As governor, Douglas had also been an advocate of colonial development through European settlement, but he had not allowed this view to override his concern for Indian rights. In contrast to Douglas who wanted to protect the Indians from the progress of settlement, Trutch wanted to move them out of the way so that settlement could progress.

When Douglas recommended Trutch for the position of Chief Commissioner of Lands and Works it was because he thought he was an efficient surveyor and engineer, not because of any ability Trutch might have had to deal with Indian affairs. Perhaps Douglas thought that the governor would continue to dominate this area of the administration of the colony just as he had done. But, with the possible exception of Frederick Seymour, subsequent governors were neither as interested nor

[20] Trutch to Secretary of State for the Provinces, 26 September 1871, *B.C. Papers*, p. 101.

[21] *Ibid.*

[22] Letter signed "British Columbian," *The Victoria Gazette*, 16 January 1860. A letter to his brother indicates that the one in the *Gazette* was written by Trutch under a *nom-de-plume*. Trutch to John Trutch, 20 January 1860, Trutch, Papers, folder Al.f.

as competent to deal with the Indians. Unlike Chief Factor Douglas, Seymour took over the administration of British Columbia as a careerist governor, his most recent post having been Governor of British Honduras. He lacked no confidence in his own ability to deal with native races, however. Early in his governorship of British Columbia he gained local popularity and praise from 14 Downing Street for his dealing with the Chilcotin Indians responsible for the killings at Bute Inlet in 1864. Praise for his firm handling of this affair seems to have upset his judgment somewhat, and he blotted his copybook at the Colonial Office by noting in a despatch that, in the event of a real emergency, "I may find myself compelled to follow in the footsteps of the Governor of Colorado . . . and invite every white man to shoot each Indian he may meet."[23]

Efforts to suppress violence apart, however, Seymour's concern for the Indians of British Columbia was chiefly a matter of dispensing largesse rather than protecting their interests. Soon after his arrival Seymour became aware that the Indians felt that with the departure of Douglas from official life, they had lost a protector and a friend. The new governor determined to demonstrate to the Indians that he had "succeeded to all the powers of my predecessor and to his solicitude for their welfare."[24] His method of making this point clear was to extend an invitation to the Indians to come to Government House in New Westminster and celebrate the Queen's birthday. On the first of several of these occasions, in 1864, a luncheon was provided at the expense of the government; but the guests were informed that the rewards "to all good Indian Chiefs" would be greater next time.[25] Accordingly Seymour requested the colony's agents in London to forward "one hundred canes with silver gilt tops of an inexpensive kind, also one hundred small and cheap English flags suitable to canoes 20 to 30 feet long."[26]

These gatherings provided the Indian leaders with an opportunity to express their opinion on matters that concerned them more acutely than free luncheons and gilt canes. On at least three occasions the Indians present at the celebration petitioned Seymour to protect their reserves.[27]

[23] Seymour to Cardwell, 4 October 1864, Governor's Despatches, vol. IV.

[24] Seymour to Cardwell, 31 August 1864, Governor's Despatches, vol. IV.

[25] Enclosure in Seymour to Cardwell, 31 August 1864, Great Britain, Colonial Office Correspondence with British Columbia Governors, CO.60/19, University of British Columbia Library.

[26] Seymour to Cardwell, 23 September 1864, Governor's Despatches, vol. IV.

[27] Enclosures in Seymour to Cardwell, 31 August 1864 and 7 June 1865, Colonial Office Correspondence with British Columbia Governors, CO.60/19 and 21, also Seymour to Carnarvon, 19 February 1867, Governor's Despatches, vol. V.

The first time the reply was clear. "You shall not be disturbed in your reserves," the Indians were told.[28] Three years later the reply was a little more equivocal, as the Indians were assured their reserves would not be reduced without Seymour's personal inspection.[29] The actual wording of the replies is, however, somewhat immaterial. While Seymour was making reassuring gestures at Queen's birthday celebrations, Trutch was carrying out a reallocation of reserves that involved a considerable reduction in size, and there is no evidence that Seymour visited any of the reserves concerned. In relation to the Indians' land, Seymour's professed "solicitude for their welfare" was verbal rather than actual.

The restraining hand of Douglas had been removed, and Seymour was less concerned than his predecessor about Indian rights regarding land. Consequently Trutch was able to execute his policy of reducing reserves.

The first step in the process of whittling down the reserves was taken towards the end of 1865. In July of that year Phillip Nind, Gold Commissioner at Lytton, wrote to the Colonial Secretary regarding the reserves of the Indians of the Thompson River area. Nind claimed that "These Indians do nothing more with their land than cultivate a few small patches of potatoes here and there," although he noted that some groups were leasing grazing land to white settlers. The main point of his letter was that Indians were claiming "thousands of acres of good arable and pasture land admirably adapted for settlement."[30] This letter was apparently referred to Trutch for his comments. He made his views clear. He had already expressed the opinion that one of the most important ways in which the settler could prosper in British Columbia would be by farming to supply the mining population.[31] The thought of Indians standing in the way of this development was abhorrent to him.

> I am satisfied from my own observation that the claims of Indians over tracts of land, on which they assume to exercise ownership, but of which they make no real use, operate very materially to prevent settlement and cultivation, in many instances besides that to which attention has been directed by Mr. Nind, and I should advise that these claims should be as soon as practicable enquired into and defined.[32]

[28] Enclosure in Seymour to Cardwell, 31 August 1864, Colonial Office Correspondence with British Columbia Governors, CO.60/19.

[29] Seymour to Carnarvon, 19 February 1867, Governor's Despatches, vol. V.

[30] Nind to Colonial Secretary, 17 July 1865, British Columbia Colonial Secretary, Correspondence Regarding Indian Reserves 1861-1865, 1868-1869, and 1874-1877, PABC. Also in *B.C. Papers*, p. 29.

[31] Letter by a British Columbian, *Victoria Gazette*, 16 January 1860.

[32] Trutch to Colonial Secretary, 20 September 1865, British Columbia Lands and Works Department, Correspondence Outward, 8 September 1865 to 11 July 1871, to Governor and Colonial Secretary, vol. 8a, PABC. Also in *B.C. Papers*, p. 30.

Seymour felt that it was too late in the year for a general reduction of reserves but, forgetting his promise to the Indians, he agreed to the reallocation of the Thompson River reserves.[33] Walter Moberly, assistant surveyor-general of the colony, was requested to inquire into the matter and on the basis of his report[34] Trutch informed the governor that the reserves were "entirely disproportionate to the numbers or the requirements of the Indian Tribes."[35] No accurate census had been taken of the Indians so Trutch could not know what their numbers were, and their land requirements were of course as Trutch, and not the Indians, assessed them. But these things were relatively unimportant for, as Trutch concluded,

> Much of the land in question is of good quality, and it is very desirable, from a public point of view, that it should be placed in possession of white settlers as soon as practicable, so that a supply of fresh provisions may be furnished for consumption in the Columbia River mines, and for the accommodation of those travelling to and from the District.[36]

In short, the land was valuable, and therefore, even though it had been reserved for them, the Indians had to make way for settlement. By October 1866 a notice was appearing in the *Government Gazette* indicating that the reserves of the Kamloops and Shuswap Indians had been redefined. The so-called "adjustment" meant that out of a forty mile stretch of the Thompson River the Indians were left with three reserves, each of between three and four square miles. The remainder of the land hitherto reserved for them was to be thrown open for pre-emption by settlers from 1 January 1867.[37]

The reallocations carried out in the Kamloops area provided a precedent that was applied by Trutch when he effected a second series of reductions involving the Indian reserves in the lower Fraser area. The move to reduce these reserves originated in the British Columbia Legislative Council, when John Robson moved in February 1867, that the

[33] Good to Trutch, 26 September 1865, British Columbia Colonial Secretary, Outward Correspondence to Lands and Works Department, PABC. Also in *B.C. Papers*, pp. 30-31.

