

CHAPTER FIVE

*“Indians have really no right
to the lands they claim”¹*

*The British Columbia Interior and the
Treaty 7 Region to 1877*

THE DISCIPLINARY SURVEILLANCE NETWORK OPERATED TO FACILITATE the expansion of Anglo-Canadian liberal capitalist values, structures, and interests as normal, natural, and beyond reproach. At the same time, it worked to exclude or restructure the economic, political, social, and spiritual tenets of Indigenous cultures. The most significant physical impact of this surveillance network is related to the transfer of land from Indigenous to settler control. By reducing the land base available to First Nations, liberal Canada severely restricted the ability of Indigenous people to provide for themselves and their families while at the same time operated to undermine all other aspects of culture. The reduction of Indigenous territory clearly served the interests of settler society and, perhaps even more than the restriction of movement and of all on and off reserve activities, is a helpful illustration of the impact of exclusionary liberalism in practice.

With the mythology of racelessness firmly imbedded in Canadian culture as already discussed, it seems self-evident that this country's policies and actions related to First Nations territories would be consistently presented as dissimilar if not inherently more moral than those of the United States.² As Minister of the Interior David Mills stated succinctly in his first annual report following the signing of Treaty 7, “[t]he conclusion of this Treaty...is

certainly a conclusive proof of the just policy of the Government of Canada toward the aboriginal population.” This, Mills opined, was especially clear, at “a time when the Indian tribes immediately across the border were engaged in open hostilities with the United States troops.”³

Indian Policy in Canada and United States

Certainly it appears that many on both sides of the border believed that Canada’s methods were superior to those practiced in the United States.⁴ Yet the reasons for this assessment are rooted more in Canada’s ability to manage both its relations with Indigenous people and its release of information than in its magnanimity. An investigation of Canada’s “system of managing Indian affairs” in 1914 by the Secretary of the Board of Indian Commissioners in the United States found that in Canada there was an on-reserve Indian population of 98,774 and estimated that another 5,000 were living off-reserve. It was also estimated that there were a further 50,000 “half breeds” making the total aboriginal population approximately 143,774. This population was distributed over 4,930,608 acres of reserve lands for a total of 34.3 acres per capita. The comparable population in the U.S. was just over double in number, but the reserved land included 71,916,041 acres or approximately 239.7 acres per capita.⁵ By this reckoning, the United States, even after the infamous *General Allotment (Dawes) Act* was in operation for more than two and a half decades, was almost seven times more “generous” in the lands it allowed Indigenous people to retain than was Canada.⁶ While there is little doubt that the policies followed by the United States were often more dramatic and direct than those north of the border, this also made its intent more obvious to contemporaneous reporters and to some later commentators alike.

Unquestionably, both countries sought to alienate Indigenous territories for the benefit of non-Indigenous settlers and as a result, by the early twentieth century, the reserved lands represented only a tiny portion of original holdings on both sides of the border. A remarkable difference, though, is that Canadians have far more consistently been able to convince themselves that their methods were in the best interests of all concerned. Still, the face of Canadian liberalism, and its ability to mask its primary objectives, is clear enough in the historical record. For example, Indian Commissioner J.A.N. Provencher publicly announced in 1874 that the

Indians of this Continent have always been considered, if not as proprietors, at least as occupants of the soil. It was always understood that they had rights as owners and that the Crown would

first have to extinguish those rights to afterwards assure full possession of the land. From this point of view there is a double right and a double interest which cannot be settled without the free consent of those interested.⁷

Liberal Canada's understanding of Indigenous rights and interests, though, was clarified three decades later with the succinct comments of Frank Oliver, the cabinet minister responsible for policy and its application from 1905 to 1911, "if it becomes a question between the Indians and the whites, the interests of the whites will have to be provided for."⁸ In both Canada and the United States, the central government took on the responsibility for Indigenous peoples, but British Columbia continually denied that Indigenous people had any pre-existing title to lands within its borders.

Indigenous Lands and Settler Interests

The non-Indigenous population whose interests were paramount grew very rapidly in British Columbia after it joined Canada. Between 1871 and 1921, its numbers increased from just over 10,000 to nearly 500,000. The early twentieth century witnessed particularly rapid non-Indigenous expansion throughout the province as population growth in the decade ending in 1911 exceeded the previous thirty years combined. In the census district that included Kamloops, the population more than tripled between 1891 and 1911. For the Province as a whole, revenue from lands and forests increased fivefold in the five years after 1901. In the Okanagan area at the turn of the century, less than 7,500 acres were devoted to orchards but a mere seven years later 100,000 acres were engaged in fruit production.⁹ Clearly, all of this meant increasing pressure on the lands and resources of First Nations people even though some groups and individuals were able to incorporate aspects of the onslaught into their array of economic strategies.

As dramatic as the non-Indigenous population growth in British Columbia was, though, it paled in comparison to the population explosion in western Canada east of the Rockies. The population of the North-West Territories was 18,000 in 1871, but had grown to almost 1.35 million by 1921. Between 1901 and 1921 this region, when coupled with Manitoba, accounted for 45 percent of the country's total population growth and its residents grew from 5 to 22 percent of Canada's total. The population of Alberta alone was over 588,000 by 1921, representing a growth of over 800 percent since 1901.¹⁰

With a few notable exceptions, these European immigrants or immigrants of European-descent brought with them particular understandings concerning the efficacy of capitalist relations of production and the natural justness of liberal doctrine, both of which were alien within Indigenous lifeways. These immigrants to western Canada also brought with them a belief in the incontrovertible truth of western science and, of particular interest in relation to territory, they came with specific conceptions of space which, over time, had a significant impact on the splinters of land that Indigenous peoples were able to retain and the uses to which they could be put.

Application of Scientific Geography in Western Canada

In British Columbia the provincial government passed the *Land Amendment Act* in 1879, which codified the survey system and required all lands including “Indian reserves” to be set out in a rectangular fashion.¹¹ The geography of British Columbia did not yield quite so easily to the square survey as the prairie west did. Still, Indian Reserve Commissioner Gilbert Malcolm Sproat complained that he was told by British Columbia’s Chief Commissioner of Lands and Works (CCLW) that the “[n]atural boundaries for Indian reserves cannot be accepted, being in violation to the ‘Land Amendment Act 1879.’”¹² Sproat argued that the reserves in question were assigned before the act came into force and that he attempted “to secure, as far as possible, such regularity of shape, in surveyed districts but to make it compulsory might have the effect, in some places, of causing an unnecessary area to be assigned.”¹³ Nevertheless, even with these risks, the square survey continued to be employed in establishing reserves.¹⁴ British Columbia was unique in western Canada, however, in that crown land could be alienated even before it was surveyed.¹⁵

The fixing of boundaries and the increasing array of forces aligned to restrict First Nations people within them after 1877 are clear illustrations of state power operating overtly in the interests of Euro-Canadian settlers at the expense of Indigenous residents. But the less overt mapping, representation, and boundary-marking procedures themselves were no more benign. The boundaries of the regions under discussion here, and of the reserves they contain are, as Ian McKay has stated in reference to the “molecular checkerboard of quarter-sections” reserved for individual Euro-Canadian newcomers, clear manifestations of “a social ideology set down on land and hence made part of everyday western experience.” The impact of these reminders “of Euclidean

geometry and panoptical state power” on Indigenous peoples should not be underestimated.¹⁶ The normalization of Western science, its reification, its apparent unassailability, and its presumed superiority to all other ways of knowing the world made every contesting system, value, or ideology inferior, decadent, or savage. In western Canada, the contesting cultural structures of First Nations people, their ways of knowing the land, of understanding the potential of its resources, and of describing boundaries could be, and often were, brushed aside.

