

THE DEPARTMENT OF THE INTERIOR IN THE WEST

1873 - 1883

An Examination of Some Hitherto Neglected Aspects of the  
Work of the Outside Service.

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by

Herbert Douglas Kemp

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## PREFACE

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## ABBREVIATIONS

C.S.P., : Canada, Sessional Papers

D.I., : Orders-in-Council of the Department of the Interior  
(Bound volumes in the Legislative Library of Manitoba.)

P.A.M., : Public Archives of Manitoba

P.A.M.(LG): Uncatalogued Papers Relating to the Office of  
Lieutenant-Governor. In Public Archives of  
Manitoba.

## CHAPTER 1

### The Establishment of the Department

"Truly the history of North-West Canada is contained in the iron vaults of the Department of the Interior."<sup>1</sup>

In sixteen short clauses an act of the Parliament of the Dominion of Canada in 1873 provided for the establishment of the Department of the Interior.<sup>2</sup> The brevity and directness of this act is expressive of the sanguine spirit of the Government in its approach to the tremendous task of incorporating a primitive area into the framework of the new trans-continental economic and political system being erected. The system, based on three national economic policies, settlement of the North-West, transcontinental transportation through all-Canadian territory, and industrialization by protective tariffs, was to falter seriously because of the Great Depression which stemmed the flow of the world economy until 1896. The Department of the Interior, born just weeks before the advent of this universal calamity, seems to have been imbued with the courage and confidence which marked the boom days of its nativity. In ten years it had so prepared the path in the North-West, that the national policies of settlement and transcontinental transportation could progress, essentially unhindered by local impediments.

The principal features of the course which that path was to

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1. Archer Martin, The Hudson's Bay Company's Land Tenures (London, 1898), p.104.

2. Statutes (Can.), 1873, 36 Vict., Chap.4.

follow had been largely decided upon before the Department of the Interior was established. A premature application of Canadian Government policies to the territory of Rupert's Land, before that country was properly a part of the Dominion, had given rise to an insurrection at Red River, and those policies were expelled and excluded from the West until late in 1870. The Manitoba Act, largely a document of peace, not only provided for the organization of a new Province and established its government, but determined the basis of an extraordinary relationship which would exist between the Province and the Dominion for sixty years. Under this Act the Canadian Government retained control of the public domain for the purposes of the Dominion, and it assumed the obligation to settle all claims to land in the Province which had been recognized by the former governmental authority.<sup>3</sup> Thus the scope of the Dominion's land policy was widened, and a large area for potential complications in its administration was opened. The first Department concerned with Dominion lands in the West was that of Public Works, but in March 1871 the Secretary of State assumed control.<sup>4</sup>

The Secretary of State, initially, had jurisdiction over Indian affairs in Canada, but, in 1869 a redistribution of the

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3. Statutes (Can.), 1870, 33 Vict., Chap.3, Sections 30-32.

4. D.I., No. 1, p.59, Order-in-Council, 1 March 1871. Under 31 Vict., Chap.42, Section 36, all Crown Lands not specially under the control of the Public Works Department were to be controlled and managed by the Secretary of State. In 1869, however, Lt.-Col. Dennis was sent to the Red River settlement by the Minister of Public Works to devise a system of survey. See: C.S.P., 1870, No. 12, Return of 24 March 1870, pp. 1-2, McDougall to Dennis, 10 July 1869.

duties of the Secretariat transferred the jurisdiction to the Secretary of State for the Provinces. At the same time, the latter official had attached to his department the Geological Survey. These new duties had been added to the hitherto sole duty of conducting the correspondence between the Dominion and Provincial Governments; by the transfer it was hoped that a more equal division of labour would be achieved.<sup>5</sup>

The activities in these fields of Dominion Government administration increased immensely in the years immediately following the Government's assumption of actual and effective control in the North-West. The increase was not only the natural increment resulting from the acquisition of vast new territories, but was produced by the bold and dynamic programme of expansion which was undertaken. In keeping with the national policies, the western lands were to be rapidly prepared for settlement and the transcontinental railway was to be pushed to completion. The programme called for the extinction of the Indian title to the western lands, for a survey system which would be energetically prosecuted, for the settlement of the squatters' claims in the West, for the adoption of a railway land subsidy policy which would make possible its construction with the minimum of burden on the Canadian people, and for the introduction of governmental institutions which would assure the intending

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5. D.I., No. 1, p.17, Order-in-Council, 8 December 1869. The office of Secretary of State for the Provinces seems to have been created by prerogative powers at the time when the first Queen's Privy Council for Canada took the oath. It was given statutory recognition by 31 Vict., chap. 33.

settler, peace and order in his new home.

The Government programme was launched with enthusiasm and its early progress was considerable. The revelation that this progress was impeded, in some instances, by mismanagement, and the adoption of ill-advised policies, should come as no surprise. Experience was the only teacher of the day, and there was as much to be learned from the mistakes which were made, as from the successes which were gained. In addition, there seemed to be behind the programme an impelling sense of urgency, making demands upon the administrative agencies which could not be entirely satisfied. The apparent need to do many things quickly, and, what is more, to do them simultaneously, despite conflict and confusion, would account for many of the problems which faced the administrators. The urge to push ahead with western development was shared by the peoples on the frontier who often displayed that quality of critical impatience which characterizes many in the vanguard of progressive movements.

The concurrent adoption of many policies for opening the West, policies which were often interdependent, required a more coordinated control if they were to be successfully administered. It was equally important that there should be one agency to integrate, assimilate and use to the best advantage the growing knowledge of Western affairs which was being acquired. The need for a unified jurisdiction had become evident, and so the Department of the Interior was established.<sup>6</sup>

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6. In the chapters which follow, the details of the administration of various aspects of the Western development programme prior to the establishment of the Department of the Interior are fully discussed.

As much as one would like to herald the arrival of the Department on the scene, its advent simply marked the result of a lesson learned.

In view of the fact that it is possible to find in the territorial expansion programme of the United States, precedents for several elements in the Canadian programme, the question was asked; did Canada follow American precedents in establishing a Department of the Interior? Broadly speaking it is safe to answer in the negative. From the time of the Constitutional Convention of 1787 the establishment of a Home Office was considered desirable, and Presidents Madison, Adams (J.Q.), and Jackson urged such action in their annual addresses to Congress. The legislation to provide for such an office was not introduced, however, until 1849. Objections had been raised that to establish a new department would be to increase federal patronage, to add another cabinet officer to the government, and to extend federal authority to the detriment of the states. A bill was introduced and passed in 1849, and although President Polk did not like its consolidating tendency, he signed it on March 3, 1849.<sup>7</sup>

The new Department represented something less than had been planned. It was given supervisory power over the taking of the census and over the Patent Office formerly under the Department of State. The General Land Office was transferred from the jurisdiction of the Treasury Department, and from the War Department were transferred

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7. United States, Statutes at Large, (9 Stat. L., 395), An Act to establish the Home Department, March 3, 1849.

the offices of Commissioner of Indian Affairs and Commissioner of Pensions. Supervisory power over Public Buildings was taken from the President and given to the new Department. The various branches of public business thus assigned did not possess any logical relation to one another and were given to relieve existing departments of work not suited to them. L.M. Short in The Development of National Administrative Organizations in the United States refers to the Department as "a residuary legatee", and states that, "the grouping of unrelated services in one department has ever since been the predominant characteristic of the Department of the Interior", and that, it "did not possess that degree of unity which makes for efficiency in administration".<sup>8</sup>

The Canadian Department of the Interior was established for the specific purpose of unifying the control over the administrative branches concerned with the management of affairs in the West, and thereby, to achieve greater administrative efficiency. In the choice of a name for the new department, the Canadian Government might have looked to the American department which controlled the

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8. L.M. Short, The Development of National Administrative Organizations in the United States (Baltimore 1923) p.205 ff. The preceding general information about the United States Department was derived from the same source. For more particular information regarding the land and Indian offices see: M. Conover, The General Land Office (Baltimore 1923), and L.F. Schmeckebier, The Office of Indian Affairs, (Baltimore 1927).

public land and Indian offices.<sup>9</sup>

Under the Act establishing the Department, the office of Secretary of State for the Provinces was abolished, and the Minister of the Interior assumed control of the affairs of the North-West Territories and of Indian affairs, and supervisory control of the Geological Survey. The management of all Crown Lands, including those known as Ordinance and Admiralty Lands, was transferred from the Secretary of State to the new Minister. Inasmuch as this study is principally concerned with particular aspects of the work of the Department's outside services, it would be well to indicate briefly the changes which took place in the branch organization in the ten years following its establishment.

The Geological Survey remained, as it had been, largely autonomous for several years. The offices and museum of the Survey were in Montreal, the Director was vested with virtually plenary authority, and the staff was paid out of the general appropriation for the purposes of the Survey. In 1877 it was incorporated in the Department as a distinct branch and its permanent members were brought under the Superannuation Act. Provision was also made for

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9. In 1877 Sir John A. Macdonald, referring to the Department of the Interior, said: "The Department was organized before (1873) but the name was then changed. (Debates (HC), 1877, p. 252). The Act establishing the Department abolished the office of Secretary of State for the Provinces; Macdonald apparently regarded the change as a regrouping of organized branches, which, in effect, it was. It is significant to note that a confusion in names for the American department, as between Home Department and Interior Department existed down to 1873 when a revision of the statutes provided for the sole name of Department of the Interior. See: Short, Administrative Organizations, p. 205.

the transfer, at a future date, of the staff and museum to Ottawa.<sup>10</sup>

The move was not made however until 1880-81. The delay was occasioned both by the lack of suitable accommodations in Ottawa, and by political pressures which made it inexpedient to effect the transfer.<sup>11</sup> In 1883 a further integration of the Survey with the Department was accomplished by placing the staff on the Civil List and by designating the Director as a Deputy Head of the Department.<sup>12</sup>

The control and management of the North-West Mounted Police was transferred from the Secretary of State to the Minister of the Interior in November 1878.<sup>13</sup> The administration of the force was

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10. Statutes (Can), 1877, 40 Vict., Chap.9.

11. See; (Debates HC), 1877, pp.311-316 and Ibid, 1879, pp.1681-1684 for examples of the arguments presented for and against the move.

12. D.I. No.5, p.713, Order-in-Council, July 7, 1883. Criticisms had been raised for some years against the Survey for the lack of attention paid to the economic mineral resources of the country. (Debates (HC), 1878, pp.2104-09 and Ibid, 1884 p.1262). In consequence a Select Committee was appointed in 1884 to investigate the feasibility of satisfying this alleged need. The Committee severely censured the Survey for faulty and poorly distributed publications and for its neglect of the mineral resources. (Report of the Select Committee appointed by the House of Commons to obtain information as to Geological Surveys, Ottawa, 1884). The Department moved promptly to correct the faults and to follow the Committees recommendations. (D.I., No.7, pp.249 and 255, Orders-in-Council, June 5, 1885; also, C.S.P., 1887, No.7, pp.xxxv and xxxvi).

13. D.I., No.2, p.781, Order-in-Council, 14 November 1878. The control of the Police had been assigned to the Minister of Justice under the Act establishing the force. (Statutes (Can), 1873, 36 Vict., chap.35) By an Order-in-Council of 20 April, 1876 the control was transferred to the Secretary of State. (C.S.P., 1877, No. 9, appendix D, p.21).

## CHAPTER ONE

largely in the hands of the Commissioner of Police, and the central administration consisted, for the most part, of disbursing the Parliamentary appropriation.<sup>14</sup> The President of the Council as Superintendent-General of Indian Affairs assumed control of the Mounted Police in 1883.<sup>15</sup>

The Department of the Interior gave up the management of Indian Affairs in 1880 when that branch was established as a separate Department. The Minister of the Interior retained supervisory control over the latter Department until 1883 when it was transferred to the President of the Council.<sup>16</sup> It might be said that the years 1878-9 represented the zenith of the Department of the Interior's control over affairs in the North-West. Almost every phase in the programme of western development was under its jurisdiction in these years.<sup>17</sup>

13. Sir John A. Macdonald seems to have had an affinity for the Police. He had first control as Minister of Justice. When out of power he criticized the transfer of control to the Secretary of State, arguing that it should remain with the Justice Department. (Debates (HC), 1878, p.1143). A few months later, however, he had the control transferred to the Department of Interior of which he was Minister, and when he relinquished the portfolio but remained Superintendent General of Indian Affairs he took the Police under his jurisdiction. See: (Debates (HC), 1881, p.1327) for Sir John's assessment of the Police.

14. D.I., No.5, p.230 and Ibid, p.599. The Police were reorganized during its years under the Department of the Interior. See; D.I. No.3 and No.4 for Orders effecting changes; also, Statutes (Can) 1882, 45 Vict., Chap.29.

15. D.I., No. 5, p.877, Order-in-Council, 17 October 1883.

16. Ibid.

17. The Department from its inception served as the channel of com-

Little need be said of the organization of the inside service; its pattern changed and its growth kept pace with the character and advance of the expansion movement in the West. In 1873 there were 28 lesser officials under the supervision of the Deputy Head of the Department; 10 years later there were 86 under 4 Deputy Heads.<sup>18</sup> The Deputy Minister of the Interior explained the need for this division of responsibility:

"The business had become so extensive, and the operations directed by the Minister of the Interior so varied in their character, that a distribution of direct responsibility amongst the several officers at the head of the chief divisions of this work became imperative."<sup>19</sup>

The Department of the Interior has been introduced. In the chapters which follow frequent reference is made to the Department as an entity, and to the various branches whose work at some stage was specially related to that of the outside services which are discussed. Strictly speaking, there were only two branches of the Department which had organized outside administrative services; the

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17. munication between the Dominion Government and the Council of the North-West Territories, and the Minister guided relevant legislation through the House and Orders through the Council. For a discussion of the political development of the Territories the reader is referred to E.H. Oliver, "Saskatchewan and Alberta: General History," Canada and Its Provinces, Vol,xix, Part 1, p.147 ff. (Toronto, 1914). For this essay Oliver apparently has made use of the same Official Publications as the writer. See also; E.H. Oliver (ed.), The Canadian North-West, Its Early Development and Legislative Records, 2 vols., Publication of the Public Archives, No. 9, (Ottawa, 1914).
  18. D.I., No. 1, p.397, Order-in-Council, 13 August 1873; Ibid, No.5, p.227, Order-in-Council, 13 March 1883. Theoretical organizations.
  19. C.S.P., 1884, No.12, Burgess to Macpherson, 29 February, 1884. The Deputies were; Deputy Head of the Department, Surveyor-General, Comptroller of Mounted Police, and Director of Geological Survey.

Dominion Lands and the Indian Affairs.<sup>20</sup> It was not only for that reason, however, that these outside services, and more particularly, certain aspects of their work in the West for chosen for detailed examination. Much has been written about the affects, good and bad, of Canadian Government policies in the development of Western Canada, but little attention has been paid to the story of how these policies were administered, altered, and refined by the men whose duty it was to carry them out.

This story of office routine and seasonal fieldwork is told in the following pages. It is a story of administration, told without reference to the controversies which accompanied the opening of the West to settlement, and which therefore lack the interest which attaches to controversy. That it lacks such interest may in part explain the neglect it has heretofore suffered. It is nonetheless of central significance in the history of the Canadian West, and this assertion, it is hoped the following pages, and especially the concluding chapter, will reveal.

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20. It has been noted that the Geological Survey, the Mounted Police and the Council of the North-West Territories were largely autonomous special agencies and not proper branches of the Civil Service.

## CHAPTER 2

### THE INDIAN BRANCH - OUTSIDE SERVICE

"So soon as the North-West Territories are added to Canada questions of great importance and delicacy will arise connected with the position, rights and claims of the Indians of that wide country."<sup>1</sup> Sir John A. Macdonald speaking thus, in December 1869, was anticipating the problems which lay ahead of the Dominion Government with respect to the fulfilment of an obligation assumed when the terms of the Deed of Surrender of the Hudson's Bay Company territory were accepted. Article 14 of the Deed stated, "Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government..."<sup>2</sup> The Government had given its bond, in this instance, in precise form, but there can be little doubt that it would have considered itself obligated to recognize the Indian title to the western lands for a reason less tangible. English colonists in America always had recognized the aboriginal title to the land, and the custom had, in fact, attained the force of law. Archer Martin, in discussing the legality of the Indian title, refers to an intimation by the Judicial Committee of the Privy Council; "...that though there had been all along vested in the Crown a

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1. D.I., No. 1, p. 18, Memorandum, Macdonald to Privy Council, 7 December 1869.

2. Ibid, p.11.

substantial and paramount estate, yet it did not become a plenum dominum until the Indian title was 'surrendered or otherwise extinguished.' The title was, however, distinctly stated not to be a fee simple, but 'a mere burden' on the title of the Crown.<sup>3</sup>

Between 1871 and 1877 the Government negotiated seven treaties with the Indians of Manitoba and the North-West Territories, by which the Indians agreed to, "...cede, release, surrender and yield up to the Government of the Dominion of Canada for Her Majesty the Queen and her successors forever, all their rights, titles and privileges whatsoever to the lands..."<sup>4</sup> The compensation offered by the Government varied somewhat as between treaties; but, in general, amounted to a gratuity and perpetual annuity to each Indian, the assignment of reserves of sufficient size to allow a specified amount of land to each family of five, a yearly issue to each band of powder, shot, ball and twine, agricultural implements, tools, seeds, oxen and cattle to those bands who would engage in agriculture, and the maintenance of a school for each band when settled on a reserve. The story of the treaty negotiations is fascinating and romantic but it will not be told here.<sup>5</sup> It

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3. A. Martin, The Hudson's Bay Company's Land Tenures, (London, 1898), p.98-9.
  4. A. Morris, The Treaties of Canada with the Indians of Manitoba and the North-West Territories, (Toronto, 1880), appendix, p.331; from Treaty Number Four.
  5. Ibid, Alexander Morris tells in great detail the story of the treaties. He took an active part in Treaties No. 3, 4, 5, and 6, and the revision of Treaties 1 and 2. See also; D. Laird, "Our Indian Treaties", Transactions of the Historical and Scientific Society of Manitoba, Transaction No. 67, February 23rd, 1905, (Winnipeg 1905); Laird took part in Treaties No. 4 and 7. It is

is proposed, however, to examine the administrative organization developed by the Indian Affairs Branch of the Department of the Interior to carry out the terms of the Indian treaties.

In April, 1871, Wemyss Simpson was appointed Indian Commissioner to make treaties with the Indians, and to represent the Government and the Department of the Secretary of State for the Provinces in the North-West.<sup>6</sup> In May temporary commissions were issued to S.J. Dawson and Robert Pether to enable them to assist in negotiations in the Fort Francis district;<sup>7</sup> negotiations which did not result in a treaty. Simpson, however, assisted by Lieutenant-Governor Archibald completed two treaties with the Manitoba Indians in the fall of 1871.<sup>8</sup> The administration of the terms of these treaties immediately became a problem for Simpson. He had only one agent to assist him, and the

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interesting to note that at the time when Canada was entering upon her treaty period with the Indians, the United States was abandoning her treaty policies. March 1871 saw the termination in the United States of the treaty making power, as regards Indians, but negotiations continued and the results were embodied in agreements which were ratified by both houses of Congress, and formed part of the general body of statute law. The reservation period which existed from 1871 to 1887 in the United States was characterized by the segregation of the Indians on reservations, the issuance of rations, and the endeavour to exercise complete control by the agents. Large bodies of Indians were subsisted in order to keep them quiet. See: L.F. Schmeckebier, The Office of Indian Affairs, Institute for Government Research, Service Monographs of the U.S. Government, No. 48, (Baltimore 1927), pp.64-6.

6. C.S.P., 1872, No. 22, p.4, Order-in-Council, 25 April 1871. The Secretary of State for the Provinces was charged with the administration of Indian affairs in 1869; a transfer of jurisdiction from the Secretary of State of Canada who had control of Indian lands under 31 Vict., Chap. 42. See; D.I., No. 1, p.17, Order-in-Council, 8 December 1869.
7. C.S.P., 1872, No. 22, pp.6-7, Howe to Simpson, Dawson and Pether, 6 May 1871.
8. Treaty No. 1 was signed 3 August 1871 at Lower Fort Garry: Treaty No. 2 was signed 21 August 1871 at Manitoba Post. See; Morris, Treaties, appendix, pp.313-20.

making of treaty payments and the supplying of agricultural implements to the various bands became a tremendous task. The Indians claimed that the Government representatives had made promises to them which were not contained in the treaties and they demanded fulfilment. Briefly stated the situation was one of misunderstanding and confusion and Commissioner Simpson was subjected to endless criticism.<sup>9</sup> Simpson ended his duties in December 1872 and in that month Lieutenant-Governor Morris recommended the appointment of a resident Indian Commissioner and two Assistant-Commissioners, stating that the Commissioner should be a good business man; a qualification that Simpson apparently lacked.<sup>10</sup>

Joseph Howe, as Superintendent-General of Indian Affairs, in his last report in June 1872, had expressed the opinion that changes in the administrative organization were necessary and he indicated the sources of much of the confusion which had arisen.

"In dealing with the new Provinces of British Columbia and Manitoba, and the wide Territories of the North West, it has become already apparent that Indian affairs cannot be managed by the application of the old machinery which has been found to work so well in the Canadas. In these vast countries no very extensive or valuable Reserves have been set apart for the Indians, no large funds are invested, the missionary labor (though zealous and self-devoted men have from the earliest times penetrated into those regions) has been less in

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9. C.S.P. 1873, No. 23, Return of 9 April 1873, pp.1-16; copies of correspondence re. dissatisfaction in Manitoba 1871-2. The so-called "outside promises" of Treaties 1 and 2 are in this correspondence. pp.12-3.

10. Ibid, p.10, Morris to Secretary of State for the Provinces, December 13, 1872.

proportion to the mass of ignorance and pagan superstition to be encountered, and the distances from Ottawa are so formidable, that after a short experience of the utter hopelessness of the task of carrying on Indian affairs by correspondence with this Department, I have felt it my duty to advise that Boards should be appointed, one at Victoria and another at Winnipeg, to whom should be largely entrusted the management of Indian affairs both in British Columbia and the North West.<sup>11</sup>

Both Morris' and Howe's recommendations were adopted. A Commissioner and two Assistant-Commissioners or agents looked after Indian affairs in the North-West until June 1873, when provision was made for a Board of Commissioners for Manitoba and the North-West Territories.<sup>12</sup>

The Board was to consist of the Lieutenant-Governor, the chief officer of the Dominion Land Granting Department at Winnipeg, and an Executive Officer, styled the Indian Agent. Under the direction of the Superintendent-General it was to suggest general principles with respect to Indian Affairs, to manage all negotiations and treaties with the Indians, and to report on the bases upon which all questions of general policy in Indian affairs should be settled. The Board as constituted seemingly would have met the need for decentralized control of Indian Affairs in the North-West, but there were circumstances surrounding its institution and the performance of its duties which foreshadowed its early demise.

The personal relationship between the Lieutenant-Governor and Commissioner Provencher was strained because of differences in opinion as to the extent of the Commissioner's authority to act

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11. Ibid, No. 23, Annual Report on Indian Affairs, p.2. Joseph Howe left office on April 30, 1873. See; C.S.P., 1874, No. 17, p.7.

12. P.A.M. (LG), Order-in-Council, 16 June 1873.

independently. In June 1873 Morris telegraphed Sir John A. Macdonald asking him to rule on the situation and to inform Provencher as to his status; the subordinate nature of the Commissioner's position was soon made known to him.<sup>13</sup> Apparently, however, he did not conform to his instructions, because in July the Deputy Superintendent-General was obliged to remind Provencher that he was to take no action without first receiving Morris' approval.<sup>14</sup> On August 5, 1873 Commissions were issued to Morris, Lindsay Russell, and Provencher appointing them members of the Board. Russell immediately declined the commission, agreeing only to give what advice he could on purely technical matters.<sup>15</sup> On September 3rd, S.J. Dawson was appointed in his place.<sup>16</sup>

The principle of having, as members of the Board, representatives of the three governmental services most interested in the proper and efficient management of Indian affairs was compromised from the beginning. Dawson was an able man who had had extensive dealings with the Indians, and who, as a servant of the Department of Public Works, had a wide knowledge of land matters. These qualities did not compensate, however, for the loss to the Board of the active participation of a member with experience and influence in the Dominion Lands Branch. The Lieutenant-Governor's insistence upon being the prime mover in all

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13. Ibid, Telegram Morris to Macdonald, June 20, 1873; also; Telegram, Campbell to Morris, June 24, 1873.

14. Ibid, Letter Spragge to Provencher, July 9, 1873.

15. Ibid, Telegram Russell to Dennis, 11 August 1873.

16. Ibid, Telegram Campbell to Dawson, September 3, 1873. A memorandum on Indian affairs written by Dawson on December 19, 1870 is worthy of notice. See; P.A.M.(LG), Box 2.

relations with the Indians was the cause of friction between himself and Provencher, and resulted in an incongruous situation. Always conscious of his position as chief executive officer of the Dominion in the North-West, and of his right to be consulted on all Indian questions, Morris resented, nevertheless, any suggestion that he should take part in the administration of the Indian treaties.<sup>17</sup> He was, however, drawn irresistibly into the web of administrative minutiae. The Manitoba Free Press saw the situation as one of his own making:

"So long as he plays 'Big White Chief' at the treaties and annual payments, nothing is more natural than that the Indians should lay all their grievances before him, as they always believe in going to the fountainhead, if possible, and if they know where it is."<sup>18</sup>

Provencher, on his part, did not hesitate to expose the source of some of the problems he faced as executive officer of the Board:

"Indian affairs in this part of Canada, are in the meantime partly under the direction of the Council of Administration of the North-West Territories; of the Bureau of Indian Affairs; of the Bureau of Lands; and of the Indian Commissioner. Each of these authorities acts independently of the others; not obliged to inform them of their acts, much less to submit to their control. This diversity of action has had the effect (sic) of creating delays and embarrassments which a more regular administration would have prevented."<sup>19</sup>

It would be unfair to represent this statement as the sole contribution which Provencher had to offer to the general problem of

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17. Ibid, Letter Book G, Despatch No's. 128n, 134n, 162n.

18. The Manitoba Free Press, November 4, 1876. It is not meant to discount the many valuable services which Morris performed on behalf of both the Government and the Indians, but, it seems evident that he created the anomalous situation in which he found himself and of which he never ceased to complain.

19. C.S.P., 1875, No. 8, Report of Indian Affairs, p.58.

administering Indian affairs in the West. The report from which the quotation has been taken presents a very able analysis of the needs, immediate and future, of the Indians, and of the means which might be adopted to advance the processes of adjustment and assimilation to which the aboriginal peoples were being called upon to submit.

