

**Challenging the Liberal Order Framework:
Natural Resources and Métis Policy in Alberta and Saskatchewan (1930 – 1948)**

by

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B.Sc., Queen’s University 1996

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B.A., University of Regina, 2003

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A Dissertation Submitted in Partial Fulfilment of the
Requirements for the Degree of
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ABSTRACT

The British North America Act, 1930 (the *Natural Resources Transfer Agreements* or *NRTAs*) marked the end of a lengthy battle between the provincial governments of Saskatchewan, Alberta, and Manitoba and the federal government of Canada. Prior to 1930, the provincial governments did not have administrative control over their natural resources, which were managed by the federal Department of the Interior. As a result, the three prairie provinces did not share equal constitutional status with the other Canadian provinces that did control their own resources. Under the terms of the new constitutionalized intergovernmental agreements the provincial governments agreed to fulfil all of the federal government's continuing obligations to third parties after the transfer. One of these obligations was the redemption of Métis scrip issued by the federal government to extinguish the Métis share of Aboriginal land title. After the transfer, however, the provinces resisted granting more land to satisfy what they considered to be

a federal obligation. The provinces refused to redeem Métis scrip entitlements and the federal government did not enforce the terms of the *NRTAs*. Both the federal and provincial governments failed to live up to the terms of the constitutional agreement and the Métis scrip issue fell through the jurisdictional cracks of Canadian federalism. This dissertation examines the historical context and consequences surrounding the Alberta and Saskatchewan government's failure to recognize Métis scripholders' rights-based claims to land. Each provincial government pursued different avenues with respect to natural resources and Métis policies. The purpose of this study is to examine the different phases of policy development in each province in light of the general failure of recognition.

The transfer of control and administration of the public domain from one level of government to another provides interesting insights into the history of government-Aboriginal relations in Canada. Aboriginal people (including Métis) were not consulted during the negotiations leading up to the *NRTAs*; nevertheless (or perhaps as a result), the transfer agreements were a catalyst for political organization in several Métis communities. Métis who had been living on federal crown land were concerned that the transfer of lands to the provinces would negatively impact their right to pursue traditional livelihoods such as hunting, fishing and trapping. In Alberta, the *NRTAs* sparked the formation of the Métis Association of Alberta, a political lobbying group that advocated recognition of historical claims to land. During this period, parallel Métis living in Saskatchewan and Manitoba created parallel organizations. These political groups represent some of the earliest attempts by Aboriginal people in the prairie provinces to voice their concerns and influence government policy.

There are three recurrent themes in this study. First, land appears as a point of convergence for Métis claims and an alternative to the distribution of government social

assistance due to high levels of unemployment. Second, Métis political organizing affects government policy-making. Third, the thesis notes the marked change in policy direction by the Co-operative Commonwealth Federation (CCF) government in Saskatchewan after its election in 1944. The CCF introduced natural resources policies based on social democratic principles such as collective marketing. This approach was a marked departure from the liberal approaches introduced by previous provincial governments in Alberta and Saskatchewan.

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Chapter 1: “Challenging the Liberal Order Framework”

1.1 Introduction

The British North America Act, 1930 (the *Natural Resources Transfer Agreements* or *NRTAs*) marked the end of a lengthy battle between the provincial governments of Saskatchewan, Alberta, and Manitoba and the federal government of Canada. Prior to 1930, the provincial governments did not have administrative control over their natural resources, which were managed by the federal Department of the Interior. As a result, the three prairie provinces did not share equal constitutional status with the other Canadian provinces that did control their own resources. Under the terms of the new constitutionalized intergovernmental agreements the provincial governments agreed to fulfil all of the federal government’s continuing obligations to third parties after the transfer. One of these obligations was the redemption of Métis scrip issued by the federal government to extinguish the Métis share of Aboriginal land title.

After the transfer, however, the provinces resisted granting more land to satisfy what they considered to be a federal obligation. The provinces refused to redeem Métis scrip entitlements and the federal government did not enforce the terms of the *NRTAs*. Both the federal and provincial governments failed to live up to the terms of the constitutional agreement and the Métis scrip issue fell through the jurisdictional cracks of Canadian federalism. This dissertation examines the historical context and consequences surrounding the Alberta and Saskatchewan government’s failure to recognize Métis scripholders’ rights-based claims to land. Each provincial government pursued different avenues with respect to natural resources and Métis policies. The purpose of this study is to examine the different phases of policy development in each province.

The transfer of control and administration of the public domain from one level of government to another provides interesting insights into the history of government-Aboriginal relations in Canada. Aboriginal people (including Métis) were not consulted during the negotiations leading up to the *NRTAs*; nevertheless (or perhaps as a result), the transfer agreements were a catalyst for political organization in several Métis communities. Métis who had been living on federal crown land were concerned that the transfer of lands to the provinces would negatively impact their right to pursue traditional livelihoods such as hunting, fishing and trapping. In Alberta, the *NRTAs* sparked the formation of the Métis Association of Alberta, a political lobbying group that advocated recognition of historical claims to land. During this period, parallel Métis living in Saskatchewan and Manitoba created parallel organizations. These political groups represent some of the earliest attempts by Aboriginal people in the prairie provinces to voice their concerns and influence government policy.

There are three recurrent themes in this study. First, land as a point of convergence for Métis claims and an alternative to the distribution of government social assistance due to high levels of unemployment. Second, Métis political organizing affects government policy-making. Third, the marked change in policy direction by the Co-operative Commonwealth Federation (CCF) government in Saskatchewan after its election in 1944. The CCF introduced natural resources policies based on social democratic principles such as collective marketing. This approach was a marked departure from the liberal approaches introduced by previous provincial governments in Alberta and Saskatchewan. These main themes emerge from an analysis of historical events following the signing of the *NRTAs* in five chapters that explore the Alberta and Saskatchewan governments' responses to Métis claims for redress for the failure of the federal government's scrip program. After the transfer agreements, the federal government refused to

acknowledge that it had any further obligation to the Métis people. The provincial governments, however, refused to grant land to satisfy outstanding obligations, and instead eventually experimented with various policies in response to Métis claims. Chapter 2 explores the federal-provincial debate over the constitutional responsibility for Métis scrip. At a number of royal commissions, the provincial and federal governments outlined their competing arguments regarding their obligations to redeem Métis scrip. These debates reveal that both the provincial and federal governments' main interest was to avoid responsibility for the Métis.

Chapter 3 examines the Métis Association of Alberta's political lobbying effort. In the 1930s, the Métis Association of Alberta (MAA) successfully lobbied the provincial government to establish a royal commission to inquire into the socio-economic conditions affecting the Métis living in Alberta. The MAA strongly advocated that land be set aside so that the Métis could continue to pursue their traditional livelihoods of hunting, trapping, and fishing. Following the recommendation of the Ewing Commission, the provincial government passed the 1938 *Metis Population Betterment Act*, which provided for Métis land settlements. These lands represent the first time in Canadian history that a provincial government set aside land in response to Métis claims. The MAA and provincial government both agreed on the land grant, but for different reasons. The Métis were motivated by historical claims to redress failed government policies such as the Métis scrip program and to protect land from further incursions by non-Aboriginal settlers. By contrast, the provincial government saw the land grant as an expedient and inexpensive way to distribute relief to one of the province's poorest populations. This chapter illuminates the Alberta government's response to the political lobbying efforts of the MAA in the 1930s and addresses the question of why Alberta was the first Canadian province to set aside Métis land settlements.

Chapter 4, in turn, analyzes the political lobbying efforts of the Saskatchewan Metis Society (SMS). Unlike the MAA, the SMS leadership was heavily influenced by members of the provincial Liberal party then in power. The Liberal government used the SMS, and its arguments for land as means to continue its dispute with the federal government over the terms of the *NRTAs*. The Liberals co-opted the SMS leadership and supported the organization by funding a legal opinion on the nature and scope of Métis claims against the federal government. When Edward Hodges and Percy Noonan, the lawyers hired to do the research, reported that the Métis had only a moral or equitable claim, and not a legal one, the provincial government's interest in the SMS waned. However, the Liberal government did start formulating policy designed to address the socio-economic conditions of the Métis living in the province. Chapter 5 goes on to examine a number of these policy initiatives, such as the Northern Saskatchewan Conservation Board and the Green Lake Métis Settlement. These policy initiatives shed light on the government's conception of Métis rights and capacity. As in Alberta, the Green Lake Métis Settlement was introduced as an inexpensive way to distribute relief. In many respects, however, the Northern Saskatchewan Conservation Board (NSCB) was a visionary attempt to bolster the fur industry as a principal means of improving the livelihoods of Aboriginal populations. Unfortunately, the creation of the NSCB in 1939 coincided with the onset of World War Two and government resources were redirected towards the war effort.

Chapter 6 examines the natural resources policies of Canada's first democratic socialist government elected in 1944. The Co-operative Commonwealth Federation (CCF) led by Premier Tommy Douglas was elected on a 'Humanity First' platform. During its first term, the CCF introduced radically new economic development programs designed to ameliorate fluctuations in the free market for natural resources products such as fur and fish. By

introducing collective marketing boards and agencies, the CCF government thought that they could level the economic playing field and improve socio-economic outcomes for all northern residents. The CCF firmly believed that the state had a role to play in combatting monopoly capitalism and ensuring that profits from labour were re-invested in communities. The CCF did not design programs that targeted specific racial groups, but they were committed to the idea of integrating Aboriginal peoples into the mainstream population. CCF natural resources policies were a radical departure from the efforts of previous governments. The CCF introduced participatory decision-making processes, hired a number of Métis to work for the government, and supported Métis leaders as they struggled to reinvigorate the SMS. The CCF also revamped and reinvested in Liberal government initiatives such as the Green Lake settlement. This chapter examines the ideological and pragmatic reforms introduced by the CCF to shed light on its ideas about Métis land use and individual agency. The CCF government's new approach to economic development emerged against the backdrop of approaches introduced by previous administrations in Alberta and Saskatchewan. Significantly, these policies marked a significant challenge to the prevailing liberal order framework by introducing democratic and socialist principles.

1.2 Literature Review

In a seminal 1988 article on Métis historiography published in the *Canadian Historical Review*, historian J. R. Miller lamented the lack of attention academics have paid to the field of Métis history.¹ He urged scholars to explore “the murky waters of provincial governments’ relations with the native community,” which he called “a stagnant pond that badly needs

¹ J.R. Miller, “From Riel to the Métis,” *Canadian Historical Review*, 69, issue 1 (1988): 1-20.

scholarly stirring up.”² My dissertation dives into these murky waters and offers insight into the nature and scope of Métis-government relations in Alberta and Saskatchewan from 1930 to 1948. The study contributes to the literature by examining interactions between state actors and the various Métis political leaders and organizations. Métis leaders in both Alberta and Saskatchewan actively lobbied the provincial governments and played a significant role in policy formation and implementation.

There are several useful historiographies and academic legal sources that provide context for this historical study of Métis-state relations. On the Métis political leadership Murray Dobbin’s *One-and-a-Half Men – The Story of Jim Brady and Malcolm Norris – Metis Patriots of the 20th Century* offers an insightful Marxist analysis of two Métis political organizers.³ A journalist by training, Dobbin conducted extensive interviews with key Métis leaders that illuminate important elements of Métis political organizing. In *The Gentle Persuader: James Gladstone, Indian Senator*, Hugh A. Dempsey presents the biography of a Métis leader who struggled to become a status Indian and who continued to play an important political leadership role in Alberta from the 1940s to the 1960s.⁴ These two works depict Métis leaders in their interactions with mainstream governments dominated by Euro-Canadian values. These depictions of political actors are bolstered by several studies that examine the challenges inherent in navigating Métis government relations. In her honours essay at the University of Alberta, “The Ewing Commission, 1935: A Case Study in Metis-Government Relations,” Judith Hill explores the dynamic tension between members of the Métis Association of Alberta and

² Miller, “Riel,” 10.

³ Murray Dobbin, *The One-and-a-Half Men – The Story of Jim Brady and Malcolm Norris – Metis Patriots of the 20th Century* (Vancouver: New Star Books, 1981).

⁴ Hugh A. Dempsey, *The Gentle Persuader: James Gladstone, Indian Senator* (Saskatoon: Western Producer Prairie Books, 1986).

provincial government officials by exploring the debates of the Royal Commission on the Condition of the Halfbreed Population of the Province of Alberta (Ewing Commission).⁵ Historical sociologist Ken Hatt's 1969 Ph.D. dissertation, "The Response to Directed Social Change on an Alberta Colony," is the first study to fully canvass the relationship between Métis and state actors in the context of directed social change as one form of ethnic group relations.⁶ He explores the social structure of a Métis settlement in northeastern Alberta and how government decisions shaped the community's identity. Hatt explored various dimensions of the relationship between the Métis and government decision-makers, but found that "land has continually been the focus of the struggle between the Métis and the various governments with which they have had to contend.... Land was about the only inexpensive resource available...yet it was more than that. Land was the point around which competing conceptions could be brought to convergence."⁷ I will build on Hatt's ideas about land as a point of convergence and his historical analysis of the relationship between the Métis and the provincial governments of Alberta and Saskatchewan from 1930 to 1948. Throughout the period, Métis saw land as the solution to the failed scrip program and as a way to protect their cultural identity. Land and its use, likewise, was an integral component of all provincial government policy no matter the ideological principles of the political party in power. All government programs designed to assist the Métis rested on one foundational principle: land and its resources should replace direct payments of social assistance whenever possible.

⁵ Judith Hill, "The Ewing Commission, 1935: A Case Study in Metis-Government Relations" (Honours Essay, University of Alberta, 1977).

⁶ Fred Kenneth Hatt, "The Response to Directed Social Change on an Alberta Metis Colony" (Ph.D. Diss., University of Alberta, 1969).

⁷ Ken Hatt, "Ethnic Discourse in Alberta: Land and the Métis in the Ewing Commission," *Canadian Ethnic Studies* 17 no.2 (1985): 64, 77. See also, Ken Hatt, "The Land Issue and the Mobilization of the Alberta Metis in the 1930s," in *The Forgotten People – Metis and Non-Status Indian Land Claims*, ed. Harry W. Daniels (Ottawa: Native Council of Canada, 1979).

This study also builds on a formidable body of political, historical and legal scholarship largely focussed on Louis Riel, the Red River Resistance and the legacy of Métis scrip issued pursuant to the 1870 *Manitoba Act*. This literature is rich so only a few examples will be canvassed here. George F.G. Stanley's *The Birth of Western Canada – A History of the Riel Rebellions* (1936) is still considered the starting point for any scholarly study of the Métis in western Canada.⁸ In 1945, sociologist Marcel Giraud published his exhaustively researched *Le Métis Canadien*.⁹ In both works, the authors relied heavily on a Eurocentric interpretive framework in which the Métis are often unfairly portrayed as having undesirable personal characteristics; nevertheless, they set the tone for Métis studies for most of the last century. More recent scholarship has sought to redress the gaps in these works by addressing Métis culture and identity from a community perspective. Brenda Macdougall's *One of the Family – Metis Culture in Nineteenth-Century Northwestern Saskatchewan* is a path-breaking study into the social and cultural attributes that define Métis community.¹⁰ It is also a good example of how scholars are moving past “Red River myopia,” and exploring the ethnogenesis and cultural heritage of other Métis communities outside of southern Manitoba.¹¹

Much scholarship has been generated by the debate over land rights in Manitoba and the failure of the federal scrip program to extinguish fully the Métis share of Aboriginal title.

⁸ George F.G. Stanley, *The Birth of Western Canada – A History of the Riel Rebellions* (Toronto: UTP, 1963).

⁹ Published in English as *The Métis in the Canadian West*, 2 vols. (Edmonton: University of Alberta Press, 1986).

¹⁰ Brenda Macdougall, *One of the Family – Metis Culture in Nineteenth-Century Northwestern Saskatchewan* (Vancouver: UBC Press, 2010). See also, Howard Adams, *Prison of Grass – Canada from the Native Point of View* (Toronto: New Press, 1975); D. Bruce Sealey and Antoine S. Lussier, eds., *The Métis – Canada's Forgotten People*, 3 vols. (Winnipeg: Manitoba Métis Federation Press, 1975); Donald Purich, *The Métis* (Toronto: James Lorimer & Co., 1988); Heather Devine, *The People Who Own Themselves – Aboriginal Ethnogenesis in a Canadian Family, 1660-1900* (Calgary: University of Calgary Press, 2004); Chris Andersen, “*Métis*” – *Race, Recognition, and the Struggle for Indigenous Peoplehood* (Vancouver: UBC Press, 2014).

¹¹ The phrase “Red River myopia” was coined by Trudy Nicks and Kenneth Morgan in “Grande Cache: The Historic Development of an Indigenous Alberta Métis Population,” in *The New Peoples: Being and Becoming Métis in North America*, eds. Jacqueline Peterson and Jennifer S.H. Brown (Winnipeg: University of Manitoba Press, 1985).

Historian Douglas N. Sprague's article, "Government Lawlessness in the Administration of Manitoba Land Claims, 1870-1887," provides insight into the federal government's failure to fulfil its obligations to the Métis by granting them sufficient lands.¹² Thomas Flanagan has provocatively disputed these claims in *Metis Lands in Manitoba*, in which he argues that the federal government fully satisfied Métis claims and that the Métis have no valid legal claims against any level of government for redress.¹³ Litigation surrounding Métis property and constitutional claims continues to generate much legal and historical work on land claims in Manitoba.¹⁴ Legal research into claims has generated a number of articles, research reports, and books. For example, the Native Council of Canada published *The Forgotten People – Metis and Non-Status Land Claims* (1979) in which several relevant articles appear on Métis rights-based claims.¹⁵ The topics include the nature and scope of the Métis share in Aboriginal title and the inclusion of Métis under federal government jurisdiction according to section 91(24) of *The Constitution Act, 1867*. Prepared in advance of litigation, these studies tend towards an instrumentalist use of historical sources. Contributions by lawyers to this body of work tend to rely heavily on documents and generally do a poor job of integrating political or historical context.¹⁶

¹² Douglas N. Sprague, "Government Lawlessness in the Administration of Manitoba Land Claims, 1870-1887," *Manitoba Law Journal* 10 (1980); 415-442.

¹³ Thomas Flanagan, *Metis Lands in Manitoba* (Calgary: University of Calgary Press, 1991). See also, Thomas Flanagan, "The Market for Métis Lands in Manitoba: An Exploratory Study," *Prairie Forum* 16 (1991): 1-20.

¹⁴ *Manitoba Métis Federation Inc. v Canada (A.G.)* [2013] SCR 14 has been in the courts for several decades and has generated much academic literature and legal commentary.

¹⁵ Native Council of Canada, *The Forgotten People – Metis and Non-Status Indian Land Claims*, ed. Harry W. Daniels (Ottawa: Native Council of Canada, 1979). See also: Metis Association of Alberta, *et al.*, *Metis Land Rights in Alberta – A Political History* (Edmonton: Metis Association of Alberta, 1981).

¹⁶ For example, see, Fred V. Martin, "Federal and Provincial Responsibility in the Metis Settlements of Alberta," in *Aboriginal Peoples and Government Responsibility – Exploring Federal and Provincial Roles*, ed. David Hawkes (Ottawa: Carleton University Press, 1989), 243-296; and Fred V. Martin, "Alberta's Métis Settlements – A Brief History," in *Forging Alberta's Constitutional Framework*, ed. Richard Connors and John M. Law (Edmonton: University of Alberta Press, 2005), 345-389.

There are few relevant historiographical sources that provide insight into the socio-economic and political context of Saskatchewan and Alberta during the 1930s and 1940s. For example, there is only one brief mention of the Saskatchewan Metis Society in John Archer's *Saskatchewan – A History*.¹⁷ Historian Bill Waiser provides a brief introduction to various Métis issues such as scrip and the Green Lake Métis Settlement in his otherwise comprehensive *Saskatchewan – A New History*.¹⁸ John Thornton's M.A. thesis explores the federal government's policies in the region prior to the *NRTAs* and concludes that it failed to meet the needs of the Métis.¹⁹ F. Laurie Barron's article, "The CCF and the Development of Metis Colonies in Southern Saskatchewan during the Premiership of T.C. Douglas, 1944-1961," focuses mainly on southern agricultural Métis settlements. However, he does examine the CCF efforts at Green Lake. However, Métis issues are rarely mentioned in the political histories of the era.²⁰ Even the authors of the best collections of premiers' biographies pay scant attention to Métis or Aboriginal issues.²¹ Even so, these works provide excellent examinations of the general political context.

In general, the Alberta Métis community has received more scholarly attention than that of Saskatchewan. There is mention of the Métis settlements in Howard and Tamara Palmer's *Alberta – A New History*.²² Donald Wetherell and Irene Kmet explore treaty Indian and Métis natural resource use and interaction with the provincial government in *Alberta's North – A*

¹⁷ John Archer, *Saskatchewan – A History* (Saskatoon: Western Producer Books, 1980).

¹⁸ Bill Waiser, *Saskatchewan – A New History* (Calgary: Fifth House, 2005).

¹⁹ John P. Thornton, "The National Policy, the Department of the Interior and Original Settlers: Land Claims of the Metis, Green Lake, Saskatchewan 1909-1930" (M.A. Thesis, University of Saskatchewan, 1997).

²⁰ For example, David E. Smith, *Prairie Liberalism: The Liberal Party in Saskatchewan 1905-71* (Toronto: UTP, 1975).

²¹ Little attention is paid to Aboriginal issues by any biographers in either Gordon Barnhart, ed., *Saskatchewan Premiers of the Twentieth Century* (Regina: Canadian Plains Research Centre, 2004), or Bradford James Rennie, ed., *Alberta Premiers of the Twentieth Century* (Regina: Canadian Plains Research Centre, 2004).

²² Howard Palmer and Tamara Palmer, *Alberta – A New History* (Edmonton: Hurtig Publishers, 1990).

History, 1890-1950.²³ Finally, Alvin Finkel places Alberta's 1938 *Metis Population Betterment Act* in the context of William Aberhart's Social Credit vision for the province. He argues that "[a]lthough ultimately the government failed to aid the Métis in establishing a viable economic base, initially its actions showed a willingness not to leave the Métis to the disposition of market forces and the recent settlers of northern Alberta."²⁴ Chapter 3 of this study analyses this claim and assesses Social Credit's implementation and oversight of the Metis settlements. Finally, the Metis settlements in Alberta have been the subject of scholarly analysis in several works.²⁵

The historiography of natural resources policy and its impact on Aboriginal peoples in Manitoba has been well served by two books: Frank Tough's *'As Their Natural Resources Fail' – Native Peoples and the Economic History of Northern Manitoba, 1870-1930* and Jim Mochoruk's *Formidable Heritage – Manitoba's North and the Cost of Development*.²⁶ Both offer valuable insights into the federal government's administration and control of Manitoba's natural resources prior to the *NRTAs*. The only comparable study for Saskatchewan and Alberta is the present author's LL.M. thesis on the negotiations leading up to the signing of the 1930 *NRTAs*.²⁷ Originally published in 1938, historian Chester Martin's seminal work on the *NRTAs*: *"Dominion Lands" Policy* is still the best available source on the history and interpretation of the

²³ Donald G. Wetherell and Irene R.A. Kmet, *Alberta's North – A History, 1890-1950* (Edmonton: University of Alberta Press, 2000).

²⁴ Alvin Finkel, *The Social Credit Phenomenon in Alberta* (Toronto: UTP, 1989).

²⁵ See, Catherine E. Bell, *Alberta's Metis Settlements Legislation – An Overview of Ownership and Management of Settlement Lands* (Regina: Canadian Plains Research Centre, 1994); T.C. Pocklington, *The Government and Politics of the Alberta Metis Land Settlements* (Regina: Canadian Plains Research Centre, 1991); Denis Wall, *The Alberta Métis Letters – 1930-1940 Policy Review and Annotations* (Edmonton: DWRG Press, 2008); R'Chie Kelly Moffett, "Furrows of Stone: Race, Politics, and the Alberta Métis Land Question, 1932-1936" (M.A. History, Simon Fraser University, 2007).

²⁶ Frank Tough, *'As Their Natural Resources Fail' – Native Peoples and the Economic History of Northern Manitoba, 1870-1930* (Vancouver: UBC Press, 1996), and Jim Mochoruk, *Formidable Heritage – Manitoba's North and the Cost of Development* (Winnipeg: University of Manitoba Press, 2004).

²⁷ Nicole C. O'Byrne, "The Answer to the Natural Resources Question": An Historical Analysis of the Natural Resources Transfer Agreements" (LL.M. Thesis, McGill University, 2006).

agreements. However, Martin pays little attention to the transfer of obligations regarding Indian reserve lands or Métis scrip. In recent years, this gap has been filled by a number of scholars who have explored the effect of the *NRTAs* on treaty rights.²⁸ These sources provide historical context for the second chapter of this study where I discuss the heated debates between federal and provincial governments over the transfer of obligations for Métis scrip. This literature provides an important background for subsequent chapters too, which explore the results of the failure to find a workable solution for the issue of Métis scrip. The rest of the dissertation explores the political and historical context of relations between provincial governments and Métis peoples after the issue of Métis land rights fell through the cracks of Canadian federalism. After the 1930 *NRTAs*, the federal government refused to take any responsibility for Métis people and the Alberta and Saskatchewan governments instead formulated policy to address the socio-economic needs of the Métis.

The historiographical sources examining the differences between Alberta and Saskatchewan are rich. Why two relatively similar geographical entities developed such different political cultures has produced a vast literature.²⁹ The two most influential sources are C. B. MacPherson's *Democracy in Alberta: Social Credit and the Party System* and Seymour Martin Lipset's *Agrarian Socialism – The CCF in Saskatchewan – A Study in Political*

²⁸ See Frank Tough, "The Forgotten Constitution: The *Natural Resources Transfer Agreements* and Indian Livelihood Rights, ca. 1925-1933," *Alberta Law Review* 41 no. 4 (2004): 999-1048; Robert Irwin, "A Clear Intention to Effect such a Modification": The *NRTA* and Treaty Hunting and Fishing Rights," *Native Studies Review* 12 no. 2 (2000): 47-89. In 2007, the *Review of Constitutional Studies* (vol. 12, no.2) published a special issue on various aspects of the *NRTAs*. Particularly relevant are, Kerry Wilkins, "Unseating Horseman: Commercial Harvesting Rights and the *Natural Resources Transfer Agreements*," 135-172; Brian Calliou, "*Natural Resources Transfer Agreements*, the Transfer of Authority, and the Promise to Protect the First Nations' Right to a Traditional Livelihood: A Critical Legal History," 173-214.

²⁹ See, Mary Marcia Smith, "The Ideological Relationship between the United Farmers of Alberta and the Cooperative Commonwealth Federation" (M.A. Thesis, McGill University, 1967).

Sociology.³⁰ The legacy of these two seminal texts has been debated at length by scholars in several disciplines and, in many respects, frames any discussion of political culture in both provinces.³¹ Lipset and MacPherson's books are comprehensive; however, they do not address government-Métis relations. This dissertation contributes to the Lipset/MacPherson legacy by exploring the political and historical influences of Métis leaders on Alberta and Saskatchewan in the context of policy creation to address land and welfare issues. More specifically, the dissertation uses the debates in Alberta over the creation and implementation of Métis land settlements to contextualize policies later created in Saskatchewan.

At the same time, this is not strictly a comparative study. There are a number of reasons for this structure. The Alberta Métis organized earlier than their Saskatchewan counterparts and influenced government policy in the early to mid-1930s. There is no record of any Métis policy in Saskatchewan before 1938. Furthermore, the Alberta debates informed choices made by the Saskatchewan government and the Saskatchewan Métis Society. As I show in Chapter 3, the Alberta government and the MAA regarded land as the only possible solution to addressing Métis claims. However, the Saskatchewan government (under both the Liberal and CCF administrations) experimented with different policy options. This study, then, follows the movement away from land as the only considered solution for improving the socio-economic conditions of the Métis in western Canada.

³⁰ C. B. MacPherson, *Democracy in Alberta: Social Credit and the Party System*, 2nd ed. (Toronto: UTP, 1953); Seymour Martin Lipset, *Agrarian Socialism – The CCF in Saskatchewan – A Study in Political Sociology* (New York: Doubleday, 1968).

³¹ See, for example, Alan C. Cairns, "Agrarian Socialism (Lipset), or Agrarian Capitalism (Macpherson)," in *Lipset's Agrarian Socialism: A Re-examination*, ed. David E. Smith (Regina: Canadian Plains Research Centre and Saskatchewan Institute of Public Policy, 2007); David E. Smith, "Path Dependency and Saskatchewan Politics," in *The Heavy Hand of History – Interpreting Saskatchewan's Past*, ed. Gregory P. Marchildon (Regina: Canadian Plains Research Centre, 2005); and Alvin Finkel, "Alberta Social Credit and the Second National Policy," in *Toward Defining the Prairies – Region, Culture, and History*, ed. Robert Wardhaugh (Winnipeg: University of Manitoba Press, 2001).

The historiography of the CCF (later the NDP) is rich.³² One of the most useful sources for the present study is Albert W. Johnson's *Dream No Little Dreams – A Biography of the Douglas Government of Saskatchewan, 1944-1961*.³³ In this reworking of his 1963 dissertation, Johnson analyzes the administrative processes and structures that enabled the CCF in Saskatchewan to translate ideas and policies into action. According to Johnson, the CCF were anything but dreamy idealists. Survivors of the Great Depression, CCF politicians and administrators were grounded pragmatists who focussed on finances and policy design as the necessary first steps to actualizing socialist ideals and principles. Johnson, like other CCF scholars, does not examine Aboriginal issues in any depth.³⁴ A few authors have attempted to address this gap, such as F. Laurie Barron in *Walking in Indian Moccasins – The Native Policies of Tommy Douglas and the CCF*, David M. Quiring in *CCF Colonialism in Northern Saskatchewan – Battling Parish Priests, Bootleggers, and Fur Sharks*, and Murray Dobbin in his article "Prairie Colonialism – The CCF in Northern Saskatchewan, 1944-1964."³⁵ These sources provide interesting insights into the formation of CCF Aboriginal policy. However, all three

³² See for example, "Building the Co-operative Commonwealth" – *Essays on the Democratic Socialist Tradition in Canada*, ed. J. William Brennan (Regina: Canadian Plains Research Centre, 1984); Desmond Morton, *Social Democracy in Canada*, 2nd ed. (Toronto: Samuel Stevens, 1977); M.J. Coldwell, *Left Turn, Canada* (Toronto: Duell, Sloan and Pearce, 1945); Evelyn Eager, *Saskatchewan Government – Politics and Pragmatism* (Saskatoon: Western Producer Books, 1980); Robert I. McLaren, "The Saskatchewan Practice of Public Administration in Historical Perspective," *Canadian Studies*, 19 (Lewiston: The Edwin Mellen Press, 1998); and Carlyle King, *What is Democratic Socialism?*, (n.p.: Co-operative Commonwealth Federation, 1943). For biographies of Tommy Douglas, see: Doris F. Shackleton, *Tommy Douglas* (Toronto: McClelland & Stewart, 1975), and Thomas H. McLeod and Ian McLeod, *Tommy Douglas – The Road to Jerusalem* (Edmonton: Hurtig Publishers, 1987).

³³ A.W. Johnson, *Dream No Little Dreams – A Biography of the Douglas Government of Saskatchewan, 1944-1961* (Toronto: UTP, 2004).

³⁴ A rare exception is Jim Pitsula, "The CCF Government and the Formation of the Union of Saskatchewan Indians." *Prairie Forum* 19, no. 2 (September 1994): 131-151.

³⁵ F. Laurie Barron, *Walking in Indian Moccasins – The Native Policies of Tommy Douglas and the CCF* (Vancouver, UBC Press, 1997); David M. Quiring, *CCF Colonialism in Northern Saskatchewan – Battling Parish Priests, Bootleggers, and Fur Sharks* (Vancouver: UBC Press, 2004); Murray Dobbin, "Prairie Colonialism – The CCF in Northern Saskatchewan, 1944-1964," *Studies in Political Economy* 16(1985): 7-40. See also: David M. Quiring, "'The Ultimate Solution': CCF Programs of Assimilation and the Indians and Metis of Northern Saskatchewan," *Prairie Forum* 28, no. 2 (Fall 2003): 145-160.

suffer from historical presentism in that they evaluate and critique CCF policies from a current frame of reference. All three authors present the CCF as a colonial power trying to replace Aboriginal agency with compulsory, top-down government programs. There is no effort to evaluate the CCF in light of previous government action (or inaction as the case may be).

By contrast, the main purpose of this dissertation is to situate CCF-Métis relations in its historical context. The first four chapters illuminate the policy framework within which previous government administrations conceptualized Métis claims. The fifth chapter demonstrates that the CCF policies did not emerge fully formed in 1944. Overall, I show that CCF natural resources and Aboriginal policies were a pragmatic amalgam of revamped Liberal policies along with experiments into collective marketing and other socialistic economic initiatives. Ideology did shape the CCF approach to its interactions with the Métis; however, government policy was shaped by practical concerns such as financial resources. The conclusion to the dissertation explores the complex interplay between CCF pragmatism and ideology with respect to its approach to economic development in the north. In *Reasoning Otherwise – Leftists and the People’s Enlightenment in Canada 1890-1920*, historian Ian McKay argues that “Socialisms do not fall from the sky. They emerge, dialectically, from the political experiences and problems confronted by human beings.”³⁶ Primarily, this dissertation works in the spirit of this observation. It evaluates CCF economic development programs in northern Saskatchewan against a backdrop of previous attempts to improve the socio-economic conditions of the Métis. Drawing on McKay’s thesis, the following is a story of an emergent socialism against a liberal

³⁶ Ian McKay, *Reasoning Otherwise – Leftists and the People’s Enlightenment in Canada 1890-1920* (Toronto: Between the Lines, 2008), 118.

order framework.³⁷ With respect to land use and agency, the Saskatchewan CCF ‘reasoned otherwise’ from the provincial governments that preceded them.

³⁷ Ian McKay, “The Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History,” *Canadian Historical Review* 81 (2000): 617-45.

Chapter 2: The Federal-Provincial Debate over the Constitutional Responsibility for Métis Scrip¹

“This matter of half-breed scrip is a rather vexed question and goes back to the beginning of things in Manitoba.”²

2.1 Introduction

During the 1920s, the provincial governments of Manitoba, Saskatchewan, Alberta, and British Columbia negotiated a series of *Natural Resources Transfer Agreements (NRTAs)* with the federal government of Canada.³ *The British North America Act, 1930*,⁴ in which these agreements were made part of the Canadian constitution, provided the answer to a lengthy and contentious debate known as the “Natural Resources Question.”⁵ Before the *NRTAs*, the three prairie provinces did not have administrative control over their public domain lands, and they did

¹ A version of this chapter has been published. See: “A rather vexed question...”: The Federal-Provincial Debate over the Constitutional Responsibility for Métis Scrip.” *The Review of Constitutional Studies*, 12(2007):41-79.

² Library and Archives Canada (LAC), RG 15, Vol. 1171, File #5590730, John Allen, Deputy Attorney-General of Manitoba, to lawyers at the Ottawa firm of Chrysler and Chrysler, 16 July 1934. The use of the words “Half-breed,” “Indian,” and “Indian title” in this dissertation reflects their historical usage only. Historically, Métis scrip was referred to as “Half-breed scrip.”

³ All of the provincial agreements are items in the Schedule to the *British North America Act, 1930*, renamed the *Constitution Act, 1930* (U.K.), 20 & 21 Geo V, c 26, reprinted in RSC 1985, App. II, No 26 [*BNA Act, 1930*]. Provincial legislation also incorporates the agreements: the *Manitoba Natural Resources Act, 20 & 21 Geo V, c 29*, RSM 1987, c N30 (Man); the *Alberta Natural Resources Act, 20 & 21 Geo V, c 21* as am. (Alta); the *Saskatchewan Natural Resources Act, 20 & 21 Geo V, c 87* (Sask.); and *Railway Belt Re-transfer Agreement Act, SBC 1930, c 60* (BC).

⁴ The *BNA Act, 1930*, *ibid*.

⁵ See Chester Martin, “*The Natural Resources Question*”: *The Historical Basis of Provincial Claims* (Winnipeg: King’s Printer, 1920). See also, Jim Mochoruk, “Manitoba and the (Long and Winding) Road to the Natural Resources Transfer Agreement of 1930,” *Review of Constitutional Studies* 12 (2007): 255-300.

not receive revenue directly from their natural resources.⁶ Most significantly, these provinces did not share equal constitutional status with the other Canadian provinces, all of which held title to their public lands (including the natural resources) from the date of their entry into Confederation. The purpose of the *NRTAs* was to redress the constitutional imbalance and place each province “in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources as from its entrance into Confederation.”⁷

The terms of the *NRTAs* addressed the practical matters involved in the recognition of the Prairie Provinces’ constitutional equality. Many issues such as national parks, Indian reserves, and fisheries were explicitly mentioned in particular paragraphs of the *NRTAs*. There were, however, other unspecified outstanding federal obligations implicit in the transfer that were included inferentially in two “catch-all” paragraphs. These paragraphs specified that the provincial governments agreed to undertake federal obligations pertaining to all existing trusts, contracts, and other arrangements with third parties in relation to the public lands and resources that were being transferred.

One of the federal government’s outstanding obligations not explicitly mentioned in the *NRTAs* was Métis scrip. Scrip was a form of currency issued to Métis people by the federal government that could be used to purchase Crown land. In the years following the transfer, there was an extensive federal-provincial debate over whether the provincial governments had agreed

⁶ British Columbia had transferred title to the Peace River block and the railway belt in order to facilitate railway construction. No Métis scrip was ever issued in British Columbia.

⁷ See Appendix I below for the text of paras. 1 and 2 of the *NRTAs*. See *Saskatchewan Natural Resources Act*, Schedule, “Memorandum of Agreement” between the Dominion of Canada and the Province of Saskatchewan, 20 March 1930. The wording is identical in the Manitoba and Alberta *NRTAs*.

to undertake the obligation to redeem outstanding Métis scrip. The major issue was whether Métis scrip could be characterized as a pre-existing trust or contractual arrangement with respect to land such that the provinces would be solely responsible for its redemption after the transfer. Prior to the *NRTAs*, the federal government had alienated millions of acres of provincial Crown land in order to fulfill its own obligations to third parties such as the Hudson's Bay Company and various railway companies. The provinces' position was that the *NRTAs* were supposed to end such arrangements. Thus, they were reluctant to assume any further obligations than had been originally incurred by the federal government prior to 1930.⁸ After much debate, however, the prairie provinces eventually accepted the obligation to redeem outstanding scrip. Nevertheless, each province passed legislation that limited the rights of scrip-holders. Even though it was aware of the effect of this legislation, the federal government did nothing to protect those rights. The federal government neither challenged the constitutionality of the legislation nor did it seek to enforce the terms of the *NRTAs*.

The outcome of the federal-provincial debate about the obligation to redeem outstanding Métis scrip is only one aspect of this chapter. More importantly, the debate itself sheds light on the nature of the legal and constitutional obligations that informed the federal government's scrip policy and its constitutional obligation to the Métis.⁹ The obligation to issue Métis scrip arose

⁸ See Nicole C. O'Byrne, "The Answer to the 'Natural Resources Question': A Historical Analysis of the Natural Resources Transfer Agreements" (LL.M. Thesis, McGill University, 2006).

⁹ Much has been written on the Métis scrip policy and its implementation in Manitoba. See, e.g., D. N. Sprague, "Government Lawlessness in the Administration of Manitoba Land Claims, 1870-1887," *Manitoba Law Journal* 19 (1980): 415-442 and Thomas Flanagan, "The Market for Métis Lands in Manitoba: An Exploratory Study," *Prairie Forum* 16 (1991): 1-20. Much less has been written about scrip issued in the North-West Territories. The North-West Territories refers to the present-day boundaries of Saskatchewan and Alberta. It also includes the area outside the borders of "postage-stamp" Manitoba prior to its boundary extension in 1912. See, for example, D. J. Hall, "The Half-Breed Claims Commission," *Alberta History* 25.2 (Spring

from undertakings the federal government had made in 1870, the year Canada admitted Rupert's Land and the North-Western Territory into Confederation.¹⁰ At this time, the federal government accepted the fact that in order to enjoy clear title to the newly acquired territories, it would have to recognize and extinguish the Indian title held by the Aboriginal peoples, including Métis, who had traditionally occupied the lands.¹¹ The federal government used two different legal instruments to extinguish Indian title: Indian treaties and Métis scrip. The main difference between these instruments was that Indian treaties included continuing obligations such as annuities and education, while Métis scrip was a one-time land grant after which the recipients would be treated on the same basis as any other Canadian citizen.

The historical record indicates that the federal government issued scrip by exercising its jurisdiction over "Indians and lands reserved for the Indians" pursuant to section 91(24) of the *British North America Act, 1867*.¹² This means that for the purpose of extinguishing the Métis share of Indian title to the lands of the North-West Territories, the federal government categorized the Métis as "Indians" for the purposes of exercising its jurisdiction under section

1977): 1-8 and Ken Hatt, "The Northwest Scrip Commissions as Federal Policy – Some Initial Findings," *Canadian Journal of Native Studies* 3 (1983): 117-129.

¹⁰ *The Rupert's Land and North-Western Territory Order*, 23 June 1870, reprinted in RSC 1985, App II, No 9 [*Rupert's Land Order*], Schedule 'A': Address to her Majesty the Queen from the Senate and House of Commons of the Dominion of Canada. Rupert's Land was the land granted by Charles II to the Hudson's Bay Company in 1670. The North-Western Territory refers to the land that had been licenced to the Hudson's Bay Company in 1821. See Kent McNeil, *Native Claims in Rupert's Land and the North-Western Territory: Canada's Constitutional Obligations* (Saskatoon: University of Saskatchewan Native Law Centre, 1982).

¹¹ Historically, Indian title referred to an interest in land held by Aboriginal people that arose from their use and occupation of the lands prior to assertion of Crown sovereignty. It was thought that this title had to be extinguished by treaty or scrip in order for the government to have full and unencumbered use of the land.

¹² Renamed the *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5 [*BNA Act, 1867*].

91(24).¹³ Furthermore, the federal government recognized the fact that it had a constitutional obligation to extinguish the Métis's share of Indian title.¹⁴ The inclusion of the Métis as an "aboriginal peoples of Canada" in section 35 of the *Constitution Act, 1982*¹⁵ is generally regarded as the first time in Canadian history that the Métis were included in the Canadian constitution. This is not so. Nearly a century earlier, the federal government undertook to fulfill a constitutional obligation to the Métis people — to recognize and extinguish their share of Indian title to the lands that would eventually comprise Manitoba, Alberta, and Saskatchewan. It is beyond the scope of this chapter to draw out all of the legal and fiduciary implications of the federal-provincial debate over the constitutional responsibility for Métis scrip. Nevertheless, an examination of the historical debate illustrates the nature of the constitutionalized obligations that were in existence prior to their confirmation in section 35 of the *Constitution Act, 1982*.¹⁶

2.2 The Origins of Métis Scrip

[T]he main reason for making this arrangement is to pacify and keep pacified the North-West Territories, to settle a claim which must be settled before the people of Canada can make a treaty with the Indians of that district – and the Indians of that district must have a treaty made with them, otherwise we shall be in danger of having an Indian trouble on our hands, the very slightest of which would cost us two or three times the amount of the scrip we issue.¹⁷

¹³ See Clem Chartier, "'Indian': An Analysis of the Term as Used in Section 91(24) of the *British North America Act, 1867*" *Saskatchewan Law Review* 43.2 (1978/1979): 37. The North-West Territories includes all of present-day Alberta, Saskatchewan and all lands that were located outside the boundaries of "postage-stamp" Manitoba as it existed in 1870.

¹⁴ *Rupert's Land Order*.

¹⁵ *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.

¹⁶ *Ibid*, s 35(1) provides that "The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed."

¹⁷ *House of Commons Debates (HCD)* (14 July 1899) at 7513 (Clifford Sifton).

In order to understand the debate over Métis scrip and whether it was included in the outstanding obligations transferred to the prairie provinces through the *NRTAs*, it is necessary to first examine what scrip is and its legislative history in north-western Canada. As a legal instrument, scrip has been defined generally as “paper money issued by a government for a specific purpose or issued by a merchant or other body for local circulation. It is not legal tender.”¹⁸ Scrip has been issued by governments in order to fulfill various obligations. Since Confederation, for example, the federal government has issued scrip for the purposes of rewarding military service, promoting settlement, and settling Métis land rights.¹⁹ Métis scrip was issued in two varieties: land and money. Land scrip was denominated in a fixed number of acres of available Crown land. Money scrip consisted of a stated value in dollars that was acceptable towards the purchase of available Crown land.²⁰ Section 31 of the *Manitoba Act, 1870* provided for the first issue of scrip in western Canada:

And whereas, it is expedient, towards the extinguishment of the Indian Title to the lands in the Province, to appropriate a portion of such ungranted lands, to the extent of one million four hundred thousand acres thereof, for the benefit of the families of the half-breed residents, it is hereby enacted, that, under regulations to be from time to time made by the Governor General in Council, the Lieutenant-Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children

¹⁸ Canadian Paper Money Society, *Official Terminology Dictionary and Grading Guide* (Toronto: Canadian Paper Money Society, 1971), 4.

¹⁹ *An Act to authorize Free Grants of land to certain Original Settlers and their descendants, in the territory now forming the Province of Manitoba*, 36 Vict, c 37; and *An Act respecting the appropriation of certain Dominion Lands in Manitoba*, 37 Vict, c 20. In 1872, the *Dominion Lands Act*, 35 Vict, c 23, reprinted in RSC 1927, c 113, included ss. 23-28 whereby soldiers who had served in the Canadian militia during the Red River Resistance could receive scrip redeemable in homestead land. The federal government also provided scrip for veterans of the 1885 North-West Rebellion and the Boer War. See *An Act to authorize grants of land to members of the Militia Force lately on active service in the North-West*, 48 & 49 Vict, c 73; *An Act to make further provision respecting grants of land to members of the Militia Force on active service in the North-West*, 49 Vict, c 29; and the *Volunteer Bounty Act*, 1908, 7 & 8 Edw, VII, c 67.

²⁰ Donald M. Stewart, “The Land Scrip” *Canadian Paper Money Journal* 15 (1979): 6.

of the half-breed heads of families residing in the Province at the time of the said transfer to Canada, and the same shall be granted to the said children respectively, in such mode and on such conditions as to settlement and otherwise, as the Governor General in Council may from time to time determine.²¹

Initially limited to Métis who resided in Manitoba at the time of the transfer of land from the Hudson's Bay Company to Canada, the federal government later expanded the scrip issue to include the original Lord Selkirk settlers and the heads of Métis families, regardless of residence.

The next legislative step was the federal government's recognition of the claims of Métis who had been living in the North-West Territories through the *Dominion Lands Act, 1879*.²²

Section 125(e) of this Act set out the terms of this recognition as follows:

The following powers are hereby delegated to the Governor in Council: --

[. . .]

e. To satisfy any claims existing in connection with the extinguishment of the Indian title, preferred by half-breeds resident in the North-West Territories outside of the limits of Manitoba, on the fifteenth day of July, one thousand eight hundred and seventy, by granting land to such persons, to such extent and on such terms and conditions, as may be deemed expedient;²³

It was not until 1885 after the second Riel uprising, when the federal government appointed a commission to inquire into Métis claims in the North-West Territories that this legislative machinery began to be implemented.²⁴ In March 1885, an Order in Council clarified the terms by which the commissioners could examine Métis claims. The commissioners were authorized to summon witnesses by subpoena and examine them under oath. If the claims were deemed to be legitimate, they would be forwarded to the Minister of the Interior, who would then issue a scrip

²¹ 33 Vict, c 3, s 31 [*Manitoba Act*].

²² 42 Vict, c 31, s 125(e).

²³ This section was re-enacted in the *Dominion Lands Act, 1883*, 46 Vict, c 17, s 81(e).

²⁴ PC 1885-135, 28 January 1885.

certificate or deny the claim for want of sufficient evidence.²⁵ If the claim was deemed successful, the heads of Métis families resident in the North-West Territory since 15 July 1870 — the date Rupert’s Land and the North-Western Territory had been admitted into the Dominion of Canada — received land scrip entitling them to 160 acres of land or money scrip valued at \$160 redeemable for the purchase of land.²⁶ The child of each Métis family residing in the North-Western Territory prior to 15 July 1870 and born before that date received land scrip for 240 acres or money scrip for \$240 toward the purchase of land.²⁷

In the following years, the federal government authorized several “Half- breed Commissions” to hear claims throughout the North-West Territories. The commissioners often accompanied the federal government’s treaty negotiators. By 1892, the commissioners had examined a total of 4775 claims for Métis scrip. Deeming that enough time had been granted for potential claimants to come forth, the federal government introduced a time limit to the claims process at this point.²⁸ The federal government later reversed this decision and once again began issuing scrip in 1899. Compelled by the Yukon gold rush of the late 1890s, the Minister of the Interior and Superintendent of Indian Affairs, Clifford Sifton, began to negotiate a treaty with the Indians of the Athabasca district and thought it expedient to settle claims with the Métis of the

²⁵ Provincial Archives of Alberta (PAA), 75.9, Box 1/3d, A. A. Cohoon, “Memo re: half-breed scrip,” 11 May 1934.

²⁶ *Rupert’s Land Order*, supra note 9. See McNeil, supra note 9.

²⁷ In this period, the federal government granted 160-acre homesteads under the *Dominion Lands Act*, 1872, 35 Vict c 23. These land grants differed from military bounty grants and Métis scrip because in order to perfect a claim a settler had to perform required homestead duties, including clearing land and building a residence within three years. See Kirk N. Lambrecht, *The Administration of Dominion Lands, 1870-1930* (Regina: Canadian Plains Research Centre, 1991).

²⁸ PC 1892-630, 12 March 1892.

district at the same time.²⁹ However, Sifton believed the birthdate and residency limitations would “tend rather to disturb than to satisfy the Half- Breeds, and would certainly cause them to so use their great influence with the Indians as to make it extremely difficult, if not impossible, to negotiate a Treaty.”³⁰ A pragmatist by nature, Sifton recognized that the assertion of Crown sovereignty had little or nothing to do with Métis interests in the land of the North-West:

“Whatever rights they have, they have in virtue of their Indian blood; and the first interference with such rights will be when a surrender is effected of the territorial rights of the Indians. It is obvious that while differing in degree Indian and Half-Breed rights in an unceded territory must be co-existent, and should properly be extinguished at the same time.”³¹ The recognition that Métis and Indian claims to Aboriginal title were co-existent provided the rationale for the federal government’s scrip policy for the next two decades.³²

The subsequent amendment to the *Dominion Lands Act, 1899*³³ reflected Sifton’s decision to eliminate residency in the North-West at the date of the assertion of Canadian sovereignty as determinative of scrip eligibility:

The Governor in Council may -

90(f.) grant lands in satisfaction of claims of half-breeds arising out of the extinguishment of Indian title.³⁴

²⁹ Hall, “Half-Breed,” 3.

³⁰ PC 1899-918, 6 May 1899.

³¹ Ibid. See also D.J. Hall, *Clifford Sifton – The Young Napoleon* (Vancouver: University of British Columbia Press, 1981).

³² NAC, RG 15, Vol. 1171, File #5590730, A. A. Cohoon, “Memo re: Half-Breed Scrip,” 9 December 1935.