[34] Moberly to Trutch, 22 December 1865, W. Moberly, Letters 1859-1868, Colonial Correspondence (CC), file 1145, PABC. Also in *B.C. Papers*, p. 33.

[35] Trutch to acting Colonial Secretary, 17 January 1866, Lands and Works Department, Correspondence Outward, Vol. 8a. Also in *B.C. Papers*, pp. 32-33.

[36] *Ibid.*

[37] *British Columbia Government Gazette*, 6 October 1866. There is no indication of how far back from the river the original reserves went.

governor be informed of the desirability of having the lower Fraser reserves "reduced to what is necessary for the actual use of the Natives."[38] Again it seems that Seymour referred the matter to Trutch for a report, and once again Trutch advocated reductions. His reasoning was similar to that adumbrated in the Kamloops case. The Indians were holding good land that they were not using in a productive way, therefore it ought to be made available to settlers. Trutch then went on to discuss the methods by which the reserves might be reduced. Either they could be simply resurveyed, or the government could negotiate the relinquishing of the lands with the Indians and render them some form of compensation. It was here in particular that the earlier reductions of the Kamloops and Shuswap reserves provided the precedent. In these instances "tracts of land of most unreasonable extent were claimed and held by the local tribes under circumstances nearly parallel to those now under discussion;" and the reductions involved a simple resurvey of the reserves, with no compensation given to the Indians concerned. Consequently there was no need for compensation in this case either. After all, wrote Trutch,

> The Indians really have no right to the lands they claim, nor are they of any actual value or utility to them; and I cannot see why they should either retain these lands to the prejudice of the general interests of the Colony, or be allowed to make a market of them to Government *or to individuals.*[39]

Having denied the Indians any right to hold even land that had been reserved for them, and therefore to compensation for land that they were relieved of, Trutch initiated the policy of "adjustment." Again he had the approval of Seymour.[40] It is difficult to discover the precise extent of these reductions, although there can be little doubt that they involved a considerable area. The report of one of the surveyors who marked out the reserves notes that the new boundaries would throw open 40,000 acres for settlement.[41]

The notion that Indian reserves were not to be violated by Europeans was not the only policy that was transformed after the departure of Douglas. He had also favoured the idea of Indians leasing reserve land and benefiting from the income,[42] but part of Trutch's rationale for

[38] Minutes of the meeting of the Legislative Council, 11 February 1867, British Columbia, *Journal of the Legislative Council*, p. 16.

[39] Trutch, Report, 28 August 1867.

[40] Young to Trutch, 6 November 1867, Colonial Secretary, Outward Correspondence to Lands and Works Department. Also in *B.C. Papers*, p. 45.

[41] Pearse to Trutch, 21 October 1868, *B.C. Papers*, p. 53.

[42] Douglas to Helmcken, 5 February 1859, Vancouver Island House of Assembly, *Correspondence Book*, p. 47.

reallocation was to prevent the Indians from receiving rent from the settlers. The reductions were therefore designed to leave them with no land to spare for leasing out to European farmers. Another option that was open to the Indians under Douglas was to pre-empt land,[43] but in 1866 this was virtually denied them. A Land Ordinance of that year prevented Indians from pre-empting land without the written permission of the governor,[44] and there was only a single subsequent case of an Indian pre-empting land under this condition.[45]

Of all the changes in official policy perhaps the most important, and certainly the one that can most clearly be attributed to Trutch, was the redefining of reserves. But Trutch was not only responsible for changing Douglas's policy, he also misrepresented the nature of that policy. Trutch made a series of inaccurate statements about earlier policy in an attempt to validate, or rather provide an excuse for, his own actions.

If there was any possibility at all after 1864 that the Fort Victoria treaties could provide a precedent for resuming the purchase of Indian lands in British Columbia the notion certainly did not enter Trutch's mind. On the contrary, he explicitly denied that the treaties signed by Douglas provided such a precedent. He claimed that the payments made under these treaties were "for the purpose of securing friendly relations between those Indians and the settlement of Victoria, then in its infancy, and certainly not in acknowledgement of any general title of the Indians to the land they occupy."[46] Such was not the view of those who had signed the treaties. Douglas clearly considered that he was purchasing Indian land,[47] and the Indians themselves, although they had yet to comprehend European notions of land ownership, knew that the paper they were signing involved more than a declaration of friendship.

It is comparatively easy to demonstrate that Trutch misinterpreted the nature of the treaties signed on Vancouver Island. In these cases we have as evidence a document that is still held to be legally binding in the courts

[43] Young to Moody, 18 June and 2 July 1862, British Columbia Colonial Secretary, Outward Correspondence to Lands and Works Department.

[44] British Columbia, *Appendix to the Revised Statutes of British Columbia, 1871; Containing Certain Repealed Colonial Laws Useful for Reference, Imperial Statutes Affecting British Columbia Proclamations etc.*, Victoria, [1871], pp. 93-94.

[45] Report of the Government of British Columbia on the subject of Indian Reserves, 17 August 1875, *B.C. Papers*, appendix, p. 4.

[46] Trutch, Memorandum on a letter treating of conditions of the Indians in Vancouver Island, addressed to the Secretary of the Aboriginies Protection Society, by Mr. William Sebright Green, enclosure in Musgrave to Granville, 29 January 1870, *B.C. Papers*, appendix, pp. 10-13. (Hereafter cited as Memorandum).

[47] Douglas to Newcastle, 25 March 1861, *B.C. Papers*, p. 19.

of British Columbia.[48] Throughout the rest of British Columbia no treaties were signed,[49] making it difficult for the historian to determine the exact nature of Douglas's policy, and much easier for men like Trutch to change the rules of the game. Nowhere in North America have Europeans ever lacked pretexts for taking land, and Trutch was certainly not short of one. In carrying out his policy of reduction his tactic was to claim that those responsible for marking out the original reserves had either exceeded or misunderstood their instructions.

William Cox marked out most of the interior reserves, while on the lower Fraser they were laid out by William McColl. Questions about the former's adherence to Douglas's instructions were first raised by Moberly when Trutch requested him to report on the interior reserves in 1865. It appeared to Moberly "quite out of the question that Governor Sir James Douglas could have given Mr. Cox instructions to make such extensive reservations."[50] The remark gave Trutch just the kind of pretext he needed. It seems that the Indians may have altered the boundaries of reserves by moving the stakes after Cox had laid them out,[51] but that is not to say that he exceeded his instructions in the first place. In fact there are at least two specifically documented instances of Trutch reducing reserves in the interior that Douglas had been satisfied with. In 1861 Cox reported that he had laid out a reserve at the north end of Okanagan Lake. In accordance with his instructions the Indians had selected the location and pointed out where they wanted the boundary stakes to be placed. A marginal note in pencil, initialled by Douglas, gives no indication that he was dissatisfied with the report.[52] The following year Cox reported that he had laid out a reserve on the Bonaparte River, again adhering to the wishes of the Indians.[53] Douglas's reply was that the

[48] British Columbia Court of Appeal, *Regina v. White and Bob, Western Weekly Reports*, Calgary, 1964, vol. LII, pp. 193-94 and *passim*.