Some stress has been laid upon the inability of the individuals and agencies concerned with various aspects of Indian affairs to co-operate and to coordinate their activities, because it was in this sphere that progress was laboured. The Indians in the Manitoba area had long been in contact with the white man, and they were familiar with, even though they might not understand, his propensity to take up a fixed abode and to look to the soil for his livelihood. They had never felt the urge to imitate this intruder upon their domain in his industrious agrarian pursuits, but when faced, as they were, with the necessity of finding an alternative to the nomadic life of the chase as a means of subsistence, they embraced the Government's reservation plan with hope and confidence. There were but few recalcitrants, and, in large measure, the burden of fulfilling the treaty terms rested with the Government. The letter of the treaty law required more strict observance; less delay in surveying and assigning Reserves, more punctuality in making annuity payments and in distributing implements and provisions. There was, moreover, a need to observe more liberally the spirit of the treaties. As Provencher noted:

"...."they do not comprehend the conditions of the new existence which is imposed on them. They have not sufficient means, nor notions of the practice of industry and economy to operate with success the necessary

transition if we abandon them to their own resources, whilst with a little support and aid on the part of the Government we may hope for the most satisfactory results."<sup>20</sup>

The Minister of the Interior, David Laird, in his annual report for 1874 acknowledged that the attempt to decentralize the control of Indian affairs had been a failure, and he looked toward the introduction of a more efficient means of administration.<sup>21</sup> A return to control from Ottawa appeared feasible in view of the prospect that the Pacific Railway Telegraph would soon establish communication with many points in the West.<sup>22</sup> A year was to elapse before a new administrative system would be adopted.

Meanwhile, the affairs of the Indian Branch were expanding. The one constructive activity of the Board of Commissioners, the signing of a treaty with the Saulteaux Indians at the North-West Angle in October 1873, had extended the area of jurisdiction eastward to the height of land between lakes Superior and Winnipeg.<sup>23</sup> In September, 1874 David Laird, Lieutenant-Governor Morris, and W.J. Christie con-

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20. Ibid, p.59.

21. Ibid, Minister's Report, p.7.

22. Dependable telegraphic services were not obtained in the West until the coming of the Canadian Pacific Railway after 1880. The Special Survey repeatedly failed to exchange proper longitude signals between Winnipeg, Battleford and Edmonton during the late 1870's.

23. Morris, Treaties, Chapter V, pp.44-76 and appendix pp.320-9, North-West Angle Treaty, Number Three, October 3, 1873. See also; C.S.P., 1875, No. 8, pp.25-32.

cluded a treaty with the Crees and Saulteaux at Qu'Appelle.<sup>24</sup> The Indians of this treaty were the first of the more fierce plains tribes to accept relegation to Reserves. They had missed the doubtful benefits of frequent intercourse with the white man and their way of life was still that of the primitive aborigine. A new element and a new problem had been infused into the complex of Indian affairs.

A settlement of mutual benefit was made in August, 1875 when the Indians of Treaties Numbers One and Two accepted a Government revision which recognized the so-called "outside promises" of the original treaties, and which raised the annuity payments from three to five dollars.<sup>25</sup> A troublesome misunderstanding and a fertile source of grievance thus was removed. The Indians of the Manitoba lakes region came under the Government's tutelage when Treaty Number Five was concluded in September, 1875.<sup>26</sup> Canada, at this period, had an unencumbered title to the ungranted lands of the West from the southern extension of the Laurentian Shield to the prairie expanses as far west as Fort Ellice and southwest as far as the Cypress Hills.

The reorganization of the outside administrative service was in no way premature. The area of Government responsibility had undergone

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24. Morris, Treaties, Chapter VI, pp.77-125 and appendix pp.330-338, Qu'Appelle Treaty, Number Four, September 15, 1874. See also; C.S.P., 1875, No. 8, pp.25-32.

25. Morris, Treaties, Chapter VII, pp.126-142, and appendix pp.338-342, Revision of Treaties Numbers One and Two, 23 August, 1875. The revision was authorized by an Order-in-Council, 30 April 1875. The raise in the annuity was considered necessary to achieve equality of treatment as between the western Indians; those of Treaties 3 and 4 having received five dollars.

26. Ibid, chapter VIII, pp.143-167, and appendix pp.342-350, The Winnipeg Treaty, Number Five.

a marked expansion both in the size of the territory to be supervised, and in the numbers of treaty adherents who looked forward to the promised advantages which their new life, under the fostering care of the Queen's representatives, would bring to them. Many of these children of the Great Mother, were still at a most primitive level and the administration of their affairs would require the utmost in judgment, patience, and good faith. Echoes of the Sioux war drum and the cavalry bugle were heard across the border to the south; an ominous warning to those who would break faith with the red man.<sup>27</sup> Across the rolling plains lay the extended fingers of settlement soon to close and grasp the soil for the binder and the plough. On February 1, 1876 the Department established two Superintendencies in the West, and Indian affairs were to be conducted under Superintendents and Agents.<sup>28</sup>

The Manitoba Superintendency included the territory embraced by Treaties One, Two and Five and so much of Treaty Three as was not or would not be included in the Province of Ontario. The North-West Superintendency was composed of the territory covered by Treaty Four and by any treaties which might be concluded with the Indians in the Territories east of the Rocky Mountains. Lieutenant-Governor Morris was appointed to the honourary position of Chief Superintendent of Indian Affairs for the Manitoba Superintendency. There were no specific duties prescribed for this office, but Morris was given

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27. A second Sioux war was raging through the American North-West which was to have its climax in the Little Big Horn massacre of June 25, 1876.

28. C.S.P., 1876, No. 9, p.xiii.

authority to consult with Ottawa on Indian business, to hear and investigate any complaints laid before him by the Indians, and to call upon the local Superintendent for any official papers relating to Indian affairs. The honourary nature of the position and the omission of any reference to supervisory control reduced the possibilities of friction between the nominal and the actual head of the local administrative service. J.A.N. Provencher continued in office as the chief executive officer, and three additional Agents were appointed and assigned to duties connected with the several treaties included within the Superintendency.<sup>29</sup>

At the time of this reorganization, it will have been noted, the North-West Superintendency included only Treaty Number Four, and therefore, during the early months of 1876 the services of only one agent were required. The Superintendency had been established, however, with the knowledge that negotiations would be carried on during the year with the Plain and Wood Cree Indians of the Carlton district. Lieutenant-Governor Morris had informed Ottawa in August 1875 of the restive spirit prevailing among the Indians in that area, and the Government had acted upon his recommendation that Reverend George McDougall, a trusted friend of the plains Indians, be authorized to promise them that treaty talks would take place the next year.<sup>30</sup> As promised, Morris and his assistant Commissioners met with the Indians, and at Carlton on August 23rd and 28th, and at Fort Pitt on September

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29. Ibid, 1877, No. 11, Part 1, pp.10-1. The position of Honourary Chief Superintendent was created for the man and seems not to have been filled again after Morris left it in December 1877.

30. P.A.M. (LG), Letter Book J., Morris to Laird, 3 August 1875.

9th, 1876, Treaty Number Six was signed.<sup>31</sup> In October, 1876, the North-West Territories Act of 1875 was proclaimed, and David Laird was appointed Lieutenant-Governor.<sup>32</sup> Laird also was appointed Indian Superintendent of the Territories and M.G. Dickieson was made his assistant.<sup>33</sup>

It would be to establish a precedent if Treaty Number Six were passed by with no mention being made of the notorious "famine" clause which it contained. The clause stated that, in the event that pestilence or famine should overtake the Indians, the Government would grant such assistance as was deemed necessary to relieve the situation.<sup>34</sup> Its inclusion called forth expressions of regret from the Privy Council at the time of the ratification of the Treaty, letters of censure to the Commissioners responsible, and spirited replies from the latter in defence of their actions.<sup>35</sup> The Government objected that:... "this stipulation, as understood by the Indians will have a tendency

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31. Morris, Treaties, Chapter IX, pp.168-244 and appendix pp.351-367.

32. The Canada Gazette, Vol.x, No. 15, October 7, 1876; Proclamation of 38 Vict., Cap 49 dated October 7, 1876 and Order-in-Council, October 7, 1876.

33. C.S.P., 1877, No. 11, Part 1, p.11

34. Morris, Treaties, appendix p.354.

35. P.A.M. (LG), Letter Book K, Morris to Mills, 27 March 1877, Ibid, Morris to Mills, April 6, 1877. In the letter first noted, Morris, with considerable acerbity, defends his and the other commissioner's action with regard to the "famine" clause. The second, a letter to cover the Hon. James McKay's reply, remarked that the latter took exception to the appreciation the Governor-General had been advised to arrive at with regard to the Treaty terms. See also; C.S.P., 1877 No. 11, p.xi.

to predispose them to idleness and to make them less inclined to put forth proper exertions to supply themselves with food and clothing."<sup>36</sup>

The historian has found the later fulfilment of this clause to be a source of grievance for the Indians in the years just preceding the North-West Rebellion of 1885.<sup>37</sup> It is true that the Indians used this clause as a lever to press for more assistance from the Government during the difficult period which followed the extermination of the buffalo, but there is no reason to believe that, had there been no such provision, the Government would have been any less generous to the people it had pledged itself to protect.<sup>38</sup> Undeterred by the Government's attitude toward the possible results of a formal commitment to render extraordinary assistance to the Indians, the Minister of the Interior remained mindful of the problems caused by the rapid diminution of the buffalo. In 1876 he called upon the North-West Council to consider measures to prevent or delay its extermination.<sup>39</sup>

In September 1877, the Blackfeet Indians of the southwest plains signed Treaty Number Seven, and the last of the prairie lands was freed for settlement. Lieutenant-Governor Laird was the chief

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36. Ibid, In Morris' letter of March 27 this excerpt from a letter Mills to Morris, March 1, 1876 is quoted.
  37. Stanley, Birth, pp.212-3.
  38. In Chapter 5 below the charges against the Government of parsimony in fulfilling this clause are answered. See also; C.S.P., 1877, No. 11, Part 1, p. 11, for evidence of help given to destitute Indians prior to signing of Treaty Number Six.
  39. C.S.P., 1877, No. 11, pp.xii-xiii. The Council responded by passing "An Ordinance for the Protection of the Buffalo" on March 22, 1877; Ordinances of the North-West Council, 1877. The law was not popular with the Indians and the metis and had to be repealed in 1878; Ibid, 1878, Ordinance No. 3. See also; Chapter 5 below.

Commissioner for this Treaty which completed the complement of the North-West Superintendency.<sup>40</sup> In keeping with the inclination of the Indians and with the nature of the country, cattle for stock-raising were to be provided to those who desired them, in lieu of implements and seed grain. In later years many of the bands achieved remarkable success in the stock-raising industry.<sup>41</sup> Before those days arrived, however, the Indians of this and the other treaties of the North-West Superintendency were to pass through difficult and troublous times.

The measure of progress of which Laird was able to report in 1877 was small indeed. Only two or three bands in Treaty Number Four had settled on their Reserves and they did not live by farming. Several of the Carlton bands had made a creditable showing in their cultivation, but in general the prospects for their transition from nomad to farmer were not bright. The Superintendent, when forced, out of annoyance, to complain against being required to fill out a tabular statement, revealed the unorganized condition of the Superintendency in very graphic terms:

"It cannot be expected that a Superintendent assisted by two agents whose time, since they entered on their duties in August last, has been taken up entirely in paying the Indians their annuities could furnish a statement, for instance, of the number of fish caught or quantity of furs taken, or the number of shanties and wigwams, or the bushels of grain raised in a district extending from the boundary line of the United States to the Arctic Ocean, and from Keewatin and Manitoba to British Columbia and Alaska."<sup>42</sup>

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40. Morris, Treaties, Chapter x, pp.245-275, and appendix pp.368-375  
The Blackfeet Treaty, Number Seven, September 22, 1877, Included in this Treaty were smaller bands of Blood, Piegan, Sarcee and Stony Indians.

41. C. M. MacInnes, In the Shadow of the Rockies (London,1930) pp.171-2.

42. C.S.P., 1878, No. 10, Part 1, p.45. Laird to Mills, 18 November 1877.

In the meantime, the organization of the Manitoba Superintendency had been practically completed. The Superintendent was satisfied that, with the new appointments made in 1877, his staff of Agents was large enough to manage the administration of the four treaties for which he was responsible.<sup>43</sup> An Inspector of Indian Agencies and a Medical Superintendent had also been appointed. The need for the latter appointment was made tragically clear when an outbreak of smallpox, among the Indians and Icelanders along the west shore of Lake Winnipeg in 1876, struck down hundreds and proved fatal to many. Prompt action by the Council of Keewatin, established as a Board of Health, and by the Indian Agents in instituting quarantine measures resulted in the confining of the disease to the area in which it had first broken out. A program of vaccination of all of the Indians was initiated by the new medical appointee.<sup>44</sup>

In spite of governmental provision for an adequate administrative staff in the Manitoba Superintendency, the management of Indian Affairs left much to be desired. Complaints veiled and direct had been made from time to time in the newspapers and to the Department of the Interior. Questions were being asked about the supply system in Manitoba and about accounting procedures. A commission was appointed late in 1877 to investigate the matters complained of,<sup>45</sup> and in 1878 Superintendent

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43. Ibid, pp.36-40.

44. Ibid, pp.14-5. see also; ibid, Mills to Dufferin, 31 December 1877, pp.viii.

45. The Manitoba Herald, July 25, 1877; C.S.P., 1878, No. 10, p.xii, Mills to Dufferin, 31 December 1877.

Provencher and some of his staff were relieved of their duties.<sup>46</sup> Investigations into Indian affairs led to an enquiry by the Public Accounts Committee into the awarding of Government contracts by the purveyor in Winnipeg.<sup>47</sup> The results were inconclusive and no charges could be proved.<sup>48</sup> In December 1878, the Inspector of Indian Agencies was able to report that, although the Indians, consistent with their nature, were not entirely satisfied with the administration of the treaty terms, the gross irregularities in management had been corrected, and that the Superintendency officers were discharging their duties with zeal, prudence and integrity.<sup>49</sup> It would be well, perhaps, to leave the Manitoba Superintendency on this happy note. Indian affairs in Manitoba and Keewatin from this time forward, while always requiring diligent attention, did not present any very serious administrative problems. The progress which the Indians were able to make, under Government tutelage, was always relative to their natural improvidence and native genius.

The North-West Superintendency remained comparatively unorganized throughout the year 1878 and the greater part of 1879. In view of the advances made in the administration of the treaties immediately to the east, it might, perhaps, be natural to assume that the disparity resulted from the lack of a proper perspective on the part of the

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46. C.S.P., 1879, No. 7, Part 1, p.55; also Return A, p.84.

47. Journals (HC), 1878, Vol.xii, appendix 1, "Third Report of the Select Standing Committee on Public Accounts in Reference to Alleged Irregularities in the Awarding of Contracts in Winnipeg."

48. The Manitoba Free Press, May 4, 1878 and May 11, 1878.

49. C.S.P. 1879, No. 7, Part 1, p.55.

Ottawa officials. It might well be asked, why did the Indian Branch not display earlier, some of the energy and resources it was able to bring to bear when it was confronted by conditions of crisis in the next few years, Assumptions and questions of this nature all infer that the Government was either grossly negligent or indifferent with respect to its treaty obligations. Inferences such as these cannot or, at least, should not be drawn, however, when some of the facts of the situation are known.

The Indians in this Superintendency it has been noted were in a very primitive state when the treaty negotiations were concluded. Only four years had elapsed since the first of these fierce nomads had agreed to the terms of a treaty and but few of them had shown any inclination to adopt a settled existence. Implements, seeds and provisions, and surveyed Reserves were made available to those who were gradually turning to farming. Of the 24 bands in Treaty Number Four, however, only 11 had made even the slightest attempts to cultivate the soil.<sup>50</sup> The first distribution of agricultural supplies was made to the Saskatchewan Indians in 1878, none of the bands having been interested in receiving them before this time. When the cattle arrived for distribution among the adherents to the Blackfeet Treaty they had to be herded at Government expense because the Indians preferred wandering about to the responsibility of caring for them.<sup>51</sup> In short, thousands of the Indians continued to roam in search of the vanishing buffalo, appearing before the Government agents only at annuity time, or

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50. Ibid, p. 65.

51. Ibid, pp.57 and 67.

when destitute, to beg for food. The Government expressed itself as being prepared to provide instruction in agriculture and stock-raising, but, little could be done so long as the Indians were not prepared to receive it.<sup>52</sup> With this condition prevailing, and with the Mounted Police to assist in paying the annuities, the few agents were able to carry on the administration. The events of the next few months, however, brought about startling changes in the organization of the Superintendency.

So far as the Canadian Indians were concerned, the buffalo had ceased to be the source of food by 1879. In the spring of that year famine conditions spread over the prairies, and the Government, once apprised of the situation, took prompt action to alleviate the distress. Food supplies, rushed into the Territories, met the immediate needs of the Indians, but plans for the future were unfolded as well. Lieutenant-Governor Laird had resigned his office as Indian Superintendent, and to take his place, Edgar Dewdney was sent to the West with discretionary powers to deal with the Indian problem.<sup>53</sup> In spite of strong misgivings on the part of some, the appointment was well-advised.<sup>54</sup> Dewdney displayed tireless energy

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52. Ibid, Macdonald to Lorne, 10 April 1879, p.x.

53. Ibid, 1880, No. 4, Macdonald to Lorne, p.xii. With respect to Laird's resignation and Dewdney's discretionary powers it is interesting to note a newspaper comment on the situation: ... "Mr. Laird's real motive in resigning was to escape the responsibility of managing the Indians in the North-West with which he was saddled, but which the inter-meddling and narrow-minded policy of the backstrappers at head-quarters made it impossible for him to control." Manitoba Free Press, June 14, 1879.

54. Manitoba Free Press, June 14 and August 23, 1879.

and boundless patience in dealing with the Indians during the first critical months of his tenure,<sup>55</sup> and as long as he held the office, he commanded the respect and admiration of the Indians he served.

The task ahead of Dewdney was to persuade the many wandering bands to settle upon their Reserves and to learn how to gain a livelihood from the soil. Nineteen farm instructors under the direction of a farm inspector were assigned locations throughout the Superintendency to assist those Indians who had taken or would take up the new existence. With the appointment of additional Agents to assist with the administration of the treaties, the organization of the Superintendency may be said to have been completed.

The critical times, which had called the organization into being, might have soon passed, if the Indians could have been persuaded to take advantage of the comparative security which life on the Reserves would have afforded them. Thousands of the adherents of Treaties Four and Six, however, could not be convinced that the pursuit of the buffalo would end only in privation and suffering. The story of the next four years is one of the increasing demoralization of the wandering bands, of their gradual acceptance of the destiny which fate had decreed for them, of the rising Government expenditures for provisions, and of the evolution of the policy of "no work, no food". The story will not be told here, but some of the implications of the Government's Indian policy in these years are discussed in a later chapter of this work.<sup>56</sup>

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55. C.S.P., 1880, No. 4, pp.76-103, Dewdney to Macdonald January 2, 1880. A full report of Dewdney's activities from July to December 1879.

56. See; Chapter 5 below.

## CHAPTER 3

### THE DOMINION LANDS BRANCH

#### (a) The Development of the Survey System

The Dominion Government early was aware of the need for a system of land survey suitable to the topography and the agricultural potential of the North-West. In July 1869, while negotiations for the transfer of this territory still were being carried on, William McDougall, the Minister of Public Works, instructed Lieutenant-Colonel J.S. Dennis, a highly competent surveyor on the staff of the Provincial Land Survey of Ontario, to proceed to the Red River area for the purpose among others of devising a plan of survey. The instructions suggested that the American system was, perhaps, best suited to the country but that, in view of the expected and much desired emigration of Canadians to the area, a lot-size familiar to them should be adopted. Sections of 800 acres with an excess for public roads in place of the American 640 acre sections were proposed.<sup>1</sup>

Dennis was accredited to the Dominion Crown Lands Department and to the General Land Office of the United States. He availed himself of advice from Mr. Russell, the Assistant Commissioner of

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1. C.S.P., 1870, No. 12, Letter, McDougall to Dennis, July 10, 1869.

It may be noted here that the farm lot of 100 acres was the common survey unit in Canada but the quarter section of 160 acres was not unfamiliar to Canadians. In the Report of the Commissioner of Crown Lands for 1866 there is reference to the subdivision of several townships into quarter sections of 160 acres each.

the Canadian Department, and from Mr. Devine, the Chief of Surveys of the Ontario Department of Crown Lands before he departed for the North-West. He had received, also, full detailed information regarding the American Survey system from the Commissioner in charge of the General Land Office in Washington. On his way to Red River he derived the benefit of interviews with the Surveyor-General of Minnesota and the previous incumbent.<sup>2</sup>

At the time of his arrival at the Red River Settlement, August 20, 1869, Dennis seems to have satisfied himself as to the best survey system to propose. The Nor'-Wester recorded an interview with him on his arrival in which it was stated that the American system with some important modifications would be adopted.<sup>3</sup> Two days after his arrival he met with Mr. Snow, then engaged in the construction of a portion of the Red River Road, who advised him, in part, to incorporate a fixed road allowance in his township scheme, but this advice was rejected, as will be seen later. On August 28, Dennis forwarded his proposals, supplemented by maps and plans, to the Minister of Public Works.<sup>4</sup>

The system he proposed included all of the suggestions which had been offered to him in his instructions and in addition contained the plan of projecting a base, or initial, Meridian north from the International Boundary from which, in turn, the base lines for townships could be projected east and west. The townships uniformly contained 64 sections of 800 acres, each with 40 acres excess for road allowance, making the township area 53,760 acres. The township

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2. Ibid, Dennis to McDougall, August 28, 1869.

3. The Nor'-Wester; August 24, 1869.

4. C.S.P., 1870, No. 12, Dennis to McDougall, August 28, 1869.

plan satisfied the alleged need for a farm lot of a size familiar to Canadians, and was supported further by Dennis' statement that the large township was admirably suited to the unbroken and sparsely-wooded nature of the prairie country, and that it would tend to economy in the administration of municipal affairs. The road allowance per section he found preferable to a fixed allowance system and an advance over the "faulty" American system of no appropriation for public roads.<sup>5</sup> It was proposed that the townships should be numbered from one uniform base, the southern boundary of the Territory, and that the township ranges should be numbered east and west from the initial meridian; a simple, easily understood system which would not cause confusion in administering the Land Grant Department.

Clause 4 of the proposed method of survey is worthy of special attention:

"The Townships on the Red and Assiniboine Rivers, where the same have had ranges of farm lots laid out by the Company to be surveyed, the broken sections butting against the rear limits of such ranges, so as to leave the same intact as independent grants."

A proper reading of this and of other facts about the system and its adoption should dispel the false impression, entertained by many, about the affects of the surveys on the Red River Settlement.<sup>6</sup>

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5. In the American system the position of roads was fixed by need and authority.
  6. Stanley, Birth P. 56.

Dennis, because of the lateness of the season, did not wait for approval of his proposed system before putting it into effect.<sup>7</sup> On September 3rd he left Fort Garry for Pembina to project the principal governing line, later known as the Winnipeg Meridian. He took observations for latitude at Pembina and projected the 49th parallel westerly for a distance of ten miles from the Red River and there began the projection of the Meridian line. By September 28th this line had been carried north to the Assiniboine River at which point Dennis left the work to devote his attention to office work.

The principal Meridian was continued to a point just east of Shoal Lake and parties were organized to carry base lines or parallels between townships 9 and 10 west to Prairie Portage and between townships 6 and 7 east to Oak Point. These latter projects were not completed because on October 11 Louis Riel and a group of metis stopped the Oak Point party and forced it to withdraw. Dennis then called in the Prairie Portage party, not wishing it to be too far afield in the event that such an incident should be repeated.

The survey parties spent the remainder of the season running township exteriors between the Meridian and the Red River north of the Assiniboine River, and in surveying a portion of the settled farms in this area. In all 182 miles of meridional and township

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7. Dennis' plan was approved by Order-in-Council on September 23, 1869.

exterior lines were drawn and 20,000 acres were surveyed in the settled area. This ended the first settlement survey performed under authority of the Dominion Government in the territory of Rupert's Land.

Nothing in the way of surveys was undertaken in the year 1870. During that year, however, the Dominion Government took steps to revise the system of survey adopted in 1869. The Honourable A.G. Archibald, Lieutenant-Governor of Manitoba, was appointed administrator, on behalf of the Government of Canada, of the ungranted or waste lands in that Province.<sup>8</sup> As a part of his duties as Administrator, Archibald was required to submit a report covering all aspects of the land situation in Manitoba.

The report which Archibald forwarded to Ottawa on December 20, 1870 embodied his views on the land question in Manitoba and contained several recommendations for changes in the existing survey system which he deemed it expedient to make.<sup>9</sup> He agreed with the principle of rectangular townships but considered the townships too large. By making the survey system somewhat analogous to that of the United States, he said, Canada would be taking advantage of the Americans' long experience with the 160 acre quarter section. The unit was known all over the world to the emigrant classes and had been found adequate to their requirements for farm purposes. In

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8. C.S.P., 1871, No. 20, p.6. Order-in-Council, August 2, 1870.

9. P.A.M. (LG), Archibald to Secretary of State for the Provinces, December 20, 1870.

addition, definite benefits would come from having the Canadian system conterminous with that which would be used in dividing the United States' territory adjoining Manitoba and the North-West Territories.<sup>10</sup> He urged also that the feature concerning road allowance be changed in the adopted system. Under the system one man's farm might be cut up badly while his neighbour's farm escaped entirely. The best way, he said, would be to leave the question out of consideration in adopting a policy and to let the public, who wanted roads, pay the individuals, who specially suffered in having them made, a reasonable consideration for the injury sustained.<sup>11</sup>

The Lieutenant-Governor's report had considerable influence on later Government policy. Dennis in January 1871 prepared a memorandum regarding proposed changes in the survey system. He proposed that the townships should be six miles square with a road allowance on all sections and township lines of a width of one chain and fifty links. With this information at hand the Secretary of State asked

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10. It is interesting to note that on May 9, 1870 the Hon. Sir. George E. Cartier said in defence of the adopted system: "The Government agreed that the lots should be 200 acres. He might say that the intention of the Government was to pursue a land policy which would not be surpassed in liberality by any province in the Dominion, or any State in the neighbouring Union, or by the Federal Government itself, (hear, hear)." Debates, (HC), 1870, p.1500.
  11. J.S. Dennis, Jr., writing in 1892, quoted Archibald as saying that a fixed road allowance was the fairest method of providing public highways. This is contrary to fact. See; C.S.P., 1892, No. 13, Part VI, Section 1, p.3.

the Honourable Alexander Campbell, then Postmaster General to formulate a public lands policy for Manitoba.<sup>12</sup> Campbell, a painstaking administrator, had a wide knowledge of public lands matters gained from his experience as a lawyer and as Commissioner of Crown Lands in Ontario from 1864 to 1867.<sup>13</sup> On March 1, 1871 he presented a memorandum to the Privy Council outlining a lands policy for Manitoba which included a survey system. An Order-in-Council of the same date brought the policy into effect and confided the control and management of Crown Lands in Manitoba and the North-West Territories to the Secretary of State.<sup>14</sup>

The survey system thus adopted was to be rectangular with townships consisting of 36 sections of one mile square each and with road allowances of one chain in width between all townships and sections. The International Boundary was to be the base of townships 1 and 2, and east and west lines between townships 4 and 5, 8 and 9, and so on were to be base lines or standard parallels in the system. The Winnipeg Meridian, run in 1869, was to be continued as

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12. The Secretary of State, J.C. Aikins seemingly had had little if any experience with land systems. See; The Canadian Biographical Dictionary, (Toronto, 1880), for his background prior to entering the Cabinet in 1867.
  13. Dictionary of National Biography, Vol. xxll, Supplement (London 1909); The Canadian Portrait Gallery, (Toronto 1881); A Cyclopaedia of Canadian Biography. See also; Campbell Sir Alexander, Speeches on Divers Occasions, (Ottawa 1885).
  14. D.I., No. 1, pp. 59-64, Order-in-Council, 1 March 1871, and memorandum.