³³ 62-63 Vict, c 16, s 4.

³⁴ Re-enacted in the *Dominion Lands Act*, RSC 1906, c 55, s 90(f).

The discretionary language used in this amendment ought to have made it easier for scrip claimants to establish their entitlement. This intention was clearly stated in a subsequent Order in Council:

the issue of scrip is a measure of public policy for the purpose of satisfying a class of the community who have certain aboriginal rights which it is in the general interest that that class should recognize as having been properly and fully extinguished it is the part of wisdom to do beyond the letter of the obligation of the State towards them in order to ensure the entire satisfaction of all the Half Breeds rather than to leave any room for agitation through a strict adherence to the letter of the obligation.³⁵

In the two decades following this amendment of the *Dominion Lands Act, 1899*, various scrip commissions sat throughout the North-West, usually in areas where treaty adhesions were being negotiated and Métis claims had not yet been investigated. However, by 1923, the federal government had finished negotiating treaties, and the Department of the Interior simultaneously quit issuing land and money scrip.³⁶ From this time onward, claims could still be filed, but successful claimants were issued a cash grant of \$240 rather than scrip that could be redeemed for land.³⁷ Thus, at the time the *NRTAs* were signed in 1929 and 1930, the federal government no longer issued scrip. There were, however, many outstanding Métis scrip notes in circulation that had not yet been redeemed.

³⁵ PC 1900-438, 2 March 1900.

³⁶ During the six decades that the federal government administered the lands of Alberta, Saskatchewan, and Manitoba, more than 24,000 Métis claims were recognized. Over 2.6 million acres of land were issued and over \$2.8 million worth of money scrip granted. PA A, 75.9, Natural Resources Commission Records, Box 6/32a, “N.-O. Côté, Dominion Lands Branch Report, Department of the Interior, “Half-Breed Claims?” 3 December 1929.

³⁷ *An Act to amend The Dominion Lands Act*, 13 & 14 Geo V, c. 44, s 8, re-enacted in the *Dominion Lands Act*, RSC 1927, c 113, s 74(b). The federal government also passed an amendment to the Criminal Code that provided that any offence arising out of location of land that had been paid for by Métis scrip was barred by a three-year limitation period. See the *Criminal Code*, 11 & 12 Geo V, c 25, s 20, reprinted in RSC 1927, c 36, s 1140 (a) (vi).

Prior to the transfer, the Department of the Interior issued a bulletin in which the regulations regarding scrip redemption were summarized for reference by its land agents.³⁸ These regulations are important because they define the legal character of Métis scrip as it existed immediately before the transfer of natural resources to the prairie provinces. They formed the core of the obligations for the redemption of Métis scrip that the federal government intended to transfer to the provinces through the *NRTAs*. According to this bulletin, Métis scrip was defined by the following characteristics: it could be redeemed for “Dominion lands of the class open to homestead entry,” it could be inherited, and, money scrip could be kept in an account at the Department of the Interior and used as payment for grazing, timber, and mining leases. The bulletin further explained that no settlement duties were required to secure title to the land and letters patent were issued immediately in the name of the scrip grantee.³⁹

Prior to 1900, the federal government had not permitted scrip to be assigned. This meant that entry for land could only be made by the person to whom the scrip had been issued. The limitation was an attempt to discourage the activities of unscrupulous land speculators. However, due to pressure from the Métis themselves, the federal government changed its policy and introduced a process of endorsement known as “red-backing.”⁴⁰ Red-backing entailed endorsing the scrip certificate on the back in red ink, which allowed the holder of this scrip to locate land in the name of the original grantee. As anticipated, assignability led to a marked increase in land speculation, and many Métis did not receive full market value for their scrip.⁴¹

³⁸ NAC, RG 15, Vol. 1171, File #5590730, “Excerpt from Bulletin No. 21, Summary of Department of the Interior Regulations and Departmental Rulings relating to Dominion Lands for the Guidance of Agents, Sub-agents, and other Officials,” 2 January 1930.

³⁹ *Ibid.*

⁴⁰ PC 1900-596, 13 March 1900.

⁴¹ Hall, “Half-breed,” 5; and Stewart, 88.

Assignability would later prove to be a focus of the federal-provincial debate concerning the responsibility for redeeming outstanding Métis scrip. The provinces would vigorously object to granting provincial lands to scrip-holders who had obtained their scrip from original Métis grantees. To a large extent, this objection underlay the ensuing federal-provincial debate over the land transfer.

2.3 Early Interpretations of the *NRTAs*

It is characteristic of lawyers that as soon as they conclude an agreement, they begin to find the need of discovering what its terms mean.⁴²

In the early 1920s, Prime Minister Mackenzie King recognized the validity of the prairie provinces' arguments for constitutional equality.⁴³ Wishing to bolster his political support in the western provinces, King agreed in principle to transfer the administration and control of natural resources to the governments of Saskatchewan, Alberta, and Manitoba.⁴⁴ The adoption of the "equality principle" marked a major shift in the federal government's policy and laid the foundation for the *NRTAs*. The drafters of the agreements, however, were confronted with a series of practical questions about the process by which the transfer could be brought about in a manner that would reflect the constitutional principles at stake. During a 1921 debate in the House of Commons, Prime Minister Arthur Meighen had described the problems associated with the transfer in the following way: "It is not a hard matter to scramble an egg but it is a very hard matter to unscramble it. It was not a hard matter to retain the resources, but once you have

⁴² NAC, MG 26-J13, Mackenzie King Diary, 2 November 1928. King was specifically referring to the Manitoba *NRTA*.

⁴³ See Robert A. Wardhaugh, *Mackenzie King and the Prairie West* (Toronto: University of Toronto Press, 2000).

⁴⁴ NAC, Mackenzie King papers, Vol. 86, 69600-69602, King to J. R. Boyle, 18 December 1922.

retained them for fifteen to twenty years and adjusted every phase of public policy to the fact that there was that retention, then it becomes a matter of very great complexity.”⁴⁵ Thus, the drafters were faced with the seemingly insurmountable task of unscrambling a scrambled egg.

After decades of unsuccessful negotiations and continued federal administration of their natural resources, the provinces were determined to ensure that they undertake no more than an equitable share of pre-existing obligations connected with the transfer. Since 1870, the federal government had alienated millions of acres to third parties such as railway companies, and the provinces wanted to guarantee that the terms of the *NRTAs* did not include any additional alienation of lands other than those that were legally and constitutionally required.⁴⁶ Métis scrip was one of the federal commitments that the provinces were not interested in assuming, and consequently they put their efforts into arguing that scrip fell outside of their legal and constitutional obligations under the *NRTAs*.

In a meeting held in August of 1929, the Provincial Secretary of Manitoba specifically asked what pre-existing trusts owing to third parties would have to be satisfied by the provinces under the two “catch-all” paragraphs included in the terms of the *NRTA*. The Deputy Minister of the Interior, W. W. Cory, replied that two types of commitments would have to be included — those arising out of the administration of the *Dominion Lands Act* and those arising out of Orders in Council relating to various third parties. Cory listed unredeemed Métis land and money scrip as one of the federal obligations that would have to be assumed by the provinces. Specifically, Cory included scrip as one of the “arrangements” that the federal government had with third

⁴⁵ *HCD* (25 April 1921) at 2544-45.

⁴⁶ *Supra* note 7.

parties who held an interest in Crown land.⁴⁷ Thus, it is apparent that the federal government intended to include scrip in paragraph 2 of the *NRTAs* as “an arrangement whereby any person has become entitled to any interest therein as against the Crown” rather than as a trust as provided in paragraph 1, the two general categories of interest assumed by the provinces upon the transfer of land.⁴⁸

The interpretive question of whether Métis scrip should be characterized as a trust or as a type of contractual arrangement creating an interest in land quickly became a matter of contention between the federal and provincial governments after the conclusion of the *NRTAs*.⁴⁹ The legal distinction between a contract and trust mattered because the scope of the obligations assumed in a trust is much larger than that in contract. Although the federal government insisted that the obligation had been included in the agreements, the uncertainty with respect to its legal categorization compelled the provincial governments to challenge the federal position. In February 1931, the Minister of the Interior, Thomas G. Murphy, advised provincial officials that outstanding scrip would have to be honoured because it constituted an arrangement under paragraph 2 of the *NRTA*. J. T. M. Anderson, Saskatchewan’s Premier and Minister of Natural Resources, disagreed. Anderson’s position was based on the advice he had received from his

⁴⁷ Provincial Archives of Manitoba (PAM), G-1060, NR0001, Cory to McKenzie, Transfer of Natural Resources to the Provinces, 11 October 1929.

⁴⁸ See Appendix I below for the text of paras. 1 and 2 of the *NRTAs*.

⁴⁹ According to the 4th edition of *The Dictionary of Canadian Law*, “A contract is an exchange of promises, acts or acts and promises, as a result of which each party to the contract receives something from the other.” A trust is “[a] confidence or reliance which expressly or impliedly in a person (the trustee) for the benefit or another (the beneficiary). The simplest form of trust required the trustee to hold property for the beneficiary’s benefit.” The legal obligations incurred by the parties differ in scope depending on the characterization of scrip as either a trust or contract. Also, the enforcement of the terms of a trust or a contract differ. In contract, the court's power is one of implementation pursuant to the decisions of the parties to the agreement. In a trust the court's authority is one of supervision according to the norms expressed in the basic law of the jurisdiction.

lawyers who were of the opinion that Métis scrip could not legally be characterized as an arrangement under paragraph 2 because the scrip-holder was merely entitled to a contingent right, not an actual right, in the land. The scrip-holders therefore had rights against the federal government (in legal terms, a right *in personam*), but no rights to the land itself (no rights *in rem*). As a result of this legal opinion, Anderson advised Murphy that no provision had been made in the recently drafted provincial lands legislation to redeem Métis scrip.⁵⁰ Thus, there was no mechanism through which a scrip-holder could select land in Saskatchewan.⁵¹

Prompted by Saskatchewan's recalcitrance, the Acting Deputy Minister of the Interior, Roy A. Gibson, requested a legal opinion from W. Stuart Edwards, the Deputy Minister of Justice. The opinion, delivered by Edwards on 28 February 1931, would provide the foundation for the federal government's position on the issue for the next fifteen years and is, therefore, worth quoting at length:

There may, however, perhaps be some doubt whether such a scrip note come within the description of the words "every other arrangement whereby any person has become entitled to any interest therein (i.e., Crown lands, mines, or minerals) as against the Crown" of clause 2 of the Natural Resources Agreement, seeing that it may be said that the scrip merely entitled the holder to obtain an interest in such lands in either Province. But under the terms of clause 1 of the said Agreement, the interest of the Crown in all the Crown lands, mines, minerals and royalties transferred were so transferred "subject to any trusts existing in respect thereof" and I am of the opinion that the obligation of the Crown to redeem the scrip notes which have been issued may properly be held to constitute a "trust" existing in respect of the lands, mines, minerals and royalties so transferred.⁵²

⁵⁰ NAC, RG 13, Vol. 2422, File #460/1931, Anderson to Murphy, Department of Justice, 20 February 1931. In Saskatchewan at this time there was \$3,049.70 in outstanding money scrip and 13,100 acres in land scrip.

⁵¹ A similar situation existed in Alberta during this period. Only Manitoba had passed legislation by which scrip could be redeemed: *Provincial Lands Act*, SM vol I & II, 20 Geo, V, c 32, s 18(4).

⁵² NAC, RG 13, Vol. 2422, File #460/1931, Edwards to Gibson, 28 February 1931.

Edwards thus confirmed the advice that Premier Anderson had been given with respect to the scope of the “arrangements” provision. However, his advice did not confirm Anderson’s contention that the responsibility for outstanding scrip remained with the federal government. Instead, Edwards categorized scrip as a trust, thereby providing the federal government with a credible legal argument for compelling the provincial governments to redeem outstanding scrip under paragraph 1 of the *NRTAs*.

In categorizing Métis scrip as a trust, Edwards relied on Lord Watson’s definition of a trust under section 109 of the *BNA Act, 1867*⁵³ in an 1897 judgement concerning the responsibility for the payment of treaty annuities.⁵⁴ The treaty in question had been negotiated prior to Confederation, and, in a close parallel to the issue of whether Métis scrip falls under paragraph 2, Ontario questioned whether the annuities constituted a trust under section 109 of the *BNA Act, 1867* such that the province would be responsible for the payments. Section 109 provided that the control and administration of each province’s natural resources would be maintained after Confederation, “subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.” This meant that each province’s control of its natural resources was dependent upon any pre-existing trusts or third party interests. In the course of delivering the Privy Council’s judgement on the issue, Lord Watson defined a section 109 trust as:

The expressions “subject to any trusts existing in respect thereof,” and “subject to any interest other than that of the province,” appear to their Lordships to be intended to refer to different classes of right. Their Lordships are not prepared to hold that the word “trust” was meant by the Legislature to be strictly limited

⁵³ Supra note 11.

⁵⁴ *Canada (Attorney General) v Ontario (Attorney General)*, [1896] J.C.J. No 4, [1897] AC 199 (PC) [Annuities].

to such proper trusts as a court of equity would undertake to administer; but, in their opinion, it must at least have been intended to signify the existence of a contractual or legal duty, incumbent upon the holder of the beneficial estate or its proceeds, to make payment, out of one or other of these, of the debt due to the creditor to whom that duty ought to be fulfilled.⁵⁵

The drafters of the *NRTAs* had copied the exact wording of section 109 into paragraph 1, attempting to ensure that the prairie provinces would be constitutionally equal to the original provinces of Confederation. Consequently, there was a strong historical parallel to support Edwards' use of Lord Watson's broadly worded definition of a trust as the basis for a credible legal argument for the inclusion of Métis scrip in paragraph 1.

In the following years, federal officials at the Department of the Interior followed Edwards' advice and repeatedly informed the provincial land departments that the responsibility for redeeming scrip had transferred under paragraph 1.⁵⁶ For example, in a reply to an inquiry from a scrip-holder, H. E. Hume, Chairman of the Dominion Lands Board, stated that the *NRTAs* transferred legislative authority for scrip redemption to the provinces and "that since the transfer of the natural resources to the Western Provinces[,] any trust existing and any responsibility as to the recognition and location of outstanding scrip devolves wholly upon the Provincial Authorities."⁵⁷ With both the federal and provincial governments insisting the scrip was not their responsibility, scrip-holders were left with no means of recourse.

In December 1932, lawyers with the Regina law firm of MacPherson, Leslie & Paul sent a letter to J. Lorne Turner, Assistant Chairman of the Dominion Lands Board, on behalf of

⁵⁵ *Ibid.*, 210.

⁵⁶ See, e.g., NAC, RG 15, Vol. 1170, File #5569173, H. E. Hume, Deputy Commissioner of Dominion Lands to L. P. O. Noel, Assistant Director of Lands, Department of Mines and Natural Resources, Manitoba, 12 August 1931.

⁵⁷ *Ibid.*, H. E. Hume, Chairman, Dominion Lands Board to Oliver Hyssop, 23 August 1932.

several holders of Métis scrip as assignees from the original grantees. They advised Turner, “[t]he Department of Natural Resources for the Province of Saskatchewan has refused to allow location of this scrip on provincial lands and have denied all liability in connection therewith.” The lawyers presumed that the federal government would be willing to pay compensation to scrip-holders in view of the fact that scrip could not be redeemed in the province. Turner replied that the Department of the Interior’s position was that scrip was now a provincial responsibility and that the department was “not in a position to offer advice as to the manner in which the scrip in your possession may be used.”⁵⁸

Nearly a year later, MacPherson, Leslie & Paul sent another letter to the Department of the Interior reporting that they had been unable to make any progress with the Saskatchewan Department of Natural Resources. They also warned that they had advised their clients that a remedy must be forthcoming from the federal government due to the rules surrounding privity of contract.⁵⁹ The lawyers insisted that the federal government must take responsibility because it had originally issued the notes. They also advised the federal government that it “may have a claim against the Provinces for failure to carry out the terms of the natural resources agreement.”⁶⁰ In response, Hume reiterated the federal position. He did not, however, seek out legal redress in an attempt to compel the Saskatchewan government to undertake their obligations under paragraph 1. Instead, he sent the land departments in each of the prairie

⁵⁸ Ibid., MacPherson, Leslie & Paul to Turner, Assistant Chairman, Dominion Lands Board, 17 December 1932; and *ibid.*, Turner to MacPherson, Leslie & Paul, 23 December 1932.

⁵⁹ Ibid., MacPherson, Leslie & Paul to H. E. Hume, Commissioner of Dominion Lands, 20 October

1933. “Privity of Contract: The doctrine of privity of contract has been stated by many different authorities with varying effect. Broadly speaking, it stands for the proposition that a contract cannot, as a general rule, confer rights or impose obligations arising under it on any person except the parties to it.” (*The Dictionary of Canadian Law*, 4th edition, Toronto: Carswell, 2011).

⁶⁰ Ibid., 22 November 1933.

provinces a list of outstanding scrip and informed the ministers that it was up to the provinces to redeem outstanding scrip notes. This marked the first time that the federal government provided the provinces with detailed lists of the outstanding scrip.⁶¹ The lack of such information before this date may have contributed to the province's reluctance to redeem it.

Prior to sending the letters, Hume asked the Department of Justice to review his drafts to ensure that they accurately represented the federal government's legal position. In a departmental memo, the lawyer responsible for the file mentioned that he had delayed giving his opinion to Hume until the Supreme Court handed down its ruling in *Reference re Timber Regulations*.⁶² In this case, the prairie provinces had challenged the federal government's refusal to remit timber dues that had been collected from homesteaders prior to 1930. In the three years leading up to a patent on homesteading lands, homesteaders had to pay dues on timber that was cut on their lands and sold commercially. These dues were normally refunded after the homesteader obtained the land patent. After the *NRTAs*, the federal government refused to refund any of the dues it had received, arguing that the provinces had assumed this responsibility as an arrangement under paragraph 2. The federal government's refusal to remit dues collected prior to the transfer left the provinces in the position of having to refund the fees themselves without having had the benefit of the original dues. The Supreme Court agreed with the federal government's position and held that, under paragraph 2 of the *NRTAs*, the provinces had agreed to undertake all outstanding obligations owed by the federal government prior to the *NRTAs*. The Supreme Court's rationale supported the federal government's argument with respect to

⁶¹ *Ibid.*, 8 December 1933. The lists were sent to the provinces on 8 November 1933.

⁶² *Reference re Refunds of Dues re Timber Permits*, [1933] SCR 616, aff'd *In re Refund of Dues Paid Under s 47(f) of the Timber Regulations in Manitoba, British Columbia, Saskatchewan and Alberta*, [1935] CCS No 51, AC 184 (PC).

Métis scrip. Even though the case dealt with obligations under paragraph 2 of the *NRTAs*, it stood for the proposition that the provinces were responsible for undertaking all federal obligations as of 1930, when the natural resources were transferred. The case supported the federal government's position that as of 1930 the provinces were responsible for satisfying all outstanding federal obligations owing to third parties, including timber dues and Métis scrip.

The federal-provincial disagreements with respect to Métis scrip in the years following the signing of the *NRTAs* proved Arthur Meighen prescient. Unscrambling the scrambled egg of natural resources control and administration was not an easy task. In the years following the transfer, the provincial governments harboured resentment at what they considered to be decades of mismanagement of their resources by the Department of the Interior.⁶³ The provinces did not want to transfer any more land to third parties than was specified by the terms of the *NRTAs*. Further complicating matters was the fact that the federal government's records had not been fully transferred to the newly created provincial land departments. In many cases, the officials in the provincial land departments did not have the information they required to make determinations about granting lands to fulfill pre-existing federal obligations.⁶⁴ The uncertainty in the legal categorization of Métis scrip gave the provinces a basis for refusing to grant provincial lands to scrip-holders. The issue of whether scrip was a trust or a contractual

⁶³ For example, the government of Saskatchewan pursued redress in the courts after the *NRTAs* had been signed in 1930. See *Reference re Transfer of Natural Resources to Saskatchewan*, [1931] SCR 263, 1 DLR 865; and *In re Transfer of Natural Resources to the Province of Saskatchewan*, [1931] J.C.J. No 2, [1932] AC 28 (PC). The province argued that it had been unconstitutional for the federal government to administer the natural resources and control the revenue derived therefrom.

⁶⁴ PAM, GR 1600, G4515, 33.1.1, "Transfer of Natural Resources, 1930-1938, Department of Mines and Natural Resources" (Deputy Minister's File).

arrangement would be debated at length at subsequent Royal Commissions, the subject of the next section.

2.4 The Royal Commissions on the Natural Resources of Saskatchewan and Alberta (The Dysart Commissions)

In a 1932 memo, W. Stuart Edwards had predicted the outcome in *Reference re Timber Regulations*,⁶⁵ in which the transfer of obligations under the *NRTAs* was strictly demarcated.⁶⁶ The *NRTA* negotiators had also anticipated this and had agreed that the transfer of all of the federal obligations on the date of transfer would cause undue hardship to the provinces and that an equitable financial settlement should be reached by an inquiry into the economic aspects of the natural resources transfer.⁶⁷ In the discussions leading up to the *NRTAs*, the federal and provincial governments had agreed to establish a series of Royal Commissions that would,

enquire and report whether any, and if any, what consideration in addition to the sums provided in paragraph 21 of the said Agreement shall be paid to the Province of Saskatchewan [and Alberta] in order that the province may be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources from the first

⁶⁵ *Supra* note 60.

⁶⁶ NAC, M 1111, 295169, Edwards to A. Blackwood, Bennett Papers, 8 April 1932.

⁶⁷ The Alberta and Saskatchewan Commissions were appointed under Part I of the *Inquiries Act*, RSC 1927, c 99. See *Canada, Report of the Royal Commission on the Natural Resources of Saskatchewan* (Ottawa: J.O. Patenaude, 1935) 16 [Saskatchewan Royal Commission Report]. R.B. Bennett appointed Justice Andrew K. Dysart of the Court of King's Bench of Manitoba, who served as the chair for both Commissions. Justice Henry V. Bigelow of the Court of King's Bench of Saskatchewan sat on the Saskatchewan Commission, and Justice Thomas M. Tweedie of the Supreme Court of Alberta sat on the Alberta Commission. The third commissioner was George C. McDonald, a chartered accountant. The secretary for both Commissions was Oliver Master, Chief of the Economics Division, Department of Trade and Commerce.

day of September, 1905, or as from such earlier date, if any, as may appear to be proper⁶⁸

During the lengthy hearings, counsel for the federal and provincial governments debated the nature and extent of the federal obligations that had passed to the provinces under the *NRTAs*.

The Saskatchewan Commission hearings began in February 1934. The issue of Métis scrip was first raised at these hearings by James McGregor Stewart, a prominent lawyer from Halifax who acted as lead counsel for the federal government at both Dysart Commissions.⁶⁹ Stewart argued that the wording of section 109 of the *BNA Act, 1867*⁷⁰ had been reproduced in paragraph 1 of the *NRTAs* in order to place the prairie provinces into a position of constitutional equality. This equality, Stewart insisted, came with the same obligations that the original provinces of Confederation undertook in 1867— to honour all pre-existing obligations owing to third parties.

Relying heavily on W. Stuart Edwards's 1931 memo on the subject, Stewart contended that Lord Watson's broad definition of section 109 trusts could be construed to encompass Métis scrip.⁷¹ He added that the expression "subject to any trust" included any contractual obligation with respect to land that the federal government had been party to prior to Confederation in 1867 as well as prior to the creation of Alberta and Saskatchewan in 1905.⁷² Stewart argued that, "once such a pre-existing commitment has been established in one of the jurisdictions carved out

⁶⁸ *Saskatchewan Natural Resources Act*, 20 & 21 Geo V, c 87, s 24.

⁶⁹ See Barry Cahill, *The Thousandth Man: A Biography of James McGregor Stewart* (Toronto: Osgoode Society for Canadian Legal History by University of Toronto Press, 2000).

⁷⁰ *Supra* note 11.

⁷¹ PAA, 75.9, "Saskatchewan Proceedings," 1397.

⁷² *Ibid.*, 526.

of the Dominion lands when the commitment was made, that jurisdiction may be called upon to perform or carry out the commitment.”⁷³ In support of this argument, Stewart relied on a number of cases in which railway companies had been given the right to select land in partial consideration for construction costs. While this right was given to them prior to Confederation, the companies did not exercise it until afterwards. In these cases, the courts accepted that section 109 of the *BNA Act, 1867* required the provinces to fulfill pre-existing Crown commitments to the railway companies. Emphasizing that it was the right to select land that constituted the pre-existing obligation, Stewart drew a direct parallel between the railways’ right to select Crown lands in payment for construction costs and a Métis scrip-holder’s right to select land in consideration of the extinguishment of Aboriginal title. Stewart added that if there was any difficulty as to which province owed the duty to provide the land, the provinces were obligated to sort it out among themselves.⁷⁴ Finally, Stewart conceded that if scrip had been issued after 1905, the provincial government had a valid claim against the federal government for the lands selected after this date.⁷⁵

After making this concession, Stewart nevertheless proceeded to argue that the province should not receive any financial compensation for the 96,740 acres of Métis scrip that had been distributed by the federal government since 1905. He based this argument on an assertion that the province had suffered no damage because it would have had to issue scrip in order to extinguish the Métis share to the Indian title, and,

⁷³ *Ibid.*, 1398.

⁷⁴ *Ibid.*, 526, 533. The railway cases relied upon by Stewart are *Booth v McIntyre*, [1880] OJ No 248, 31 UCCP 183; and *Canada Central Railway Co v The Queen*, [1873] OJ No 169, 20 Gr 273(OCC).

⁷⁵ *Saskatchewan Proceedings*, 1047.

that from the commencement of Canada and by the agreement between the Hudson's Bay Company and Canada, the rights of the aboriginal population were regarded as existing. It was considered that they had rights in the Western country. Canada proceeded to treat with the aboriginal population on principles of decency and justice. The policy was to procure the surrender of their nomadic rights or their floating rights, by the acceptance of definite reservations, and as regards half-breeds by the allocation of scrip giving them the right to a farm or to a part purchase price on a farm. By so doing the Dominion extinguished the floating charge on the Territories. If the Dominion had not retained the control and administration of these lands in 1905 the problem would have been one for the province to deal with. The provinces would have to face this Indian claim. They would have to make their reservations. They would have to provide for half-breed scrip or compensate the half-breed in some way.⁷⁶

According to Stewart, the federal government's purpose for negotiating Indian treaties and its purpose for issuing Métis scrip were identical. The treaties and scrip each served as a means of extinguishing the "floating charge," or Indian title, which was charged upon Rupert's Land and the North-Western Territory. Stewart found support for this proposition in the fact that the province of Ontario had recognized the existence of Indian title during the negotiations leading up to Treaty 3.⁷⁷ Therefore, Stewart argued that a provincial government in control of its natural resources would have recognized a moral obligation to make provision for the Métis.

As proof of this proposition, Stewart produced Sir Frederick Haultain's correspondence with the federal government concerning the acquisition of provincial status for the North-West Territories. In this correspondence, Haultain, who was territorial premier from 1897 to 1905, called for the transfer of natural resources and the return of all lands used for federal purposes. Haultain's claims, however, excluded "any lands granted by the Dominion for homesteads or pre-emptions or in settlement of half-breed claims."⁷⁸ On this basis, Stewart insisted that had the

⁷⁶ Ibid., 1171.

⁷⁷ Ibid., 1176. Treaty 3, also known as the North West Angle Treaty, was signed in 1873.

⁷⁸ *Saskatchewan Proceedings*, 891. See *North-West Territories Legislative Assembly Journals*,

provinces been granted control of their natural resources in 1905, they would have implemented similar homesteading and scrip policies. Thus, Stewart claimed that Saskatchewan had failed to prove a compensable loss because the province would have granted homestead and scrip land.⁷⁹ When Chairman Dysart questioned Stewart as to why the federal government had not specifically included Métis scrip in the *Saskatchewan Act*, as had been done in the *Manitoba Act, 1870*,⁸⁰ Stewart replied that the federal government's continuing administration of the lands would have made such a provision redundant.⁸¹

Stewart's legal argument about Métis scrip caught Saskatchewan's lead counsel, Percival H. Gordon, somewhat unprepared.⁸² In the materials that had been prepared by Saskatchewan's Department of Natural Resources, the section on Métis scrip had been left blank. However, Saskatchewan's premier had instructed Gordon to construct "as large a claim as possible against the Dominion."⁸³ Gordon, therefore, argued that all Métis scrip that had ever been issued should be included in a separate category of alienation claims, a category defined by the federal government granting land to third parties in pursuit of its own policy objectives with little or no regard for provincial interests. While he generally accepted the Department of the Interior's estimates of the acreage granted to third parties since 1905 under this category of alienations,

1899-1904, Vol 17, App at 26.

⁷⁹ *Saskatchewan Proceedings*, 1175.

⁸⁰ *Saskatchewan Act*, 4 & 5 Edw VII, c 42, reprinted in RSC 1985, App II, No 21, s 3; and *Manitoba Act*, supra note 20.

⁸¹ *Saskatchewan Proceedings*, 1173.

⁸² Shortly after arguing on behalf of the Saskatchewan government, Gordon was appointed to the Saskatchewan Court of Appeal. He charged \$31,838.11 for his services at the Commission (nearly \$500,000 in current funds). See SAB, R-43, File #13, "Statement of Account in Connection with the Natural Resources Commission."

⁸³ SAB, R190.1, File #17, "Saskatchewan Deputy Minister of Natural Resources, Statement of Provincial Case for Compensation in lieu of Natural Resources," 10 January 1933.

Gordon contested the federal government's claim that this acreage had been granted due to pre-existing trusts or charges on the land.⁸⁴ The province thus sought to exclude these grants from the reach of paragraphs 1 and 2 of the *NRTA*, and it claimed instead that the federal government owed it compensation for railway land grants (6,090,962 acres) and Métis scrip (118,000 acres).⁸⁵

Gordon's ignorance of the issues surrounding Métis scrip was demonstrated by the brief he submitted in which he mistakenly asserted that the reason for granting scrip was to compensate Métis people who had been dispossessed of lands surrendered by treaty Indians. He added, disdainfully, that the federal government's policy to issue scrip had been given a wide interpretation such that "every Half-breed who could ever show that he had been on a reserve got scrip."⁸⁶ He further commented that the federal government had been a "fairy godmother" to the Métis in issuing scrip and, rejecting Stewart's argument, asserted that the province would not have been under any obligation to do the same if it had had control of its natural resources. He added that the obligation to extinguish the Métis share in the Indian title was solely the constitutional responsibility of the federal government.⁸⁷ With respect to Stewart's legal argument that Métis scrip constituted a trust under section 109, Gordon submitted that the right to select federal lands anywhere in the North-West Territories could not be a trust because there

⁸⁴ *Ibid.*

⁸⁵ PAA, 75.9, Exhibit 120S. The province's calculation was based on roughly half of the scrip acreage that had been distributed in Alberta and Saskatchewan since 1905 — 225,569 acres.

⁸⁶ NAC, RG 33/50, Vol. 3, misc. docs A—L. Gordon's personal views about Métis claims were generally negative. During his retirement years, he publicly opposed any commemoration of Louis Riel, whom he called a "bloody murderer," and gave speeches bemoaning what he referred to as the "Louis Riel cult." See SAB, R-43, File #20, "Notes for an address on Louis Riel," approx. 1970.

⁸⁷ *Saskatchewan Proceedings*, 1318-19.

was no degree of certainty as to where the land would be selected.⁸⁸ Relying upon this basic tenet of trust law, Gordon neither offered case law in support of this position nor did he challenge Stewart's interpretation of the case law.⁸⁹

At one point during Gordon's ill-considered argument, John Barnett, Saskatchewan's Deputy Minister of Natural Resources, interceded with an explanation of the province's refusal to redeem scrip since the transfer. Barnett explained that immediately prior to the transfer, the Saskatchewan government had requested that all remaining public lands be reclassified as not open for homestead entry.⁹⁰ The Saskatchewan government wanted to assert complete control over its land policy and stop the federal government from making any further alienations to third parties. Under the mistaken impression that scrip could only be redeemed on homestead lands, Barnett concluded that the province could not redeem scrip because it simply had no more lands suitable for homesteading.⁹¹

Practically abandoning his legal argument, Gordon concluded by saying that he wanted to get away from a "legal point of view" on the matter of scrip. Gordon appealed to the commissioners to make their decision on the principles of the "widest natural justice — what is fair, in view of the circumstances, as between the Dominion and the province."⁹² Gordon argued

⁸⁸ NAC, RG 33/50, Vol. 3, misc. docs A-L.

⁸⁹ "Three Certainties: The three essential characteristics required to create a trust: (a) certain intention (b) certain subject matter (c) certain objects." (*The Dictionary of Canadian Law*, 4th ed. Toronto: Carswell, 2011).

⁹⁰ This request had been sparked by the recommendations of the Saskatchewan Commission on Immigration and Settlement. See Saskatchewan, *Report of the Saskatchewan Royal Commission on Immigration and Settlement* (Regina: Roland S. Garrett, 1930). The commissioners found that the federal government's land alienations had nearly depleted the province of available homesteading lands.

⁹¹ *Saskatchewan Proceedings*, 893.

⁹² *Ibid.*, 1320.

that it was unfair that provincial lands be alienated in order to satisfy a federal obligation, an injustice that was aggravated by the notorious problems associated with the administration of scrip. Referring to fraudulent practices that had plagued the distribution of scrip, he stated, “We are all aware, though perhaps not officially, of the subterfuge that had to be gone through in order to get it applied to land that was good.”⁹³ He also claimed that it was common knowledge that Métis scrip-holders had often traded their interest “for a ten gallon hat.”⁹⁴ Gordon did not provide any detail about these fraudulent practices, but he clearly believed that it was inequitable for the province to continue to be held to account for a federal policy that had been clouded by fraud.

In many respects, the legal argument about Métis scrip at the Saskatchewan Commission was merely a dress rehearsal for the debate that would be waged at the Alberta Commission in the fall of 1934. This time, Stewart and his provincial counterpart, Marshall M. Porter, engaged in a far more sophisticated debate over the legal nature of Métis scrip.⁹⁵ Early in the proceedings, Stewart and Porter had agreed to submit a joint requisition to the Department of the Interior for information about Métis scrip.⁹⁶ The joint requisition included a request for a statement “showing, first, the treaties under which the Indian title was extinguished, the commissions which sat to determine the claims, and, as far as possible, the entries made after 1905 on scrip prior to 1905, and lastly, as far as possible, the residence of the half-breed,

⁹³ *Ibid.*, 1319.

⁹⁴ *Ibid.*

⁹⁵ Marshall Menzies Porter was appointed to the Bench in 1954. He retired from the Alberta Court of Appeal in 1969.

⁹⁶ PAA, 75.9, Box 6/35, 270, “Proceedings of the Royal Commission on the Natural Resources of Alberta” [Alberta Proceedings].

although that is rather an elusive and illusory inquiry perhaps.”⁹⁷ Indeed, the residency element could not be gleaned from the Department of the Interior’s records for the simple reason that the Métis claims commissioners had kept no records regarding the provincial residency of each claimant. Counsel for Alberta was eager to have these figures in order to separate the Métis scrip that had been distributed for the benefit of Alberta residents from that provided to residents of other parts of the North-West Territories. This distinction formed the basis for one of Porter’s key arguments. Only grantees who had acquired their right to scrip by being residents of Alberta or, more accurately, of the area of the North-West Territories that would become Alberta, could be counted towards the province’s account. Porter argued that the federal government should compensate for all other land granted in fulfillment of scrip notes.⁹⁸ However, given the fact that treaty areas were not commensurate with provincial boundaries and that the grants of Métis scrip were not always directly linked to treaty negotiations, Porter was unable to establish the evidentiary basis necessary to link Alberta’s scrip obligation to residency within Alberta’s boundaries.

In addition to evidentiary hurdles, Porter faced an uphill battle for another reason: Stewart had arrived at the Alberta Commission much better prepared. While he essentially repeated the arguments that he made at the Saskatchewan Commission with respect to whether Métis scrip constituted a trust under paragraph 1, his constitutional arguments represented a significant departure. During the recess between the two Dysart Commissions, Stewart had commissioned a brief on Métis scrip from the Department of the Interior. The resulting memo and data were introduced by Stewart as an exhibit at the Alberta Commission.

⁹⁷ Ibid., 291.

⁹⁸ Ibid., 270.

The Report, prepared by A. A. Cohoon, set out the legislative history and policy framework that had guided the federal government's decision to issue scrip. Cohoon's Report is worth quoting at length because it formed the basis of Stewart's argument:

The policy of issuing scrip to half-breeds was adopted in consideration of the interference with the aboriginal rights of this class by the extension of trade and settlement into the territories, and it was felt that an obligation devolved upon the State to properly and fully extinguish these rights to the entire satisfaction of the half-breeds. The rights of the half-breeds were recognized by the Government by reason of their Indian blood. Indian and half-breed rights differed in degree, but they were obviously co-existent. The general policy was to extinguish the half-breed rights in any territory at the same time the Indian rights were extinguished.⁹⁹

Essentially, Cohoon reiterated the rationale for scrip that had been fashioned by Clifford Sifton nearly thirty-five years earlier. Cohoon also examined the origin of the federal government's constitutional obligation to issue scrip and claimed that its source could be found in the *Rupert's Land Order*:

And furthermore that, upon the transference of the territories in question to the Canadian Government, the claims of the Indian tribes to compensation for lands required for purposes of settlement will be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.¹⁰⁰

14. 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; and the Company shall be relieved of all responsibility in respect of them.¹⁰¹

⁹⁹ PAA, 75.9, Box 6/31, Exhibit 124-D, "Memorandum re Half-Breed Scrip," 4 October 1934.

¹⁰⁰ *Rupert's Land Order*, supra note 9.

¹⁰¹ Ibid., cl. 14. Passed under the authority of s. 146 of the *BNA Act*, 1867, supra note 11, the Order in Council provided for the admission of new territories subject to various conditions such as the payment of £300,000 to the Hudson's Bay Company in consideration of its relinquishment of its 1670 Charter.

In addition to acting upon these constitutional imperatives, the federal government had issued scrip in response to repeated resolutions that had been made by the Legislative Assembly of the North-West Territories. These pre-1905 resolutions called for scrip to be issued to Métis residents of the territories who had been born prior to 1885. Cohoon concluded his memo by reiterating W. Stuart Edwards' 1931 legal opinion: "The Dominion had taken the stand that the obligation of the Crown to redeem the notes may properly be held to constitute a 'Trust' existing in respect of lands, mines, minerals, and royalties transferred to the respective Provinces under Clause 1 of each of the Natural Resources Agreements." He calculated that there were outstanding land scrip notes for 12,900 acres and money scrip for \$3081.72 in Alberta.¹⁰²

Greatly influenced by Cohoon's work, Stewart retooled his arguments about the constitutional foundations of Métis scrip. He based his argument on the fundamental assumption that the federal government's constitutional obligation to issue scrip derived from the *Rupert's Land Order*. Based on this assumption, Stewart submitted that "[t]he Dominion Government has, throughout, recognized the Half Breed as an Indian within the meaning of these obligations and has consequently treated him as entitled to some share or interest in the lands."¹⁰³ Stewart's assertions concerning the extent of the constitutional obligation owed to the Métis under section 91(24) of the *BNA Act, 1930* were debated at length during the Commission proceedings. Seeking to clarify the issue, Justice Tweedie asked Stewart directly if "[t]he rights of the half-breeds arise by reason of the fact that the term 'Indians' is construed to include, and has always been construed to include, a half-breed?"¹⁰⁴ In reply, Stewart reiterated the nature of the federal

¹⁰² Supra note 96. These figures were taken from the Department of the Interior records. Gordon and

Barnett did not have access to this information prior to the commission proceedings.

¹⁰³ NAC, RG 33/51, Vol. 2, Box 32, "Brief on Behalf of the Dominion."

¹⁰⁴ Alberta Proceedings, supra note 93 at 1069.

government's constitutional obligation to the Métis adding that "it was never a part of the deal that the establishment of the reserves in extinguishment of the title settled the Dominion's obligation. The Dominion always recognized that it had to deal separately with the half-breed."¹⁰⁵ Stewart contended that the federal government had the obligation to extinguish the Métis share in the Indian title by granting them an interest in the lands. For this purpose, the federal government issued Métis land and money scrip under the authority of section 91(24) of the *BNA Act, 1930*.¹⁰⁶ However, since Métis scrip entailed no continuing obligations such as the payment of treaty annuities, the federal government considered its constitutional obligation and jurisdiction with respect to the Métis under section 91(24) to be exhausted once the scrip had been distributed to the claimants.

Thus, the federal position was that the Métis were legally categorized as Indians for the sole purpose of extinguishing their claim to a share in the Indian title that existed on the lands of the North-West. Once scrip had been issued, the federal government deemed the Métis to share equal status with any other citizens. Stewart strongly advocated for this construction of the federal government's constitutional obligation, an argument that reflected the federal government's general policy during the 1930s. This policy was evidenced by the federal government's refusal to appoint a representative to the Ewing Commission, formed by the Alberta government in 1934 to inquire into the socio-economic status of Métis living in Alberta.¹⁰⁷ Thomas G. Murphy, Superintendent of Indian Affairs, refused to appoint a representative to the Commission because he considered it "wholly a matter for the Province to

¹⁰⁵ *Ibid.*, 1070.

¹⁰⁶ *Ibid.*, 988.

¹⁰⁷ PAA, 72.242/6SE, Report of the Royal Commission on the condition of the Halfbreed Population of the Province of Alberta. Sessional Paper No. 72, 1936.

deal with; as all half-breeds are citizens and do not come under the Department of Indian Affairs or any other federal Department.”¹⁰⁸

At first glance, the positions taken by the federal government with respect to the constitutional status of the Métis during this period seem inconsistent. In the fall of 1934, Thomas Murphy refused to participate in the Ewing Commission because Métis were not included in the *Indian Act*.¹⁰⁹ However, during the same period, Stewart was arguing that the Métis had always been considered Indians under section 91(24). These apparently antithetical positions put forward by Murphy and Stewart can be reconciled by the fact that the federal government admitted responsibility for the Métis only to the extent of extinguishing their share in Indian title. For all other purposes, including the provision of health care, relief payments, and education, the federal government did not consider Métis to be part of their jurisdiction. With respect to the Ewing Commission, the federal government considered the Métis to be a federal obligation for the limited purpose of extinguishing title by issuing scrip and it took the position that any involvement beyond this would constitute an encroachment into provincial areas of constitutional competence. Thus, for all other purposes besides scrip, the federal government refused to accept any responsibility whatsoever for the Métis, even for those who were living on Indian reserves.¹¹⁰ Only the existence of outstanding scrip compelled the federal government to push for its inclusion in paragraph 1 of the *NRTAs*, intending the transfer of the obligation to the

¹⁰⁸ PAA, 69.289, Roll 78, File #769, “Re Half-breed Problem, George Hoadley, Minister of Railways and Telephones, to R. G. Reid, Premier,” 7 September 1934.

¹⁰⁹ RSC 1927, c 98, s 2(d). See also PAA, 75.75, Box 1/3c, Thomas G. Murphy to George Hoadley, 10 October 1934.

¹¹⁰ The federal government refused to distribute relief to Métis people who were living on reserve because they were not included in the definition of Indian provided in *Indian Act*, *ibid.*, ss. 2(d), 16. See NAC, RG 13, Vol. 2563, File #136583, 9 May 1936.

provincial governments in order to satisfy the remaining obligation it owed the Métis under section 91(24). The federal government clearly had no intention of expanding its constitutional responsibility by making an appointment to the Ewing Commission or admitting that it had any other responsibility for the Métis.

The financial realities facing governments of all levels during the Great Depression of the 1930s provides context for Stewart's arguments at the Dysart Commission. Reluctant to undertake any unnecessary expenses, both the provincial and federal governments tried to shift financial responsibilities to the other. As previously mentioned, Stewart argued that Alberta should not be compensated for scrip because it would have followed the same policy if it had been granted control of its natural resources in 1905. If the province had refused to do so, Stewart submitted that "the Dominion could have taken the necessary steps under Section 91(24) of the *British North America Act* to compel equitable treatment to Indians and Half Breeds."¹¹¹ Thus, for the purposes of extinguishing the Indian title, Stewart's opinion was that the federal government would have had the constitutional jurisdiction under section 91(24) to protect the Métis interest in the lands of the North-West.

Perhaps learning from Percival Gordon's missteps, Alberta's counsel formulated more cogent arguments about the constitutional and legal issues surrounding Métis scrip. Porter directly challenged the source of the federal government's obligation to provide Métis scrip, "[The federal government] chose to deal with the Indians by giving them land. But there was no

¹¹¹ Supra note 100 at 33b. See also Alberta Proceedings, supra note 93 at 993; during his oral argument, Stewart was a bit more circumspect: "[The federal government] would have felt itself bound to honour the floating charge, and I am not at all sure that under its jurisdiction as contained in section 91, subsection 24, the Dominion could not have compelled a recognition of the half-breed claim."

obligation to give the Indians land and still less to give the half-breed land.”¹¹² Because the decision to give Indians and Métis land had not been explicitly prescribed in the *Rupert’s Land Order* or in any other constitutional document, Porter asserted that the federal government’s decision to issue scrip had been purely discretionary. Alternatively, Porter argued that if the specific constitutional obligation to grant lands to the Métis existed, then provincial lands should not have been used to fulfill a federal obligation without due compensation being paid to the province. Porter stated that while he had no objection to the principle behind the federal government’s scrip policy, Alberta deserved to be compensated for the lands that had been alienated for this purpose.¹¹³ Thus, the constitutional issue was not as much of a concern as the fact that the provincial lands had been used without financial compensation. In the context of the Great Depression, the province’s financial concerns are understandable.

In order to bolster the amount of Alberta’s claim for scrip lands, Porter argued that no trust had attached to the lands prior to 1905. Therefore, the province had no obligation to provide lands in order to fulfill any pre-existing agreements that had been arranged by the federal government. Porter tried to distinguish his argument from precedent by arguing that the right of selection had been granted to a specific company over a particular area of land. Conversely, Porter argued, Métis scrip was a right that could be exercised by an unknown number of claimants over the whole of the North-West. This, he argued, did not constitute a trust even within the broad definition that had been set out by Lord Watson.¹¹⁴ Porter further argued that the 1.4 million acres that had been set aside for the purpose of issuing scrip in Manitoba

¹¹² *Alberta Proceedings*, *ibid.*, 1286.

¹¹³ *Ibid.*, 1287-88, 1305. The total area of scrip issued and patented in Alberta since 1905 was 69,976 acres. Approximately 58,000 acres of scrip had been issued prior to 1905 and located after that date. See also PAA, 75.9, Box 6/35, Exhibit 124-D(1).

¹¹⁴ *Alberta Proceedings*, *ibid.*, 1290-91.

constituted a defined area by which the right of land selection could be exercised by the Métis. This land allocation, confirmed in the *Manitoba Act* met the condition of certainty required by trust law. However, since there was no parallel provision in the *Alberta Act*, the province had no such obligation to meet.¹¹⁵ He contended that had the federal government acknowledged its land entitlement owing to the Métis, it would have specifically provided for it in the *NRTAs*.¹¹⁶

Porter further suggested that by extinguishing the Métis claim by issuing land or money scrip (and cash grants in the later years), the federal government had tacitly acknowledged that it did not have to provide land to the Métis in order to fulfill its constitutional obligation. He suggested that it was unfair for the province to be required to grant land when the obligation could be satisfied by other means, such as a cash payment, and that if land were specifically required to fulfill the obligation, grants should be made from federally administered lands in the Yukon and North-West Territories.¹¹⁷ This argument was dubious because money scrip could be redeemed only for the purchase of land or as payment for grazing, timber, and mining leases.

Although the commissioners did not pick up on the false premise behind Porter's argument, they were nevertheless unsympathetic to the argument that the federal government's obligation to the Métis could have been satisfied by anything other than a grant of land. Chair Dysart challenged Porter directly on this point. "You cannot deprive a whole native race of the right to live somewhere on earth. And the only place for them to live is in their native haunts.

¹¹⁵ *Ibid.*, 1291. See also *Manitoba Act*, *supra* note 20; and *Alberta Act*, 4 & 5 Edw VII, c 3, reprinted in RSC 1985, App. II, no 20, s8.

¹¹⁶ *Alberta Proceedings*, *ibid.*, at 1292.

¹¹⁷ *Ibid.*, 1286, 1293.

You cannot deport them to other regions, for that would not be consistent with the British practice of dealing with aborigines.”¹¹⁸

Justice Tweedie also challenged Porter’s suggestion that the federal government could have met its constitutional obligations by removing the Métis from their traditional lands. After a lengthy exchange, Porter admitted that he was only pressing the issue because Stewart had admitted during the Saskatchewan case that the federal government was responsible for compensating the province for scrip issued after 1905. In spite of the fact that Stewart’s admission was not binding at the Alberta Commission, Porter wanted the same admission to be made regarding scrip issued in Alberta.¹¹⁹

Porter’s legal arguments may have been more sophisticated than Gordon’s had been at the Saskatchewan Commission, but he shared Gordon’s opinion on the prevalence of fraudulent practices surrounding the distribution of scrip and the implications that this fraudulent taint had for the provinces’ obligations. His views on the issue were clearly stated during his rebuttal to Stewart’s argument that the province should not receive compensation because it would have issued scrip if it had controlled its natural resources:

Those of us who have lived in the West have a good deal of difficulty in approaching this subject from the standpoint of what the province would have done, because we know something of the way in which the half-breed scrip was used, of just how it failed to serve the purpose for which it was intended – the settling of the half-breed’s problem, and of the abuses into which it fell and led him, to the extent that to-day in our province the half-breed remains a problem with which we ultimately shall have to deal in some way. His property rights and his position have not been improved by the use of the scrip as they might have been These scrip were used in such a way that not long since the Criminal Code was amended so as to set up a special limitation feature in prosecutions for perjury arising out of false declarations made in connection with the filing of these scrip. And so applying the problem from

¹¹⁸ *Ibid.*, 1294.

¹¹⁹ *Ibid.*, 1295.

the standpoint of whether the province would or would not have done certain things, we must say that, knowing what was known to everyone in the West, the province would not have continued that method of dealing with the half-breed, even assuming it was its duty to deal with those people.¹²⁰

He concluded his argument by alleging that the scrip policy had benefited only the interests of the “scrip dealer.” Like Gordon, Porter did not think that it was equitable to hold provincial lands accountable for a federal policy that had failed to meet its objectives and had been subject to fraudulent practices.¹²¹

After several months of hearings, the introduction of hundreds of exhibits, and the testimony of dozens of witnesses, the Dysart commissioners retired to write their reports. Issued in March 1935, the two Reports are practically verbatim copies of one another.¹²² Despite the lengthy debate about Métis scrip during the proceedings, the commissioners failed to make any decisions about the constitutional issues that had been raised; instead, they merely confirmed the fact that scrip had been issued in order to fulfill the federal government’s constitutional obligation to extinguish Indian title to the lands of the North-West. The commissioners also found the following:

[m]ost of this half-breed scrip was sold by the half-breed recipients and so passed into the hands of speculators and others, thus depriving the alienation of some part of the intended settlement element. The question is raised as to whether or not Saskatchewan [or Alberta] was bound to provide lands for all the half-breeds who later secured scrip. The question is one of difficulty, and we do not pass upon it in the sense of deciding legal rights. It seems, on the whole, that had the province been in control, a substantial part of these half-breed alienations would never have been made, and the land so saved from

¹²⁰ Ibid., 1311-12. See the *Criminal Code*, 11 & 12 Geo V, c25, s 20, reprinted in RSC 1927, c 36, s 1140 (a)(vi).