[49] With the exception of Treaty number 8, initially made by the Federal Government in 1899, and extended in 1900 to include the Beavers, and in 1910 to include the Slaves, both groups occupying the northeastern corner of the Province. Canada, *Indian Treaties and Surrenders*, Ottawa, 1912, vol. III, pp. 290-300. Wilson Duff, *The Indian History of British Columbia, vol. I, the Impact of the White Man*, Victoria, 1964, pp. 70-71.

[50] Moberly to Trutch, 22 December 1865, Moberly, Letters, CC, file 1145b. Also in *B.C. Papers*, p. 33.

[51] Trutch to acting Colonial Secretary, 17 January 1866, Lands and Works Department, Correspondence Outward, vol. 8a. Also in *B.C. Papers*, p. 32.

[52] Cox to Colonial Secretary, 4 July 1861, William Cox, Letters 1860-1868, CC, file 376, PABC.

[53] Cox to Colonial Secretary, 25 October 1862, Cox, Letters, CC, file 377.

reserves were satisfactory;[54] yet Trutch instructed Peter O'Reilly to reallocate the reserve in 1868.[55] These reductions in the interior involved an implicit denial of Douglas's policy.

In the case of the lower Fraser reserves Trutch went further. Here there was a definite falsification of the record. Trutch began his report on these reserves by stating that Douglas had never followed an established system regarding the reservation of Indian lands. He then claimed that those reserves that had been laid out were established on the basis of verbal instructions only: "there are no written records on this subject in the correspondence on record in this office."[56] The claim is, of course, quite untrue. There are numerous letters from Douglas containing instructions on marking out reserves in the files of the Lands and Works Department. It would have taken very little effort on Trutch's part to have found letters of instruction to both Cox[57] and McColl,[58] and with a little more work he might even have found the letter in which Douglas reprimanded his predecessor, Moody, for not laying out reserves in accordance with the wishes of the Indians.[59] Douglas's frequent repetition of this instruction makes it difficult to believe that Trutch was unaware of its existence: and the only other possible explanation for his remark is that he was attempting to distort the record.

Trutch was not alone in his effort to fabricate a pretext for reducing Indian reserves. W. A. G. Young, the Colonial Secretary, also had a hand in it. In his letter to Trutch conveying the governor's approval for the "defining" of reserves, Young also noted that "There is good reason to believe that Mr. McColl very greatly misunderstood the instructions conveyed to him."[60] Young continued,

> The instructions given in Mr. Brew's letter of the 6th of April, 1864, are very simple, viz:— to mark out as reserves any ground which had been *cleared* and *tilled* for years by the Indians; and should the ground so

[54] Young to Cox, 14 November 1862, British Columbia Colonial Secretary, Outward Correspondence.

[55] Trutch to O'Reilly, 5 August 1868, Lands and Works Department, Correspondence Outward, vol. 11.

[56] Trutch, Report, 28 August 1867.

[57] Good to Moody, 4 and 6 March 1861, British Columbia Colonial Secretary, Outward Correspondence to Lands and Works Department.

[58] Brew to McColl, 6 April 1864, William McColl, Letters 1860-1865, CC, file 1030, PABC.

[59] Douglas to Moody, 27 April 1863, British Columbia Colonial Secretary, Outward Correspondence to Lands and Works Department. Also in *B.C. Papers*, p. 27.

[60] Young to Trutch, 6 November 1867, British Columbia Colonial Secretary, Outward Correspondence to Lands and Works Department. Also in *B.C. Papers*, p. 45.

circumstanced not be equal to ten acres for each *family* — each *adult male* being considered the head of a family — the reserve was to be enlarged to that extent.[61]

Yet when one compares Young's description of these instructions with Brew's actual letter, it is immediately apparent that he has neglected to include a crucial section. That "Mr. McColl will mark out with corner posts *whatsoever land the Indians claim as theirs* . . ."[62] is also part of the instruction. For some reason McColl claimed that the order to include all the land the Indians wanted had been given to him verbally by Douglas,[63] thus making it easy for Young to claim that he had misinterpreted an unwritten instruction.[64] Probably Douglas did give additional verbal directions, but the written ones are quite clear on the point that the Indians were to have whatever land they demanded. Young had access to numerous letters in which Douglas had over and over again repeated his instructions. One of the letters, conveying Douglas's orders to Moody, was even signed by Young;[65] as was another in which the governor expresses his satisfaction with Cox's allocation of the Bonaparte River reserve.[66] The probability of additional verbal orders is no excuse for Young to distort the written record, and certainly no excuse for Trutch to assert that there were no written directions on the subject.

Nevertheless, armed with a letter in which Young, representing Seymour, had "validated" his views, Trutch went on a tour of the lower Fraser area with the express purpose of repudiating the reserves defined by McColl. "I took occasion at each village, to inform the Indians that McColl had no authority for laying off the excessive amounts of land included by him in these reserves."[67] By saying that McColl had no authority to lay out their reserves, Trutch was misleading the Indians. It would have been of little consolation to them to learn that what they thought was a firm decision was to be revoked because the Europeans had decided to change the rules. But Trutch knew very well that McColl did

[61] *Ibid.*

[62] Brew to McColl, 6 April 1864, McColl, Letters, CC, file 1030. Also in *B.C. Papers*, p. 43. Italics mine.

[63] McColl to Brew, 16 May 1864, McColl, Letters, CC, file 1030. Also in *B.C. Papers*, p. 43.

[64] Young to Trutch, 6 November 1867, British Columbia Colonial Secretary, Outward Correspondence to Lands and Works Department. Also in *B.C. Papers*, p. 45.

[65] Young to Moody, 11 May 1863, *B.C. Papers*, p. 28.

[66] Young to Cox, 14 November 1862, British Columbia Colonial Secretary, Outward Correspondence.

[67] Trutch to Young, 19 November 1867, *B.C. Papers*, p. 46.

have the authority to allocate reserves in accordance with the wishes of the Indians.

Having misled the Indians regarding past European policy, Trutch then proceeded to mislead the Europeans regarding present Indian attitudes. He informed the governor that there would be no difficulty in reducing the reserves "with the full concurrence of the Indians themselves."[68] The numerous complaints by Indians of the lower Fraser and other areas indicates that their real attitude was somewhat different from that which Trutch described. One of the many petitions on the question forwarded to Seymour demonstrates that the Indians saw with considerable clarity what was happening, and they by no means liked what they saw.

> Governor Douglas did send some years ago his men amongst us to measure our Reserve and although they gave us only a small patch of land in comparison to what they allowed to a white man our neighbour, we were resigned to our lot. . . .
>
> Some days ago came new men who told us that by order of their Chief they have to curtail our small reservation, and so they did to our greater grief; not only they shortened our land but by their new paper they set aside our best land, some of our gardens, and gave us in place, some hilly and sandy land, where it is next to impossible to raise any potatoes: our hearts were full of grief day and night. . . .[69]

The petitioners went on to express their confident belief that such a measure could not have been approved by the representative of the Queen who was "so gracious and so well disposed towards her children of the forest."[70] Their confidence in Seymour was misplaced.

When he began the reductions in the lower Fraser Trutch said that in carrying out the policy "firmness and discretion are equally essential to effect the desired result, to convince the Indians that the Government intend only to deal fairly with them and the whites."[71] The Indians, however, were a good deal more sophisticated than a man with Trutch's attitudes could appreciate. They were dissatisfied with the way in which their land was taken from them, and they knew very well that they were not being treated on anything like an equal basis with the Europeans. A good measure of Trutch's idea of fairness was his suggestion (incorporated in the 1865 Land Ordinance) that a European, in addition to

[68] *Ibid.*

[69] Petition from lower Fraser Chiefs, enclosure in Durieu to Seymour, 6 December 1868, Fr. P. Durieu, Letters 1869-1874, CC, file 503, PABC.