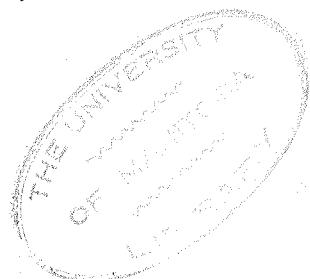
the Meridian from which the ranges of townships, east and west, were to be numbered. The necessity for "jog" resulting from the convergence of Meridians was to be allowed and was to be set out on specific lines according to a fixed plan. It was also provided that the deficiency or surplus, as the case might be, resulting from convergence, was to be set out and allowed in the quarter sections on the west boundary of the approximate townships and the areas of these quarter sections were to be returned in the survey accordingly at their actual contents.

In April 1871, the new land policy was criticized in the House of Commons. The Honourable William McDougall objected to the reduction in size of the townships and the fixed road allowance and said that the changes would work to the disadvantage of intending settlers. Dr. John Schultz expressed his general satisfaction with the land policy but with respect to the survey system urged that a wider road allowance would be more in keeping with prairie conditions. The Honourable George E. Cartier, speaking for the Government, promised that the road allowance suggestion would be fully considered.<sup>15</sup> In consequence of the views expressed in Parliament, the Secretary of State again referred the question to Campbell, and on April 25, 1871, he presented revised regulations to the Privy Council which were approved the same day.<sup>16</sup> The only change made in the survey system was to widen the road allowance to  $1\frac{1}{2}$  chains. The

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15. Debates, (HC), 1871, pp. 959-67.

16. D.I., No.1, pp. 69-75 Order-in-Council, 25 April 1871, and memorandum.



revised regulations formed the basis for all future developments in the survey system and their adoption may be considered the starting point of the work of surveying the Dominion lands of the North-West.

A manual of surveys, prepared by Dennis, now Surveyor-General, for the guidance of the surveyors who were to be employed in surveying Dominion lands was issued on May 1, 1871. The manual set down in detail the prescribed method of conducting the survey. The lines upon which the Survey was to be based were certain Principal or Initial Meridians which were to run from the International Boundary. Along these Meridians were to be placed the monuments marking the section and township corners in regular order northward from the Boundary. There were also to be base lines running east and west from the Initial Meridians, starting from them at distances apart of four townships; the first base line to be the International Boundary. The base lines were to be surveyed as chords of the latitude circles which passed through their intersections with the Initial Meridian. Section and township corner monuments were to be placed along these base lines at their regular distances. All boundary lines were to be surveyed astronomically, that is, the bearings of townships were to be obtained by referring their directions, through the use of suitable Azimuthal instruments, to the known directions of certain circumpolar stars. The eastern and western boundaries then would be true Meridians, starting from the base lines and continuing on each side thereof for two townships where they would encounter the meridians drawn in the same way from the next base line, but not meeting them exactly on account of the convergence and divergence of Meridians. The extremity of

the line drawn south from the northerly base line would pass to the west of that drawn north from the southerly base line. Hence a "jog" would occur on that township line lying midway between the base lines. On this township line, called a correction line, were to fall all errors in survey, whether in the chainage or in the Azimuth of the lines, so that an accumulation of errors would not deform townships other than those on whose outlines the errors occurred. The townships were to be numbered from the International Boundary line and were to be designated by ranges counted east and west from the Initial Meridians.<sup>17</sup>

For the prosecution of the two classes of surveys which the system embodied the Dominion Lands Branch entered into contracts with surveyors on terms authorized by an Order-in-Council in May, 1871.<sup>18</sup> The first class, termed Block Surveys, were those by which the outline boundaries of blocks containing four townships were surveyed. The second class, termed Subdivision Surveys, were those which followed the first and divided the land within the outlines of each block into sections and quarter sections, laid off the road allowances, and filled in the topographical details. Each surveyor under contract was to complete a specific allotment at a fixed rate per mile, according to class, for survey lines duly run and marked.<sup>19</sup> In addition, survey parties were engaged to describe

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17. C.S.P., 1892, No. 13, Part VI, Section 11; also, C.S.P., 1884, No. 12, Part 11.

18. D.I., No. 1, p. 83, Order-in-Council, 11 May 1871.

19. C.S.P., 1872, No. 22, p. 19; Schedule of rates.

the lands actually occupied in the settled portions of Manitoba. The parties were compensated at a fixed rate per day.<sup>20</sup> On July 25, 1871 Lindsay Russell was appointed Inspector of Surveys and was charged with the supervision of the surveys in the field.<sup>21</sup>

Inspection of surveys at this time and for some years after was confined to field visits by the Inspector to satisfy himself that the surveyors were at work and to judge from their manner of doing it whether or not contract requirements were being complied with faithfully. Check measurements were seldom taken and then only with a pocket sextant. This method of inspection proved ineffective and a method applying check measurements to portions of each contract, chosen at random, was adopted. The Inspector ran lines diagonally through a contractor's townships and closed them on the surrounding block outline surveys. By this method of inspection a rigid check was obtained on the contractor and on the work of the inspection survey itself. The method was abandoned, however, because of the large amount of office work involved in comparing survey results, and also, because the Inspector, while in the field, was able to check on the care taken in placing monuments, only at points where his lines intersected those of the contract. A simpler method of resurvey of parts of the contract was adopted. A comparison of field notes was easily carried out, and the Inspector, was able to judge of the care taken by the contractor to secure permanency of

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20. D.I., No.1, p.83.

21. Ibid, p.103, Order-in-Council, 25 July 1871; see also; P.A.M. (LG), Box 14, Dennis to Russell, 24 July 1871.

demarcation.<sup>22</sup>

The Dominion Lands Act, passed in April 1872, in addition to prescribing the manner of administering Dominion lands in Manitoba and the North-West Territories gave statutory confirmation to the survey system and to the instructions for its prosecution. It introduced, also, the provision for a Board of Examiners who were to examine candidates for admission to practice as Deputy Surveyors of Dominion Lands.

The programme of surveys for 1872 was expanded considerably over that of 1871 and two Assistant Inspectors of Surveys were appointed. In that year the Dominion Lands Office continued the policy, begun in 1871, of procuring and forwarding to Manitoba provisions which were distributed at cost to the large working parties engaged in the surveys. This policy insured that the parties would not incur a loss of time through difficulty in obtaining sufficient and wholesome supplies in the local market.<sup>23</sup> The Block and Subdivision Surveys in 1872 were carried out under contract at a stipulated price per mile but during the season the block surveyors complained

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22. It has not been possible to establish when these changes in survey inspection took place. The first mention of employment of examining surveyors is in C.S.P., 1879, No. 7, Part 11, appendix 7, p.35. Ibid, 1884, No.12, Part 11, p.7, Lindsay Russell explains the system. See also; P.A.M.(LG), Box 14, Dennis to Russell 24 July 1871.

23. C.S.P., 1873, No.7, p.5. The Secretary of State in his annual report expressed the hope that the progress of business in Manitoba would be such that sufficient supplies might be provided at a reasonable cost.

to the Inspector of Surveys that this method of payment was not equitable, and they urged that a per diem basis of pay be adopted. To support their request they pointed out that the nature of the country was by no means uniform, and that, while the contract system was a fair one for work performed on the open prairie, the serious obstacles to progress encountered in much of the area delayed the work. Delay also resulted, they said, from the frequent occurrence of bad weather when their astronomical instruments could not be used. Russell in presenting their case to the Secretary of State found it stated fairly, and in addition, warned that surveyors who were forced to work under such pressure would be tempted to slight the requirements of their contracts and the whole structure of the survey system would suffer.<sup>24</sup> In April 1873 the Government ordered that block surveyors be paid by the day for their personal services, and that the other costs of the Block Surveys, as shown by attested accounts, be defrayed by the Department in charge of surveys.<sup>25</sup>

On July 1, 1873 the newly established Department of the Interior began its assigned duties among which was the management of Dominion Lands. It will have been noted that the development of the survey system was well advanced when the new Department accepted jurisdiction over it. It remains to discuss the several refinements which were

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24. Ibid, pp.28-9.

25. D.I., No.1, pp.333-6, Order-in-Council 22 April 1873 and memorandum 17 April 1873. Lindsay Russell was to comment later on the advantages of survey by a salaried staff, and without invidious reflection compared Canadian results with American; the latter were obtained exclusively by contract at fixed rates. See; C.S.P., 1884, No.12, Part 11, p.12.

introduced into the system after 1873.

An amendment to the Dominion Lands Act passed in 1874 changed the designation of qualified surveyors of Dominion lands from Deputy Surveyor to Dominion Land Surveyors.<sup>26</sup> The important event in 1874, however, with regard to the survey system was the authorization of a special survey of bases and meridians through the North-West Territories.<sup>27</sup> This important work will be discussed briefly below.

The Board of Examiners authorized by the Dominion Lands Act was organized in May 1875.<sup>28</sup> Surveyors qualified by certificate, diploma or commission to survey Crown lands in one of the several provinces at the time of the passing of the Act in 1872 had been accepted as Deputy or Dominion Land Surveyors but by 1875, there were several applicants who had served the required apprenticeship and who desired to take the Board examinations. The Board met and conducted examinations for the first time in Winnipeg in June 1875.<sup>29</sup> An experience of two seasons with the problems of the special survey prompted the Surveyor-General to recommend in his annual report for 1875 that there be added to the regular surveyor's examination a special examination for those who would be employed in the future on that exacting work. He anticipated, also, the employment of specially qualified personnel in conducting topographical and ex-

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- 26. Statutes (Can.), 1874, 37 Vict., Chap.19, Section 22. This change was made pursuant to a request made by the Surveyors' Association in Manitoba on 27 April 1874.
  - 27. D.I., No.2, p.19, Order-in-Council 28 February 1874.
  - 28. Ibid., p.305, Order-in-Council 7 May 1875.
  - 29. C.S.P., 1876, No.9, p.9.

ploratory surveys.<sup>30</sup> A further move was made in 1875 to increase the efficiency and accuracy of the surveys. Many of the subdivision surveyors were working at great distances from settlement bases and costs were increased as a result. Reduced compensation meant reduced efficiency and so the Department revised the contract rates. The new schedule of rates covered thirty classes of survey which might be contracted for and a separate rate was allowed according to the nature of the country being surveyed, prairie, poplar, or dense forest.<sup>31</sup> The new rates satisfied the surveyors and because of the fair compensation offered, the Department felt justified in insisting upon more strict adherence to contract bonds.

Provision for an examination in advanced surveying was made in the Act of 1876 amending the Dominion Lands Act. An examination to be taken before admission as an articled pupil was also introduced and it was specified that the Board of Examiners was to meet in May and November of each year.<sup>32</sup> The new provisions looked toward a refinement of the survey system by making more stringent the qualifications of those engaged in applying it. As proof of the advances made in land surveying in Canada up to 1876, the Surveyor-General presented a comparative statement of the accuracy and the cost per acre of Crown lands surveys in Eastern Canada and of Dominion lands surveys in the North-West. The high degree of

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30. Ibid, p.8.

31. D.I., Vol2 p.313, Order-in-Council 17 May 1875.

32. Statutes(Can), 1876, 39 Vict., Chap.19, Clauses 27 to 34.

accuracy obtained by the astronomical survey system in the North-West far surpassed that obtained in the East, and the cost was halved; 3.06 cents per acre in the North-West to 6.4 cents per acre in the East.<sup>33</sup>

There were no changes in the survey system in 1877 and 1878. In the latter year J.S. Dennis was appointed Deputy Minister of the Interior, Lindsay Russell was appointed Surveyor-General,<sup>34</sup> and Sir John A. Macdonald took over the portfolio of Minister of the Interior.

The principal problem with regard to Western Canada, so far as the new minister was concerned, was the completion of the Pacific Railway. Prerequisites to the solution of the problem were, to him, the investment of private capital in the construction of the railway, and the preparation of the western lands for settlement. Macdonald's plans for providing these necessary elements included a railway lands policy which would interest private capital, and a more rapid but less costly prosecution of the settlement surveys. Among the means devised for carrying out these plans were some which materially changed the survey system and others which, had they been adopted, would have acted to its detriment.

The Dominion Lands Act was amended and consolidated in May 1879 and one of the amendments provided that the Privy Council might appropriate and dispose of Dominion lands for railway con-

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33. C.S.P., 1877, No.11, Part III, pp.4-6, Refers to Ontario and Quebec.

34. D.I., No.2, p.783, Order-in-Council, 14 November 1878.

struction purposes.<sup>35</sup> Three days after the third reading of the legislation, resolutions were presented by the Government which embodied a proposed quantity and minimum selling price of such lands.<sup>36</sup> Vested thus with authority to formulate a railway lands policy the Privy Council on June 28, approved in principle a scheme which Macdonald recommended. The feature of the scheme which would have affected surveys was the introduction of 80 acre homestead and pre-emption provisions to apply in alternate sections in 5 belts extending 110 miles on either side of the railway line.<sup>37</sup> The system of subdividing townships would have required revision had not the Deputy Minister on July 3 corrected the misapprehension that the 80 acre provisions were analogous to those in operation in the United States. On October 9 an Order-in-Council effected a return to the 160 acre homestead and pre-emption system.<sup>38</sup>

In accordance with Macdonald's plan for reducing the cost of surveys, the Surveyor-General in 1879 recommended a new mode of projecting block survey outlines which when introduced in 1880 lowered the average cost per acre of the survey of Dominion lands.<sup>39</sup>

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35. Statutes (Can), 1879, 42 Vict., Chap.21, Section 125,(Clause(b)

36. Debates(HC), 1879, p.1895-6, Resolution No. 7.

37. D.I., No. 3, p.105-111, Order-in-Council, 28 June 1879 and memorandum. see also; ibid, p. 119, regulations pursuant to above Order dated July 9, 1879.

38. Ibid, p. 185-189, Order-in-Council 9 October 1879 and Dennis' memorandum of July 3.

39. C.S.P., 1880, No. 4 Part 2, p. 7, see ibid, appendix No. 10 pp. 53-80 for detailed information regarding the new class of survey.

The change involved the establishment of a third class of surveys, which class, the Township Outline Survey, was interposed between the Block Surveys and Subdivision Surveys in order of the operations.

The Block Surveyor laid out any given portion of territory into squares or blocks of four townships or twenty-four miles to the side, exclusive of road allowances. The Township Outline Surveyor divided the block by lines crossing each other at intervals of 6 miles and included the road allowances, thus forming the outlines of the 16 townships the block contained. These surveyors were required to make two separate and independent chainings of all governing lines which measurements had to agree within the limits of accordance prescribed. Accuracy, in this instance, was not to be sacrificed for the sake of economy.<sup>40</sup> The Subdivision Surveyor laid off each township into 36 sections and the quarter sections.

In 1880 the rates for the last class of surveys were fixed by competitive tender.<sup>41</sup> This means of selecting contract surveyors, introduced as an economy measure, was to play a part in emphasizing the defects already inherent in the system of contract surveys.

It was the Minister's Intention to introduce a further economy measure in 1880. He told the House of Commons that the astronomical system of survey was perfect but enormously expensive. The scientific

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40. A little later the contract subdivision surveyors were required to perform about one half of the township outline surveys. This last step in the direction of economy represented the limit of safety with regard to accuracy which the Department felt it expedient to take. See; C.S.P., 1884, No. 12, Part II, p. 6.

41. Statutes (Can), 1880, 43 Vict., Chap. 26, Section 2; see also; C.S.P., 1881, No. 3, Part I, p. 5.

mode, he admitted, prevented future disputes and trouble in rectifying defective surveys, but the greatest need of the moment, he added, was to survey the country quickly and inexpensively and so it was proposed to change to the Solar Compass system of survey.<sup>42</sup> The measure was to form a provision of the Dominion Lands Amendment Act of 1880, but was not introduced.<sup>43</sup> It is indeed fortunate that good judgement prevailed over the urge to economize. With so many millions of acres in the North-West still to be surveyed, it is not difficult to visualize the difficulties which would have arisen had such a change been made in an element so fundamental to the accuracy of the Canadian survey system.

In the following year the Dominion Lands Act was amended and measures looking toward reduced costs in the survey system and increased accuracy in its application were introduced. The Act delegated to the Governor-in-Council the power to reduce the road allowance whenever it was deemed expedient, and it provided that each chain-bearer employed in the survey should take an oath that he would discharge his duty with exactness according to his best judgment and would render true accounts of his chaining to the

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42. Debates(HC), 1880, p. 1892-3. Solar Compass Surveying replaced the system of surveying by means of the Magnetic Compass in the United States about the time the Canadian system was initiated. The use of the Solar Compass did not exclude that of the magnetic needle, however, and the system had many inherent defects which rendered it inferior to the Canadian system. See; C.S.P., 1884, No. 12, Part 11, p. 4-5.

43. Statutes (Can), 43 Vict., Chap. 26.

Surveyor.<sup>44</sup> An Order-in-Council of June 1881 reduced the road allowance from  $1\frac{1}{2}$  chains to 1 chain and suppressed 3 of the east and west roads in each township.<sup>45</sup> The affect of this change was to transfer a very large area of land from road allowances into that of land available for purposes of settlement. In addition, the length of lines to be surveyed in the interior of a township was reduced from 60 miles to 42 miles, and the cost of the survey system was reduced almost 1 cent per acre.<sup>46</sup> The revised system was applied only to the lands surveyed subsequent to its adoption. A new Manual of Survey, issued in 1881, brought up to date the detailed instructions for conducting the survey.

The aggressive railway programme, launched in 1880, provided a stimulus to settlement and the resultant increase in the number of applications for land entry focused attention on the many unsurveyed or unmapped townships lying in the midst of areas over which the survey had passed. The situation had been created by evils inherent

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44. Statutes (Can), 1881, 44 Vict., Chap. 16, Section 1 and Section 12. The latter provision no doubt had its origin in a recommendation filed by E. Deville, a Block Outline Surveyor, in his report for 1880. He had found the agreement between the chaining effected with two steel band chains better than he had expected, but there were discrepancies which he was unable to account for. He suggested that there should be established at some suitable point a standard section where chainmen might be trained. See; C.S.P., 1881, No. 3, Part 1, p. 42; also; *ibid*, 1884, No. 12, Part 2, p. 8, Russell's account of the sources of error in chaining; also; *ibid*, 1880, No. 4, Part 1, p. 54, account of the testing of the chains by the Department and by the Commission of Standards and the means of correcting measurements for temperature conditions.
45. D.I., No. 3, p. 625, Order-in-Council, 1 June 1881.
46. C.S.P., 1882, No. 18, Part 1, p. 23.

in the system of performing Subdivision Surveys by contract at fixed rates per mile. These Surveys did not require a high order of precision and the average contract work completed was satisfactory. It was, however, to the surveyor's advantage to secure as many townships as possible and many contracted for more work than could be accomplished in a season. In consequence, only those townships which paid well were surveyed, and the others were left unsurveyed. Some surveyors accepted other employment on their return home and did not submit their field notes and plans for several months after leaving the survey field. Still others, finding more profitable employment elsewhere, did not perform any part of their contract. The situation, bad enough when the rates were fixed by Government order, became worse when the rates were fixed by competitive tender.

Two measures were adopted in 1882 in an attempt to improve this state of affairs. The first was to offer a bonus of 15 per cent to surveyors who filed their field notes and plans with the Department before the end of the year. The second was to require all contractors to report by a certain date their presence in the field, and to allot the work of those missing among those present.<sup>47</sup> In his annual report for 1882 the Chief Inspector of Surveys noted the beneficial affects of these measures. Most of the contracts were completed and returns were received in good time.<sup>48</sup> Contract rates for subdivision surveyors were again fixed by Order-in-Council in

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47. D.I., No. 4, p. 237, Order-in-Council, 11 May 1882.

48. C.S.P., 1883, No. 23, Part 1, p. 9.

that year.<sup>49</sup>

The Minister of the Interior, it has been noted, considered it essential that the surveys should be prosecuted as rapidly as possible. Beginning in 1879, each succeeding year witnessed an increase in the number of surveyors in the field and in the amount of survey work completed. In the peak year, 1883, some 70,000 miles of line were surveyed which provided 27,000,000 acres of land ready for settlement. The energies and accomplishments of the survey force kept pace with the construction drive of the Canadian Pacific Railway which in that year reached the Rocky Mountains. Sir John A. Macdonald was getting his railway and a cheaper more efficient survey system helped to round out his plans for opening the North-West.<sup>50</sup>

The survey system may be said to have reached its ultimate refinement by 1883; any subsequent changes were of a minor nature. The furious pace of that year slackened and in the following years much of the work done was in the nature of exploratory and correction surveys.

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49. D.I., No. 4, p. 95, Order-in-Council 20 March 1882; see also; order referred to in note 47.

50. Sir John A. Macdonald has often been criticized for his lack of knowledge and understanding of the West. A few months before he took over the office of Minister of the Interior he admitted that he knew nothing of the Dominion Lands Act. (Debates (HC), 1878, p. 1651), and it has been noted that his 80 acre homestead policy and Solar Compass proposals were ill advised but his plans for the West were completed in record time with, few if any, enduring bad affects.

(b) The Special Survey

In 1873 plans were made for a most important adjunct to the general survey system; a Special Survey of meridians and bases in the North-West Territories. Lindsay Russell, in the fall of that year, went to England to supervise the construction of Altazimuth and Base Measuring instruments, of his own design, to be used in the highly exacting work. In February 1874 the plans were approved by the Privy Council, and in July, Russell was placed in charge of the project.<sup>1</sup>

At the time of its inception it was declared that three objects were in view; first, a practical ground work to be established for the extension of township surveys at any point along the line of the Canadian Pacific Railway; second, a contribution was to be made towards the construction of the railway by facilitating the location of the land grant along the line; third, a knowledge was to be acquired of the character and resources of the territory covered by the Survey.<sup>2</sup> The change in the route of the railway prevented the complete realization of these objects, but the results attained were nonetheless important to the development of the Territories. The fully detailed field reports, compiled by the surveyors engaged in the work, were of significant value to the Department of the Interior in planning the course of the general survey, and were reliable sources of information for those who wished to

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1. D.I., No.1, p.19, Order-in-Council, 28 February 1874; also, C.S.P., 1875, No. 8, Report of Surveyor-General, Appendix A, p.11.

2. C.S.P., 1875, no.8, Report of Surveyor-General, p.3. An account is given here of the nature and quality of the instruments which Russell designed for the Special Survey.

take up lands beyond the frontier of settlement.

Lindsay Russell, speaking of the Survey in 1884, with the advantage of hindsight, did not mention the objects with respect to the railway. It had been found, he said, that, in projecting the general survey, errors were occurring for which there were no readily applicable means of control available. Astronomical observation provided a check upon errors in latitude, but in the absence of telegraphic communication no checks could be made upon errors in longitude. A survey employing more refined processes was required, and the Special Survey was designed to fill the need. The Survey would provide a check upon the work already completed, and would serve as a basis for the extension of the township system to meet the need of isolated settlements which might spring up in advance of the general survey.<sup>3</sup> The Special Survey served the latter purposes fully, and it is for these services that the Survey takes its place among the more important aspects of the settlement program in the North-West. The technical details, of which the annual reports give many, doubtless would be of great interest to the initiated, but their esoteric nature precludes any attempt to summarize them. A brief outline, however, of the progress, and of some of the accomplishments of the Survey will be given.

In 1872 Lindsay Russell, in cooperation with the Chief Astronomer to the British members of the International Boundary Commission, had

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3. Ibid, 1884, No. 12, Part II, p.10

established, by telegraphic signals, the difference in longitude between the astronomic station on the 49th parallel at Pembina and the Observatory at Chicago. The first work of the Survey in 1874 was to determine the longitude of the point of intersection of the Winnipeg Meridian with the International Boundary. To do this a check survey was made of the Meridian from the fourth base line to the Boundary, and then, the distance to the Pembina astronomic station was carefully measured by triple chaining each mile. Thus, with the known relative position of Chicago and Greenwich, and by reference to the Pembina station, the necessary connection of all subsequent surveys with Greenwich was established.<sup>4</sup> When this work was completed a start was made in carrying the Survey westward. In the absence of telegraph lines, the accuracy of differences of longitude depended solely on that of survey measurement, and so it was deemed necessary to employ a method of triangulation. At the end of the season the Survey had been projected from the Winnipeg Meridian west to the White Mud River at Westbourne and east to Winnipeg.<sup>5</sup>

In 1875 the Survey was projected by triangulation westward from the White Mud River 145 miles, to the 102nd degree of west longitude, the Second Principal Meridian of the survey system, and 112 miles of that Meridian was established. The difficulty of getting triangular points in a wooded country, however light the growth, and more particularly, in a country so very flat, proved to be too great. In addition, the Survey

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4. Ibid, 1875, Report of Surveyor-General, Appendix A, pp.11-13.

5. Ibid, p.12. The triangulation was carried out in the manner called the "ray trace" system in the surveys of India. Ibid, 1884, No.12, Part 11, p.10.

had reached that area through which the railway line was to run, and it was expected that the newly-constructed telegraph lines along the route would afford facilities for checks upon differences in longitude. It was considered advisable, therefore, to dispense with the triangulation and to proceed by means of a careful survey in the ordinary manner.<sup>6</sup>

By 1877 the Survey had been carried north and west to the Third Principal Meridian (106 degrees west longitude), and the Meridian was carried north from the tenth base line to the North Saskatchewan River at a point just west of Prince Albert.<sup>7</sup> One section of the Survey in 1876 spent considerable time at Battleford, in an attempt to exchange longitude signals with Lindsay Russell in Winnipeg, but with no success.<sup>8</sup> In 1877 a section of the survey journeyed to Edmonton, marking on the way, 8 of the old trails between Battleford and that place; this section wintered at St. Alberts.