¹²¹ Ibid., 1315.

¹²² *Saskatchewan Royal Commission Report*; and Canada, *Report of the Royal Commission on the Natural Resources of Alberta* (Ottawa: J.O. Patenaude, 1935).

such alienation would have been saved to the province as assets with revenue potentialities.¹²³

Thus, the authors of the majority report avoided making a determination on the complex issue of whether Métis scrip could be considered a trust under section 1 of the *NRTAs*. Rather, they focused on the policy aspects of Métis scrip by finding that it failed to produce the results that had been intended by the federal government. They found that the provinces would not have issued scrip had they control of their resources, and they credited the provincial account as such in their findings.¹²⁴

It was, however, a pyrrhic victory for the provinces. In their final financial recommendation, the authors of the majority report did not break down the heads of recovery in any meaningful way. Instead, they awarded each province a lump sum payment of \$5 million plus interest from the date of the transfer of administration in 1930.¹²⁵ Seemingly overwhelmed by the complexities involved in “unscrambling the egg,” the commissioners recommended a payment that was not based on any discernible formula. Justice Bigelow, one of the Saskatchewan commissioners, registered his objection to this approach by submitting a minority report in which he found that scrip issued after 1905 did not constitute a trust under section 109 of the *BNA Act, 1867*. Bigelow had not been convinced by Stewart’s argument that the province would have issued scrip had it controlled its natural resources. With respect to the constitutional

¹²³ *Saskatchewan Royal Commission Report*, 29; and *Alberta Royal Commission Report*, 30.

¹²⁴ In understanding their conclusions, it is also worth noting that the terms of reference for the Royal Commissions precluded the commissioners from making any determinations with respect to legal rights. The constitutional and legal issues had been previously referred to the courts. See *Reference re Alberta Act, s 17*, [1927] SCR 364, 2 DLR 993; *Reference Re Saskatchewan Natural Resources*, supra note 61; and *In re Transfer of Natural Resources to the Province of Saskatchewan*, supra note 61.

¹²⁵ *Saskatchewan Royal Commission Report*, 36; and *Alberta Royal Commission Report*, 38.

obligations underlying Métis scrip, Bigelow found that “the answer to that it seems to me, is that by section 91 of The *British North America Act* the Dominion assumed the jurisdiction and obligation to look after the Indians.”¹²⁶ At a minimum, Bigelow believed that the Métis were equivalent to Indians with respect to their interest in the land and that the federal government had the jurisdiction to administer this interest under section 91(24) of the *BNA Act, 1867*. Furthermore, he found that the province had never incurred any obligation toward the Métis due to an absence of such a provision in the *Saskatchewan Act*.¹²⁷

2.5 After the Dysart Commissions

Unfortunately for the scrip-holders, the Dysart Commission Reports provided no guidance on the issue of scrip redemption. The commissioners downplayed the importance of whether the constitutional obligation to redeem scrip had passed to the provinces as either a trust under paragraph 1 or an arrangement under paragraph 2 of the *NRTAs*. Given the lack of direction this conclusion provided with respect to the redemption of outstanding scrip certificates, it is not surprising that the issue remained a source of contention between the provinces and the federal government.

Shortly before the release of the Dysart Reports, Manitoba’s Deputy Attorney General, John Allen, sent a letter to the Department of the Interior inquiring about the implications for his province of the arguments made by Alberta and Saskatchewan at the commissions:

[A]s I understand it the province of Saskatchewan now takes the stand that it is not called upon to honour any of the outstanding scrip issued under legislation enacted by the Parliament of Canada. As you can see if the position taken by

¹²⁶ *Saskatchewan Royal Commission Report*, 53.

¹²⁷ *Ibid.* Using the formula that had been applied in the Manitoba Commission, Bigelow found that the federal government owed Saskatchewan more than \$58 million.

Saskatchewan is sustained it means as I understand it that Alberta and Manitoba will be called upon to honour all the outstanding scrip.¹²⁸

A couple of weeks later, Allen reiterated his concerns that Manitoba and Alberta would be responsible for redeeming outstanding scrip because Saskatchewan no longer had any lands open for homestead entry.¹²⁹ In response, Roy A. Gibson, the Assistant Deputy Minister of the Interior, assured Allen that Saskatchewan would not be able to avoid the obligation it had assumed under the *NRTAs*:

The view held here is that this withdrawal of the privileges of obtaining homestead entry a few weeks before the transfer did not operate to prevent the acceptance of scrip by the Department as any lands so withdrawn. We are of the opinion that the words “open for ordinary homestead entry” appearing on the face of a scrip were used in a general sense to designate a class of lands and did not restrict the lands upon which scrip might be located to those actually open for entry.¹³⁰

Subsequently, he advised Allen that the Saskatchewan government had once again decided to grant homesteads. Thus, Gibson assured Allen, Saskatchewan would no longer be able to hide behind the specious argument that it could not redeem scrip because it did not have any homestead lands.¹³¹

In the 1935 federal election, the defeat of R. B. Bennett by Mackenzie King’s Liberals prompted Saskatchewan’s recently elected Liberal government to re-evaluate its policy on outstanding Métis scrip. Hoping to come to an amicable settlement with respect to the 13,000

¹²⁸ NAC, RG 15, Vol. 1171, File #5590730, John Allen to R.A. Gibson, 14 March 1935.

¹²⁹ *Ibid.*

¹³⁰ *Ibid.*, 8 April 1935.

¹³¹ *Ibid.*, 15 April 1935. Gibson referred to an article published in *The Financial Post* on 23 March 1935: “Saskatchewan to dispose of public lands by free grants.”

acres of outstanding land scrip, Saskatchewan Attorney General Thomas C. Davis, proposed a compromise to the federal Minister of Mines and Resources, Thomas A. Crerar:

With the return of the natural resources to the provinces the rights of the holders of this scrip have been materially restricted and there is inevitably going to be a dispute between the Dominion and the Provinces and the holders of the scrip as to responsibility by way of compensation for scrip.

It seems to me that it would be well if the three Prairie Provinces and the Dominion Government could get together and agree that this scrip should be redeemed in case at a certain amount per acre and that the funds necessary be provided for by the four governmental bodies on a basis to be arranged. It would not cost very much and would be the simplest and cleanest way to clear this matter up.¹³²

Prompted by this proposal from Davis, Crerar asked his department's officials for advice on how to proceed. In the resulting memo, A. A. Cohoon restated W. Stuart Edwards' 1931 legal opinion that scrip constituted a trust under paragraph 1 of the *NRTAs* and that the provinces were under the obligation to redeem any outstanding amounts. With respect to the compromise that had been suggested, Cohoon counselled that:

there seems to be but one logical stand for the Department to take regarding Mr. Davis' proposal that the Dominion should assist in providing funds for redeeming the outstanding scrip in cash on a basis to be arranged, namely, that as the whole question of half-breed scrip, both redeemed and unredeemed, was one of the matters which came before the Resources Commissions any liability of the Provinces with respect to redeeming the scrip was taken into account by the Commissions in determining the financial adjustments which they recommended should be made in favour of the Province. Therefore, when the financial adjustments so recommended have been made, the Provinces will in effect have received any compensation to which they may be entitled from the Dominion on account of the outstanding scrip. There seems to be no more justification for now reviewing the question of outstanding half-breed scrip than for re-opening any other question which came before the Resources Commissions.¹³³

¹³² NAC, RG 15, Vol. 1171, File #5590730, Davis to Crerar, 30 November 1935.

¹³³ *Supra* note 31.

Cohon concluded, “the Prairie Provinces are unduly concerned with respect to the obligation attaching to outstanding half-breed land scrip notes.”¹³⁴ According to Cohoon, there were only 106 scrip notes outstanding, many of which were more than thirty years old and presumed to be lost.¹³⁵

Cohon’s analysis, although well-reasoned and consistent with the federal government’s position advocated at the Dysart Commissions, failed to address one important aspect of the situation. The Saskatchewan government had rejected the recommendations contained in the majority report and had refused to accept the \$5 million plus interest from the federal government.¹³⁶ Davis’s suggested compromise with respect to scrip represented an attempt to settle at least one outstanding issue — of which there were many — between the federal and provincial governments. Crerar, however, chose to follow Cohoon’s advice and refused to entertain any compromise on the issue.

In light of the federal government’s unyielding stance, all three prairie provinces slowly accepted the fact that it was their responsibility to redeem scrip. In Manitoba, for example, the first step was taken in 1930 when the province amended its lands legislation to allow the location of scrip on lands that had been designated as “open for ordinary homestead entry.”¹³⁷ However,

¹³⁴ *Ibid.*

¹³⁵ *Ibid.*

¹³⁶ See Saskatchewan, *A Submission by the government of Saskatchewan to the Royal Commission on Dominion-Provincial Relations prepared under the direction of Hon. T. C. Davis*, Attorney General for Saskatchewan (Regina: King’s Printer, 1937). Mackenzie King set up the Royal Commission on Dominion-Provincial Relations (the Rowell-Sirois Commission) in order to inquire into the fiscal imbalances that existed between the federal and provincial governments. Refusing to accept the findings of the Dysart Commission, Saskatchewan treated its submission to the Rowell-Sirois Commission as a rehearing of the entire issue.

¹³⁷ *Supra* note 49.

despite enacting the necessary legislation, Manitoba remained reluctant to fulfill outstanding scrip. Manitoba's attorney general excused the province's reluctance on its lack of familiarity with federal policies regarding Indian treaties and Métis scrip.¹³⁸ After much consultation with federal officials, Manitoba passed regulations under the authority of the *Crown Lands Act* that limited the redemption of scrip to "any person who, as at the date of its issue, was actually resident within the territory now lying within the boundaries of the province of Manitoba."¹³⁹ Somewhat surprisingly, the preamble to the regulations provided that outstanding Métis scrip was deemed to be the province's responsibility because it constituted "an arrangement whereby any person has become entitled to any interest therein against the Crown" under paragraph 2 of the Manitoba *NRTA*. Clearly, the federal government's arguments that Métis scrip constituted a trust under paragraph 1 had not convinced the government of Manitoba. A little more than a decade later, Manitoba set 30 April 1948 as the deadline for redeeming scrip.¹⁴⁰

For their part, Alberta and Saskatchewan also eventually passed the legislation required for the redemption of scrip. Under its provincial lands legislation, Alberta passed a series of regulations in 1935, affirming that "[p]ermission to locate land scrip will be granted to the half-breed to whom such scrip was issued, providing the claim to the scrip was based on birth within the territory now comprising the province of Alberta."¹⁴¹ Saskatchewan followed suit by

¹³⁸ NAC, RG 15, Vol. 1171, File #5590730, Allen to Gibson, 22 April 1935.

¹³⁹ The regulations were passed under the authority of *the Crown Lands Act*, SM, vol I & II, 24 Geo, V, c 7, s 7(l); and Man Reg 1267/1937.

¹⁴⁰ *The Crown Lands Act*, vol I & II, 11 Geo, VI, s 45.

¹⁴¹ NAC, RG 15, Vol. 1171, File #5590730, "Government of the Province of Alberta, Department of Lands and Mines, Regulations respecting the Location of Half-breed land scrip in the Province."

amending the *Provincial Lands Act* to require that claimants be born in the province and present their claims prior to 1 May 1940 for lands open for homesteading.¹⁴²

Thus, even though the provinces had accepted their responsibility for redeeming scrip, the legislative measures they passed demonstrated that their acceptance of responsibility was qualified. Not surprisingly, the time limits and place of birth restrictions imposed by the provinces contributed to additional federal-provincial wrangling and even more confusion for scrip-holders. For instance, in 1939, a scrip-holder, G. M. Newton, wrote a letter to Saskatchewan's Minister of Natural Resources, William F. Kerr, inquiring about the process by which he could redeem a number of scrip notes that he had in his possession.¹⁴³ Officials in the department had previously refused to redeem Newton's notes because originally they had been issued to Métis who had been born in Manitoba. When Newton contacted the federal government about the province's refusal to recognize his scrip, he had been informed that Saskatchewan's position was not sustainable due to its unconstitutionality. Newton told Kerr about the federal government's position, which prompted Kerr to request a legal opinion from Saskatchewan's Department of Justice on whether Saskatchewan's approach to redeeming scrip, as set out in the amended *Provincial Lands Act*, was *intra vires*.¹⁴⁴ While researching this constitutional question, Deputy Attorney General Alex Blackwood asked Alberta's Attorney General, W. S. Gray, whether the question had ever been raised in Alberta. Gray informed Blackwood that the Alberta regulation limiting the redemption of Métis scrip had never been

¹⁴² *An Act to Amend the Provincial Lands Act*, 1931, SS 1937, c 11, s 24a, re-enacted in *Provincial Lands Act*, RSS 1940, c 37, s 26. Shortly after the *NRTAs*, the Saskatchewan government had opened more lands for homesteading.

¹⁴³ SAB, M11, Kerr Papers I.54, Half-breeds, 1940-41, G. M. Newton to W. F. Kerr, 8 February 1939.

¹⁴⁴ *Ibid.*, J. W. Estey, Attorney-General, 10 April 1940.

challenged. However, Gray proffered the following opinion: “It is possibly arguable that the restriction of the right to locate land scrip to persons born in the Province of Alberta may be in contravention of the Transfer of Natural Resources Agreement, but I doubt if such an argument would be given effect to.”¹⁴⁵ Unfortunately, Gray provided no reasons in his letter for his opinion.

Concerned by the implications of Gray’s unsupported assertion, Blackwood developed legal arguments to support the constitutionality of the provincial legislation. Remarkably, Blackwood agreed with the federal government’s case, as presented at the Dysart Commissions, with respect to the categorization of Métis scrip as a trust under paragraph 1 of the *NRTAs*. Given this starting point, he had to struggle to find ways to exempt the applicability of scrip as a trust to Saskatchewan land. For example, Blackwood argued that it was “not clear that such trust is impressed upon provincial lands which constitute only a fractional part of the Dominion lands.”¹⁴⁶ He questioned the fairness of Saskatchewan having to fulfill an obligation that arose in another province and suggested that the trust was applicable only to federal lands while they were under the control and administration of the federal government prior to 1930. In the alternative, Blackwood argued that the province would be required only to fulfill the terms of the trust on a reasonable basis. He submitted that the courts would likely find the place of birth requirement to be reasonable. However, he admitted that the constitutional point raised by Newton was “a novel one,” and that it was hard to predict what would happen if the issue were brought up in litigation.¹⁴⁷

¹⁴⁵ Ibid., Gray to Blackwood, 16 April 1940.

¹⁴⁶ Ibid., Memorandum re: Half-breed Scrip by A. Blackwood, 19 April 1940.

¹⁴⁷ Ibid.

Bolstered by Blackwood's opinion on the constitutionality of the *Provincial Lands Act*, W. F. Kerr authorized the denial of scrip-holders' rights to those individuals currently in possession of scrip that had originally been issued to persons not born in Saskatchewan. In response to a later inquiry about a deadline extension for scrip redemption beyond 1 May 1940, Kerr asserted that an extension could be made as a legislative amendment only. This amendment was never introduced. As a result, the section of the *Provincial Lands Act* that provided for scrip redemption was omitted from the Revised Statutes of Saskatchewan in 1953.¹⁴⁸ Once 1 May 1940 had passed, there was no procedure by which a scrip-holder could redeem a scrip note in Saskatchewan regardless of their place of birth. Thus, after first limiting the right to redeem scrip to those who could satisfy the residency requirement and applied before 1 May 1940, Saskatchewan eliminated the right to redeem scrip altogether.

Throughout the 1940s, the federal government continued to receive inquiries from scrip-holders who were refused the right to locate land by provincial land departments in Saskatchewan, Alberta, and Manitoba. In December 1945, the Register of Lands for the Department of Mines and Resources received a request to look into the status of scrip notes that had been issued in Manitoba, but were currently held by a scrip-holder in Alberta. The scrip-holder had been informed by Alberta's Department of Lands and Mines that it would allow location for scrip only if the grantee had been born in the territory currently comprising Alberta. That same month, A. A. Cohoon was once again asked for his opinion. Relying on the memo that he had written ten years earlier, Cohoon outlined the legislation that provided for the redemption of scrip in each of the prairie provinces and noted that Saskatchewan no longer made

¹⁴⁸ RSS 1953, vol 1, s 26 was omitted from *The Provincial Lands Act*, RSS 1940, c 37, s 26.

legislative provision for scrip redemption. With respect to the legal rights of scrip-holders after the *NRTAs*, Cohoon opined that:

it is scarcely necessary to point out that the legal holder or grantee of a half-breed land scrip is in a less favourable position to a considerable degree with administration of the resources resting with the respective Prairie Provinces than he was during the time the lands were controlled by the Dominion When the resources were with the Dominion it was open to him to locate this scrip on 240 acres of any Dominion land open for homestead entry in Manitoba, Saskatchewan, Alberta or the Northwest Territories, and with special permission and under certain circumstances it was possible to arrange for the location of the scrip on a homestead, pre-emption, or purchased homestead, after abandonment, or on land relinquished from a grazing lease.¹⁴⁹

In his opinion, the imposition of time limits and place of birth requirements represented unconstitutional limits on the rights of scrip-holders. Cohoon encouraged his Minister to approach each of the prairie governments in order to obtain “a better deal for the holders or grantees of half-breed scrip notes.”¹⁵⁰ Cohoon pointed out both that, prior to the *NRTAs*, scrip could be redeemed on all public lands and not just those open for homestead entry and that the birthplace of the scrip grantee had no relevance in establishing a claim to land. Cohoon proposed that the federal government had an obligation to remind the provincial governments of the nature and extent of the responsibilities that they had assumed under the terms of the *NRTAs*.¹⁵¹

In the end, Cohoon’s superiors ignored his argument that the federal government was obliged to defend the rights of the scrip-holders against the prairie governments. It was an issue that had come up earlier that year, when federal Minister of Trade and Commerce James A.

¹⁴⁹ NAC, RG 15, Vol. 1171, File #5590730, Memorandum by A.A. Cohoon, 15 December 1945.

¹⁵⁰ *Ibid.*

¹⁵¹ *Ibid.*, 5.

McKinnon received an inquiry about scrip from William Aylwin of Edmonton, who held two land scrip notes issued in Manitoba. Aylwin wished to locate the land in Alberta but the province had refused to locate scrip that had been originally granted to a Manitoba resident. When McKinnon asked the Minister of Mines and Resources, James A. Glen, for his advice about Alberta's refusal, he was informed that the federal government would hold fast to its position but that it would not "become involved in any controversy with the Provincial Authorities in connection with the matter."¹⁵² By 1945, the cultivation of harmonious federal-provincial relations had trumped the enforcement of scrip-holders' legal rights. After fifteen years of federal-provincial squabbling over the issue of Métis scrip, it is ironic that the Minister of Mines and Resources invoked the spectre of good relations as a rationale for failing to act in the interest of the scrip-holders.

2.6 Conclusion

The historic federal-provincial debates prompted by the negotiation and implementation of the *NRTAs* raised a number of constitutional issues about the Métis and the settlement of their land interests through scrip. In the end, the legal debate over whether Métis scrip constituted a trust under paragraph 1 or a contractual arrangement under paragraph 2 of the *NRTAs* remained unresolved. Many conflicting opinions were proffered about the legal character of Métis scrip and the nature of the obligations incurred by the various governments. Early on, the debate had centred on whether scrip was a contractual arrangement. This had been the intention of W. W. Cory, the Deputy Minister of the Interior, who had been involved in the *NRTA* negotiations and

¹⁵² NAC, RG 15, Vol. 1171, File #5590730, W. J. F. Pratt, Private Secretary, Minister of Mines and Resources to D. W. Thomson, Secretary, Minister of Trade and Commerce, 19 December 1945.

who originally characterized scrip as an arrangement under paragraph 2. Upon this understanding, Cory had informed Saskatchewan's premier that scrip was an arrangement that the province was bound to honour. However, when Premier Anderson's legal counsel assured him that the contingent nature of the interest rendered this characterization unlikely to withstand scrutiny, a recalcitrant Anderson refused to include provision for the redemption of scrip in his province's newly drafted lands legislation. Later, the debate refocused on paragraph 1 when W. Stuart Edwards and James McGregor Stewart relied on Lord Watson's definition of a section 109 constitutional trust to support the federal government's position that the obligation to redeem outstanding scrip had transferred to the provinces. In both Dysart Commission Reports, commissioners avoided the question completely, and no court has ever ruled on the issue. The political and legal wrangling over the constitutional responsibility for Métis scrip illustrates that it does not fit easily into legal categorizations such as trust or contract. However, the historical debate clearly demonstrates that the dynamics of federal-provincial relations took precedence over the recognition of the constitutional obligations to the Métis. As third parties to the *NRTAs*, the Métis and their interest in the lands of the North-West Territories slipped through the cracks of Canadian federalism.

While the historical record provides no conclusive resolution to the "rather vexed question" of the responsibility for Métis scrip, the debate sheds light on a number of constitutional issues of contemporary relevance. Under the terms of the *Rupert's Land Order*, the federal government recognized that it had an obligation to settle claims to land "in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines."¹⁵³ The federal government undertook to fulfill this obligation by

¹⁵³ *Rupert's Land Order*, 9.

negotiating Indian treaties and issuing Métis scrip by means of the legislative authority found under section 91(24) of the *BNA Act, 1930*.¹⁵⁴ Thus, the federal government implicitly recognized that it had at least some degree of constitutional responsibility for the Métis. The essential question that remains today is whether or not the federal government fulfilled its constitutional obligation by issuing Métis scrip.

An examination of the historical record allows at least two conclusions to be drawn. First, by refusing to challenge the constitutionality of the provincial legislation, the federal government failed to protect the rights of scrip-holders regardless of whether scrip should have been characterized as falling under paragraph 1 or 2 of the *NRTAs*. The limitations imposed by the provincial legislatures on scrip redemption were likely *ultra vires*. Thus, by refusing to fully exercise the legal rights embodied by scrip, the federal government breached a constitutional obligation it owed to the Métis. The contemporary consequences of this failure to act may, however, be limited. By 1945, most of the outstanding scrip had been acquired by institutions such as the Royal Bank of Canada. By this date, very few, if any, scrip notes were still in the possession of the original Métis grantees or their descendants. Nonetheless, the federal government's refusal to protect the scrip-holders' rights by challenging the constitutionality of provincial legislation represents a breach of the federal government's constitutional obligation to the Métis. For once it had decided to issue scrip in fulfillment of its constitutional obligation under section 91(24), the federal government had a fiduciary duty to ensure that the scrip-holders would be able to fully exercise the rights guaranteed by scrip. Second, the federal government's assumption of constitutional responsibility for the Métis also raises questions about the implementation of the scrip program. If the program was poorly administered, or subject to the

¹⁵⁴ *Supra* note 2.

fraudulent practices alleged by provincial counsel at the Dysart Commissions, the various issues of Métis scrip may have failed to fully extinguish the Métis share in Indian title to the lands of Alberta, Saskatchewan, and Manitoba.

2.7 Appendix I: Paragraphs 1 and 2 of the NRTAs

See: The Memorandum of Agreement attached to *The Saskatchewan Natural Resources Act*, 20 & 21 Geo V, c 41 (Sask.); *The Alberta Natural Resources Act*, 20 & 21 Geo V, c3 (Alta.); and *The Manitoba Natural Resources Act*, 20 & 21 Geo V, c 29 (Man.) [emphasis added].

Transfer of Public Lands Generally

1. In order that the Province may be in the same position as the original Provinces of Confederation are in virtue of section one hundred and nine of the *British North America Act, 1867*, the interest of the Crown in all Crown lands, mines, minerals (precious and base) and royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals or royalties, shall from and after the coming into force of this agreement and subject as therein otherwise provided, belong to the Province, *subject to any trust existing in respect thereof, and to any interest other than that of the Crown in the same*, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof, subject, until the Legislature of the Province otherwise provides, to the provisions of any Act of the Parliament of Canada relating to such administration; any payment received by Canada in respect of any such lands, mines, minerals, or royalties before the coming into force of this agreement shall continue to belong to Canada whether paid in advance or otherwise, it being the intention that, except as herein otherwise specifically provided, Canada shall not be liable to account to the Province for any payment made in respect of any of the said lands, mines, minerals, or royalties before the coming into force of this agreement, and that the Province shall not be liable to account to Canada for any such payment made thereafter.

2. The Province will carry out in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals *and every other arrangement whereby any person has become entitled to any interest therein as against the Crown*, and further agrees not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto other than Canada or in so far

as any legislation may apply generally to all similar agreements relating to lands, mines, or minerals in the Province or to interests therein, irrespective of who may be the parties thereto.

Chapter 3: ‘No other weapon except organization’: The Métis Association of Alberta and the 1938 Metis Population Betterment Act¹

3.1 Introduction

The 1930s in the Canadian prairies provinces was a decade of despair, drought, and economic depression. In the midst of this catastrophic socio-economic upheaval, new political organizations emerged from the prairie dustbowl. The province of Alberta witnessed the rise of the Social Credit movement and the communist Labour-Progressives who proposed radical solutions to the economic calamity facing the province. The Métis Association of Alberta (MAA) was one of these new political organizations. Established in the early 1930s, the MAA lobbied the provincial government to set aside land for its members so that they could continue to pursue their traditional economic livelihoods of hunting, trapping, and fishing and, thus, be able to sustain themselves without relying on relief payments. Utilizing a labour union organizational model of area locals overseen by a central executive, the MAA successfully pressured the provincial government to hold a royal commission (the Ewing Commission) on the socio-economic problems facing the Métis population. Based on the recommendations of this commission, the province passed the 1938 *Metis Population Betterment Act*.² The province, in consultation with the MAA, set aside land for the exclusive use of the Métis. From the government’s perspective, land was a cheap and expedient way to address the social welfare needs of the Métis. In contrast, the MAA argued that land was more than a welfare program – it

¹ A version of these chapter has been published. See: O’Byrne, “ ‘No other weapon except organization’: The Métis Association of Alberta and the 1938 *Metis Population Betterment Act*” *Journal of the Canadian Historical Association* 24 no.2 (2013): 311-352.

² *The Metis Population Betterment Act, 1938*, SA 1938, c 6.

represented historical redress for the poor treatment of the Métis since the failure of the Red River Resistance.

During the 1930s, the Alberta government did not recognize these historical and rights-based arguments for the land put forward by the MAA. However, both sides agreed that land settlements were the solution to the economic problems facing the Métis. For the province, the lands were an inexpensive way to address the socio-economic problems of one of the poorest populations in the province. The MAA saw the lands as a means of protecting their cultural and linguistic identities and of redressing the failure of the federal government's scrip program. As we have seen in Chapter 2, Métis scrip certificates issued by the federal government were redeemable for land or money. Despite the divergent views on the purpose for the land settlements that led to the 1938 Metis Population Betterment Act, it is an important piece of legislation because it marks the first time in Canadian history that the Métis were to have land specifically set aside for their collective use. To date, the Alberta Métis land settlements are the only lands in Canada that constitute a Métis land base created and recognized by provincial statute. In 1990, the government of Alberta acknowledged the Métis's historically-based rationale for the lands and passed the Constitution of Alberta Amendment Act,³ which recognized the land base as an integral component of preserving and enhancing Métis culture and identity as well as their right to self-government. This chapter illuminates the Alberta government's response to the MAA's political lobbying efforts during the 1930s to explain why Alberta was the first (and only) Canadian province to set aside Métis land settlements.

³ *Constitution of Alberta Amendment Act*, RSA 2000, c C-24, s 3.

Over six decades in the making, the Alberta government's position regarding the land rights of the Métis has been the subject of several studies.⁴ Less studied has been the issue of the land itself. Why did the Métis of Alberta during the 1930s want land and why was the government open to hearing and granting this request? No other province in Canada, either during this period or since, has consented to grant Métis land for their exclusive use and occupation. In a seminal article, Ken Hatt has argued that both sides agreed to the land grant because land was a unique site of convergence for the parties.⁵ Although both the Métis and the government wanted to use land as a solution to the socio-economic problems facing the Métis, they had very different motivations for doing so. The Métis claims were based in history and culture with the aim of preserving their identity as an indigenous people. They lobbied for a land base to redress the problems created by the federal government's failed scrip program, to protect land rights, and to access better health and education programs to implement self-government over natural resources. The provincial government's primary motivation was to satisfy what they considered to be a needs-based economic claim in which the land served as an inexpensive means of distributing relief payments.⁶ Until recent years, the provincial government failed to

⁴ See, The Metis Association of Alberta et al., *Metis Land Rights in Alberta: A Political History* (Edmonton: Metis Association of Alberta, 1981); T. C. Pocklington, *The Government and Politics of the Alberta Metis Settlements* (Regina: Canadian Plains Research Centre, 1991); Catherine E. Bell, *Alberta's Metis Settlements Legislation: An Overview of Ownership and Management of Settlement Lands* (Regina, Canadian Plains Research Centre, 1994); Murray Dobbin, *The One-and-a-Half Men: The Story of Jim Brady and Malcolm Norris* (Vancouver: New Star Books, 1981); F. Kenneth Hatt, "The Land Issue and the Mobilization of the Alberta Metis in the 1930s," in *The Forgotten People: Metis and Non-status Indian Land Claims*, ed. Harry W. Daniels (Ottawa: Native Council of Canada, 1979), 73-87; Fred V. Martin, "Alberta's Métis Settlements – A Brief History," in *Forging Alberta's Constitutional Framework*, eds. Richard Connors and John M. Law (Edmonton: University of Alberta Press, 2005), 345-389; Douglas Sanders, "Metis Rights in the Prairie Provinces and the Northwest Territories: A Legal Interpretation," in *The Forgotten People: Metis and Non-status Indian Land Claims*, ed. Harry W. Daniels (Ottawa: Native Council of Canada, 1979), 5-22; Donald G. Wetherell and Irene R. A. Kmet, *Alberta's North: A History, 1890-1950* (Edmonton: University of Alberta Press, 2000); R'Chie Kelly Moffett, "Furrows of Stone: Race, Politics, and the Alberta Metis Land Question, 1932-1936" (M.A. thesis, Simon Fraser University, 2007); Denis Wall, *The Alberta Métis Letters: 1930-1940 Policy Review and Annotations* (Edmonton: DWRG Press, 2008).

⁵ Ken Hatt, "Ethnic Discourse in Alberta: Land and the Metis in the Ewing Commission," *Canadian Ethnic Studies* 17 no. 2 (1985): 64-79.

⁶ Throughout the Depression, provincial and municipal governments distributed relief payments (social welfare) to people in need. See: Alvin Finkel, "Social Credit and the Unemployed," *Alberta History* 31 no. 2 (1983): 64-79;

recognize the land settlements as anything more than a social welfare scheme. The provincial government's evolution from a needs-based rationale towards the recognition of Métis historical claims that the purpose of the settlements is "the preservation and enhancement of Métis culture and identity and to enable the Métis to attain self-governance" indicates a significant shift in Métis-government relations in Alberta.⁷

3.2 *The Natural Resource Transfer Agreements 1930: Unscrambling the Scrambled Egg*

As we have seen in the previous chapter, one of the most complicated issues involving the Natural Resources Transfer Agreements was homesteading and land-titles. Soon after assuming administrative control of the public domain in 1930, the provinces of Manitoba, Saskatchewan and Alberta began to open up new areas for homesteading.⁸ At the same time, a group of Métis families were squatting on a federal crown forest reserve near Fishing Lake in northeastern Alberta. The federal government permitted Métis and ex-treaty Indians who were pursuing a traditional livelihood of fishing, trapping, and hunting to occupy crown land.⁹ Several of these Métis families had been settlers on the St. Paul-des-Métis colony (an agricultural settlement) before it was disbanded by the federal government in 1909.¹⁰ Community leaders then petitioned the federal government for a reserve to be set aside for the community's use.¹¹

Gregory P. Marchildon and Don Black, "Henry Black, the Conservative Party and the Politics of Relief," *Saskatchewan History* 58, no. 1 (2006): 4-17.

⁷ Preamble to the *Constitution of Alberta Amendment Act, 1990*, RSA 2000, c C-24.

⁸ *The Land Surveys Act, 1933*, SS c 20. For more on the negotiations leading up to the *NRTAs* see Nicole O'Byrne, "The Answer to the 'Natural Resources Question': A Historical Analysis of the Natural Resources Transfer Agreements," (LL.M. thesis, McGill University, 2005).

⁹ Dobbin, *The One-and-a-Half Men*, 55.

¹⁰ Metis Association of Alberta, *Metis Land Rights*, 187.

¹¹ Norris, Malcolm, "A Brief Synopsis of the Origin and Development of the Present Metis Association of Alberta: Formerly l' Association des Métis d' Alberta et des Territoires du Nord-Ouest," in Appendix I, Fred Kenneth Hatt,

Due to the complexity of the ongoing natural resources transfer negotiations, however, the federal government had refused this request. Concerned that their squatters' rights would be abolished by the province in favour of opening up the land for agricultural settlements, the Métis started planning a strategy to lobby the provincial government for land to be set aside for a variety of uses including agriculture, hunting, trapping, and fishing.¹² The Métis squatters had few rights besides the right to reside on federal crown lands. There were no government services of any kind, and the Métis were ineligible for provincial relief programs because they did not hold title to their lands.¹³ After World War I, the Métis were also under pressure to sustain their traditional economic livelihood as they faced increased competition from non-aboriginal hunters and trappers. At the same time, the provincial government also significantly strengthened trapping, hunting, and fishing regulations. Licences were costly for the Métis who had limited access to cash.¹⁴ As the federal and provincial governments made plans to transfer control and administration of natural resources from the former to the latter, Métis squatters started to organize to protect the few rights they possessed and to petition the provincial government for a land grant.¹⁵

The Métis held their first formal meeting at the Roman Catholic chapel on the Frog Lake Indian Reserve on 24 May 1930.¹⁶ Approximately 30 people attended including an enfranchised Indian and descendant of Big Bear named Joseph Francis Dion. An educated man and devout

“The Response to Directed Social Change on an Alberta Metis Colony” (Ph.D. Diss., University of Alberta, 1969), 235.

¹² Wetherell and Kmet, *Alberta's North*, 321.

¹³ *The Provincial Relief Act, 1922*, SA c 66.

¹⁴ It cost \$25 for a provincial licence to sell pelts (approximately \$325 in 2014 dollars). *The Game Act, 1922*, RSA c 70, s 50.

¹⁵ Metis Association of Alberta, “Metis Land Rights” 187.

¹⁶ Joseph F. Dion, “An Account by J. F. Dion of his Activities in the Metis Association of Alberta,” Appendix II in Fred Kenneth Hatt, “The Response to Directed Social Change on an Alberta Métis Colony” (Ph.D. Diss., University of Alberta, 1969), 244.

Catholic, Dion taught at the Keheewin Indian Reserve school and would soon become an influential leader in the MAA. At the meeting, several issues were discussed including the transfer of the natural resources and the possibility of a land grant for the Métis living in the area.

In 1940, Dion reflected:

It was at the meeting at Frog Lake that I realized the true conditions to which the Half breed had degenerated, so it was toward the close of the meeting when called upon to give my idea of the situation as I saw it, that I may have said things which were not very complimentary to the occasion. The upshot of this flare of mine was that I was delegated then and there to go and present the Half breed case to the Authorities in Edmonton, I had unintentionally imposed upon myself a task which I knew not in the least how to tackle.¹⁷

The gathered Métis did not know how to organize politically or how to effectively petition the federal or provincial governments so they asked Joseph Dion to be their spokesperson, a literate professional who was knowledgeable about the situation facing the Métis.

During this early period of Métis organizing it seems local area politicians were eager to support the Métis cause. United Farmers of Alberta (UFA) MLA Loda Joly attended a subsequent meeting and promised to support the Métis cause at Fishing Lake. Little is known about Joly's motivations, but 1930 was an election year and the UFA, in power since 1921, was seeking a third term. Though the UFA won the election Joly lost the seat to his Liberal opponent, Joseph M. Dechene, and after he too met with the Métis, Dechene wrote to the Minister of Lands and Mines, Richard G. Reid. He advised the government to reserve Township 57 Ranges 1 & 2 West of the 4th Meridian (the area around Fishing Lake) for the Métis after the province had received control of public domain lands according to the terms of the *NRTAs*.

Dechene outlined in some detail various arguments in support of the land grant:

[The] land is out of the way of the other settlements: that the land is far from being of the best but that it is suitable for their needs for fishing, hunting, running cattle and horses and garden raising; that they would not interfere with anyone or anything, that many of

¹⁷ Ibid., 244-245. Historically, the term 'Half-breed' was used interchangeably, and often pejoratively, with Métis.

these half breeds are eking a very meager living in the vicinity of towns and villages and constitute a problem for these Communities as they are most of the time in need of relief and not only in years like the present but at all times; That these people would join the rest of the colony and manage with them and not cost the Province or Municipalities any money.¹⁸

This letter is the first indication that a Métis land grant was tied to relief. By the early 1930s, the Métis living in the southern areas of the province were doing very poorly economically. Many Métis in the south were squatting on road allowances and, as a result, were unpopular with local governments, which saw them as a drain on relief funds.¹⁹ Many Métis owned no property and, therefore, paid no taxes. Due to poor healthcare and the health conditions associated with their poverty, the Métis were also considered a public health risk and the children were often turned away from schools. Donald Wetherell and Irene Kmet have estimated that 50 percent of the Métis population (approximately 10,000 to 12,000 people) was desperately poor during this period.²⁰

During the summer months of 1931, the Métis organized around the idea of a land grant. They elected six councillors to represent their interests and circulated a petition. The petition has not survived, but likely had to do with land tenure given that another petition on that issue with 500 names was forwarded to the provincial government later that same year.²¹ On the same day, Dechene again wrote Minister Reid to inform him that the Métis leaders had decided to have a meeting on 29 August and that it would be in the government's interest to have a representative present. "I am astounded at the size of the movement and am strongly of the opinion that it

¹⁸ Provincial Archives of Alberta (hereafter PAA), Sessional papers of the Legislative Assembly, 70.414, file 1417, J. M. Dechene to R. G. Reid, 3 June 1931.

¹⁹ In the Prairie Provinces, the land survey allowed for 20 to 30 m of land between sections to create access to each quarter-section. Not all road allowances were used to build roads. Many Métis lived on this land. See, Chester Martin, "*Dominion Lands*" Policy (Toronto: McClelland & Stewart, 1973), 17.

²⁰ Wetherell and Kmet, *Alberta's North*, 320.

²¹ Dobbin, *One-and-a-Half-Men*, 59.

cannot be ignored.”²² Dechene pleaded for government support and added at the end of his letter that, “I had nothing to do with starting this thing and that I am doing my best to assure these fine and deserving people that the Government will be pleased to give the best attention to their requests.”²³ The pleas of the opposition member fell on deaf Ministerial ears, however. The government failed to send a representative to the meeting. In response, the Métis at Frog Lake decided to appoint a delegation to go to Edmonton to meet with the government. The four representatives elected were Dechene, Joseph Dion, Liberal Member of Parliament John F. Buckley, and a Métis businessman from St. Paul. Unfortunately, Buckley was killed in a car accident before the meeting and another representative fell ill. Again the government ignored the request for a land grant.²⁴

Meanwhile, another politician began lobbying the UFA government on behalf of the Métis. The federal Conservative MP for Athabasca, Percy G. Davies, on a trip to northeastern Alberta, had been “surprised and depressed to learn of the conditions surrounding the present means of living of the Half-breeds.”²⁵ When he returned to Ottawa he wrote to the provincial Director of Unemployment and Farm Relief, who informed him that the provincial government was aware of the issue. Then, in a letter to Alberta Premier John Brownlee, Davies outlined a plan that he had “talked over with some of the Indian Agents who are most familiar with the situation.”²⁶ Both agreed with Davies’ proposal to alleviate some of the dreadful conditions the Métis were facing in the province. Davies closed his letter by suggesting that blocks of land be set aside, because “I believe that the Half-breed people are more satisfied when living together,”

²² PAA, Sessional papers of the Legislative Assembly of Alberta, 1909-1960, 70.414, file 1417, J. M. Dechene to R. G. Reid, 3 June 1931.

²³ Ibid.

²⁴ Dobbin, *One-and-a-Half Men*, 59.

²⁵ PAA, Premiers’ papers, 69.289, P. G. Davies to J. E. Brownlee, 18 June 1931.

²⁶ Ibid.

and assured the premier that the Indian agents he had consulted thought that the idea was a practical one for the province to pursue.²⁷ There is no evidence that Premier Brownlee responded to this letter. Nevertheless, it provides a clear illustration of the way government decision-makers, both federal and provincial, conceptualized possible solutions to the socioeconomic problems faced by the Métis during the 1930s.

After hearing nothing from Minister Reid on the issue of a possible Métis land grant program, Dechene wrote another letter to the Minister. He enclosed copies of the materials that he and Dion had presented to the government the previous summer and reminded Reid that his predecessor, UFA MLA Loda Joly, had attended meetings with the Métis prior to the 1930 election when the “the agitation really became active.”²⁸ Again, there is no record of a response to Dechene from the Premier. However, just over a year later, Premier Brownlee wrote to Davies regarding the federal MP’s plan to “solve the half-breed problem.”²⁹ Premier Brownlee’s position was clear: “the government of this Province is not prepared to take the full responsibility of dealing with the Half-Breed situation and the request, therefore, has to be one of discussion between the Provincial and Dominion Governments.”³⁰ Due to the jurisdictional questions surrounding the province’s responsibility for scrip and the possible financial implications for the province, the premier was unwilling to discuss the matter.³¹

Premier Brownlee may not have wished to discuss the issue of setting up an Indian reserve system for the Métis of Alberta with a Conservative MP, nevertheless officials within the provincial government began to study the issue in spring 1932. In response to resolutions that

²⁷ Ibid. The term “Half-breed” reflects common historical usage.

²⁸ PAA, Sessional papers of the Legislative Assembly, 70.414, file 1417, J. M. Dechene to R. G. Reid, 5 April 1932.

²⁹ PAA, Premiers’ papers, 69.289, file 769, J. E. Brownlee to P. G. Davies, 16 August 1932.

³⁰ Ibid.

³¹ For a discussion of the complexities regarding scrip and the *NRTAs* see: Nicole C. O’Byrne, “A rather vexed question: The Federal-Provincial Debate over the Constitutional Responsibility for Métis Scrip,” *Review of Constitutional Studies* 12 (2007): 215-253.

had been forwarded from a meeting of the Métis in March, the Department of Lands and Mines created a questionnaire to be circulated among the Métis of the province. The government was interested in whether the Métis had previously taken scrip, settled on homestead land, and owned machinery and animals, as well as their general attitudes towards farming. These questions were formulated to gauge interest in the creation of an agricultural settlement.³² The questionnaire was an important step showing that the government thought the Métis living in the province as a group deserved special consideration.³³ On this basis, the province of Alberta would appoint a Royal Commission to look into the socio-economic condition of the Métis and to enact legislation designed specifically to address these issues. The questionnaire also served as a census, enumerating 1,087 heads of families with a total population of 3,964. Government officials estimated that there were between 10,000 and 12,000 Métis living in Alberta at the time.³⁴ Joseph Dion was actively involved in distributing the questionnaires to Métis throughout the province. He sent the surveys he collected to Deputy Minister of Lands and Mines J. M. Harvie, and attached a cover letter explaining that the Métis were interested, but “much as the Half breed wishes to have a haven of his own, he has learned to be careful, he has been misled so many times that he is slow in trusting even his friends.”³⁵ When filling out the survey, the Métis asked Dion a myriad of questions: Will they be compelled to live on the reserve? Will they have to stay once they entered? Will they be prevented from competing with outside economic interests? Will living on the colony dissolve their rights as free citizens? How will the land be allotted? In his letter, Dion assured Harvie that he represented the government fairly when

³² PAA, Sessional papers of the Legislative Assembly of Alberta, 1909-1960, 70.414, file 1417.

³³ Dobbin, *The One-and-a-Half Men*, 59.

³⁴ Hatt, *The Land Issue*, 79.

³⁵ PAA, Sessional papers of the Legislative Assembly of Alberta, 1909-1960, 70.414, J. F. Dion to J. Harvie, 7 September 1932.

answering these questions, but encouraged Harvie to put together a plan as soon as possible. Dion's letter presents the Métis questions in an insistent manner; however, he also carefully reassured Harvie that the "Half breeds as [*sic*] of course to leave it to the Department to decide on the most suitable location for them."³⁶

As officials in the Department of Lands and Mines collected statistical information on the possibility of setting up an agricultural colony for the Métis, the Métis themselves continued to organize politically. Throughout 1932, Dion travelled across the province talking to various Métis communities and distributing government questionnaires. At a March 1932 meeting in St. Paul, he met a Métis man named Jim Brady. A committed Marxist with union organizing experience, Brady advised Dion that the Métis needed to be organized and that strong leadership groups were needed in each Métis community throughout the province.³⁷ From that point on, Brady provided the burgeoning Métis movement with strategic direction and organizational structure. In a letter to Dion written years later, Brady revealed his central motivational idea during the early years of the Métis land movement: "The Métis have no other weapon except organization."³⁸ Brady knew that the UFA was in trouble politically and that the timing was right for an organized group to petition the government.³⁹

As 1932 progressed, the Métis movement attracted a number of leaders with skills that complemented one another. Dion, Brady, Malcolm Norris, and Peter Tomkins, Jr. made particularly important contributions.⁴⁰ Dion, a devout Catholic and the only non-Métis involved at the leadership level, was connected to the Roman Catholic clergy. His rhetoric was full of

³⁶ Ibid.

³⁷ Dobbin, *The One-and-a-Half Men*, 61.

³⁸ Glenbow Archives (hereafter GA), Brady papers, J. P. Brady to J. F. Dion, 21 April 1940. According to Brady's biographer, this adage was an adaptation of a quotation from Lenin's work *One Step Forward, Two Steps Back*. (Dobbin, *The One-and-a-Half Men*, 67).

³⁹ Ibid., 69.

⁴⁰ Hatt, "The Land Issue," 73.

religious symbolism and this language had currency with religious leaders in northern Alberta. As a political strategist, Brady put together a plan to lobby the government. In addition to these skills, Brady knew how to organize people on the ground – a skill he had developed through his involvement in the co-operative movement. Malcolm Norris lived in Edmonton and became the political lobbyist for the movement. He was connected to politicians and knew how to speak their language. Peter Tomkins Jr. lived in Grouard and was aware of the needs of the Métis people living in the community. He organized clothing drives and encouraged charities to help. Tomkins also had the talent to hold the organization together when personalities within the movement clashed. According to Ken Hatt, it was the synergy between these leaders that allowed the Métis to organize into a formidable political organization and compel the provincial government to act.⁴¹ Although divided by significantly different ideological perspectives (Brady and Norris were leftist atheists who saw the emerging Métis movement as a revolutionary political organization), the leadership shared a primary goal – to secure a land base for the Métis people of Alberta. In later years, these differences in personal temperament and perspective would lead to problems within the organization. However, in the early years, the organization was effective due to its united purpose and vision. Based on a labour union model of organization, locals were set up in nearly all the Métis communities in the province and councillors were elected by the membership. Joseph Dion wrote to inform the councillors that he and the Deputy Minister of Lands and Mines would like all the councillors to meet on 28 December 1932 “for the purpose of arriving at a final decision and put in a concrete form what we want from the Government.” The main topics on the agenda were: 1) the object and aims of the association; 2) a decision on the most suitable location or locations of the reserves or

⁴¹ Ibid, 75.

settlements; and 3) the question of education for the Métis children. In his letter, Dion emphasized the importance of all councillors attending, and requested that local meetings should be organized to discuss the issues beforehand.⁴²

On the appointed day, 33 councillors met in the basement of the Roman Catholic church in St. Albert and formally constituted the L'Association des Métis d'Alberta et des Territoires des Nord Ouest (also known as the Metis Association of Alberta or MAA) and elected Joseph Dion president and Jim Brady Secretary-Treasurer.⁴³ The aims of the organization were to persuade the government to reserve land for the Métis, lobby for education and health care services, and request free hunting, fishing, and trapping licenses. In a lengthy and impassioned address, Frank Callihoo, one of the MAA Vice-Presidents, attributed blame for the current socio-economic conditions on the failure of government policies in the past such as scrip:

...after so many years in the North West, we are compelled by necessity to ask for justice and the fulfillment of promises so freely given when our land was opened to settlement.... Our aim is to see that no one be permitted to suffer because of maladministration of the Metis question. The word "maladministration" brings forcibly to my mind one of the great difficulties. Many of our Metis people are suffering in circumstances which authorities refuse to admit arise from the mishandling of Metis problems. Many are prone to lay the fault on the delinquencies on the Metis which contributed to their present condition. To me a person takes a great deal on themselves when he says that these conditions are attributable to the Metis entirely....⁴⁴

In conclusion, Callihoo called on the government to act now to address past injustices by developing land, health, education, and natural resources policies for the Métis. If the government failed to act, Callihoo warned his audience that the "[a]uthorities of the future,

⁴² PAA, Sessional papers of the Legislative Assembly of Alberta, 1909-1960, 70.414, file 1417, J. F. Dion to Councillors of the Metis Association of Alberta, 28 December 1932.

⁴³ Other officers included 1st Vice-President Malcolm Norris; 2nd Vice-President Felix Callihoo; 3rd Vice-President Henry Cunningham (replaced by Peter Tomkins, Jr. in 1933).

⁴⁴ PAA, Sessional papers of the Legislative Assembly of Alberta, 1909-1960, 70.414, file 1417, J. F. Dion to Councillors of the Metis Association of Alberta, 28 December 1932.

charged with the well being of the people, cannot be free from a charge of callous indifference.”⁴⁵

In a more measured address, Joseph Dion called for unity of purpose in the newly formed organization:

Our movement is non-political and non-sectarian. We stand firmly against interference from any quarter. We feel we have a duty to perform toward our more unfortunate compatriots and on whose behalf we have gathered here today...we find many of our Metis reduced to pitiable circumstances. Our hope lies in voluntary organization.

[...]

We feel that this problem of relief could be done away with to a great extent if the Government would set aside portions of land as future homes of the Half-Breed people. Past experiences have taught us a very severe lesson and we will not fail if we are given a chance to vindicate ourselves.⁴⁶

Dion also reported on the activities that had been undertaken in the various locals and emphasized the need for councillors to talk to their membership. Throughout his address, Dion used terms such as “Brother” to refer to other members, and spoke of the need for solidarity of purpose. Though Dion was no radical, it seems he had learned something about the use of political discourse from Brady and Norris to reinforce organizational coherence.

Dion’s and Callihoo’s speeches, however, reveal some fundamental differences that existed within the membership of the MAA. Dion’s goals for the organization were more paternalistic and charitable in nature. The Métis, through ‘voluntary organization,’ would be able to help their fellow Métis who were less fortunate. A land grant would be a means of achieving this goal. Dion also attributed the fault of the Métis scrip program to the Métis themselves and not the government. He blamed the Métis for not holding onto scrip land and for selling it to land speculators to make a quick profit. However, he believed that the Métis had

⁴⁵ Ibid.

