**Royal Proclamation and British Columbia**

*Written by SFU’s Centre for Law, Education, and Society (2011)*

Almost all of the treaties signed in the 19th century between Aboriginal people and the Canadian government were for land east of the Rocky Mountains. These treaties actually continued the intention of the Royal Proclamation. That is, they recognized that Aboriginal people had a right to be on the land and that if Europeans wanted to use it they had to give something in return. In general, they didn’t give very much but the idea of Aboriginal rights was recognized.

Most of what is now British Columbia was not covered by treaties. The only exception was the southern part of Vancouver Island and the north east or Peace River area. The reason for the lack of treaties in BC in the early days of European contact had mostly to do with the fact that Europeans did not come here to colonize the land. They were mostly sea traders coming off ships or were living in trading posts like Fort St James and Fort Langley where the only activity was trading with Aboriginals for furs, not colonizing the land.

Vancouver Island had been a separate colony of England since 1849. It was an isolated out post. Other than the fact that it was claimed by England it had nothing to do with Canada as it was separated by thousands of kilometers of wilderness. If you wanted to get to Vancouver Island from the eastern part of North America at that time you came by ship around the southern tip of South America. It was not a trip very many people made. Nevertheless, Vancouver Island was colonized by people from England with the idea that they would not only trade but also take up agriculture, mining and logging. In other words, they planned to stay.

James Douglas, the first Governor of Vancouver Island, believed treaty making was essential to peaceful settlement and for that reason he set about making treaties with the Aboriginal people living on Southern Vancouver Island.

His treaties were not exactly generous. The Saanich people for example were paid a few hundred dollars for what is now a good part of the community of Saanich. He was however demonstrating that the Aboriginal people did have a claim to the land even if he didn’t think it was worth much. In that sense he was following the Royal Proclamation.

By the 1860’s however things began to change. There had been a gold rush on the Fraser River and many people arrived looking for gold. A second colony was set up on the mainland and it was called “British Columbia”. In 1866 Vancouver Island and British Columbia were combined into one colony and called British Columbia.

James Douglas became the first colonial governor of BC and as he had done on Vancouver Island he started talking to Aboriginal people about treaties. Unfortunately, the colonial offices in England said they had no money for treaty settlements and as a result Douglas was not able to do even the little bit he had done on Vancouver Island. He did however set up land reserves for Aboriginals. At the time, by comparison with what exists today, these reserves were fairly large. They were intended to allow Aboriginal people to carry on, more or less, their traditional activities. Without treaties Douglas seemed to believe that the reservations were the only way

he could follow the Royal Proclamation’s intention to protect Aboriginal people from the rush of European settlement that was coming to BC.

The man who followed Douglas not as Governor but as the colonial official in charge of land colonization and relations with Aboriginal people really didn’t care about protecting Aboriginal people from the worst effects of European settlement. In fact, he believed Aboriginals were little different from the bears and the deer and other creatures of the forest. His name was Joseph Trutch. (Both Victoria and Vancouver have streets named after him.)

This is what Joseph Trutch thought about the land claims of Aboriginal people:

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

Joseph Trutch simply didn’t pay any attention to the Royal Proclamation even though he was an official of the colonial government. As far as he was concerned Aboriginals were just a barrier to the development of the territory and the opportunity for “White people” to get rich through that development. He set about drastically reducing the size of the reservations Douglas had set up and preventing Aboriginal people from settling on or claiming ownership of any land.

If Joseph Trutch had only been around a short time his influence would never have been so significant. However once BC became a province of Canada in 1871, he became Lieutenant Governor and his feelings about Aboriginal people and their rights ( or lack of them) became the policy of the BC government. From 1871 on to almost the present-day governments of BC have never recognized the land claims of Aboriginal people as set out in the Royal Proclamation. It was Joseph Trutch who began this policy.

The problem Trutch and those who followed him created by ignoring the Royal Proclamation or claiming it did not apply to BC has been left to today’s citizens of BC to solve. His attitude to the land claims of Aboriginal people and the refusal of BC governments from that time to deal with land claims as intended by the Royal Proclamation is a good example of how one generation sometimes has to pay for the deeds of earlier generations.

As it stands up to the present there are large parts of BC that are “frozen in time”. Aboriginal groups say, as they have been saying, for 150 years, that according to the Royal Proclamation treaties must be made to allow any use of the land. At the same time the government of BC, since 1871, has done very little to settle the Aboriginal claim as set out in the Proclamation. This means activities like mining; forestry and tourism development can be held up or halted because the ownership of the land is in question. In short, the fact that there are so few treaties with Aboriginal people in BC has cost a great deal in terms of lost opportunities for economic development.

The 21st century citizens of BC now have to find ways to fix the mistakes of the past. We don’t have the luxury of ignoring the Royal Proclamation as Joseph Trutch and others did. The Supreme Court of Canada has ruled that the Royal Proclamation does apply in BC and Aboriginal land claims must be dealt with through treaties.