[70] *Ibid.*

[71] Trutch, Report, 28 August 1867.

a pre-emption of 160 acres, be allowed to purchase 480 acres,[72] while he was requiring that an Indian family exist on ten acres. This was the kind of inequality that even an "uncivilized savage" could appreciate. Undoubtedly Trutch was mindful of the comparative shortage of good agricultural land in British Columbia. Yet while this fact of geography may provide a reason for his ten-acre policy it does not provide a justification. Ten acres was not only insufficient for many Indian families to subsist on, it also failed to take into account the differences in the economic life of the various Indian groups.

Trutch's notion that Indian reserves be reallocated on the basis of ten acres per family involved another distortion of Douglas's policy. Douglas had included in his directions to those laying out reserves in British Columbia the provision that if the area demanded by the Indians did not equal ten acres per family then the reserve was to be enlarged to that extent.[73] Instead of using ten acres as a minimum as Douglas had intended, Trutch used it as a maximum figure. When instructing O'Reilly to reallocate the Bonaparte reserve, for example, Trutch wrote that "as a general rule it is considered that an allotment of about 10 acres of good land should be made to each family in the tribe."[74] Such was never the intention of Douglas. His opinion was clear enough in his instructions at the time, but he outlined it with even greater clarity some years later. "It was . . . never intended that they should be restricted or limited to the possession of 10 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."[75] The letter containing this statement was written in 1874 by Douglas in response to a request for information by I. W. Powell, the Provincial Commissioner of Indian Affairs. Powell had asked Douglas if, during his administration, there had been any particular acreage used as a basis for establishing Indian reserves. Douglas answered the specific question, and also commented more generally that,

The principle followed in all cases, was to leave the extent and selection of the land, entirely optional with the Indians who were immediately interested

[72] Phyllis Mikklesen, "Land Settlement Policy on the Mainland of British Columbia, 1858-1874," M.A. Thesis, University of British Columbia, 1950, p. 100. British Columbia, *Appendix to the Revised Statutes*, p. 87.

[73] Brew to McColl, 6 April 1864, McColl, Letters, CC, file 1030. Also in *B.C. Papers*, p. 43.

[74] Trutch to O'Reilly, 5 August 1868, Lands and Works Department, Outward Correspondence, vol. 11.

[75] Douglas to Powell, 14 October 1874, Sir James Douglas, Correspondence Outward, 1874, PABC.

in the reserve; the surveying officers having instructions to meet their wishes in every particular.... This was done with the object of securing to each community their natural or acquired rights; of removing all cause for complaint on the grounds of unjust deprivation....[76]

This letter in which Douglas recapitulates his policy indicates the extent to which Trutch brought radical changes to the colony's dealings with the Indians and their land.

Trutch's actions, moreover, involved a break with the usual British policy. In her haphazard way, Britain seems to have developed a policy whereby, if territory was occupied in a regular way, aboriginal possession was recognized, and therefore had to be extinguished before settlement could proceed. There was some kind of threshold over which Britain would recognize native rights to the land. The land ownership concepts of the Australian aborigine, for example, were not sufficiently clear for Britain to recognize, whereas those of the New Zealand Maori were. Given this threshold, then, were the concepts of territory and ownership of British Columbia's Indians sufficiently precise to be recognizable? It seems clear that they were. There were variations in different parts of the colony, but the Indians had precise concepts of territorial boundaries or ownership of specific areas.[77] Douglas knew the Indians well enough to be aware of this aspect of their society and he tried to recognize it in his policy.[78] When it was financially possible he compensated the Indians for giving up their rights to territory. His attitude was sustained by the imperial government, and was clearly in accord with British policy throughout the rest of North America. Trutch, on the other hand, was not the least interested in Indian social usages. He denied that they had any rights to land at all.[79] Given the kind of man he was his lack of concern with aboriginal concepts of territory is not surprising. What is less explicable is his lack of concern for English law on native lands.

While Trutch's views on Indian land ran counter to those of Douglas and the imperial government, it seems that they were in accord with the

[76] *Ibid.* Douglas added the "This letter may be regarded and treated as an official communication."

[77] See Indian-Eskimo Association of Canada, *Native Rights in Canada*, Toronto, [1970], pp. 8-9. Duff, "The Fort Victoria Treaties," pp. 27-51. Wilson Duff (ed.), *Histories, Territories, and Laws of the Kitwancool*, Victoria, 1959, p. 35. V. E. Garfield and P. S. Wingert, *The Tsimshian Indians and their Arts*, Seattle and London, n.d., p. 14. Wayne Suttles, "Post Contact Culture Change among the Lummi Indians," *The British Columbia Historical Quarterly*, vol. XVIII, nos. 1 and 2, January-April, 1954, p. 34.

[78] Douglas to Newcastle, 25 March 1861, *B.C. Papers*, p. 19.

[79] Trutch, Report, 28 August 1867.

opinions of most of British Columbia's population. To the extent that it is possible to assess the attitudes of the settlers, they coincided with Trutch's. Douglas had embodied many of the attitudes of the old fur trading frontier, whereas Trutch represented the attitudes of the new settlement frontier. An appreciable number of settlers in the colony adhered to the notions of "manifest destiny," and advocated ignoring Indian rights, or even their extermination.[80] Even the editor of *The British Columbian*, who claimed to be a constant defender of Indian rights, hastened to add that those rights did not include the right "to hold large tracts of valuable agricultural and pastoral land which they do not and cannot use."[81] Many in British Columbia would have agreed with the assertion that,

> Colonization necessarily involves 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.[82]

Editorials in *The British Colonist* were more forthright. Readers were told in 1863 that they could no more talk of Indian right to the land "than we can prate of the natural right of a he-panther or a she-bear to the soil."[83] To the editorialist both the problem and its solution were simple

> . . . shall we allow a few red vagrants to prevent forever industrious settlers from settling on the unoccupied lands. Not at all. . . . Locate reservations for them on which to earn their own living, and if they trespass on white settlers punish them severely. A few lessons would soon enable them to form a correct estimation of their own inferiority, and settle the Indian title too.[84]

These newspapers undoubtedly reflected the opinions of a good many of their subscribers. After all, one of them reminded its readers, you cannot expect the farming pioneers of a new country to have that "sentimental regard for the 'poor Indian' which certain members of the Legislative Council so highly distinguish themselves."[85]

The comment of *The Daily British Colonist* notwithstanding, one of the features of the colonial government's Indian policy in the years 1864-

[80] *The British Columbian*, 21 May 1864.
[81] *The British Columbian*, 2 December 1865.
[82] *Ibid.*
[83] *The Daily British Colonist*, 21 March 1862.
[84] *The Daily British Colonist*, 8 March 1861.
[85] *The Daily British Colonist*, 19 May 1869.