⁴⁶ Ibid.

learned a valuable lesson, and that the government would not be wasting its resources by granting the Métis a land reservation. In marked contrast, Callihoo put the blame for the failure of the scrip program squarely on the government, and not on alleged defects in what Dion described as “the Métis character”. These two approaches characterize divergent attitudes towards the land grant solution during this period. To Dion and government officials, a land grant was a means of distributing government relief and providing services for the Métis such as education and health. For the Métis (Callihoo, Norris, and Brady), the land grant represented a means by which the Métis could band together to solve their socioeconomic problems. These two views would not be reconciled until 1990 when the provincial government of Alberta amended its constitution and adopted the Métis perspective decades after the fact.

At the 28 December meeting, a number of important issues with respect to the new organization’s constitution and the nature of the proposed settlements were discussed by the membership.⁴⁷ The constitution left membership open to all British subjects with Indian ancestry including Métis, non-status, and treaty Indians. This broad definition provided that anyone pursuing a traditional livelihood of hunting, fishing, and trapping could voluntarily join the organization. The most important issue discussed, however, was the nature of the proposed land grant. Unlike individual allocations of Métis scrip, the assembly decided that the title for reserve land would be non-transferable and remain with the crown. The settlements were to be self-governing by a locally elected administration that would be accountable to both the MAA and the provincial government. Most significantly, members would not be wards of the provincial

⁴⁷ At this meeting the delegates discussed removing all references to “Half-breed”: “The term Metis applies particularly to our people. The word “Half-Breed” is suggestive of a person of any mixed descent and to many is of odious nature.” GA, Dion Papers, Minutes of General Meetings, 1939, 19521-53, 1957.

government.⁴⁸ Clergy would be granted limited rights to land on each reserve, industrial schools would be established, and a doctor would be hired who would treat the Métis at no cost.⁴⁹

The 28 December meeting formally constituted the MAA as an independent self-governing organization with a central executive overseeing member locals. However, the meeting was also important due to the attendance and participation of the deputy minister of lands and mines. Minister Richard G. Reid received reports of the meeting. These reports clearly specified that the settlement project was a joint venture between the Department of Lands and Mines and the MAA. Reflecting on the failure of the scrip program, the reports ended with a request for direct assistance from the government in the form of a land grant:

...such consideration and assistance should include among other things, the immediate adoption and establishment of specifically reserved areas for an ordered plan of settlement of Half-breeds and non-treaty-Indians and the establishment of proper and adequate education facilities for them.

Therefore we the duly authorized and appointed delegates of the Half-breed Association of Alberta and NorthWest Territories do most respectfully petition that your Department and yourself give fair and careful consideration to the representation and resolutions herein submitted which we conscientiously feel are reasonable and fully justified by the conditions at present prevailing among our people and would achieve a most gratifying and helpful result as desired both by the Government and ourselves.⁵⁰

At the meeting, Deputy Minister Harvie had proposed that one large area be granted to the Métis in the northern part of the province. Harvie's comments seem to be premised on the understanding that Métis from the southern areas of the province would be moved north to join a Métis settlement there. The members of the MAA, however, insisted that one tract of land would not be able to accommodate Métis settlers due to the diverse nature of their economic

⁴⁸ Wetherell and Kmet, *Alberta's North*, 322.

⁴⁹ Dobbin, *The One-and-a-Half-Men*, 62.

⁵⁰ PAA, Premiers' Papers, 69.289, file 769, Dion, Norris and Brady to R. G. Reid, Annex A, Report of the 1st Annual General Meeting of the MAA.

pursuits.⁵¹ Education was another issue discussed at length. The members of the MAA painted a bleak picture of the current situation: “the Half-breeds, non-treaty Indians and their respective children are wholly illiterate, uneducated and without any vocational training whatsoever.” The Métis claimed that treaty Indian children were at a great educational advantage because they could attend industrial schools at no cost. The delegates insisted that the government take immediate action.⁵²

After being ignored by Premier Brownlee, Percy Davies changed tactics and convinced the opposition to raise the issue of the province’s treatment of the Métis in the legislature. David M. Duggan, the Conservative house leader, accused the government of neglecting its responsibility for health, education, and the general welfare of the Métis. On 27 February 1933, he moved a resolution calling for a special committee of the legislature to be appointed to look into the situation with consideration of “some plan of colonization of the half-breed people.”⁵³ Premier Brownlee then introduced an amendment: “That the Government should, during the present year, continue its study and enquiry into the problems of the half-breed population with a view to presenting its recommendations to this Assembly at the next Session thereof.” To hasten government action, Dechene introduced a sub-amendment to the effect that the government must bring its recommendation to the house within ten days of the next session.⁵⁴ These resolutions suggest that the Métis cause was gaining traction in the provincial political arena.

Over the subsequent months, Deputy Minister Harvie and officials at the Department of Lands and Mines studied the issue of Métis settlement. In a June 1933 report, Harvie found that

⁵¹ Ibid.

⁵² Ibid.

⁵³ PAA, Premiers’ papers, 69.289, file 769, Votes and Proceedings of the Legislative Assembly of the Province of Alberta, Third Session of the Seventh Legislature, 27 February 1933.

⁵⁴ Ibid.

the Métis were much worse off socially and economically than Indians living on reserves, and commented that “[t]he future of the half-breed in the province is one that must be viewed with grave concern if anything is to be accomplished at even this late date.”⁵⁵ Harvie suggested that an independent commission would be needed to put together sufficient information to make a decision about the creation of Métis settlements. In Harvie’s opinion, too many jurisdictional and substantive questions needed answers before the government could make a proper decision. Harvie suggested that if the federal government was willing to accept any responsibility it should appoint a representative to the proposed commission. He warned that “if undertaken by the Provincial Government alone it would involve a very large expenditure which, under present financial conditions, would be very difficult to meet.”⁵⁶ Furthermore, even if funds were available, Harvie warned his minister that past experience with the Métis suggested that finding a solution would prove difficult.⁵⁷

Unaware of Harvie’s pessimistic outlook regarding Métis settlements, the MAA planned its second convention for 25 June 1933. During the one-day conference, the executive consulted with the membership and renewed its mandate to negotiate with the provincial government regarding registered traplines and land reserves.⁵⁸ Introduced by the province as a conservation measure and modelled after the system recently brought in by British Columbia to promote sport fishing and hunting, the registered trapline system was very unpopular with the Métis because it imposed new fees and regulations. The Métis passed a resolution requesting that free licenses be provided by the government until the land reserves could be set aside. A further resolution called for “reservations in general along the lines and in accordance with the Government’s

⁵⁵ PAA, Premiers’ papers, 69.289, file 769, J. Harvie to R. G. Reid, 24 June 1933.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Dobbin, *The One-and-a-Half-Men*, 72.

policies at present prevailing with regard to the Treaty Indians.” The Métis also requested that Métis game wardens be hired because non-aboriginal game wardens tended to discriminate against the Métis.⁵⁹ It is clear from these resolutions that the Métis believed that they were being unfairly treated when compared to treaty Indians and non-aboriginal trappers, hunters, and fishers. The Métis thought that an exclusive land grant would solve these problems and give them preferential access to trapping, hunting, and fishing.⁶⁰

Soon after the meeting, Joseph Dion sent a lengthy letter to the Department of Lands and Mines outlining the developments at the Métis annual convention. He mentioned that the Métis, ably assisted by department officials, had identified suitable lands for settlements at 11 different locations. Dion was optimistic that the federal government would recognize its obligations and wondered how much money the federal government had saved by not distributing treaty annuities, implying that the savings should pass to the people in need. Regarding the distribution of direct relief to Métis in northern Alberta, however, Dion cautioned the government:

I want to warn the government against the consequence should the half-breed get into the habit of expecting relief always, he is an Indian and if given an inch will demand a mile. Barring extreme cases of destitution, and the sick who have to be looked after, we should be able to arrive at some happy medium regarding this question.⁶¹

Dion believed that the distribution of relief created a culture of dependency. On his report, Dion scribbled the phrase, “Those who refuse to work reject life itself.”⁶² According to Dion, there was only one solution to the economic problems facing the Métis:

I may be misunderstood by some when I ask the Government to set aside a piece of land for the settlement of the half-breeds only. I never intended that the Government should

⁵⁹ PAA, Report of the Ewing Commission , 75.75, Box 1, 3c, MAA to G. Hoadley, 26 August 1933.

⁶⁰ Commission Evidence p. 127 as cited in Judith Hill, “The Ewing Commission, 1935: A Case Study in Metis-Government Relations,” (B.A. Honours Essay, Department of History, University of Alberta, 1977), 127.

⁶¹ PAA, Premiers’ papers, 69.289, file 769, J. F. Dion to Department of Lands and Mines, Annex B. Report of the 1st Annual General Meeting of the MAA.

⁶² Ibid.

feed them, but rather to help these people to support themselves, as they have always been able to.⁶³

A good organizer with a clear vision for helping the Métis, Dion consistently behaved as if the government would recognize its moral obligation and act accordingly.

To keep up the political pressure, the MAA held its third annual convention on 11 and 12 January 1934. By then approximately 1,200 members were organized into 41 locals. Again, attendees passed resolutions on land grants, social conditions, natural resources, registered traplines, education, and health and forwarded these to the provincial government. The MAA reported to the government that they had received 1,011 questionnaires, representing approximately 5,000 Métis, and the overwhelming preference was that the Métis wanted to enter “into an ordered plan of settlement... a plan of settlement by way of Reserves would be preferable to any plan of individual settlement.”⁶⁴ Perhaps unsurprisingly, this resolution fell on deaf ears. The government ignored the 1933 resolution calling for a report to be made within the first ten days of the 1934 session.⁶⁵

The provincial government made no move on the Métis land question during the first half of 1934. This delay may be partially explained by the economic hardships caused by the Great Depression as well as Premier Brownlee’s resignation as a result of allegations involving sexual impropriety.⁶⁶ On 10 July 1934, Richard G. Reid, former minister of lands and mines, was sworn into office as premier. A conservative man by nature, Reid “believed in collective self-

⁶³ PAA, Premiers’ papers, 69.289, file 769, J. F. Dion to Department of Lands and Mines. Annex B. Report of the 1st Annual General Meeting of the MAA.

⁶⁴ PAA, Sessional papers of the Legislative Assembly of Alberta, 1909-1960, 70.414, file 1417, MAA to Executive Council, 29 January 1934.

⁶⁵ GA, Brady papers, J. M. Dechene to J. F. Dion, 12 April 1934.

⁶⁶ See, Franklin L. Foster, “John E. Brownlee, 1925-1934,” in *Alberta Premiers of the Twentieth Century*, ed. Bradford J. Rennie (Regina: Canadian Plains Research Centre), 78-106.

help through cooperation” and proved amenable to the MAA’s idea of a Métis land settlement.⁶⁷ Within the first week of Premier Reid’s term, the provincial cabinet voted to establish a Royal Commission (the Ewing Commission) to look into social and economic conditions of the Métis living in Alberta. Aware of the potential financial implications, Reid wanted the federal government to be involved. He wrote to his minister of railways and telephones, George Hoadley, who would shortly be going to Ottawa to attend a Dominion-Provincial relief conference, about asking the federal government to appoint a federal representative to the provincial commission. Reid made no mention of scrip, or the fact that a large portion of MAA members were Indians who had given up their treaty rights. Given the financial state of the province, Reid needed the federal government’s involvement to implement a solution.

Reid and Hoadley continued to lobby the federal government to appoint a commissioner to the provincial inquiry on Métis issues. On 7 September 1934, Hoadley reported to Reid that the federal government refused to appoint a commissioner. “They considered it wholly a matter for the Province to deal with, as all half-breeds are citizens and do not come under the Department of Indian Affairs or any other federal Department.”⁶⁸ Hoadley telephoned the Superintendent of Indian Affairs, Thomas G. Murphy, to plead Alberta’s case. In a follow-up letter to Hoadley, Murphy clearly stated that his department’s responsibilities extended only to Indians as defined by the 1927 Indian Act.⁶⁹ This position was consistent with the arguments the federal government was making at the Natural Resources Royal Commission. The Métis were considered Indians for the purposes of section 91(24) of the British North America Act⁷⁰ for the

⁶⁷ Ibid., 108.

⁶⁸ PAA, Premiers’ papers, 69.289, file 769, G. Hoadley to R. G. Reid, 7 September 1934.

⁶⁹ *The Indian Act*, RSC 1927, c 98; PAA, Premiers’ papers, 69.289, file 769, T. G. Murphy to G. Hoadley, 10 October 1934.

⁷⁰ The *British North America Act 1867*. Renamed the *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5 [*BNA Act, 1867*], s 91(24).

sole purpose of distributing Métis scrip. Any obligation for outstanding scrip was to be transferred to the provinces as a trust under paragraph 1 of the Natural Resources Transfer Agreements. The province could make no argument that would convince the federal government to accept responsibility for any people outside the jurisdiction of the federal Indian Act.

As the federal and provincial governments wrangled over issues of jurisdiction and the appointment of commissioners, the MAA executive were frustrated by the delay. After the provincial government failed to follow through on its 1933 resolution, Jim Brady wrote to Dion about the government's dishonourable behaviour:

....we know now that they are not fighting in the manner of Western men, fair and in the open, but adopting tactics that are unBritish, dishonourable and not worthy of the traditions of the great Laurier and MacDonald [sic].⁷¹

During this period, the leaders of the MAA strongly believed that political lobbying and legislative change would be the most effective ways to improve socio-economic conditions for the Métis. However, as the government continued to stall, Brady began to explore other options. For example, he consulted with MP Davies about going to court to get a declaration that the Métis were a jurisdictional responsibility of the province. Ultimately, he decided not to pursue this option because he did not know how to compel the government to take the case forward.⁷² Brady was sceptical about the government's intentions and tactics, citing the approach of a general election, and evidence that the federal government was trying to discredit the MAA executive.⁷³ For example, the Department of Indian Affairs offered to appoint Dion chief of his

⁷¹ GA, M-125-39, Brady papers, J. P. Brady to J. F. Dion, 14 April 1934.

⁷² This was a few years before the landmark Supreme Court of Canada case *Ref re: Eskimos*, [1939] SCR 104. In this case, the court decided that Inuit were Indians for the purposes of exercising jurisdictional authority pursuant to section 91(24) of the *BNA Act, 1867*. Additionally, the doctrine of sovereign immunity required that anyone wishing to sue the government needed its permission to do so. Even today only a government can order a reference.

⁷³ GA, M-125-39, Brady papers, J. P. Brady to J. F. Dion, 14 April 1934.

band if he re-established his treaty rights.⁷⁴ This appointment would have effectively negated Dion's ability to effectively lobby on behalf of the Métis.

When the government finally announced the commission, Brady began to prepare the MAA submission. He undertook an intensive study of Métis history, particularly land claims. Brady's intent was to use the provincial commission to set the historical record straight with respect to land claims by the Métis. In particular, he planned to make structural economic arguments to account for the loss of Métis scrip and the failure of the St. Paul-des-Métis settlement. Brady wanted to collect strong evidence that these failures were due to economic forces rather than deficiencies in the "Métis character". Brady believed that if the commissioners accepted these arguments then they would be more likely to recommend a land grant. If, on the other hand, commissioners believed that a further land grant would be wasted because the Métis did not have the temperament or inclination towards adopting a farming lifestyle then the Métis cause would be lost.⁷⁵ Brady grounded Métis claims to land in historical entitlement and rights to redress for the failure of the scrip program.

3.3 The Royal Commission on the Condition of the Halfbreed Population of the Province of Alberta (The Ewing Commission)

On 12 December 1934, the Alberta government appointed the Royal Commission on the Condition of the Halfbreed Population of the Province of Alberta, better known as the Ewing Commission after Chair Albert F. Ewing.⁷⁶ The other two commissioners were James M. Douglas, a stipendiary magistrate, and Dr. Edward A. Braithwaite. Constituted under the *Public*

⁷⁴ GA, M-125-39, Brady papers, J. F. Dion to J. P. Brady, 21 February 1939.

⁷⁵ *Ibid.*, 82.

⁷⁶ Alta Reg 1095-34.

Inquiries Act,⁷⁷ the commissioners had power to collect evidence, compel witnesses, conduct hearings, and make on-site visits. The hearings commenced on 25 February 1935 at the Edmonton courthouse.⁷⁸ Liberal MLA Joseph Dechene acted as counsel for the MAA executive. The commission heard testimony from government officials, MAA executive members, Catholic bishops, MLA's, the federal superintendent of Indian Agencies, and a number of doctors who worked in northern communities. The commission also accepted written submissions from a number of parties including the MAA, federal officials, and doctors.

The Ewing Commission held powers of subpoena under the *Public Inquiries Act*, but its frame of reference was quite narrow. The focus of the inquiry was the current socio-economic status of the Métis population in the province and how to fashion a remedy to address the situation. Although its terms of reference did not specifically say so, it was assumed by all that a land grant would be part of the solution due to the dire state of the province's finances. The inquiry was not charged with redressing historical issues such as the failure of scrip or other government programs such as the St. Paul-des-Métis colony.

Brady's strategy at the Ewing Commission was first to outline the governance structure and representational capacity of the MAA. The MAA had two main goals: (1) to secure a land grant to provide an economic base for the Métis; (2) to establish the MAA as the organization responsible for advising the government on the settlements.⁷⁹ The MAA submission outlines their argument and is worth quoting:

We will undertake to show the depths of poverty to which the Metis people have been reduce [*sic*] since the surrender of Rupert's Land. We will set out the economic and social measures demanded of the Government to bring economic improvement and

⁷⁷ *Public Inquiries Act*, RSA, 1922, c 26.

⁷⁸ PAA, Evidence and Proceedings, *Report of the Royal Commission on the Condition of the Halfbreed Population of the Province of Alberta* (1936), 72.242, file 6SE, 1.

⁷⁹ Fred K. Hatt, "Ethnic Discourse in Alberta: Land and Metis in the Ewing Commission," *Canadian Ethnic Studies* 17 (1985): 69-79.

security to the Metis population. It will then be shown that the measures require the completion of our unification with the Canadian nation and that in the alternative we face disaster and ruin...

The history of the Metis of Western Canada is really the history of their attempts to defend their constitutional rights against the encroachment of nascent monopoly capital. It is incorrect to place them as bewildered victims who did not know how to protect themselves against the vicious features which marked the penetration of the white man into the Western prairies....

In seeking a solution we must re-examine the Metis question in the light of the economic and social developments of the last seventy years. The government will give ready recognition to the point of view that any constructive chance of policy must proceed from the needs of the people. The Alberta Metis Association shares this belief in common with all constructive thinking people. It is this attitude and the conclusions which must be drawn from it that we wish to set forth in basic outline to you. It is our hope that it may commend itself to your judgment and influence your deliberations to the end that it will become the embodiment of the progressive aspirations of the Metis population in their struggle for rehabilitation.⁸⁰

Notably socialist in orientation, Brady's argument relied on historical claims regarding the structural problems faced by the Métis as a result of non-aboriginal settlement. He offered a bold counter-narrative to the view that so-called defects of the Métis were responsible for their land dispossession. Brady reminded the commissioners that Métis people were not individually responsible for their poor socio-economic status.

The narrow terms of reference, however, left little room for Brady's extensive argument regarding the historical and structural reasons for the current socio-economic conditions facing the Métis. MAA executive members Dion, Brady, and Norris were among the first witnesses to testify at the hearings. During their testimony, the Chair consistently reminded them that historically-based arguments were beyond the scope of the commission and he treated members of the MAA with impatience. At various times, commissioners challenged the MAA's capacity

⁸⁰ *Alberta Metis Association Brief – 1935* (preamble) as cited in Dobbin, *The One-and-a-Half-Men*, 89-90.

and credentials.⁸¹ No other witnesses had to produce qualifications or establish that they had a right to speak with authority concerning the socioeconomic conditions in Alberta's Métis communities. The questioning of the MAA executives was so harsh that by the end of the second day, Norris stated that the MAA preferred to rely on their written submission rather than continue with oral testimony. From this point onwards, the MAA, through their counsel, intervened only to clarify a point of testimony.

This withdrawal from full participation in the process is notable because the MAA members who testified did not present the commissioners with the class-oriented and historical arguments contained in their written submission. Their oral evidence addressed living conditions and the need for a land grant to promote economic independence. However, by presenting arguments in this fashion, the MAA fed directly into what historical sociologist Ken Hatt has described as the "pathology model" in which "[t]he situation of the Metis was considered analogous to an illness; reference to historical, political or economic argument was strongly discouraged."⁸² According to the circumscribed terms of reference, there were few alternatives to this model.⁸³ The MAA executive members shifted strategy to advocate for a land grant. They argued for a broad definition of "illness" to prompt the government to create a far-reaching remedy. However, as a result, their testimony became deferential in tone which confirmed the view that the majority of Métis were hopeless, uneducated indigents who needed to be provided for by state care. This turn in emphasis came much to the MAA executive members' frustration and disappointment.

⁸¹ PAA, Evidence and Proceedings in Report of the Royal Commission on the Condition of the Halfbreed Population of the Province of Alberta, 1936, 72.242, file 6SE, 86.

⁸² Hatt, "Ethnic Discourse," 69-70.

⁸³ GA, M4755 Metis Association of Alberta, file 629 Ewing Commission, F. K. Hatt, "The Ewing Commission of Alberta: An Interpretive Study of the Public Aspects of Policy Making," n.d.

Another issue that circumscribed the MAA executive's arguments was the definition of Métis adopted by the commissioners: "... anyone who has the slightest strain of Indian blood, and who lives the life ordinarily lived by the Metis population, not differing from them in the standpoint of education and ordinary life, should be treated as a Half-breed, for the purposes of this Commission."⁸⁴ Norris agreed with this definition based primarily on livelihood and on a loose definition by parentage. It was the MAA's position, as evidenced by their membership policy, which was open to all British subjects with Indian blood, that lifestyle mattered more than genetics when it came to defining whether someone was a Métis. However, this definition excluded Métis who had been "assimilated in the social fabric of our civilization," with the result that only poor Métis would be allowed to live on settlements as they were the only ones who needed economic assistance. The distinction between needy and better-off Métis eliminated any chance that a solution would include an identity-based homeland for the Métis. The government would only deal with the needs of destitute Métis for the purposes of the commission. Generally, this included only the Métis in central Alberta who could no longer support themselves due to the encroachment of non-aboriginal settlers or those non-treaty Indians who had taken scrip.⁸⁵

Most of the evidence presented to the commission had to do with the current educational and health needs of the poorest groups of Métis. Witnesses such as Dr. McIntyre estimated that 90 percent of the population in one north-central community were infected with tuberculosis. He testified that the Métis suffered from a whole range of diseases from syphilis to malnutrition, and had very limited access to medical care.⁸⁶ Dr. P. Quesnel submitted a brief to the commission in

⁸⁴ Ibid. For more on the debate over Métis identity at the Ewing Commission see Heather Devine, "Being and Becoming Métis: A Personal Reflection," in *Gathering Places: Aboriginal and Fur Trade Histories*, eds. Carolyn Podruchny and Laura Peers, (Vancouver: UBC Press, 2010), 195-200.

⁸⁵ PAA, Falkener testimony in *Report of the Royal Commission on the Condition of the Halfbreed Population of the Province of Alberta*, 1936, 72.242, file 6SE, 424.

⁸⁶ Dobbin, *The One-and-a-Half-Men*, 100.

which he put forward his views about the Métis after practising for nearly 30 years in northern Alberta:

Their appalling ignorance makes them unfit to understand the first item of our laws of hygiene and sanitation. This same ignorance which has persisted amongst them for centuries, has made them indolent and given them a sub-normal mentality, all these deficiencies are conducive to laziness, laziness predisposes to poverty, and poverty in an ignorant, indolent race, means filth and filth brings disease.... The actual question of the half-breed is a damnable shame to our province.⁸⁷

Dr. Quesnel stated that approximately 90 percent of the Métis were living in very poor conditions. With respect to education, the reporting was similarly bleak. Several witnesses testified that nearly 80 percent of the Métis in the province had received no education. The Roman Catholic bishops who testified, such as Rev. J. Guy OMI, of Grouard, firmly supported the idea that an inalienable area of land should be set aside for the Métis, and that the Church should play a role in delivering education in the new Métis settlements.⁸⁸ The commissioners, government officials, and the MAA were less enthusiastic about Church-run schools.

Overall, the evidence presented to the commission regarding the current condition of the Métis was paternalistic in tone and followed a pathology model. One solution suggested by nearly all parties was to set aside land reserves so that the Métis population could be segregated and provided necessary services such as health and education. For example, Mindy Christianson, the Superintendent for Indian Agencies for the province of Alberta recommended that the government should do a survey and disregard Métis who were doing well economically. He suggested that the poor be moved north so that they could pursue a traditional livelihood of

⁸⁷ GA, M4755 Ewing Commission documents, file 643, P. Quesnel, Memorandum relative to the Half-breed situation at Lac la Biche, 19 August 1935. During this period, Aboriginal peoples were often regarded as being ignorant or careless about their health. See, Maureen K. Lux, "Care for the 'Racially Careless': Indian Hospitals in the Canadian West, 1920s to 1950s," *Canadian Historical Review* 91, no. 3 (September 2010): 407-434.

⁸⁸ GA, M4755 Ewing Commission documents, file 644, Metis Association of Alberta, Synopsis of Rev. J. Guy O.M.I.

hunting, fishing, and trapping, and that any settlements would have to be managed by a government department.⁸⁹ Essentially, Christianson recommended that the province set up Métis settlements on a federal government Indian reserve model.

After the hearings concluded, the commissioners and the commission's secretary and solicitor for the provincial Department of Lands and Mines, T. C. Rankine, toured various northern communities to assess for themselves the living conditions of the Métis. At every stop, the commissioners heard demands for a land grant. Norris feared the visits would only confirm the image of Métis as suspicious, withdrawn, and in need of paternal supervision.⁹⁰ On 5 December 1935, Rankine wrote the following to Harvie: "It is perfectly true that these people are like children, helpless and irresponsible."⁹¹ Norris's fears proved correct.

On 15 February 1936, the Ewing Commission submitted a brief 14-page report divided into three parts: (1) a description of the socioeconomic conditions of the Métis; (2) an assessment of the causes; and (3) a recommendation for economic and social rehabilitation. Despite voluminous evidence to the contrary, the commissioners found that the health outcomes for the Métis were no worse than for other settlers in the province. They did agree, however, that the levels of education were extremely poor. With respect to recommendations, the commissioners saw only two alternatives: integration into mainstream society or extinction. Government assistance in the form of land reserves would be an important measure for educating, training, and improving the health of the Métis, who would then join the rest of society. The traditional livelihood of the Métis was deemed impossible to sustain. Training in agriculture on settlements was regarded as the only permanent solution to the economic problems facing the Métis. This

⁸⁹ GA, M4755, Ewing Commission documents, file 645, Metis Association of Alberta, M. Christianson to A. E. Ewing, 16 May 1935.

⁹⁰ GA, M-125-39, Brady papers, M. Norris to J. P. Brady, 29 December 1934.

⁹¹ GA, M-125-39, Brady papers, T. C. Rankine to J. Harvie, 5 December 1935.

recommendation was based on four premises: (1) the scheme should be comprehensive not temporary; (2) it needed to be “a relatively inexpensive scheme”; (3) the Métis would not be made wards of the provincial government because doing so “would undermine his initiative, destroy his sense of responsibility and prevent his ever becoming a self-supporting citizen”; and (4) the Métis will provide their labour free of charge.⁹²

The commissioners laid out the general conditions for land settlements. The areas selected should contain a reasonable amount of good agricultural land, access to timber, fish, and markets, be capable of enlargement, and free from interference by non-aboriginal settlers. The title to the land would remain with the provincial crown. The colony would be under the supervision of a government-appointed inspector, who would have the powers of a police magistrate. The allotment of the land would be a privilege for suitable Métis applicants. Those who did not join, however, could not claim any form of public assistance. The commissioners did recognize one right accruing to the Métis “as the original inhabitants of these great unsettled areas”: preferential access to fur, fish, and game. They recommended that free permits be granted and that non-resident commercial operators should be regulated. Schools and hospitals would be opened on the settlements with access to all residents.⁹³

The Ewing Commission report marks the first time a provincial government recognized the Métis as a distinct group. It was the first government initiative developed since scrip designed to address the socio-economic disadvantages suffered by the Métis. However, the brief report was deficient in many ways. Legally, the Métis would not be wards of the government, but a government official would supervise many key aspects of life on the settlements. As

⁹² PAA, 72.242, file 6SE, *Report of the Royal Commission on the Condition of the Halfbreed Population of the Province of Alberta*, 1936, 3-4.

⁹³ *Ibid.*, 4-8.

usufructs, the Métis would not have title to the land and would not have any right to join any of the proposed settlements. However, if indigent Métis decided not to live on a settlement they would be denied other forms of relief. The report mentioned preferential hunting, trapping, and fishing, but did not explain how these preferential rights could be exercised on settlements that were to be primarily agricultural in purpose. After hundreds of pages of testimony, on-site visits, and months of deliberation, the recommendations of the Ewing Commission report were cursory. Basically, the commissioners agreed that land grants would be an expedient and inexpensive solution to what they characterized as a problem of relief distribution. They left the details to the provincial government to work out on its own terms.

3.4 Implementation of the Ewing Commission Recommendations

Despite the limited recommendations, from the perspective of the MAA, the Ewing Commission accomplished certain goals. Jim Brady had been correct in his assessment that the MAA could use pressure tactics to compel the UFA government to act on Métis issues. Although the resulting recommendations did not resemble what the MAA had sought, its lobbying had brought the issue into the public discourse. Jim Brady had also correctly predicted that the UFA would be responsive because it was under threat during its third term in office. In 1935, however, the Social Credit Party led by William “Bible Bill” Aberhart soundly defeated the UFA winning 56 of 63 provincial seats.⁹⁴ In the depths of the Great Depression, the voters of Alberta put their trust in Aberhart as a “prophet of a new social order.”⁹⁵ In the *Social Credit Manual*, Aberhart outlined Social Credit’s stance towards relief:

⁹⁴ Kenneth Wark., *A Report on Alberta Elections 1905-1982*, vol 13 (Edmonton: Government of Alberta), 49-53.

⁹⁵ John A. Irving, *The Social Credit Movement in Alberta* (Toronto: University of Toronto Press, 1959), 191.

It is the duty of the State through its Government to organize its economic structure in such a way that no bona fide citizen, man, woman or child shall be allowed to suffer from lack of the base necessities of food, clothing, and shelter in the midst of plenty of abundance.⁹⁶

A proponent of the social dividend, or “funny money” ideas of Social Credit founder Major C. H. Douglas, Aberhart’s promise of a \$25 per month dividend to all citizens propelled him into office. According to Alvin Finkel, for the Métis the interventionist nature of the Social Credit government during its first term “showed a willingness not to leave the Métis to the disposition of market forces and the recent settlers of northern Alberta.”⁹⁷ While Finkel’s assessment may be valid regarding Social Credit’s ideology, the Aberhart administration in fact did very little about the Ewing Commission’s recommendations until the fall 1937 when it tried to sidestep the issue entirely. Alberta’s minister of lands and mines, A. N. Tanner, tried to persuade the federal government to assume responsibility for the Métis in return for land designated specifically for aboriginal trapping. In these negotiations, the cash-strapped provincial government saw an opportunity to link the issue of trapping to that of Métis settlements since an exclusive Indian trapping preserve would deprive local Métis of access to the local resource. The federal government refused the offer, however, relying on the terms of the *NRTAs* to compel the province to provide the land needed to fulfil pre-existing federal obligations to treaty Indians.⁹⁸

Due to the federal government’s failure to act, the provincial government put forward legislation. On 22 November 1938, an act respecting the Métis population of the province received royal assent. Known as the *Metis Population Betterment Act, 1938*,⁹⁹ it provided legal

⁹⁶ William Aberhart, *Social Credit Manual: Social Credit as Applied to the Province of Alberta* (n.p., 1935), 5.

⁹⁷ Alvin Finkel, *The Social Credit Phenomenon in Alberta* (Toronto: University of Toronto Press, 1989), 46.

⁹⁸ LAC, RG 10, vol. 4733, file 420-2-1, reel C-8095, A. N. Tanner to T. A. Crerar, 10 December 1937; reply 10 January 1938.

⁹⁹ *The Metis Population Betterment Act, 1938*, SA 1938, c 6.

authority for setting aside land for Métis settlements and establishing a governance framework to be managed by a Settlement Association composed of government officials and Métis representatives. The preamble indicates that the government intended that negotiations with the Métis would put flesh on what was a skeletal legislative framework. According to the preamble, the MAA would have a role to play in the governance of the settlements. However, this framework did not reflect the cooperative governance scheme that the MAA had proposed in its submission to the Ewing Commission. The Settlement Associations as provided for in the legislation were not politically autonomous. The constitution and bylaws of each Settlement Association were subject to Ministerial approval (s. 4(4)) along with each proposed amendment (s.4(5)). Every scheme formulated for the betterment of the membership had to be approved by the Legislative Assembly (s.5). In fact, the legislation effectively excluded the MAA from playing any governance role in the settlements. Each Settlement Association would be directly accountable to the province.

Disillusioned by the Ewing Commission report and the approach taken by the Aberhart government, Brady and Norris pulled back from the MAA. In 1938, the organization failed to hold a fourth annual general meeting as required by its bylaws.¹⁰⁰ Instead, a joint meeting was held on 26 July 1938 in Jousard between provincial government representatives Dr. William W. Cross, Minister of Health, and Dr. Edward A. Braithwaite (who sat on the Ewing Commission), and one member of the MAA and local Métis representatives.¹⁰¹ The government envisioned that the MAA would play a limited role in the settlements, promising instead that three MAA

¹⁰⁰ Catherine Bell and Harold Robinson, "Government on the Métis Settlements: Foundations and Future Directions," in *Aboriginal Self-Government in Canada* (3rd ed.), ed. Yale Belanger (Saskatoon: Purich Publishing, 2008), 264.

¹⁰¹ Malcolm Norris, "A Brief Synopsis of the Origin and Development of the Present Metis Association of Alberta: Formerly l' Association des Métis d' Alberta et des Territoires du Nord Ouest," Appendix I in Fred Kenneth Hatt, "The Response to Directed Social Change on an Alberta Metis Colony," 240.

members would serve on a Métis Council that would oversee the settlements.¹⁰² Later that year, the province formed a Métis commission chaired by F. J. Buck (assistant commissioner of relief). Other members included Dr. Braithwaite (as provincial coroner), Joseph Dion and Peter Tomkins Jr., who served in their capacity as individuals and not as members of the MAA executive. The commission selected suitable land in 12 areas for the settlements.¹⁰³

By 1938, the MAA had been pushed to the side by the government as it implemented a plan for Métis settlements. The MAA fractured when Tomkins and Dion abandoned the governance goals of the organization to help provincial officials implement the new legislation. Opposition to the plan instead came from members of the Dominion Independent Progressive Association, an organization led by A. J. Hamilton, a grandson of Louis Riel. As reported in the *Prince Albert Herald*, Hamilton called together a group of delegates representing Métis people living throughout North America to resist the plan. The resultant Association instead asked for 320 acres in fee simple for each family along with medical care, animals, farming, and fishing licences. Essentially, the Association was asking for a revival of the scrip program with increased support from government.¹⁰⁴ These protests fell on deaf ears, however, and the Alberta government moved forward with its plans to implement the 1938 *Metis Population Betterment Act*.

In addition to the undertaking to consult with the Métis about the settlements stated in the preamble to the Act, the provincial government also consulted with Mindy Christianson, the inspector of Indian Agencies (Calgary Office). In response to a letter from Dr. Braithwaite,

¹⁰² Ibid.

¹⁰³ Norris Malcolm, "A Brief Synopsis," 240. These lands were set aside under the *Provincial Lands Act* under Orders-in-Council (1602-38, 1603-38, 1604-38, 1605-38, 379-39, 423-39, 547-39, 816-39, 928-39, 1090-39, 1100-39, 768-39, 1190-39, 1525-39, 18-40, 73-41).

¹⁰⁴ *Prince Albert Herald*, 9 August 1938.

Christianson provided a lengthy memo in which he pointed out what he regarded as serious defects in the provincial government's settlement plans, such as the idea that Métis people be appointed as inspectors and instructors on the settlements. Christianson warned Braithwaite that this would be risky as the Métis had no administrative experience.¹⁰⁵

The views expressed by Christianson were shared by an unnamed provincial civil servant who wrote a 1938 report on the settlement plan entitled, "Report Regarding the Establishment of the Half-Breed Population of Lac la Biche." The report included a reiteration of the goals of the Ewing Commission, and then outlined a detailed implementation plan including a budget to hire non-Métis personnel to work on the settlements as instructors, nurses, and teachers. The author also provided an overview of the history of settlements in North America including St. Paul-des-Métis. The author claimed that the agricultural colony had been "ruined, and dispersed through the fault of the half-breeds themselves."¹⁰⁶ In his opinion, the proposed settlements would be successful only if the right non-aboriginal man was in charge, a person who could help the Métis overcome their inherent "character defects".¹⁰⁷ With respect to economic considerations, the author recommended that regulations to give incentive to the Métis to "work for their livelihood," and that they should be encouraged to develop specialized skills. He advised that the superintendent of the settlement "will act somewhat in the capacity of an agent on an Indian Reserve, for the transaction of business between the half-breeds and the outside world."¹⁰⁸ This organizational structure would be facilitated by a voucher system in which the Métis would earn vouchers for their work that could only be spent on the settlement itself, thus keeping the Métis

¹⁰⁵ GA, M4755, Ewing Commission documents, file 643, M. Christianson to E. A. Braithwaite, 1 December 1938.

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*, 4.

¹⁰⁸ *Ibid.*

tioned to their particular settlement.¹⁰⁹ The report ends with a budget forecast for the colony. The superintendent would receive an annual salary of \$3,000 per year; his assistant \$2,000 per year; the foreman \$1,800 per year; the nurse \$1,500 per year; the teacher \$1,000 per year; and a temporary cook and foreman (to set up the colony) \$625 per year. Funds would be set aside to pay 50 Métis labourers relief or wages at a rate of \$20 per month.

Fortunately, the Lac la Biche report was not followed, and the settlements were not designed as work camps. The government paid fair wages and did not exploit Métis labour or use a voucher system. The government did, however, keep the revenue gleaned from the natural resources.¹¹⁰ However, the report's third recommendation that a government-appointed supervisor should oversee the Métis on the settlement and control all external interactions was implemented. In 1939, this duty was performed by Joseph Dion in the eastern settlements and by Tomkins in the western settlements. Not surprisingly, friction with the other executive members of the MAA resulted, and from 1940 onwards, civil servants filled these positions. The Métis on the settlements were not always satisfied with the people assigned to these roles. One particularly poor choice was Dr. Quesnel at the Kikino Settlement – the doctor who wrote the memo to the Ewing Commission about his experience with the “ignorant, indolent” Métis. In later years, regulations paralleled the ones to which homesteaders were subject. A Métis settler accepted by the Settlement Association and allotted a parcel of land had to become a resident within 30 days, build a house within 90 days, make \$50 worth of improvements to the land within one year, cultivate a garden, and clear two acres a year until 15 acres were cleared.¹¹¹

¹⁰⁹ Ibid., 7.

¹¹⁰ Sawchuk, *Metis Land Rights*, 206.

¹¹¹ Sawchuk, *Metis Land Rights*, 205; Alta Reg 804-42. These conditions are similar to homesteading requirements in both Canada and the United States.

In January 1940, F. J. Buck, assistant commissioner and chair of the Métis Commission, submitted his annual report to the minister of health in charge of relief, Dr. William W. Cross. In his “Report of the Activities in Connection with the Settlement of the Metis,” he reported that setting up the program had been very expensive, and that while it was meeting the needs of the people it was little more than “a palliative measure.” A number of Settlement Associations had been established in various colonies, and the Métis were working on projects in return for relief payments.¹¹² In the two years since legislation was passed in 1938, the Act had proven unwieldy. There is no evidence that the “conferences and negotiations between the Government of the Province and representatives of the Metis population of the Province” had occurred. The provincial government was in firm control of the settlement plan. During the period, the remaining members of the MAA executive struggled to remain relevant and involved.

In 1940, the government introduced a revised *Metis Population Betterment Act*.¹¹³ The new legislation provided for a comprehensive framework for the governance of Métis settlements. The legislation provided for regulations to cover most aspects of settlement governance including hunting, trapping, building standards, grazing, use of road allowances, and all other matters as they arose, and provided that Settlement Associations could be converted to Local Improvement Districts.¹¹⁴ The Act also specified that settlers could not use settlement property to secure bank loans or mortgages.¹¹⁵ The implications for the Métis were ambiguous. On the one hand, this provision gave even more protection to Métis settlers from creditors than Indians had under the *Indian Act*. The 1927 revised *Indian Act* protected the property of Indians

¹¹² Provincial Archives of Manitoba (PAM), 970.47123 A333, Alberta, Bureau of Public Welfare, “Report of Activities in Connection with the Settlement of the Metis, January 1, 1939 to January 31, 1940.

¹¹³ *The Metis Population Betterment Act, 1940*, SA 1940, c 6.

¹¹⁴ *Ibid.*, ss. 8, 9.

¹¹⁵ *Ibid.*, s 18.

only against non-Indian creditors while under *the Metis Population Betterment Act* (1940), a member's goods were protected from seizure from any creditor regardless of where the goods were located. An Indian could rely on protection only if the property were located on reserve. On the other hand, as a result, creditors were reluctant to lend money to Métis because their personal property was protected and could not be used to secure a loan.¹¹⁶ In later years, this aspect of the legislation would be subjected to review because it hampered economic development of the settlements. It also created a ward-like status for settlement members who were unable to conduct business without the intervention and approval of the responsible provincial department.¹¹⁷ This system guaranteed that Métis economic interests would be heavily regulated and supervised by the state.

Some of the most significant legislative changes concerned the definition of who was entitled to join a Settlement Association. Section 2(a) defined a Métis as a “person of mixed white and Indian blood having not less than one-quarter Indian blood.”¹¹⁸ As compared to earlier definitions that included reference to livelihood, this definition significantly narrowed the scope of who could claim to be Métis. As a consequence, the government limited its obligations to the Métis. Government control was further bolstered by the fact that the minister made the final determination if there was a question about whether a person was a Métis for the purposes of the Act.¹¹⁹ Only the child or spouse of a Métis Association member who was Métis him/herself could, on the death of the member, acquire possession of the land. By implication, a

¹¹⁶ University of Saskatchewan Legal Information Service, *Alberta's Metis Settlement Associations: A Legislative History, Report No. 17* (Saskatoon: University of Saskatchewan Native Law Centre, 1983).

¹¹⁷ Alberta, Metis Settlements and the Metis Rehabilitation Branch, *Report of the Metis Task Force upon the Metis Betterment Act, 1972*.

¹¹⁸ Métis leader Louis Riel would not be eligible to apply under this definition of Métis.

¹¹⁹ *The Metis Population Act, 1940*, SA 1940, c 6, s 17.

non-Métis spouse or child had no right to inherit the land.¹²⁰ The biggest change in the legislation, however, was section 20(1):

Any person who contravenes any of the provisions of the Act, or of any regulation made pursuant to this Act for which no penalty is prescribed by the regulations, shall be guilty of an offence and shall be liable on summary conviction to a fine of not more than thirty dollars and costs, or in default of payment, to imprisonment of a term of not more than thirty days.¹²¹

With the addition of this enforcement provision, the *Metis Population Betterment Act* resembled the *Indian Act* more than a social welfare program, reinforced by the fact that the 1940 legislation omitted the provision that only destitute Métis could join a Settlement Association. Through the use of restrictive legislation, the government took over any meaningful role from the MAA in the governance of the land settlements.

Soon after the 1940 *Metis Population Betterment Act* was passed, Jim Brady articulated in his diary his misgivings over the direction the government had taken regarding the governance of the settlements:

While I appreciate the forward and progressive steps taken by the present administration I fully retain the privilege of critical interpretation which is an indispensable weapon in the struggle for a genuine industrial and political democracy.... Another peril, perhaps the gravest of all, lies in the fact that these colonies are threatened as much by success as by failure. For if they do not succeed it means misery, ruin, dispersal and a general rush for safety, on the other hand, they attain prosperity they attract a crowd of members who lack the enthusiasm and faith of the earlier ones and are attracted by self-interest. Then there is the conflict between the older element and the new, and ultimately a demand is made for the sharing out, and each member goes his own way. A solidarity that is compulsory is of no moral value.¹²²

¹²⁰ Ibid., s 14.

¹²¹ Ibid., s 20.

¹²² GA, M-125-39, Brady collection, Historical Notes, 1935-1939.

The government-administered settlements were far from the self-governing communities that Jim Brady and the MAA had originally envisioned.¹²³ By 1940, the provincial government had effectively supplanted the MAA's role in the governance of the settlements, and later versions of the *Metis Population Betterment Act* further limited the participation of settlers in governing structures. For example, a 1952 amendment provided that the chair of the local Métis board would be the local supervisor appointed by the Metis Rehabilitation Branch of the Department of Public Welfare and that two of the four members of the Metis Settlement Association would be directly appointed by the provincial government.¹²⁴

However, despite the provincial government's co-option of the Métis settlement plan, the MAA tried to reinvigorate itself as a representative body. At a meeting in Edmonton on 22 and 23 May 1940, 28 delegates from 22 locations met and elected officers. Notably absent from the new executive was Joseph Dion, but there were a number of familiar names (Chair Malcolm Norris, Provincial Secretary James P. Brady, and Provincial Organizer Peter Tomkins). A number of resolutions were passed and recommendations made concerning hunting, and the use of other natural resources. However, the new Chair announced that "[i]n view of the present state of war and desire of Métis population to give whole-hearted co-operation to Canada's War Effort the resolutions and recommendations are being held in abeyance and have not been acted upon."¹²⁵ The MAA's campaign largely halted as leaders such as Jim Brady joined the overseas war effort.

¹²³ Ibid.

¹²⁴ *An Act to Amend The Metis Population Betterment Act*, SA 1952, c 54, s 2.

¹²⁵ Norris Malcolm, "A Brief Synopsis," 241.

3.4 Conclusion

In the 1960s, the MAA reconstituted and continued its political lobbying efforts on behalf of Métis living in Alberta. These efforts culminated in the 1984 McEwan Joint Government-Métis Committee report in which the authors stated, “the land has always been of paramount importance to Métis people.”¹²⁶ In 1990, the Alberta legislature formally recognized the Métis right to self-government by passing the *Constitution of Alberta Amendment Act*. The purpose of the legislation is stated clearly in the preamble:

Whereas the Metis were present when the Province of Alberta was established and they and the land set aside for their use form a unique part of the history and culture of the Province; and
Whereas it is desired that the Metis should continue to have a land base to provide for the preservation and enhancement of Metis culture and identity and to enable the Metis to attain self-governance under the laws of Alberta, and to that end, Her Majesty in right of Alberta is granting title to land to the Metis Settlements General Council.¹²⁷

This amendment provides that the provincial crown cannot expropriate Métis settlement land because the Métis own the land in fee simple pursuant to the 2000 *Metis Settlements Land Protection Act*.¹²⁸ It also confirms that the Métis owned the land settlements in fee simple.¹²⁹ This legislation marks the culmination of the lengthy effort by the Métis of Alberta to change the provincial government’s position regarding the purpose of land settlements from an expedient means of distributing social welfare to the recognition of Métis identity and the inherent right to self-government. After several decades, the government of Alberta has finally recognized the

¹²⁶ Alberta, *McEwan Joint Government-Métis Committee to Review the Metis Betterment Act and Regulations* (Edmonton: Municipal Affairs, 1984), 5.

¹²⁷ *Constitution of Alberta Amendment Act, 1990*, RSA, c C-24.

¹²⁸ *Metis Settlements Land Protection Act*, RSA 2000, c C-24, s 3.

¹²⁹ The Alberta Métis land settlements are the only statutorily mandated land base for the Métis in Canada.

historically based arguments made by the MAA executive in the 1930s as the rationale behind the Métis land settlements. Indeed, there has been no better weapon than political organization for the Métis of Alberta.

Chapter 4: “With all the logic and power possible”: Pursuing Métis claims in Saskatchewan

4.1 Introduction

In the mid-1930s, Métis people also began organizing in Saskatchewan.¹ In 1937, a group drew up a constitution and bylaws and formally adopted the name Saskatchewan Metis Society (SMS). The purposes of the organization were the following:

- 1) To organize the Metis of Saskatchewan so that they may strive to better their social, economic and cultural life.
- 2) To assist, as far as possible, in recording and perpetuating a correct history of the Metis in Saskatchewan.
- 3) To set up branches of the society in Saskatchewan and to affiliate with or accept affiliation with organizations having similar aims and objectives.²

In the fall of 1937, President Joseph Z. LaRoque, and Joseph Ross, chair of the provincial organizing committee, set out to build the organization throughout the province by visiting Métis living in Lebret, Willow Bunch, Estevan, Meadow Lake and Green Lake.³ According to Murray Dobbin, the organizers faced several challenges. Few local Métis wished to assume leadership roles, and many Métis did not want to admit their status publicly. Many Métis thought that the organization was merely a front for the provincial Liberal party. In fact, most Métis voted Liberal, as did many Catholics during this period.⁴ Further, opinions divided sharply between the southern and northern Métis with respect to their political interests. The northern Métis were

¹ Murray Dobbin, “Metis Struggles of the Twentieth Century: The Saskatchewan Metis Society 1935-1950,” *New Breed* (August 1978): 16.

² *Ibid.*, 18.

³ *Ibid.*, 18. Officers of the Saskatchewan Metis Society included Edmund Klyne (truck driver); Robert LaRocque (salesman); James Powless (labourer); Jerome La Rocque (retired); Joe Ross (labourer). Joe Ross was single and legally blind. Due to his disability, he had a free railway pass which he used to travel the province as an organizer for the SMS.

⁴ Bill Waiser, *Saskatchewan – A New History* (Calgary: Fifth House, 2005), 317.

afraid of settler encroachment and wanted to continue to pursue their traditional livelihoods on the land. Southern Métis wanted educational training, jobs, and land in the south. They did not want to be relocated to northern parts of the province as many non-Aboriginal settlers had been during the Great Depression.⁵ The Saskatchewan Métis were also divided by language and custom. Southern Métis spoke Michif, English and French, while northern Métis spoke mainly Cree.⁶ Despite their language and cultural differences, however, the Métis agreed that land was the solution to their socio-economic problems. Like their Alberta counterparts, land was viewed as the preferred solution to the problems they faced.⁷

Unlike leaders of the Metis Association of Alberta (MAA), such as Malcolm Norris and Jim Brady, however, the early leaders of the SMS lacked political lobbying and organizing experience. As a result, the organization was susceptible to outside influence. The SMS received help from Zacharias M. Hamilton, President of the Saskatchewan Historical Society. According to Murray Dobbin, Hamilton was married to a Métis woman and did historical research on the Métis scrip program in Saskatchewan and land claims against the federal government.⁸ A number of other Saskatchewan Historical Society members assisted Hamilton with research, including A. T. Hunter, John A. Gregory and B. J. McDaniel. Gregory and McDaniel were both Liberal members of the Saskatchewan Legislative Assembly, and Hamilton's salary came from a provincial government grant. From the outset, therefore, the SMS had close ties to the provincial

⁵ Ibid., 18-19.