These ideas have been most thoroughly explored by scholars whose interests lie with the earliest European incursions into non-European lands. As a cultural theorist interested in the early period of non-Indigenous exploration Barbara Belyea maintains “we tend to assume that our perception of geographic patterns is a direct understanding of natural phenomena—that we are accurately seeing what is there.”¹⁷ We tend not to consider the impossibility of describing or defining lands in a way that is not filtered by culture. Simon Ryan confirms “once one begins ... one is involved in a cultural and linguistic activity that cannot refer outside itself to an unmediated reality.”¹⁸ Land is perceived according to what are seen as its defining features. These may include its economic potential, its historic importance, its spiritual significance, or its natural beauty, but always these features are given their meaning through the culture of the group doing the describing or defining. Ryan explores how space is constructed within “the context of the colonial enterprise.” It is important to remember, then, as Barbara Belyea reminds us, “Native geographical knowledge was not simply sketchy, provisional information that scientific survey could confirm, correct, or supersede.” Indigenous peoples had “spatial and topographical concepts” that varied from those of the first European travelers, but were no less authoritative.¹⁹

While European science, mathematics, geometry, modes of classification, and manners of observation, served (and continue to serve) to legitimize and naturalize the segmentation of the land of western Canada in a particular Euro-Canadian way, there was only sporadic and superficial recognition that the people that already lived there constructed and represented this space in an entirely different, though no less legitimate way. This creation of an apparently universally understood spatiality served the interests of the colonizers well. As Ryan explains, “Constructing a monolithic space...allows imperialism to hierarchise the use of space to its own advantage. In imperial ideology the Aborigines do not have a different space to that of the explorers;

rather they under-utilize the space imperialism understands as absolute.”²⁰ At the same time, as Michel de Certeau confirms “[t]he division of space makes possible a *panoptic practice* proceeding from a place whence the eye can transform foreign forces into objects that can be observed and measured, and thus control and ‘include’ them within its scope of vision”²¹

Those who arrived as part of the massive incursion of non-Indigenous people into both southern Alberta and the British Columbia interior, then, came armed with their own understandings of space and the way it should be segmented, demarcated, mapped, and used. They arrived also with culturally produced knowledge of the natural resources of western Canada and their relative values. Importantly, they came with an unshakable belief both in the organic nature of their own understandings and that other ways of knowing, ordering, or describing the world were inferior, if not nonsensical or absurd. This, in turn, served as justification for the paramountcy of settler interests. The first of these interests that needed to be met was the provision of land.

While this was accomplished by different means according to local conditions, surveillance always played a role and the results were not dissimilar. Whereas Indigenous ownership of the land and its resources was considered abrogated by treaty in Alberta, this same ownership was, for the most part, simply denied in British Columbia. In both regions though, the resident First Nations, despite their efforts in opposition to such an outcome, were restricted first to fragments of their pre-contact territories and then to splinters of fragments. Yet these splinters were presented as generous contributions to Indigenous families and communities.

As DSGIA D.C. Scott offered in 1912, “[t]he system of reserved lands had been of incalculable benefit to the Indians, who require secure foothold on the soil.”²² Scott went on to warn, “great caution should be shown in regard to any plans for separating the Indian from his land or for giving him the power to alienate his inheritance.”²³ Indigenous people, this line of reasoning asserted, were incapable of understanding individual ownership or of making such weighty decisions as whether to sell land, a logic that served both the colonizers as a group and individual liberal citizens quite well.

Neither Canadian liberalism nor the market economy demanded that First Nations title to land be recognized. Instead, liberal Canada determined that Indigenous people were not capable of participation in its political structures or in understanding the purity and innate rightness of individual land ownership. As a result, they were excluded from the order of bilateral

negotiations that were held between Canada and the United States, Britain, or even the Hudson's Bay Company in regard to land and resource issues. Non-Indigenous newcomers seized for themselves, with limited consultation even where there were treaties, absolute authority to determine who could and would lawfully own land. Further, while the DIA was able to restrict the ability of First Nations people to sell their land, they were quite proficient at alienating it themselves when settlers demanded and conditions made it possible. While often, though not always, consent of a sort was obtained, this was regularly acquired under questionable circumstances.²⁴ All of this was presented as being, in the long run, in the interest of Indigenous people. Clearly though it was those within the settler elite who benefited the most. As Robert Cail noted: [f]rom the 1860s until at least 1910 there was scarcely a public figure in British Columbia who did not acquire large holdings of agricultural, pastoral, or mineral lands. Similarly Peggy Martin-McGuire explores the investments in land, including formerly Indigenous land, in the prairie west by senior DIA officials during the Laurier era.²⁵

As non-Indigenous newcomers moved into First Nations territories, Indigenous people were able to retain only small portions of their original territories and even these were regularly under threat. While families made homes and lives for themselves on reserves, they were designed as strategic hamlets where individuals could be de-Indianized. As a result of this important reformatory objective of DIA policy, reserves were marginally protected against sale to speculators, at least without the Crown's concurrence. Reserves were, though, subject to various sorts of intrusions. Some of these were deemed illegal and some were state-approved. Reserves provided valuable depositories for all sorts of commodities and resources that required minimal legal effort, on the part of either neighbouring White settlers or larger-scale capitalists, to extract. Additionally, reserves offered captive markets for local entrepreneurs and distant businesses, and served as depositories of land if required for roads or railways. Further, as in the case of World War I, reserves could be used for military purposes and to help enhance Canada's place within the former British Empire. Reserves also provided Indigenous bodies when necessary for military purposes, or the labour needs of farmers or business owners. Finally, they provided employment for a wide range of non-Indigenous employees from high-ranking DIA officials and police officers to temporary on-reserve labourers, and an extensive array of employees in-between. So, while reserves may have been designed primarily as instruments of reform and normalization they also provided a number of other significant

economic benefits to an expanding Canadian liberal capitalism even while the people who lived in these areas were struggling to make homes. All of this, of course, began before 1877.