The Survey had reached isolated settlements, and in keeping with its purpose, settlement surveys were projected in 1878. The Edmonton section, after trying in vain to exchange longitude signals with Winnipeg, completed settlement surveys at Edmonton and Big Lake and then proceeded eastward along the North Saskatchewan, taking traverses of the Fort Saskatchewan and Victoria settlements on the way. At Prince Albert it joined with two other sections of the Survey in projecting block outlines, and running settlement surveys of Prince Albert and St. Laurent. A fourth section continued the tenth base line west 108 miles, to the

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6. Ibid, 1876, No. 9, Part III, appendix 1, p.17.

7. Ibid, 1878, No.10, Part III, appendix 2.

8. Ibid, 1877, No.11, Part III, appendices 1 and 3.

first meridian west of Battleford, then proceeded north to the eleventh base line, and west along it to the Fourth Principal Meridian (110 degrees west longitude).<sup>9</sup>

In the next 2 years the Survey was carried west to the Fifth Principal Meridian (114 degrees west longitude), by projection along the fourteenth base line, and then south to the International Boundary. In addition, the Survey completed several exploratory surveys, marked many old trails, and established 19 astronomical stations to be used as checks on the general survey as it advanced westward.<sup>10</sup>

In 6 years, meridians and bases had been established from the Winnipeg Meridian to the Rocky Mountains, and from the International Boundary to the North Saskatchewan River. The work, projected with the utmost care and precision, was to make possible the rapid expansion of the general survey which characterized the years from 1880 to 1883. The more important settlements in the North-West Territories had been surveyed, the old trails had been measured and marked for the convenience of the incoming settlers, and the Dominion Lands Branch had received, from the field reports, important information regarding the topography and the climatic conditions of a vast extent of territory. Much of the credit for the high standard established by the Dominion Lands surveys in the North-West must go to those who devised and carried out the Special Survey. After 1880 the sections of this Survey were engaged principally in topographical and exploratory work.

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9. Ibid, 1879, No. 7, Part 11, appendices 3, 4, 5 and 6.

10. Ibid, 1880, No. 4, Part 11, appendices 4, 5 and 6; Ibid, 1881, No. 3, Part 1, pp.6, 49-53.

(c) The Outside Service

To tell the story of the evolution of the outside service of the Dominion Lands Branch of the Department of the Interior is to tell a large part of the story of the development of Manitoba and of the North-West. The latter story has been told often, and in the telling, it has been habitual to neglect the administrative organization which made possible the orderly advance of the Canadian frontier of settlement in the West. That this should be so is not surprising, because there is little in its story to provoke discussion or debate, and, since the policies which the service was called upon to administer provided ample cause for both, what little controversy there was has been ignored. There was much about the service, however, that is worth relating, and the lack of notoriety speaks well for the quality of its organization and for the efficiency of those who laboured in it.

While the negotiations for the transfer of Rupert's Land from the Hudson's Bay Company to the Dominion of Canada were still pending, Government representatives were sent to the Red River area to devise and carry out a system of settlement survey suitable to the territory. Lieutenant-Colonel J.S. Dennis, the leader of the party, proposed a system which was later adopted, and made considerable progress in projecting its preliminary features. The inhabitants of Red River, however, regarded the Government's policy as premature, and the activities of the survey party represented one of the grievances which gave rise to the insurrection of 1869-70; an unfortunate beginning for the outside service.

With the terms of peace drafted in the Manitoba Act and with the

transfer completed, the Government again turned to the problem of the western lands, now under its jurisdiction and to be administered for Dominion purposes. On August 2, 1870 Hon. Adams G. Archibald, Lieutenant-Governor of Manitoba, was appointed Administrator on behalf of the Government of Canada of the ungranted or waste lands in that Province.<sup>1</sup> Pursuant to his instructions he reported his views on the Manitoba land question in December 1870,<sup>2</sup> and in April 1871 the Government issued land regulations for Manitoba which embodied several of the features of his report.<sup>3</sup> On August 1, 1871 Gilbert McMicken was appointed Crown Lands Agent of Manitoba and instructed to open a Land Office in the Province.<sup>4</sup>

McMicken's position was not an enviable one. The land regulations which it was his duty to administer were brief and sketchily drawn; the large part being devoted to the survey system and the half-breed grant, the administration of which was the more immediate concern of the Inspector of Surveys and the Lieutenant-Governor. He was not provided with the forms he would use in the performance of his duties, but was asked to recommend the various types he would need from what knowledge he might acquire by visiting the United States

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1. D.I., No. 1, pg. 25. Order-in-Council, 2 August 1870; ibid, p.26 for Archibald's instructions.
  2. P.A.M.(LG), Archibald to the Secretary of State for the Provinces (confidential), 20 December 1870. This report is discussed at some length below p.
  3. D.I., No.1, p. 69-75, Order-in-Council, 25 April 1871, a revision of similar regulations issued March 1; ibid, p. 59-64.
  4. Ibid, p. 111, Order-in-Council, 1 August 1871.

Land Office in Minnesota while en route to Manitoba. He was to investigate the alleged depredations of timber on the public domain and to recommend a means of controlling the situation.<sup>5</sup> His dealings would be with a people lately in revolt over land matters, and still apprehensive as to the Government's intention with respect to their rights as original settlers, and the first trickle of the land rush had begun. There were, as well, other obstacles to be overcome, but those noted would suffice for a man whose past experience little fitted him for the work he was to perform.<sup>6</sup>

The new Lands Agent, shortly after he arrived in the Province, made known that, "he wished the people of Manitoba to understand, so far as devolved upon him, he would carry out the requirements, terms and provisions of the Manitoba Act, as it affects the Public Lands, in spirit and to the letter - impartial justice being extended to all."<sup>7</sup> Soon, however, he was lost in the tangle that was to characterize the administration of the half-breed grant, the "hay privilege," timber licences, and the homestead regulations, for several years to come. One representative of the press was to declare that, the nominal land office had done no good whatever and blamed all the land difficulties on the blundering of incompetent officials.<sup>8</sup> Personal differences with

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5. C.S.P., 1873, No. 45, p. 1-2, Dennis to McMicken, August 28, 1871.

6. A Cyclopaedia of Canadian Biography, Series II, (Toronto 1888) p.346.

7. The Manitoba Gazette, November 25, 1871, Public notice dated November 9, 1871.

8. Ibid, March 30, 1872.

his staff and charges of mismanagement led to McMicken's resignation before the end of 1872.<sup>9</sup> The second attempt to establish an outside service in Manitoba was not an unqualified success.

Lindsay Russell was appointed Dominion Lands Agent in February, 1873,<sup>10</sup> but the management of the Winnipeg office largely devolved upon his assistant, Donald Codd. The task before these men was no less burdensome than that which had confronted McMicken, but the Dominion Lands policy had been more properly defined in the Dominion Lands Act of 1872,<sup>11</sup> and the means of administering the land provisions of the Manitoba Act were evolving rapidly. In addition, the vexing problem of the control of wood and wood lands had been met by provisions in the Dominion Lands Act and by regulations, adopted in January 1873, to govern the issuance of fuel and fencing permits.<sup>12</sup> To provide supervision over all operations in timber or lumber, two Crown Timber Agents were appointed in June 1873.<sup>13</sup> Both the outside service and the duties it was to perform were expanding when, as noted above, the administration of the Dominion Lands Branch passed from the jurisdiction of the Department of the Secretary of State to that of the newly established

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9. C.S.P., 1873, No. 45. Return; see also, P.A.M. (Cunningham Papers), copy of letter Canavan to Secretary of State, no date; the letter contained thirteen charges against McMicken including, mismanagement, nepotism, and misappropriation of funds.

10. D.I., No. 1, p. 303, Order-in-Council, 28 February 1873.

11. Statutes (Can), 1872, 35 Vict., Chap. 23.

12. D.I., No. 1, p. 259, Order-in-Council, 13 January 1873.

13. Ibid, p. 349, Order-in-Council, 2 June 1873.

Department of the Interior on July 1, 1873.

The influx of settlers was increasing yearly and by the end of 1874 there had been 2537 homesteads entered.<sup>14</sup> Entries were being made in townships at some distance from the Winnipeg Lands Office, and for the greater convenience of applicants for lands, branch offices were established at Emerson and at Westbourne in the spring of that year.<sup>15</sup> The Minister of the Interior, David Laird, visited the North-West in 1874, and found Donald Codd labouring under handicaps, the result of his being unable to institute changes in the system of doing business at the Winnipeg office, because, as Assistant Agent, he lacked the necessary authority. The Minister dismissed one clerk and arranged for Codd's promotion to Agent; the results were most beneficial.<sup>16</sup> During the year some 1400 Mennonites arrived to take up lands in the reserves created for them in southern Manitoba, east of the Red River.<sup>17</sup>

Immigration into the West decreased considerably in the next two years. The depressed state of the national economy and a two year plague of grasshoppers stemmed the flow of would-be settlers. The Government provided a measure of relief to destitute settlers by distributing supplies and seed grain, and the homestead regulations were relaxed to allow settlers to absent themselves from their homesteads for a twelve month period to enable them to engage in other work; such

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14. C.S.P., 1875, No. 8, Report of Surveyor-General, p. 7.

15. Ibid., Minister's Report, p. 13.

16. Ibid.

17. Ibid., Report of Surveyor-General, p. 6; see also; D.I., No. 1 p. 307, Order-in-Council, 3 March 1873.

time to count towards their three year settlement.<sup>18</sup> In spite of the unusual hardships of these years there were a substantial number of homestead entries and the Lands Office continued to be occupied, otherwise, in the checking of Manitoba Act claims and the issuing of scrip to half-breed heads of families, original settlers, and in commutation of the rights of hay and common. By the end of 1876 the Department had overcome the serious obstacles to the settlement of all such claims and it devolved on the Dominion Lands offices to carry out the administrative procedures.<sup>19</sup> In 1875 some 300 Icelandic settlers arrived in Manitoba to occupy the lands reserved for them on Lake Winnipeg, and a further contingent of Mennonites was located on reserves comprising a tier of 3 townships extending 5 ranges west from the Principal Meridian along the International Boundary, with 1 additional township at each end of the tier.<sup>20</sup> Although the depression in business continued, the bountiful harvest of 1876 presaged a revival of immigration.

The spring and early summer of 1877 were exceedingly wet in Manitoba, and, coinciding as it did with the usual period of immigration, it found many intending settlers, discouraged by the evident prospects, returning to their former homes, or moving to the United States. Many more remained, however, and the number of entries for 1877 far exceeded that of any previous year. A local Lands office was opened at Fort

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18. Ibid, 1876, No. 9, Part 3, p. 6.

19. Refer to next chapter for details of the settlement of claims under the Manitoba act.

20. D.I., No. 2, p. 353, Order-in-Council, 8 October 1875, Icelandic Reserve; see Ibid, p. 453, Order-in-Council, 25 April 1876, Mennonite Reserve.

Francis in expectation of settlement in that area; it having been surveyed and subdivided during the two previous seasons. Entries for 22 homesteads only were received there in 1877, however, but the local agent was optimistic about the future of district in view of the excellent land available along the Rainy River. The local Lands Office for the district west of Winnipeg was transferred from Westbourne to Portage la Prairie, and for a brief period this office was to be the focal point for homestead seekers; the frontier was moving rapidly westward. Many of the homestead entries made in the years up to 1876 were for lands as yet unsurveyed. Speculation was the motive behind many of these entries and, to curb the practice, the Dominion Lands Act was amended in 1876 to require notice of settlement and improvement within three months of the time when the surveys had been completed.<sup>21</sup> The Winnipeg Office was burdened, at the height of the immigration season, with applications for half-breed patents; the final allotments of land were underway and, as recorded below, 700,000 acres of the half-breed reserves were opened for settlement in 1877.<sup>22</sup>

Encouraged by the increased immigration of 1877, and by the prospects of an immediate extension of the settlement frontier into the North-West Territories, the Minister of the Interior recommended the establishment of additional branch offices of Dominion Lands. In March 1878, the Privy Council authorized the opening of three such offices to be situated at Belmont, in the Pembina Mountain district,

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21. Statutes (Can), 1876, 39 Vict., Chap. 19, Section 6.

22. C.S.P., 1878, No. 10, Part III, Appendix No. 3, p. 20-1. (See; Section on half-breed land grant.)

at Little Saskatchewan, some 80 miles west of Portage la Prairie, and at Prince Albert, near the forks of the Saskatchewan River.<sup>23</sup> The anticipated increase in settlement was realized; the entries for 1878 almost equaled those for the three previous years.

Forest tree culture as a means of providing a livelihood for a portion of the settlement population of the North-West, but principally as a means of soil conservation, engaged the active attention of the Department at an early stage of its settlement programme. By the Act of 1876 quarter-sections were offered as free grants to those who would undertake to carry out a system of tree planting as prescribed in the legislation.<sup>24</sup> The plan was not, however, eminently successful; the improvement requirements were sufficiently exacting to discourage many, and the prospects of remuneration were not great. Donald Codd recommended that the requirements should be relaxed, but even when this was done in the Dominion Lands Act of 1879, the plan was embraced by comparatively few.<sup>25</sup> The long-awaited railway connection with the United States and Eastern Canada was completed in December 1878; the impetus to immigration was felt almost immediately.<sup>26</sup>

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23. D.I., No. 2, p. 687, Order-in-Council, 20 March 1878. The Pembina Mountain office was actually opened at Nelsonville.

24. Statutes (Can), 1876, 39 Vict., Chap. 19 Section 20-6; see also; C.S.P., No. 9, Part 3, p. 9 and 32.

25. C.S.P., 1879, No. 7, Part 11, p. 11; also Statutes (Can), 1879 42 Vict., Chap. 31 Sections 66-73. There were 35 entries in 1878 and 192 in 1879.

26. C.S.P., 1880, No. 4, Part 1, p.3.

In June 1879, the first appointment to a new office was made when J. Anderson was appointed Crown Timber Agent.<sup>27</sup> Under the Timber and Timber Lands provisions of the Dominion Lands Act the lumbering business had expanded steadily. The new agent reported 33 mills in operation in the west, the majority of which had been established in the past two years.<sup>28</sup> The demand for finished wood was increasing and the establishment of a growing number of companies to meet that demand, in turn was giving rise to a competitive situation in the lumber business which reduced the market price to a level beneficial to the struggling homestead settler.

The course of settlement had advanced to such an extent by 1880 that the Department was called on to extend its Dominion Lands services and to revise the organization of its western agencies. The title to lands in the eastern districts of Manitoba, largely had passed from the Crown. In consequence, the Emerson office was closed and the Portage la Prairie agency was transferred to Gladstone.<sup>29</sup> Agencies were opened at Turtle Mountain and at Birtle.<sup>30</sup> The Winnipeg office was charged with the business of a local character still to be done in the Red River area, and also became the central information bureau. The office of chief Agent was dispensed with, and the local agencies were authorized to communicate directly with the Department in Ottawa. To replace the

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27. D.I., No. 3, p. 99, Order-in-Council, 25 June 1879.

28. C.S.P., 1880, No. 4, Part II Appendix 2, p. 15.

29. Ibid, 1881, No. 3, p. vii.

30. D.I., No. 3., p. 295, Order-in-Council, 14 April 1880. The order authorizes the removal of the Emerson office to Morris but there is no evidence that this was done.

coordinating affect of the chief agency, an Inspector of Dominion Lands was appointed, who exercised general supervision over the land business, and who was empowered to represent the head of the lands branch in the conduct of investigations. The programme of reorganization provided employment for trained officers in positions of increased responsibility and assured the Department of efficient management of an expanding administrative service.

As the settlement frontier advanced the difficulties for the immigrants of locating suitable homesteads increased. To meet this situation the Department appointed an agent who, in co-operation with the Immigration Officers, received and advised intending settlers. He was provided with a staff of land guides who were distributed among the busiest agencies to direct, advise, and aid the homestead seekers in choosing eligible locations and in having their entries recorded at the land office.<sup>31</sup>

The incorporation of the Manitoba South-Western Railway Company in 1879 gave notice of the financiers' interest in the fuel resources of the Souris district.<sup>32</sup> The interest had grown stronger following the publication of G.M. Dawson's Boundary Commission geological report, in which, the lignite resources of the southwestern plains were discussed.<sup>33</sup> Some 23 applications for mining locations in the Souris River valley were filed in 1880, but none was acted upon pending reports

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31. Ibid, p. 299, Order-in-Council, 14 April 1880, also, C.S.P., 1881, No. 3, p. vii.

32. Statutes (Can) 1879, 42 Vict., Chap. 66.

33. G.M. Dawson, Report on the Geology and Resources of the Region in the Vicinity of the Forty-Ninth Parallel, (Montreal, 1875.) Chap. VIII.

of an examination of the area by the Geological Survey.<sup>34</sup> News of the proposed railway line through the Souris valley and of the change in route of the Canadian Pacific were the factors governing the course of settlement in 1880. Squatting in advance of the survey along the anticipated railway routes was general and the development represented the beginning of a fresh wave of speculative claim staking. The practice accounts for the apparent drop in settlement entries for that year despite the arrival of large numbers of immigrants.<sup>35</sup> To protect the settler who had gone in advance of the survey, and to avoid conflicts with respect to railway lands, sales of lands in the western agencies were suspended.

At the request of the Department, Professor J. Macoun explored and reported on the capacity for agricultural and pastoral purposes of the south central plains district. The warnings of Palliser's report were repudiated by his findings - the too optimistic findings of a cycle of wet seasons - and the encouraging possibilities for settlement and stock raising in the area of Palliser's triangle were brought to the public notice.<sup>36</sup> Even before the results of Macoun's exploration were made known, many applications for grazing leases were in departmental hands.

To provide additional facilities for the registration of deeds and other instruments relating to real property, there were erected in October 1880 four Registration Districts. Turtle Mountain, Little

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34. C.S.P., 1881, No. 3, Part 1, p. 3.

35. Ibid, p. 1, The C.P.R. route at this date was from Selkirk through Portage and Gladstone and thence westward.

36. Ibid, p. 8 ff.

Saskatchewan, Touchwood Hills, and Prince Albert were the Districts established and their locations indicate the general course of settlement up to that time.<sup>37</sup>

In 1881 a further step was taken to facilitate the administration of Dominion Lands. The number of disputed claims had been increasing yearly and the inconvenience and delay of communicating such disputes to Ottawa for settlement had occasioned many complaints. The difficulty of arriving at equitable settlements by officials so far removed from the scene of the disputes was apparent also, and the Department established a Dominion Land Board in Winnipeg. The Board, first composed of a Commissioner of Dominion Lands and an Inspector of Dominion Lands Agencies, was charged with the investigation and settlement of all disputed claims and with the supervision of the Dominion Lands system in Manitoba and the North-West Territories. Only those disputes upon the settlement of which the Board members could not agree were to be forwarded to the Minister for decision. The Board was instructed, also, to make suggestions for the improvement of the system of administration;<sup>38</sup> incalculable benefits accrued from this provision. The outside service, as this development indicated, was gaining a very large measure of administrative autonomy.

Two new Crown Timber Agencies were opened in 1881, one at Edmonton and the other at Rat Portage, and a Land Agency was opened to serve the

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37. D.I., No. 3, p. 431, Order-in-Council, 27 October 1880.

38. Ibid., p. 749, Order-in-Council, 31 October 1881. also; Statutes (Can.), 1883, 46 Vict., Chap. 17, Section 2.

growing Brandon district.<sup>39</sup> The Surveyor-General in his annual report called for a closer inspection of the production of the operating saw mills, in view of the seeming discrepancy between the returns of quantities of timber cut and lumber processed. As a means of promoting settlement, two colonization plans were included in the land regulations adopted in December 1881.<sup>40</sup> The modest beginnings of many of the companies which were formed to take advantage of the plans did not foretell of the magnitude of the capitalistic enterprises into which some of them were to grow.<sup>41</sup> For the outside service, this new mode of settlement created new problems of inspection and administration. The great numbers of squatters' claims in colonization tracts provided many cases for the Land Board to settle and much material for public debate.<sup>42</sup>

The Dominion Land Board began to function in March 1882 and within a few months its experience with the workings of the Dominion Lands system occasioned several recommendations with a view to improving the system. The increased tempo of railway construction since 1880 had given rise to a considerable settlement boom and its concomitant, land speculation, created many problems for the land officials. Fraudulent homestead entries and squatters' claims were many, and the Land Board advised closer inspection of applications at all land agencies and the

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39. C.S.P., 1882, Part 1, p. 2. The Brandon town site was reserved by Order-in-Council on 26 July 1881; see D.I., No. 3, p. 681.

40. D.I., No. 3, p. 805, Order-in-Council 23 December 1881.

41. C. Martin, "Dominion Lands" Policy, (Toronto, 1938), p. 320 ff.

42. Journals of the Council of the North-West Territories of Canada, 1884, pp. 71-3.

introduction of a system of homestead inspection. The efficiency of the land guide service was questioned, and it was suspended until a reorganization could be effected. The establishment of an intelligence office in Winnipeg was recommended. The purpose of this office would be to maintain a current representation, by means of charts and maps, of the lands entered upon in all of the land agencies. The office would distribute the latest maps and pamphlets concerning Dominion lands, and would be staffed by clerks well acquainted with the land regulations and settlement conditions in all districts of the North-West. Such an office was much needed, but, from the tone of the request, it is to be assumed that, it was also a defensive measure on the part of the members of the Land Board, half of whose time, it was alleged, was spent in answering questions.<sup>43</sup>

The early response to the investment opportunities offered in the colonization plans made it expedient for the Department to establish a new office to administer the regulations. In May 1882 the Privy Council authorized the appointment of an Inspector of Colonization Companies.<sup>44</sup> A large part of duties of the Inspector were similar in nature to that of the Inspector of Dominion Lands Agencies, in that one half of the lands in the colonization tracts was open for homestead and pre-emption entries, and the company agents were responsible to the Department to the same extent as Dominion Lands Agents for the observance of the government land regulations.

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43. C.S.P., 1883, No. 23, Part 1, pp. 1-7.

44. D.I., No. 4, p. 253, Order-in-Council, 23 May 1882.

The recommendations made by the Land Board in 1882 were favourably received by the Department. In 1883 a system of homestead inspection was adopted. The activities of speculative squatters and fraudulent homesteaders were checked, and a closer check was made on the settlement and improvement requirements of the homestead system. The land guide service was reorganized and functioned efficiently in the western districts. Intelligence Offices were opened at Moosomin and Troy and the up-to-date information, with respect to vacant lands, which they were able to provide was a great boon to the homestead seeker.<sup>45</sup>

It was noted above that the Department did not approve the many applications for coal locations submitted in 1880 because of the need for further information on the subject of the western fuel resources. During the summer of 1881 G.M. Dawson conducted a survey in the Territories and the report of his findings provided the desired facts and proved "the great extent and importance of the western coal fields."<sup>46</sup> With this information at hand the Privy Council adopted regulations for the disposal of the coal lands in December 1881.<sup>47</sup> Under a form adopted in May 1882 leases began to issue for coal locations from the Souris to the Bow and Belly rivers. The regulations limited the extent the locations to 320 acres for any one person, but there was nothing to

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45. C.S.P., 1884, No. 12, p. xlV and Part 1, p.2.

46. Geological and Natural History Survey of Canada, Report of Progress for 1880-81-82, p. 3; see also; Chapter v for Dawson's preliminary report. For the full report see; Geological Survey of Canada, 1884.

47. D.I., No. 3, p. 793, Order-in-Council, 17 December 1881.

prevent several holders of such leases from uniting and forming companies, thus bringing large areas under one management, contrary to the spirit of the regulations.<sup>48</sup> In consequence, the leasing of coal lands was discontinued in December 1882 and coal districts were established. Lands in the coal districts were offered for sale by tender, or at public auction. Lease holders were given two years within which they might convert the leasehold to freehold by paying an upset price per acre. Coal districts were established on the Souris, Bow, Belly, and Saskatchewan rivers, each consisting of a specified number of townships.<sup>49</sup> Many intending investors had at personal expense explored various coal fields and had been awaiting approval of their applications for leases when the lease regulations were withdrawn. In justice to them the Minister of the Interior was authorized in March 1883 to sell them the lands for which they had applied.<sup>50</sup> In April, regulations governing the disposal of Dominion Lands containing minerals other than coal were adopted.<sup>51</sup> The rapid development of the mineral resources which followed the adoption of these policies called into being a new office within the outside service; in May 1884, a Superintendent of Mines was appointed to the Dominion Lands Board, and that body's membership, as a result, was increased to three.<sup>52</sup>

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48. Ibid, No. 4, p. 319, Order-in-Council, 23 May 1882.

49. Ibid, p. 681, Order-in-Council, 26 December, 1882.

50. Ibid, No. 5., p. 185, Order-in-Council, 2 March 1883.

51. Ibid, p. 381 Order-in-Council, 25 April 1883.

52. Ibid, p. 6, p. 387, Order-in-Council, 15 May 1884.

Under regulations adopted from 1879 to 1882 grazing leases on the south-western range were issued to companies and to individuals, and by 1884 almost 4 million acres were being used to raise cattle, horses and sheep. The Macleod district was the principal locale for this growing cattle industry, the northward extension of the American cattle kingdom. The Land Board was charged with the administration of this field of enterprise.

Ten years had seen settlement advance from the Red River to the Rocky Mountains and from the International Boundary to the North Saskatchewan. The decade, fateful in the history of the West, had seen the buffalo herds vanish with dramatic suddenness; the fierce plains tribes trail sullenly with horse and dog, teepee and squaw, on to the reserves; the metis, the last buffalo slaughtered, begin to congregate along the Saskatchewan; the gleaming steel stab westward to the Rockies; the plough blacken many a square of prairie by its course. Behind these transforming events lay the day after day mechanical labour of the surveyor, blocking off the rolling immensity of the plains, the office routine of map-making and claim-recording, of patient adjudication in the Land Board, and the issue of sound titles from the land offices. Over 10 million acres of land had been settled, 4 million acres were being used for cattle ranching, the lumber and mining industries were expanding steadily, and in 1883 over 27 million acres of land were subdivided. The development of the North-West, at once rapid and orderly, in these years was made possible in no small degree by the energy and efficiency of the well organized outside service of the Dominion Lands Branch.

## CHAPTER 4

### THE SETTLEMENT OF LAND CLAIMS UNDER THE MANITOBA ACT

With the passage of the Manitoba Act in 1870 the Government of Canada assumed, in good faith, the obligation to satisfy the land claims of the inhabitants of the new Province. The Government discharged its obligation completely and faithfully but its policies for so doing, based, as they were, upon the principles of equity and legality, were largely misunderstood and widely criticized. Some of the features of the policies, it is true, reflected a lack of knowledge of local institutions, customs, and conditions and attacks upon them, doubtless, were justifiable. The Government's continued insistence, however, upon seeing justice done to all was interpreted, unwisely and unfairly, as a betrayal of Manitoba by means of a deliberate plot to block its progress.

The settlement and development of Manitoba was delayed by the process of clearing up the land claims under the Manitoba Act, but the final nature of the results of the process and the extreme generosity accorded all classes of claimants went far toward vindicating the policies adopted and discounting the alleged seriousness of the check to provincial progress.