⁶ Brenda MacDougall, "Wahkootowin: Family and Cultural Identity in Northwestern Saskatchewan Metis Communities." *Canadian Historical Review* 87, no. 3 (September 2006): 432.

⁷ Ibid., 19.

⁸ Murray Dobbin, "Part Two: The Land Issue: Whiteman's Advice and Government Deceit," *New Breed* (September 1978): 11; Zacharias MacCauley Hamilton was a newspaperman, amateur historian and failed real estate speculator. He served on the "Indians of Saskatchewan" subcommittee of the Saskatchewan Historical Society. See James M. Pitsula, "The CCF Government and the Formation of the Union of Saskatchewan Indians," *Prairie Forum* 19, no. 2 (September 1994): 131-151.

government of the day, and Liberal party members in particular were influential in advising the Métis to adopt a conciliatory approach when putting forward their claims for land and other compensation from the provincial government.⁹

By 1938, Hamilton had completed his initial investigation into Métis claims and advised the executive of the SMS that they, indeed, had a land claim against the federal government. However, he cautioned the members of the SMS that they did not have a legal claim for redress but only a moral one. According to Hamilton, the Métis of Saskatchewan could make a request for consideration from the federal government, but they had no right to demand land or any other form of compensation for the failure of the scrip program.¹⁰ On 28 February, the President of the Saskatchewan Historical Society and Battleford Liberal MLA John A. Gregory echoed Hamilton's opinion in a lengthy published address entitled "The Metis Claims" in the Saskatchewan Legislative Assembly. In his speech, Gregory referred to petitions he had received from various branches of the SMS and presented to the Assembly, and offered his remarks as a "galloping commentary on the Métis people and their history."¹¹ Gregory gave a comprehensive overview of the historical research that Hamilton and the Saskatchewan Historical Society had compiled, including the Métis's role in the Great War, their role in treaty-making, Métis scrip, the nature of Aboriginal title, and section 31 of the *Manitoba Act*. He also commented on the seriousness of the current socio-economic status of Saskatchewan Métis, and placed the blame for it solely on the failure of the federal government's scrip program and the fraudulent practices of land speculators. Gregory told the Assembly, "The rights of the people of

⁹ Ibid., 11.

¹⁰ Ibid., 11. The opinion would be later supported by a formal legal opinion written by Edward D. Noonan and Percy G. Hodges in 1943.

¹¹ Saskatchewan Archives Board (hereafter SAB), Pamphlets – Metis, "Excerpts from Speech of Mr. J. A. Gregory, MLA (The Battlefords) in The Debate on the Budget," Legislative Assembly of Saskatchewan, 28 February 1938.

the mixed-blood living in the Saskatchewan country have never been clearly defined or settled by the Government of Canada, and the condition of many of these people today – homeless wanderers in the land that was their fathers’ – must bring this situation to the attention of those clothed with authority.”¹²

With respect to scrip, Gregory stated that while the Indian population had been given large and generous reserves in recognition of their land title claims, the Métis had received little more than a “bone thrown to a dog.” According to Gregory, non-Aboriginal people owed the Métis a considerable debt because the Métis had helped settle the west by assisting the federal government in the negotiation of treaties with the Indians. In his view, the Métis had prevented the Canadian equivalent of the American Indian wars by acting as intermediaries between the federal government and Indian nations.¹³ Gregory admonished his audience to recognize the importance of the Métis people to the history of the province and placed blame for their current condition squarely on the shoulders of the federal government.

Surely the time has come now for the recognition of these services by a grateful country. It may be argued that the obligation to these native people is an obligation of the Federal Government – as, indeed, it is; but we, who represent them in the Legislature of this great province, are charged with responsibility in standing as their advocate and making representations to the proper authorities in respect of their rights. Why is it that millions of dollars have been spent – and justly and fairly spent – on the Indian of full blood, and yet, in the same connection their “Half-brothers’ have been left to become homeless wanderers in their native land?¹⁴

He then referenced the Métis petitions he had been tabled in the Legislative Assembly.

In these petitions it is suggested that the Métis people be colonized in suitable blocks of land, with running streams and lakes, adjacent to fish and wild game, with abundant pasture and hay-land, where these people may satisfy the craving of two

¹² Ibid., 2.

¹³ Ibid., 7.

¹⁴ Ibid., 8.

instincts: that of the white blood in their veins for a peaceful, pastoral life, and that of the native blood for following the chase and living the life of Nature which, when appropriately interpreted, yields of its abundance for the sustenance and comfort of its children.¹⁵

He concluded his remarks by suggesting that the Metis are “praying that they may have their just “rights” liquidated in a British way.”¹⁶

Gregory’s address sheds light on the political dynamics at play during this period of Métis organizing in Saskatchewan. Unlike its Alberta counterpart who benefitted from Norris and Brady’s research and organizational skills, the SMS leadership had little capacity to do its own research or political lobbying. They relied on members of the Saskatchewan Historical Society who were inextricably linked to the Liberal party. As the representative of a region that contained a significant Métis population, J. A. Gregory may have had a bona fide interest in the needs and concerns of his constituents. However, the solutions he proposed fit squarely within the interest of the province – to pass responsibility for the Métis onto the federal government.¹⁷

4.2 The Read Report

Shortly after Gregory’s address, the provincial government responded to the issues he had raised by appointing an investigator to inquire into the socio-economic status of the Métis and take a first step towards “a permanent solution of Saskatchewan’s half-breed problem...”¹⁸

Following the Alberta model, it was assumed that the investigation would lead to a land

¹⁵ Ibid., 8.

¹⁶ Ibid., 8.

¹⁷ As we have seen in Chapter 2, the Saskatchewan provincial government was still unhappy about the recommendations of the Royal Commission on Natural Resources. As it had argued during hearings a few years earlier, the provincial government denied any responsibility for failures of the federal Métis scrip program.

¹⁸ *Leader Post*, “Government picks Metis Investigator,” 27 April 1938.

settlement scheme designed to rehabilitate the Métis population. The government appointed an investigator named W. E. Read, the general manager of a store in Fort Qu'Appelle who, for over sixty years, had cultivated friendships with Métis in the region, and therefore was thought to have more knowledge than anyone in government about the problems facing the population. A rather unconventional choice, Read was given *carte blanche* to explore the issue by holding meetings with Métis squatters who were receiving relief payments.¹⁹ In his report, he provides a comprehensive history of the Métis scrip program, the Métis role in treaty-making, and the general socio-economic conditions facing Métis in southern Saskatchewan.²⁰ With respect to obligations owing by the federal and/or provincial governments, Read drew the following conclusions:

When we make a close study of the facts as brought out in the Treaties, it will be apparent that the Metis have had no claims in the clearance of the Titles to the Crown, but having been granted Citizenship by Federal Acts in Manitoba in 1870, and in the North West Territories in 1874, they have had full Citizenship and the Franchise since those dates, and the full protection of all the laws in force in Manitoba, Saskatchewan, Alberta, and the North West Territories, and their claims can only be considered as a moral one, due to any citizen, and as exemplified in the Relief Act.... [W]hen we study the effect of the Relief Act on the Metis, we are face to face with the fact that it has had a demoralizing effect upon them as with a number of others, destroying all initiative and creating the false impression that country has to keep them, and work, a thing of the past.²¹

After tabulating the amount of land and money scrip issued to Saskatchewan Métis (2,509,772 acres and \$2,885,157.00 respectively), Read concluded that many people must have squandered their entitlement to become dependent on the state.²² He placed the blame for the poor socioeconomic conditions plaguing the Métis on their “poor character” and inability to plan for

¹⁹ Ibid.

²⁰ It is unclear from the report where Read gathered his sources. The thoroughness of the data and analysis leads one to conclude that he had assistance from provincial government officials.

²¹ SAB, SHS 139, Pamphlet File – Metis, W.E. Read Memo, 11-12.

²² Ibid., 26.

the future. “The life led by the early Metis, that is hunting and trapping from day to day, and making very little provision for the future, was not in their best interests to fit them as Trustees for the future of their children, and this is one of the reasons why we find so many of their descendants in poor circumstances in Saskatchewan today on relief and requiring assistance.”²³ During his investigation, Read collected financial statistics from 316 families regarding income from various sources including employment and relief payments. These figures illustrate the extent of economic hardship many faced during this period. The gross income of the sample population was \$26,564.10 (\$437,688.38 in 2014 dollars) with an average annual per capita income of \$84.13 (\$1,381.50 in 2014 dollars). In 1937, the Saskatchewan government spent \$7,916.50 (\$129,997.26 in 2014 dollars) on relief work for the Métis population. When separated from gross earnings, all income opportunities for the Métis (coal mining, sheep shearing, cutting wood, scrubbing roads and lands, farm labour, well digging, fishing, digging seneca root, carpentry) provided \$18,667.00 (\$306,531.79 in 2014 dollars), which is equivalent to \$59.08 (\$970.16) per family per year.²⁴ Furthermore, while Read found that 220 families had enough household effects, 96 others were what he termed “completely destitute.” Fully 98 percent of Métis families in the southern area of the province reported they wanted help farming, 2 percent wanted help fishing and hunting, 20 percent could not sign their names, and 60 percent of children had not attended school. Read found that the majority of Metis were unable to pay municipal tax and were, therefore, not entitled to demand education services. As a consequence, 438 children were receiving no education.

²³ Ibid., 27.

²⁴ Ibid., 28.

After tabulating his statistical findings, Read made a series of recommendations that include education as a top priority.²⁵ The main theme of the recommendations, however, is rehabilitation through the allocation of land settlements in the northern part of the province. Read reasoned: “The Metis are very proud of their race, and deeply resent being classed in any of the categories of the Indian, and are also very congenial, and fond of community life, so why not take advantage of this, and move them into the North and settle them in communities composed of adherents of and to the different denominations....”²⁶ He advised the government to settle Catholics (270 families) and Protestants (46 families) in different areas, thus giving these respective church organizations “easy access to the congregations,” and allowing them to provide educational instruction at low cost to the province.²⁷ In fact, Read applauded the work of the churches to date. “[I]f it were not for the work of the churches, the Metis would not be even in the position they are today, and anything that will promote the continuation of this service and instruction should be given first consideration”²⁸ With respect to land settlements, Read advised the government that financial support would be needed for the first few years, but that within five years the communities would be economically self-sufficient. He further recommended that a supervisor for each community would serve as an important link between the Métis and the government. Read suggested that Métis teachers be hired to teach a practical curriculum composed of instruction in domestic skills for the girls and agriculture for the boys. Rather optimistically, he suggested that, “if these children were provided with an education on these lines, I am sure we would have nothing left to worry over the Metis question in

²⁵ Ibid., 29.

²⁶ Ibid., 29.

²⁷ Ibid., 29. This recommendation stands in marked contrast to the Alberta government which eschewed any meaningful educational role for church organizations.

²⁸ Ibid., 30.

Saskatchewan”²⁹ Anticipating concerns over the cost of his proposals, Read wrote: “Some may think I am outlining a rather expensive form of rehabilitation, but please remember these [*sic*] 1246 Metis are on full relief, and will continue to be, so when you take the cost of the present direct relief, it will require very little more money to provide the necessary equipment, and the Relief will only continue for 3 years, and you will then have a prosperous and contented people...[d]on’t you think the gamble is worth while?”³⁰

With respect to rehabilitating southern Métis on northern settlements, Read advised that prospective settlers be checked for criminal records, health, and morals. He also suggested that any government program should initially focus on the needs of the southern Métis who were familiar with agricultural production. These southern Métis would serve as models for the northerners who were still pursuing traditional livelihoods such as trapping and fishing. “If the southern Metis were given first chance, I am convinced their example and success, would prove the necessary incentive to settle down the Northern Metis on permanent homes of their own”³¹ He further recommended that the interests of Metis children be protected so that the government not face claims by future generations.

The final resolution of Métis claims is a key theme in the Read report. Any settlement program ought to “convince the Metis that Canada has used them well and that all claims have been paid in full”³² He ended his memo by referring to a newspaper article in which A. J. Hamilton, President of the Metis Association of Canada and a grandson of Louis Riel, had criticized the Alberta settlement plan, claiming that “[t]he lands in question were not a gift, but

²⁹ Ibid., 31.

³⁰ Ibid., 31.

³¹ Ibid., 32.

³² Ibid., 33.

belonged to the Metis.” As mentioned in the previous chapter, Hamilton’s concerns about the Alberta Métis land settlements were not taken seriously. Read warned:

[T]hat similar statements in the past, were the cause of 2 rebellions on the part of the Metis.... I would recommend [Hamilton] to curb his eloquence, and confine his remarks to the truth and the whole truth if he has any desire to further the cause of the Alberta Metis.... It is too bad that the Metis should suffer by the exploitation of men like Hamilton, and as long as they knowingly permit it to continue, their cause will suffer, and they will lose the sympathetic cooperation of the white population, who have always been anxious to find some solution of the Metis problem as it affects Western Canada.”³³

In many respects, Read’s attitude to the historically based claims of the Métis paralleled the attitudes displayed at Alberta’s Ewing commission three years earlier. There was no patience for rights-based claims for redress for the failures of the scrip program. However, so long as the claims were framed in terms of charity and economic savings then non-Aboriginal decision-makers were willing to discuss programs and the allocation of resources to ameliorate the dire socio-economic condition of the Métis people.

4.3 The Saskatchewan Métis Society and the Provincial Liberals

As W. E. Read researched his report, the SMS continued to organize. By late January 1939, a central executive had formed with fourteen branches in various Métis communities such as Battleford, Lebret, Green Lake, Estevan, Willow Bunch and Meadow Lake. A *Leader-Post* editorial dated 31 January 1939 described the history of Métis claims along with the stated goals of the SMS. “The organization now formed has for its chief purpose, the investigation of the Metis claims and, if they are found to be valid, to press them upon the Dominion authorities with all the logic and power possible”³⁴ The editors referenced Gregory’s 28 February 1938 speech in

³³ Ibid., 33.

³⁴ *Leader Post*, “Claims of the Metis,” 31 January 1939.

the Saskatchewan Legislative Assembly and strongly advocated for addressing Métis claims for redress to the federal government.³⁵

In late March 1939, a delegation of Métis along with John A. Gregory, A. T. Hunter and Zacharias M. Hamilton met with several members of the provincial cabinet including Thomas C. Davis (Attorney-General) and William F. Kerr (Minister of Natural Resources). The President of the SMS, Joe LaRocque, read a prepared brief that represented the views of the 9,000-person membership. The SMS claimed consideration from the federal government “on the ground that Indian chiefs in negotiating treaties with the federal government had adhered to the principle that their ‘half-brothers’ were joint heirs with them in the western lands.”³⁶ At the meeting, the cabinet ministers offered their support and urged the Métis delegation to prepare concrete proposals to take to Ottawa.³⁷ The focus of the discussion was the failure of the federal scrip program to address the continuing needs of the Métis. Members of the Metis delegation and the Liberal cabinet agreed that the Métis should be given consideration for their historical claims to the land. The federal government provided reserve land and annuities for treaty Indians and it was thought the Métis deserved similar consideration. The legal interest in Indian title was deemed to be similar, and the federal government had the obligation to ensure that these interests were cleared. The province accepted no responsibility for these interests and would only support the Métis in so far as they would press the federal government for compensation. Based on this, the SMS decided to pursue a rights-based claim with the support of the provincial government.

³⁵ Ibid.

³⁶ *Leader Post*, “9,000 Metis seek same deal given Indians,” 25 March 1939.

³⁷ Ibid.

Throughout the 1939 spring session of the Legislative Assembly, provincial politicians debated the issue of how best to address Métis concerns. On 23 February 1939, Tom Johnston, the CCF MLA representing Touchwood forwarded a motion:

That the Government endeavour to obtain a grant from the Federal Government for the purpose of the re-establishment of our Metis population; and, further,

That this Assembly recommends that the Provincial Government consider the advisability of granting small holdings in the Beaver Hill Reserve to the Metis now living on road allowances in Touchwood Constituency.”³⁸

The next day, William F. Kerr, minister of natural resources, assured the Assembly that his department was aware of the issue. However, he cautioned that legislation to provide aid was only a partial solution, and “that a uniform policy was not possible” at that time due to the complexity of the issue. Kerr further suggested that the motion be withdrawn to facilitate work already being done on the issue and he invited Johnston to consult with him. The CCF agreed to pull the resolution after the mover paid tribute to John A. Gregory’s address on the subject the previous year. Gregory then commented in reference to the Ewing Commission that, “an Alberta commission had brought down findings which coincided with the conclusions he had placed before the house last year.” However, he did not like the wording of the motions because it shifted responsibility solely to Ottawa and the Métis were a provincial responsibility.”³⁹ It is difficult to reconcile Gregory’s comments on this occasion with his address of the previous year, and furthermore his work with the Saskatchewan Historical Society had placed responsibility for the Métis squarely on the shoulders of the federal government. The contradictory statements may, perhaps, be explained by the fact that Gregory was responding to an opposition motion.

³⁸ *Journal of the Saskatchewan Legislative Assembly*, 1939 Session, 23 February 1939. The motion was seconded by Social Credit MLA John F. Herman (Melville).

³⁹ *Leader Post*, “Plight of Metis Discussed,” 24 February 1939.

In mid-March debate over the Johnston/Herman motion resumed. CCF opposition leader George H. Williams declared that the government needed to take immediate action and not just talk. He urged the government to support a resolution for a land grant by the federal government for the re-establishment of Métis then living on the road allowances in the Touchwood riding in the Beaver Hills reserve held by the Department of Natural Resources.⁴⁰ The CCF opposition did not believe that any more provincial lands should be allocated to address failed federal government programs such as Métis scrip. All parties agreed that the solution to Métis claims must come directly from the federal government, as it was under section 91(24) that the federal government initiated and implemented the scrip program.⁴¹

On 29 March 1939, Attorney General Thomas C. Davis introduced a motion calling on Ottawa “to give aid in dealing with the Metis problem in Saskatchewan, a problem which was considered part and parcel of the Indian problem and should be treated as such.”

Whereas this Legislature recognizes ---

- (a) that there exists in this Province the problem of the betterment of the condition of the Metis people;
- (b) that these people are the descendants, with mixed blood, of the original Indian population of Western Canada;
- (c) that the Indian population is adequately cared for by the Federal Government; and
- (d) that there is a responsibility upon the Government of Canada to at least aid in dealing with the Metis problem:

Therefore, this Legislature is of the opinion that the Government of Saskatchewan should continue its efforts to secure the aid of the Federal Government in dealing with this problem, and to secure a recognition by the Federal Government that the problem is part and parcel of the Indian problem and should be treated by the Federal Government as such.⁴²

⁴⁰ *Leader Post*, “Metis Problem Action Urged by Williams,” 15 March 1939.

⁴¹ *Ibid.*

⁴² *Sessional Papers of the Saskatchewan Legislative Assembly*, 28 March 1939. The CCF caucus split on the issue with four members voting to support the government. George Williams, Joseph Phelps (future minister of the Department of Natural Resources), Tom Johnston, Myron H. Feeley and John H. Brockelbank.

The motion carried 38 to 5. Davis then told the members that he was not in favour of giving land on the Beaver Hills reserve to the Métis because it was marginal and would not provide a livelihood. In response, Social Credit MLA John F. Herman, who had seconded the original motion put forward by the CCF, suggested that the government send a representative to Alberta in order to study the Métis settlements with a view to granting land for similar purposes in Saskatchewan. He also suggested that the Métis be given good land, but that the title should remain with the provincial crown.⁴³ That a Social Credit MLA should express familiarity with the Alberta policies is not particularly surprising. During this period, Premier Aberhart of Alberta was spending considerable resources to develop the Social Credit party in other provinces.⁴⁴ The Minister of Natural Resources responded, however, that the problems could not be settled by any “blanket policy.”⁴⁵ Kerr’s assessment reflects the divergent policies then under consideration at the Department of Natural Resources (DNR), for example the Saskatchewan Northern Conservation Board, which will be discussed in the following chapter.

Prior to 1938, newspapers published very few articles about any aspect of Métis socioeconomic or cultural life in the province. This changed in 1939 due to the publicity generated by the debates ongoing in the legislative assembly. Opposition to Métis claims surfaced in letters to the editor. For example, on 14 April 1939, W. Robinson wrote to the *Leader-Post* to criticize the original CCF motion to set aside land for the Métis out of the DNR reserve shared by the rural municipalities of Ituna, Bon Accord and Garry. The area was used as a community pasture by farmers who owned a half or quarter section with no pasture land. According to Robinson, giving the land to the Métis would “deprive the existing settlers of the

⁴³ *Leader Post*, “Ask Aid of Ottawa for Metis,” 29 March 1939.

⁴⁴ Ken Andrews, “‘Progressive’ Counterparts of the CCF: Social Credit and the Conservative Party in Saskatchewan 1935-1938,” *Journal of Canadian Studies* 17, no. 3 (Fall 1982): 59.

⁴⁵ *Leader Post*, “Ask Aid of Ottawa for Metis,” 29 March 1939.

benefits they now enjoy and must have to be self-supporting.” He then accused the CCF of being out of touch with and ignorant of the Métis situation.⁴⁶ This letter exemplifies the tension between the Métis and settler communities. Setting aside any land or resources for Métis use was seen to be at the expense of the non-Aboriginal community. In the context of the Great Depression, these tensions may be understandable given the catastrophic collapse of ‘King Wheat’; however, they underscore the fact that economic competition was a factor underlying government policy in this period.⁴⁷ And as the newspapers began to investigate the Métis situation, the extent of the crisis became clear. On 17 April 1939, a shocking headline grabbed readers’ attention: “Metis Baby Dies Through Lack of Nourishment.” A six-month-old baby had died of malnutrition in the Métis community of Willowfield (near North Battleford). The coroner found that “a contributory factor to the infant’s death was the appalling poverty of the home, and the near starvation of the mother.”⁴⁸ Stories such as this one underscored the need for concerted action to help the Métis.

As the newspapers published tragic stories of the poverty facing the Metis population and provincial politicians debated various strategies in the Legislative Assembly, the SMS continued to organize. Between 16 and 18 May 1939, the SMS held its annual convention in Regina. Over one hundred registered delegates discussed strategy with the leadership. During this period, the organization was growing in number and political strength, boasting sixteen branches and approximately 12,000 members. The convention elected a new executive, and several provincial politicians addressed the assembly including Premier Patterson, Regina Mayor A. C. Ellison, E.

⁴⁶ *Leader Post*, “Letter to the Editor by W. Robinson,” 14 April 1939.

⁴⁷ See, Ottawa, *Report of the Royal Commission on Dominion-Provincial Relations (Rowell-Sirois)* (Ottawa: J.-O. Patenaude, 1940); Vernon C. Fowke, *The National Policy and the Wheat Economy* (Toronto: UTP, 1957).

⁴⁸ *Leader Post*, “Metis Baby Dies Through Lack of Nourishment,” 17 April 1939.

V. Mills, a prominent socialist, and representatives from the Catholic and Anglican Churches.⁴⁹ The agenda stated the guiding rationale for the organization: “The Metis believe that they have an interest in the Indian title to the lands surrendered by the Crown by the treaties of 1874 and 1876 that has never been liquidated.” Members agreed on a plan to formulate a legal claim against the federal government with the financial assistance of the provincial government, the key demand of which was, “the establishment of a landed estate for the use of Metis people which shall be administered in trust for their sole use and benefit.”⁵⁰ The demand closely resembled Alberta Métis land settlements. Saskatchewan Métis requested livestock, schools, agricultural instruction, medical services, and provision for the indigent. They also requested that the government take an official census of the Métis population and appoint a Royal Commission to investigate their claims. They also proposed a capital fund to take the place of annuities paid in perpetuity to Indians. The assembly recommended that the fund be administered as a trust run with Métis representation and interest paid annually to those who could establish an entitlement.⁵¹ Several resolutions dealing with relief and education also passed the convention.

This business, however, was not the most significant the delegates undertook. That came with a petition to the federal government drafted by Liberal party member A. T. Hunter regarding a land claim in which the Métis asserted the same rights as Indians and pointed to treaty negotiations and the *Manitoba Act* as evidence of their existing share in Indian title. The

⁴⁹ Dobbin, “Part Two,” 12. The new executive consisted of President Mike Vandale; Vice-President and Organizer Joe Ross; 2nd Vice-President Ed Klyne; Secretary Jim LaRocque; and Treasurer Mrs. R. Boivin.

⁵⁰ *Leader Post*, “Metis Seek Plan – Convention Monday to Discuss Claims upon Government,” 11 May 1939.

⁵¹ *Ibid.*

resolution is worth quoting in its entirety as it reveals the strategy the SMS adopted on the advice of their Liberal party advisers:

And whereas through the encroachment of settlement the Metis have been deprived of their original means of subsistence and are reduced, they and their children, to the most abject poverty;

Therefore, be it resolved that the Saskatchewan Metis Society...hereby humbly petitions the Government of the Dominion of Canada to grant to the Metis of Saskatchewan for extinguishment of their title to this country, adequate assistance to establish themselves in agriculture, industry, and other means of making a livelihood for themselves and their children.

And be it further resolved that any settlement made by the government to the Metis people, shall not infringe on the franchise the Metis now enjoy.⁵²

The SMS convention authorized the executive to meet with the provincial government to seek assistance with a rights-based land claim. A meeting of the SMS executive, their advisors Hamilton and Hunter, Premier Patterson, and two cabinet ministers including William F. Kerr (DNR) was held on 15 June 1939. During the meeting, SMS Secretary Joseph LaRocque told the government representatives that the SMS wanted the province to convince the federal government to acknowledge and grant the land claim. He also requested that the province set up a commission to study conditions and make a detailed report to the federal government about the requirements for Métis rehabilitation. According to Murray Dobbin, the SMS chose to ally itself with their Liberal friends in order to gain concessions from the government rather than rely on the political strength of their own organization.⁵³ Dobbin suggests that one of the key advisors to the Métis, Liberal A. T. Hunter, pointed out to Patterson during the meeting that the provincial government could “dump responsibility for the Metis ‘problem’ onto the Federal Government –

⁵² Dobbin, “Part Two,” 12.

⁵³ Ibid.

a great advantage for the province.”⁵⁴ Dobbin’s sources are not well documented; however, it is clear that pressing the Métis claim against the federal government was in the province’s financial interest. Otherwise, the province would have had to assume responsibility and cost directly. By this time, it is possible that the Saskatchewan government was becoming aware of the costs of the Alberta Métis land settlement. It is also likely that the provincial government still believed in the position it had presented at the 1934 Royal Commission on the Natural Resources of Saskatchewan – that Métis scrip was a federal obligation and responsibility for the program’s failures rested with Ottawa.

Throughout these negotiations, the SMS executive relied heavily on non-Aboriginal allies such as John A. Gregory and Zacharias M. Hamilton to voice their claims. In July 1939, Hamilton, secretary of the Saskatchewan Historical Society, represented the SMS at a meeting of Manitoba’s Union Nationale Métisse Saint-Joseph de St. Vital. There, he reported on the recent SMS convention and described in detail the rationale for the SMS request for land to settle Métis historic grievances.⁵⁵ Hamilton referred to a petition for a land base signed by over one hundred Métis delegates. The *Leader-Post* reported in detail the reasons for it.

Before the first treaty was signed with the Indians at Fort Qu’appelle in 1874 our people were well able to support themselves and their families by engaging in the vocations characteristic of the country. The buffalo hunt on the plains of Saskatchewan afforded employment to many of our people and others were engaged by the fur companies as voyageurs, hunters, packet drivers and interpreters. In addition they acted as interpreters for negotiations with various Indian tribes. In almost every case where treaties were made with the Indians, the Indian Chiefs enunciated the principles that their “half brothers,” the Metis were their joint heirs in the western land. The commissioners were said to have accepted this argument and agreed to deal with the Metis people but this promise has never been adequately fulfilled.⁵⁶

⁵⁴ Dobbin, “Part Two,” 13.

⁵⁵ *Leader Post*, “Metis Plan Petitions for Land Settlements,” 3 July 1939.

⁵⁶ *Ibid.*

In his presentation to the Union Nationale Métisse, Hamilton stressed the fact that the SMS did not think the federal government's scrip program was sufficient compensation when compared to treaty Indians who received reserve land, schools, farm aid, medical services and annuities. The Métis were asking for equitable treatment as compared to treaty Indians for their interest in the lands of the Northwest.⁵⁷

The Métis petition resonated with the editors of the *Leader-Post* who called for a resolution in the form of land settlements with cooperation from both levels of government.

...[T]his is a problem which must and should be solved, not only in the interests of the half breeds themselves but in the interests of all whom they contact, at a joint conference between Federal and provincial authorities....it would seem advisable that reservations be created for them in the northern part of the province where they could live under conditions which would enable them to best care for themselves.⁵⁸

From the editorial, it is not clear whether the editors preferred the Alberta Métis land settlement model or the Indian reserve model. However, the editors supported a resettlement model for the Metis that would ease the burden on the state by relocating destitute southern Métis to northern areas where they could supplement their agricultural pursuits with hunting, trapping, and fishing.

During the fall of 1939, the question of precisely what form the Métis settlements should take became a subject of much debate at the Department of Natural Resources. Government officials collected information on the Métis population. One of their sources was a report by an Oblate priest, Fr. J.-B. Ducharme, who worked as a missionary at La Loche in the 1930s. In his "Report on the Indian and Half-Breed Question," originally written for Bishop Lajeunesse of Le

⁵⁷ Ibid.

⁵⁸ *Leader-Post*, "Claims of the Métis," 31 October 1939.

Pas, Ducharme strongly recommends that the solution to the poverty facing the Métis population was to allow them to sign onto Indian treaties. Ducharme points out that at the time of treaty signing, it was arbitrary whether Aboriginal people signed onto treaty or took scrip. He spoke from firsthand experience. He had been present at the signing of one of the treaty adhesions. At the signing of the treaties and the allocation of scrip, the northern Métis and Indian populations pursued the same economic activities of hunting, fishing, and trapping. According to Ducharme, the Métis and Indian populations had successfully maintained themselves until non-Aboriginal settlers encroached on their territory, laid waste to traditional hunting areas and emptied the lakes of fish. Ducharme also mentions in his report that responsibility for all Aboriginal people should have transferred to the province according to the terms of the *NRTAs*. He blamed the provincial and federal governments for ‘passing the buck,’ using jurisdictional wrangling as an excuse for inaction.⁵⁹ In his conclusion, Ducharme recommends that Métis take treaty and be given reserve land and other considerations equivalent to the Indian population. He writes that the government has a moral obligation to provide for people. “Christian philosophy teaches us that the ultimate end of the State ‘is to provide for the temporal need of the public’ and that it’s [*sic*] two great functions are: Protecting and Assisting the citizen.”

Ducharme also believed that special hunting and fishing laws were needed in the north to protect resources for the use of the local Aboriginal population. His report made a series of other recommendations: 1) that lakes should be reserved for the northern population; 2) that alcohol should be prohibited; 3) that formal legal institutions should be set up; and 4) that public services such as roads, hospitals and schools should be built. In his view the non-Aboriginal population was responsible for depleting natural resources such as fur-bearing animals and fish. The Métis

⁵⁹ SAB, NR 1/2-214 J.B. Ducharme report, 6 November 1939.

and Indian populations had been forced to follow suit because the government refused to enforce wildlife regulations. In his conclusion, Ducharme recommends that the federal government is best positioned to organize services and programs for the Métis by extending treaties to this population.⁶⁰ Although his recommendations were not followed, the report is important because government officials such as Gideon J. Matte, director of the Northern Areas Branch of the Department of Municipal Affairs, thought that many of the suggestions had merit and forwarded it to the minister of Municipal Affairs, Reginald J. M. Parker and the minister of Natural Resources. As we will see later in this chapter, the provincial and federal governments were working closely in this period to coordinate services to the northern population. Fr. Ducharme's report provides insight into why such coordination was important. The Métis and Indian populations in the north were pursuing the same livelihoods and faced the same economic competition from the non-Aboriginal population.

Throughout the fall of 1939 and the early months of 1940, the provincial government continued to focus on developing programs for Métis living primarily in northern Saskatchewan. Very little progress was made during this period regarding the poor socioeconomic conditions of Métis living in the south. In March 1940, CCF MLA Tom Johnston introduced another resolution to the legislature regarding the responsibility for relief payments to southern Metis. In his motion he requested that the provincial government accept responsibility for all Métis living in municipalities where they (the Métis) could not pay taxes. Premier W. J. Patterson spoke against the motion criticizing "those who were forever stigmatizing the Metis by singling them out for special treatment."⁶¹ Patterson claimed that the Métis had always considered themselves

⁶⁰ SAB, NR 1/2 214. [better citation needed]

⁶¹ *Leader Post*, "House Rejects More for Responsibility of Relief of Metis," 15 March 1940.

equal citizens and “were capable of working out their own destinies.” He noted the recent formation of the SMS, and reported that he had met with members of the SMS executive who had asked the province to research a brief on the issue of Métis claims against the federal government. With respect to this request, Patterson stated his government would provide sufficient funds to the SMS in order to hire lawyers to put together the legal and historical research.⁶²

In response, Johnston said that Patterson’s argument rested on a false premise and did not address the problem posed in the resolution. Further, he denied that Métis inferiority was implied in the wording of the resolution. “These people are in serious condition...although I understand that they have been told that additional relief they have been getting is being extended for two months. Anyone can see the reason. The election is coming they represent a good-sized block of votes.”⁶³ The minister of Municipal Affairs, however, strongly denied that the government distributed relief for political purposes.⁶⁴

This exchange illuminates three important issues: 1) the level of partisan debate over the issue of relief; 2) Premier Patterson’s rejection of special treatment for the Metis, who considered themselves citizens and not wards of the state like the Indian population; and 3) the government was not willing to take the issue directly to the federal government, but that they would fund the SMS’s legal research.⁶⁵ The legal opinion put together by lawyers Edward D. Noonan and Percy G. Hodges is significant because it formed the basis of the Saskatchewan government’s approach to Métis claims for at least the next two decades.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ On the political nature of relief payments in Saskatchewan see Gregory P. Marchildon and Don Black, “Henry Black, the Conservative Party and the Politics of Relief,” *Saskatchewan History* 58 no. 1 (2006): 4-17.

During the late 1930s and early 1940s, the executive branch of the SMS and its lobbying efforts were closely aligned with the Liberal party and members of various SMS locals were conducting research on Métis claims. For example, Robert C. Jefferson, President of the Battleford local, sought information directly from the MAA about the Alberta Métis land settlements. Jefferson was convinced that if the Alberta Métis received any benefits from their provincial government that the Saskatchewan Métis would as well.⁶⁶ In a letter to Jim Brady, Provincial Secretary of the MAA, Jefferson stated his intentions: “We are very anxious to know just what the Alberta Metis are going to get from the government because we are going to have a convention in Regina on May 16-18 and at that time we must present our demands to the Saskatchewan Government.”⁶⁷ There is no record of any response to Jefferson’s inquiries from the MAA, and there is no evidence that the SMS executive incorporated the views of its member locals. Throughout 1939 and 1940, the SMS followed the provincial government’s strategy of pursuing a claim against the federal government. In a letter to Brady, Spencer Isbister, Secretary of the SMS, reported that:

As to our activities; we have drawn up our brief to be presented to the Federal Government. We have also hired legal council [*sic*] to present our claims. However, what with the war & election, immediate results for our efforts are doubtful. Despite this, we don’t want to lose heart...

Isbister also asked a number of questions regarding Alberta Métis claims and land settlements, such as whether the Alberta Métis had wanted the settlements, were given assistance such as

⁶⁶ Glenbow Archives [hereafter GA], Jim Brady papers, 125-67 Metis Community Development – Coops 1935-62, Robert C. Jefferson to Peter C. Tompkins, 27 January 1939.

⁶⁷ GA, Jim Brady papers, 125-67 Metis Community Development – Coops 1935-62, Robert C. Jefferson to J. P. Brady, 29 April 1939.

cattle and other livestock, were forced to move onto settlements, and whether the settlement was with the federal or provincial government or both.⁶⁸

This correspondence is important as it illustrates just how little the SMS executive knew about the Alberta Métis land settlements when they entered into their own negotiations with the provincial government. There had been no royal commission or provincial inquiry in Saskatchewan beyond the Read memo. There was little or no connection between the MAA and the SMS, and the institutional capacity of both organizations during this period was limited due to the war effort. In the spring of 1940, Jim Brady had attempted to coordinate Métis organizations in Manitoba, Saskatchewan and Alberta, but was advised by J. H. Vandale, a former Secretary of the SMS, that “we are not making much headway here at present, of course the war will affect the progress of our work. I think as you suggest it would be of great importance if all the Metis could cooperate and form one big Metis organization and work together for the welfare of all the Metis people.”⁶⁹ Vandale further advised Brady that little had happened since the resolutions passed at the 1939 Annual Convention with respect to pursuing a land claim against the federal government.⁷⁰ Brady’s plan to organize the Métis across provincial boundaries was hampered by various factors: 1) no coordination between provincial Métis organizations; 2) the unique political and legal strategy pursued by each organization; and 3) the war effort, which sapped much of the organizational energy from the Métis when members, including Malcolm Norris and Jim Brady, enlisted.

⁶⁸ GA, Jim Brady papers, 125-67 Metis Community Development – Coops 1935-62, Spencer Isbister to J. P. Brady, 15 February 1940.

⁶⁹ GA, Jim Brady papers, 125-67 Metis Community Development – Coops 1935-62, J.H. Vandale to J. P. Brady, 7 March 1940.

⁷⁰ Ibid.

From 1939 to 1943, the war effort took centre stage and very little progress was made with respect to Métis claims against the federal government.⁷¹ After a hiatus of three years, the SMS held an annual convention in June 1943. One of the main goals of this convention was to inquire into the state of the legal research undertaken by lawyers Edward D. Noonan and Percy G. Hodges. A letter was drafted and sent to the lawyers demanding that their report be finished by July 1943.⁷² Hodges and Noonan disliked being pressured to finish their legal opinion and complained to Zacharias Hamilton that they had not had time to complete their investigations into the nature of the Métis claims. As a consequence, the brief was heavily influenced by Hamilton's earlier research and conclusion that the Métis had only a moral or equitable claim against the federal government for land.

Essentially, Hodges and Noonan's legal opinion rested on three premises: 1) the Métis had no legal claim enforceable in court arising from Indian title; 2) the Métis had a moral claim which entitled them to special consideration; and 3) the Métis claims had been satisfied by scrip. As a result the lawyers suggested that the Métis should stress their present socio-economic conditions rather than a historical rights-based claim as originally put forward by the MAA in Alberta. In practical terms, this meant that the Métis should look to the provincial government, which had jurisdiction for issues such as education and health under section 92 of the *British North America Act*. According to Murray Dobbin,

[t]he brief was telling the Metis that their strategy and Hamilton's advice had been a mistake. The Metis leaders had already turned down land in 1939. They did this in order to get help from the province to study their case against the federal government. Now

⁷¹ On the impact of the war effort on the home front see Nicole C. O'Byrne, "'The real nails in Hitler's coffin': Yorkton and the British Commonwealth Air Training Plan," (Honours Essay, University of Regina, 2002).

⁷² Murray Dobbin, "Metis Struggles of the Twentieth Century: The Saskatchewan Metis Society 1935-1950 Part 3: Political Interference and Internal Divisions." *New Breed* (October 1978): 13.

that study was saying, in a way, that the Metis should have accepted provincial land in the first place.⁷³

Dobbin's analysis of the Hodges and Noonan report is interesting because it sheds light on the opinion's political implications; however, he downplays the legal complexities of the opinion. The legal consequences were significant as they framed the legal debate over Métis scrip issue for subsequent decades.

4.4 The Hodges and Noonan Legal Opinion

The Hodges and Noonan legal opinion is a significant historical document because it advised the SMS to redirect Métis claims toward the provincial government. The opinion essentially denied any claims the Métis had against the federal government for the failure of the scrip program. Furthermore, the decision to align with the provincial Liberals in order to pursue a litigation based strategy against the federal government strategy allowed the provincial government to avoid taking full responsibility for the costs associated with Métis programs such as the land settlements. The Liberal government's offer to fund Métis claims against the federal government allowed the province to sidestep responsibility for the Métis. In the context of the fallout of the *NRTAs* (see chapter 2), the provincial and federal governments again used jurisdictional obstacles to avoid responsibility for Métis socio-economic conditions and the failure of the scrip program.

Given its political and legal significance, the Hodges and Noonan opinion is worth examining in some detail. Presented on 28 July 1943, the 136-page report formally titled "Brief

⁷³ Ibid., 14.

on Investigation into the Legal, Equitable and Moral Claims of the Metis People of Saskatchewan in relation to the Extinguishment of Indian title,” is notable for its comprehensive overview of constitutional and legal issues pertaining to Métis.⁷⁴ Relying heavily on historical sources, Hodges and Noonan provide an extensive overview of relevant documents such as the 1670 Hudson’s Bay Company Charter, the Selkirk Treaty, the 1763 Royal Proclamation, the 1868 Rupert’s Land Order and American and Canadian case law. After canvassing the relevant case law and constitutional documents, Hodges and Noonan clearly state their opinion on the legal significance of Aboriginal title (or what they call native title) as the basis of the Métis’ rights claims. They write:

In our opinion it is clearly established by the above authorities that what has been called “native title” is not a legal title at all, that is, it is not such a right or interest as can be enforced in the Courts. It is simply a matter of long established Government policy that native inhabitants will not be dispossessed without compensation being made. The natives have the right to use the lands dependent on the good will and pleasure of the Sovereign. Their “Interest” can be terminated either by treaty or contract which is the course usually followed, or by Statute, conquest or any other means which in fact effects a termination. There is no legal remedy through the Courts. It is our definite opinion, therefore, that the Indians, and consequently the Half-breeds have not, and never did have a legal claim.⁷⁵

The characterization of “native title” (Aboriginal title) as a political obligation rather than a legal one denied any chance the Métis had to make a rights-based claim against the federal government. According to the legal opinion, any redress for the Métis would have to be found in the political realm.

⁷⁴ The legal opinion cost \$7,000 or \$97,377.78 in 2014 dollars. SAB, R-33.1 Files of the Premier, XL 859 (a) “Metis”, Edward D. Noonan and Percy G. Hodges, “Brief on Investigation into the Legal, Equitable and Moral Claims of the Metis People of Saskatchewan in relation to the Extinguishment of Indian title,” 28 July 1943.

⁷⁵ *Ibid.*, 31.

Although they dismissed the legal claim outright, the authors devoted the remainder of their report to studying the political and equitable claims of the Métis. On these issues, Hodges and Noonan state unequivocally that Aboriginal people's equitable claims have been so well established that they see no need to canvass the issue. Instead, they state that the only relevant question is whether Aboriginal claims extended to the Métis population; that is, did the Métis have a share in Aboriginal title. And if so, had it been extinguished?⁷⁶ The starting point in their analysis of this issue is a recognition that “[Métis] made their homes in these territories for generations and it can be strongly argued that they exercised a de facto sovereignty comparable to that of the Indians themselves.”⁷⁷ Hodges and Noonan state that the recognition of sovereignty based on use and occupation is important for establishing an equitable claim. They suggest that the crown had always recognized Métis claims to a share in Indian title as well as their valuable service to the crown by facilitating various treaty negotiations. According to Hodges and Noonan, the crown's treaty negotiators “not only recognized and admitted the Justice of such claim in equity, but actually undertook and agreed with the Indians prior to the negotiation of the various treaties, to recognize the claims of the Half-Breeds and to fairly compensate them.”⁷⁸ With respect to the character of that recognition, Hodges and Noonan state that, “while this was not an agreement of a legal nature made direct with the Half-breeds themselves, it was an undertaking accepted by both the Indians and Half-breeds in good faith, and is certainly sufficient basis for an equitable claim. It is extremely doubtful whether the Treaties of extinguishment of Indian title could have been successfully concluded without such a

⁷⁶ Ibid., 33.

⁷⁷ Ibid., 34.

⁷⁸ Ibid., 38.

promise.”⁷⁹ Thus, Hodges and Noonan find that there were three factors underlying an equitable claim: 1) their service to the crown in facilitating treaties with the Aboriginal peoples; 2) their share in the Indian title as direct descendants of the Indian peoples; and 3) Métis use and occupation of the lands themselves.

After canvassing the historical foundation for the Métis equitable claim, Hodges and Noonan explored the primary method by which the federal government had recognized this claim – the issue of scrip. Over seventy pages, the report reviews the legislative and procedural history of Métis scrip from its origins in the 1870 *Manitoba Act* to the federal government’s last issue in 1923. After a comprehensive review of numerous pieces of legislation and Orders-in-Council, the authors comment on what they call the ‘Practical Effects of Issue of Scrip’:

While the half-breed claims were substantially conceded and finally satisfied, it is quite apparent that the settlement actually made was not, and could hardly have been intended as a comprehensive scheme to put the half-breeds on equality with the white settlers so that they could compete economically on a permanent basis. Nor can it be authoritatively stated, or established by precedent that extinguishment of aboriginal title necessarily involves any such programs for economic rehabilitation of each individual. The Government simply satisfied a claim for compensation, all recipients being treated alike regardless of needs or of ability to adapt themselves to changing conditions.⁸⁰

Thus, the authors regarded scrip as the federal government’s recognition and settlement of a rights-based claim to land owing to the Métis’s share in Aboriginal title. The scrip program arose from the recognition that Métis Aboriginal title needed to be cleared from the underlying title in order to promote settlement. According to Hodges and Noonan, scrip land was never intended to address the continuing socioeconomic imbalance between the Métis and the non-

⁷⁹ Ibid., 38. Hodges and Noonan cite personal testimony of Métis who were at the signing of Treaty 4 to attest to the fact that Indians saw the Métis as partners in sovereign claims to the lands of the Northwest.

⁸⁰ Ibid., 108-9.

Aboriginal settler population. Furthermore, the authors note that many Métis sold their land entitlements and were shortly afterwards as poor as ever. The federal government's recognition of a rights-based claim was a one-time distribution of land or money scrip. After that, Métis were to be treated on equal footing with other Canadian citizens.

Hodges and Noonan argued that scrip may have legally extinguished the Métis's share of Aboriginal title, but it failed completely to turn the Métis into agricultural settlers. As a legal instrument, scrip may have succeeded as a way to clear Aboriginal title, but as a public policy instrument to address the socioeconomic challenges the Métis faced it had failed miserably. Hodges and Noonan cite various relevant authorities, such as Alexander Begg's journal about the Red River settlement to illustrate how few Métis used scrip land to farm.⁸¹ They also interviewed Métis regarding their usage of Métis scrip land. No Métis had any recollection of anyone using the scrip land to farm.⁸² The vast majority of scrip land was sold to speculators. The average price in Battleford was \$85 or \$90 per 240 land scrip, well below the cost of homesteading land, which averaged \$1 per acre.⁸³ At the end of the scrip section of the report, Hodges and Noonan draw some conclusions about the program:

... in many cases the half-breeds disposed of their claims for less than full value, and in some cases were probably actually defrauded. It is doubtful however whether this had any real effect on the general problem of the half-breeds. In other words even though every recipient had received a fair price for his scrip based on the value of land at the time, it would not have proved a solution of the real problem. The important point is that the settlement by grant of scrip wholly failed as a measure to place the half-breed population on a sound economic footing, if indeed it were ever intended as such.⁸⁴

⁸¹ See Alexander Begg, *The Creation of Manitoba: or, A History of the Red River Troubles* (Toronto: A. H. Hovey, 1871).

⁸² SAB, R-33.1 Files of the Premier, XL 859 (a) "Metis", Edward D. Noonan and Percy G. Hodges, "Brief on Investigation into the Legal, Equitable and Moral Claims of the Metis People of Saskatchewan in relation to the Extinguishment of Indian title" (28 July 1943), 112.

⁸³ *Ibid.*, 110.

⁸⁴ *Ibid.*, 112.

The real motivation behind the federal government's scrip program, however, did not preoccupy Hodges and Noonan. They were primarily concerned with the political and legal consequences of its failure, and the means by which the Métis could seek redress by mounting a rights-based claim against the federal government. And to this end, Hodges and Noonan stated a number of conclusions:

We would summarize the results of our investigation as follows:

- (1) That the half-breeds have not, and never did have any legal claim, enforceable through the courts, arising out of any share in the Indian title.
- (2) That they did have a strong equitable claim to special consideration, having regard to the position they occupied, and the life they were leading at the time of the transfer of the Territories to Canada.
- (3) That such claim was settled by the Dominion Government in accordance with the demands of the half-breeds themselves, and in accordance with the precedent set by the earlier settlement with the half-breeds in Manitoba.
- (4) That in the case of many individual half-breeds, such settlement proved to be of little or no value in fitting them for civilized life.
- (5) That it is to say the least, very doubtful whether any alternative settlement adequately designed to train and fit them for civilization, would have been accepted by the half-breeds or would have received a sufficient measure of co-operation from them.
- (6) That in making any submissions to either the Dominion or Provincial Governments, stress should be laid on present conditions and needs rather than on compensation for past rights or alleged injustices.⁸⁵

These conclusions greatly diminished the likelihood of success of any claims the Métis might have brought against the federal government. For several years the SMS executive, on the advice of self-interested Liberal advisers in government, had focussed on developing a rights-based strategy, which Hodges and Noonan opined had no basis in law. Furthermore, the Liberal

⁸⁵ Ibid., 135-6.

government of Saskatchewan's attempt to shift jurisdictional responsibility onto the federal government was found to have no legal foundation. According to Murray Dobbin and Laurie Barron, the Hodges and Noonan report delivered a shattering blow to the SMS, which, as an organization, had closely identified with the rights issue.⁸⁶ Almost a decade earlier in Alberta, the MAA had made a strategic decision to abandon rights-based argumentation at the Ewing Commission in favour of what is described in the previous chapter as the "pathology model." During the commission, the MAA achieved a measure of success by using a needs-based approach to pressure the provincial government into agreeing to set aside land.

From its inception, however, the SMS doggedly pursued a rights-based strategy based on historical claims for redress. While Hodges and Noonan agreed that the scrip program had failed to address the claims of the Métis, they found no legal remedy against the federal government. With no remedy enforceable by the courts, any rights-based arguments were doomed from the outset. Hodges and Noonan recognized this fact and advised their clients to pursue a strategy based on "present conditions and needs rather than on compensation for past rights or alleged injustices." In the end, Hodges and Noonan advised the Métis to follow the same strategy that the MAA had been followed in Alberta. As a result, the SMS's rights-based strategy failed to advance Métis claims in any meaningful way and the provincial government failed to develop any comprehensive policies during this period to address Métis socioeconomic conditions. One may argue that the only beneficiaries of the SMS strategy were the provincial and federal governments who were able to side-step jurisdictional responsibility for the failure of the scrip program.

⁸⁶ F. Laurie Barron, *Walking in Indian Moccasins: The Native Policies of Tommy Douglas and the CCF* (Vancouver: UBC Press, 1998), 36.