British Columbia Before 1877

In the area that would become the province of British Columbia, there was a precipitous perceptual shift from its construction as a locale suitable only for trade in animal skins to one of settlement. The institution mandated to encourage the transition, the Hudson's Bay Company (HBC), was not particularly interested, so not very successful, in encouraging this conversion. As HBC Chief Factor and future Governor of Vancouver Island and British Columbia James Douglas confirmed in 1849, "the interests of the Colony, and Fur Trade will never harmonize, the former can flourish, only ... by establishing a new order to things, while the fur Trade must suffer by each innovation."²⁶ Only a year after the H.Y. Hind and John Palliser Expeditions established the post-fur trade potential of the parkland region of the North-West Territories, events in British Columbia marked the beginning of the end of the fur trade and HBC control there as well. In 1858, as many as 30,000 non-Indigenous gold seekers, many of them loyal to the United States, entered British Columbia with dreams of finding wealth in the Fraser River watershed. Their arrival encouraged the British crown to revoke the HBC's exclusive trading rights and to establish the mainland colony of British Columbia.²⁷

Gold mining activity clearly marked a shift in the relationship between Indigenous peoples and the newcomers to their territories. This new encounter was marked neither by exchange nor by a necessary accommodation meted out, even if begrudgingly by fur traders, but by the get-rich-quick and get-out mentality of the violence prone gold seekers.²⁸ In the wake of the gold rushes came a growing number of White settlers as discussed above. There were many contours to the growth of non-Indigenous settlement in British Columbia across time and geography, but everywhere the paucity of potential agricultural land was a major source of conflict.²⁹

The process of alienating land and isolating its Indigenous owners on reserves began well before 1877, particularly for those whose territories held special value to the newcomers.³⁰ In British Columbia, though, beyond fourteen agreements initiated on Vancouver Island in the 1850s and Treaty 8 signed a half-century later and covering the northeast region, there was not even a pretence of gaining First Nations consent.³¹ For reasons that remain

somewhat contentious, James Douglas moved to a different policy regarding land and Indigenous peoples by the time he assumed the governorship of the mainland colony in 1858.³² Douglas envisioned that “anticipatory reserves” should be assigned in advance of settlement. These would promote self-sufficient Indigenous communities operating within the parameters established by settler society, and so allow for their cost-efficient management.³³

Reserves in British Columbia were clearly designed as reformatory institutions from the outset. E.B. Lytton, Secretary of State for the Colonies, asked Douglas if “it might be feasible to settle them permanently in villages; with such settlement civilization at once begins. Law and Religion would become naturally introduced amongst the red men.” Lytton added that “by indirect taxation on the additional articles they would purchase they would contribute to the Colonial Revenue.” He concluded by stating that “Sir George Grey has thus at the Cape [of Good Hope in Southern Africa] enabled to locate the Kaffirs in villages, and from that measure...I trust that the posterity of those long barbarous populations may date their entrance into the pale of civilized life.”³⁴ Douglas agreed that “they should be placed under proper moral and religious training, and left, under the protection of the laws, to provide for their own maintenance and support.” For Douglas, these enclaves were temporary measures only, or as political scientist Paul Tennant states, they would serve “essentially as way stations or half-way houses.”³⁵

Many scholars have been generous to Douglas and his policy, often citing as evidence of his generosity his 1863 instructions to Colonel R.C. Moody, Chief Commissioner of Lands and Works (CCLW): “in laying out Indian Reserves the wishes of the Natives themselves, with respect to boundaries, should in all cases be complied with.”³⁶ The significant point in the context of this study is, though, as Clarence Karr has rightly argued, the result of Douglas’ efforts was that Indigenous people in British Columbia had “fewer rights, less land and less protection than most of their counterparts in the rest of Canada.”³⁷

While there is some debate concerning the results of Douglas’ administration, there are far fewer differences in interpretation concerning the period following his retirement in 1864 and the transfer of the responsibility for lands to Joseph W. Trutch. While Douglas accepted the innate superiority of Europeans and their cultures, he also adhered to the view that Indigenous people were redeemable and civilizable.³⁸ Trutch, on the other hand, has been referred to as the “archetypical colonist” who viewed Indigenous people as “bestial rather than human.”³⁹ In contrast to Douglas’ statements that the

boundaries of reserves should be defined by the resident First Nation, Trutch declared that

Indians have really 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 interest of the Colony, or be allowed to make a market of them either to Government *or to individuals*.⁴⁰

Not only did the First Nations of British Columbia have no right to the reserves already assigned because, in Trutch's view, these lands remained unused but, moreover, they were erroneously defined in the first place.⁴¹ The results of these contentions are aptly illustrated in Secwepemc and Okanagan territories.

In fall 1861, Gold Commissioner William Cox, on instructions from Douglas, located reserves in the Kamloops and Shuswap Lake areas at sites located by two Secwepemc chiefs, who were identified as Chelouis and Nisquamth. Soon after Trutch took over responsibility for lands in British Columbia he sent surveyor Walter Moberly to examine these reserves and the latter found that they contained what he believed to be an unreasonable area of 600 sq mi.⁴² Trutch concurred that the land reserved was "entirely disproportionate to the numbers or requirements of the Indian Tribes to which they are represented to have been appropriated by Mr. Cox" and that "it is very desirable that it should be placed in possession of white settlers as soon as practicable."⁴³ Surveyor Edgar Dewdney was then dispatched to remap the reserves and as a result, by the fall of 1866, a considerable reduction in Secwepemc reserve land had taken place. A forty-mile stretch of the Thompson River and considerable territory to the north was reduced to three parcels, one set aside for the "Kamloops Tribe" and two for the "Shuswap Tribe." Six hundred square miles had become no more than fifteen.⁴⁴ Similarly, reserves at Okanagan Lake, reported to include twenty square miles, or 12,800 acres of "what might be considered the only real agricultural and grazing land in the country," became 842 acres at the foot of the lake, near present day Penticton, and two reserves at the head of the lake totalling about 2,600 acres in all.⁴⁵

In addition to his direct influence on reserve reductions, Joseph Trutch was one of a three-person British Columbia delegation that traveled to Ottawa in 1870 to negotiate British Columbia's entrance into Confederation as the

sixth province. In this capacity he is the likely author of article thirteen of the Terms of Union which states in part that

The charge of the Indians, and the trusteeship and managements of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.⁴⁶

As a result, the form of liberalism being cultivated by Trutch would guide land policy in British Columbia well past 1927. At least some legislators in British Columbia publicly presented their concerns regarding the position of Indigenous peoples within Confederation. During the debates on British Columbia's entry into Canada in the spring of 1870, Henry Holbrook, soon to replace Trutch as the Province's Chief Commissioner of Lands and Works, said:

The Indians, also, should be secured the same protection that they have under our own Government. They are now content with us, and with the way in which the laws are administered, and it is quite possible that they may hereafter be a source of great trouble, if they are not considered as well as white men.⁴⁷

Some were concerned that the Canadian reserve system would destroy local economies while others were worried that implementing such a system would foster Indigenous resistance and argued that Indigenous people in British Columbia, therefore, should be exempt from Canada's Indian policy.⁴⁸ Still others argued that the debate itself should not take place, lest Indigenous peoples themselves find out about it, "we cannot keep back from the Indians anything that happens here, and it will have a bad effect."⁴⁹

It is difficult to determine if the federal government was blissfully ignorant, chose to ignore, placed little emphasis on, declined to take the time to investigate, put other issues ahead of, or was simply incompetent regarding British Columbia's policies regarding First Nations people and their lands. Certainly, the situation was different in the Pacific province than in the prairie west. Firstly, when British Columbia entered Confederation it retained control of the land and resources within its borders, but Alberta would have to wait twenty-five years after it joined Canada in 1905 before it was granted similar rights. Further, since British Columbia became part of Canada as a province

rather than a territory, the division of powers established by the *BNA Act* restricted Ottawa from unilaterally confirming reserves or promising reserves in the terms of treaties as it was doing in the North-West Territories. Finally, with the exception of what is now southern Manitoba, because settlement began earlier in British Columbia than elsewhere in western Canada, some settlers already had legally established property interests in the province prior to its entry into Canada and the Dominion's assumption of responsibility for Indian affairs.⁵⁰ Together, Canada's lack of authority over lands and resources in the province and already vested settler interests there helped to ensure that British Columbia would consistently argue that no Aboriginal title to land existed. As a result of the view of the local settler government that any Indigenous rights to land were of a usufructuary nature only, there was no need to enter into treaties to remove the burden of title as was occurring in the prairie west.⁵¹