The difficulties associated with the settlement of squatters' claims are universally notorious. Not only are the claims ill-defined but the claimants almost invariably display impatience and an unreasonable suspicion that they will be denied fulfilment of their rights. The Dominion Government experienced a full measure of trouble before it was able to completely settle the squatters' claims in

Manitoba. The actual settlement of the claims was the source of much of the trouble experienced but it represented only a part of the larger problem of opening the newly acquired North-West. The Manitoba lands were the first to be prepared for settlement by the projection of the township survey system; the first to be settled upon under the homestead regulations; and the first to be affected by the railway land reserve policies. These elements of the transcontinental development plan were in the trial and error stage during the years when the Manitoba land claims were demanding attention. Overlaying, conflict and confusion were the results.

In the sections which follow, the administrative problems connected with the settlement of the land provisions of the Manitoba Act are discussed. For clarity, they are treated in comparative isolation with only brief reference to the complicating factors which derived from their being but a small part of the larger problem of getting the transcontinental system underway. They will, in short, be given that undivided attention which they failed to receive at the hands of the Dominion Government.

(a) The Half-Breed Land Grant

The purpose served by the grant of 1,400,000 acres of land to the families of half-breed residents in Manitoba, according to Section 31 of the Manitoba Act, was the partial extinction of the Indian title to lands in the Province.<sup>1</sup> The grant was, therefore, directly in accord with and pursuant to the terms of the Deed of Surrender of Rupert's Land by the Hudson's Bay Company to the Crown.<sup>2</sup> Prime Minister Macdonald, when explaining the legislation to the House of Commons, said that the Government recognized the half-breeds' strong claim in consequence of their extraction, as well as from being settlers.<sup>3</sup> The Government did not depart from this interpretation of its obligation to the half-breeds, but it was not long after the passage of the Manitoba Act that certain elements of the population for motives of their own attacked or defended the grant by imposing their own interpretations on Section 31 and imputing other motives for its inclusion in the Act.

It is not proposed to examine this aspect of the grant problem but it may be well to indicate the nature of the arguments which revolved around it in 1873, one of the times when the administration of the grant was faltering rather seriously. The arguments of two Manitoba newspapers in support of their views on the grant question

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1. Statutes (CAN), 1870, 33 Vict., Chap. 3.
  2. D.I., No.1, p. 9, clause 14. It should be noted here that the transfer had not been completed at this time, but Canada had accepted the terms in principle.
  3. Debates (HC), 1870, p. 1355.

illustrate the perversion, by partisan opinion, of the principle upon which the legislation was based. The Manitoba Free Press expressed, in particularly strong terms, the opinion that the grant was made to serve political ends; a sop and a bait for the influence and support of the Roman Catholic church.<sup>4</sup> Le Metis, in rebuttal, claimed that the grant represented compensation for the loss of control of the public lands as demanded in the Bill of Rights presented by the delegates of the North-West.<sup>5</sup>

There is nothing in the story of the administration of the grant which would indicate that the Government regarded the grant as anything but an assumed obligation which was to be discharged as quickly as the demands of fairness and justice to all would permit. The delays which marked the early course of settlement of the grant were not the result of devious political maneuvers or of evasions of the terms of an ill-advised compromise, but were caused by the adoption of an administrative system which had its basis in error and confusion.

The grant, it has been noted, was made to satisfy a dual claim by right of racial extraction and of squatting. The problem which the grant posed for the Dominion Government was, however, of a nature different from that usually associated with squatters' claims. In this instance the extent of compensation was the known factor, the extent and mode of distribution the unknown factors. It was in the initial resolu-

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4. The Manitoba Free Press, March 29, 1873; "The Half-Breed Land Grant".

5. Le Metis, April 5, 1873; "L'Octroi des Terres des Metis".

tion of these unknowns that the first mistakes were made.

In August 1870, Adams Archibald, the Lieutenant-Governor of Manitoba, in his added capacity as Administrator of Crown Lands in Manitoba, was instructed to inquire into the land question in Manitoba, and to be prepared to suggest a means of regulating both the selection of sufficient land to satisfy the half-breed grant, and the division of this land among the children of the half-breed heads of families.<sup>6</sup> In addition, the instructions issued for his guidance in the government of Manitoba required the Lieutenant-Governor to have taken a census of the half-breed heads of families and of their children respectively.<sup>7</sup> The terms of these instructions, one will note, were in strict accord with the provisions of Section 31 of the Manitoba Act.

Because population statistics were requisite to the establishment of the machinery of government, the most pressing need of the community, the enumeration first occupied the Lieutenant-Governor's attention. A plan was devised which was to serve the dual purpose of providing information relating to the half-breeds and population figures to be used in laying off the districts for representation. Archibald spoke with satisfaction of his plan,<sup>8</sup> but the attempt to combine objectives had a most unsatisfactory result. The purposes of the half-breed grant were poorly served.

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6. D.I., No. 1, p. 26; also C.S.P., 1871, No. 20, p. 7.

7. C.S.P., No. 20, p. 15, clause 9 of instructions.

8. Ibid, p. 74, Letter, Archibald to Secretary of State for the Provinces, 13 October 1870.

The forms completed by enumerators contained the information required for a land grant system,<sup>9</sup> but in the abstracts prepared from these forms the information was obscured because of the system of reduction employed.<sup>10</sup> The only significant figure available for purposes of the half-breed grant was that of 10,000 for the total number of half-breeds, French and English. Precise information regarding the numbers of half-breed heads of families and of their children respectively was omitted from the reported census figures and this omission and the acceptance, later, of the estimated total as a basis for the half-breed grant system were causes of much of the confusion and delay which attended the system in practice.

In April 1871 an Order-in-Council introduced regulations concerning the public lands of Manitoba. The mode of distribution of the half-breed grant was embodied in these regulations and two of its features should be noted here. First, every half-breed resident in Manitoba on July 15, 1870 and every child of every such resident were declared to be participants in the 1,400,000 acres. Second, it was directed that an accurate census, if not already obtained, should be taken to determine the number of persons eligible to participate in the grant.<sup>11</sup> The two features, whether examined separately or together, give rise to questions which can be answered only by conjecture, if at all. The first feature contravened the terms of Section 31 of the

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9. Ibid, p.78, enumerator's form.

10. Ibid, pp.92, 94, 95, abstracts.

11. D.I., No.1, p. 69, Order-in-Council, 25 April 1871.

Manitoba Act by declaring, in effect, that all half-breeds, resident in Manitoba at the time of the transfer, were eligible to participate in the grant. Was this new designation of eligible participants framed in error or was the contravention intentional? If an error was made, it is possible to understand why there should be doubt as to the existence of a proper census on which to base the plan of distribution. If the change in designation was intentional, the 1870 census figures, already at hand, were adequate for the purposes of the grant.<sup>12</sup> Other questions obviously are latent in the relationship of these features but they will not be raised; partial answers to those already raised will be indicated below. At this point, it is sufficient,

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12. The first regulations regarding the half-breed grant were made effective by an Order-in-Council in March, 1871 but the provisions of the Order were criticized in Parliament and so were revised and re-issued in the April Order. The Honourable William McDougall presented several resolutions with regard to the March regulations among which was the following: "That the proposed distribution of the 1,400,000 acres by Act of Parliament 'towards the extinguishment of the Indian Title to the lands in the Province' of Manitoba among all the half-breed residents instead of limiting the said grant to and dividing it 'among the children of the half-breed heads of families residing in the province at the time of the transfer to Canada' is a violation of the express conditions of the appropriation and contrary to law." The resolution is clear and precise in indicating that the Act was being misinterpreted. The only answer from the Government side, however, came from Alexander Morris who said, "As to the allotment of the land among the half-breeds, the hon. member had objected to the interpretation put upon the Act in that respect by the Order in Council, but the terms of the Act fully justified the Order in Council, and it was certainly desirable that the term "children of the half-breeds" should include all children whether of mature age or not." The answer indicates a certain intention on the part of the Government to extend the application of the terms but does not indicate the intention to extend the grant to all half-breeds. See; Debates(HC), 1871, p. 959-962.

perhaps, to say, that the approach to the settlement of the half-breed claims was much disordered.

The problem of whether or not a census was to be taken was not resolved in 1871. In fact, no move was made in that year to put the half-breed grant system into effect because the division and allotment of grant lands depended upon the existence of completed township surveys. The surveys, halted by the troubles of 1869-70, began again in 1871 under a revised system, but prairie fires and the Fenian "raids" delayed their progress. The half-breeds might have been tolerant of such unavoidable delays had there not arisen out of these delays circumstances which they did not choose to tolerate. Settlers were arriving in Manitoba and the Dominion Government found it necessary to allow them to take up homestead entries in advance of the survey.<sup>13</sup> A large number of the settlers took up lands which the half-breeds felt were or would be theirs and, in fact, many of the lands so taken up were enclosed later in the half-breed reserves. Thus there arose a source of grievance for the half-breeds who resented the intrusion upon lands which they regarded as their own and for the settlers who found themselves situated among an alien and often hostile people. Complications were arising before the grant system got underway.

The Dominion Government returned to the question of a census of the half-breed population of Manitoba in 1872. An Order-in-Council, passed in January, authorized the Dominion Lands Agent in Manitoba to

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13. D.I., No. 1, p. 85, Order-in-Council, 26 May 1871.

have taken a census of all those entitled to land under Section 31 of the Manitoba Act, but again a conflict in terms marked the grant plans. A qualifying clause designated the eligible participants as the half-breed residents in the Province at the time of the transfer.<sup>14</sup> The questions raised by the Order-in-Council of April 1871 therefore remain unanswered. The census was not taken, however. The Agent reported the extreme necessity of making an early selection of the half-breed lands in order that a clash of interest might be avoided when settlers began arriving in the spring, and the Government, mindful of the problem created in the previous year, ordered that the selection should begin without further delay.

The basis of selection was laid down in an Order-in-Council of April 15, 1872. The Lieutenant-Governor was to select a sufficient number of townships to make up the 1,400,000 acres of the grant, taking into account the prior claims on land for the Hudson's Bay Company and for school purposes in each township. The 1870 census figure of 10,000 for the half-breeds entitled to share in the grant was adopted and with its adoption the obscurity of the previous Orders was removed.<sup>15</sup> Whether this course was taken for reasons of expediency or because it coincided with the reading, or misreading, of the terms of the Manitoba Act, it is not possible to say.<sup>16</sup> That the course was ill-advised soon was to become apparent.

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14. Ibid, p. 127, Order-in-Council, 13 January 1872.

15. Ibid, p. 163, Order-in-Council, 15 April 1872.

16. Statutes(Can), 1872, 35 Vict., Chap. 23 S.108, confirms Order-in-Council, 15 April 1872.

The Order also precluded an extension of the problem associated with homestead entries on half-breed claims. The townships selected for the half-breeds were to be reserved for the purpose of the grant exclusively and no further homestead entries were to be allowed. Settlers who found that their lands were situated in half-breed reserves were to be confirmed in their holdings but they might locate a fresh land right elsewhere if they so desired, provided that they applied for such re-entry within two years. Thus a source of future grievance was removed and a means of redress for existing grievances was provided.

The Government expected that the Lieutenant-Governor would implement the instructions at once but he felt that he needed more accurate information regarding the land situation as a whole in Manitoba before he could proceed with a selection. During the early summer settlers were arriving and the question of where they might or might not take up lands was unanswered. The half-breeds, anxious to have their lands reserved for them, were fearful that the pattern of the previous summer would be repeated. In consequence, the mischief growing out of the delay became increasingly serious and Archibald found it necessary to set aside certain townships on a temporary basis in areas where trouble was most likely to occur.

In July the Government pressed Archibald to get on with the job<sup>17</sup> and by the end of August some 55 townships had been reserved.

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17. P.A.M.(LG), Letter Book F, Archibald to Secretary of State, 27 July 1872, acknowledges two telegrams telling of Government's anxiety; tells also of preliminary distribution.

The plan of distribution he followed had its basis in the calculation of 150 claims of 140 acres per townships; allowance having been made for the four sections reserved for the Hudson's Bay Company and for school lands. On this basis 68 intact townships would be required but it was found that in many of the townships prior claims had accrued through purchase or settlement and so the distribution was continued as a temporary arrangement. In making his selections the Lieutenant-Governor did not take the initiative but waited for the parishes to make application and to express their preferences with regard to particular areas of land. The 55 townships selected represented satisfaction of the requirements of 19 of the parishes which had made such application; 5 parishes did not apply.<sup>18</sup>

The division of the reserves into individual allotments was the next problem to be solved and the surveys completed in 1872 marked a sufficient advance in the subdivision of the Province to permit of plans for such a division being made.<sup>19</sup> In November Alexander Morris, for the moment Administrator of the Province, wrote to Ottawa recommending, in view of the troubled situation arising out of the delay, that he be authorized to announce that such plans had been matured and that the division would be made

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18. Ibid, Archibald to Secretary of State, 26 August 1872; outlines plans and includes charts of parish distributions.

19. C.S.P., 1873, No. 7, Appendix C, p.20.

early in 1873.<sup>20</sup> In December Morris, now Lieutenant-Governor, was able to assure a half-breed delegation that the distribution was soon to be made and that an official was on his way from Ottawa to assist in carrying it out.<sup>21</sup> The official, J.S. Dennis, Surveyor-General, arrived on December 17 with authority to proceed with the drawing of allotments and by the end of the month he was busy making the rounds of the five parishes in which townships had not been selected.<sup>22</sup>

With the release of the news that the drawing would soon begin, a wave of speculative buying of half-breed claims spread quickly over the province. The vendors were half-breed heads of families and the view was expressed in the Legislative Assembly and in the newspapers that sales of claims by such persons would not be recognized because they were repugnant to the terms of Section 31 of the Manitoba Act.<sup>23</sup> In March 1873 the Manitoba Legislature passed an Act declaring that no agreement, either for or without a money consideration, with regard to the transfer of title to half-breed lands, made before the issue of Patents for the same, was valid. The purchase price if paid prior to the passing of the Act was recoverable but any monies paid subsequent to its enactment and prior to the issue of patents were not

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20. P.A.M.(LG), Letter Book E, Morris to Secretary of State, 20 November 1872.
  21. The Manitoba Gazette, 11 December 1872; also; P.A.M.(LG), Box 14, Aikins to Morris, 5 December 1872; Dennis on way.
  22. P.A.M., Donald Gunn Correspondence, Schultz to Gunn, 18 December 1872; tells of Dennis' arrival and asks Gunn to call a parish meeting.
  23. The Manitoba Gazette, 12 February 1873; report of debate in Legislative Assembly; also; The Manitoban, 15 February 1873, argument with regard to legality of sales.

recoverable.<sup>24</sup> The protection this legislation provided for the half-breed against speculation was not asked for nor was it graciously accepted.<sup>25</sup>

In the same month Mr. Cunningham, federal member for Marquette, raised the issue of eligible participants in the House of Commons and at first the Government affirmed its stand that all half-breeds were entitled to the grant.<sup>26</sup> The question must have led to some statute-reading, however, because ten days later when Cunningham presented resolutions defining half-breed children as the only eligible claimants to the grant the government accepted them.<sup>27</sup> On April 3, an Order-in-Council amended the existing regulations by declaring that the children of half-breed heads of families alone were entitled to share in the 1,400,000 acres,<sup>28</sup> and on May 3 the new interpretation of Section 31 of the Manitoba Act received statutory confirmation.<sup>29</sup> Allotments of 140 acres had been made during March but distribution was halted because of the new

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- 24. Statutes (Manitoba), 37 Vict., Chap.44, "The Half-Breed Land Grant Protection Act," passed Assembly 1873, reserved by Lieutenant-Governor, approved by Order-in-Council, 28 February 1874, amended by 38 Vict., Chap.37 by which sales made valid. The latter act was passed at insistence of half-breeds. See; Hodgins,W.E.; Dominion and Provincial Legislation, 1867-1895, (Ottawa) 1896.
  - 25. See note next above.
  - 26. The Manitoba Free Press, 15 March 1873; reports Cunningham's questions and Government's reply.
  - 27. Ibid, 29 March 1873,; copy of Cunningham's resolutions.
  - 28. D.I., No. 1, p. 327, Order-in-Council, 3 April 1873.
  - 29. Statutes(Can), 1873, 36 Vict., Chap.38.

regulations.<sup>30</sup> The Surveyor-General, in his last report to the Secretary Of State, (June 30), was able to say that plans for a new distribution on the basis of 190 acres per allotment were underway.<sup>31</sup>

The Department of the Interior began its duties on July 1, 1873 and to it fell the complicated problem of the half-breed grant. Administration of the grant regulations had followed a path, tortuous enough, up to this time but the Department soon was apprised of new factors which demanded consideration and which were to put new crooks in the path. Claims under Section 32 of the Manitoba Act still were in the process of being defined, and of these, the rights of cutting hay and of common, particularly, threatened to overlay claims under the half-breed grant. The right of original settlers, other than half-breeds, to be treated in a manner similar to that accorded the half-breeds was recognized and required settlement.<sup>32</sup> In addition, a peculiar group of claims known as "staked" claims had intruded upon the scene.<sup>33</sup> The latter were not to become a serious problem for another year or more but their existence was a source of concern.

The problem of the hay privilege had taken on a serious aspect shortly after the original selection of the half-breed reservations in 1872. The reservations, in many cases, abutted on the rear lines of

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30. C.S.P., 1874, No. 8, Appendix D, p.25.

31. Ibid.

32. D.I., No. 1, p. 241, Order-in-Council, 28 November 1872; also; Statutes(Can), 1873, 36 Vict., Chap.37.

33. C.S.P., 1886, No.8, p. xii and xiv.

the Settlement Belt,<sup>34</sup> and protests arose on every side from the Belt holders who feared that their rights in the outer two miles were being denied them.<sup>35</sup> Early in 1873 a Commission was appointed to investigate these rights and it reported in March that certain rights in the outer two miles did exist, and that the Belt holders would have to be compensated in some fashion for loss of them.<sup>36</sup> Commutation in unclaimed crown lands was first recommended but in September 1873 the Government recognized the Belt holders' right to compensation in the outer two miles and ordered that this area be withdrawn from the half-breed reserves; the reserves to be extended backward in proportion to the area so withdrawn.<sup>37</sup> A knotty and contentious issue thus was disposed of.

The plans for a realloftment of the half-breed reserves were completed during the summer of 1873 by which the individual grants were increased to 190 acres. Work on the plans apparently progressed

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34. Ibid, 1873, No. 7, Appendix C, p.18.

35. The Settlement Belt was a two mile strip of land on either side of the Red and Assiniboine Rivers to which the Indian title had been extinguished by a Treaty between Lord Selkirk and the Salteaux and Ojibway Indians in 1817. River lots in this belt were of narrow frontage (average 6 chains) but which extended backwards for the full two miles. Holders of these river lots had the recognized right, in twelve of the parishes, of cutting hay in a two mile area immediately in rear of their lots; hence the outer two miles. See; Section on "Hay Privilege".

36. D.I., No. 1, p. 257, Order-in-Council, 13 January 1873; appoints Commissioners; see; P.A.M.(LG), Box 14, for confidential report of Commission.

37. D.I., No.1, p. 439, Order-in-Council, 6 September 1873.

very quietly because a member of the press felt the need to bemoan the dearth of news relating to any aspect of the half-breed grant. "That confounded Pacific Scandal", he said, seems to have absorbed the energies of all the Ministers in all the departments to the utter exclusion of public business.<sup>38</sup> The public business of distributing the half-breed grant began in November but was not completed; the unsavoury episode of the newsman's mail resulted in a change of government at Ottawa and the new Minister of the Interior, David Laird, ordered the procedure to stop. Henceforth, haste was to be made slowly and the indeterminate features of the grant were to be exposed before an advance was ordered.

Lieutenant-Governor Morris, meanwhile, was engaged in correspondence with the Department of the Interior with regard to the establishment of a system whereby claims under the half-breed grant might be investigated. His recommendations embodied features which had been used to advantage in Upper Canada when the problem of United Empire Loyalist claims to land was before the Government of that province. The system had been to record a particular holding in the land office register and by this entry the land was vested in the holder subject to such proof of right as was later established. All that would be required to initiate a like system in Manitoba, he said, would be to publish a list for each of the several parishes describing the allotments made and designating as allottees those whose names appeared on the parish census rolls. Notice might then

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38. The Manitoban, 11 October 1873, "The Half-Breed Grant".

be given that all claimants to half-breed land were to apply for their patents and that proof of right would be received at the land office. Such a system, he felt, would give at once, a marketable value to the holdings and thus protect the half-breeds who, at the time, were receiving paltry sums for their rights to indeterminate lots.<sup>39</sup>

The Surveyor-General opposed this system on the ground that the examination of claims would place too heavy a burden on the staff of the land office. He saw no need to include in any parish lists a description of the lands allotted to each individual and he recommended that a commission be appointed for the special purpose of examining half-breed claims.<sup>40</sup> A solution of the problem by any means would have been welcomed in Manitoba but the Department set the issue aside for future reference and turned to the question of what should be done for the half-breed heads of families. To follow the Department into this problem it will be necessary to digress briefly from the main course of the half-breed grant administration.

In 1873, the former government, in answer to representations from the Legislature of Manitoba,<sup>41</sup> had provided by statute a grant of 49,000 acres of land to be divided among the original Selkirk settlers or the children, not being half-breeds, of the same, then

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39. P.A.M. (LG), Letter Book H, Morris to Minister of the Interior  
11 February 1874; recapitulation of plan.

40. Ibid, Box 14; printed copy of Surveyor-General's Memorandum  
on Half-Breed Grant, 17 December 1873.

41. Journals of the Legislative Assembly of Manitoba, 1872, p.35-6.

resident in Manitoba.<sup>42</sup> These people, it was felt, were entitled to the same consideration as that being extended to the half-breeds in the Province and the individual allotments were to be of the same size as that of the half-breeds, i.e. 140 acres. The legislation, however, was prevented by subsequent events from establishing the principle of equal treatment as between Selkirk settler and half-breed.

The half-breed heads of families had been divested of their right to share in the half-breed grant before the legislation was passed, and furthermore, the reduction in the number of claimants to the half-breed grant had increased automatically the area of the individual allotments above the 140 acre basis. Nor was that all. The grant of 49,000 acres was to provide 140 acres each for an estimated 350 Selkirk settlers whereas an accurate census showed that there were some 530 such claimants. This meant that the allotments would measure just over 92 acres each. Notwithstanding the trouble it caused, the comedy of errors had reached its climax in this situation.

A bill introduced by David Laird on May 1, 1874 met the situation adequately and when it was passed in the same month it embodied a modified but nonetheless satisfactory principle of equal treatment. The legislation provided for a grant of 160 acres of land or of scrip for 160 dollars to the half-breed heads of families,

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42. Statutes(Can), 1873, 36 Vict., Chap.37; R.A. 23 May 1873.

fathers, mothers, or both as the case might be. By the Act, also, a grant of scrip for 160 dollars was made to all original white settlers, whether sponsored by Lord Selkirk or otherwise, who came to the Red River Settlement between the years 1813 and 1835, both inclusive, or to the children of such settlers, not being half-breeds.<sup>43</sup> The change in the provisions relating to original settlers was introduced to satisfy the wishes expressed by such settlers through a joint address of the Manitoba Legislature.<sup>44</sup>

In the early autumn of 1874 David Laird established the desirable and much appreciated precedent of ministerial visits to the North-West. Much of the criticism of the administration of western affairs was well founded in the claim that Ottawa's officialdom acted upon a knowledge of the West derived only from secondary sources. The earnest attention which the Minister gave to affairs under the jurisdiction of his Department during his visit received grateful response from the inhabitants. The visit afforded the opportunity for all to air their views and grievances. "Since his arrival in the Province he has with studious impartiality given audience to all sorts and conditions of men," the Nor'-Wester reported.<sup>45</sup> Apart from the salutary effect of the personal interviews, it is difficult to assess the benefits derived from the Minister's tour of the West. It did not produce a notice-

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43. Ibid, 1874, 37 Vict., Chap. 20.

44. Journals of the Legislative Assembly of Manitoba, 1873, p.17.

45. The Nor'-Wester, 24 August 1874, "The Minister of the Interior".

able quickening of pace in the administration of land matters under the Manitoba Act, but under Laird and his successor, David Mills, who followed the precedent, the Department of the Interior avoided repeating the gross errors in judgment which had characterized the early administration of these affairs.

To return to the administration of the half-breed grant; the problem of how best to examine the half-breed claims to land, temporarily shelved early in 1874, was brought down again for consideration in 1875. Whether the experience gained from seeing the Manitoba Land Office in operation enabled the Minister to come to a decision in the matter is a moot question, but his memorandum to the Privy Council in April followed almost verbatim that of the Surveyor-General written during the debate with Lieutenant-Governor Morris. The Minister recommended the appointment of a Commission for the special purpose of examining half-breed claims and outlined the terms of reference within which the commission should act.<sup>46</sup> His recommendations were approved by an Order-in-Council on April 26, 1875,<sup>47</sup> and on May 5, a further Order authorized J.M. Machar of Kingston and Matthew Ryan of Montreal to act as Commissioners. The latter Order instructed the Commissioners to examine also, the claims of half-breed heads of families to land or scrip and of original settlers to scrip under the Act of May, 1874.<sup>48</sup>

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46. D.I., No. 2, p. 280.

47. D.I., No. 2, p. 279, Order-in-Council, 26 April 1875.

48. Ibid, p. 297, Order-in-Council 5 May 1875.

Manitoba welcomed the Commission and wished it God-speed, while mildly regretting that the Commissioners should have been selected from outside of the Province.<sup>49</sup> The Commissioners worked quickly and carefully and in four months time had completed their tasks. Some 9300 claims were examined in this short period to the complete satisfaction of the half-breeds and other claimants.<sup>50</sup> The results of this examination provided, for the first time, a proper basis for a final settlement of the half-breed grant under the Manitoba Act.

The "staked" claims problem also came up for review in 1875. The Government first heard of these claims early in 1873 when the Surveyor-General, J.S. Dennis, wrote to Ottawa that he had been waited on by a large delegation of half-breeds who claimed that they had a right to certain lands which they had marked off on the Rat, Salle, and Seine Rivers.<sup>51</sup> The generally well sheltered banks of these rivers afforded a good wintering ground for stock owned by the half-breeds and had been used for this purpose since about 1862. When these people learned of the Government's intention to allow pre-emption rights to land peaceably held at the time of its transfer to Canada they lost no time in "staking" claims to it. In most cases there was no attempt to improve the land; a few posts to mark the limits along the river banks, piled up poles to represent

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49. The Manitoba Free Press, 15 May 1875, "The Half-Grant Commission".

50. C.S.P., 1876, No.9, Part 3, p.8; see also; The Manitoba Free Press, 21 August 1875, for commendation of Commission.

51. C.S.P., 1886, No.8, p. xiii and xiv,; brief account of history of "staked claims".

the walls of a house, tree blazes, or a small ploughed patch were among the usual bases for claims by right of peaceable possession.