70 was that it closely reflected the aspirations of the settlers. In both colonies much of the pressure for removing the Indians from their land came from the governing bodies. On Vancouver Island the efforts of the Assembly resulted in the displacement of the Songhees from their reserve near Victoria. There was similar pressure on the mainland, where the Legislative Council also reflected settler opinion by urging the reduction of reserves. One member even felt that reserves of ten acres per family were unnecessarily large for the Indians.[86] Although government members advocated the interests of the colonists, it is perhaps Trutch's own official function that most clearly pinpoints the influence of settlers on government. That the Chief Commissioner of Lands and Works should also control Indian land policy goes a long way towards explaining why it developed in a unique way. Because the same person was responsible for allocating land to Europeans and to Indians he could not reflect the interests of both; and because that person was Trutch Indian rights were not considered important. British policy, and to a lesser extent Canadian policy, was formulated by men who were not so closely involved in the actual process of settlement.

As it developed under Trutch, British Columbia's Indian land policy was unique in two essential ways. First the non-recognition of aboriginal title, and second the comparatively small amounts of land finally allocated to the Indians. In a recent publication the history of dealings with the Indians over their land in Canada has been compared favourably with the repeated swindles in the United States. Indians in Canada, says Vine Deloria, did not "have their lands alloted and then stolen piece by piece from under them."[87] If the generalization is valid for the rest of Canada (and even that is dubious) it is definitely not true for British Columbia. Rather that is exactly what did happen under Trutch. It has been said that British Columbia's Indian land policy was "obscure and unsatisfactory" just prior to confederation.[88] To the Indians it was certainly unsatisfactory, but by no means obscure. They knew the colonists were taking all the land they could get. By 1870, however, British Columbia was in the midst of negotiations to unite with Canada, and Canada's thinking on the question of Indian land was not quite the same as

[86] Resolution by the Honourable Mr. R. T. Smith, 3 May 1864, British Columbia, *Journal of the Legislative Council*, p. 41.

[87] Vine Deloria Jnr., *Custer Died for Your Sins, an Indian Manifesto*, New York, 1970, p. 55.

[88] G. E. Shankel, "The Development of Indian Policy in British Columbia," Ph.D. thesis, University of Washington, 1945, p. 89.

Trutch's. The Indians were anticipating these changes in the white man's world in the hope that they would receive a better deal from Canada.

They were, however, to be disappointed, and an important reason for their disappointment was that Trutch was to be the first lieutenant-governor of the new province. Before 1871 Trutch had been largely concerned with making policy, and as lieutenant-governor he was determined to defend that policy against the encroachment of differing ideas held by the federal government on the question of Indian land.

Contemporary with Trutch's term as lieutenant-governor in British Columbia was the signing of the first four of the numbered treaties on the prairies. By making these treaties the Canadian government was enunciating an Indian policy that was quite different from British Columbia's in a number of ways. The treaties were an acceptation of the principle that the Indians had rights to the land that ought to be extinguished; the minimum of 160 acres per family was a much larger allocation of reserve land, and in addition there was provision for initial payments followed by annuities and other forms of assistance. The two sides in the negotiations that preceded the signing of each of these treaties were quite unequal. The Indians had none of the freedom of choice implied by the word "treaty." They could no more hold back the power of the Great Mother than they could keep back the sun, and they knew it.[89] These formalities did, however, involve a minimal recognition of Indian rights and needs, such as had not occurred in British Columbia since 1859. Now that Indian affairs were in the hands of the federal government it was possible that the policy on the prairies might be extended across the Rockies. One of the many reasons why this did not happen was the way in which Trutch defended, and misrepresented, British Columbia's policy as the most satisfactory one for all concerned.

His defence of what was largely his own policy began before he was appointed lieutenant-governor. Trutch revealed his basic beliefs about the Indian policy of the colony at a meeting of the Legislative Council in February 1869. He is reported to have maintained that

> our system of treatment of the Indians was more humane than in any other country. Our laws entitled them to all the rights and privileges of the white man; they have thriven under them and had vastly improved in every respect by contact with the white man. The laws when applied to the Indian were always strained in his favour.[90]

[89] *Weekly Manitoban*, 12 August 1871.

[90] *The Daily British Colonist*, 12 February 1869.

Subsequent defences of policy involved an elaboration of this fundamental attitude.

In 1870 a letter written by William Sebright Green to the Aborigines Protection Society was forwarded to Anthony Musgrave, the new Governor of British Columbia. Because he was new to the situation, Musgrave, as Seymour had done, handed the letter to Trutch for a report. The burden of Green's criticism was that the Government of British Columbia had neither policy nor concern for the Indians. Part of Trutch's reply was that, on the contrary, the government had "striven to the extent of its power to protect and befriend the Native race." In fact, he continued, its declared policy had been that the Indians should, in all material respects, be on the same footing as Europeans.[91] We have seen how his notion of equality worked in relation to land holdings. The Indians, as Trutch explained it, were given such lands "as were deemed proportionate to, and amply sufficient for, the requirements of each tribe."[92] The Europeans were treated equally because they were also allowed what was sufficient for their requirements. Perhaps Trutch really believed that ten acres per family did constitute equity for a savage?

The Terms of Union by which British Columbia joined Canada were an important delaying factor in federal involvement in the Indian affairs of the province. One cannot be absolutely certain, but it is highly likely that Trutch was responsible for the section that concerned Indians. During the debate on union in British Columbia there was some discussion of the Indian question,[93] but the terms proposed contained no reference to Indians.[94] Presumably clause 13 of the final terms was added in Ottawa, and as Trutch was the only person closely involved with colonial Indian policy present at those discussions he can fairly be attributed with responsibility for the clause.[95]

The wording of clause 13 of the Terms of Union is very curious indeed. In transferring charge of the Indians to the dominion government it states

[91] Trutch, Memorandum, p. 10.

[92] Trutch, Memorandum, p. 11.

[93] A motion for the protection of the Indians during the change of government was lost 20 to 1, and another advocating the extension of Canadian Indian policy to the Province was withdrawn. British Columbia Legislative Council, *Debate on the Subject of Confederation with Canada, Reprinted from the Government Gazette Extraordinary of March, 1870*, Victoria, [1870], pp. 146-47.

[94] British Columbia Legislative Council, *Debate on Confederation*, pp. 157-59.

[95] Another student of the subject has come to the same conclusion on the basis of the similarity between clause 13 and Trutch's memorandum of 1870. Robert E. Cail, "Disposal of Crown Lands in British Columbia," M.A. Thesis, University of British Columbia, 1956, p. 327.

that "a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union."[96] A variety of words could be used to describe Trutch's policy prior to union, but "liberal" is not one of them. Certainly, if Canadian policy was to be the criterion, the colony's policy was considerably less liberal than that of the dominion. Trutch must have been aware of this fact, and even if, as suggested by his memorandum of 1870, he really believed that British Columbia's was a liberal policy, clause 13 remains deliberately misleading. Subsequently, David Laird, the Canadian Minister of the Interior, thought that the framers of the clause "could hardly have been aware of the marked contrast between the Indian policies which had, up to that time, prevailed in Canada and British Columbia respectively."[97] Actually it is far more likely that Trutch was well aware of the discrepancy in policies but wanted to camouflage it.

Clause 13 was aptly numbered. It was unlucky for the Indians because it meant that some time was to elapse before the federal authorities realized just how illiberal the colony's treatment of them had been.

Trutch, meanwhile, continued to defend his views. In 1871 British Columbia's policy was again under fire, this time from Bishop George Hills of Columbia, who was particularly concerned about the paucity of government spending on Indians.[98] In reply Trutch first defended policy in general — it was described "as a well considered system, ably devised by experienced men and specially interested in favour of the Indians"[99] — and then went on to deal with the specific question of parsimony in the allocation of funds.