In short, the Province's position, as articulated by Attorney General George Walkem in 1875, was that under its policy, "Natives were encouraged to mingle with and live amongst the white population with a view of weaning them by degrees from savage life, and of gradually leading them by example and precept to adopt habits of peace, honesty, and industry." Indigenous people were encouraged to work as labourers, which would expedite their assimilation and serve the interests of the worker-starved province. As Walkem confirmed, "[r]eserves of agricultural land for such labourers would be worse than useless, for if they got them they would be bound to occupy and cultivate them, and this they could not do without loss to themselves and loss of valuable and trained labour to the Province."⁵² While Trutch regularly argued that the policy in British Columbia was to allot ten acres of reserve lands per family, the new province could not, or would not, supply a comprehensive list of reserves already defined or a census that would allow for any calculation of even this meagre allowance of land.⁵³

While much has been made of the avariciousness of Trutch and colonial policy in British Columbia, the Dominion and British Columbia governments had precisely the same objective: to facilitate the use of Indigenous lands, resources, and bodies by White, preferably British Protestant, citizen settlers. The difference between the two was that British Columbia applied exclusionary liberalism in a far more direct if not reckless manner. Whereas Canada preferred to protect the interests of its citizens by persuading or placating Indigenous peoples, British Columbia demonstrated little interest in masking its intentions or even in reducing the potential for Indigenous

resistance. While the Dominion government preferred the establishment of reserves as an intermediary step as discussed above, the Province wanted to skip this step and move right to assimilation into settler society.

As a result of this disagreement, conflict between the two governments began soon after British Columbia's entry into the Canadian federation, and consequently the more substantive Indigenous concerns, like Aboriginal title, were pushed to the background. As Deputy Provincial Secretary Charles Good confirmed in 1876, "the dispute about the Indian Reserves ... took its rise in the different views entertained by the Governments of the Dominion and of this Province respectively, as to the amount of Land that should be allotted to each Indian family." While the Province wanted to maintain Trutch's ten acres per family policy, the Dominion asked that eighty acres be set aside.⁵⁴

Through 1927 at least, the Dominion government was clearly more interested in resolving differences with the Province than in a just settlement, even to the extent that the application of the numbered treaties was just, with Indigenous peoples. The final goal of removing First Nations from their land and resources and the understanding of them as incapable of participating as liberal individuals was not in dispute. The differences were based in the extent of land that should be reserved to function as reformatory space.

Indigenous Resistance to 1877 in the British Columbia Interior

Surveillance by missionaries and others throughout the province indicated Indigenous dissatisfaction for more than a decade prior to 1877 and the potential for resistance resulting from insufficient lands was already observed by Dominion representatives as well.⁵⁵ In 1874, for example, the DIA's Superintendent Powell explained the situation: "the interior Indians in addition to considerable progress in raising cereals, are very generally the possessors of cattle horses, sheep, pigs etc." so that reserves set aside were not adequate to their needs.⁵⁶ The same year, an Oblate priest at Okanagan Mission, Father C. J. Grandidier, stated that he was "afraid to foresee" the consequences of Indigenous people being "deprived of their fathers' land without any hope of redress.... We may have very serious disturbances, which it might be impossible to suppress." Superintendent Powell concurred, "it would be too great an undertaking on my part to guarantee quietude on the part of the Indians" and suggested that "liberal grants of land to those really requiring them will greatly modify, if not entirely destroy such a condition, and ensure at least resignation to their present lot."⁵⁷ Seven Secwepemc chiefs petitioned Powell

and argued that they had been patient, but their reserves were laid out “without our agreement and in some places against our will as if we had been slaves and had no rights to our lands.” They warned that “if our land question is not soon settled, and our just requests not listened to, ill feelings and irritation will prevail to such an extent that one cannot foretell the consequences.”⁵⁸

When Powell decided to travel to the interior to investigate the grievances, Provincial Secretary John Ash notified him that the British Columbia government did not think any outbreak was likely and that it did not “consider it necessary to offer you [Powell] any advice on the subject.”⁵⁹ Powell’s visit to the Kamloops and Okanagan regions did serve to defuse the situation for a time by presenting the Dominion as interested in Indigenous concerns, but Canada’s decision to compromise with the Province by accepting a twenty acre per family formula in establishing reserves demonstrates that their primary concern was agreeable relations with British Columbia.⁶⁰

Establishment of the Joint Reserve Commission

It was potential threat to the quietude and orderly alienation of Indigenous lands that led the Dominion and Province to seek formal resolution of their differences. At the beginning of 1876 the two governments agreed to create a three-person commission, one each appointed by British Columbia and Canada and the third named jointly to investigate “the Indian reserve question.” These commissioners were to “have special regard to the habits, wants and pursuits of each Indian nation, to the amount of territory available in the country occupied by them, as well as to the claims of the White population.”⁶¹ Further, to protect provincial reversionary interests to reserves that were already established, but that might be recommended for reduction by the commission, the Dominion agreed to, and gained royal assent for, temporarily suspending the section of the *Indian Act* that required Indigenous consent be attained before a reserve could be alienated or reduced. Hamar Foster suggests that Sproat recommended this move to facilitate the work of the commission by alleviating the need to win surrenders before dealing with already established reserves. It would also satisfy British Columbia in that any lands removed from existing reserves would revert to the Province as opposed to the Dominion.⁶² Clearly then, liberal Canada chose to promote settler claims at the expense of the rights of Indigenous communities and individuals. Further, by narrowing the parameters of the investigation to reserve size as opposed to title or even treaties, it made this choice before the commission even began its investigations. By 1877, Canada had agreed to deny the rights

and protections guaranteed, in principle at least, east of the Rockies. As long as any opposition that arose did not threaten to unmask the liberal façade, Canada would not raise the issues of title or rights in British Columbia.⁶³

The Treaty 7 Region Before 1877

As has been discussed elsewhere, a number of factors coalesced in the mid to late nineteenth century to reconstruct the prairie west from a domain of fur traders to a space in which other economic potential, more hospitable to colonial expansion, might be exploited.⁶⁴ The increasing paucity and rising prices of farmland in Canada West by the 1850s focused Canadian imperialist vision on the western plains. This focus was sharpened considerably by 1858 when expeditions commissioned by the Canadian and British governments reported positively on the presence of a northern fertile belt and negatively on the arid southern region, subsequently known as Palliser's Triangle.⁶⁵

Further, the threat of American expansion northward had never quite disappeared, even after the establishment of the boundary between British and American territory with the Treaty of Washington in 1846. In addition, the Hudson's Bay Company (HBC) charter was due for renewal in 1859 and a British parliamentary committee created to inquire into this issue identified that change of administration, including a union of Canada with the Red River and Saskatchewan regions, was necessary for successful settlement of the west.⁶⁶ As the vanguard of imperial expansion, the HBC had served as far as it could and it was time for other strategies and institutions to take its place. Certainly, the HBC would be rewarded for its service.