The question of "staked" claims was referred to the Minister of Justice for a decision as to their legality under the Manitoba Act, and in July 1874, he informed the Minister of the Interior that such claims could not be recognized. The half-breeds would not be put off, however, by legal arguments which they could not or did not chose to understand and so the Minister of the Interior was forced to appeal again to the Department of Justice. In March 1875, he was advised not to have any legislation with regard to "staked" claims but to examine and deal with each case upon its own merits. The advice was accepted and although the recognition of a new class of claims complicated the problem of the half-breed grant, it also exposed the last of the undetermined factors which previously had delayed a settlement.<sup>52</sup>

From 1876 the history of the settlement of the half-breed grant is one of progress. Remedial legislation had removed the inconsistencies of previous enactments and investigations had revealed the obstacles yet to be overcome. The Department of the Interior had committed itself to the creation of an extension of the land-lock, already created by the half-breed reserves, under the provision of the Act which granted land or scrip to the half-breed heads of families. Action in this direction was in no way desireable, and when the investigations of the Half-Breed Grant

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52. Ibid, 1875, No. 8, p.13; the Minister of the Interior explains the impracticability of allotting half-breed lands until these claims have been decided upon.

Commission disclosed that an issue of scrip would be satisfactory to the claimants, an Order-in-Council was passed in March 1876 which provided for the settlement of all such claims by this means. As a protection to the recipients of scrip it was provided, also, that no assignment of a right to scrip would be recognized by the Department.<sup>53</sup>

In June 1876 the Department moved to do justice to those half-breeds who had left the Province to reside in the North-West Territories previous to the sittings of the Half-Breed Grant Commission. Matthew Ryan, lately appointed a Stipendiary Magistrate for the Territories, was authorized to continue to act as a commissioner and take the evidence of such claimants as might come before him; such commission to continue for two years.<sup>54</sup>

The stage was now set for the final act and by an Order-in-Council of September 7, 1876 the Department issued regulations for the distribution of the half-breed grant. The Half-Breed Grant Commission had reported 5088 persons as entitled, but the rights of an additional 226 persons had been verified subsequent to the commission sittings. To provide for future claims which might be verified the total number of claimants was placed at 5883 which, when divided into the grant area of 1,400,000 acres, allowed 240 acres for each claimant. The 240 acre allotment, in contrast to the previous allotments of 140 and 190 acres, was easy of description under the survey subdivision system and therefore

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53. D.I., No. 2, p. 423-26, Order-in-Council, 23 March 1876.

54. Ibid, p. 473, Order-in-Council, 13 June 1876.

presented no obstacle to distribution. All previous allotments were cancelled and Lieutenant-Governor Morris was requested to proceed with the new.<sup>55</sup>

The drawing and allotment of the lands began on October 30, 1876 under Morris' supervision. In a letter to Ottawa reporting the beginning of the drawing, the Lieutenant-Governor reopened the discussion as to the advisability of publishing lists containing a description of the allotment and the names of the allottees as soon as possible after the distribution had been approved by the Privy Council, and recommended again that the lands so allotted should vest in the allottees pending the issue of patents.<sup>56</sup> The Department of the Interior, in this instance, either viewed the suggestions with favour, or had already decided upon some such practice, because lists began to issue early in 1877 which described the allotments, designated the allottees, and stated that the claims of such allottees had been approved.<sup>57</sup>

All but seven of the parish allotments were completed in 1877 under Lieutenant-Governor Morris' supervision and 1115 patents were issued in that year.<sup>58</sup> Joseph Cauchon succeeded Morris as Lieutenant-Governor of Manitoba on December 2, 1877, and although

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55. Ibid, p. 505, Order-in-Council, 7 September 1876.

56. P.A.M. (LG), Letter Book M, Morris to Secretary of State, 2 November 1876.

57. P.A.M. Folio of these parish lists is on deposit.

58. C.S.P., 1878, No. 10, Part III, p. 5.

he was asked to proceed at once with the allottments in the remaining parishes, he declined to do so because of representations that were made to him concerning disputed claims which existed in some of the parishes.<sup>59</sup> The Department of the Interior was forced to investigate these claims and as a result allottments in two parishes only were made during 1878.<sup>60</sup> In that year, however, the Minister in order to facilitate the final disposal of the half-breed grant received authority to issue patents to all claimants irrespective of age or sex.<sup>61</sup> Allottments were made during 1879 and the early months of 1880 in the five remaining parishes. Patent issue was practically completed in 1880,<sup>62</sup> and it may be said that in that year the half-breed land grant in Manitoba was settled.

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59. Debates(HC), 1878, p. 693; Mills remarks re. Cauchon.

60. C.S.P., 1879, Part 11, p. 4.

61. D.I., No.2, p. 733, Order-in-Council, 4 July 1878; this Order rescinded Sections 6 and 7 of the Order-in-Council of April 25, 1871 which provided that patents should issue only to claimants 18 years or over.

62. C.S.P., 1880, Part 1, p.4; also; Ibid, 1880-81, Part 1, p.2.

(b) The Settlement Belt Lands

In order to establish a proper basis for the settlement of claims and rights under Section 32 of the Manitoba Act,<sup>1</sup> the Dominion Government found it necessary to prepare new and independent plans of the lands actually occupied at the time of the transfer of Rupert's Land to Canada. In some respects, the maps and registers of land tenures maintained by the Hudson's Bay Company were an invaluable aid to a final settlement of the claims but they did not provide accurate descriptions of the individual holdings.<sup>2</sup> As a starting point, therefore, the Government ordered a survey of the Settlement Belt within which the lands, for the most part, were held by grant or licence to which the first three subsections of Section 32 gave recognition.

The Settlement Survey of 1871 was organized to provide information for the compilation of plans or maps upon which could be arranged the exact boundary lines of individual occupancies.<sup>3</sup> An accurate traverse of the Rivers and of the roads along them,

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1. Statutes (Can), 1870, 33 Vict., Chap.3.
  2. Martin, Tenures, p. 124. Speaking of the registers, Martin says that they provided strong prima facie proof of ownership in fee at a specified time but not a connected history of any of the lots. See; P.A.M.(LG), Box 14, Dennis to Sinclair regarding the use to be made of the tracings of Hudson's Bay Co. map in performing the settlement surveys. See also; Letter of Instruction, Dennis to Russell, July 24, 1871, for similar information.
  3. C.S.P., 1892, No. 13, Part VI, pp.6-7.

with the frontage in each case of the lot occupied, and the nature and extent of occupation was to be accomplished first.<sup>4</sup> The random way in which settlement had taken place along the Red and Assiniboine Rivers made the work in this preliminary survey slow and tedious and the results of the 1871 survey were not entirely satisfactory.<sup>5</sup>

In 1872 the outline work was completed and a good start was made in posting off and marking on the ground the boundary lines of the individual occupancies. The projection of the rear lines of the settlement belt, and the tying-in of these lines with the township surveys abutting on them also made favourable progress in that year.<sup>6</sup> The Surveyor-General, commenting on the season's survey, was able to report that the work would be finished in 1873 and was optimistic about an early start on the task of issuing patents.<sup>7</sup>

The tenor of the reports of the Settlement Survey in these years, however, leaves one with the feeling that the land officials were anything but optimistic about the ease with which the task of issuing patents could be accomplished.<sup>8</sup> The lack of uniformity in

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4. P.A.M. (LG), Box 14, Instructions, Dennis to Russell, 24 July 1871.

5. C.S.P., 1872, No. 22, Appendix C, p.15; also; Ibid., 1892, No.13 Part VI, p.7.

6. Ibid., 1873, No. 7, Appendix C, p.18.

7. Ibid.

8. The Ministerial Delegation from Manitoba to Ottawa in its memorandum, dated 31 March 1873, asked inter alia for a tribunal to settle all matters regarding claims and patents under the Manitoba Act. See; Journals of the Legislative Assembly of Manitoba, 1874, Appendix, p.xxiii.

holdings, the casual methods employed by the Hudson's Bay Company in recording tenures, and the existence of conflicting claims presented a formidable combination. At any rate, it was deemed adviseable to provide some means of thoroughly examining proof of right in all cases before patents should issue. In May 1873 an Act was passed which authorized the Governor-General to appoint a Commission for this purpose.<sup>9</sup> In theory the procedural provisions of the Act created a most exacting system of claim investigation. In practice, however, the legislation was never put into operation.<sup>10</sup>

The Act had been passed in anticipation of the confusion which it was expected would arise when attempts were made to adjust the facts derived from the survey with those derived from the original records and from the settlers' claims. Little had been done to effect such an adjustment prior to the passage of the legislation and when the situation was studied more closely it was found that there were relatively few cases in which serious conflict would arise. Accordingly, instead of recommending the issuance of Commissions under the Act, the Department of the Interior initiated

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9. Statutes(Can), 1873, 36 Vict., Chap.6.

10. The Act called for the Commission to sit in each of the Counties of Manitoba to hear all cases arising under any of the first 4 subsections of the Manitoba. Three months notice of the cases to be heard was required. Hudson's Bay Company records were to be available and witnesses might be called. Claimants were to furnish affidavits of their claims and were responsible for notifying adverse claimants one month prior to hearings of their intention to appear before the Commission. The report of the Commission was to be forwarded to the Privy Council and patents were not to issue for three months during which time the cases might be reopened.

measures which later combined to constitute a system whereby patents might be prepared and approved for issue in the ordinary cases.

In May 1874 an Act was passed appropriating certain lands in Manitoba for the benefit of half-breed heads of families and original settlers and among its provisions was one, irrelevant to the subject, which gave subsections 3 and 4 of Section 32 of the Manitoba Act a broader application. The provision permitted the recognition of claims, by right of occupancy and peaceable possession, to any lands in Manitoba and so facilitated the issue of patents.<sup>11</sup> During the year, (1874) the Surveyor-General consulted with the Department of Justice as to the proper form which the patents should take and as to a mode of examining title before the issue of such patents should be approved.<sup>12</sup> In the meantime, a specially qualified clerk was employed in the Dominion Lands office in Ottawa to prepare descriptions for patents from the parish maps and surveys.<sup>13</sup>

The system which resulted from these steps was ready for adoption by the end of 1874. Applications for patents together with supporting evidence were to be investigated by the Dominion Lands Office of the Department of the Interior and such claims as appeared valid were to be referred to the Department of Justice for

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11. Statutes (Can.), 1874, 37 Vict., Chap.20, Section 3; amended by 38 Vict., Chap. 52, Section 1.

12. See the following; D.I., p. 15, No.2, Order-in-Council, 28 February 1874. Ibid, p.167, Order-in-Council, 10 October 1874. Ibid, p.205, Order-in-Council, 26 December 1874.

13. C.S.P., 1886, No. 8, p.xvi, re. clerk Robert Lang. See also; D.I., No. 2, p.217, Order-in-Council, 1 January 1875.

a report on the claimant's title. From the lists of claims approved by the latter Department, the Department of the Interior were to issue patents to the several parties entitled. Under this system patents would issue only to those claimants whose titles were clear. It was realized, however, that a means of investigating doubtful or conflicting claims would be required,

The Department of Justice passed the first claims under this system in March 1875 and in so doing recommended that all patents issuing under Section 32 of the Manitoba Act should receive final approval by the Governor-General-in-Council. The adoption of this step in procedure by authority of an Order-in-Council marked the first formal recognition of the system.<sup>14</sup>

With a new system of issuing patents in operation, the Minister of the Interior introduced legislation to remove the old and to establish a means of adjudicating upon doubtful titles and conflicting claims.<sup>15</sup> The Act which was passed in April 1875 repealed the former legislation on the subject and provided that the Governor-General might appoint a Commission to investigate those cases which could not be decided upon under the ordinary system of investigation.<sup>16</sup> As in the instance of the repealed legislation, the required procedures

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14. D.I., No.2, p.253, Order-in-Council, 19 March 1875. It should be noted that this step was dropped from the system in 1876. See; Ibid, p.557, Order-in-Council, 19 December 1876.

15. The Minister speaking of the legislation referred to the old system as expensive in operation. Actually the Act was never operative. See; Debates(HC), 1875, pp.197 and 793.

16. Statutes(Can), 38 Vict., Chap.53.

were exacting and time-consuming.<sup>17</sup>

The Lieutenant-Governor of Manitoba, Alexander Morris, was appointed sole Commissioner under the Act on January 7, 1876.<sup>18</sup> No cases were referred to him until early in 1877 and it was not until midsummer that he was able to open hearings.<sup>19</sup> The Lieutenant-Governor had expressed misgivings concerning certain provisions of the Act<sup>20</sup> and his doubts were confirmed by his experience during sittings of the Commission.<sup>21</sup> He found that lack of compliance with the requirements of the Act by one or other of the disputants in many of the cases rendered it impossible for him to hear these cases and as a result only eleven were heard and of them not all were decided. In November 1877 he made a full report of his findings to the Minister of the Interior and recommended that the Act be amended in several particulars.<sup>22</sup>

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17. Commissions under this Act were not restricted to the Chief Justice and Judges of the Queen's Bench of Manitoba, and the Commissioners were to be guided by the justice and equity of the case and not to be confined to the strict letter of the law. In other respects, the procedures remained substantially as in 36 Vict., Chap.6.
  18. D.I., No.2, p.403, Order-in-Council, 7 January 1876.
  19. P.A.M. (LG), Letter Book M, Morris to Minister of the Interior, 3 February 1877. Delay caused by need for three months notice of cases.
  20. Ibid, Morris to Minister of the Interior, 3 March 1877.
  21. Ibid, Morris to Minister of the Interior, 3 August 1877. Letter gives account of his difficulties at the hearings.
  22. Ibid, Morris to Minister of the Interior, 26 November 1877, Long report on the deficiencies of the Act and his recommendations for correcting them.

The Act was amended in May 1878,<sup>23</sup> and in the same month the Chief Justice Honourable E.B. Wood, of Manitoba, was appointed sole Commissioner, Alexander Morris having left office in Manitoba on Dec. 2, 1877.<sup>24</sup> Under the Act as amended the Chief Justice was able to decide upon several hundred cases during 1878 and in June 1879 his commission was extended so that he might dispose of new cases as they arose.<sup>25</sup> He continued his duties until February, 1882 when the hearing of disputed claims was referred to the Commissioners composing the recently established Land Board.<sup>26</sup>

Practically all patents for claims under Section 32 of the Manitoba Act had been issued by the end of the year 1885. From 1875 to 1884, however, only one clerk was employed in the Dominion Lands Office in Ottawa to carry out the initial investigation of applications for patents under this Section. In the latter year it was found that this man had conspired to delay the issue of

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23. Statutes (Can), 1878, 41 Vict., Chap.14. The Minister when introducing this legislation spoke of the trouble with the old; "... that if any party desired to prevent the Commissioners from proceeding to decide conflicting claims of the respective parties to any lands in the Province of Manitoba, all that was necessary to do was to refuse to give the requisite notice. The result was that no action could be taken, except in the case of those who volunteered to comply with the provisions of the law, and appear before the Commissioners, for the purpose of having their respective claims determined." Debates (HC), 1878, Mills p. 1401.
24. D.I., No. 2, p.715, Order-in-Council, 23 May 1878.
25. Ibid, No. 3, p.101, Order-in-Council, 25 June 1879.
26. Ibid, No. 4, p.53, Order-in-Council, 20 February 1882. Land Board created by Order-in-Council, 31 October 1881.

patents in certain cases and to defraud the rightful claimants.<sup>27</sup>

The Department of the Interior assumed full responsibility for these acts, but did not explain why it was not considered necessary to expedite the issue of patents during these years - by the appointment of additional clerks for the task or by properly supervising the work of the one clerk so employed. During the period the average annual rate of issue of patents was only 210.<sup>28</sup> It is true that the Department was not subjected to the pressures for settlement as in the case of the half-breed grant, but a charge of dilatoriness in administering this Section of the Act must stand.

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27. C.S.P., 1886, No.8, p.xvi and xvii.

28. Ibid, p. xvii, chart of patent issues.

(c) The "Hay Privilege"

Under Subsection 5 of Section 32 of the Manitoba Act, the Lieutenant-Governor was authorized, under regulations to be made from time to time by the Governor-General-in-Council, to make all such provisions for the ascertaining and adjusting, on fair and equitable terms, the rights of common and the rights of cutting hay enjoyed by the settlers in the Province and for the commutation of the same by grants of land from the crown.<sup>1</sup> By inclusion of this provision in the Manitoba Act the Dominion Government confirmed these customary rights which had been recognized by the Laws of Assiniboia, passed by the Council of Assiniboia; the sole governmental authority in the Red River Settlement.<sup>2</sup>

The inhabitants of the Settlement Belt<sup>3</sup> in twelve of the Red River parishes enjoyed the exclusive right to cut hay on the outer two miles immediately in the rear of their river lots, and this

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1. Statutes (Can.), 1870, 33 Vict., Chap. 3.
  2. Consolidated Statutes of Manitoba, 1880, Laws of Assiniboia, No. X, XI, XII.
  3. The Hudson's Bay Co. had a plenum dominum to the land two miles back from the Red and Assiniboine Rivers. This area, except at the forts, was the only land to which the Indian had been extinguished and, in consequence, the Company granted no lots outside of this area. Broadly speaking then, the Settlement Belt was that area along both rivers which was open for settlement but, in fact, the term usually applies to that part of the area which was actually taken up or settled. See; Morris, Treaties, Appendix, p. 299 for text of Indian Treaty by which the title was extinguished.

outer belt itself became known as the "hay privilege".<sup>4</sup> In addition, the right was shared by many settlers in common in such areas as the Point Douglas and St. Boniface Commons. Such hay cutting was restricted by law to a particular period of the year and specific penalties were imposed for infractions of the statutory regulations. The right was simply an easement but one of a peculiar nature, in that, it extended over all of the land on which it was exercised and precluded occupation of the land for any other purpose. In effect, the outer two miles had become the property of the owner of the inner two miles. In the discussion which follows it will be apparent that delay in recognizing this aspect of the situation was the source of administrative difficulties for the government and of grievances for the claimants.

When the Manitoba Act was being debated in the House of Commons, Sir John A. Macdonald intimated that the cutting of hay according to customary practices would be allowed to continue until such time as the progress of settlement made it impracticable.<sup>5</sup> In consequence,

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4. The term "hay privilege" as it will be used in this section means the outer two miles. Martin, Tenures, p. 90. The term was used in a different sense, however, referring to the rights enjoyed in the outer two miles. See: P.A.M.(L.G.), Box 14, "Report of Commission on Hay and Common Rights", 23 February 1874. In this report,..."the 'hay privilege' was, in effect, the exclusive right during a certain period in each year that the owner or occupant of each front lot had of cutting the hay on the two miles immediately in rear of his lot, after the expiration of which period the hay left on the outer two miles in order of the settlement lots was common to all."

5. Debates (HC), 1870, p. 1357.

the Dominion Government took no immediate action to formulate a policy with regard to commutation. Other aspects of the land problem in Manitoba did receive early attention, however, and features of their administration gave rise to feelings among those occupying the Settlement Belt that their rights in the "hay privilege" were being abrogated.

By late 1872 the settlers had become exceedingly restive. In some of the parishes newcomers to the Province had made entries for homesteads in the outer two miles; the Subdivision Surveys were being tied in with the rear lines of the Settlement Belt; and some of the half-breed reserves were found to abut on these rear lines. Early in the year the Legislature of Manitoba, in a joint address to the Governor-General, had confirmed the "immemorial" usage of rights of hay and common and had claimed their complete fulfilment;<sup>6</sup> a gesture on behalf of the claimants which was not answered for a year. In November, Alexander Morris wrote to Ottawa to ask that notice be given of Parliament's intention with respect to the hay privilege. He said that inaction in this regard was among the more fruitful sources of disquiet in Manitoba and that it was being used by political agitators to stir up movements which would be injurious to the best interests of the Province.<sup>7</sup>

The agitation, in so far as the "hay privilege" was con-

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6. Journals of the Legislative Assembly of Manitoba, 1872, p. 36.

7. P.A.M. (L.G.), Letter Book E, Morris to Secretary of State, November 20, 1872.

cerned, took the relatively innocent form of parish meetings where resolutions were passed and petitions were drawn up praying for an early settlement of the rights associated with the outer two miles.<sup>8</sup> The Lieutenant-Governor received these appeals sympathetically but nothing short of positive action by the Dominion Government would satisfy the petitioners. In January 1873, both Morris and the Surveyor-General, J.S. Dennis, telegraphed Ottawa for such action and in reply the Government authorized Morris to appoint a Board to enquire into and to report upon the nature and value of the rights and to suggest a means of carrying out commutation.<sup>9</sup>

The Board, consisting of Judges McKeagney and Betournay and the Surveyor-General began its work early in February and submitted its report on March 6, 1873. The report confirmed the existence of the rights of hay and common and recommended that a Commission should be appointed to investigate the claims individually and to award compensation in full of such claims according to the merits of each case. It was recommended also that commutation of rights should be in scrip redeemable in unclaimed Crown lands outside of the outer two miles because that belt already formed a part of the half-breed reserves.<sup>10</sup>

The Board well knew that in presenting the recommendation, last noted, it was acting in opposition to the expressed wishes of the occupants of the Settlement Belt. The earliest protests had been directed against the occupation of the outer two miles by

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8. Ibid, Box 14, Copies of these petitions etc.

9. D.I., No. 1, p. 257, Order-in-Council, 13 January 1873.

10. P.A.M. (L.G.), Box 14.

homesteaders and the location of the half-breed reserves in this area. The numerous parish petitions regarding rights in the outer two miles all had represented that compensation was sought in that belt, and the leaders in many of the same parishes had been conferred with during the Board's investigations. The action was taken because Dennis had received notice from the Secretary of State that the Government was not prepared to recognize any claims in the outer two miles set up through rights of hay or common.<sup>11</sup> In this instance, the Government found it expedient to stay strictly within the terms of the Manitoba Act. The Board's report, however, was confidential, and so the recommendation did not increase the local agitation which, in the absence of any tangible result of the Board's activities, continued unabated.

Lieutenant-Governor Morris was aware of the difficulties which would arise if the settlers claims were recognized but nevertheless he supported them. In pressing their case, he suggested the withdrawal from the outer two miles of the half-breed reserves as a starting point of a plan the further details of which the proposed Commission could work out. The Surveyor-General, a reluctant party to the denial of the settler's claims, acknowledged the feasibility of such a course and the Minister of the Interior was moved to recommend a plan of settlement to the Privy Council.

On September 6, 1873 an Order-in-Council authorized the

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11. Ibid, Telegram Secretary of State to Dennis, 21 January 1873.

appointment of John Bain and Joseph Dubuc as Commissioners to investigate individual claims and to award fair and equitable compensation. The outer two miles was withdrawn from the half-breed reserves and the Commissioners were instructed to award compensation for claims immediately in the rear of the settled lots. The lands so given were not to extend beyond the outer two mile limit nor to be wider in extent than the front lot occupied by the claimant. Scrip was to be issued at the rate of one dollar an acre if the claimants so desired.<sup>12</sup> A slow start and an adherence to legality had increased the size of the problem the Commissioners would be asked to resolve but something of the nature of the easement was now recognized and progress would be impeded only by the quality and quantity of the complicating factors.

The commissions were issued to Messrs. Bain and Dubuc on October 30, 1873 and by February 23, 1874 they had examined some 200 claims in the parishes of St. Paul and St. Charles. The rights of hay and common had been fully and generally exercised in these parishes and in the course of their investigations the Commissioners learned much of the history of these rights. What they learned led them to recommend that the regulations under which they were acting should be amended so that those who for any reason could not receive commutation in full of their rights in the outer two miles, should receive scrip for one half as much more land as

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12. D.I., No. 1, p. 439, Order-in-Council, 6 September 1873.

there would be in a piece of land the width of the front lot and two miles long.<sup>13</sup> The Commissioners had learned how valuable the contiguous lands were to the front lot holders and they felt that, in all fairness, those who were deprived of compensation in these lands should receive a liberal share in other lands; hence the extra half.

Lieutenant-Governor Morris agreed with the suggested amendment and asked the Commissioners to suspend further investigations until the Privy Council had been given an opportunity to consider the report. The Department of the Interior was not unprepared to accept the suggested revisions to the "hay privilege" regulations. It will have been noted that the Commission had concerned itself only with the rights of hay and common within the outer two miles. The Department, meanwhile, had been made aware of and had been enquiring into claims to similar rights with respect to lands outside of the four mile limit and so it was recognized that the existing regulations were not sufficiently comprehensive in scope and method.

That it should have taken the Government a considerable length of time to comprehend the heterogeneous character of the rights of hay and common is understandable. The way in which the rights were exercised varied even among those parishes where they were recognized by law. In the other parishes the number of variations was still greater, and throughout the whole of the Red River Settlement there were customary practices and privileges associated with the unoccupied

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13. P.A.M. (L.G.), Box 14, Report of Commission.

prairies which were never recognized or regulated. The Government's administrative policies with regard to the Manitoba Act and the Dominion Lands Act interfered with the exercise of these rights and for the first time, perhaps, they were defined in positive terms.<sup>14</sup>

The Surveyor-General had prepared a memorandum dealing with those claims which hitherto had not been considered as having a place under the rights of hay and common. Some of the claims came from parties who lived in parishes where the rights were recognized by law, but who had exercised their rights beyond the outer two miles in the open plains because the land immediately in the rear of their river lots was not suitable hay land. Other claimants lived in parishes where the rights were not recognized by law, but where the inhabitants had been accustomed to enjoy rights of common on the open plains in the shape of pasturage for their cattle and horses. Dennis urged that it would be unjust not to extend a fair consideration to these people because the coming of settlement had disrupted their method of farming; a method which the present generation was not likely to change.

The memorandum was referred to the Minister of Justice for an opinion as to the validity of the rights with which it was concerned. In reply, the Minister stated, that these rights had been given recognition, however indirect, by the Laws of Assiniboia, the Manitoba Act and the Order-in-Council of September 6, 1873, and so, it was no more than proper that a means of commutation should

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14. Ibid, The Report mentions the existence of positive laws with regard to the rights of hay and common; laws which were passed

be devised.<sup>15</sup>

The Department of the Interior however did not end its enquiry at this point. The Minister asked Lieutenant-Governor Morris for his views on the rights of hay and common outside of the four mile limit and in March 1874, Morris submitted a very full report on the subject, and recommended that claims in this regard should be investigated by the Commission under new regulatory provisions. He also brought up the question of claims to fenced-in parks which existed within the outer two miles and suggested that the Land Agent should be authorized to adjust such claims on a just and equitable basis, despite the fact that the fencing of these parcels of land had been done without authority of any kind. The settling of claims in the Point Douglas and St. Boniface commons, he felt should be entrusted to a special Commission composed of three judges of the Queen's Bench in Manitoba.<sup>16</sup>

Morris' report filled out the information the Department felt it needed before issuing settlement regulations and in April, 1874 two Orders-in-Council were passed which made provision for the commutation of all rights of hay and common which were known to exist; and for the settlement of the several classes of claims to

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by the Council of Assiniboia about 1835. The writer was unable to find this legislation, but for regulations regarding hay and the four mile limit, see; Oliver, North-West, Vol.1, pp. 291, 296, 298.