This point may have proved a little difficult for Trutch to refute, as the colonial estimates indicate that allocations for Indians were miserable; and often only a fraction of the amount included in the estimates appeared in the end-of-year statement of actual expenditure. This was at a time when the Indian population was declining rapidly through the impact of disease. Trutch conceded that "from the pecuniary inability of the Colony in the past no such appropriations have been made as could have been wished."[100] He did, however, neglect to mention the fate of

[96] Report on the Government of British Columbia on the subject of Indian Reserves, 17 August 1875, *B.C. Papers*, appendix, p. 1.

[97] Memo of Laird, 2 November 1874, *B.C. Papers*, p. 152.

[98] Bishop of Columbia to Secretary of State for the Colonies, 27 May 1971, *B.C. Papers*, pp. 97-98.

[99] Trutch to Secretary of State for the Provinces, 26 Sept. 1871, *B.C. Papers*, p. 99.

[100] Trutch to Secretary of State for the Provinces, 26 Sept. 1871, *B.C. Papers*, p. 100.

money collected by leasing Indian reserve land, which Douglas had intended to be used for the benefit of the Indians.[101] Early in 1873 the newly appointed Superintendent of Indian Affairs was having difficulty in discovering what had happened to the sum of $1,984.82 that had been handed to Trutch in 1869 by the commissioners of the Songhee's reserve.[102] The reply was that, instead of being spent on Indian needs, the sum "formed part of the assets of the colony at the date of Confederation."[103] No action had been taken to distinguish the Indian's money from ordinary colonial revenue.[104]

Trutch did, however, have other arguments to advance. While British Columbia had not spent directly on the Indians as much as she might have done, the Bishop of Columbia was forgetting that the Indians were partaking of "the advantages of civilization which we have brought to them." For example, the Indians could now use roads and trails without paying the tolls that were often imposed on white people. Europeans had also brought to the Indians implements "of husbandry and agriculture, the chase and fishing etc., which before they were without." Another of the benefits of civilization mentioned was one particularly close to his heart; namely "the blessings which result from the preservation of law and order throughout the colony, instead of those scenes of bloodshed and robbery which prevailed formerly among them, and amidst which their lives were passed in a state of constant dread and uncertainty of life and property."[105] With arguments such as these Trutch had little difficulty in convincing himself that Indian policy in British Columbia had been "essentially benevolent towards the Indians."[106]

He concluded this letter by reminding the dominion government of the grave responsibility it had undertaken towards the Indian population of the province, and urged that such a responsibility should not be devolved on others for any reason.[107] The meaning of the last remark became clear in 1872 when Ottawa appointed a Superintendent of Indian Affairs for the province. The appointee was I. W. Powell, a pro-

[101] Douglas to Helmcken, 5 February 1859, Vancouver Island House of Assembly, *Correspondence Book*, p. 47.

[102] Powell to Provincial Secretary, 4 February 1873, *B.C. Papers*, p. 112.

[103] Ash to Powell, 5 February 1873, *B.C. Papers*, p. 112.

[104] Ash to Powell, 26 February 1873, *B.C. Papers*, p. 113.

[105] Trutch to Secretary of State for the Provinces, 26 September 1871, *B.C. Papers*, p. 100.

[106] Trutch to Secretary of State for the Provinces, 26 September 1871, *B.C. Papers*, p. 101.

[107] *Ibid.*

minent member of the Victoria community and a friend of Sir John A. Macdonald. Trutch, however, had strong objections to the selection. He had no criticism of Powell's professional or business ability, but in a letter to Macdonald he took exception to the fact that someone with no experience in Indian affairs should have been chosen for the position. Dr. Powell, according to Trutch, "might perform the duties of the office well enough if acting under the immediate direction and advice of someone of more experience here."[108] Little imagination is required to guess who Trutch thought this experienced person might be, and it was certainly not left to Macdonald's imagination. "I may tell you," Trutch wrote to the prime minister, "that I am of opinion, and that very strongly, that for some time to come at least the general charge and direction of all Indian affairs in B.C. should be vested in the Lt. Governor."[109] He then went on to point out that the Canadian system of Indian management would not work in British Columbia, and to advocate no change in provincial policy. The two points were clearly closely related in his mind. If he had control of Indian policy he could be certain that things would remain as they were. Once the Powell appointment had been made, Trutch wanted to ensure that he retained absolute control, so that there would be no alteration of his policies.

To achieve this objective he was prepared to move from a verbal to an active defence of the status-quo. In 1874 the federal government tried to set up a three man board to deal with Indian affairs in British Columbia. Trutch was on this board, along with Powell and Lenihan, the two Indian Commissioners, but he was not interested in any board that he did not direct, and was prepared to hinder its work if he was not given a controlling position. Powell was preparing to visit Kamloops to discuss the land question with the Indians, and Trutch objected on the grounds that he was acting too independently. Trutch told the Minister of the Interior that he was prepared to act on the board only if he had authority to direct the management of Indian affairs in the province.[110] By now, however, the federal government was becoming aware of the situation in British Columbia. This awareness is reflected in Laird's reply. He told the lieutenant-governor, "I very much doubt... whether the Government would be prepared to delegate to any person in British Columbia the

[108] Trutch to Macdonald, 14 October 1872, Macdonald Papers, vol. 278.

[109] *Ibid.*

[110] Trutch to Laird, 30 January 1874, Trutch, Correspondence with the Department of the Interior Regarding Board of Indian Commissioners for British Columbia, 1874, PABC.

general control and management of Indian affairs in that Province."[111] Essentially Trutch wanted to abrogate the Terms of Union. Rather than control of Indian affairs being transferred to Canada he wanted them to remain in British Columbian, and preferably his own, hands. Ottawa, however, became determined to retain ultimate control, and yet was not prepared to go as far as a reversal of provincial policy.

In spite of Trutch's repeated misrepresentations of the situation in the years following union it became increasingly clear to Federal officials that British Columbia's Indian policy was far from satisfactory. Two months after Trutch's retirement the Governor General of Canada, Earl Dufferin, crossed the "sea of mountains" and in a speech to the populace of Victoria severely criticized provincial policy.

> Now, we must all admit that the condition of the Indian question in British Columbia is not satisfactory. Most unfortunately, as I think, there has been an initial error ever since Sir James Douglas quitted office in the Government of British Columbia neglecting to recognize what is known as the Indian title . . . in British Columbia — except in a few cases where under the jurisdiction of the Hudson Bay Company or under the auspices of Sir James Douglas, a similar practice has been adopted — the Provincial Government has always assumed that the fee simple in, as well as sovereignty over the land resided in the Queen. . . . As a consequence there has come to exist an unsatisfactory feeling amongst the Indian population.[112]

The following year the Minister of the Interior, David Mills, concluded similarly. He claimed that at the time of union Canadian authorities were not informed that no treaties had been made with the Indians of British Columbia for the surrender of their territory. Now he asserted that the dominion had the legal right "to interfere and prevent the Provincial Government from dealing with any public land that Indian title to which has not been extinguished." Mills concluded, however, that the federal government was not disposed to raise the question of Indian title to the soil as long as the Indians remained contented.[113] In other words, as long as there was no major Indian outbreak and the government thought it could get away with it, Ottawa would not reverse British Columbia's policy.

Why, having conceded that provincial policy was unsatisfactory, did

[111] Laird to Trutch, 8 July 1874, Trutch, Correspondence Regarding Board of Indian Commissioners.

[112] Speech of Dufferin, 20 September 1876, George Stewart, *Canada Under the Administration of Earl Dufferin*, Toronto, 1878, pp. 492-93.