By 1863, control of the HBC was assumed by individuals interested not in trade with Indigenous peoples, but in profits that could be made from the sale of its proprietary rights. Since the company was loath to bear the costs of colonization on its own and since the British government too was unwilling to accept responsibility, the newly reorganized HBC had to wait until after Confederation when the Canadian Government had the resources available to acquire this territory.⁶⁷ With the transfer of this land in 1870, the HBC was rewarded with, in part, five percent of the fertile belt or about 6.6 million acres.⁶⁸ Significantly, in addition to the generous compensation in land, the HBC was relieved of its responsibility for the Indigenous hunters and trappers who had created its wealth in the first place.⁶⁹ For its part, Canada moved to secure its hold on this newly acquired territory and to facilitate non-Indigenous settlement in the west by initiating treaties with resident First Nations.

Several years before Lieutenant Governor and Special Indian Commissioner David Laird and his military entourage arrived at Blackfoot Crossing to inform the First Nations living between there and the Rockies of the Government's intentions, there were already complaints from treaty areas further east. As Indian Commissioner J.A.N. Provencher confirmed:

it is undoubted that by an interpretation put by the Indians on the words of the Commissioners that they, who were present at the Treaties Nos 1& 2, were led to expect many more benefits than were expressed in those two Treaties; and in the meantime they almost accuse the Representatives of Canada of obtaining their consent under false pretences...such charges, however ill founded, may raise difficulties in the future. All these Indians are in communication with each other and the dissatisfaction of any whether with or without reason cannot fail to exercise an influence on the minds of others...it is none the less important, in the interest of the tranquility of the future, to prevent all pretexts at defiance on the part of the Tribes with whom the Government may find it advisable to conclude new Treaties.⁷⁰

In the interests of "tranquility" and to "prevent all pretexts at defiance" and so facilitate the acquisition of the First Nation territory through treaty further west, the signatories to Treaties 1 and 2 were awarded concessions regarding annuity payments and reserve size.⁷¹

There was also a growing concern by 1877 that the Lakota under the leadership of Sitting Bull, who had moved into the Canadian Cypress Hills area in November 1876 after their defeat of the American Seventh Cavalry under Colonel George Custer, might ally with the Blackfoot. At the same time the Nez Percé, also pursued by the U.S. army, had moved closer to Canadian territory.⁷² Finally, Secwepemc and Okanagan dissatisfaction over the lack of security of their land holdings, and settler fear that they might resort to military action, as discussed above and below, caused concern in some quarters at least. At the same time the First Nations that became party to Treaty 7 were only beginning to get a hint of what was in store for them. For example, while NWMP Assistant Commissioner J.F. Macleod told the Blackfoot that the police had "not come to take their land from them," the NWMP proceeded, without consultation, to construct Forts Macleod and Calgary in Blackfoot territory. More significantly, as Barbara Mayfield notes,

the presence of these forts tended to offer an increased sense of security to potential non-Indigenous settlers and so enhanced the likelihood of their coming to or remaining on Blackfoot lands.⁷³

As expressed in their nine-point petition to Lieutenant Governor Morris, the Blackfoot were concerned about incursions into their territories by Métis and Cree hunters who had moved west to hunt buffalo.⁷⁴ But in response to the articulation of these concerns at the Treaty 7 meetings at Blackfoot Crossing in 1877, David Laird stated that “the Commissioners could not agree to exclude the Crees and half-breeds from the Blackfoot country; that they were the Great Mother’s children as much as the Blackfeet and Bloods, and she did not wish to see any of them starve.” Laird stated, though, that the *Indian Act* guaranteed prosecution for trespassing on reserves.⁷⁵ In other words, Canada would only protect First Nations interests in the ways that those interests were, and would be, defined by the representatives of the state.

While the First Nations of western Canada were beginning to get a glimpse of the teeth behind the mask of liberal colonialism, some non-Indigenous commentators at least remained blissfully ignorant. A correspondent for New York’s *The World* commented that in the United States there was a “probability of an Indian war all over the plains from Dakota to Texas, a war, too, which has been in reality inspired by repeated breach of treaty obligations” whereas “under British rule not only has the Indian not remained a foe but actually become an ally.” The correspondent informed the DIA that if they could send him “the principles governing your Department and the system whereby they are put in practice would not only be of present interest, but, also, of possible practical benefit.” The reporter seems to have uncritically accepted the data provided in the DIA’s *Annual Reports*. In his subsequent article he offered: the “treaties of 1871 were fairly performed... Indian title to these lands is acquired in Canada, and any inconvenience or danger such as might arise from attempting to pass over the territorial rights of the bands has been avoided.... It is to the credit of Canadian politicians and ministers that not even during the corruption of the late Dominion Administration were the Indians abused, plundered, or neglected.”⁷⁶ Canadians, spared from the more visible form of imperialism occurring in the United States could already congratulate themselves for the application of their brand of liberalism.

Comparing the Treaty 7 Area and the Interior of British Columbia Before 1877

There were, then, both similarities and differences in the positions that Indigenous people found themselves in the interior of British Columbia

and the southern portion of what would become Alberta. In neither place did the resident First Nations, despite attempts such as the 1875 Blackfoot petition, have any substantial or decisive input into the transfer of authority over their territories or even themselves. But when British Columbia joined with the Dominion of Canada, an institutional framework, informed by Anglo-Canadian values, was already in place. As a result, there was no question for those negotiating its inclusion into Confederation that this colony already held title to its public lands. Here as well, unlike the North-West Territories, there was no attempt to extinguish title or resolve the differences regarding reserves prior to the arrival of non-Indigenous settlers.⁷⁷ Further, in the prairie west, the Dominion government had a much freer hand in determining policies related to the proportion of land that would be retained by First Nations as reserves.

The reserves set aside in the western numbered treaties were indeed significantly larger than those allowed by Joseph Trutch, but in many ways Trutch's actions were rather more forthright than his federal counterparts. None of the three pillars of liberalism: individual liberty, protection of private property, or equality are evident in the actions taken by Trutch or his successors towards Indigenous people in British Columbia, but neither are they in those of the Dominion government. What is evident is that administrators in British Columbia simply rejected the notion that there was any onus on them to pursue these liberal objectives in the case of Indigenous people even though they did attempt to justify their policies to non-Indigenous advocates outside the province. Canada, on the other hand, made Herculean efforts to explain why any benefits liberalism had to offer would have to be delayed, modified, or circumvented. Further, it went to some lengths to present this exclusion of Indigenous people from these benefits as in the best interests of the First Nations concerned. Ultimately, the liberty of First Nations people was no less severely restricted by a complex of legal, extra-legal, and blatantly illegal means in southern Alberta than it was in British Columbia.

It is impossible to know how far the colonial or provincial governments in British Columbia, had they been in a position to act on their own, would have gone in attending to their particular strategies to remove land from First Nations control. It is important to recognize, though, that British Columbia rarely misrepresented its intentions in the same way that the Dominion did. It is clear that Trutch recognized that the appearance of generosity could deflect all sorts of criticism levelled by non-Indigenous people outside of British Columbia⁷⁸ and certainly he believed that in reducing reserves the

Province would have “to convince the Indians that the Government only intend to deal fairly with them and the whites, who desire to settle on and cultivate the lands that they (the Indians) have really no right to and no use for.”⁷⁹ Yet there was little attempt to convince First Nations that further alienation of their land was in their own best interests.