15. P.A.M. (L.G.), Box 14, Memorandum, Dennis to Minister of Justice, 9 December 1873, and Minister's reply of 16 December 1873.
16. Ibid, Letter Book H, Morris to Minister of the Interior, 18 March 1874.

land in the outer two miles. The first Order, passed on April 3, authorized the Dominion Lands Agent in Winnipeg to approve and confirm the claims in the outer two miles under the rights of homestead and pre-emption, provided that entry had been made prior to the selection of the half-breed reserves and that proof of actual settlement and improvement was furnished within two months of the time of personal notification of its being required. The claims to fenced-in parks in the outer two miles, if so improved previous to the transfer, were to be specially surveyed, and the claims settled by free grants. A bona fide improvement of ten years was to entitle the owner to a free grant plus a tract, at the discretion of the Minister of the Interior, not to exceed twenty acres and in that proportion for a greater or lesser improvement. A road allowance of at least fifty links was to be reserved along some convenient boundary to afford a means of access to these grants.<sup>17</sup> The Order by providing for the settlement of such claims in the "hay privilege" disposed of the known obstacles to settlement of

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17. D.I., No. 1, p.55, Order-in-Council, 3 April 1873. It is interesting to note that in the parish of Kildonan, a parish from which protests against Government policy with regard to half-breed reserves and homestead entries encroaching upon the "hay privilege", six of sixteen applications for homestead patents were filed by Kildonan settlers themselves. It would seem that these settlers were the cause of much of the discontent which had its basis in the conflict between the several land administrative policies. Donald Gunn, a parish leader, and Senator John Sutherland were among these Kildonan homestead claimants. See: P.A.M.(L.G.), Box 14, Returns of Locations within Kildonan Hay Claims; also; P.A.M., Donald Gunn papers, letters, Schultz to Gunn, re. plans of attack on Government policy.

the rights of hay and common in this belt. It will be remembered that the "hay privilege" had been withdrawn from the half-breed reserves in September, 1873. In October the Dominion Lands Agent, Donald Codd, had informed Morris that the existence of Hudson's Bay Company sections in the belt was also an obstacle to settlement of the hay claims. Morris informed Ottawa and received an immediate reply that Donald Smith agreed to accept other lands in lieu of those in "hay privilege".<sup>18</sup>

The second Order, passed on April 17, 1874, provided that, in those parishes where the rights were recognized, if the outer two miles was not taken up the owners of river lots should receive grants of land immediately in the rear of such lots; the grants to be in full commutation of all rights of common and of hay cutting. In cases where for any reason full commutation could not be given in the outer two miles, scrip for one half as much more land as was not available in this belt was to be issued. Claimants in parishes where the rights had not been recognized by the Laws of Assiniboia were to receive commutation in full of such rights by an issue of scrip of one dollar for each acre of land to which they could prove title under any of the first 4 subsections of Section 32 of the Manitoba Act. With regard to the claims to Point Douglas and St. Boniface, a special Commission of three judges of the Court of Queen's Bench of Manitoba was to be appointed

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18. P.A.M.(L.G.), Box 14, Codd to Morris, 31 October 1873, and Campbell to Morris, 1 November 1873.

to investigate such claims.<sup>19</sup>

Patents for the land granted as commutation for the rights of hay and common began to issue in 1877, and were completed by 1885; in all 869 such patents were issued.<sup>20</sup> Scrip in commutation of hay rights outside the old parishes began to issue earlier.<sup>21</sup> The initial delay with regard to patent issue arose out of the need to settle the claims to land in the "hay privilege" in respect of park lands, homesteads and Hudson's Bay Company sections.<sup>22</sup> The later delay may be attributed to the Departmental practice of having but one poorly supervised clerk at work on preparing patents under the Manitoba Act. In any event, delay was practically the only source of grievance after the coming into operation of the Orders-in-Council of April, 1874; a major aspect of the squatter problem had been settled.

The Department of the Interior now turned to the allied problem of the Point Douglas and St. Boniface Commons. The Department did not find it expedient to issue the Commissions

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19. D.I., No. 2, p. 71, Order-in-Council, 17 April 1874. The order in a marginal note lists the parishes in which the "hay privilege" rights were recognized by the Laws of Assiniboia. Morris, in acknowledging the receipt of the order, recommended that the services of the Commissioners; P.A.M.(L.G.), Letter Book H, Morris to Minister of the Interior, 11 May 1874. Laird withdrew the commissions. Ibid, Box 14, Laird to Morris, 22 May 1874.  
be withdrawn
  20. C.S.P., 1886, No. 8, p. xvii.
  21. Ibid, 1877, No. 11, Part III, p. 9.
  22. Ibid, 1876, No. 9, Part 3, p.8.

for the investigation of claims in these areas. Instead the evidence on which the claims were based was consolidated and reported to the Privy Council in May 1877, by the Minister and recommendations for the settlement of the claims were included in the report.<sup>23</sup>

The basis for the claims to the Point Douglas Common was more extensive than that in respect of the ordinary rights of hay and common. It was alleged that the rights, recognized and enjoyed, were of a superior nature because, in addition to the customary rights exclusive with the Point holders, the land had been conveyed to the settlers by Lord Selkirk at the time that their front lots had been granted to them.<sup>24</sup> The claimants also alleged that they had rights under the "undisturbed occupancy" clause of the Act of 1875.<sup>25</sup>

The Minister, however, was not prepared to recognize the superior nature of the claims.<sup>26</sup> There was no evidence, he said, in support of right by reason of a special grant from Lord Selkirk and right under the Act of 1875 did not apply in these cases. The claim that the Common was for the exclusive use of the Point holders also lacked support in fact. In short, he

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23. D.I., No.2, p. 602-4.

24. This claim was made by only two of the Point holders but it had to be investigated and answered.

25. Statutes(Can), 1875, 38 Vict., Chap.52, Section 1.

26. The arguments against such recognition are given quite fully in the memorandum. Note 23 above.

found the demand for the whole of the Common in commutation to be unreasonable, and considered that the Point holders were entitled to no more or no less satisfaction than the claimants residing in the Settlement Belt. Accordingly, he recommended that the commutation should be by grants on an acre for acre basis in that part of the Common closest to the Red River; that part of the Common being regarded as the most valuable.<sup>27</sup> All responsibility for the division of the grant was to rest with the claimants. Patents for such land in commutation were to issue in trust for the benefit of the several owners of the Point lots.<sup>28</sup> The patents, however, were not to issue to the trustees until written consent had been obtained by the Dominion Lands Office from the tenants who had bought land in the Common.

With regard to the St. Boniface Common, a somewhat different method of settling claims was recommended. The Common consisted of 118 acres but the claimants held river lots totalling 1141 acres. Obviously an acre for acre settlement was impossible. The claimants, of whom there were twenty, had agreed to accept a division of the Common on the basis of an equal portion to each; the

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- 27. The Common contained 667.2 acres of which 226.07 acres were occupied.
  - 28. Supreme Court of Canada, Fonseca and Schultz vs Her Majesty's Attorney-General for Canada, Respondent's Factum, p.7. "In 1872 the number of the point-holders agreed to make a concerted effort to obtain a patent for the whole of the common, and in the meantime to proceed more regularly with the sale of the lots into which they had in 1870 divided a part of the common. They accordingly transferred their interests to trustees". See also; C.S.P., 1873, No. 45, p.8-11 for first action by the trustees and government's reaction.

patent to issue in trust to Archbishop Tache. The Minister proposed that such a course should be followed.

On May 10, 1877, an Order-in-Council authorized the settlement of these claims in accordance with the Minister's recommendations.<sup>29</sup> The terms of the Order however, were not accepted by several of the Point Douglas claimants, and since the claims were presented by the trust, it was impossible to proceed with the settlement of any of the claims.<sup>30</sup> In June 1880 the Minister of the Interior informed the Privy Council that a large number of claimants were ready to accept the terms offered. The claimants, however, had asked that the lots which they had sold in good faith prior to the first investigations should form no part of the land in commutation but that patents should issue directly to the persons owning such lots; any payments outstanding on them to be made to the Department of the Interior. This was an offer to compromise and the Government was quite willing to make concessions in order that the troublesome business should be finished. The Minister accepted the proposal as reasonable and

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29. D.I., No. 2, p. 601, Order-in-Council, 10 May 1877.

30. There was, however, one notable exception. W.G. Fonseca, one of the trustees, bolted from that group in July, 1877 and claimed land on the ground that he had been its sole occupant. He pressed the claim alone until November 1879 when he sold a half interest in it to John Schultz, M.P., who agreed to use his influence at Ottawa to get the desired patent. Three weeks later a patent issued to Fonseca for 17 acres in the Common. The parent's validity was challenged by other Point holders and the case finally reached the Supreme Court in 1888. See; Fonseca and Schultz vs Attorney-General.

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and recommended a new method of settlement. By this method the commutation area would be surveyed and projected into city lots and streets and then the lots would be drawn for by a system of lottery. Each claimant was to receive lots in a number sufficient to make up a parcel appurtenant to his original Point lot. Effect was given to the method by an Order-in-Council of June 29, 1880.<sup>31</sup>

Almost three years elapsed before the survey and projection of the commutation area into city lots was completed. On April 2, 1883, Mr. John Hall, Assistant Secretary of the Department of the Interior made the draws for the city lots in the presence of the claimants. The schedules of claimants and of the allotments for each front lot which were prepared from the results of the drawing were approved by an Order-in-Council on June 6, 1883, and the Minister was authorized to issue the patents.<sup>32</sup> Eight hundred and eighty seven city lots were distributed among 25 claimants; the greatest number of lots received being 115, the smallest number being 8. The remaining portion of the Point Douglas Common was retained by the Dominion and was subsequently disposed of by grant or by sale.

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31. D.I., No. 3, p. 379, Order-in-Council, 29 June 1880.

32. Ibid, No. 5, p. 571, Order-in-Council, 6 June 1883. Note appended Schedules.

(d) "Staked" Claims

The nature of these claims was discussed to some extent in connection with the half-breed grant and mention was made of the decision by the Department of the Interior to investigate the validity of the claims individually.<sup>1</sup> An Order-in-Council passed on April 20, 1876 described and classified two classes of "staked" claims. The first class included those lands which had been surveyed just prior to the transfer of Rupert's Land to Canada. Of this class, some of the lands had been entered upon and occupied constantly from that time; others had been little improved but the ownership of which had been recognized locally. This class of claim was granted full recognition and patents were to issue as soon as a return of such claims could be compiled by the Dominion Lands Agent. The second class included those lands which were alleged to have been taken up but which had not been surveyed, and which had been merely marked out in some fashion by the claimants prior to the date of the transfer. No recognition was granted this class.<sup>2</sup>

In the course of the investigations conducted by the Agents of the Dominion Lands Office at Winnipeg it was found, in many instances, that land which came under the second class had been improved to a varying extent.<sup>3</sup> The Department decided that in those cases where valuable improvements had been effected the

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1. See section of this chapter, "The Half-Breed Land Grant" P. 80
  2. D.I., No. 2, p. 443, Order-in-Council, 20 April 1881.
  3. C.S.P., 1886, No. 8, pp. xiv and xv.

claims should be considered. Accordingly, on October 24, 1877 instructions were issued to the Land Agents to limit such claims to 80 acres unless the area under cultivation was in excess of that figure. In all cases of this nature the claimant was to be required to pay one dollar per acre in cash or scrip. If the improvements which had been effected on any of the claims were less than five acres fenced and a house or ten acres fenced without a house, no consideration of the claim was to be given. Improvements of that extent, however, were to entitle the claimant to purchase 40 acres and if greater the claimant might purchase land in proportion up to the maximum of 80 acres.<sup>4</sup>

Despite appeals from Manitoba,<sup>5</sup> on behalf of the claimants, the only positive action taken in the next two years toward settlement of these claims was the issuance of a directive by the Department that they were to be withdrawn from the half-breed reserves.<sup>6</sup> During these years the Department was faced with the refusal of the claimants under the second class of claims to accept the terms offered. In November 1880 the Surveyor-General reported on the claims generally and in this report a three-way classification was introduced. On February 25, 1881 an Order-in-Council adopted the classification and established the means of effecting a settlement of the claims concerned.

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4. Ibid, p.xiv.

5. Ibid, p.xv.

6. Ibid, p.xv.

The first class embraced those claims which had changed hands and upon which the purchasers had taken up residence. In this class, claims were to be considered as being in the nature of homesteads and the holders were to be allowed to retain 160 acres of the holding as a homestead entry and to pay at the rate of one dollar per acre for any land in excess of that area. The claimant's homestead occupancy was to begin from the date when he began to reside permanently upon the land.

The second class was to include those claims which remained as they had existed when first staked out and which were claimed by the person who had staked them. These claims were to be offered to the claimants at the price of the railway lands in the belt in which they were situated. If the claimant so preferred he might accept 160 acres as a homestead entry and pay the railway land price for any excess acreage. A third class embodied those claims which had been sold and were being held for speculative purposes and upon which no improvements had been effected. Claims in this class were to be investigated by a commission consisting of Judges Dubuc and Miller of the Court of the Queen's Bench of Manitoba and the commission was to recommend a settlement which it considered to be legal and equitable.<sup>7</sup>

The Judges were commissioned in April 1881 and to enable them to conduct a full investigation they were given the same powers as

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7. D.I., No. 3, p. 535, Order-in-Council, 25 February 1881.

were vested in any court of law in civil cases.<sup>8</sup> The commissions were received on July 21 and on August 8, the first meeting was held at Winnipeg. The scope of the commission had been enlarged by this time so that claims under any of the three classes were to be heard. Subsequent hearings were held at Otterburne and at Winnipeg and in all some 35 days were devoted to the necessary investigation. When they were completed the commissioners reported the evidence taken and a classification of claims to the Department.

The report in such form did not meet the requirements of the Department, however, and in August 1882 the Commissioners were asked to expand it by including their recommendations, by case or by class, as to just and equitable dispositions of the claims. The expanded report, dated December 28, 1882, included the following classification of claims and recommendations as to their final disposal. For those lands which had been occupied or substantially improved and which were held either by original claimants or assignees patents for the full extent of the holding should issue free of charge. Claims upon which improvements in a lesser degree had been made, whether held by the original claimants or by purchasers, should be settled by the issue of a patent for 160 acres free of charge and by granting the right to purchase any excess acreage at the rate of one dollar per acre. All other valid claims should be settled by allowing purchase at the rate of one dollar

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8. Ibid, p. 587, Order-in-Council, 14 April 1881; see also, Statutes Can., 1868, 31 Vict., Chap. 38. In May 1882 the Commissions Dubuc and Miller held were withdrawn and the Dominion Land Board was authorized to hear "staked" claim cases regarding lands anywhere in Manitoba; D.I., No. 4, p.263, Order-in-Council, 23 May 1882.

per acre but claimants to this class of claim should be allowed to make a homestead entry for 160 acres within three months of personal notification of such condition; any balance to be paid for at one dollar an acre.<sup>9</sup>

This report by the Commission was approved by Order-in-Council on June 6, 1883.<sup>10</sup> It will be noted that the classification adopted at this time closely approximates that adopted by Order-in-Council on February 25, 1881 but that the dispositions represent a more liberal settlement of claims. Up to this point it had been possible to follow the somewhat involved course of administration of this exceptional group of claims but an element of confusion now enters which obscures the mode of final settlement.

The Order-in-Council of June 6, 1883, it has been said, approved the report submitted by the commissioners. Such approval, it might be assumed, would extend to the recommended final dispositions of the claims. These dispositions concerned the whole body of "staked" claims, but the same Order-in-Council treats of them as if they referred only to the third class of claims as designated in the Order-in-Council of February 1881. After approving of the commissioners' report the Order (1883) authorized the investigation and final settlement of the first and second classes of claims by the Dominion Lands Board in accordance with the classification and dispositions of the Order-in-Council of February, 1881. On October 31, 1885 the

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9. D.I., No. 5, pp. 539-544. Commissioner's report of 28 December 1882.

10. Ibid, p. 537, Order-in-Council, 6 June 1883.

Dominion Lands Commissioner reported that the major portion of the "staked" claims had been finally disposed of in accordance with the provisions of the Order-in-Council of February 1881.<sup>11</sup> Since no disposition was designated by that Order for the third class of claims it is likely, though not evident, that they were disposed of in accordance with the disposition recommended by the Commission and adopted by the Order-in-Council of June 1883.

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11. C.S.P., 1886, No.8, Part 1, p.2.

## CHAPTER 5

### THE DEPARTMENT AND THE REBELLION OF 1885

#### (a) Indian Administration

In the preceding chapters little attempt was made to evaluate, as well as describe, the administrative policies of the Department of the Interior. In particular instances such policies were discussed at some length in order that their evolution might be clarified and understood, and that the Departmental organization might be related to the situations which called it into being. Because the Department of the Interior and more particularly the Governmental policies to which it gave expression have been severely called to task with respect to the North-West Rebellion of 1885, however, an examination of some of the criticisms of the Department is not only advisable but necessary.

The strongest criticisms have been directed against the administration of Indian affairs, and lands policy and administration. Of these, only the administration of Dominion Lands was under the jurisdiction of the Department of the Interior at the time of the Rebellion. Many of the features of the alleged ill-advised policies and faulty administrative procedures, however, were devised and introduced when the Department was in control, and so must be considered in the examination.

A well organized and powerful indictment of Government policy with regard to the North-West in the years before the 1885 troubles is contained in G.F.G. Stanley, The Birth of Western Canada. Because the book is regarded as a careful and definitive study of the events

and problems of that period, the arguments and criticisms which it presents will form the field of reference for the discussion which follows. It is not intended to write an apology for the Department of the Interior, or for the Governmental policies which it made effective, but rather to look into the evidence upon which some of the attacks on the Department have been based. Of necessity a selective treatment of this evidence will be employed, but that a strong case could be made for the Department by using identical source material will, it is hoped, be made clear.

With respect to Indian affairs, one of the first criticisms Stanley makes of the Department of the Interior is in connection with the preservation of the buffalo. The Department's attitude toward this problem is represented as one of complete indifference. An attempt by Dr. Schultz to air the situation in the House of Commons in 1876, was, it is said, dismissed with a formal reply. In fact, Schultz received the information he was requesting when papers on the subject were tabled in the House on April 10, 1876.<sup>1</sup> In 1877 Schultz asked why no action had been taken with regard to the preservation of the buffalo, especially since, "a new Government had been established in the North-West, and machinery for the enforcement of any preventive measure had been in existence for sometime," and urged that a law restricting the hunting season should be passed.<sup>2</sup>

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1. Debates (HC), 1876, p. 731. One may judge of the quality of the dismissal by reading the Prime Minister's statement. See also, C.S.P. 1876, No. 70.

2. Debates (HC), 1877, p. 992.

An end was put to the matter, Stanley says, by the Interior Minister's reply that, "the preservation of the buffalo was a question for the local Government of the North-West which 'could probably devise a cheaper and better plan than this parliament, it being on the spot, and more familiar with the matter.'"<sup>3</sup> The Minister did say, to quote his words, that, "he was of the opinion that it had better be left to be dealt with by the Government of the North-West, rather than by Parliament here," but he also went on to say that a missionary had expressed the view that it would be necessary to get the Indians to abandon the plains for the lakes region, for a period of four or five years, where they could, with Government contributions, subsist by fishing and agriculture. Of this plan the Minister said: "The Local Government of the North-West could probably devise a cheaper and better plan than this Parliament, it being on the spot and more familiar with the matter."<sup>4</sup> The last quotation, it is to be noted, refers to the missionary's plan of a forced migration and not to the passage and enforcement of legislation to control hunting practices. Four days before this debate took place in Ottawa, the North-West Council had in fact passed an Ordinance governing the hunting of buffalo which had to be repealed a year later because of opposition from the Indians and the metis.<sup>5</sup> An end was put to the matter, so far as the Federal Government was

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3. Stanley, Birth, p. 222.

4. Debates (HC), 1877, p. 993.

5. Stanley, Birth, p. 222-3. The Debate took place on March 26, 1877 and the Ordinance was passed on March 22.

was concerned, by the passage of control legislation by the body Schultz had referred to, and not by an indifferent and parsimonious attitude in the ministerial ranks.

Early action might perhaps have saved the buffalo, but, to be effective, it would have required the cooperation of the United States Government.<sup>6</sup> In addition, the question might be asked; would the taking of legislative action in 1874 have prevented extermination of the buffalo? That date marked the arrival of a law enforcement body in the Territories, and it was another three years before the Indians had signed treaties and an effective governing body had been established in the Territories.

With the extermination of the buffalo there came a most difficult period of privation and of readjustment for the Indian. The Government was faced with the problem of feeding the starving and demoralized natives, and of persuading them to abandon their nomadic life for one of industry and security on the reservations. Prompt and generous action by the Government, and disappointing experiences on the hunt, finally induced the Indian to accept a settled existence. By 1883 most of the Plains Indians had been located on reserves, for the most part of their own choosing. The Government's reservation policy, Stanley concedes, probably saved the Indians from the fate of the buffalo, but it limited their ability to sustain themselves by the chase and made them dependent upon the whites. An opportunity to criticize the Department is

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6. F.G. Roe, "The Extermination of the Buffalo in Western Canada," The Canadian Historical Review, Vol. xv, March 1934, pp. 1-23.
  7. Stanley, Birth, p. 242.

seized, however, in quoting one Minister of the Interior as having called the Indians, "pensioners upon the Public Treasury."<sup>7</sup> The gentleman quoted was in fact David Mills, a former Minister of the Interior, four years out of office, speaking in opposition to the Government's large expenditures for provisions for the destitute Indians.<sup>8</sup>

To teach the Indians some of the arts of farming the Government established model farms adjacent to the reserves and placed farm instructors in charge. The method of teaching by precept was not successful, however, and the Government sold many of the farms, and the instructors were placed on the reserves to show the Indians how to perform farm labour, and to have them do the work themselves. Among the reasons why the first system was not successful, according to Stanley, was the lack of attention paid to the preservation of the Indians' implements, and the fact that few instructors visited the reserves.<sup>9</sup> The source of this information was the annual report of the Indian Agent for Treaty No. 6, Hayter Reed. Reed wrote, speaking of Thunder Child's band, that there was a complete exodus in search of buffalo in spite of his efforts to have the band remain on the reserve. "Their implements were found scattered over the whole neighboring country and became no small task to collect them for safe keeping," he continued. Further on in the report he said, "I regret not having been able to have sent Mr. Delaney more assistance

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8. Debates (HC), 1882, p. 1186.

9. Stanley, Birth, p. 239.

during seeding time, in order that he might have expended more time on the different reserves over which he has charge, which are scattered over a wide extent of country --- for I am fully alive to the fact that, if a man is kept constantly on one or two of these outlying reserves during the summer, a different tale will be told at harvest time." The report as a whole does not offer a single word of criticism of the farm instructors. The mention of the collection of Indians' implements and the inability of an instructor to spend time on some of the reserves occurred in a context somewhat removed in sense from that which Stanley implies, and in this instance at least, the conduct of the farm instructors is highly commended.<sup>10</sup>

Much of the old tribal pattern and culture was lost when the Indians settled on reserves. Stanley, however, implies that it was Government policy to suppress such things as the customary dances. In support of this argument he quotes one agent who found it expedient in 1882 to discourage his Indians from participating in the annual dances because, in the previous year one band in particular had neglected its farms for a three week period.<sup>11</sup> The Indian Commissioner, reporting in 1884, however, indicated that there was no such policy in effect. He said, speaking of the Sun Dance, "I have

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10. C.S.P., 1882, No. 6, p. 75-82 - The report of July 9 to which Stanley refers in his notes (Birth, p.434, note 73) is not contained in this Sessional Paper but mention is made of it in Reed's report of November 7, 1881. If Stanley's copy of the Sessional Paper contained the July report my criticism may stand qualification.

11. Stanley, Birth, p. 241; also, C.S.P., 1883, No. 5.

never known any trouble brought about by the holding of this dance; on the contrary, it appears to resolve itself now into more of a social gathering than a ceremony of torture as heretofore,... I am in hopes that the ceremony will gradually die out; and it will be better to allow it to do so, without using strong measures to prevent its celebration as many of the old Indians, who generally inaugurate the dance, attach great importance to it."<sup>12</sup> Changes were taking place in the cultural pattern, but they were not imposed by specific Government policy. In this connection Stanley also makes the point that the Government had assumed the power to depose chiefs, and so discouraged any attempt to exercise the traditional influence which attached to the rank.<sup>13</sup> It is true that chiefs who were unpopular with their bands were at times deposed, but the Government also rewarded new leaders whose influence on their bands was for good. In the Commissioners report for 1884 this remark may be noted, "A pleasing feature, this year, was the installation of two chiefs, Moosomin and Thunder Child, by the agent, by the direction of the Commissioner. They had earned promotion by good conduct and attention to work."<sup>14</sup>

The administration of Indian affairs had cost enormous sums in the transition period, and when the Government finally got the

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12. C.S.P., 1885, No. 3, p. 158. See also; p.87 for a further report on the dance.

13. Stanley, Birth, p. 241.

14. C.S.P., 1885, No. 3, p. 154. (This recognition of influential men was traditional with fur traders and officials - it was a necessity.)

majority of the Indians on reserves where they could produce some of their own needs, it introduced economy measures. Stanley regards certain of these measures as parsimony, although he only borrows the term. He says, "The same parsimony was carried out in the Industrial School at Battleford. The rations were cut down from a pound and a half of beef to a quarter of a pound per pupil per day. The result was an outbreak of petty kitchen thieving ... The Government's policy could be summed up in six words: feed one day, starve the next."<sup>15</sup> The source for this statement is an editorial which appeared in the Saskatchewan Herald, March 20, 1885,<sup>16</sup> but no mention is made of a correction in the facts which was published a week later in the same newspaper, or of the admission that a typographical error in the editorial gave the facts a strained meaning. The meat quantity should have read three-quarters of a pound, or more correctly, as the principal of the school pointed out, "three-quarters of a pound of bacon or in lieu three-quarters of a pound of beef."<sup>17</sup>

A great deal is made of the alleged results of the Government's economy measures after 1883 and of the growing discontent among the Indians because an unthinking department starved them. The sources upon which most of the arguments are based are not

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15. Stanley, Birth, p. 270.