[113] Mills to Sproat, 3 August 1877, Canada Indian Reserve Commission, Correspondence.

Canada take this line? One of the major reasons had been suggested to Macdonald by Trutch.

> If you now commence to buy out Indian title to the lands of B.C. you would go back on all that has been done for 30 years past and would be equitably bound to compensate tribes who inhabited districts now settled and farmed by white people, equally with those in the more remote and uncultivated portions.[114]

To put it simply, it would cost too much to extinguish Indian title. Europeans were always amenable to suggestions whereby land could be acquired cheaply. Moreover, many of the Indians in British Columbia, in contrast to those on the prairies, realized the value of their land. Another reason for the Dominion's reticence about reversing provincial policy was that it had troubles enough with the "spoilt child of confederation" without instigating a furore over Indian land. The bitterness and frustration engendered by the railway dispute was sufficient for Ottawa to deal with.

Because of its initial unfamiliarity with the British Columbian situation, and then its unwillingness to take decisive action, the federal government was faced with a running battle over the acreage question during Trutch's lieutenant-governorship. In 1873 Ottawa suggested allotments of eighty acres per family, and British Columbia countered with an offer of ten. Powell managed to gain a shortlived agreement on twenty acres, but with the collapse of that accord no further bids were taken. The final stage of these negotiations was the acceptance in 1875 of a suggestion by William Duncan of the Church Missionary Society that no specific acreage be allocated, but rather that individual situations be examined by a commission and a decision reached on the basis of the local knowledge of the Indian agents.[115]

Nor was this the only attempt to frustrate Powell's work. In 1874 he completed an examination of the Musqueam Indian reserve which indicated that, although the band included 70 families, they had only 314 acres reserved for them, 114 of which, in Powell's opinion, were quite useless.[116] Evidently the band had not even received ten acres per family, and on the basis of twenty acres they required 1,400. Rovert Beaven, the Chief Commissioner of Lands and Works, replied to Powell's request that an appropriate amount be surveyed for the Indians with a series of petty

[114] Trutch to Macdonald, 14 October 1872, Macdonald Papers, vol. 278.

[115] Report of the Government of British Columbia on the Subject of Indian Reserves, 17 August 1875, *B.C. Papers*, appendix, p. 9.

[116] Powell to Beaven, 31 July 1874, *B.C. Papers*, p. 134.

and ridiculous questions designed to obstruct the survey.[117] The provincial government demonstrated that it was still more concerned with reducing Indian reserves, than with any kind of just settlement of the matter. Beaven informed Powell, among other things, that

> I am unable to advise the extension of present reservations, until positively informed that you are authorized to reduce as well as increase such reservations, and that you are prepared on behalf of the Dominion Government to guarantee that the Indians will agree quietly to reduction, if the Provincial Government agree to an increase.[118]

In 1875 Powell again applied to the provincial government for lands to make up the deficiency in the reserves that had been surveyed. This time the reply was that the basis of twenty acres agreed on only applied to future reserves and not to those already in existence. As some reservations only amounted to two acres per family, Powell felt that he could do little else than terminate surveys until the question was decided.[119]

Powell was constantly faced with obstructionist tactics by the province, but his appointment did demonstrate one thing. His reports to Ottawa indicate that Trutch, the man of great experience in Indian affairs, was still not giving people accurate information about Indian attitudes on the land question. The general tenor of his reports as lieutenant-governor was that the Indians were satisfied with what had been done for them. In fact the Indians were no more satisfied in the early 1870's than they had been when Trutch "adjusted" their reserves; rather they were growing more and more dissatisfied. Yet, in his letter to Macdonald, Trutch pontificated that "our Indians are sufficiently satisfied."[120]

Indian complaints about treatment over land began when Trutch started whittling away the reserves, and during the years of his lieutenant-governorship they were feeling the situation more acutely. They were learning to understand the value of their land and at the same time "They know that they are rapidly being hemmed in upon their limited reserves, and that their domain is fast diminishing."[121] Indians were also beginning to realize what white ownership of the land meant. When Europeans owned land they fenced in the grass, and tended to bring trespassers

[117] See *B.C. Papers*, pp. 134-35.

[118] Beaven to Powell, 10 August 1874, *B.C. Papers*, p. 135.

[119] Powell to Superintendent General of Indian Affairs, 4 February 1875, *Report on Indian Affairs for 1874*, p. 64.

[120] Trutch to Macdonald, 14 October 1872, Macdonald Papers, vol. 278.

[121] Lenihan to Superintendent General of Indian Affairs, 7 November 1875, *Report on Indian Affairs for 1875*, p. 53.

before their courts. Areas cultivated by Indians, however, were not always similarly protected, either in the courts or from white encroachment. Indians who brought cases of their cultivated areas being trampled by Europeans' cattle before the courts failed to secure convictions,[122] whereas Indian defendants in similar cases were found guilty.[123] In other instances white settlers were granted pre-emption certificates for areas of land that included potato patches belonging to Indians.[124] No doubt the Indians concerned in such cases would have been intrigued with Trutch's claim that they were equal with Europeans before the law.[125]

The discontent produced by factors such as these can be directly attributed to Trutch's reduction policy. In a letter to Ottawa Powell wrote that the Indians were highly satisfied with things under Douglas,

> But since that time his successors have, from time to time, at the request of the white settlers, who in some localities were envious of the fine tracts given to the Indians, cut them down or reserved other lands not so valuable as those originally laid aside for them. In this way they have become generally discontented. . . .[126]

Naturally Trutch would not have explained Indian discontent in terms of the inadequacies of his own policies, but he was undoubtedly aware that it existed. If he could not discern it for himself others were informing him of the situation. Powell wrote to him describing some of the injustices that had occurred and urging their settlement as a matter of paramount importance.[127] Settlers were also informing Trutch of instances of Indian dissatisfaction. He was told that the Chilcotin Indians, for example, were continuing their hostility to the intrusion of Europeans, maintaining that the land was theirs, and objecting to white men living on it.[128] This particular letter was forwarded by Trutch to the Secretary of State for the Provinces, although accompanied by some rather odd remarks. He said that the Chilcotins apparently thought that the Europeans were going to appropriate their land without any consideration rendered in compensation, and that they would be confined to certain limited re-

[122] *The British Columbian*, 9 July 1864.

[123] Powell to Attorney-General, 12 January 1874, *B.C. Papers*, p. 126.

[124] Powell to Trutch, 21 June 1873, *B.C. Papers*, p. 116.

[125] Trutch, Memorandum, p. 10.

[126] Powell to Superintendent General of Indian Affairs, 4 February 1875, *Report on Indian Affairs for 1874*, pp. 63-64.

[127] Powell to Trutch, 21 June 1873, *B.C. Papers*, p. 116.

[128] Riske and McIntyre to Trutch, 6 June 1872, Chilcotin, Correspondence etc. Relating to the District and the Natives, 1872, PABC.

serves.[129] Clearly the Chilcotin Indians had accurately assessed what had happened to the Indians and their lands in the rest of the province and did not want it to happen to them. Yet in his letter to Ottawa Trutch describes this concern as a "misapprehension."[130]

The Chilcotins feared that the result of Trutch's land policy would be to confine them in the future, but for the Indians of the lower Fraser it had already happened. A petition from a group of Indian leaders clearly indicates the kind of pressure the Europeans were exerting on their lands and the apparent absence of any protection of their interests.

