

affected by “progress,” “development,” modern transportation and “economic growth” — which needs to be generated for contemporary responsible citizenship. If *Vancouver Soundscape* can help to spread the word on this (and open our ears), it will be a worthy achievement. And the perceptive contribution which this flexible research team of the World Soundscape Project are making will bring credit to this Simon Fraser effort, which it richly merits.

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*Land, Man, and the Law: The Disposal of Crown Lands in British Columbia, 1871-1913*, by Robert E. Cail. Vancouver: University of British Columbia Press, 1974. 334 pp., illus.

Robert Cail wrote in a grand tradition. For over half a century the interaction of man and the land had been one of the central problems of American historiography. In Canada the scholars of the Thirties had seized upon the theme and produced the great, over-arching volumes of the *Frontiers of Settlement* series. The basic impulse had been Turnerian, the belief that the secret to cultural and political development was locked in man's struggle to tame his material environment. After the interval of the second world war scholars set themselves the task of complementing the essentially “federal” work of Innis, Lower, Mackintosh and Martin with studies of land policy in the colonial period and in those provinces which controlled their own natural resources. It was at this time that Lillian Gates produced her thesis on Crown Lands Policy in Upper Canada and that Robert Cail presented this magisterial study for a Master's degree at the University of British Columbia.

This extraordinary first book-length essay sadly became Robert Cail's only contribution to Canadian scholarship. He died tragically shortly after completing *Land, Man, and the Law*. Now, almost twenty years later, the University of British Columbia Press has brought out his manuscript as a book. That it should have lain so long ignored is in itself an indictment of both scholarly publishing and scholarship in this country. For example, the most recent history of British Columbia appears to have been written without its benefit. In any event, the University of British Columbia Press is to be congratulated for taking the initiative and producing this handsomely printed, bound and illustrated testimonial to the enduring quality of Robert Cail's scholarship.

As Margaret Ormsby makes abundantly clear in the first sentence of her generous forward — a sentence ringing with proud independence: “Of the four western provinces, only British Columbia entered Confederation having control of its public lands.” But however much British Columbia thought itself alone behind its shield of mountains, it nevertheless encountered much the same problems of Crown lands management and adopted strikingly similar policies to deal with them as the other parts of the country. The timber licensing system established in 1905, which Cail describes as “unique on the continent,” was in fact standard procedure in eastern Canada and had been for a long time. Gradually, British Columbia got drawn into the Canadian way of doing things. As elsewhere, legislation represented a constant retreat in the face of greed and necessity during what Martin Robin has aptly termed the Rush for Spoils.

After three narrative chapters on colonial and provincial land settlement policies up to 1913, Cail adopts a topical approach to his subject to bring order out of the welter of rapidly changing and often contradictory laws. He treats the various departments of lands administration in turn, surveys, forestry, mining, water, and then the most persistent issues, the railway belt, railroad land grants, and finally the Indian lands question. Cail is a proponent of what might be called the primal wisdom school of British Columbia historiography. Governor Douglas said it all; his proclamations aimed at promoting orderly settlement, curbing speculation, collecting a regular and substantial Crown revenue, extinguishing Indian title and setting aside generous reserves Cail believes “covered every major contingency that has yet arisen in the land policy of the province.” But he goes further: “. . . had Douglas continued the role of leadership in British Columbia until after the union with Canada, few of the land problems which did plague the province for so many years would have arisen.” But in the dark days after Confederation, in the days of the pygmy kings, British Columbians lost Douglas’ comprehensive vision. In the pursuit of immediate goals, in the rush to settle the land, to promote railways and resource development, in their eagerness to settle scores for real or imagined grievances with the federal government, they parted with their rich patrimony for a relatively small return and woefully neglected, even denied, their social responsibility towards the Indians.

However, in documenting this indictment Cail offers some evidence to the contrary by showing (1) that some of the later problems did in fact crop up during Douglas’ time without appreciably different results, in

particular the size of Indian reserves controversy, and (2) that poor administrative institutions rather than bad intentions enfeebled later legislators. "However praiseworthy the legislation," he admits at the end, "it was only as effective as the supervision required to ensure compliance with the law." Lillian Gates put it more colourfully in describing the Upper Canadian experience: "Without efficient law enforcement, it is something like opening the strings of a gigantic grab-bag." Even Solon would have failed to cope with the tremendous individual and corporate land lust of the nineteenth century.

Surely one of the greatest ironies of the age was that while governments did their utmost to prevent land speculation by individuals, they themselves practised land speculation on a grand scale to build railroads. Indeed, as Cail points out, more land was handed over to railroads during this 43-year period than was disposed for mining, agriculture, forestry and Indian reserves combined! By 1913 the railroads had laid claim to most of the arable land in the province, all of which leads the author to the tepid conclusion: "It is still debatable whether the people of British Columbia received a fair return for their lands. Transportation was vital to the development of the province within the framework of Confederation, but the price was high."

After 1900 British Columbians recovered some of the ground lost in the late nineteenth century. This was quite literally the case as the Crown recaptured some of these dormant railroad land grants. But in a broader sense, Cail argues, the first decade of the twentieth century was a period during which something like Douglas' authority was reasserted. Thus Cail arrives at the surprisingly upbeat conclusion that by 1913 the province could "boast of the best mining laws on the continent, timber legislation as enlightened as any to be found in the world, and the most advanced water legislation." Without necessarily accepting Cail's value judgments, but granting his premise — that a measure of order and regularity was imposed — it is interesting to note that from an entirely different perspective his work lends support to Martin Robin's argument concerning the importance of a predictable legal environment in the development process. Robin would most certainly take issue with his adjectives, but not his findings. Thus far considerable attention has been devoted to the politicians as agents of stability, but relatively little to the rise of the provincial bureaucracy. In large measure this new stability depended upon the gradual bureaucratization of the state. Who were the new civil servants who framed and enforced these laws? What were the political and social dynamics of this process of institution building? Here

is a fruitful area of inquiry in British Columbia and the other provinces too, for that matter.

Without doubt Robert Cail's untangling of the complicated history of land settlement policies, natural resource law and the interminable railway belt dispute will stand as the definitive account of these subjects.

Even though his research was confined to the published sources, principally the B.C. *Sessional Papers*, it would seem unlikely that an examination of the unpublished correspondence and departmental memoranda — if indeed they have survived — would yield much in the way of surprises. Rather than rewriting what Cail had done so admirably, this generation should set to work on a companion volume bringing the analysis up to our time. Of all his subjects only the Indian lands chapters are likely to undergo revision. At the moment a score of individual scholars and three different teams of researchers working in an adversary relationship are turning the study of native people's rights into an academic growth industry. One would expect Cail's apparent confidence in federal paternalism to be seriously shaken by the results of all this furious archival digging. His harsh judgment of William Duncan — he quotes at approving length John A. Macdonald's opinion that Duncan "had lost his head altogether" — has already been challenged. Nevertheless, for its thoroughness, its moderation, for its clear explication of the law of the land, and for its appendices which pull together all of the relevant statistics pertaining to land alienation, *Land, Man, and the Law* will most certainly become a standard reference work in British Columbia history. It has already stood the test of time.

Since the Fifties this kind of study, valuable though it continues to be, has gone out of fashion perhaps because in the course of detailed research the original Turnerian questions got lost among the mountains of file cards. With the total eclipse of environmental determinism scholars tended to ignore Man and the Land in their pursuit of the Law on the assumption that the Law determined what kind of society the resources of Canada would be used to create — to paraphrase Lillian Gates. But who made the law, in what circumstances and to what ultimate ends? For the underlying meaning of the law one has to look beyond this generation of descriptive studies.