16. Saskatchewan Herald, March 20, 1885.

17. Ibid, March 27, 1885. The daily ration was one and a quarter pounds of flour, three-quarters of a pound of bacon or in lieu three-quarters of a pound of beef, a liberal supply of oatmeal, syrup, evaporated apples, tea, rice and sugar.

available to the writer, but it may be said that the annual reports for the years 1883 to 1885 do not leave one with the impression that the Indians who kept to their reservations suffered increased privations, illustrations of which are given by Stanley. He says that in spite of the manifest unpopularity of the economy measures the Government persisted in them, and to illustrate this point expenditure figures are given.<sup>18</sup> The figures used are drawn from Hansard for 1885; figures which were quoted by a government member in a debate on the North-West Rebellion. It so happens that some of the amounts do not tally with those contained in the Public Accounts for the corresponding years, nor do the amounts used by the member to illustrate his argument display a proper consistency when transferred from one table to the next.<sup>19</sup> The source material is inaccurate, and Stanley does not bring to it a well developed sense of arithmetic. He quotes expenditures for three years, only one of which is correct. He quotes the net cut for 1884 as \$74,121.00 when, in reality, it was \$1,541.25; the error arising out of his use of the expenditure for 1882 in place of the expenditure

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18. Stanley, Birth, p. 273-4. "In spite of the manifest unpopularity in all quarters of the North-West of the economy cuts, they were persisted in. The Indian expenditure which had reached \$1,106,961 in 1882, was reduced in 1883 to \$1,099,796, and in 1884 to \$1,025,675. The reduction in 1884 was greater than would appear from these figures; for, while the net cut was \$74,121, the gross reduction in the amount spent upon Indian provisions, annuities, education and farm instruction was \$111,649, the difference being made up by an increase of \$37,528 in the expenses of administration and the Commissioner's house and office."

19. Debates (HC), 1885, p. 3143; see also; Public Accounts (Can.) 1882-5.

for 1883. The gross reduction, Stanley says, resulted from cuts in the amount spent upon Indian provisions, annuities, education and farm instruction. In fact, the amount spent on Indian provisions in 1884 showed a net increase of \$16,613.25 and that spent on education an increase of \$17,295.67.<sup>20</sup> The choice of items alleged to have been reduced was a good one for the purpose of putting the Government in a bad light, and without analysis they achieve that purpose.

The Government acting through the Department of the Interior and the Department of Indian Affairs did make mistakes and at times the administrative machinery was badly in need of adjustment. The facts Stanley alleges, however, do not, even when accurately presented, reveal such shortcomings or constitute fair criticism.

There is no need to continue this examination of the administration of Indian Affairs; enough has been said to indicate that there should be some relief in any picture that is drawn of this important element in the development and settlement of the North-West.

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20. See table 1; Expenditures Manitoba and the North-West.

TABLE I

Expenditures Manitoba and the North-West

	1882	1883	1884	1885
Annuities	222,070.00	184,169.50	170,749.50	169,406.00
Agricultural Implements	8,572.00	30,302.34	22,172.67	19,348.07
Tools	2,706.22	12,444.04	3,589.28	4,320.32
Cattle	19,210.74	17,303.48	15,469.75	14,837.82
Seed Grain	22,957.67	13,520.79	10,786.45	24,443.47
Ammunition & Twine	7,230.41	10,395.87	7,770.70	5,372.43
Provisions for use during annuity payments	44,083.34	50,817.65	48,269.20	26,216.95
Supplies for destitute	563,151.80	480,163.80	499,325.50	478,038.00
Clothing	2,567.11	5,500.75	4,906.50	2,128.90
Schools	5,592.14	6,856.66	12,133.40	62,151.84
Surveys	20,624.19	22,322.50	19,443.09	17,264.29
Farm Wages	47,786.42	47,062.89	44,023.95	36,246.74
Farm Maintenance	37,288.82	33,777.24	27,107.12	19,759.19
Sioux	2,741.05	2,940.46	459.63	2,595.79
General Expenses	89,921.09	109,638.96	117,314.34	126,900.62
Grist mill	3,293.10			
Commissioner's house & office			10,135.67	
Industrial Schools			12,018.93	
TOTAL	1,099,796.90	1,027,216.93	1,025,675.68	1,008,930.43

(b) Lands Policy and Administration

It has been noted that, according to Stanley, the cause of much of the alleged discontent among the Indians was the ill-advised nature of the Government's positive policies with respect to Indian affairs. Grievances were engendered and discontent was increased among the half-breeds and other original settlers of the North-West, he says, by the lack of positive policies, and the delay in formulating and administering those of such policies that were adopted to settle the claims and satisfy the demands of these people. It is proposed to examine the nature of the Government's approach to the half-breed problem in the North-West in order to determine, if possible, the dimensions of its alleged negative quality.

Before the North-West half-breed problem is discussed, however, it would be well to comment briefly on Stanley's treatment of the administration of the half-breed land grant under the Manitoba Act. The assertion that "The history of the half-breed grant in Manitoba was one of ministerial incompetence, parliamentary indifference and administrative delay", represents a rather strong indictment in view of the fact that so little space is given to supporting evidence.<sup>1</sup> In relating the affects upon the half-breeds of delay in the settlement of the grant, he presents a valid argument, so long as he adheres closely to the thought and prose style of his authority, the argument weakens, however, when he adds his own qualifications. "Despairing of ever receiving their land patents", Stanley says,

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1. Stanley, Birth, p. 244-5.

"many disposed of their rights for a mere song."<sup>2</sup> The alleged authority for this assertion is Alexander Begg, but Begg does not make any such statement.<sup>3</sup> It is unlikely, moreover, that there were many such instances; the full complement of land patents was issued and the Government did not recognize assignments of half-breed rights to patents.<sup>4</sup> In addition, when referring to those half-breeds who did not receive the land or scrip to which they were entitled, because they were absent during the enumerations, Stanley might have mentioned that, they were given reasonable opportunity to present their claims. The Dominion Lands Office in Winnipeg accepted claims for several years after the last enumeration;<sup>5</sup> Matthew Ryan, Stipendiary Magistrate at Swan River, held a two year commission, issued in 1876, to check claims;<sup>6</sup> George Newcomb at Dufferin and Augustus Mills at Westbourne were also authorized to examine applications for land or scrip.<sup>7</sup>

With respect to the North-West half-breed claims, reference will

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2. Ibid, p. 245.
  3. Alexander Begg, History of the North-West, (Toronto), 1894, vo. 11, p. 85.
  4. D.I., No. 2, p. 425, Order-in-Council, 17 March 1876; ..."the undersigned begs to state, with a view to discourage the operations of speculators in these lands, no prospect has been at any time held out that such assignments would be recognized by the Government; and, believing such policy to be directly in the interests of the persons for whose benefits the lands were appropriated, he respectfully recommends that the same now receive the authority of the Privy Council."
  5. C.S.P., 1879, No. 7, Part II, p. 4.
  6. D.I., No. 2, p. 473, Order-in-Council, 14 June 1876; Ryan was frequently on circuit and was able to hear claims over a wide area.
  7. Ibid, p. 595, Order-in-Council, May 7, 1877; see also; correspondence on this subject, C.S.P. 1885, No. 116 ie, p. 17-8.

be made to the period from 1878 to 1885 because, as Stanley notes, it was during this period that a formal agitation began to take shape.<sup>8</sup> Of the earlier petitions (1878) Stanley mentions three, all of which set forth half-breed claims to land or scrip.<sup>9</sup> Other demands were included in these petitions, however, and they will be examined first.

Gabriel Dumont's petition from St. Laurent, dated February 1, 1878,<sup>10</sup> urged; (1) that the French half-breeds should be represented by one of their own race in the North-West Council; Pascal Breland, a French half-breed was appointed to the Council on April 5, 1878;<sup>11</sup> (2) that an allowance be granted for educational purposes; education was under the jurisdiction of the North-West Council;<sup>12</sup> (3) that the settlement lands be surveyed and patents be issued; two sections of the Special Survey worked in the Prince Albert, St. Laurent district in 1878, and the river lots in St. Laurent parish were surveyed and a land office was opened in Prince Albert;<sup>13</sup> (4) that the half-breeds be given aid in the form of farm

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8. Stanley, Birth, p. 246. Stanley attributes the formal nature of the agitation to the influence of the Manitoba discontents.

9. Ibid, p. 246-7. These were from St. Laurent, Cypress Hills and Prince Albert.

10. C.S.P., 1886, No. 456, p.29.

11. D.I., No. 2, p. 691, Order-in-Council, April 5, 1878.

12. Statutes (Can), 1875, 38 Vict., Chap. 49 - In 1878 the Dominion provided moneys for one half of the salaries of teachers who had at least 15 pupils in attendance.

13. C.S.P., 1879, No. 7, Part 11, pp. 13-25, also D.I., No. 2, p.687, Order-in-Council, 20 March 1878. The townships were not opened until 1881, and so no patents were issued until after this date.

implements and seed grain; the Minister of the Interior made known that he would not grant this demand;<sup>14</sup> (5) that the buffalo ordinance restricted the hunting season too much; the ordinance was repealed in 1878.<sup>15</sup>

The Cypress Hills petition was passed to the Dominion Government by the North-West Council in September 1878.<sup>16</sup> A new demand was introduced in this petition, namely, that a half-breed reserve be created comprising 7500 square miles of land. A resolution passed by the North-West Council was forwarded with the petition to Ottawa and it stated that it would be injudicious to grant reserves of land to the half-breeds or to give them negotiable scrip. The suggestion was made, however, that non-transferable location tickets for 160 acres might be issued, but that title to the land should be retained by the Dominion for 10 years and if no improvements were made within 3 years the claim should be forfeited.<sup>17</sup> The request in the petition and the suggestion of the resolution both were worthy of consideration but neither called for immediate action.

The Prince Albert petition from the English and Scottish

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14. Ibid, 1886, no. 456, p.30-1, Mills to Laird, 18 March 1878.

15. Ordinances of the North-West Territories, 1878, No. 3, passed August 2, 1878.

16. C.S.P., 1886, No. 456, p. 10, of the 276 signers of this petition 101 had received grants in Manitoba, 14 received grants from the North-West Commission, 161 furnished no proof of right.

17. Ibid, 1885, 116 e, p. 35-6. The suggestion contained in this resolution was among the first to be received by the Government as to how to deal with the North-West metis demands.

settlers in the district asked for river lot surveys and the settlement of boundary disputes. Both requests were granted in 1878.<sup>18</sup>

"These petitions", Stanley says, "received nothing more than formal acknowledgements from Ottawa and promises of future consideration."<sup>19</sup> The statement is true with respect to the demands for recognition of the half-breed Indian title, but it has been noted, that the other demands which these petitions contained, and which could be acted on by the Dominion Government, received prompt attention. The promises of consideration, in fact, were not neglected. In December 1878, the Deputy Minister of the Interior prepared a lengthy memorandum on the subject of possible approaches to the North-West half-breed problem for the information of the Minister. The merits of three courses of action were discussed. The first, that of making a treaty with the half-breeds, was not considered to be in the interests of either the Government or the half-breeds, and doubt was expressed as to the latter giving their consent to such a proposal. The Government knew that a great many of the half-breeds who had entered into the several Indian treaties were anxious to get out. In addition, any approach to paternalism

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18. supra; note 33; see also; C.S.P., 1886, No. 116 e, pp. 19-21, for the correspondence between the Mounted Police, the Lieutenant-Governor (NWT), and the Department of the Interior in 1876-7 which resulted in the Prince Albert Settlement surveys of 1878. The Department had ordered such surveys months before the petition from Prince Albert and St. Laurent were received. Of the 147 signers of the Prince Albert petition, 36 had received Manitoba Act grants, 40 received North-West Commission grants, 71 did not furnish proof of their claims.

19. Stanley, Birth, p. 247.

on the part of governmental bodies had been resented by the half-breeds; witness the fate of the Half-Breed Land Grant Protection Act in Manitoba and of the Buffalo Ordinance in the Territories. The second, that of an absolute issue of scrip, was considered inexpedient in view of the experience with scrip in Manitoba. The third course, that of allowing the half-breeds to take up lands together so that communities might be established for which the Government might supply teachers and farm instructors, was considered the only reasonable solution. Industrial schools serving a number of such settlements were also suggested as aids to the advancement of the half-breed's status in the society which was enveloping them.<sup>20</sup>

Copies of this memorandum were sent to the church leaders and government officials in the West and they were asked to express their views of the problem. N.F. Davin was commissioned to visit the United States and to report on that country's system of administering Indian industrial schools. He also visited the West and interviewed many of the authorities with whom the Government was in correspondence on the subject of the half-breed. The replies which the Government received all endorsed course three of the memorandum but presented several views as to how it should be followed. The well-known improvidence of the half-breed moved all who replied to disapprove of the issue of scrip.<sup>21</sup> Clearly, the problem was not easy

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20. C.S.P., 1885, 116e, p. 93-6. By 1884, three industrial schools were opened in the West; Ibid, No. 3, p. 161.

21. Ibid, p. 81-92.

of solution and from its investigations, the Government knew only what not to do. A provision in the Dominion Lands Act of 1879 gave the Privy Council authority to act in the matter when a policy should be devised.<sup>22</sup>

In 1880, petitions, identical in language, were received from the half-breeds of Manitoba Village and of Edmonton. The petitions asked for settlement of the land claims and that scrip might be used in the purchase of railway lands.<sup>23</sup> In June 1880 an Order-in-Council repealed existing regulations relating to the refusal of scrip for lands within the railway belt, and made scrip acceptable at par for such land.<sup>24</sup>

The residents of the District of Lorne met at Prince Albert in October, 1881 and passed a number of resolutions with respect to the Government land and settlement regulations.<sup>25</sup> The Government responded promptly, and the concessions made, met with expressions of satisfaction from the petitioners. Regret was expressed at this time (January 1882) that the law required a three year settlement period after homestead entry before patents might issue, even though

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22. Statutes (Can.), 1879, 42 Vict., Chap. 31, Section 125e.

23. C.S.P., 1886, No. 456, p.16-18. Petitions, Manitoba Village dated 12 April 1880, Edmonton, 19 May 1880.

24. I.D., No. 3, p. 357, Order-in-Council, 19 June 1880.

25. C.S.P., 1885, No. 116e, p. 73-4.

a like period of settlement had been passed prior to entry.<sup>26</sup> By July 1883 the Government had acceded to this request.<sup>27</sup>

It should be evident that the Government acted in a prompt and positive manner toward the many and varied requests of the North-West half-breeds and settlers. Stanley makes little mention of the concessions which were made by the Government but builds his case on those demands for land or scrip which were not recognized. The Government, it has been noted, through conviction and out of respect for the opinions of the leaders, ecclesiastical and civil, in the North-West, did not have any intention of granting land or scrip and only did so when the agitation for such measures reached a fever pitch in the winter of 1884-1885.

The question of settlement surveys and the Government's investigation of old settler's claims form the basis for further arguments of maladministration. Settlement surveys at Edmonton and at St. Albert were completed between 1881 and 1883. Surveys in this area already had begun when delegates to Ottawa made requests for them.<sup>28</sup> The river lot surveys projected in these areas were original surveys, as were similar surveys at Prince Albert and Batoche in 1878. The area between Batoche and Prince Albert, i.e. the Halcro, St. Louis district, was very sparsely populated, and so subdivision surveys were carried out.<sup>29</sup> In the following

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26. Ibid, p. 71-2.

27. Ibid, p. 58, see Stanley, Birth, p. 250-1 and 254 on this point.

28. C.S.P., 1882, No. 18, Part 1, p. 25; ibid, 1883, No. 23, Part 1 p. 12, ibid, 1886, No. 456, p. 25.

29. C.S.P., 1879, No. 7, Part 11, p. 24 and 35.

year the area surrounding the Batoche settlement and around Duck Lake was subdivided,<sup>30</sup> and the Duck Lake, Fish Creek area was subdivided in 1883.<sup>31</sup> In the years between 1878 and 1884 the population of the St. Laurent parish district increased as a result of the influx of Manitoba half-breeds, and the arrival of the plains half-breeds who no longer found a nomadic life practicable. The new arrivals settled on lands which had been already subdivided.

By 1883-84 the agitation in St. Laurent for river lot surveys was strong and the agitators vehement; they were determined that nothing short of a re-survey of the parish lands would suffice.<sup>32</sup> The Government was equally determined that there would be no re-survey of the lands upon which the half-breeds had squatted.<sup>33</sup> The wisdom of refusing these people their request may be questioned in view of the subsequent events, but at the time the Government's stand was sound, and every effort was made to explain why a re-survey was not required in order that lots of a size to which the half-breed was accustomed might be secured.

The South Saskatchewan River courses almost due east and west for some distance on either side of St. Louis. At a point some

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30. Ibid, 1892, No. 13, Part vi, p.50. Townships 42, 43, 44, Range 1, West 3. Townships 43, 44, Ranges 2 and 3, W3.
  31. Ibid, p. 70, Townships 38, 39, Range 3 West 3; Townships 42-43, Ranges 2 and 3, West 3.
  32. Ibid, 1886, No. 45, p. 23-6 and 35-6 for petitions from St. Laurent half-breeds.
  33. Ibid, p. 38-9. Burgess to Duck, 21 September 1882.

miles west of St. Louis it bends southward at a right angle and courses almost due north and south to the Fish Creek area. The Government explained that lots of 10 chain width and 2 mile depth or 20 chain width and 1 mile depth could be obtained by fractional divisions of the survey system in effect. The only exception to this simple solution of the problem was a small area involving 4 sections of 1 township at the bend of the river and claims in this area could have been described by a simple traverse.<sup>34</sup> The half-breeds argued that they did not understand the plan proposed and continued to press for a new survey.<sup>35</sup> There is reason to believe, however, that through the help of Father Andre, who came to see the logic of the Government's argument, the problem might have been resolved peaceably. At the very time when the district land agent and Father Andre were meeting with success in their efforts to induce the claimants to make application for their patents, the political agitation under Louis Riel supervened.<sup>36</sup>

The half-breeds listened to Riel and not to the quiet counsels of their spiritual leaders. The Government capitulated on the

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34. Ibid, p. 36-7, Memorandum Deville to Burgess 14 February 1884.  
also Ibid, 1886, No. 8, p.2.

35. Ibid, 1886, No. 45, p. 40. Pearce to Minister of the Interior,  
19 March 1884.

36. Ibid, 1886, No. 8, p. 3; re success of efforts of Duck and Andre,  
and later refusals of settlers to apply for entry.

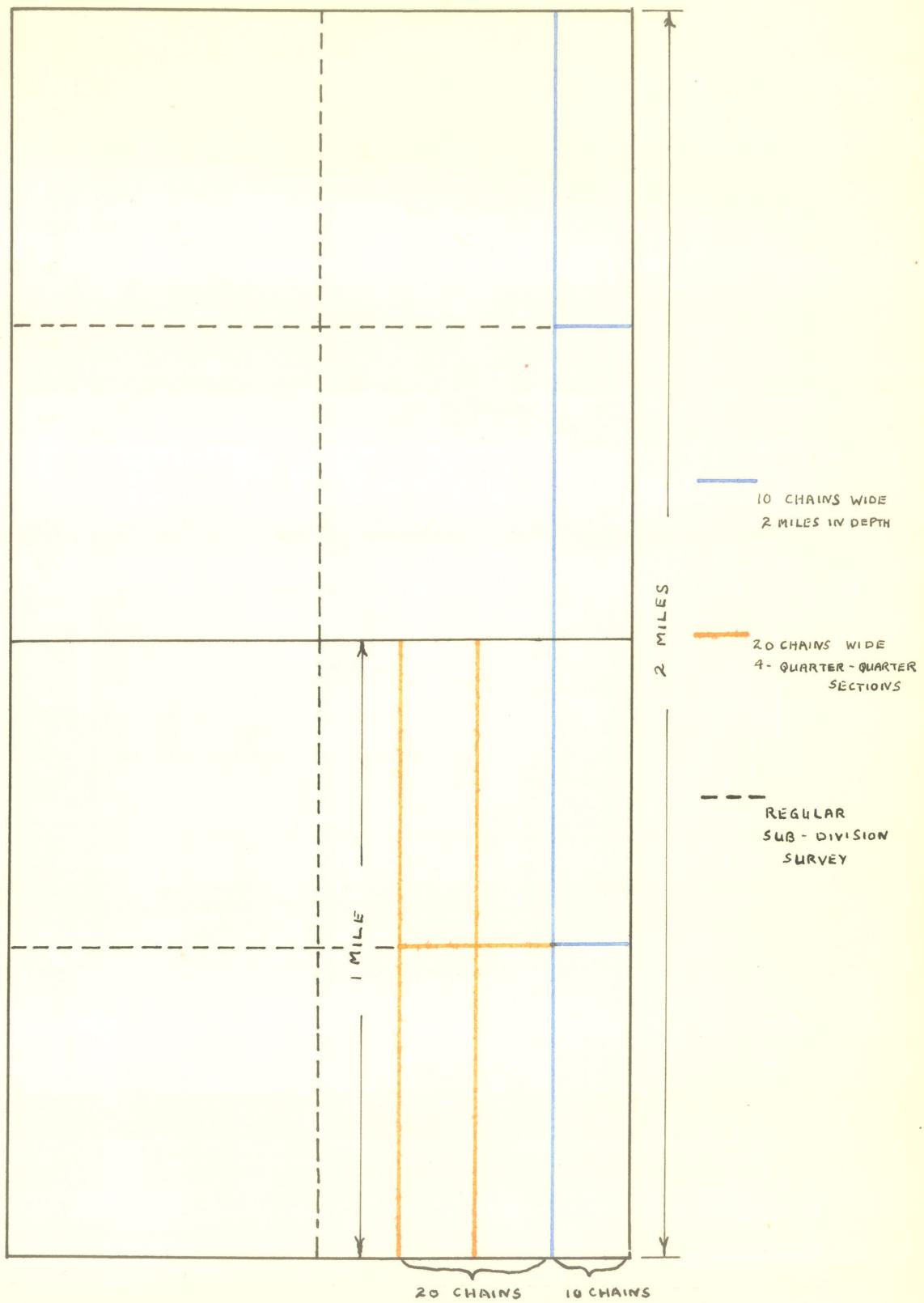
question of land and scrip to satisfy the half-breed Indian title,<sup>37</sup> but Riel had visions of a brighter destiny for himself and his race; the Rebellion of 1885 was the result.

The charge of "negative passivity"<sup>38</sup> on the part of the Government is not based on incontrovertible evidence.

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- 37. D.I., No. 7, p.33, 105, 123, 129, 279. Orders-in-Council granting scrip to half-breed heads of families and to their children. It might be noted that of the 779 signers of 8 petitions for recognition of the half-breed title, 293 had received land or scrip in Manitoba, 193 received scrip from the North-West Commission and 293 furnished no proof of right. In all 1686 claims were proved, 1142 persons were entitled to land, but only 236 took it.  
C.S.P., 1886, No. 45.
  - 38. Stanley, Birth, p.259.

Chart 1

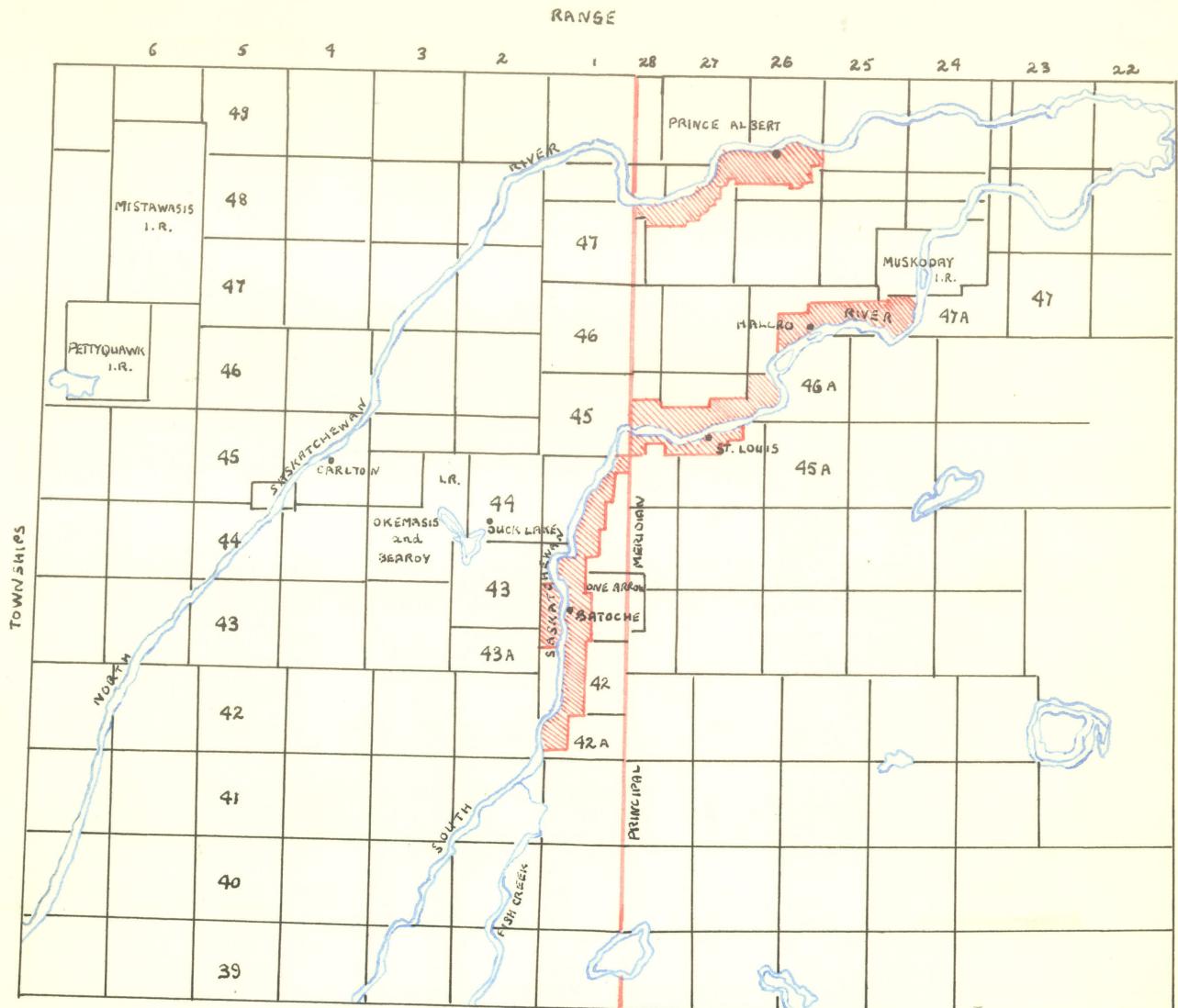
Diagram to illustrate how it was proposed to satisfy the claims for rivers lots from the existing subdivision survey.



A lot 20 chains wide by one mile deep would be described in the patent as composed of four quarter-quarter sections.

A lot 10 chains wide by 2 miles deep would be described as the western, eastern, northern or southern halves of 8 quarter-quarter sections.

C.S.P., 1886, No. 45b, pp.36-37.



Tracing From  
Department of the Interior Map, 1903  
Saskatchewan  
Scale  $12\frac{1}{2}$  miles to 1 inch

Note: If this map is used when referring to the official correspondence regarding the question of a resurvey for the St. Laurent District, the force of the Government's argument is made clear.

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