The intention here is certainly not to rescue Trutch from the depths of his own racial arrogance, myopia, or shallow insight, or to paint him as somehow a friend of Indigenous people. Rather the argument here is that the distinction between the Indian policies of the federal and British Columbia governments has perhaps been overstated. In fact, viewed from the beginning of the twenty-first century, the results of the apparent generosity of the federal government in southern Alberta and the avarice of the provincial government in the British Columbia interior are not significantly different except in one important way. By refusing to extinguish Aboriginal title, the governments of British Columbia seem to have unwittingly left the First Nations there with an even stronger and clearer claim to land and resources than the peoples who were party to the numbered treaties.

British Columbia in 1877

By early 1877, British Columbia was already positioning itself to disband the Joint Reserve Commission (JRC) by claiming that it was, for the most part, an inefficient, senseless, and expensive method of dealing with the land concerns of Indigenous peoples.⁸⁰ Partly as a result of the ensuing uncertainty, the JRC had been held up in Victoria until early summer when, for reasons initially unknown to the commissioners, they were told to hurry to the Kamloops area. By the time they reached New Westminster they were informed by Superintendent Lenihan, “that the Indians in the Kamloops district had shown lately such signs of dissatisfaction that immediate action to calm their minds was necessary.”⁸¹

Sproat reported that messengers were traveling from the U.S. to meet with the Okanagan and other First Nations in British Columbia, apparently to seek their cooperation in a concerted action. The concern regarding potential alliance with First Nations in the United States who were “engaged in active hostilities against the troops of the United States Government” was not dissimilar to the fear that led in part to Treaty 7.⁸² In July, Commissioners McKinlay and Sproat expressed their fear of war to both Victoria and Ottawa.⁸³ The same month Justices of the Peace, John A. Mara and John Tait wrote to the commission stating they had previously considered “those who

have been prophesizing an outbreak as ‘Alarmists,’ but now we are compelled to admit that there is serious ground for alarm.”⁸⁴ Sproat commented further on information he gathered from settlers married to Indigenous women “that the Indians had combined this year for some purpose or other, not a pleasant purpose to judge from their changed demeanour.”⁸⁵ He went on by stating that since 1874, with “the aggravation to the Indians of seeing the further occupation by whites of lands all around them which rose rapidly in value through the whole district, it would have been an act of wilful blindness and an offence against common sense to expect to find the Indians in any other mood than one of grievous dissatisfaction.” The Secwepemc and Okanagan were incensed that the fragments of land that remained to them “were too small for themselves and children, and that white men were hemming them in on all sides. White men could get what land they pleased and the most easy terms; the Indians were restricted within narrow boundaries.”⁸⁶

The commissioners recognized “a confederation has...been entered into by the heads of the several tribes, the object of which is apparently to urge their land claims the more forcibly through union” and they moved quickly to allot reserves “to break up, if possible, the union and to deal in detail severally with the various questions in issue.” By dealing relatively generously with groups in the North Thompson region and at Adams Lake, historically among the more isolated of Secwepemc communities, they were able to fracture the “nascent confederacy” among the Secwepemc and between them and the Okanagan.⁸⁷ Their actions relieved immediate tensions and reduced the urgency for cooperation among the Secwepemc. A month later the commissioners were able to boast that “[b]y taking a Steamboat into Shuswap Lake where there are no settlers, we managed to satisfy Niscanilth, Adrienne and Louis (of the Lake), who otherwise must have been provided with lands on the South Thompson, among the settlers resident there.” They confirmed that the “union among the Shuswap which we have succeeded in breaking up” was accomplished while “not giving up more than a reasonable quantity of land. “Thus Sproat and the commissioners were able to avoid reaffirming the reserves established on the South Thompson during the Douglas era.”⁸⁸

In the fall of 1877 the Victoria based *British Colonist* newspaper reported that while the work of the Reserve Commission was

made immensely more difficult by the effect of the American Indian war not far from the southern frontier of the Province... the Shuswap Indian chiefs who were disposed to be troublesome

have been won over by the kindness, good judgment and skilful management of the Commissioners....⁸⁹

Managing the situation and relieving the potential for overt resistance while giving the appearance of consultation is well illustrated by the machinations of the Joint Reserve Commission in the British Columbia interior. Further, it is clear from the commission's work that all of this was to be accomplished while denying as little land and as few resources as possible to the incoming settlers. Finally, like all reserves, the boundaries of the ones confirmed here were meant to define the border between Whiteness and Indianness, or civilization and aboriginality, but where the line would be located on the map was soon contested.⁹⁰

Almost immediately, Superintendent Powell felt compelled to inform his superiors in Ottawa that "many complaints are being made both by white settlers and Indians respecting the boundary of Reserves lately set aside by the Commission." For their part, Powell noted, "Indians complain that the boundaries have not been pointed out to them, and in some sections where there are White settlers, complaints are made by them that their lands are claimed by Indians."⁹¹

Whitfield Chase, Alexander McBryan, D.G. Macpherson, and C.E. Williams, settlers at Shuswap, sent a petition to the provincial government complaining of a reserve located in the South Thompson area adjacent to their farms.

The position of the reservations, they being on every side of us, will induce the passing to and fro constantly of trains of lawless savages, who will throw down our fences leaving them open, allowing animals to stray upon our crops and elsewhere; by their dogs our poultry will be exterminated and our pigs and young stock worried and destroyed. Our fruit and our gardens will be plundered almost under our eyes, and every implement and article of value must be under bolts or the eyes of its owner, or be forever lost.

While they had hoped that any neighbours they had "would be of the civilized races" now they complained that "our property, on the improvement of which we have expended upwards of a decade of our most vigorous manhood, will be confiscated, for property with such surroundings will be utterly valueless in the market."⁹²

Reserve Commissioners McKinlay and Sproat wrote in response:

Couched as their statement is in exaggerated language, and laying down principles which cannot be approved, it will tend to give the Canadian Government, who are the Trustees and Guardians of the Indians, a wrong impression of the sentiments of the white settlers in the interior as regards the Indians.⁹³

The commissioners were concerned that the liberal façade might be jeopardized by “exaggerated language,” but in a letter to the *Colonist* the settlers fired back using liberal mandates to defend their position.