But this shift towards the MAA strategy happened at a different period. The early 1940s were not a good period for the SMS. Zacharias Hamilton, John A. Gregory and the other Liberal advisers had been mistaken about the feasibility of a rights-based claim against the federal government for the failure of the scrip program. As a consequence, by 1943, most SMS locals were inactive and the executive was divided and ineffective.⁸⁷ The provincial Liberal government refused to fund a trip to Ottawa so that the SMS could present the Hodges and Noonan report to the federal government in hopes of pressing their case for fair and equitable treatment. A non-Aboriginal woman from a family of Presbyterian ministers, Wilna Moore, became the new secretary treasurer of the SMS.⁸⁸ Murray Dobbin has argued that the war effort along with the failed litigation strategy badly depleted the SMS leadership ranks, thus allowing a non-Aboriginal woman to step into a position of authority and set the direction of the organization. In a letter dated 2 June 1943, Moore wrote to Jim Brady about the state of the SMS: “[W]e have elected a new set of Officers and have been able to pull things together remarkably well, so well in fact that the brief for which the Saskatchewan Government have paid out \$7,000 in cash to a firm of lawyers in Regina is to be ready to present in Ottawa this present summer.”⁸⁹ She also reported that an annual convention would be held at the end of June to discuss Métis problems as well as the Hodges and Noonan report. She asked Jim Brady to come to the convention in order to talk about the land settlement system in Alberta. Moore wanted the “right ideas to accompany the Lawyer’s brief,” because “it may change the life of the Metis people in the West, and high time too.”⁹⁰ Moore saw the Hodges and Noonan report as a chance

⁸⁷ Dobbin, “Part 3,” 15.

⁸⁸ *Ibid.*, 12.

⁸⁹ GA, Jim Brady papers, M125-67 Misc Native Rights 1942,1969, W. Moore to J. P. Brady, 2 June 1943.

⁹⁰ *Ibid.*

to press an equitable claim against the federal government for land settlements based on the Alberta model.

4.5 Epilogue

There is no record of the meeting in Ottawa where Moore presented the Hodges and Noonan legal brief or by what means the trip was funded. However, the federal minister of agriculture, James G. Gardiner, did make reference to the Métis claims brought forward by Wilna Moore in a letter to John W. Pickersgill in the Prime Minister's Office. As a former premier of Saskatchewan who had played a key role in negotiations leading up to the *Natural Resources Transfer Agreements*, Gardiner was keenly aware of the jurisdictional issues surrounding Métis claims. He refuted the Department of Indian Affairs' claim that it had no jurisdiction over the Métis because they were Canadian citizens and did not fall under section 91(24) of the *British North America Act*, 1867, because it ignored the reality that many Métis communities were adjacent to Indian reserves and that the indigent Métis population had become a financial burden to the province. With respect to previous provincial efforts to address the situation, Gardiner wrote, "The provincial government has attempted to assist these people in certain localities, first, in providing work for them, and in some cases in organizing farming areas."⁹¹ Gardiner would have been aware that the provincial Liberal government had set up a number of Métis farming settlements. With respect to delineating what the federal government could do to assist the Métis, Gardiner raised the following concerns:

There are those who believe that we should curry favour with the Metis by doing some set things for them, but I am afraid we would run into serious difficulties unless we confined our activities to exactly those things which we do for everyone else. If we do depart from that policy, it would appear to me that any financial

⁹¹ Library and Archives Canada [hereafter LAC], King fonds, MG 26JI 292881-2 (reel 7037), James G. Gardiner to John W. Pickersgill, 18 September 1943.

obligation we undertake should be through the provinces rather than directly with the Metis organization. The fact that all the land which is vacant is now under the control of the provincial government makes the argument all the stronger that it would be difficult for the Federal Government to undertake any direct assistance.⁹²

Gardiner's concerns echo those expressed by his successor, Premier William Patterson. During this period, governments were wary of creating programs that would be seen as benefitting a particular group. And with respect to the *NRTAs*, Gardiner had spent several years arguing for the transfer of the public domain to the provincial government of Saskatchewan. He, perhaps better than anyone else, appreciated that once the land transferred to the provinces the federal government could no longer use it to satisfy outstanding federal obligations, the only exception being if the pre-existing obligation transferred under the terms of the agreement such as a trust or contract. According to Hodges and Noonan, Métis scrip was not a legally enforceable entitlement. Thus, the federal government could not be compelled to provide redress for the failed scrip programs or any needs-based or equitable entitlements. This suited the federal government as it had no intention of directly addressing Métis concerns. The federal government limited its involvement to indirect assistance, such as providing cost-sharing dollars for natural resources, economic development and conservation plans such as the Northern Saskatchewan Conservation Board or the Prairie Farm Rehabilitation Plan.

⁹² LAC, King fonds, MG 292881-2 (reel 7037), James G. Gardiner to John W. Pickersgill, 18 September 1943.

Chapter 5: Piecemeal Policy-Making: The Northern Saskatchewan Conservation Board and the Green Lake Métis Settlement

5.1 Introduction

The last chapter examined Métis-government relations in Saskatchewan, particularly the relationship between the Liberal administration and the Saskatchewan Métis Society. As we have seen, the Liberal party played a large role in shaping the strategic goals of the Métis political leadership. At the same time as these events unfolded, the Liberal government led by Premier William Patterson introduced a number of natural resources policies designed to address the socioeconomic needs of the Métis people. These policies were developed with extremely limited consultation with the Métis and did not reflect a comprehensive policy program. Instead, the government experimented with a number of initiatives such as the Green Lake Métis Settlement (loosely modelled on the Alberta Métis settlements) and joint federal/provincial conservation measures such as registered traplines and fur conservations blocks. These policy initiatives were piecemeal responses to the problems of the Métis people and did little to ameliorate their socioeconomic conditions. For my purposes, however, they shed light on the Saskatchewan government's liberal conceptualization of the socio-economic problems facing the Métis as well as its capacity to address the issue.

As we saw in Chapter four, the Liberal government in this period hoped to shift financial and jurisdictional responsibility for the Métis onto the federal government. Even after the decades-long battle to acquire administrative control over the province's natural resources, the Saskatchewan government believed the the Métis remained a federal responsibility and funded the Hodges and Noonan legal opinion regarding the SMS's land claim to reinforce its position.

The federal government, however, argued at the Natural Resources Commissions of Saskatchewan and Alberta that the Métis had always been considered Indians solely for the purposes of issuing Métis scrip under the jurisdictional authority of s. 91(24) of *The British North America Act, 1867*. As with many other unresolved issues, the Saskatchewan government continued to assert that the Métis, and the legacies of the failed scrip program, were not their responsibility. As a result of this impasse, neither Saskatchewan nor Ottawa addressed the pressing socioeconomic problems facing the Métis in any meaningful way. The Hodges and Noonan report remained the most significant contribution Saskatchewan's Liberal government made towards addressing the Métis issue. Other initiatives pursued during the war years, such as the Northern Saskatchewan Conservation Board (NSCB) and the Green Lake Settlement, were tentative and illustrate a policy designed to reduce dependence on relief (welfare) through natural resources development that might bolster economic self-sufficiency among the Métis population.

5.2 The 'Great Trek North'

Shortly after the signing of the 1930 *NRTA*, the Saskatchewan government organized a provincial Department of Natural Resources (DNR). Premier James T. M. Anderson appointed himself minister and Major John Barnett deputy minister of the department. In the years immediately following 1930, officials of the DNR were mostly concerned with organizing the department and developing arguments that would be heard at the 1934 *Royal Commission on the Natural Resources of Saskatchewan*.¹ Unfortunately, poor economic conditions during these early years of the Great Depression stifled program development. Few new personnel were

¹ Canada, *Report on the Royal Commission of the Natural Resources of Saskatchewan* (Ottawa: King's Printer, 1935).

hired, and most of the federal government's policies from prior to 1930 were kept in place.² Outside the department, however, people's perceptions of the value of natural resources generally rose. The collapse of 'King Wheat' in the depression had destroyed Saskatchewan's primary industry and caused many of its economic woes, and some began to see natural resources as a way of diversifying what was essentially a one-industry province.³ The government too hoped that developing Saskatchewan's natural resources would lessen the impact of the Great Depression and turn the economy around.

Increasingly the government looked to the north for solutions. To 1930, Saskatchewan's north had virtually remained unchanged for decades. No roads connected the region to southern communities or markets. Missions, the large majority run by the Roman Catholic priests, provided the nucleus of most northern settlements. There were no municipal organizations, no hospitals, no modern housing, no ratepayers' associations, and little infrastructure. The main socio-political influences in northern Saskatchewan were Roman Catholic missionaries, the Hudson's Bay Company, and private fishing companies.⁴ The Aboriginal population was almost completely isolated from the southern parts of the province. For years the provincial government had paid relatively little attention to the area, especially with regard to the delivery of social services or the regulation of private industry. However, with the signing of the *NRTA* and the onset of economic depression, it began look to the lands of the north for a solution to many of the problems facing southern settlers largely dependent on the wheat economy.

² Vernon C. Serl, "Action and Reaction: An Overview of Provincial Policies and Programs in Northern Saskatchewan," in *A Northern Dilemma: Reference Papers*, ed. Arthur K. Davis (Bellingham, Washington: Western Washington State College, 1967), 15.

³ Bill Waiser, *Saskatchewan – A New History* (Calgary: Fifth House), 282.

⁴ Murray Dobbin, "Prairie Colonialism: The CCF in Northern Saskatchewan," *Studies in Political Economy* 16 (1985): 7, 11.

During the 1930s, the provincial governments of Saskatchewan and Alberta created a number of relocation programs to move settlers from drought-stricken southern areas to parkland regions in the north. The purpose of what has been called the “Great Trek North” was to encourage economic sustainability and remove people from relief rolls.⁵ Many of these early efforts were intended as temporary measures only, however, and as the Great Depression wore on the government created more comprehensive programs such as the Northern Settlers Re-establishment Branch. A branch of the Department of Municipal Affairs, its primary responsibility was supervising resettlement and the distribution of capital and relief assistance. The goal was to concentrate resettlement into blocks in the northern parkland areas of the province so that government could provide services to settlers who were then expected to become economically self-sustaining in a short period of time.⁶

Under the terms of the *Land Utilization Act*, the Northern Settlers Reestablishment Branch could declare any part of the province to be under its jurisdiction.⁷ According to John McDonald, the branch “possessed both the intent and ability to manipulate and restructure the pattern of settlement in the forest fringe.”⁸ As the 1930s progressed, the government replaced temporary, makeshift relief policies with large-scale land engineering and planning projects. The redistribution of land was increasingly regarded as the solution to economic disparity. As a result, a steady flow of non-Aboriginal settlers moved to northern parts of the province. Approximately 10,000 people relocated to northern Saskatchewan between 1930 and 1933.⁹ As

⁵ Denis Patrick Fitzgerald, “Pioneer Settlement in Northern Saskatchewan” (Ph.D. Diss., University of Minnesota, 1966), 306.

⁶ John McDonald, “Soldier Settlement and Depression Settlement in the Forest Fringe of Saskatchewan,” *Prairie Forum* 6 no. 1(1981): 51.

⁷ *The Land Utilization Act*, RSS 1940, c 192, s 4.

⁸ McDonald, “Soldier Settlement,” 53.

⁹ *Ibid.*, 309.

World War II approached and more land opened for homesteading, the population of northern Saskatchewan grew to include the largest number of people in its history to that point.¹⁰

When their farms increasingly fell victim to drought conditions in the southern parts of the province, non-Aboriginal farmers and settlers moved northward of their own accord. The provincial government established The Northern Settlers' Re-establishment Plan in order to promote this migration. Soon non-aboriginal trappers also began moving north where they increasingly encroached on traditional Aboriginal hunting and trapping territories already established in the area. As the decade progressed, beaver neared extinction as a result of over-trapping. The provincial government implemented a series of open and closed seasons in order to offset the decline in fur and game animals. Generally, however, the fur and fishing industries were poorly regulated. Private fur trading companies, predominantly the Hudson's Bay Company, collected high profit margins from the trappers and manipulated the credit given to trappers in order to increase returns. Private fishing companies also controlled all the credit allotted to fishers, and held what amounted to a monopoly over buying and marketing products.¹¹

Soon, officials in the new Department of Natural Resources became aware of the precarious state of the fur industry in northern Saskatchewan as a result of the Great Trek. DNR officials encouraged the province to assert regulatory control over the fur trade.

The fur trade is far from being satisfactory, and requires a complete re-organization from Trapper to dealer. The present method of trapping is fast depleting the province of its fur, and present unethical methods of a percentage of the fur dealers warrants

¹⁰ Fitzgerald, "Pioneer Settlement," 280-1.

¹¹ Laurie F. Barron, *Walking in Indian Moccasins: The Native Policies of Tommy Douglas and the CCF* (Vancouver: University of British Columbia Press, 1997), 144. See also Helen Buckley, "Trapping and Fishing in the Economy of Northern Saskatchewan," Report No. 3, *Economic and Social Survey of Northern Saskatchewan* (Saskatoon: Research Division, Centre for Community Studies, University of Saskatchewan, 1962); and David M. Quiring, *CCF Colonialism in Northern Saskatchewan: Battling Parish Priests, Bootleggers, and Fur Sharks* (Vancouver: UBC Press, 2004).

the conclusion that Government control of all raw fur is essential if the province is to reap the benefit of its fur resources for any length of time.¹²

In 1938, Acting DNR Minister Thomas C. Davis, Deputy Minister J. R. Hill, and Horace Halcrow of the federal Department of Indian Affairs made a trip to northern Saskatchewan to survey the economic conditions of the Aboriginal people there. They found that low water levels and the influx of white trappers had led to near extinction of fur-bearing animals. They also found that the Aboriginal residents (including Métis) were having difficulty catching enough fish for their own consumption. At a conference held to discuss their findings, Davis declared that water controls had to be introduced and suggested that a system be put in place to increase the number of fur bearing animals. As a model, Davis looked to a project pioneered by the provincial government of Manitoba, and to conservation work being done by the Hudson's Bay Company on a private lease at Cumberland House.¹³ Davis advocated a free enterprise model of conservation. "The government is not unmindful of the fact that others are also interested in the fur production of Saskatchewan and that anything done should aim towards increased production...with the least degree of interference with the right to sell for produce."¹⁴ However, he also recommended that trapping on any government preserves should be restricted to Aboriginal residents.¹⁵ The "establishment of patrolled reserves on which Indians and Halfbreeds [would] have exclusive trapping privileges offers the best hope of placing the native population on a self-supporting basis."¹⁶ These conservation measures, Davis believed, would increase the fur-bearing animal population and temper the need to dispense relief to the local population.¹⁷

¹² SAB, R-907.2 Ministerial Papers, "Annual Report, 1935," 35.

¹³ *Regina Leader-Post*, 24 August 1938.

¹⁴ *Regina Leader-Post*, 25 August 1938.

¹⁵ *Prince Albert Daily Herald*, 17 September 1938.

¹⁶ *Ibid.*

¹⁷ In this conservation model, trapping was restricted to Aboriginals (including Métis), but no restrictions were put on the sale of furs trapped on government land preserves.

5.3 The Northern Saskatchewan Conservation Board (NSCB)

In March 1939, Thomas A. Crerar, the federal Minister of Mines and Resources, appeared before the Saskatchewan Legislative Assembly to announce the creation of the Northern Saskatchewan Conservation Board (NSCB). This federal-provincial joint initiative was a “co-operative effort to restore the fur industry as the principal means of providing subsistence and a livelihood to the Indian and half-breed population of Saskatchewan.”¹⁸ Because the population of northern Saskatchewan consisted of treaty Indians, a federal responsibility under s.91(24) of the *British North America Act*, and non-status Indians and Métis, considered provincial responsibilities, the NSCB board included one provincial appointee and one federal appointee who acted in an advisory capacity, formulating policies to improve conservation practices. Final decisions with respect to policy rested with the responsible federal and provincial departments. Capital costs were borne by the federal government; upkeep and maintenance of programs by the provincial department.¹⁹

Saskatchewan’s DNR minister, William F. Kerr, who had taken over from Davis, stated the intended purpose of the NSCB in a letter to cabinet dated 6 June 1939:

The undersigned [Kerr] has the honour to report that the spirit of The Northern Saskatchewan Conservation Board Act, 1939, contemplates that the Governments of the Provinces and the Dominion shall, under arrangement made between them, take joint action to conserve and develop the resources in game, fish and fur in that northern portion of the province beyond the agricultural section for the purpose of enabling the inhabitants of that area who rely on those resources for livelihood to become and to remain self-sustaining.²⁰

The preamble of the NSCB’s constitutive legislation sets out its intended purpose:

¹⁸ Crerar as quoted in Author, *Moose Jaw Times Herald*, 27 March 1939.

¹⁹ “Measure is Aimed at Conservation of North Wealth, *Saskatoon Star-Phoenix*, 27 March 1939.

²⁰ SAB, S-M11 Ministerial Papers, W. F. Kerr to Lieutenant Governor-in-Council, 6 June 1939.

WHEREAS the section of Northern Saskatchewan beyond the agricultural portion thereof is largely inhabited by people who subsist by the pursuit of hunting, trapping and fishing and other like occupations.

AND WHEREAS in recognition of their mutual interest in the welfare of the said population an arrangement has been made between the parties hereto to undertake by joint action to conserve and develop the resources in game, fish and fur and thus enable the population of the said area to remain self-sustaining or to assist them to become self-sustaining.²¹

The racially neutral language of the preamble makes it hard to discern exactly which groups were intended to benefit from the NSCB. However, in a subsequent section of the *Northern Saskatchewan Conservation Board Act*,²² this aspect is clearly defined:

[Section] 4. The Minister of the First Part [Saskatchewan] shall by regulation set aside and preserve the said area for the resident population in order that they shall have the exclusive right to pursue their calling of hunting, trapping and fishing, and that hereafter licenses to hunt or trap for profit, and commercial fishing licenses may be issued only to Saskatchewan residents classified as follows:

1. To Indians as defined by the Indian Act;
2. To persons of mixed white and Indian blood;
3. To white persons presently holding licenses to trap in the said area;

[Section] 10. It is mutually agreed that any and all benefits existing, arising or created out of the development of the area or any selected sites therein shall accrue jointly and equally to all residents of the area whether they be of white, mixed or Indian blood and that the sites selected for intensive development shall be chosen not only for their adaptability to such development but also in relation and proximity to present centres of resident population.²³

The program served the interests of both the federal and provincial governments because conservation measures, it was believed, allowed the local residents to rely more on local fur and

²¹ SAB, S-M11 Ministerial Papers, "Draft Agreement, 1939."

²² *The Northern Saskatchewan Conservation Board Act*, RSS 1940, c 45, s 4.

²³ SAB, S-M11 Ministerial Papers, "Draft Agreement."

game for their livelihoods.²⁴ The purpose of the legislation was to halt the incursion of non-Aboriginal hunters and trappers who were not residents in the area. The government anticipated that less economic competition from the settler population would increase the economic prospects for the Aboriginal population and decrease their dependence on relief.

5.4 The NSCB 1939 Annual Report

Although Kerr shelved the 1939 annual report, likely over a funding dispute, the report is nevertheless valuable for the data it provides on socioeconomic conditions in the north.²⁵ Federal representative J.L.Grew emphasized that the success of the scheme was “dependent upon proper supervision as much as on actual construction.”²⁶ However, he also admitted the following with respect to the funding mechanism:

While this division of costs may not be actually written into the agreement between the two governments, we believe that it is the intent and spirit of the agreement for the Federal Government to bear the capital charges in setting up an organization for the restoration and conservation of game, fish and fur....

We feel that the interests of the Provincial and Federal Governments are about equal in relation to the native inhabitants, and that both governments will derive benefits from the increased well being of the natives that the carrying out of the scheme will bring out. We recommend then that for the initial setting up of the plan, all capital costs be charged against the Federal Government, and future maintenance of the organization, including equipment and structures be a charge against the Provincial Government....²⁷

²⁴ Ibid.

²⁵ J. L. Grew, the federal representative on the NSCB, replied that it was the board’s intention that the federal government should bear the capital cost (\$114,700.00) and the provincial government the maintenance cost (\$48,680.00).²⁵ In 2014 dollars the federal and provincial contributions would be approximately \$19 million and \$800,000 respectively (SAB, S-M11 Ministerial Papers, W.F. Kerr to J.L. Grew, 19 December 1939).

²⁶ Ibid.

²⁷ Ibid.

Kerr refused to send the 1939 NSCB Annual Report to D. J. Allan, Superintendent Reserves and Trusts, Department of Mines and Resources. Grew later requested that Kerr reconsider the matter of sending the report.²⁸ It is not entirely clear from the archival record exactly why Kerr refused to forward the Annual Report. The lack of a clearly calculable funding mechanism in the federal-provincial agreement may have contributed to the fact that the report was never submitted. Kerr may not have agreed with the amount the province would have to pay. Furthermore, according to the terms of its constitutive legislation, the Annual Report was not binding on either level of government. A dispute over the cost of implementation is the most likely reason the report was shelved. During this period, all federal monies were being directed towards the war effort. In a letter written in 1944, Deputy Minister of DNR, P. W. Doake, confirms that World War II brought about the end of the NSCB's plans for conservation and development.²⁹

Even though the joint federal/provincial conservation plan was never implemented, the proposal is valuable because the two board members, G. N. Munro and J. L. Grew, provided a detailed study of the socioeconomic situation in the north. In order to gather information for their report, Grew and Munro travelled extensively throughout northern Saskatchewan. The Board members sought to find answers to the following four questions:

1. Are the material resources of the country sufficient to supply the wants of the residents?
2. Is the lot of the native improving?
3. What is likely to be the trend in the future with regard to fish, fur and game in relation to the population?
4. What can be done to improve conditions?³⁰

²⁸ Ibid.

²⁹ SAB, NR 1/2 Records of the Department of Natural Resources, P. W. Doake to Cook, 20 March 1944.

³⁰ Ibid., 16.

They found the number of fur animals to be greatly depleted for the following reasons:

1. Over trapping—that is, that the rate of trapping which the figures given show, is too high to maintain breeding stock.
2. Over trapping not shown by the records which would mean that quantities of fur are being disposed of illegally.
3. Wasteful methods of taking fur such as the use of poison and of snares which are not picked up.
4. The destruction of wild life and cover by fire.³¹

They concluded that “fire has been by far the greatest single agency in the destruction of wild life, and the impoverishment of the people...[t]here is no question but that the lot of the native in all parts has become increasingly difficult in the last few years, scarcity of fur, scarcity of game, low prices, loss of other income, and the wearing out of equipment which he cannot afford to replace are all factors in this trend.”³²

Grew and Munro predicted that economic conditions would likely improve due to the fact that the fur cycle was in an upswing; however, they predicted that the next low cycle would find the Aboriginal population in a precarious economic situation. They added that rising population numbers were putting stress on fur and game resources in the region. As a solution, Grew and Munro suggested that “[i]n order to prevent these people becoming a burden on the rest of the country they will have to be taught conservation and a more economical utilization of their resources.”³³ They suggested that fur conservation blocks be established, “essentially the provision of trapping reserves for the native population and of leadership and guidance to the

³¹ SAB, S-M11 Ministerial Papers, “Northern Saskatchewan Conservation Board Annual Report, 1939,” 13.

³² Ibid.

³³ Ibid.

natives in the wise and provident use, and conservation of the fur and game resources on these reserves.”³⁴

The board’s recommendations concerning the commercial fishery likewise highlighted the priority given to local residents.

[C]onsideration is to be given first to the residents of the districts in which the Board operates. One of the first recommendations to be made is therefore that the number of licenses on each lake should be restricted in accordance with the limit set for the poundage of fish to be taken.... Preference should be given first to those living in the immediate neighbourhood of the lake and next to those in the district in which the Board operates.³⁵

The board members found that the Natives were not benefiting economically from fisheries in the North. They gave two reasons for this 1) the failure of Natives to provide for future contingencies, and 2) provincial and federal regulations that failed to live up to the terms of Treaty #8.³⁶ In order to address these problems, Grew and Munro suggested that land be set aside as game and fur sanctuaries. They recommended that supervisors consult with local inhabitants before determining the most suitable areas for sanctuaries. “In putting the idea of sanctuaries and preserves before the natives it will be stressed that the creation of these preserves will be for their benefit and that the designation of the locality will conform with their ideas as far as possible.” They also noted that the costs of patrolling these areas required that the Aboriginal inhabitants have some input into the designation of the reserves.”³⁷ It is worth noting that Grew and Munro recommended protecting established traplines even if doing so required the Aboriginal population to move to ‘alternative hunting grounds.’ Aboriginal participation in the

³⁴ Ibid.

³⁵ Ibid., 20.

³⁶ Ibid., 23-24.

³⁷ Ibid., 25.

conservation efforts was notably not recognition of their rights, rather, it was consider for practical reasons to be an integral part of the plan's successful implementation.

The board members reported that conservation programs should not be designed separately for treaty Indians, Métis, and non-status Indians since all of these groups shared the same resources. The only significant difference the Board found between the Métis and the Indians was in government administration. The Board hoped that jurisdictional division would not be an issue in the design or implementation of the program:

While to all intents and purposes the natives of the north are one and the same people, living the lives of Indians and procuring their livelihood [*sic*] from the wildlife resources of the country, there has been a distinction made between the treaty and the non-treaty native by the Federal and Provincial Governments in their administration of these people. In the plan set forth in this report all persons of Indian blood, living the life of an Indian, whether treaty, non-treaty or half breed are classed as natives.³⁸

Grew and Munro were well aware that jurisdictional divisions would make the plan unworkable. Métis, non-treaty, and status Indians were all pursuing the same means of livelihood in the same territory and so should be included in the same plan.

Grew and Munro also found approximately seventy-five to one hundred non-Aboriginal, full-time trappers operating in northern Saskatchewan. These men wanted the government to implement a registered trapline system. "They are unanimous in their desire for some form of registered or licensed trap lines and would undoubtedly carry on their trapping operations with more of a sustained yield plan in view, than is practised under the existing regulations, if they were given a proprietary interest in the country they trap." A registered trapline system would benefit non-Aboriginal trappers because it would provide security of tenure. As exclusive

³⁸ Ibid., 34-35.

licensees, trappers, it was believed, would invest more in their property interest and thus promote conservation measures.³⁹ The board was concerned, however, that Aboriginal trappers, were not ready to assume responsibility for managing individual traplines, and so recommended an education program to teach Aboriginal people how to run the business side of a trapline.⁴⁰

Generally, the board accepted calls for registered traplines, but rejected a *laissez-faire* system of resource exploitation and instead recommended a model based on managed conservation, but one where the government was not primarily responsible for supervision. Instead, individual licensees would have a stake in preserving stock, thus providing an incentive for conservation. With respect to Aboriginal trappers, however, the board made a specific proposal:

... we propose that the country should be divided up into eleven districts corresponding closely to those which the different bands now claim as their trapping grounds. Within these districts, those considered suitable would be given exclusive rights on suitable areas, the balance of the natives being free to trap anywhere else in the area. Supervisors should be appointed over each district whose duty it would be to see to the carrying out of the scheme. With regard to the registered trap lines, it would be their duty to take applications, make inspections, and assist in the protection of the lease holder from trespassing. With regard to the natives, they would have to win their confidence and co-operation, to develop in them a sense of responsibility and ownership in the fur and game resources of the district, and to secure their co-operation in eliminating as fully as possible the menace of fire. He would also be charged with inducing the people to supplement their income by taking up gardening and the keeping of suitable livestock, and seeing that sufficient fish, where available, was put up in the fall for winter dog feed. Since the success of this scheme depends largely on their supervision, these should themselves be under close and constant supervision. They should be directly under, and responsible to the Board, who in turn is responsible to the Minister of the Department of Natural Resources.⁴¹

³⁹ Ibid., 36-37.

⁴⁰ Ibid., 37.

⁴¹ Ibid., 37-38.

There are two significant points to note about this proposal. First, its boundaries were intended to correspond with traditional trapping grounds. Second, the model for supervision was entirely top-down. This model was not intended to promote community development or meaningful Aboriginal governance beyond the individual trapper. Significantly, the Board noted that many of the details would need to be worked out. For example, a funding mechanism for a cost-sharing arrangement between the federal and provincial governments was not formulated. The proposals contained in the Annual Report, however, mark the origins of several ideas with respect to fur conservation block that the CCF later followed. Notably, the Annual Report illustrates the attitude of non-Aboriginal government officials towards the perceived capacity of Aboriginal people to regulate their own trapping areas. Beyond consulting them about location, government officials did not believe they had anything significant to offer the management of the resource and required a great deal of oversight.

5.5 The Collapse of the Northern Saskatchewan Conservation Board

The second Annual Report issued by the NSCB in 1940 comes in two parts. Federal representative J. L. Grew wrote the first part reporting that the board had compiled a list of trappers, both Aboriginal and non-Aboriginal, and had overseen the construction of a number of dams and other projects. Grew reiterated the plan that had been outlined in the Annual Report of the previous year and provide an organizational structure with Prince Albert as headquarters for the northern district. The administration (superintendent, office staff, and administrative machinery) would be divided into three branches: Fur and Game, Forestry and Fire Protection, and Commercial Fishing. Each branch would have its own field officers whose duties would be defined by “the particular work for which they would be engaged.” Grew recognized that this

organization may be beyond the financial means of the province, but suggested that certain reforms in the organizational structure could be made.⁴²

In terms of implementation, the Annual Report contains draft regulations governing the setting up of individual registered trapline areas and Aboriginal trapping areas. In order to register, a trapper had to establish that he had been resident for five years, was a *bona fide* trapper, or had treaty Indian status (s.2). Section 4 set out the regulations for Aboriginal trappers:

4. A group of native trappers may make application for a registered trapline area to be trapped by the group on a community basis providing that each individual trapper within the group is governed by the regulations for individual trapline areas and pays the individual registration fee required; and providing also the group appoints one of their number to act as head trapper who shall make application for the area for the group on the form prescribed. The number of trappers within a group will comprise the heads of families and all single trappers eighteen years old and over.⁴³

The regulations outlined a different system for Aboriginal and non-Aboriginal traplines.

However, Métis and non-status Indian trappers were part of the scheme as they met the residency requirement. The recommendations make room for the exercise of collective rights so long as each native trapper follows the regulations established for individual traplines. However, the whole system was to be monitored by a special field officer who would supervise all applications for traplines. There was no provision for representative councils composed of Aboriginal trappers. Government officials presumed that non-Aboriginal employees would oversee the plan.

⁴² Ibid., 9-10.

⁴³ Ibid., 12.

Munro's report significantly differs from Grew's in that it offers an opinion on policy, specifically the joint federal-provincial trapline program outlined in the 1939 Annual Report.

It seems to me now that the Board should recognize that it is beyond the means of the Province to finance such a scheme as that outlined last year, and reiterated in Mr. Grew's portion of the report this year, and that no help can be, or should be looked for from the Federal Government this year. I believed that our report should therefore confine itself to recommending courses of action which there was some possibility of the Province finding itself in a position to carry out. With Mr. Grew, I feel that a larger organization would facilitate the replenishing of the fur resources of the north, and would also improve the natives standard of living. I would for the present, however confine myself to recommending that the north should be regarded as a unit for the purposes of fur and game administration, and that an inspector, or supervisor of Northern field officers be appointed to keep in personal touch with the Northern staff.⁴⁴

By 1940, it was clear that the fur conservation program envisioned by the Northern Saskatchewan Conservation Board could not be implemented because the federal government refused to contribute funds. The province, therefore, was restricted to the implementation of initiatives that it could fund itself.⁴⁵

Shortly after the NSCB issued its second Annual Report, the board dissolved. A 1947 DNR report provides reasons for the board's demise: "it is our belief that the Board did not have sufficient powers or personnel to handle all of the planning necessary to make a worthwhile impression on this vast area which comprises something over one hundred and twenty-three thousand square miles."⁴⁶ A few of the NSCB's recommendations were implemented before the

⁴⁴Ibid., 20.

⁴⁵ SAB, S-M11 Ministerial Papers, "Northern Saskatchewan Annual Report, 1940."

⁴⁶ SAB, R-907.2 Ministerial Papers, "Situation and Proposals Presented to Officials of Indian Affairs", 2, 7 October 1947.

board ceased operations.⁴⁷ In 1942 a series of fur conservation blocks were established at Carrot River, Dillon River, and Cumberland House pursuant to section 5(a) of the *Fur Act*.⁴⁸

In subsequent years, close to one hundred Fur Conservation Blocks (FCBs) were constituted under the *Fur Act*. In a memo dated April 1943, Deputy Minister J. R. Hill outlined the regulations governing FCBs:

2. The Minister may subject to the following provisions grant exclusive licences to trap fur animals upon such parts of fur conservation blocks as are suitable for the conservation, propagation and trapping of such animals.

Licensee would have exclusive use for ten years of the area described in licence, and was required to “furnish [the] Minister with an annual report...in which he shall give full particulars respecting his operations” (s.12). The licensee had to mark boundaries with post markers (s.13) and “use his best endeavours to prevent fires from starting on or spreading to the area described in the licence...[and] assist in fighting fires...”(ss. 13 and 14). These rights could be cancelled if the licensee did not exercise rights granted by licence (s.16).⁴⁹

In 1943, the DNR deputy minister received a report on the organized FCBs and registered traplines. In it the author suggests that the registered trapline system should be extended to the Aboriginal population. The report’s author had travelled with federal Indian Agents who were distributing treaty annuities and found that non-Aboriginal trappers represented only 5 percent of the trappers in northern Saskatchewan. The report recommended that all trappers should be treated equally in order for the conservation program to be successful. He noted:

In connection with what is referred to as Half Breed and Indians I wish to point out that generally there is no real difference either in their make up or in their habits. It is of interest to note that there is practically no full blood Indian and when this is

⁴⁷ SAB, S-M11 Ministerial Papers, T. A. Crerar to W. F. Kerr, 20 June 1940.

⁴⁸ *Fur Act*, SS 1942, c 59; SAB, S-M11 Ministerial papers, Hill to W. F. Kerr, 18 June 1942, 7 August 1942, 19 August 1942.

⁴⁹ SAB, S-M11 Ministerial Papers, Hill to W. F. Kerr, 7 April 1943.

considered it can be more readily understood why there is no distinct line separating the two. If for no other reason I believe this alone to be sufficient to make it necessary that all trappers be treated on the same basis.⁵⁰

Greater administrative efficiency would be achieved, the author writes, if non-Aboriginal trappers could participate in the trapline system. A program set up for 5 percent of the population would do little to conserve the resource or expand its economic potential.

The NSCB was not a priority for the federal government as it mobilized for the war effort in 1939 and 1940. The needs of a few thousand hunters and trappers, many of whom would join the war effort, fell by the wayside. However, the Liberal government's short-lived foray into conservation and economic development programs for the Aboriginal peoples of the north was important if only for the lessons learned. First, a top-down approach to managing resources in the north required extensive government investment in infrastructure and supervision. These costs could not be easily recovered from the resource users. Second, the provincial government could not rely on stable federal government funding for program development. Third, all Aboriginal people in the region lived a similar livelihood whether they were Metis, status, or non-status Indians. Fourth, government needed to overcome jurisdictional divisions of responsibility in order to implement effective conservation programs. Fifth, the Métis, non-status and status Indians living in the region pursued the same economic livelihoods. The populations were intermingled and shared the natural resources. Only federal and provincial government administrators were concerned with these distinctions created by the *Indian Act*. Even though the NCSB failed to implement most of its recommended policies, it is important because it marks the first time that any government seriously examined the socioeconomic situation in northern Saskatchewan with the goal of improving the condition of its residents. The

⁵⁰ SAB, S-M11 Ministerial Papers, Memorandum to P. W. Doake, Deputy Minister of Natural Resources, 1943.

Liberal government's attempt, characterized by the ill-fated NSCB initiative, failed largely because it did not receive stable funding from the federal government and as a result did not have the capacity to plan a comprehensive program.

During this period, the Saskatchewan government sought assistance from the federal government in order to fund conservation programs to benefit the Aboriginal people living in northern Saskatchewan. Under the terms of the Northern Saskatchewan Conservation Board, the federal government committed to provide funding for various conservation programs. However, due to the war effort, the federal government reallocated the funds. Even though the programs were not fully implemented, the efforts to address the economic problems facing the Aboriginal people living in northern Saskatchewan are important for a number of reasons. First, successful initiatives such as the Fur Conservation Blocks illustrate that government policy was driven by the idea that the allocation of land was key to addressing economic competition between Aboriginal and non-Aboriginal residents. Second, the provincial government lacked the ability, both in terms of management personnel and financial resources, to implement top-down land based conservation schemes. Third, the jurisdictional issues between the federal and provincial governments hindered the development and execution of land based conservation strategies. Fourth, there was little thought given to the capacity of Aboriginal peoples for the management and conservation of natural resources in the north. Fifth, authorities were increasingly aware that policies should be designed to benefit Aboriginal residents by eliminating competition from non-Aboriginal hunters and trappers. This last point marks a significant departure from Premier Patterson's contention that no programs could be developed for Aboriginal groups because it would constitute "special treatment". However, the programs outlined under the auspices of the Northern Saskatchewan Conservation Board illustrate that the government was increasingly

aware that programs designed to apply uniformly to all northern residents failed to adequately address the peculiar socioeconomic conditions facing the Métis, non-status Indians and treaty Indians. Thus, these tentative forays into public policy, specifically designed to bolster the natural resources relied upon by Aboriginal peoples, illustrate an acceptance that the uniform policies were not always adequate.

5.6 The Green Lake Métis Settlement

Aware of policy developments occurring in Alberta, Gideon J. Matte, director of the northern areas branch of the Department of Municipal Affairs, met with the minister of education.⁵¹ It was in this meeting that an idea was hatched for the creation of a land settlement block at Green Lake specifically set aside for indigent Métis people following the Alberta model. In the context of the period, the Green Lake Métis settlement was only one of many land resettlement schemes in which settlers on relief were relocated to northern areas of the province. However, there were five essential elements to the plan that made it unique: 1) non-Aboriginal settlers at Green Lake would be moved off the land in exchange for land in a more settled area, and each Métis family would be given forty acres of land on a 99-year lease along with assistance on a credit basis tied to the amount of work the family did for the community; 2) a large central farm would be designed to teach Métis modern farming practices; 3) the Catholic church would provide teachers and nurses for the community; 4) Métis students would receive skills training relevant to the needs of the workforce; and 5) there would be no formal legislation (unlike the Alberta land settlements) designating the lands as a Métis settlement. The settlement was deemed an “administrative experiment,” and was not intended to become a permanent

⁵¹ SAB, Dept of Education Ed Addendum, file 49 Metis Schools, Hon. J. Estey to Hon I. Schulz, 17 June 1941.

homeland. From the outset the government intended that the settlement would exist on a temporary basis as a Local Improvement District (LID). The Municipal Affairs Department would administer the LID on an interim basis as a side project of the Northern Settlements Board until it transitioned to rural municipal status.⁵² Thus, from the outset, the Saskatchewan foray into Métis settlements was an experiment in a new form of relief. Unlike Alberta, there was no comprehensive policy or legislation underlying the settlement at Green Lake. The Patterson government did not formulate a general policy for the Métis, but they were willing to try limited experiments.⁵³

Named for the green floating grass in a local lake, the Green Lake House trading post was built in 1798 by the North West Company as a transition station between the subarctic and parklands/plains regions of Saskatchewan.⁵⁴ Built at a strategic location on the historic voyageur highway, the Green Lake post provided access to the Beaver River, an East-West waterway between the Athabasca river in the north and the Saskatchewan river to the south. It also allowed access to the Churchill River system through its outlet into Lac Île-à-la-Crosse. Located at the crossroads of two main river systems, Green Lake House supplied pemmican and other supplies to the northern trade routes.⁵⁵

Until 1799, the North West Company had no competition in the area, but then the Hudson's Bay Company (HBC) built Essex Post on the western shore of Green Lake. Until the merger of these two giants in 1821, fierce competition reigned. Even after the merger, Green

⁵² SAB, Dept of Education Ed Addendum, file 49 Metis Schools, Hon. J. Estey to Hon I. Schulz, 19 June 1941.

⁵³ F. Laurie Barron, *Walking in Indian Moccasins – The Native Policies of Tommy Douglas and the CCF* (Vancouver: UBC Press, 1997), 24.

⁵⁴ Elizabeth Brown Losey, *Let Them be Remembered – The Story of the Fur Trade Forts*. (NY: Vantage Press, 1999), 421; Arthur S. Morton, *A History of the Canadian West to 1870-71*, 2nd ed. (Toronto: UTP, 1973), 451.

⁵⁵ Losey, *Let them be Remembered*, 421.

Lake continued to play a vital role in the fur trade as almost all goods and supplies necessary to service the Athabasca and Mackenzie districts came through the post.⁵⁶

For approximately 150 years, the Green Lake post had therefore served as a transportation hub for the fur trade industry. During this period, a Métis community with a unique cultural identity grew up in the vicinity.⁵⁷ Shortly after the negotiation of the *NRTAs*, a Department of Natural Resources field officer studied the area and reported that the land was capable of “supporting a concentrated settlement if the right type of settlers were placed on the land.”⁵⁸ During the 1930s, a number of non-Aboriginal settlers took up farming in the area.⁵⁹ Only one Métis person patented land during this period.⁶⁰ When the government decided to set the land aside for an experimental Métis settlement, provision was made to grant school lands and other provincial lands of equal value to the non-Aboriginal settlers at St. Cyr and Rush Lake.⁶¹ Though no formal legislation or regulations established the Green Lake settlement, an Order-in-Council dated 8 November 1940 states that certain lands would be set aside for “the purpose of moving a number of settlers to such lands now occupied by them in the Green Lake district, the last mentioned land being required in connection with the establishment of a Metis settlement.”⁶² A report from the Minister of Natural Resources, referred to in the Order-in-Council, stipulates that Townships 57 – 62 be set aside from the Big River Forest Reserve and

⁵⁶ Bill Waiser, *Saskatchewan – A New History* (Calgary: Fifth House, 2005), 25. On the importance of the fur trade in Saskatchewan see Gregory P. Marchildon and Sid Robinson, *Canoeing the Churchill – A Practical Guide to the Historic Voyageur Highway* (Regina: CPRC, 2002).

⁵⁷ Macdougall, “Wahkootowin,” 442. Full reference needed

⁵⁸ SAB, R-370, Saskatchewan Department of Municipal Affairs, file 2 Green Lake, Deputy Minister to Minister of Natural Resources, 18 May 1939.

⁵⁹ Amisk Planning Consultants, *Final Report Green Lake Socio-Economic Planning Study*, Prepared for the Department of Northern Saskatchewan, 6 August 1976. Some of the names of the non-Aboriginal settlers: Thorrance, Robertson, G. Lockhart, R. Bill Hobbins, G. E. Kathleen, Wales, Abbey, Dalpe and Meads.

⁶⁰ SAB, R-190 Report on the Green Lake District 1958, by Conservation Officer B. C. Shannon.

⁶¹ Ibid.

⁶² Order-in-Council 1320/40 was passed under the authority of *The Provincial Lands Act*, RSS 1940 c. 37 ss 3,4.

merged into a Local Improvement District (LID) by ministerial order under the *Provincial Lands Act*.

The province's goals for the Green Lake settlement scheme were threefold: 1) to educate and train Métis in modern farming practice; 2) to protect the Métis from exploitation by non-Aboriginal settlers; and 3) to reserve land for Métis until such time as they could take up agriculture on their own.⁶³ The initial goal was to make 250 Métis families economically self-supporting by providing agricultural assistance and training in place of relief payments. On 14 September 1940, the *Leader-Post* reported that eighty-five Métis families had moved to the area.⁶⁴ Minister Reginald J. M. Parker (Municipal Affairs Branch) stated that the scheme was meant to address problems caused by scarcity of fur and fish resources due to fire, over trapping, and commercial fishing. According to the settlement scheme, any relief needed would be provided in exchange for work on road construction projects. Under the supervision of a farm manager, a central farm had been established to teach the Métis farming practices that they could use on their individual leases.⁶⁵ The whole scheme would be supervised by a settlement manager.

In a series of lengthy memos, Gideon Matte, director of the Northern Areas Branch of the Department of Municipal Affairs, outlined the progress of the Green Lake Métis settlement. These memos are important because they are the only written record discovered of the Green Lake settlement, and they provide insight into the purpose and structure of the scheme. Green Lake was considered an ideal location for the initial settlement experiment because 100 to 125

⁶³ SAB, R-190 Report on the Green Lake District 1958, by Conservation Officer B. C. Shannon.

⁶⁴ "Central Farm is Established to Help Metis," *Regina Leader-Post*, 14 September 1940. According to the Amisk Planning Report, this figure represented approximately 400 people.

⁶⁵ *Ibid.*

Métis families already lived in the area and might benefit from the program. The Métis in the area needed government assistance because non-Aboriginal settlers who had moved into the area during the 1930s had exploited the natural resources of the region. The Métis had had to give up their livestock after non-Aboriginal settlers pushed them off their communal grazing lands. The new settlers had depleted the fish and game resources and the area had seen an increased number of forest fires. In Matte's opinion, the Métis's destitution was a direct result of the incursion of non-Aboriginal settlers. The removal of these settlers was the first step in rehabilitating the area for the exclusive use of the Métis. Matte reported that all the Métis who were living in the six townships where the settlement was created relied heavily on government relief payments. With respect to living conditions, the Métis were living in shacks chinked with mud and covered by earth roofs.⁶⁶

In 1941, Matte reported on his efforts to set up the settlement scheme. The Métis were granted 99-year leases that were non-transferable without the permission of the minister of municipal affairs and could not be sold without the consent of the crown. The land, however, could be inherited. By 1941, one million feet of lumber had been cut to build buildings on the settlement.⁶⁷ A privately operated mill paid regular wages to Métis labourers. No school had yet been established on the settlement because no teacher could be found. Funding for education was a problem because few Métis owned any property that could be assessed for taxation purposes. Matte recommended, however, that any school would have to be denominational because the Métis were all either Anglican or Catholic. In order to address this problem, he had arranged for seven Catholic Sisters of the Presentation to live on the settlement and set up a

⁶⁶ SAB, R-370, Saskatchewan Department of Municipal Affairs, "Metis Settlement at Green Lake," file 2, Green Lake, by G. J. Matte [1941?].

⁶⁷ Matte repeatedly refers to the settlement as a 'reserve'.

school and nursing facilities. The Department of Health contributed funds for a small infirmary. A local Métis, Tony LaRoque, who “[had the] interests of his own people sincerely at heart,” had been hired as the settlement manager. A community hall had been built adjacent to the school along with a canning factory for the preservation of local wild fruits, such as cranberries and raspberries. The community was equipped with carpentry tools to teach the boys and a sewing machine to teach the girls, and a carpenter had been hired to supervise all building projects. A central farm was established five miles from the settlement where Métis learned to do farm work under a farming instructor. The government owned all the livestock and machinery on the central farm, which settlers could use on payment in cash or labour. The Métis were allowed to live on the farm before taking up their own forty-acre plots. A grist mill had been set up to process wheat grown on the central farm or by individual farmers. In 1941, the community had threshed 1,300 bushels of wheat, which was used mainly to feed the livestock and 2,000 cans had been processed in the cannery.⁶⁸

In these reports, Matte also candidly assessed the challenges and purpose of the Green Lake settlement. The primary rationale behind the project was the promotion of economic self-sufficiency. This goal was to be accomplished by bringing in various experts to teach the Métis how to learn marketable skills as farm labourers and carpenters. These skills would introduce the Métis to the market economy and reduce their reliance on relief payments. From the contents of his memo, Matte clearly believed in the government’s responsibility to improve the health and education of the Métis population. The settlement model, which resembled the Indian reserve system in many respects, offered the best and most efficacious way to achieve these goals in his view. And according to Matte, the needs were great and the government had an obligation to

⁶⁸ Ibid.

help the Métis by supporting the settlement. As the chief architect of the plan, Matte had a vision for the settlement. “What we are concerned more with, is to teach the people how to work. We are also trying to teach them to grow and keep nice gardens, clean and sanitary homes and let them understand the pleasure and effect of having nice surroundings.”⁶⁹ In other words, the Métis were taught the skills necessary for subordinate integration into non-Aboriginal society. If successful, the Green Lake Métis settlement was intended to dissolve the need for future government assistance. Conceived as a transitional economic development program, the settlement was intended as a midpoint between direct relief payments and integration into non-Aboriginal society. From the outset, the settlement was meant to be temporary. This may explain why the government chose not to set out a legislative or regulatory framework for the settlement.

The decision to avoid legislation or regulation for the settlement, however, caused a great deal of confusion between the Department of Natural Resources and the Department of Municipal Affairs (Northern Affairs Branch). The Department of Municipal Affairs designed the settlement program and implemented it as a relief project, but the Department of Natural Resources was responsible for administering the lands and resources of the settlement under the provisions in the *Provincial Land Act*. In a memo dated 22 January 1942, Matte outlined some of his concerns with respect to the split administrative jurisdiction to E. E. Kern, director of Revenue, Legal and Securities Branch, DNR. In the letter, Matte provides a comprehensive overview of the actions taken on the settlements as well as a clear statement regarding the purposes of the settlement.

⁶⁹ Ibid.

It is not the intention to make farmers of all of the Metiz [*sic*] people but it is felt that if each family can grow sufficient vegetables to meet it's [*sic*] needs, sufficient feed for a few head of stock, and possibly two or three acres of wheat for gristing purposes, they will not only be able to support themselves by supplementing this with some trapping, fishing and lumbering, but the younger generation will be able to make their own way now that the best educational facilities are being supplied.⁷⁰

From this statement, it seems no one intended for the settlement to become a permanent community, much less a homeland, for the Métis. The main purpose of the settlement was educational, with the ultimate goal of integrating the next generation into the provincial labour market. However, Matte realized that the settlement could not operate on an ad hoc nature even on a temporary basis and he requested that the DNR put forward the necessary regulations and legislation to operate it in the future. "If this scheme is to succeed certain reservations and changes in administration are necessary, not only to prevent exploitation on the part of the white man but to preserve the natural resources necessary for the fulfillment of the undertaking." In order to properly support the settlement, he called for the reservation of sufficient timberlands, restriction of commercial fishing on Green Lake to Métis only, the designation of a Métis-only hunting area, and the transfer of firefighting services to the Department of Municipal Affairs. Further, Matte requested that the administration of all the crown lands needed for the project be transferred to the Department of Municipal Affairs (Northern Affairs Branch) in order to decrease administration complexity and duplication. He argued that only his department should be capable of granting leases to the Métis for grazing or trapping.⁷¹ Jurisdictional issues regarding the granting of leases, including the forty-acre plots to individual Métis, caused many problems with the administration of the program. The Executive Council, however, turned down

⁷⁰ SAB, R-370 Saskatchewan Department of Municipal Affairs, "Green Lake Metis Settlement," file 2 Green Lake, Memorandum by G. J. Matte, 22 January 1942.

⁷¹ Ibid.