> Many of [our people] have given up the cultivation of land, because our gardens have not been protected against the encroachments of the whites. Some of our best men have been deprived of the land they had broken and cultivated with long and hard labour, a white man enclosing it in his claim, and no compensation given. Some of our most enterprising men have lost part of their cattle, because white men had taken the place where those cattle were grazing, and no other place left but the thickly timbered land, where they die fast. Some of our people are obliged to cut rushes along the bank of the river with knives during the winter to feed their cattle.
>
> We are now obliged to clear heavy timbered land, all prairies having been taken from us by white men.[131]

Unlike the Chilcotins these were Indians who had attempted to adopt the white man's ways. "We are not a lazy and roaming-about people, as we used to be," they told the Indian Commissioner. It was their strong contention, however, that Trutch's policies had left them with insufficient land to support themselves.[132] In spite of all such expressions of discontent, Trutch was still blandly assuring Macdonald that the Indians were satisfied, and, in spite of all valid Indian grievances, advocating no change in policy.[133]

Trutch sounds like the archetypal colonialist, protesting that "the natives are happy" while the revolution is battering down the walls. Also like the archetypal colonialist, this claim rests uneasily with his constant demands for sufficient military force to keep the Indians in subjection.[134]

[129] Trutch to Secretary of State for the Provinces, 24 June 1872, British Columbia Lieutenant-Governor, Despatches to Ottawa, 14 August 1871 to 26 July 1876, PABC.

[130] *Ibid.*

[131] Petition of Chiefs of Douglas Portage, of Lower Fraser, and of the other tribes on the seashore of the mainland to Bute Inlet, 14 July 1874, *B.C. Papers*, p. 137.

[132] *Ibid.*

[133] Trutch to Macdonald, 14 October 1872, Macdonald Papers, vol. 278.

[134] Trutch to Macdonald, 16 July 1871, Macdonald Papers, vol. 278.

The revolt never came in British Columbia, but in the year after Trutch's retirement from the lieutenant-governorship the Indians of the interior were on the verge of rebellion. In these areas where Trutch first carried out his reduction programme, discontent had been steadily mounting. The Indians were becoming so wary of government officials that the bands of Nicola and Okanagan Lakes refused to accept presents from Powell "lest, by doing so, they should be thought to waive their claim for compensation for the injustice done them in relation to the Land Grants."[135] Powell's opinion was that "If there has not been an Indian war, it is not because there has been no injustice to the Indians, but because the Indians have not been sufficiently united."[136] The voice of experience, however, spoke reassuringly from Victoria. An Indian outbreak in the interior is "highly improbable," opined Trutch.[137]

In fact the situation had reached boiling point. A desperate telegram was sent to Ottawa from the Reserve Commissioners claiming that an outbreak was imminent.[138] The freedom from Indian disturbances, particularly in comparison with the United States, was a major piece of evidence that Trutch had advanced to demonstrate the benevolence of Indian policy in British Columbia.[139] Now, not only did a revolt seem likely, but the Indians were talking of linking up with the resistance of Chief Joseph south of the border.[140] In the event the Indian Commissioners were able to cool the situation off, but there was no doubt in the minds of Canadian authorities that British Columbia's policy, as instituted by Trutch, was responsible for the very dangerous situation. It is obvious, said the Minister of the Interior, "that the discontent of the Indians is wholly due to the policy which has been pursued towards them by the local authorities." He even went so far as to say that in the event of an Indian war "the people of Canada generally would not sustain a policy towards the Indians of that Province which is, in my opinion, not

[135] Memo of Laird, 2 November 1874, *B.C. Papers*, p. 153.

[136] *Ibid.*

[137] Ash to Powell, 30 January 1874, *B.C. Papers*, p. 127.

[138] Telegram of Sproat and Anderson to the Minister of the Interior, 13 July 1877, Canada Indian Reserve Commission, Correspondence.

[139] Trutch to Secretary of State for the Provinces, 26 September 1871, *B.C. Papers*, p. 99.

[140] Telegram of Sproat and Anderson to the Minister of the Interior, 13 July 1877, Canada Indian Reserve Commission, Correspondence. Speech of Mills, 1 April 1885, Canada, *Official Report of the Debates of the House of Commons of the Dominion of Canada*, Ottawa, 1885, vol. XVIII, p. 886. Cail, pp. 369-70.

only unwise and unjust, but also illegal."[141] In spite of Trutch's efforts to distort the situation the threat of an Indian outbreak had finally, although probably too late, awakened the federal government to a realization of just how unsatisfactory his policies were.

Another historian, writing about Trutch's lieutenant-governorship, has commented that he paid special attention to Indian affairs. John Saywell goes on to claim that Trutch laboured "to get the Federal Government to adopt an intelligent and consistent Indian policy."[142] This essay has tried to show that he was really attempting to convince the federal government to continue those policies he had originated before union. Neither the policies, nor his advocacy of them, was consistent or intelligent. The reserves laid out under his direction were notable not only for the smallness, but also the variety, of their size.[143] His defence of his actions sometimes contained incredible inconsistencies. He could argue in one letter that present policy should be maintained because the Indians were incapable of understanding a different system.[144] Yet in another, the fact that they realized that there was a different policy east of the Rockies was advanced as a cause for discontent.[145] The increasing Indian dissatisfaction during the period would also seem to be a good reason for not describing Trutch's policies as intelligent.

What, then, is Saywell's judgement based on? "An elaborate memorandum that he [Trutch] prepared on the subject was cited as late as 1920 as the sole authoritative pronouncement on Indian affairs."[146] The "elaborate memorandum" was Trutch's letter to Macdonald which is misleading on a number of points.[147] This letter is cited as the "sole authoritative pronouncement on Indian affairs" in a memorandum by Sir Joseph Pope to Duncan C. Scott; hardly a reliable source, even if only for the reason that the judgment is nonsensical.[148] There are many

[141] Mills to Sproat, 3 August 1877, Canada Indian Reserve Commission, Correspondence.

[142] John Tupper Saywell, "Sir Joseph Trutch: British Columbia's First Lieutenant-Governor," *The British Columbia Historical Quarterly*, vol. XIX, nos. 1 and 2, January-April 1955, pp. 85-86.

[143] Petition of the Chiefs of Douglas Portage, of Lower Fraser, and of the other tribes on the seashore of the mainland to Bute Inlet, 14 July 1874, *B.C. Papers*, p. 137.

[144] Trutch to Macdonald, 30 January 1873, Macdonald Papers, vol. 278.

[145] Trutch to Macdonald, 16 July 1872, Macdonald Papers, vol. 278.

[146] Saywell, "Sir Joseph Trutch," p. 86.

[147] Trutch to Macdonald, 14 October 1872, Macdonald Papers, vol. 278.

[148] Memorandum by Sir Joseph Pope, 1920, attached to Trutch to Macdonald, 14 October 1872, Macdonald Papers, vol. 278.

comments on Indian policy in British Columbia that are equally as authoritative as Trutch's letter. Saywell provides no evidence that he has made any thorough examination of Indian affairs in British Columbia, but bases his conclusion on one contemporary letter and one subsequent comment. He admits that Indian policy is important and yet apparently has canvassed no other opinions besides Trutch's on the matter; and as an adjudicator on his own policy Trutch is somewhat less than reliable.

In reality Trutch's views and actions left British Columbia, not only with growing Indian discontent, but with a legacy of litigation that in the long run was to cost the province more than extinguishing Indian title and laying out reasonable reserves would have done. In most areas of Canada the Indian land question has been tied up in a neat European legal package called a treaty. In British Columbia by 1876, largely thanks to the influence of Trutch, it was still in the category of unfinished business.