The public will judge if we asked for more than what in justice we may demand. The act we complained of was unquestionably illegal and consequently should become void, as no state, unless a despotism, arrogates to itself the prerogative of destroying private property, or taking legitimate value from it only by fair and equitable indemnification.⁹⁴

Perhaps remarkably, at least one of the authors of the petition, Whitfield Chase, had an Indigenous wife who Chase’s family history identifies as Persons, the daughter of a Nez Percé father and Secwepemc mother. Persons was not only the mother of Chase’s ten children, but her father had provided him with horses that helped build the Chase ranch.⁹⁵

The Treaty 7 Region in 1877

Prior to 1877, Indigenous peoples of the western plains had already negotiated a number of agreements for peace and for trade with neighbouring First Nations.⁹⁶ In American territory, the U.S. Government responded to a planned railway route and the influx of White settlers into Montana by signing three treaties with the First Nations there, including the Blackfoot, by 1870.⁹⁷

In the region of the plains and foothills that became Canada, both the First Nations and the Dominion recognized that some arrangement would have to be made with the other, but the conditions under which the federal government managed to secure Treaty 7 are questionable and contentious. One survey of academic treatments of the Treaty argues: “[t]he academic arguments support the position that the Aboriginal people of Treaty 7 were

either deliberately or unintentionally deceived.” These authors state further that “[t]he claim that the Canadian government bargained in good faith is no longer acceptable; the evidence to the contrary is far too great.” They admit though, that “[t]he degree of the deception is more difficult to determine.”⁹⁸

One of the authors surveyed and one of the most prolific writers on the Treaty 7 region, Hugh Dempsey, like many who preceded him, puts great stock in what he perceives as the Treaty 7 First Nations’ faith and trust in the NWMP, and particularly Colonel J.F. MacLeod. He cites Macleod:

As surely as my past promises have been kept, so surely shall those made up by the Commissioners be carried out in the future. If they were broken I would be ashamed to meet you or look you in the face; but every promise will be solemnly fulfilled as certainly as the sun now shines down upon us from the heavens.⁹⁹

To the extent that Dempsey is correct, and that the respect for Macleod and the NWMP was widespread and not isolated to Crowfoot and a few others, future events would illustrate that this trust was misplaced.

In an 1878 meeting with Chief Crowfoot, Macleod stated that he “fully explained the terms of the Treaty.” To this explanation Crowfoot “said that he did not like it and had not heard of it before....” Crowfoot stated further “had I known that Five dollars were all that we were to receive, I would not have taken the Treaty.” Macleod seemed unable to accept that perhaps Crowfoot had seen through the liberal façade presented by him and the other commissioners: “[s]ome person must have been telling you lies—I did not expect that my old friend Crowfoot would talk to me in this manner. What I promise I always do. You have trusted me since I came to this country and I am curious to know why you talk to me in this way.”¹⁰⁰

By 1888, any respect that First Nations people may have had for Macleod was wearing thin. According to NWMP Superintendent Neale, Kainai Chief White Calf “said he thought it was strange that [now] Judge Macleod could always attend to the whites and would not come to hear the Indians.”¹⁰¹

At the meetings at Blackfoot Crossing that led to Treaty 7, however, everything was stacked against a diplomatic agreement that was acceptable to all parties for a number of reasons. Firstly, the treaty document itself was already written. Further, what the parties sought was in contradiction and this together with poor translation and unfamiliar concepts, makes it improbable that First Nations understood the underlying intentions of the colonial

government even if these were fully disclosed to leaders that actually represented all resident First Nation groups. Both of these conditions are suspect, at best. As well, it must be remembered that Treaty 7 was negotiated against the visible and implied threat that force might be applied at any time.¹⁰²



Back row, left to right: Jean L'Heureux, interpreter; Red Crow, Kainai; Sergeant W. Piercy, North-West Mounted Police. Front row, left to right: Crowfoot, Siksika; Eagle Tail, Piikani; Three Bulls, Siksika. There were many Blackfoot leaders at the signing of Treaty 7 but Crowfoot was elevated to spokesperson for the entire Blackfoot Confederacy by Canadian officials because of the apparently conciliatory approach that he displayed. (*Glenbow Archives, NA-13-1*).

Further, those who represented the Dominion worked to afford particular Indigenous leaders the privilege of speaking for their fellows even if this was an unwarranted simplification of First Nations political structures. For example, Crowfoot was elevated to spokesperson for the entire Blackfoot Confederacy because of the apparently conciliatory approach that he had

displayed in other meetings with the NWMP and with missionaries.¹⁰³ As a result, the NWMP and other officials promoted him to a position of pre-eminent leader to both better fit their understanding of political formations and to help facilitate their own objectives at the meetings. The notion that there could be a democratic form of governance in which there was no penultimate leader was incomprehensible to Canadian representatives at Blackfoot Crossing.¹⁰⁴ Perhaps for similar reasons, Chiefs Bear's Paw, Jacob Goodstone, and Chiniquay were allowed to speak for the entire Nakoda Nation.¹⁰⁵ Whereas Macleod appears to have chosen who would speak for the three Blackfoot nations, Methodist Missionary John McDougall seems to have selected who would speak for the Nakoda. As Nakoda Chief John Snow confirms, a "question that has plagued us since Treaty Seven is whether our Chiefs and Councillors who attended fully represented the entire Stoney Tribe. There is every indication they did not."¹⁰⁶

Missionaries operating in the region had already been actively involved in preparing the ground for a positive reception of the treaty commissioners and the settlers that would arrive in their wake. For example, Methodist missionary John McDougall, who would later play a prominent role in recommending reserve reductions in the British Columbia interior, was engaged in 1874 to prepare Indigenous people in this region for the arrival of the NWMP to their lands.¹⁰⁷ A couple of years later, as McDougall's colleague John Maclean, who referred to McDougall as a "Pathfinder of Empire" confirmed: "[t]he services of John McDougall were sought and utilized in preparing the Indians and assisting at the making of the Treaty."¹⁰⁸ Together with his father George, McDougall established what historian John Lerner has referred to as "a duchy on the upper Bow" and sought to draw the various Nakoda groups away from their favoured territory in the Bighorn-Kootenay Plain area further north. From the beginning, McDougall was resolute that all of the Nakoda be covered under Treaty 7 and so potential congregants for his mission on the Bow River.¹⁰⁹ While this centralization served McDougall's interest by making it easier for him to minister to the Nakoda in a location close to his home and mission, it had the profound effect that land assigned would not include the Bighorn-Kootenay Plains area.¹¹⁰ Overall, McDougall seems to have seen no conflict in his role as missionary to the Nakoda and emissary for the government that wanted to usurp their territory.

It seems evident that government representatives, both missionary and secular, were at best woefully ignorant of Indigenous political structures. There is little evidence to support a proposition that either went any distance

to ensure that any First Nation representative, even those that they helped to construct, adequately appreciated their intentions. The emissaries of the state, then, created a body of knowledge concerning the meaning of the treaty. At the same time, through the disciplinary surveillance network employed in their interests, an affiliated knowledge concerning Indigenous polities and their leadership was assembled. Both were meant to reduce the potential of resistance to the treaty. As a result, that each party at the meetings had a different understanding of what the treaty meant seems beyond dispute. Whereas for settler representatives this was a once and for all real estate transaction, for the First Nations it was primarily a peace treaty in which they agreed to allow limited settler use of their territories.¹¹¹

Undoubtedly, Treaty 7, like all the numbered treaties, represents the textual basis for the transmission of First Nations territory to Canadian colonial control. As a result of the brevity of the text of the Treaty, while several paragraphs longer than the Douglas Treaties in British Columbia, debates surrounding intent and the extent of deception and understanding will undoubtedly continue to rage for some time to come. The position advanced here is that while the Treaty 7 First Nations viewed the treaty as a diplomatic exercise, for the state it was little more than a coercive and exploitive instrument even while it was presented as benevolent.¹¹² As Dorothy Jones has commented on U.S. treaties, “[o]ne of the marks of colonialism is that it bends traditional diplomatic structures to exploitive ends....The only check [in a diplomatic system] is the assumption of countervailing force. When that is absent, as it invariably is in situations of colonialism, the whole treaty system becomes a weapon in the arsenal of the stronger power.”¹¹³ The treaty document did, however, give colonial expansion an air of legitimacy, at least in the minds of Euro-Canadian settler-citizens.