Matte's request for an interdepartmental transfer of jurisdiction and stated that the two departments should coordinate their efforts.⁷²

The jurisdictional wrangling between DNR and the Department of Municipal Affairs escalated through 1943. In November, Alex Blackwood, Deputy Attorney General, wrote a lengthy legal opinion regarding the validity of the leases that had been granted on the settlement. Blackwood wrote that the seven townships (and part of another) in the Green Lake area "have been set aside by verbal agreement for the re-establishment of the Metis people." Matte had been granting leases to Métis families since 1941, but no official transfer of lands had been made from DNR to Municipal Affairs either by Order-in-Council or legislation. Blackwood noted that this was problematic because nothing in the *Department of Municipal Affairs Act*⁷³ or the *Local Improvements Act*⁷⁴ allowed for the Minister of Municipal Affairs or his designate to administer lands other than those gained in enforcement proceedings. This meant that the leases signed by Matte were not legally valid. Further, Blackwood opined that the *Land Settlement Act*⁷⁵ specifically provided that the Minister of Natural Resources would administer schemes such as Métis settlement. A section of the *Provincial Lands Act* that prevented one department from delegating power to another further compounded problems. Blackwood advised that the proper procedure would be for the minister of natural resources to carry on the whole scheme under *The Land Settlement Act* or for the minister to be authorized under s. 16(1)(k) of the *Provincial Lands Act* to enter into leases with the Métis. Once the leases were properly granted, the administration of the settlement could be left to the Department of Municipal Affairs under Part II of the *The*

⁷² SAB, R-370 Saskatchewan Department of Municipal Affairs, file 2, Green Lake, Kerr to d.m. NR 5 February 1942.

⁷³ *The Department of Municipal Affairs Act*, RSS 1940, c 23.

⁷⁴ *The Local Improvements Act*, RSS 1940, c 130.

⁷⁵ *The Land Settlement Act*, RSS 1940, c 38.

Local Improvement District Relief Act.⁷⁶ If so, the DNR would retain control of land, timber and fishing rights, but leases and other rights would be entered into or cancelled on the advice of the minister of municipal affairs.

Blackwood called the existing leases with the Métis “very unsatisfactory.” He advised that, according to basic principles of common law, leases for land could not be for 99 years unless a person lived that long. Furthermore, the leases stipulated that they could be inherited, but a lease is only for life.⁷⁷ He advised that in order for Municipal Affairs to administer the scheme an amendment was needed to the *Provincial Lands Act* or the legislature had to pass a separate act empowering the minister to administer leases.⁷⁸

The consequences of Blackwood’s memo were significant. By jumping ahead of valid legislative authority, Matte jeopardized the success of the settlement program for two reasons: 1) all of the leases that Matte had signed with the Métis were invalid; and 2) jurisdictional authority over the settlement was not clearly defined between the Department of Municipal Affairs and DNR. This meant that the Métis had no property interest in the settlement and no reason to invest their labour in agricultural development. The confusion resulted in a chaotic governing structure and lack of accountability or direction.

5.7 Conclusion

The Métis settlement at Green Lake exemplifies the government’s willingness to develop specific programs to address socioeconomic conditions facing groups such as the Métis. In their

⁷⁶ *The Local Improvement District Relief Act*, RSS 1940, c 160.

⁷⁷ The basis for Blackwood’s legal opinion is not clear from the historical record. It is possible to grant 99 year leases that can be inherited.

⁷⁸ SAB, R-370 Saskatchewan Department of Municipal Affairs, file 2, Green Lake, Alex Blackwood to G. J. Matte, Commission, NAB, 29 November 1943.

1943 opinion on Métis claims, Hodges and Noonan evaluated the various public policy initiatives taken by the provincial governments of Alberta and Saskatchewan. In their assessment of the Alberta settlement plan and its applicability in Saskatchewan, Hodges and Noonan were cautiously optimistic. “If the Alberta scheme meets with success, it should provide valuable experience in remedying the situation.”⁷⁹ In their brief overview of the project, Hodges and Noonan outline the rationale behind the experimental program. “The purpose of the settlement is not necessarily to make the people farmers but to allow them to continue with their usual method of livelihood, namely hunting, fishing and trapping, and merely to supplement this by agricultural products, and generally to improve their health, education and standard of living.”⁸⁰ They also report that the experiment to date had been considered a “definite success,” and the settlement was expected to become self-sustaining by the end of 1943.⁸¹

Hodges and Noonan’s brief assessment of the efficacy of Green Lake was overly optimistic. The report illustrates a certain level of familiarity with the purpose of the Alberta Métis land settlements. During the late 1930s and early 1940s, while the provincial government of Saskatchewan focussed its energies on supporting the SMS and their claims against the federal government, it also began experimenting with land settlements based on the Alberta model in Green Lake. The settlement is important because it illustrates that the Saskatchewan government was pursuing various solutions to what they termed the “Métis problem.” The settlement shows that the government was willing to explore a number of different avenues to address the socioeconomic challenges facing the Métis population. Unlike in Alberta, however, the land settlements in Saskatchewan were not part of a comprehensive program, and they reflect the

⁷⁹ Ibid., 129.

⁸⁰ Ibid., 128.

⁸¹ Ibid.

piecemeal approach that the Liberal government took towards improving the lives of Métis people.

Chapter 6: Pursuing Economic Democracy: The CCF's First Term in Office (1944-1948)

6.1 Introduction

In 1944, the people of Saskatchewan elected the first social democratic government in North America. The new CCF administration, elected on a 'Humanity First' platform, believed that the welfare of every citizen in the province was its responsibility. As a result, the CCF did not try to shift jurisdictional responsibility for the Métis onto the federal government as per previous Liberal government policy. Rather, the government introduced a number of new programs designed to address the socioeconomic problems facing the Métis population. Additionally, the CCF reinvested in some of the programs already introduced by the former administration, such as the Green Lake Métis settlement and the fur conservation blocks, revamping them to better align with key philosophical underpinnings of the party such as economic democracy. A fundamental tenet of CCF party ideology, the principle of economic democracy infused these programs with a measure of local governance and community decision-making.¹ For example, under the CCF government, Aboriginal people were more involved in the governance of the fur blocks.

The new programs introduced by the CCF, such as the Saskatchewan Fur Marketing Service (SFMS) and the Saskatchewan Fish Marketing Board (SFMB), were designed to ameliorate fluctuations in the free market economy for goods produced by the Métis. Fur conservation blocks had been created to better manage fur resources better and to increase production. The blocks could be established on any unoccupied crown land designated by

¹ "Economic democracy is a socio-economic philosophy that proposes to shift decision-making power from corporate managers and corporate shareholders to a larger group of public stakeholders that includes workers, customers, suppliers, neighbours and the broader public." (http://en.wikipedia.org/wiki/Economic_democracy)

the minister of natural resources, upon which either individuals or groups could trap. The blocks were each managed by a local fur council made up of Aboriginal and non-Aboriginal members. Non-residents were excluded from accessing the resource. These blocks, along with the collective marketing agencies, were intended to promote conservation and develop the province's natural resources base in the hopes that the resource users would become economically self-sufficient. As the population in northern Saskatchewan was primarily Aboriginal (treaty Indian, non-status, and Métis), these programs were directed at improving the economic circumstances of the Aboriginal population. This chapter will explore the changes that the CCF government introduced to pre-existing programs such as the Green Lake Métis settlement and the fur conservation blocks. This chapter will introduce and examine natural resources programs such as the Saskatchewan Fur Marketing Service and the Saskatchewan Fish Marketing Board. The role of the CCF and the SMS in initiating changes will also be explored.

6.2 The CCF, the SMS and the 1946 Métis Conference

As explored in the previous chapter, the Liberal government of Saskatchewan experimented with a number of policies designed to address the poor socio-economic conditions of the Métis living in the province. Unfortunately, the war effort diverted much funding and political will away from these projects, while jurisdictional wrangling with the federal government ensured that Métis initiated efforts went nowhere (See Chapter 4). The government had other priorities and much of the pressure to address the issues dissipated when many key Métis leaders enlisted in the armed forces. However, during the war years, the issue of Métis poverty remained before the public eye thanks to the local press in smaller

cities such as Yorkton. These stories provided the public with insight into the challenges facing the province's Métis communities, but did little to prompt significant government action.

In August 1942, Justice Potter, the police magistrate for Yorkton, heard the case of a 13-year-old Métis boy charged with break and enter and theft of a horse and buggy. Before finding the boy guilty of the charges and sentencing him to an indefinite term at the Moosomin industrial school, the magistrate called on the RCMP to investigate the boy's living conditions. Sergeant Charles Carey reviewed the conditions of the Métis living at Crescent Lake, south of Yorkton, and reported that the community followed a nomadic lifestyle during the summer months and lived in shacks during the winter months. None of the forty children in the community had ever attended school and all were undernourished and had few clothes to wear. He also reported on the extremely poor sanitary conditions and many cases of tuberculosis and venereal disease in the community. Justice Potter "[was] shocked to learn that such conditions could and did exist in this day and age and especially in a civilized country."² He condemned the provincial government for allowing such a situation to exist and called for a sweeping investigation into the conditions facing the province's Métis population. Press coverage of the case prompted the government to send an investigator from the Division of Sanitation, Department of Public Health to report on the conditions south of Yorkton. In his finding, the investigator, J. E. Hockley, described deplorable living conditions: "I do not recollect having ever seen such signs of poverty or greater evidence of being improvident, as these homes."³

² "Condition of the Indian Half-Breeds Appalling says Magistrate Potter," *Yorkton Enterprise*, 31 August 1942.

³ SAB, R-33.1, Files of the Premier, File XL 859 a(44), "Metis", Special Sanitation Report by J. E. Hockley (1 February 1943), 2.

Even so, Justice Potter's call for a full inquiry fell on deaf ears. However, pressure on the government to address the situation continued. In January 1943, George Dulmage, Reeve of the rural municipality of Orkney, brought the issue to the Yorkton Board of Trade for discussion. Three years earlier, Dulmage had circulated a petition calling on the provincial government to set aside land as compensation for the failed scrip program. Mayor Peaker of Yorkton then consulted with various provincial cabinet ministers who had assured him that they were "not unmindful of the situation." However, in 1943, Dulmage reported that little had been done to address the issue and he described the bleakness of 'the situation':

These Indian half-breeds are living in mud huts, the state of their health is appalling [*sic*], their children have never gone to school and their condition is not only dangerous to themselves but to everyone with whom they come in contact. They have absolutely nothing, no home, no clothes, no food. They are squatters that must keep on the move and I am going to ask this body to do all in its power to see some assistance come to them.⁴

The Yorkton Board of Trade discussed the problem and decided that it was too large for the municipal government to address. The Board recognized that health and education programs would be expensive, and the provincial and federal governments should take responsibility. However, not only the scope of the resources needed to address the problem impeded local action. According to Dulmage, the 'Métis character' also posed a problem:

These half-breeds are a hard people with whom to deal. They are wanderers and they resent having to obey orders...if anything is to be done they must be placed under someone with authority. Half-breeds don't like restrictions and the big trouble is that there are so many of them in Saskatchewan. The Yorkton problem is only a small patch.⁵

⁴ *Yorkton Enterprise*, 21 January 1943.

⁵ *Ibid.*

In response to Dulmage's complaints, Vincent R. Smith, a lawyer who had served as Liberal MLA for Yorkton from 1934 to 1938, asserted that primary responsibility for the Métis lay with the municipality in which they lived. However, he assured Dulmage that the province would respond to requests for financial assistance as it had during the height of the Great Depression. But, he added, due to the numbers of Métis living in communities all over the province, any coordinated response might be beyond the capacity of municipalities.⁶

During its time in office, the Liberal government failed to initiate any such coordinated response to Métis poverty. Shortly after winning the 1944 provincial election, Premier Douglas created a Department of Social Welfare and Rehabilitation (DSWR) to coordinate provincial relief efforts of all sorts. The province agreed to provide greater funds to municipalities in areas where there were more relief recipients, including Métis, who often did not meet the residency requirements of existing programs. In the northern areas, the government created local improvement districts (LIDs) to be administered by the Northern Affairs Branch of the Department of Municipal Affairs.⁷ The anticipated result was a professionalized bureaucracy capable of standardizing delivery of social services to all citizens in the province. This reorganization extended the welfare safety net to Métis who were now no longer excluded because they could not pay property taxes.⁸

According to F. Laurie Barron, the new social services delivery model allowed the government to better implement its "Humanity First" program more effectively. At its first convention after the election win, the CCF membership supported government intervention

⁶ Ibid.

⁷ F. Laurie Barron, *Walking in Indian Moccasins: The Native Policies of Tommy Douglas and the CCF* (Vancouver: UBC Press, 1997), 46.

⁸ Ibid., 47. For more on the CCF reorganization of government bureaucracy see, A. W. Johnson, *Dream no Little Dreams – A Biography of the Douglas Government of Saskatchewan 1944-1961* (Toronto: UTP, 2004).

in communities such as Crescent Lake in a number of party resolutions.⁹ With respect to improving living conditions, the CCF government accepted the general proposition that the Métis were a provincial responsibility and that no further efforts should be made to pass the problem along to the federal government.¹⁰ Where the previous Liberal government had tried to push the problem onto the federal government the CCF believed that its “Humanity First” philosophy obliged the government to take direct action. In an address in the Legislative Assembly, Premier Douglas described his government’s motivation to introduce social welfare programs for the Métis. “It has been said that the measure of any society is what it does for the least fortunate group. It is not enough to establish a cooperative commonwealth and to raise the standard of living if there continues to remain like a canker a small, underprivileged, diseased, illiterate minority in society.”¹¹

Shortly after the 15 June 1944 election, the members of Métis community began to lobby the CCF government for assistance.¹² Although sympathetic to these requests, Douglas believed that the government had to deal with a single representative body that could accurately report on needs of the community.¹³ By the summer of 1944, however the SMS was in shambles for a number of reasons: 1) The failure of the rights-based argument against the federal government shattered the organization; 2) the Liberals who had supported the SMS had lost their seats in the legislature; 3) the best Métis leaders in the province had joined the war effort; 4) several of the SMS leaders including Joe LaRocque had used their position in the SMS to campaign for the Liberal party; 5) a group of northern Métis started a

⁹ The resolution: “Therefore Be it Resolved: That we request the Provincial Government to take the necessary steps to see that these Métis people be given proper treatment and care.” (“Resolutions of Convention: Constituencies offer Many Suggestions to Government,” *The Saskatchewan Commonwealth*, 19 July 1944.)

¹⁰ SAB, R-33.1, Files of the Premier, File XL 859 a(44), “Metis”, Valteau to Douglas, 21 March 1946.

¹¹ *Leader-Post*, 22 March 1946.

¹² SAB, R-33-1, Files of the Premier, File XL 859 a(44), “Metis”, J. H. Brockelbank to Douglas, 17 July 1944.

¹³ Barron, *Walking in Indian Moccasins*, 34.

rival Saskatchewan Metis Association.¹⁴ Throughout this period, political divisions between northern and southern Métis continued to hamper progress due to disagreement between the two organizations over their respective representational capacities. When SMS President Fred Delorande requested a meeting with the premier, Douglas revealed his hesitation to deal with the organization:

The government is desirous of giving every consideration to the claims of your people. It has been difficult, however, to ascertain the representatives of your organization in this province. It appears that it has not been functioning very actively in the past, and I would strongly suggest that every effort be made to revive your activities. I would also like to receive official representation from your organization in the form of a brief or otherwise, setting out your aims and objectives for the purpose of improving the conditions of the Métis population in this province. When this is received I shall be in a better position to work out some scheme whereby the conditions of your people may be improved.¹⁵

There is no record of the SMS submitting any materials of the nature requested to the government during this period.

In July 1946, Douglas invited Métis delegates from all over the province to Regina to discuss social and economic issues. Douglas wanted the conference to act as a springboard for the creation of a non-partisan, non-sectarian representational organization for all the Métis living in the province. Such an organization could then give ideas to the government for long-term policies regarding Métis social welfare and rehabilitation. The year before, Douglas had invited Indian leaders to Regina for a similar purpose and the result was the Union of Saskatchewan Indians. According to historian Jim Pitsula, Douglas did not want to impose solutions on Aboriginal peoples. However, he believed that the government had an

¹⁴ Ibid., 37. Also, Doris F. Shackleton, *Tommy Douglas – A Biography* (Toronto: McClelland & Stewart, 1975).

¹⁵ SAB, R-33.1, Files of the Premier, File XL 859 a(44), “Metis”, Delaronde to Douglas, 25 February 1946.

obligation to help people build the organizational capacity to voice their own opinions and to better inform government policy.¹⁶

Douglas appointed his executive assistant, Dr. Morris Shumiatcher, to chair the July 30th meeting with the Métis, and he invited government officials from the DSWR to attend.¹⁷ In his opening address, Shumiatcher outlined the purpose of the conference: "...it is the policy of the present Saskatchewan Government to assist any group of persons in need of help in the way of health, or welfare, or education....we feel that as long as there is one group of people in our community that does not enjoy the good things of life we are not discharging our duties as a government."¹⁸ Douglas had purposefully invited Métis leaders from a number of communities and organizations including the SMS. In his opening remarks, Shumiatcher made it clear that the CCF government had no intention of using the Métis for political purposes against the federal government. After the chair's introductory remarks, Joseph Z. LaRocque, the former SMS president, presented a brief entitled "Problems of Rehabilitation of the Metis". LaRocque outlined the history of the SMS and called for the government to appoint a royal commission or a committee to study the situation. He also called upon the government to take a census and to compile data pertaining to housing, health, education, vocational training and land tenure.¹⁹ LaRocque then asked the government to give each Métis a five or ten acre plot of land with water access as a possible solution to ongoing issues. Although he did not specifically mention the Green Lake settlement, LaRocque called for the government to set up 'colonies' throughout the

¹⁶ See Jim Pitsula, "The CCF Government and the Formation of the Union of Saskatchewan Indians," *Prairie Forum* 19, no. 2 (September 1994): 138.

¹⁷ SAB, R-E139, Saskatchewan Indian and Metis Department, Conference of the Metis of Saskatchewan Proceedings.

¹⁸ *Ibid.*, 1.

¹⁹ *Ibid.*, 20.

province where Métis could set up co-operative housing and farming operations supervised by government officials. He claimed that just one section of land could support up to sixty families.²⁰ After calling upon the government for land grants, LaRocque outlined the history of the failed scrip program and the negative effects of provincial game legislation that had been introduced shortly after the *NRTAs*. Another delegate, M. W. Knudson, then talked about the Métis struggles over land. “The present day position of the Metis is deplorable inasmuch as they have one continual fight to get equality of opportunity with the present white settlers.”²¹ Knudson called on the government to appoint a commission to study the issues further.

Premier Douglas attended the afternoon session of the conference. In his opening remarks, he outlined his reasons for inviting the delegates:

[W]e feel the purpose of your coming here is to give us information rather than us to give you information, and we want to hear what you have to say and get your suggestions rather than making speeches at you. They say you have two ears and one mouth, so that you can listen twice as much as you talk. Most politicians do not follow that, but on this particular occasion we are going to try to.²²

Douglas then addressed previous federal-provincial wrangling over jurisdiction and assured the assembly that his government would not hide from its responsibilities and obligations: “we cannot divide people up...if there is any one section of our people which is not healthy, who have sickness, then it will affect the health of all the other people in the community, because sickness does not know anything about jurisdiction and constitutional fine points.”²³ Douglas believed that no level of government had been done enough to address the problems

²⁰ *Ibid.*, 24.

²¹ *Ibid.*, 28.

²² *Ibid.*, 33.

²³ *Ibid.*, 34.

in any meaningful way, but then stated he did not want government to be like a 'big boss' to whom people beg for help. He outlined his philosophy of self-help:

What we feel is that any group of people in our Province, given a proper opportunity, given a proper chance, can do for themselves if only they are given a chance. In other words, our idea is not so much to help a group of people as to help them help themselves.²⁴

In Douglas's view, the government's primary role was to seek input from the Métis regarding what programs they needed, and to provide the organizational and financial assistance to achieve them. The government should support individual initiative by evening the playing field: "You can't take men and turn them out in the bush with a team and a hoe and mower and expect them to make a living. You can't turn men out with a fishing net and expect them to make a living." Douglas referred to a number of government initiatives designed to support the Métis such as the Saskatchewan Fur Marketing Service, the fur conservation blocks and forest farming.

Douglas outlined his goals for the conference: to create an inclusive organization that represented the Métis with one voice and to work out a long-term plan for Métis rehabilitation under the supervision of the minister of DSWR. On this point, Douglas quoted a speech Clarence Darrow, the famous American lawyer, made to an audience of African Americans in New York: "I am a white man and I want to say to you that ultimately your salvation lies within yourselves, that you must do these things yourselves. The white man may guide you and advise you, but your salvation lies in your own leadership and your own education for other things."²⁵ Douglas was keenly aware that the direction of the SMS to that

²⁴ Ibid., 35.

²⁵ Ibid., 36.

point had been set by non-aboriginal politicians and wanted to help the Métis build a more representative organization.

Fred Delaronde, President of the Saskatchewan Metis Society, was the next speaker at the conference. He took the opportunity to speak at length about what he thought the province could do to assist the Métis. In Delaronde's opinion, the government should provide educational opportunities as well as land grants. He gave the chair a petition outlining his members' demand for land. "The ideal arrangement in settling the Métis people on the land would be, to arrange for tracts of land in the communities where they are at present residing, or such other place as would give them the required land, whereon they may settle down and make a living."²⁶ He referred to the numbered treaties and asked the provincial government to give similar consideration to the Métis in recognition of their history. On a practical note, Delaronde outlined the government assistance that would be needed to make Métis settlements work. Delaronde did not specifically mention the Alberta settlements or the *Metis Population Betterment Act*; however, it is clear that he was familiar with the model and also that he had ideas for some improvements. Delaronde suggested that the government allow the Métis to play a significant role in the governance of the settlements. For example, property taxes on the settlement lands could be collected and distributed by local councils made up of Métis settlers. The government could provide schools and health facilities as they do in the rest of the province. The supervisor role should be replaced by someone from the College of Agriculture who could give advice on request, but individual "initiative would be encouraged". In many respects, Delaronde's proposal mirrored the MAA's position from the early 1930s. The Métis would play the primary role

²⁶ Ibid., 39.

in the governance and economic development of the settlements. However, land title would remain with the provincial government so that the land would not be dispersed.

Like the other speakers, Delaronde did not mention the Green Lake settlement or the Alberta settlements directly in his speech at the convention. However, it is evident from what they said that the SMS petitioners supported the Alberta land settlement model as the preferred solution to the socioeconomic problems they faced. Interestingly, Delaronde completely abandoned the traditional SMS rights-based arguments, most likely due to the Hodges and Noonan legal opinion. Instead, he shifted to a needs-based argument bolstered by an opinion from a social scientist at the University of Saskatchewan. Dr. Laycock had written on the problems facing the Métis, and suggested that a successful resolution depended upon an appreciation of the psychological and sociological character of the Métis as a people. Delaronde quoted Laycock's opinion at length:

The problem of the half-breed is an old one in human history, and it seems to me to be almost entirely a sociological one. It is not certainly Chiefly Biological. In the plant and animal world we reach some of our finest and most valuable results by cross breeding. The problems of the Half-breed are closely related to the frustration of their psychological needs – particularly their needs for emotional security which consist of the needs for affection and belonging. The other Psychological needs for human beings are the needs for achievement, social approval, self-esteem and independence. It is highly important for the half-breed that he be trained for jobs which will give him a real sense of achievement and therefor a sense of approval, self-esteem and independence. Mere relief or assistance does not accomplish this. Training and rehabilitation leading to accomplishment is necessary. A sense of personal worth, status and emotional security is necessary for wholesome living among half-breeds as among the rest of us.²⁷

Having completely abandoned any rights-based claim for land, Delaronde advanced an argument that closely aligned with the CCF's commitment to a philosophy of cooperative 'self-help'. However, he did mention that returning veterans were being given land and that

²⁷ Ibid., 42-43.

returning Métis should be given similar consideration for their service to the country during the war.

The minister of social work and rehabilitation, Oakland W. Valleau, arrived at the conference in the afternoon after missing the morning session due to a cabinet meeting. He reported that he had been working on Métis issues since the 1944 election and had no illusions that the government could solve a problem, “which has been building up in this Western country for a hundred years or so.” He outlined the various practical experiments that the government had introduced, but was not sure about what further action the government could take. He was, however, opposed to further segregation of the Métis population on settlements. “The ultimate solution will be absorption into the general population.” Valleau argued that land settlements would slow down the integration process and hamper the government’s ability to create programs designed to increase revenues.²⁸ Valleau cited his experience with the agricultural settlement the previous Liberal administration had set up for the Métis at Lebret as another reason for rejecting the settlement plan. The Patterson government had a funding agreement with the Oblates who operated a farm for training Métis labourers.²⁹ When the CCF took over administration of this settlement it was in a deplorable state. There were no tractors or any other modern farm equipment. Valleau reported that it was the worst farm that he had ever seen and that, in his view, the Métis settlers there were being trained as day labourers and not farmers. With respect to the appalling living conditions south of Yorkton at Crescent Lake, Valleau reported that his department had obtained a ¼ section from the Department of Indian Affairs for the

²⁸ Ibid., 53.

²⁹ F. Laurie Barron, “The CCF and the Development of Metis Colonies in Southern Saskatchewan during the Premiership of T.C. Douglas, 1944-1961,” *Canadian Journal of Native Studies* 10 no. 2 (1990): 252.

Métis. Valleau warned, however, that this land purchase did not create precedent for land grants to the Métis. According to Valleau, land grants were not an economically feasible proposition.

I have listened with a good deal of interest to what you have had to say today, and I want to repeat now – this may be a little discouraging, but I am not prepared to recommend to Government that we go extensively into the business of buying land. That would run into more money than we could possibly put our hands on. We are finding ourselves strained to the limit to even look after our returned men, and I think you all will agree that they have first claim...and we have in addition to the Metis population, probably a considerably larger population of people, of white people who are also in very difficult financial circumstances.... Our financial treasury will not stand for it.³⁰

After making clear to all present that the government had no intention of granting land to satisfy Métis claims, one member of the convention challenged President Delaronde about what the SMS planned to do. Delaronde responded by saying that he had presented the petition to the government and intended to wait for a more formal response. For the rest of the conference, the delegates discussed ways to improve representation and internal cohesion in the SMS so that the organization could more effectively represent the Métis in further negotiations with the government.

The debate among the delegates revealed deep cracks in the SMS as an organization. At the beginning of the conference, delegate M. W. Knudson moved a vote of non-confidence in the executive of the SMS.³¹ Joe Ross, one of the original founders of the SMS, seconded the motion, explaining that the SMS did not adequately represent the concerns of the southern Métis.³² As previously discussed, during the war years, many of the SMS leadership had enlisted leaving a leadership vacuum. Wilna Moore had effectively taken

³⁰ Ibid., 55.

³¹ Ibid., 8.

³² Ibid., 62.

charge of the organization shifting its headquarters from Regina to Saskatoon. By the time of the 1946 conference, the SMS had very few active locals throughout the province and a very weak central executive. Indeed, disputes between Métis from southern and northern areas disrupted the proceedings of the conference as whole. The main points of difference were not over the goals of the SMS as such, but rather centred on internal organization and structure. Ross's non-confidence motion was defeated, but the government nevertheless suggested that delegates elect an advisory committee composed of three northern representatives and three southern representatives to reorganize the SMS into a province-wide representative organization. Six delegates were elected and a convention date for a SMS annual meeting was set for October.³³

This convention never took place. In August of 1946, Douglas sent a memo written by Shumiatcher summarizing the proceedings of the July conference to all of his cabinet ministers. Shumiatcher suggested that given the lack of data regarding the number, location and needs of the Métis a royal commission should be appointed "for the purpose of dealing with Metis affairs which are a provincial responsibility." Douglas wrote the word "agenda?" on his copy of the memo; however, there is no evidence that the government followed up on this suggestion. In November, two members of the SMS advisory committee, Knudson and St. Denis, petitioned the government for \$1000 to reinvigorate the organization so that members could research issues and report to the provincial government on land grants and housing projects. This request was turned down by Finance Minister Clarence Fines, because the government refused to recognize requests not authorized by the whole advisory

³³ The committee members: Joe LaRocque, R. O. St. Denis, Tom Major, M. W. Knudson, Sol Pritchard, and Fred Delaronde. Murray Dobbin, "The Saskatchewan Métis Society – Part 4," *New Breed* (November 1978): 13.

committee.³⁴ To the government, a request from two members instead of the whole committee signalled the continued disintegration of the SMS as an organization.

After years of factionalism and infighting, the organization collapsed entirely at the end of 1946.³⁵ In 1947, Malcolm Norris attempted to revive it in a number of northern communities, but with little success. He organized a meeting for 25-26 June in Saskatoon and invited representatives from all provincial locals. However, Norris quickly discovered that Wilna Moore had taken the SMS records with her when she moved to British Columbia, and that most locals had been inactive for more than a year. Soon afterwards, Norris started a SMS local in LaRonge. However, after drawing up a constitution no further meetings were held. By this time, Norris may have come to the conclusion that he could do more good for the Métis working directly for the provincial government. In 1947, he started working for the Department of Natural Resources where he developed programs for northern residents.³⁶

6.3 The CCF Government and the Green Lake Métis Settlement

During the war years, little progress had been made towards improving the living conditions for Métis across the province. However, the Metis settlement at Green Lake had persisted. In 1947, Malcolm Norris wrote a report on the condition of the Aboriginal people living in several northern communities including Buffalo Narrows, Beauval, and the Green Lake Métis settlement. At Green Lake, Norris met with 45 Métis to discuss education, land tenure, fur conservation blocks, timber projects, and the organization of a local chapter of the

³⁴ “Publicized Metis Pair not Official Delegates,” *The Saskatchewan Commonwealth*, 4 December 1946; SAB, R-33.1, Files of the Premier, File XL 859 a(44), “Metis”, Memorandum, 20 November 1946. Valleau agreed with this assessment. See same file letter dated 30 December 1946.

³⁵ Barron, *Walking in Indian Moccasins*, 44.

³⁶ Dobbin, *Métis – Part 4*,” 14.

SMS. At the time, the population of the settlement was approximately 550, half of which were children under the age of 18 years.³⁷ Norris's comprehensive report is important because it provides an overview of the economic activities on the settlement. Over the previous year, the Métis had caught 58 percent of their muskrat quota on the Green Lake Fur Conservation Block. The value of each pelt was \$1.75 for a net value of \$8,918. During the winter months, the trappers had sold approximately \$12,000 worth of winter furs and various timber projects had yielded just over \$14,000 for the community. Norris estimated total revenue from stumpage at \$20,000. During the same time period, the government dispensed \$18,000 in family allowance money and social aid. Norris estimated the 1947 summer fishery at 25,000 lb at 8 cents per pound for a total of just over \$55,000. These numbers allow a rough calculation of the annual income per person on the settlement; approximately \$128,000 total or \$232.73 for every person.³⁸

Norris interviewed Jim Elliott, inspector for the Local Improvement District, and also the local HBC store manager. Both men said that the loggers working on the Green Lake timber projects earned only a bare subsistence wage. Norris also interviewed two Métis loggers who agreed with this assessment. In his findings, Norris stated that returns could be improved by introducing efficiency measures and production incentives, and that such measures would "probably be the best means of subsidizing this colony...making these people self-sufficient."³⁹ In his summary, Norris made a number of recommendations to

³⁷ A Catholic missionary conducted a census on the settlement in 1947. The results of the census: 110 adult men; 102 adult women; 49 girls (1-5 years); 58 boys (1-5 years); 49 girls (6-12 years); 41 boys (6-12 years); 28 girls (13-16 years); 18 boys and girls (16-18); and 96 other Métis. There is no figure available for boys aged 13-16 years.

³⁸ In 2014 dollars the annual income is \$1,594,297.03 and per person the figure is \$2,898.76.

³⁹ Glenbow Archives (GA), Brady papers, M-125-47 Miscellaneous Native Rights 1947-65, "Interim Report of a General Survey of Natives and other Residents at the Following Places: (1) Ile a la Crosse (2) Patchanok (3) Buffalo Narrows (4) Beauval (5) Green Lake Metis Colony by Malcolm Norris for Ronald Campbell, Assistant Supervisor of Fisheries (27 June 1947), 3.

improve the settlement: 1) that the government grant 33-year leases to the Métis who were living on the settlement in order to give them more security of tenure; 2) that the government grant the Métis more access to the region's timber resources; and 3) that the DNR should engage in more long-term planning regarding natural resources development. In a final estimate, Norris found that fish and fur accounted for roughly \$2,000 and \$21,000 of the annual settlement income respectively (approximately 60 percent). Other sources such as timber and social welfare accounted for the rest. Norris's report is primarily a descriptive overview of the resource revenue potential of the natural resources in each surveyed region. There are few policy recommendations but its overview provides a useful portrait of the various income streams on the Green Lake settlement.

Fact-finding surveys such as this one were typical of the CCF government during this period. The government would hire experts to do empirical research into an issue and then formulate policy objectives based on the results. During its first term in office, the CCF's DSWR saw the Green Lake settlement as a potential solution to Métis poverty in the southern areas of the province. The Department of Social Welfare and Rehabilitation followed the former administration's relocation model and Alberta's lead by moving approximately 50-75 destitute Métis families from Punnichy, a village located approximately 130 kilometres north-east of Regina, to Green Lake. The families had been squatting on road allowances in a state mirroring the situation in the Métis community south of Yorkton at Crescent Lake. All of the families there received social assistance from the province at a cost of \$22,245.35 in 1947. The rural municipalities paid another approximately \$4,000 in medical and hospital expenses. Both levels of government saw the relocation as a way to

decrease costs.⁴⁰ The experiment was a disaster. By 1949, only six of the original families were still living at Green Lake. The minister of social welfare, John H. Sturdy tried to blame the relocation program's failure on defects in the Métis character:

The sudden impact of European civilization on the North American native population...could not help but bring about serious problems...problems that cannot, by their very nature and complexity, be solved overnight.... All that a government can do is to open the way for opportunity and adjustment in a changing civilization.⁴¹

Perhaps due to the failure of the relocation effort, the CCF government shifted its priorities from resettlement to education. In 1949, a school board was established at Green Lake to allow more decision-making at the local level. With respect to creating opportunity for the Métis, Minister Sturdy stated: "Your leadership is coming from out of your own."⁴² The CCF decided that the people should be given education, health, social services and work-for-wages programs. The secretary to the minister of municipal affairs, H. J. Peddie, clearly explained the underlying rationale for continuing the Green Lake Métis settlement. "It was felt that with a proper understanding leadership [the Métis] would respond and slowly assume the responsibilities of full citizenship. They would become self-supporting, self-respecting citizens, and make their contribution to society." This statement clearly reflects CCF political philosophy with respect to equal opportunity and the importance of equal citizenship for all provincial residents.

In the same memo, Peddie explained the shift in attitude taken by the CCF government toward the Métis at Green Lake:

⁴⁰ SAB NR 3 A-24 DNR, Municipal Affairs, Education, 14 December 1948. In 2014 dollars, the province paid \$277, 075.75 for social assistance and the rural municipalities paid \$49,821.78 in health care expenditures.

⁴¹ "Experiment with Metis," *Saskatoon Star-Phoenix*, 21 September 1949.

⁴² *Ibid.*

Prior to this administration the people of this district, like their counterpart [sic] in other northern districts, were neglected and given short shrift. With the entry of this Government into power, the Department of Municipal Affairs through its Local Improvement Districts Branch has given serious study to the needs of these people. Under former administrations these people were treated mainly as a relief problem, and a large vote from the Provincial Treasury was expended each year in providing bare necessities. It became apparent very soon after this Government assumed power that this state of affairs could not be continued. These people were condemned to an existence without having a fair trial. Educational, medical, and social facilities were almost entirely lacking. Ignorance, disease, and lack of facilities generally doomed these people to an existence with no apparent means of correction by themselves.⁴³

Peddie accurately assessed the Liberal government's motivation behind the project at Green Lake. Like the settlement model in Alberta the point was simply to decrease dependence on relief. Little thought was given to encouraging the capacity of the people themselves or devolving control over the community to them. The CCF also wanted to decrease reliance on relief, but they were willing to spend the money setting up educational and health facilities that might enfranchise the Métis themselves.

At the end of his memo, Peddie provides five recommendations regarding how the government could best help the community to achieve a measure of economic democracy. Many of these suggestions directly address structural problems left unaddressed by the previous Liberal government such as the nature of the leases and the reservation of territory for northern residents only. First, Peddie recommended increasing the number of 40-acre plots and the Local Improvements District branch grant leases in place of the DNR. Second, he encouraged the diversification of operations to ensure year-round income. Third, the government, he said, should set aside an extensive tract of forest for the Métis who would have exclusive harvesting rights. The Métis could then be taught conservation methods, fire prevention, and modern planting methods. The proceeds from the trees could be used to

⁴³ SAB, NR 3 A-24 Game Blocks Lists/Correspondence "Memorandum Green Lake Community Project, Peddie to Paynter, n.d.

replace relief payments. Fourth, the fur conservation block should be reserved for exclusive use by the Métis. Fifth, the fish in Green Lake should be reserved for local residents only and no non-aboriginal fishers should be permitted licences.⁴⁴

Officials working for the CCF continued to study and collect information on the Green Lake settlement. In the late 1940s, A. Davidson, a DNR planning officer, and Roy Young, administrative assistant to the assistant deputy minister of DNR, J. W. Churchman, visited Green Lake to research the experiment. In their report on the first ten years of settlement operations, they reviewed a number of problems the Liberal administration had encountered, and the various modifications the CCF had introduced. For example, in the early years, the instructors on the central farm had taught the Métis settlers antiquated farming methods, and there had been little organized attempt to help the Métis clear land on their individual 40-acre plots. After 1944, the CCF government launched “a new more rigorous re-establishment programme” by appointing a new settlement administrator and introducing revised health and education programs. The authors also outlined the revamped farming operation on the settlement. This structure roughly followed the co-operative farming model introduced by the CCF in other areas of the province.⁴⁵ Métis who wished to farm were given 40-acre lots on a 33 year lease with provision for an additional 40 acres of land adjacent to the settlement. The LID cleared 20 acres on each individual lot (60 in total on the settlement) and spent \$50.00/acre in preparation for seeding. Workers at the central farm supervised all clearing, breaking, and harvesting, and the settlement administration paid for all labour (including the plot’s lessee). The settlement administration recouped its

⁴⁴ Ibid.

⁴⁵ B. N. Arneson, *It was a Great Privilege – The Co-operative Memoirs of B. N. Arneson* (Victoria, BC: Institute for Co-operative Studies, 2004), 213-215.

financial investment by retaining two-thirds of the crop value until the costs of clearing and breaking the land had been covered. The remaining one-third was split between the administration, farming supplies and the lessee. As a result of these changes, Davidson and Young reported, most relief payments had been discontinued and sufficient employment opportunities existed for all who were able to work. Improvements in agricultural training opportunities had allowed the central farm to expand to 700 acres and new modern equipment had been purchased.

Davidson and Young further outlined a number of significant changes in the day-to-day administration of the settlement. Despite the changes, the authors were careful to point out that the underlying rationale for the program remained unchanged from its introduction by the Liberal administration. “The development has always been regarded as a forest farming scheme with varying emphasis on forest and farm. It is still so regarded today with probably even greater emphasis on forest.” The CCF may have re-invested in, and re-organized, the settlement, but still saw it primarily as a relief project. Young and Davidson explained the goals and benefits of the settlement:

This plan takes advantage of the native’s psychological demand to receive almost immediate payment for all work...it is only an indirect method of relief payment since the native supplies neither land, capital, management or know-how. He may in fact not even work upon his own plot and yet he receives a return. This type of scheme, which in fact amounts to a huge farm operated by wage earners, does, however, provide an important industry for the community. In time it is hoped that if the administration continues to take a fair percentage of the return, and the returns are good, some of the more able Metis will see an opportunity to increase their income by undertaking all operations themselves. In this case it would be necessary for them to form a Co-op since the single units are not economical for the use of heavy machinery and at this point the administration will be glad to loan or sell the machinery to them. It is too early to predict yet when or if this will take place.⁴⁶

⁴⁶ SAB, NR 14813B2, Green Lake Davidson/Symington Reports, Davidson and Young to Churchman, early 1950s.

After ten years of operation, it was clear that agriculture would never provide the main source of income for the Métis at Green Lake. Rather, the land-clearing and forestry operations provided a type of work-for-wages program. Instead of receiving direct relief payments, the government provided employment opportunities or, as Young and Davidson phrased it, indirect relief. According to Young and Davidson, any hopes that the Métis would become agriculturalists were not realistic. The soil was too poor and the plots were too small to support sustainable commercial farming methods. The forestry industry provided the bulk of the income to the community. A local saw mill employed 17 Métis men who earned a minimum of 70 cents a day and up to \$10-\$15 per day. Fishing would only ever be a secondary source of income for the community. The 25,000 pound quota on Green Lake only provided seasonal employment for a dozen fishers. Further, the number of trappers was too large for the resource base to provide steady income.

Young and Davidson noted that the CCF government never intended to turn the Métis into agriculturalists. After 1944, the main purpose of the farm was to teach marketable skills so that the Métis could leave the settlement for jobs elsewhere. According to the authors, the only sustainable source of income for the community could be found in the forestry industry. They advised the deputy minister that “this paternalistic method of agricultural assistance” would be interesting to watch in light of other economic development programs being introduced in the northern region. At the conclusion of their report, Young and Davidson offered further evidence of the failure of the Green Lake experiment as an agricultural settlement by referring to the Métis who had moved in from Punnichy in 1949. By the time of the report, two-thirds of these settlers had left the community. However, they cite the exodus as part of a larger trend of emigration from the community over the past decade.

According to Young and Davidson, it was a sign of success if the Métis left the community after learning skills that would help them integrate into the labour market away from the settlement. To this end, they advised the department that it should continue to study the Green Lake experiment as a rehabilitation scheme based primarily in the forestry sector. In conclusion, they advised against clearing more land for agricultural purposes. In their opinion, the forestry industry provided better opportunities for increasing income levels in the community.⁴⁷

Throughout this period, CCF government officials studied the Green Lake settlement to evaluate its progress towards reaching the policy objective of economic democracy in the north. In June 1952, A. T. Davidson, planning officer for DNR, visited Edmonton to gain more insight into Alberta's experience with its Métis land settlements. Davidson met with Mr. McCulley, the director of Metis rehabilitation and wrote an extensive report of his findings for deputy minister C. A. L. Hogg. The main focus of the memo was whether the Saskatchewan government should continue to support the settlement model. Davidson outlined the basic plan of the Alberta settlements and recommended that, "if we should establish such reserves, our programs would probably be the same." Davidson regarded the Alberta settlements as the provincial version of Indian reserves. In Davidson's view this type of segregation was unacceptable:

I pointed out to Mr. McCulley that I believed as a basic principle that assimilation was the only sound, long-term answer to the Metis problem and accordingly I hesitated to recommend to our department that we establish any further reserve schemes. He then very emphatically agreed that assimilation was the only answer and very frankly admitted that after working with the Alberta system for a number of years, he now realized, and other Alberta officials realized, that the Alberta

⁴⁷ Ibid.

reservation system is a mistake. Quite frankly he seemed to feel that he was working on a program that offered no lasting solution to the problem.⁴⁸

In Davidson's opinion, two options were available to the government to encourage what he labelled 'Metis rehabilitation'. The first option treated Métis as if they were a distinct group with a special status such as the Indian population and segregated them on settlements or reserves. With respect to this option (the Alberta model), Davidson offered the following analysis regarding its design and efficacy:

Those who framed the Green Lake scheme, met a practical solution [*sic*], where hundreds of destitute Metis were scattered throughout the province with little means of support. It was an earnestly conceived scheme and it has met with at least moderate success. Nevertheless it has cost very large amounts of money and is established on a principle of reservation and special treatment, which I do not believe is sound. Whether those who established this scheme carefully weighed the alternative policies, I do not know, but there is no criticism of these people implied here, because perhaps at the time there was no other possible alternative. The present question, is, however, is this scheme to form a precedent for other such schemes – does it indicate our policy to meet Metis problems?

In Davidson's opinion, the CCF government would do better to pursue assimilation as the basic policy, under which Métis would work with non-aboriginals in the natural resources sector where they would be treated in essentially the same manner as other workers.

According to Davidson, the first option based on the principle of segregation was problematic for a variety of reasons:

It establishes a group with preferred and separate treatment to all other groups, it allots public resources to a limited number of people with no compensation to the rest of the public, it may result in inbreeding and accentuation of cultural differences, it may perpetuate a problem where none might exist after a generation or two of normal development. There are many who believe that the reserve system has condemned much of our Indian population to the status of permanent wards of the government.⁴⁹

⁴⁸ SAB, NR 1/4 247 Memos re Metis, "Metis Rehabilitation," Davidson, Planning Officer to Hogg, 17 June 1952.

⁴⁹ Ibid.

Beyond the anticipated problems that would result from separate treatment, Davidson outlined some of the practical difficulties that had arisen on Alberta settlements. He warned that these settlement schemes cost a lot of money and tie up resources. In support of this proposition, he cited the example of an Alberta settlement where the Métis were not harvesting trees. The government sold the timber to a non-aboriginal operator and the royalties were put in the settlement fund. Davidson claimed that this amounted to an unfair handout to people who were not using their resources. Furthermore, in his opinion, refusing to use the resources impeded the Métis's chances of becoming productive citizens.

In comparison, Davidson argued that a policy of assimilation and integration was “theoretically more sound,” because it treated the Métis as “citizens with equal rights and equal obligations to other citizens.” He added that this policy transition may be difficult and that its success depended upon access to resources and development such that the Métis could become “active in northern development rather than remaining passive onlookers as state wards.” He advised that if the government chose not to follow the Alberta reservation scheme then “we must be prepared to launch active programs to assure northern resource development.” This would cost the government a significant outlay of funds. However, in Davidson's opinion, taxpayer dollars would be better spent on developing resources than distributing more social aid. In conclusion, Davidson urged the government to act quickly, arguing that, “if we adopt no policy now we may be forced to adopt a policy of social aid in the future.”⁵⁰

By the early 1950s, it seems the Saskatchewan government had come to see the Alberta settlement model as a failure for two main reasons: 1) the administrative and

⁵⁰ Ibid.

managerial costs were high and ongoing; and 2) segregation made it more difficult for people on the settlement to integrate into the provincial economy. It made more financial sense for the CCF government not to follow Alberta's lead. However, since the CCF took over its administration, the Green Lake settlement had developed into a fairly successful enterprise. The *Canadian Geographical Journal* profiled the community in 1953. The author, D. F. Symington, spent some time at Green Lake and interviewed a number of people living on the settlement. In his article, Symington outlines the various improvements the settlement had made to the lives of the Green Lake Métis. First and foremost, the standard of living had increased from \$10/month to \$150/month due to increased employment opportunities in forestry, trapping and agriculture.⁵¹ No one in the community needed social assistance because the people were learning marketable skills. In contrast to previous negative reports by Norris and others, Symington found that great progress had been made in agriculture. The central farm employed three to twelve Métis depending on the season. The community had over 550 acres under cultivation and a herd of over 100 head. According to Jim Elliott, the LID inspector, the agriculture program had achieved two things: 1) the Métis were increasingly "tying" themselves to plots of land; and 2) that they are beginning to develop a sense of ownership over the leased land. In this manner, the Métis were steadily learning skills that would allow them to integrate into the agricultural economy of the province.⁵²

In addition to the economic changes in the community, Symington reviewed the impact of the introduction of modern health and education programs. As mentioned above, the province had been unable to attract teachers to the isolated community, so seven Sisters of the Presentation operated a non-denominational school where children attended to age 15.

⁵¹ D. F. Symington, "Metis Rehabilitation," *Canadian Geographical Journal* 46 no. 4(April 1953): 134.

⁵² *Ibid.*, 136.

Another sister ran the community infirmary where a doctor from Meadow Lake attended once a week. Over the previous several years, incidences of communicable diseases such as tuberculosis had decreased by 75 percent.⁵³ Indeed, Green Lake was so successful that Symington claimed in his conclusion, “sociologists [are] looking to Green Lake as a possible answer to the social dilemma of submerged social castes.” He suggests that the segregation of the Métis population had created a community of people with high self-esteem, skills and capacity for integrating into the greater population. Symington suggests that this is a necessary precondition for Métis acceptance by “race-proud occupants of their former domain.”⁵⁴ Roy Young, administrative assistant to Assistant Deputy Minister J. W. Churchman, roundly criticized Symington’s article for stressing racial stereotypes.⁵⁵ Indeed, there is no doubt Symington judged the habits and customs of the Green Lake Métis through a Eurocentric lens, yet the article does give some insight into the socioeconomic and cultural life of the community.

The living conditions for the Métis at Green Lake had unquestionably improved considerably since the early 1940s. When Hugh C. Dunfield, the Liberal MLA for Meadow Lake, stated that “today in Green Lake liquor runs like water” along with other criticisms of the CCF administration of the settlement, a group of 44 Métis wrote a letter directly to Premier Tommy Douglas to object to this characterization of their community.⁵⁶ In the letter penned by Alex Bishop, they explained the improvements on the settlement since the CCF took over in 1944. “You can just imagine the kind of poverty that existed then. Now mind you that was under the Liberal Administration, we just as Negroes, used to serve for years as

⁵³ Ibid., 138.

⁵⁴ Ibid., 139.

⁵⁵ SAB, NR 1/4 237, Young to Churchman, 3 October 1952.

⁵⁶ *Journals of the Legislative Assembly of Saskatchewan*, 2nd Session, 12th Legislature, 23 February 1954.

slaves.” Not one of the 99-year leases granted by the Liberal government was “worth the paper it was written on.” The Métis must have been aware of the legal problems associated with the leases. Under the Liberal administration, the government paid \$2.50/day in wages but clawed back \$2.00/day to pay back relief payments. Prior to 1944, the settlement had been little more than a Depression-era work camp. But over the following decade, Green Lake emerged as a successful northern community. The letter makes it clear that residents strongly supported the changes the CCF had made to the administration of the settlement.. Furthermore, they understood that the settlement was a necessary transitional step between traditional economic livelihoods such as hunting and trapping and agriculture. “We realize the fur and wild game will be a thing of the past in the near future, as a result we will be compelled to adapt the ways of the white man to till the land for a living. We know Green Lake project [*sic*] is a costly venture, but we can assure you that it will not be a waste of money, time will tell.”⁵⁷ In response, Douglas assured Bishop that he did not agree with Dunfield’s estimation of the Métis living at the Green Lake settlement. In his letter, Douglas outlined his views of the settlement:

Apparently Mr. Dunfield does not realize that the day is past when the Metis people can be shoved off into the bush to either make a living or die in the attempt. The Government believes that the best hope for the Metis is to have them learn how to handle machinery and how to farm by modern methods. Only in this way can they ever hope to make a decent living and to become part of our society. Like yourself, I am convinced that any money spent in helping the Metis people to become established as self-supporting citizens is not wasted but will pay good dividends in the years ahead.⁵⁸

⁵⁷ SAB, R-33.1, Files of the Premier, File XL 859 a(44), “Metis”, Bishop to Douglas 25 April 1954.

⁵⁸ SAB, R-33.1, Files of the Premier, File XL 859 a(44), “Metis”, Douglas to Bishop, 4 May 1954.

Douglas believed that the role of government was to support self-help initiatives. He also believed that the Métis needed to be better integrated in the provincial economy. It is clear from Bishop's letter that changes to the settlement's administration during the CCF's first term in office had brought a measure of economic success to the community. However, Douglas and the CCF believed that sustainable socioeconomic gains for the Métis would be better obtained by bolstering the returns from the natural resource sectors. These programs applied to all participants in the economy and were not tied to racial or ethnic origin. That being said, they were designed to help the Aboriginal residents of the north by limiting the use of resources to northern residents. This eliminated much of the non-Aboriginal competition for the same resources. During its first term in government, the CCF experimented with a number of programs designed to improve income for all northern residents. The following section examines two of the programs introduced in the fur and fish industries.