Land Retained in the Text of Treaty 7

In regard to the fragments of territory in which the Treaty 7 First Nations were expected to contain themselves, the text of the treaty provided that “reserves shall be assigned them of sufficient area to allow one square mile for each family of five persons.” The Nakoda were assigned a reserve in “the vicinity of Morleyville”; the Piikani “on the Old Man’s River, near the foot of the Porcupine Hills, at a place called “Crow’s Creek”; and the Siksika, Kainai, and Tsuu T’ina were allocated a reserve together that comprised a strip of land on the north side of the Bow and South Saskatchewan Rivers averaging four miles in width and stretching approximately 200 miles from a point twenty miles

upstream from Blackfoot Crossing to the junction of the South Saskatchewan and Red Deer Rivers. Also, for a period of ten years, a one-mile-wide strip on the south side of the Bow and South Saskatchewan was allotted together with a band on both sides of the South Saskatchewan (now Oldman) River back upstream to the Little Bow.¹¹⁴

There is no evidence that any government or church representative operated against the immediate interests of settler society to explain to the Treaty 7 First Nations either the degree to which original territories would be alienated or the extent to which they would be isolated from them. Indeed, the explicit exclusion of economically valuable land, including a coal seam that Lieutenant Governor and Special Indian Commissioner Laird set off to investigate at the conclusion of the treaty meetings, is illustrative of whose interests were protected by the treaty.¹¹⁵ Further, as Dempsey points out, these reserve lands included some excellent hunting grounds but they had perhaps the least agricultural potential of any lands on the Canadian plains.¹¹⁶ Further still, in the case of the Kainai, as discussed in Chapter Two and below, under-enumeration resulted in even further diminishment of reserve land.

In addition to delineating reserve lands, the text of Treaty 7 outlines the state's view of compensation to be awarded to First Nations for alienation of their territory. This compensation included, among a few other things, the distribution of small numbers of livestock and agricultural instruments, an annuity for each person included in the treaty, an annual allowance for ammunition, and a salary for teachers. The text also guaranteed the "right to pursue their vocations of hunting throughout the tract surrendered," which would be "subject to such regulations as may from time to time, be made by the Government of the country...saving and excepting such tracts as may be required or taken from time to time for settlement, mining, trading" or other purposes for which the Government saw fit to authorize.

For these benefits and permission to continue to occupy fragments of their original territories, the Treaty 7 First Nations, according to the text of the treaty, agreed not only to give up the vast majority of their territory, but also to engage in surveillance of each other: "they will assist the officers of Her Majesty in bringing to justice and punishment any Indian offending against the stipulations of this Treaty, or infringing the laws in force in the country so ceded."¹¹⁷ This was to allow for the far more efficient operation of power from within First Nations communities rather than solely from above as has been discussed in earlier chapters.

The mandates of a liberal Dominion government were thus fulfilled by the text of the treaty. The liberty and property of the anticipated White settlers would be protected while the appearance of fairness to First Nations could be presented. In fact, Laird felt compelled to justify that while the goods and annuities promised in the text of the treaty “may to some appear excessive” the net cost would be less than for goods provided by either Treaty 4 or 6.¹¹⁸ At the same time, to maintain the interests of settler society, the treaty provided for further levels of surveillance through both the restrictions of the reserve system and Indigenous self-observation.

Canada’s skill at managing the information it created in relation to Indigenous peoples helped to mask the exclusionary operation of liberalism in the west. This ability allowed it to appear far more generous and progressive than not only its neighbour to the south, but also its own Pacific province. Nevertheless, the textual record it created demonstrates that as settler immigration to western Canada surged at the beginning of the twentieth century, it was settler interests and ways of looking at the world, including their ways of conceiving geographic space that superseded Indigenous understandings and individual and community well-being. The naturalization of settler conceptions, including the creation of an apparently universally understood spatiality, and the reconstruction of Indigenous knowledge as irrational and illegitimate, served the interests of the colonizers well. While these interests were promoted by different means according to local conditions and actors, surveillance consistently played a role in the reduction of Indigenous lands in both regions.

Preconceived notions of Indianness, reinforced by knowledge constructed through surveillance, served to justify the exclusion of Indigenous people from the right to own land and to equal participation in political structures guaranteed by liberalism, both of which incoming settlers took for granted. The splinters of land that the original owners of western Canada were allowed to retain as reserves in 1877, whether by treaty or by the actions of reserve commissioners, were themselves soon under pressure from various points.

By the time British Columbia joined with Canada in 1871, it already held legal title to its public lands, while British-based understandings had already shaped its institutional framework. British Columbia was more direct and less circumspect in its actions related to Indigenous people, but both it and Canada similarly laboured to clear them from the territory demanded by incoming settlers. Despite common goals, tactical disagreements between the two governments were soon evident and came to overshadow the most substantive

Indigenous concerns, including Aboriginal title. Throughout the period covered by this study, Canada was markedly more eager to come to an amicable arrangement with the Province concerning lands left to Indigenous people than to ensure equality of treatment, even in comparison to the rights and land base that remained to First Nations east of the Rockies. Canada was not about to let a consistent application of its own policies regarding Indigenous title, treaties, or reserved lands sour its relationship with British Columbia.

In southern Alberta, a coalescence of a number of factors ensured that pressure to wrest territory from First Nations control was applied for a variety of reasons from a number of quarters in the 1870s. Here, Canada had much more freedom in determining the proportion of land retained by First Nations as reserves and these were indeed established on significantly larger basis than was allowed in British Columbia. Yet in many ways Canada's actions, both in establishing and later reducing these reserves, were rather less forthright than those of British Columbia. Where Joseph Trutch and the settler governments in British Columbia simply denied the possibility that Indigenous people had any right to or use for the lands they occupied, Canada, with its more diverse electorate, and its international considerations, went to great lengths to explain why any benefits liberalism had to offer had to be delayed, modified, or circumvented. Further, it expended considerable effort to explain why the exclusion from these benefits and the incessant reduction of their lands by means that were questionable at best, were in the best interests of the First Nations concerned.

In neither region was the alienation of land and resources passively accepted. First Nations engaged in a variety of actions to protect their interests. They participated in the treaty process, presented their situation to the reserve commissioners, and pursued a range of other avenues within the legal framework established by liberal Canada. When these efforts endangered settler interests or threatened to expose the exclusionary operation of liberalism, Canada simply enacted new legislation or found some means to explain why Canadian laws or rights guaranteed to others should be circumvented. In the decades after 1877, once settlers began to arrive in western Canada in greater numbers and the pressure to further restrict the land base available to First Nations increased, the federal government developed a variety of tactics and rested on an assortment of justifications to facilitate the further transfer of previously reserved land to incoming settlers. Like Joseph Trutch, Canada evidently continued to believe that Indigenous people "have really no right to the lands they claim."