6.4 The CCF and Collective Marketing

In the period leading up to the 1944 election, the CCF's Planning Committee had organized several policy sub-committees in order to develop ideas and implementation strategies for a number of public policy goals. One of the most active sub-committees was the Natural Resources and Industrial Development Committee headed by Joseph Lee Phelps, who would later be appointed DNR minister. The committee considered lengthy proposals for the development of the province's natural resources. The experience of the Great Depression had convinced the CCF that economic diversification through the development of

non-agricultural industries was the key to developing economic democracy and security. The CCF aimed to develop the province's natural resources under public auspices; that is, to work towards the complete socialization of natural resources controlled by the province.⁵⁹

Resource development through public ownership would maximize benefits for the people of the province. Profits would be invested in social services and towards further development of resources.⁶⁰ The CCF's political philosophy, therefore, differed greatly from that of the previous Liberal administration. However, many of the ideas the DNR had developed under the Liberals (for example, fur conservation blocks) under the Liberals were not completely discarded by the CCF and its first minister of Natural Resources and Industrial Development (DNRID). Phelps introduced a variety of new initiatives in fur, fish and timber marketing. These programs were intended to support producers, both Aboriginal and non-Aboriginal, by providing better and more predictable prices for their products. The increase in income, it was thought, would support all the residents living in the northern part of the province, the vast majority of whom were Aboriginal, and diminish reliance on government relief payments.

6.4.1 The Saskatchewan Fur Marketing Service

C. A. L. Hogg (the future Deputy Minister of DNRID) first suggested a fur marketing agency in a 1943 report by the CCF's Natural Resources and Industrial Development planning sub-committee. Hogg's report articulates the CCF's objectives for natural resources development in northern Saskatchewan.

⁵⁹ Johnson, *Dream no Little Dream*, 43. *The Natural Resources Act*, SS 1944 (2d Sess), c8 empowered the Minister for DNRID to develop natural resources that were crown property.

⁶⁰ *Ibid.*, 44.

The fur trade is the most important factor in the economic life and well-being of the native Indian population of the Norther [sic] area ...the character of the trade as far as the Indian population is concerned has changed little in the last 150 years. The industry in the area constitutes a monopoly exercised by the Hudsons [sic] Bay Company, under which the Indians obtain a subsistence living devoid of any of the benefits of education or opportunity to better his lot. A start should be made to rectify this state of affairs.

My proposals are to:-

1. Establish a government department to plan the rehabilitation and conserva- [sic] of fur bearing animals.
2. Select areas in the upper Saskatchewan and Churchill river basins in the northern sections of the province, and make artificial improvements in form of dams to improve these conditions for natural increase of fur bearing animals, such as beaver, muskrat, otter, etc.
3. Establish Indian settlements in the selected areas and supervise in conformity with principals [sic] of conservation, taking into consideration animal fluctuations and cycles, so that the fur catch may be taken year by year as a crop, without depleting the capital stock of the area.
4. Establish educational facilities for the Indian population in these areas, operated under government supervision, free from domination by religious organizations, so that these people may be better fitted to live intelligently in their environment. The younger generation should be given a brief elementary education, followed by practical instruction in geology, biology, forestry and agriculture, so they will be fitted to make their full contribution as useful citizens of the province. Through education it may be possible to enlist the aid of the Indian population in carrying out conservation measures, a condition which has so far not been attained.
5. Considerable technical information on fur bearing animal cycles, fluctuations, diseases, migrations, conservation, is available from investigations carried out by the Federal Government and from Russian sources. All published records should be assembled and analysed and action be taken to implement those scientific principles which apply to conditions in northern Saskatchewan.
6. A proportion of the total fur catch is brought in by white trappers. Their trapping activities must be brought more closely under control. On the basis of the scientific fur bearing animal surveys these private trappers should be allotted [sic] certain areas in which to operate according to principles of conservation.

7. The above programme must be integrated with the establishment of a State owned and operated industry to process the raw furs into consumer products. This industry to be established in one of the larger urban centres, such as Prince Albert or Saskatoon. A re-organization at the sources of the fur industry would not survive if the marketing and processing of the raw products is left in private hands.⁶¹

This policy framework illustrates many fundamental CCF principles. First, the plan targets monopoly capitalism. The government believed that competition would drive up prices for natural resource products and help northern residents achieve a measure of economic democracy. Second, the government planned to introduce a conservation and management plan that would increase the amount of resource available for northern residents involved in the fur industry. Unlike the federal government, the CCF made no distinction between status Indians, non-treaty Indians or Métis people. The government designed the program for northern residents of whom the vast majority were Aboriginal people engaged in a traditional economic livelihood. Non-Aboriginal trappers, who were largely non-residents, would be subject to strict controls so that the resources would primarily benefit the local population.

The CCF developed its northern natural resources program prior to the 1944 election. One of its more innovative ideas involved the creation of a collective fur marketing agency. As Hogg pointed out in his report, the program would fail if private industry continued to set the price for fur. During this period, it was unclear whether the province had the constitutional authority to create a central fur marketing agency. Soon after the election, the new minister of natural resources and industrial development (DNRID), Joseph Phelps, asked the department's lawyer, J. H. Janzen, for an opinion on the constitutionality of establishing

⁶¹ SAB, R-33.5, Files of the Premier, "Planning the Development of Natural Resources of Northern Saskatchewan under Social Ownership and Control, 1943," 13-14.

such as agency. He also requested an opinion on what changes existing legislation and regulations would need to implement such a scheme. Janzen reported that it was his opinion that a marketing agency would be *intra vires* under s. 92(13) of *The British North America Act, 1867*. For authority, Janzen quoted a case from British Columbia.

The fact that the Act authorized the Lieutenant-Governor in Council to vest in the marketing boards the power to impose licence fees is not a ground for holding the Act invalid. If provincial regulation of trade within a province is valid the ordinary method of regulating trade, i.e., by a system of licences, must also be admissible. It cannot be an objection to a licence plus a fee that it is directed both to the regulation of trade and to the provision of revenue.⁶²

Janzen declined to give an opinion on legislation and regulations, however, because he thought that these details could be worked out once the government made a decision to create the agency.⁶³

With this supportive opinion in hand, Phelps circulated a questionnaire to trappers, fur dealers, and fur ranchers to discover what support existed for a government-sponsored fur marketing agency. The results of the questionnaire show that people involved in the industry were overwhelmingly in favour of such a plan.⁶⁴ Upon hearing about the Saskatchewan government's plans to establish a fur marketing agency, the editors of *Fur of Canada* asked Phelps for an outline of his proposals. Phelps outlined the plan in some depth:

I have devoted considerable time to a study of the problems confronting the producers of fur in this province. I have had the opportunity of meeting many of the trappers in the northern remote area of the province and have also discussed with trappers and fur farmers the whole question of fur marketing. In addition to the points of view of these groups, there is contemplated the development of

⁶² *Shannon v Lower Mainland Dairy Products Board and A.G.* [1938] 2 WWR 604 (BC).

⁶³ SAB, S-M11 Ministerial Papers, J. H. Janzen to J. L. Phelps, 19 July 1944.

⁶⁴ Johnson, *Dream no Little Dream*, 43. The DNRID distributed 15,000 questionnaires. The responses show that 96 percent of trappers, 88 percent of ranchers, and 81 percent of fur dealers were in favour of the idea. *Leader-Post*, 9 September 1944.

suitable areas in the province by the Department for the purpose of increasing the production of fur animals, particularly muskrats and beaver. We propose to handle the harvest of fur from these controlled areas in a similar way to what is being done in Manitoba. From information that I have been able to obtain, I am of the opinion that there is a definite need for a Fur Marketing Service to be operated primarily for the benefit of all trappers, producers and dealers of fur.⁶⁵

On 13 November 1944, Phelps announced the creation of the Saskatchewan Fur Marketing Service (SFMS). Regina was chosen as the auction location for two reasons: 1) it was easy to reach for buyers from the United States and Eastern Canada; and, 2) it was close to other government departments. The auction began accepting shipments on 15 November 1944. There was a charge of 6 percent interest on credit advances until the furs were sold. Trappers were admonished not to “ask for advances unless it is absolutely necessary.” The SFMS took 10 percent commission on sales in order to finance its operations and fund conservation projects.⁶⁶

Initially, the SFMS functioned as a branch of the DNRID.⁶⁷ However, administrative difficulties relating mainly to proceeds from sales made a departmental form of organization impracticable.⁶⁸ The directors were Phelps, C. R. King and A. J. Cooke (the latter being the first manager of the SFMS). A report of the Economic Advisory and Planning Board on Methods of Organizing Government Operated Enterprises explained the rationale for creating a crown corporation:

...the objects of Crown Companies are mixed: while interested in producing Government revenue they are subject to the social policy of the Government. They are desirable in certain instances as their operation is more flexible than

⁶⁵ SAB, S-M11 Ministerial Papers, “Fur Marketing Service Proposed by Saskatchewan Government, *Fur of Canada*” (August 1944), 3.

⁶⁶ SAB, S-M11 Ministerial Papers, J. L. Phelps to all Trappers, Fur Ranchers and Fur Dealers,” 13 November 1944.

⁶⁷ *The Natural Resources Act*, SS 1944 (2d Sess), c C-48, s 71(a).

⁶⁸ William Alfred Arrowsmith, “Northern Saskatchewan and the Fur Trade” (M.A. Thesis, University of Saskatchewan, 1964), 103. ⁶⁸ In November 1945, the government made the SFMS a crown corporation under the authority of the *Crown Corporation Act*, SS 1945, c 17; Sask Reg OC 1525/1945.

Government Departmental controls permit. Crown Companies have more freedom than a Department in purchasing, selling and personnel control.

This report was prepared by a working group established to study methods of organizing government operated enterprises. The CCF government believed that crown corporations operated better in industries where there may eventually be competition with private enterprise. The SFMS is not discussed specifically, however, the report makes clear that its structure was part of a larger policy design.⁶⁹ In a radio address delivered in 1945, Phelps explained the rationale behind the creation of the SFMS:

With the federal authorities lifting the restrictions governing the importation of foreign fur, and providing facilities for the importing of foreign fur in unlimited quantities, Canada, one of the world's greatest fur producing countries, has become a dumping ground for cheap fur from other countries. Yet the Canadian public pays the bill, the Canadian fur manufacturers, wholesalers and public reap the benefits, but the Canadian trappers, fur ranchers and dealers are left with next to nothing, being unable to market all of their product in Canada.

The Canadian trappers, fur ranchers, and dealers should become so organized that they may have sufficient influence to prevent the Canadian Fur Industry being considered by federal authorities as one to be developed and matured solely for the benefit of the organized manufacturing, wholesale and retail trade. That is one reason why this service has been established.⁷⁰

On 29 October 1945, the first meeting of the Saskatchewan Fur Marketing Association was held. At this meeting, the SFMS established its corporate by-laws and structure. The directors established an advisory committee for consultation purposes.

[I]t was resolved that an advisory committee to the Corporation be established consisting of nine members, committed to be comprised of these northern trappers, 2 Indian and 1 white, one Fox Rancher, One Mink Rancher, one representative from trapping leases, one wholesale fur deal licensee, one local

⁶⁹ SAB, NR 1/2 Records of the Department of Natural Resources, Meetings of the Second Meeting of the Committee Studying Methods of Organizing Government Operated Enterprises, 31 January 1946.

⁷⁰ SAB, S-M15 Ministerial Papers, Transcript of Radio Address by J. L. Phelps on the Saskatchewan Fur Marketing Service, 1945, 6.

storekeeper licensee, and a representative from the Fur Branch, Department of Natural Resources.⁷¹

Over subsequent months, the SFMS held a number of successful fur auctions.⁷² There were problems with the SFMS, however, especially with respect to its operations among Aboriginal peoples in the North. The biggest problem was the lack of a credit system. Prior to the SFMS, private fur dealers such as the HBC issued credit to fur trappers. The amount of credit was usually enough to last a trapper an entire season until he returned to the post to sell his goods. The SFMS offered advances and initial payments to the trappers, however, these amounts were often only sufficient to purchase provisions for a few weeks. Malcolm Norris and J. J. Wheaton, who worked for the DNR's Northern Administrator's Office, offered a possible solution:

The posts can be made to justify their existence without resorting to the spirit of Santa Claus in handing out indiscriminate advances to trappers. This can be done by careful credit management, by proper co-relation with the Saskatchewan Fur Marketing Service, who could render an Intelligence Service for the purpose of giving information on market conditions and prices, and a method worked out whereby a higher initial payment be made to trappers and others who have fur to sell or ship. It is believed that the Saskatchewan Fur Marketing Service was established for the purpose of improving the fur industry of Saskatchewan by rendering a service to the people concerned in disposing of furs in the market most advantageous, thus guaranteeing against exploitation.

Norris and Wheaton argued that northern trappers were forced to sell their furs in order to purchase goods that were needed in the immediate future. This necessity precluded them from taking advantage of the higher prices that were ultimately offered through the SFMS.

⁷¹ SAB, S-M15 Ministerial Papers, Minutes of the First Meeting of the Saskatchewan Fur Marketing Association, 29 October 1945.

⁷² SAB, R-33.2 Files of the Premier, "Annual Report of the Saskatchewan Fur Marketing Service, 1947-48." Within a couple of years, the SFMS had gross sales of nearly \$2,000,000 (nearly \$28 million in 2014 dollars).

For this reason, even after the creation of the SFMS, trappers continued to sell furs to private interests at low prices.

It will be readily be observed from the foregoing that a large potential purchasing power, so sorely needed by these northern people, is lost to them while enhancing the financial status of the opposition. This state of affairs, it is submitted, should not be permitted to continue, that ways and means be found at the earliest possible time to conserve to these people this large loss in potential purchasing power.⁷³

Soon afterward, changes were made to the SFMS.

- to raise the initial price of furs on delivery,
- to forward 75 per cent of the price to the trapper upon grading at the SFMS,
- to credit 1 percent of the 5 percent commission fee against possible losses on the extension of credit,
- to supply necessary tags to all personnel of the Northern Administrator's Office who would act as agents for the SFMS,
- to ship a weekly bulletin on prices to all agents, and
- to give serious consideration to the idea that Trading Division Posts of the Saskatchewan Fish Board take out authorized Resident Fur Dealers' Licenses so that they could purchase fur directly from the trappers.⁷⁴

The office of the Northern Administrator of the DNRID was aware of the problems that the lack of sufficient credit was causing trappers. The CCF designed and implemented the SFMS so that the increase in personal income would proportionately decrease the amount of relief

⁷³ SAB, R-907.2 Ministerial Papers, M. Norris and J. J. Wheaton re: Trading Division of the Saskatchewan Fish Board" (30 December 1947), 3-4.

⁷⁴ Ibid.

distributed. However, the lack of credit interfered with this goal as many residents continued to require social assistance.⁷⁵

6.4.2 Fur Conservation Blocks

In addition to developing a fur marketing board, the new CCF government expanded and redesigned the previous Liberal administration's Fur Conservation Block (FCB) program. As a first step, the CCF gathered information on the Hudson's Bay Company's private lease at Cumberland House. Field Officer Joseph Johnson interviewed several interested parties, including a number of Aboriginal trappers, and presented an assessment of the HBC's trapping lease program.⁷⁶ Johnson reported that the HBC benefitted most from the Cumberland House agreement at the expense of the Aboriginal trappers and made several assessments and recommendations including the following:

2. That the area should have remained under control of, and development work undertaken by, the Provincial Government of the day, for the benefit of all the people in Cumberland House.
3. That results obtained because of conservation and development projects had shown that the project was economically feasible and this was all the more reason why the Government should have done the work in the first place.
10. That corrupt methods had been used by the Company and Government of the day in getting the area set aside for the Company in the first place and that the people of Cumberland had not been given an opportunity to voice their opinion as a whole on the matter.⁷⁷

Johnson described the allocation of trapping privileges: "Each trapper is given a certain section and is not permitted to trap any other area unless he has not reached his quota at the

⁷⁵ SAB, R-907.2 Ministerial Papers, J. J. Wheaton to J. W. Churchman, 21 September 1948.

⁷⁶ SAB, S-M15 Ministerial Papers, J. Johnson to J. L. Phelps, 15 February 1945.

⁷⁷ Ibid.

time when the wardens decide no further muskrats should be taken from the section on which he has been trapping. In such cases, he is moved to another section not previously trapped.”⁷⁸ All 37 Aboriginal trappers were expected to keep records of their activities and report to the HBC. Many non-residents continued to trap in the area and Johnson recommended that when the lease on adjacent land expired that it should be put under government control so that priority could be given to Aboriginal trappers.

Johnson valued the opinion of the local Aboriginal population and listened to their advice while preparing his study. “The Cumberland settlement is populated chiefly by half-breeds...I found that many were not only well educated in an academic sense, but through a lifetime spent in the north had acquired experience which cannot be underestimated.”⁷⁹

Johnson met with Aboriginal leaders including Tom Settee, a voluntary Game Guardian, member of the Indian Council, and a veteran of the Great War. He passed along to Minister Phelps a number of resolutions that had been passed by Aboriginal members of the community:

1. That trappers from Beaver Lake and Pelican Narrows be barred from Community Lease. That these trappers had a better fur country in general and that further, they had industries at Flin Flon in which they could work, to fall back on.
2. That Community Lease when lapsed should be renewed for the benefit of the residents of Cumberland and Pine Bluff Districts. Further, that a full time guardian should be chosen from among these residents to work under the supervision of the resident Field Officer.
3. That “outsiders” coming into Community lease from the north “clean out” all beaver they come across on their way out.
4. That residents of Pine Bluff and district have never had any assistance or co-operation in their efforts to conserve fur-bearing animals.

⁷⁸ Ibid., 4.

⁷⁹ SAB, S-M15 Ministerial Papers, Johnson to Phelps, 15 February 1945.

5. That trappers on Private lease should be barred at all times from Community lease.⁸⁰

These resolutions attest to the limited government intervention in the area to that date. They also illustrate that boundaries were contested among members of the Aboriginal population, and that residents were opposed to outsiders trapping in their area.

In March 1945, the HBC agreed to surrender the 1938 community lease it had been granted by the Liberal Government at Cumberland House and the DNRID took over administration. In subsequent months, DNRID officials studied various conservation and governance models such as Alberta's trapline and registered trapping areas. In July 1945, DNRID employees, Oscar Durieux and Harry Paul went to Edmonton to interview Alberta's Game Commissioner and Supervisor of Game and Fur. The Alberta officials reported that they preferred registered trapping areas instead of individual traplines, which tended to overlap or run too close together. In their opinion, conservation areas with open trapping permitted more flexible use of the community resource.⁸¹ In September 1945, Harry Paul submitted a report to Phelps that would form the basis for many of the initiatives taken by DNRID in subsequent years. At the completion of his survey of the fur resources of the north, Harry Paul offered the opinion that "the fur resources of our Province have been badly neglected, in other words, a business which has been poorly operated." He made the following recommendations as a basis for a Fur Conservation Programme.

1. Maximum development and utilization of our present fur resources by establishing Fur Conservation Areas.
2. Direction and supervision of trapping on these areas by Government supervisors in order to maintain and increase our present limited fur resources.

⁸⁰ Ibid., 4-5.

⁸¹ SAB, S-M15 Ministerial Papers, Durieux to Lewis, 8 July 1945.

3. Complete survey of all large proposed areas to determine their potentiality as fur bearer producers.
4. Restoration of aquatic fur bearers in depleted areas by extensive transplanting.
5. Distribution of fur proceeds monthly by the Government to Metis and Indians to alleviate mid-summer depressions.
6. The eventual establishing of co-operative stores in these areas to ensure fair and equitable returns to the natives for their produce.
7. Federal appropriations annually over a period of twenty (20) years. These appropriations to be expended by the Province with no voice from Federal authorities as to how these monies may be expended. In the interests of the natives of the north these appropriations should be at least \$500,000.00 annually.
8. That no further developments be carried out on a Dominion-Provincial basis. These should be Provincial projects.⁸²

These recommendations fit squarely within the CCF's general approach to natural resources development – the government supported bottom-up initiative, promoted fair competition and encouraged active involvement in governance through the co-operative model.

In January 1946, the DNRID held a series of consultations to discuss the economic situation of the Aboriginal population. In response to comments by missionary Ahab Spence and Chief Joseph Dreaver, Phelps explained his plans for northern development:

This Department has certain plans under consideration which will involve a good deal of work with the Indians, particularly in the north. As for the settled areas of the Province, we expect to announce, in a few days, a new trapping policy based primarily on conservation, as well as more equitable distribution. In this program we are making some provisions to take care of both the Metis and Indians wherever possible.

Our northern scheme involves development and supervision of trapping leases. A man has already been working a year on this and we expect to have it in shape for operation in the very near future. In addition to the fur industry in the north, fishing and general settlement are receiving attention.... It is felt we must insist on a new deal for our native people. If Ottawa is not prepared to move, and personally I am not too hopeful, we ought to make a start ourselves.⁸³

⁸² SAB, S-M15 Ministerial Papers, H. Paul to J. L. Phelps, 18 September 1945.

⁸³ SAB, S-M15 Ministerial Papers, Phelps to A. Spence, 11 January 1946; Phelps to Dreaver, 14 January 1946.

In January 1946, Paul candidly assessed the impact of trapping by non-Aboriginals in the northern region of the province and encouraged Phelps to approve the fur conservation plan.

In the northern part of this province we have a class of people chiefly our Indians and Metis, who are, we might say totally dependent upon the wild fur resources as a source of livelihood. We should be fully aware of the burden that would be imposed upon tax-payers should these people no longer find sustenance.

Too frequently we find the Indian and Metis being blamed for the dissipation of our fur bearers. This I know to be entirely untrue. The mode of life pursued by the Indian and Metis, and being so called lazy and shiftless; I find that he kills no more than the absolute need to maintain his family. I am sure you will agree with me that the standard of living accepted by the Indian is very low, and at no time has any one Indian accumulated any wealth through trapping. The Indian and Metis are quite aware that their livelihood depends on fur industry. Therefore, the Indian and Metis are natural conservationists even though they may not be aware of it. Unscrupulous fur buyers and the itinerant white trapper should be blamed for the mistreatment of nature. There is on file in this office authentic records which state that in 1932, two white trappers entered an area north of Churchill and in one season trapped 47 white fox. The average Indian hunt at any time never exceeds ten....

The foreign or itinerant trapper must be stopped. The object of these trappers is to take as much as possible out and put nothing back. Another type of trapper is the fellow who will settle in an area just long enough to claim legal residence, then it is a comparatively simple matter to proceed to denude the area and then move on.

I might mention that in my opinion the closing of a season on any one of our fur bearers, for either one or two years is by no means a conservation measure. It only tends to divert the fur from the regular channels or trade, in other words ourselves to the realization that a good thing has gone too far. Conservation must more than balance exploitation...⁸⁴

⁸⁴ SAB, S-M15 Ministerial Papers, H. Paul to J. L. Phelps, 16 January 1946.

Paul placed the blame for the shortage of fur-bearing animals squarely on non-Aboriginal itinerant trappers. He believed that a conservation block policy whereby only resident trappers would have a right to trap in the area would address this problem.

Later that year, Phelps agreed to support the fur conservation block program. New regulations were passed providing that all lands north of the 53rd parallel, except the fur conservation areas at Sipanok, Cumberland House, and other federal fur conservation areas, would constitute the Northern Saskatchewan Fur Conservation Block.⁸⁵ A number of smaller blocks, each managed in consultation with a local fur council composed of local residents, would be created. Each fur council would have representatives from the Treaty Indian, Métis or non-status, and non-Aboriginal populations. Officials of the DNRID would decide on the boundaries of each FCB in consultation with members of the fur councils.⁸⁶ If there was no agreement, then the minister could make the final decision with respect to boundary demarcation.⁸⁷

Saskatchewan's game commissioner, E. L. Paynter, explained the new fur policy in the following terms: "The department is endeavouring to establish bona fide Canadian trappers on grounds they had been trapping in the past, regardless of their racial origin." He also explained that no existing registered traplines would be cancelled; however, they would not be renewed upon expiry.⁸⁸ Given the fact that the majority of northern trappers were Aboriginal, the program had the effect of limiting trapping to the Aboriginal population and eliminated many of the problems caused by itinerant non-Aboriginal trappers. In subsequent years, nearly one hundred FCBs were created and were governed by local fur councils.

⁸⁵ Sask Reg OC 1812/1946; *Fur Act*, RSS 1942, c 59, s 5(a).

⁸⁶ *Ibid.*, ss 5(b)-5(c).

⁸⁷ *Ibid.*, s 6.

⁸⁸ *Leader-Post*, 31 December 1946; 17 January 1947.

6.4.3 The Northern Fur Conservation Agreement, 1946

The implementation of Saskatchewan's Fur Conservation Block program was made possible by a federal-provincial agreement signed in July 1946 – The Northern Fur Conservation Agreement (NFCA). The Memorandum of Agreement, signed by DNRID Minister J. L. Phelps and federal Minister of Mines and Resources, James Allison Glen, terminated the July 19, 1939 federal-provincial agreement that had created the Northern Saskatchewan Conservation Board. The agreement applied to the region of Saskatchewan north of 53rd parallel. The NFCA provided for a three person Fur Advisory Committee (FAC) to advise the provincial and federal governments on plans for the development of fur resources in northern Saskatchewan. The federal government agreed to fund 60 percent of the cost of the programs recommended by the FAC to a limit of \$50,000 per year. The FAC consisted of two members of the administrative staff of the DNRID and one member drawn from the administrative staff of the federal Department of Mines and Resources. After establishing the Saskatchewan Fur Conservation Block, the province agreed to make regulations that would carry out the provisions of the intergovernmental agreement. Under those regulations, "Treaty Indians shall have the same rights and privileges and the same obligations, responsibilities and duties as any other persons, and that all persons, including Treaty Indians, shall be liable for the payment of such fees and such share of the proceeds of pelts sold or otherwise disposed of as may be prescribed or provided for by the said regulations."⁸⁹

⁸⁹ SAB, NR 1/5, I.94 (464) Records of the Department of Natural Resources, Fur Advisory Committee, "Memorandum of Agreement," 28 July 1946.

The FAC held an annual meeting each year in Prince Albert immediately after the trappers' conventions, during which delegates from each fur block would meet and debate various resolutions. The FAC took note of the trappers' resolutions, but was not bound by them. In a letter to his federal counterpart in 1950, DNRID Minister J. H. Brockelbank commented on the structure and functioning of the joint federal-provincial fur conservation programme:

During the few years this program has been in operation the trappers have gone a long way in organizing under the direction of our field personnel and are becoming very conscious of the necessity of taking an actual part in the good management of their trapping areas. This was particularly evidenced in the successful trappers' convention held at Prince Albert in conjunction with the Fur Advisory Meetings during the week of January 16th. Although this organisation has not developed sufficiently throughout the whole block, a number of conservation areas have advanced to where they are prepared to set up individual, family, or group traplines.

(...)

I would like to make particular mention of the Clark Beaupre Conservation Area A-73 which was recently established and which goes to prove how people can help themselves to improve their position when given the opportunity and necessary guidance.

Brockelbank concluded by noting that the program had been successful so far due to the cooperation of residents and their recognition that they benefited first from the conservation program.⁹⁰ The government strongly encouraged input from the local fur councils with respect to governance of the conservation areas.

6.4.4 The CCF Government's Northern Fisheries Policy

During the war years, there was a marked increase in the demand for fish. By 1943, Saskatchewan was a leading producer of whitefish, and it supplied nearly one-third of

⁹⁰ SAB, R-907.3 Ministerial Papers, Brockelbank to Harris, 8 March 1950.

Canadian trout. Unfortunately, the wartime boom masked the significant costs associated with fishing in Saskatchewan. The economic reality of high transportation costs associated with the isolated nature of fishing operations and the great number of small lakes pushed prices higher. Then, shortly after the war ended, a fish parasite (*trianophorus crassus*) resulted in a ban on Saskatchewan fish entering the United States. In response, the federal government introduced inspection legislation, and the provincial government instituted a system of internal quality control mechanisms. These included a lake classification system in which fish from infested lakes would have to be processed before they were exported. The DNRID built filleting plants at Lac la Ronge and Beaver Lake in order to process these fish, 11 of which added to production costs.⁹¹

Once these plants had been built, Minister Phelps and a number of DNRID officials turned their attention to marketing. The DNRID sent a questionnaire out to 2,070 commercial fishing license holders asking them if they would support a government sponsored or a co-operative fish-marketing agency.⁹² Shortly afterwards, the government established Saskatchewan Fish Products as a crown corporation to buy, process, and market fish caught in northern waters.⁹³ On October 15, 1945, the government created the Saskatchewan Fish Marketing Board (SFMB) as a subsidiary board whose purpose was to market all fish handled by SFP.⁹⁴ In the past, private dealers had been reluctant to operate in remote northern areas, and they often purchased fish only in accessible areas at high season. There was little or no competition, and the fishers had to sell their supply at a set price. SFP

⁹¹ *Moose Jaw Times*, 22 November 1945. For more on the freshwater fishery during this period see Liza Piper, "Parasites from 'Alien Shores': The Decline of Canada's Freshwater Fishing Industry," *Canadian Historical Review* 91 no.1 (March 2010): 87-114.

⁹² *Saskatoon Star Phoenix*, 27 March 1947. Eighty-six percent of the license holders supported the establishment of a government run marketing agency.

⁹³ Johnson, *Dream no Little Dreams*, 73; Sask Reg OC 1070/1945.

⁹⁴ SAB, S-M15 Ministerial Papers, "Report of the Meeting of Saskatchewan Fish Products, 15 October 1945.

was created to ameliorate these conditions for the northern fishers, the majority of whom were Aboriginal, by stabilizing the income they derived from the fishery. SFP bought and sold supplies in remote areas and extended credit for equipment and other necessities.⁹⁵ This new system of fish marketing included the imposition of royalties to be paid by the producers. Phelps explained the purpose of the royalties:

This government regards the fish of this Province, which are a natural resource, as a social product. Therefore, a Royalty was imposed on fish, commencing last year, to build up revenue to be put back into the industry in the form of research, hatcheries and filleting plants to stabilize same. By imposing the Royalty all profits were put back into the industry in the forms mentioned above and aided in the balancing of the Provincial budget. Fishing previously had been a loss to the Province.⁹⁶

Phelps intended the fishing industry to become self-sustaining with the producers themselves funding research and development.

Soon after its creation, some fishers complained about the compulsory nature of the SFMB. Some complained that SFMB prices were less than half that of the open market.⁹⁷ It was subsequently reported that the CCF's fishing policy was having a negative impact on fishers as they were being "left to dictatorial whims of visionaries of the natural resources department." Fishers viewed producer-run co-operatives as a better option than a compulsory government-run marketing board.⁹⁸ Phelps defended his department's policies by explaining that the SFMB set prices over the long term in order to modify wild

⁹⁵ Barron, *Walking in Indian Moccasins*, 151. In 1946, the government re-organized the SFP and SFMB to make them part of the Saskatchewan Lake and Forests Products Corporation. This corporation had three branches: 1) Saskatchewan Timber Board; 2) Saskatchewan Fish Board; 3) Saskatchewan Box Factory. Sask Reg OC 873A/1946.

⁹⁶ SAB, S-M15 Ministerial Papers, "Report of Fishermen's Meeting held at Meota, Saskatchewan, November 3, 1945.

⁹⁷ *Leader-Post*, 11 October 1947

⁹⁸ *Leader-Post*, 14, October 1947.

fluctuations in prices offered on the open market.⁹⁹ He added that the CCF wanted to establish producer-run co-operatives, but the producers were not ready to take on such a high level of responsibility in the industry. “The Natives distinct culture, extremely difficult living conditions, and traditional and seasonal economy would present many difficulties in developing self-help co-operatives.”¹⁰⁰ The establishment of a crown corporation was regarded as an expedient and temporary measure that would eventually lead to the introduction of a co-operative fishing industry.¹⁰¹ The development of successful co-operatives took time. The CCF regarded the marketing boards as a quick and expedient way to raise income levels.

In 1947, A. H. MacDonald, Assistant Supervisor of Fisheries, and K. E. Dickson, Manager of the SFMB, submitted a report to the federal government on the economic situation in northern Saskatchewan with specific reference to fisheries. The authors outlined the fishing operations at a number of northern lakes and emphasized the role of the SFMB in alleviating the economic conditions of northern residents. “Many whitemen claim that the Indian is no good and that we cannot do anything with them, but we must not forget that far more effort has been exerted by the whitemen to exploit the Indians than has ever been put into trying to assist and educate them.”¹⁰² MacDonald and Dickson recognized that Aboriginal fishers had generally been paid low wages and did not have the equipment to fish on their own. The authors suggested that the government should help the Aboriginal population secure equipment, build packing plants, and create marketing schemes. They felt

⁹⁹ *Leader-Post*, 29 October 1947.

¹⁰⁰ Arneson, *Privilege*, 217.

¹⁰¹ SAB, NR 1/2 Records of the Department of Natural Resources, “Minutes of the Second Meeting of the Committee Studying Methods of Organizing Government Operated Enterprises,” 31 January 1946.

¹⁰² *Ibid.*, 4.

that these measures would ensure fishermen an adequate income. They concluded with the *raison d'être* for developing the Aboriginal fishery. “This kind of a programme could be considered as a work and wage programme in assisting them to earn their living rather than giving them direct relief, and under such a programme we would be producing a food product.” They also pointed out that the economic situation in the north was similar to that in 1939 when the federal government had agreed to create the Northern Saskatchewan Conservation Board and urged the federal government to agree to a similar cost-sharing arrangement in order to benefit the Aboriginal fishers in northern Saskatchewan.

6.4.5 The Antigonish Model of Co-operative Development

During its first term in office, the CCF took steps to promote co-operatives in the northern fishing industry. Phelps hired A. H. (Gus) MacDonald to revamp Saskatchewan's fishing industry. MacDonald had experience in Nova Scotia establishing successful fish marketing co-operatives. During the 1930s, the Antigonish movement saw the introduction of the co-operative model in the fishing industry. The guiding principle of the movement was that producers should take control over the industry to stop economic exploitation at the hands of private packers and middlemen. The profits from these co-operative ventures went back into developing the industry rather than to private shareholders. The CCF regarded the principles of the Antigonish movement as applicable to the Aboriginal fishers in the north. MacDonald was charged with designing and implementing a plan to introduce the Antigonish movement.

In a comprehensive report written in 1946 for the DNRID, MacDonald reviewed the economic situation of the province's fishing industry. He claimed that the lack of an export

market was the industry's biggest challenge. He recommended that the Fish Marketing Board take measures to establish a quality product and fair trade practices.¹⁰³ MacDonald examined the issue of how much "the government should undertake with respect to taking over control of the Industry and how much the fishermen themselves are able to undertake with regard to the formation of co-operatives."¹⁰⁴ His report is worth quoting at length because it sets out the basis of the CCF's fisheries policy adopted in subsequent years.

GOVERNMENT CONTROL

It has been suggested that the government should gradually take over control of the entire industry. This would necessitate not only plant and equipment but also Posts or Stores handling food and supplies. In conjunction with such an undertaking the fishermen would be organized and informed that while the Government was operating the fish business its intention was to have the fishermen take over. Study groups would be organized to educate the Producer and when co-operatives financed by the people themselves became strong enough then the Government would sell its equity at cost to the co-operatives. This would be a combination of paternalism and self-help on the part of the fishermen.

An undertaking such as the above would mean an initial expenditure of a considerable amount of money. It would meet with organized opposition of Traders and Fish Dealers who might be prepared to spend huge sums of money in a price war to defeat the purpose of the plan. Unless such a move were accompanied by an intensive educational program the fishermen would be inclined to regard credit received from a Government store as a handout. Experience seems to prove that there is a definite limit to the amount which may be done for people beyond which local responsibility and self-help will not be encouraged.

CO-OPERATIVE DEVELOPMENT

The difficulties in the way of Co-operative development are equally formidable. These could be summed up as follows:

1. In the Northern areas where most of the commercial fisheries are concentrated the fishermen live too far apart to attend regular meetings.
2. A Co-operative development must be financed by the people themselves. It would take a considerable length of time for them to finance co-operative stores.

¹⁰³ SAB, R-35.5 Ministerial Papers, Report of the Fisheries Program, February 1946, 2.

¹⁰⁴ Ibid., 3.

3. The lack of education and as a consequence the necessity of a long range program of education before results could be accomplished.
4. The industry is for the most part seasonal and is carried on during December, January, February, March, May, June, July, August and September.

It is the opinion of the writer that a combination of both Government control and adult education must be undertaken. The Province of Quebec has considerably subsidized the development of co-operatives in a similar manner with beneficial results.

As a first step the producers on resident lakes must be organized. Whichever plan is adopted the fishermen must lose the idea that they are isolated producers running separate industries and competing with one another or else lose control of the industry from which they receive a portion of their livelihood. They must organize to protect their interests, to gain a better knowledge of their problems, and to work together for their mutual benefit. While it may be advisable for the Government to establish control over most of the industry, it is the opinion of the writer that a widespread educational campaign should be undertaken.

The program should be based, with local adaptation, on the plan of St. Francis Xavier University of Nova Scotia. The basis of the St. F.X. movement was summarized as follows by Dr. M. M. Coady, Director of Extension Department, in a brief presented to the Royal Commission on taxation of co-operatives.

1. That social reform must come through education. Social progress in a democracy must come through the action of the citizens; it can only come if there is an improvement in the quality of the people themselves. That improvement, in turn, can only come through education.
2. Education must begin with the economic. In the first place the people are most keenly interested in and concerned with economic needs; and it is a good technique to suit the educational effort to the most intimate interests of the individual group.
3. Education must be through group action. Group action is natural because man is a social being. Not only is man commonly organized into groups, but his problems are commonly group problems.¹⁰⁵

Following Moses Coady's cooperative model developed at Antigonish, MacDonald formulated an action plan for northern Saskatchewan.¹⁰⁶ The first step would be to educate the fishers about co-operative principles. MacDonald saw two major obstacles to co-

¹⁰⁵ Ibid., 2-4.

¹⁰⁶ See Moses Coady, *Masters of their own Destiny: The Story of the Antigonish Movement of Adult Education through Economic Cooperation* (New York: Harper, 1939).

operative fishing in the north: 1) fishing was a seasonal industry; and 2) an illiterate Aboriginal population would be incapable of running a co-operative even under supervision. MacDonald suggested that proper education could solve these problems and that government would have to provide extensive credit to provide the necessary start-up capital. He also recommended that membership in a centralized marketing board would be essential to the program's success.

6.4.6 The Royal Commission on the Fisheries of the Province of Saskatchewan, 1947

MacDonald's work outlined the challenges facing the northern fishing industry. In 1947, the government appointed a royal commission to investigate the feasibility of establishing co-operatives.¹⁰⁷ The commission sat for six weeks and held twenty-five public hearings throughout the north. Over 250 people testified including many Aboriginal people. The commission's report contained several recommendations: the formation of a fishers' advisory committee, an education program, adjusted freight rates, the construction of roads, and a fish board study on marketing and distribution methods. Most importantly, the commissioners recommended that aid should be granted to fishers if the price of fish dropped below a certain floor. They pointed out that the alternative to developing the industry would be the continued distribution of social assistance.¹⁰⁸ The commissioners made several recommendations for establishing a northern fishery:

43. that the adequate safeguards be adopted to assure the Indian and Metis of a proper place in the commercial fishing industry;

¹⁰⁷ The commissioners included Dr. W. A. Clemens, Dr. D. S. Rawson (a biology professor at the University of Saskatchewan), A. Mansfield (of the Saskatchewan Fish Marketing Board), A. H. MacDonald, H. McAllister, and George Stephens, (*The Commonwealth*, 29 May 1945).

¹⁰⁸ Saskatchewan, *Report of the Royal Commission on the Fisheries of the Province of Saskatchewan* (Regina: King's Printer, 1947).

44. that the Indian Affairs Branch be approached with a view to instructing the Indians as to the proper method of handling fish and the care of nets and equipment, and that the Provincial Fisheries Branch institute a similar program for the Metis population;
45. that the credit system as at present operated be studied with a view to the gradual development of a system which will encourage self-help and self-reliance among the native fishermen;
46. that a system of education be developed to promote community and co-operative projects amongst the native population;
47. that closer co-operation be developed among the various governmental agencies carrying out programs in the north such as the Department of Natural Resources, the Local Improvement Districts Branch of the Department of Municipal Affairs, and the Departments of Education and Public Health; that co-operation be further developed between the Provincial authorities and the Indian Affairs Branch of the Federal Government.¹⁰⁹

These recommendations reflect the Antigonish model that had been advocated by MacDonald. The CCF government eventually adopted the majority of the recommendations made by the Royal Commission.¹¹⁰

In 1948, the government changed the mandate of the SFMB from a buying and selling agency to a marketing service.¹¹¹ Fishers could use this marketing service if a majority at a given lake voted in favour of doing so. Such a vote would make selling to the agency compulsory at that lake.¹¹² Thus, after a period of experimentation in which the SFMB regulated all aspects of the fisheries industry, the CCF decided to narrow the mandate of the SFMB to one analogous to the Saskatchewan Fur Marketing Service. While the SFMS made a profit, however, the fish-marketing agency, even with these changes, continued to lose money. In order to justify the continued existence of the agency, Provincial Treasurer Clarence Fines suggested that the government operate the fish-marketing agency as a service

¹⁰⁹ *Ibid.*, 127.

¹¹⁰ SAB, R-33.2 Ministerial Papers, "New Deal for Saskatchewan Fisheries, 1948."

¹¹¹ *Leader-Post*, 17 March 1950.

¹¹² *Leader-Post*, 18 March 1950.

to fishers and that it should not be expected to run on a cost-recovery basis.¹¹³ During the 1948 election campaign, Douglas promoted the benefits of the fish-marketing agency and rationalized its continuing financial losses by stressing the responsibility the government had to the fishers to support the industry: “Considering that the Fish Board operations have resulted in substantial improvement in the living standards of the fisherman and shows promise of developing into an effective means of building group action on the part of fishermen in their common interest and providing an efficient marketing agency, the losses of the past are a small price for these results.”¹¹⁴ Douglas added that these losses would have been spent in the administration of relief for fishers had the board not been in operation. Douglas also emphasized the community-building aspect of the fish board.

6.5 Conclusion

By the early 1950s, the CCF government had made it clear that it intended to turn over operations of the fish-marketing service to a federation of co-operatives when 75 percent of the total fish production could be handled by local co-operatives. However, the government anticipated that it would be several years until that threshold could be reached because only five such co-operatives were then in operation. Until this goal could be reached, the government intended to run the fish-marketing service at a deficit if necessary, in order to serve the needs of the fishers.¹¹⁵ In many respects, the CCF government’s natural resources and economic development policies were a radical departure from those of the previous Liberal administration. The changes it introduced reflected the central tenets of the

¹¹³ *Leader-Post*, 3 March 1951.

¹¹⁴ SAB, R-33.2 Ministerial Papers, “Election Materials, The Fish Board.”

¹¹⁵ *Leader-Post*, 30 August 1951.

party and its philosophy as well as an element of pragmatic policy design and implementation. The CCF did not discard Liberal programs such as Green Lake or the Fur Conservation Blocks, however, the government revamped the administrative organization of the programs and invested more funds. In contrast to the Liberal administration, the CCF employed Métis people in the DNRID such as Harry Paul and Malcolm Norris. These men were instrumental in designing and implementing programs in the north. For the first time, Métis people were an integral part of government program delivery. Programs such as Green Lake, the SFMS and the SFMB met with varying degrees of success. In later years, the CCF would continue to study and redesign programs to meet its prime objectives: to promote economic democracy by raising income levels and to encourage Métis participation in political organizations such as the SMS.

Chapter 7: Conclusion

7.1 Challenging the Liberal Order Framework

In his influential article, “The Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History,” Ian McKay challenges scholars to redefine Canada as a process of liberal rule by examining “those at the core of this project who articulated its values, and those ‘insiders’ or ‘outsiders’ who resisted and, to some extent at least, reshaped it.”¹ McKay calls for a ‘reconnaissance’ in Canadian history in which subjects such as Aboriginal-state relations would be re-examined “as not just a series of misunderstandings, premised on a distanced misreading of Native societies, but rather as a fulfilment of liberal norms, which required the subordination of alternatives.”² In *Reasoning Otherwise – Leftists and the People’s Enlightenment in Canada, 1890-1920*, McKay takes up his own challenge and presents a complex and nuanced history of the ways in which ‘the left’ conceptualized socio-economic problems differently than traditional political parties. In this book, he further fleshes out what he means by historical reconnaissance. McKay argues that leftist organizations are better understood by studying the participants’ “distinctive interpretation of an overriding political objective.”³ In this way, historians may be able to better evaluate the impact and ideas of historical actors and events as a challenge to the prevailing Liberal Order.

This study of Métis-state relations in Alberta and Saskatchewan (1930 -1948) has been an attempt to respond to this challenge. In Chapters 2 through 5, the structure of the Liberal Order

¹ Ian McKay. “The Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History.” *Canadian Historical Review* 81(2000): 621.

² *Ibid.*, 637.

³ McKay, *Reasoning*, 9.

Framework was examined through the thematic lenses of land and agency. Prior to the election of the CCF in Saskatchewan in 1944, the Alberta and Saskatchewan governments pursued strategies that focussed on land as a mean of providing relief to the Métis population. These initiatives were centrally administered and expressions of Métis agency were merely tolerated or co-opted. As presented in Chapter 6, the CCF government's natural resources policies introduced during its first term in office offered a direct challenge to the prevailing norm. Studies such as David M. Quiring's *CCF Colonialism in the North – Battling Parish Priests, Bootleggers, and Fur Sharks* and F. Laurie Barron's *Walking in Indian Moccasins – The Native Policies of Tommy Douglas and the CCF* add significantly to the historiography of Aboriginal-state relations in Saskatchewan.⁴ However, the authors' presentist evaluation of the CCF's policies in the north as colonial expressions of state power over the Aboriginal population fails to capture the innovative nature of government programs such as the Saskatchewan Fur Marketing Service. This dissertation sheds new light on Métis-state relations by closely examining the liberal order framework that underscored all previous governments' approach to Métis issues.⁵ The various chapters illustrate the tensions as leftist organizations such as the MAA and the CCF struggled to redefine the socio-economic challenges facing the Métis and formulate new solutions to Métis claims.

During its first term in office, the CCF struggled to introduce a coherent set of policies to improve the economic prospects for northern residents. Prior to the election, C.A.L. Hogg, the future Deputy Minister of the Department of Natural Resources and Industrial Development,

⁴ David M. Quiring, *CCF Colonialism in Northern Saskatchewan – Battling Parish Priests, Bootleggers, and Fur Sharks* (Vancouver, UBC Press, 2004); F. Laurie Barron, *Walking in Indian Moccasins – The Native Policies of Tommy Douglas and the CCF* (Vancouver, UBC Press, 1997.)

⁵ McKay defines the liberal order as “one that encourages and seeks to extend across time and space a belief in the epistemological and ontological primacy of the category ‘individual’.” “Liberal Order,” 623.

prepared “A Plan for the Development of the Natural Resources of Northern Saskatchewan under Social Ownership,” which set out the various priorities including the socialization of the forest industry, the need for scientific control over the fishery, and state-owned and operated fur processing industry.”⁶ These socialist programs were designed for the benefit of all citizens living in the northern part of the province. As we have seen, Minister Joe Phelps, one of the most fervent socialists in cabinet, introduced many of these programs quickly after the 1944 election.⁷ Additionally, the CCF inherited a number of Liberal economic development programs such as the Green Lake Métis Settlement and the Fur Conservation Blocks. By the end of 1945, the CCF government found itself in charge of several natural resource enterprises designed to stimulate economic development.

However, there were problems with the new programs caused by poor planning, a shortage of trained managers, and ignorance of management practices. Premier Douglas was committed to the idea of government planning but he had not had to act on these beliefs until his first term in office.⁸ In order to better coordinate the new programs with the ones already in place, Douglas hired George W. Cadbury, a British socialist who introduced the Fabian model of government prioritization and planning. The key components of this government re-organization were the introduction of a cabinet secretariat to improve communication within departments, and an Economic Planning and Advisory Board to coordinate planning of economic activities by central agencies.⁹ These innovations in public administration were key components in the

⁶ SAB, R-33.5, Files of the Premier, “Planning the Development of Natural Resources of Northern Saskatchewan under Social Ownership and Control, 1943.” This report is quoted at length in Chapter 6.

⁷ For more information on Joe Phelps see: Eileen Forrieter, “Joseph Lee Phelps: An Impulsive Radical,” M.A. Thesis, University of Regina, 2005.

⁸ Robert I. McLaren, “George Woodall Cadbury: The Fabian Catalyst in Saskatchewan “good public administration,” *Canadian Public Administration* 38 no. 3(Fall 1995): 471-2.

⁹ *Ibid.*, 473.

realization of the CCF government's vision for a planned economy to combat and overcome the vagaries of the free market economy and the excesses of monopoly capitalism. The Great Depression had left an indelible impression on the CCF and stimulated innovations in government policy and practice to promote economic diversification.

During its first term in office, the CCF struggled to fashion a cohesive natural resources policies to ameliorate the poor socio-economic conditions for northern residents including treaty, non-status Indians and Métis. The CCF assumed that Aboriginal peoples would benefit from the fundamental tenets of democratic socialism. In a 1953 memo, George Cadbury expounded on the party's foundational tenets and principles:

Democratic Socialism implies the firm establishment of an elected government with control of the main elements in social and economic life, and the decision as to whether the carrying out of its policies is left to public, co-operative or private operators. By definition such a government is dedicated to democratic methods, elimination of privilege, honest government and the protection of civil liberties...greater equality of opportunity for all and greater equality of distribution of wealth and income than exists in a private enterprise world.¹⁰

The CCF believed that these principles were universal and that their application would address the socioeconomic situation facing First Nations and Métis people. They assumed that socialist economic measures such as collective marketing agencies for products such as fur and fish would be an important first step to achieving equality of opportunity for people who depending on these resources for their livelihood. Cadbury explained the rationale for the northern natural resources programs:

Social and economic development of the north as important as any other achievement in policy terms...Policies covering fur, fish, lumber and mining all had common objectives to conserve resources, to plan their development over the long term in contrast to the rapid and often narrow sighted private enterprise targets, and to increase the participation

¹⁰ SAB, R-880 George Cadbury papers, file 44, "Saskatchewan 1944-51," 22 June 1953.

of native people. The Fur Marketing Agency put cash in the hands of the trappers and enlisted them in conserving the beaver and other species...Fishing and processing were organized by lakes and eventually handed over to fisherman's cooperatives.¹¹

The CCF government introduced the concept of long-term policy planning with the involvement of Aboriginal people in resource managements. To Cadbury and other members of the CCF, the reasons for this approach were clear – the Aboriginal people suffered at the hands of unregulated corporate and market power. A managed economy would offset the vagaries of unregulated capitalism and put the profits in the hands of the producers. In terms of the fishing industry, Cadbury articulated the government's vision:

The fishing industry north of the prairies has always been a haphazard operation carried on by sharp traders whose policy is to operate only when the fish market is good, to pay the fisherman as little as necessary to get the fish produced, to charge the fisherman what the traffic will bear on supplies and to make the highest possible profits. Since the fishermen are far from the markets and receive little information they have been exploited unmercifully. The Fish Board was set up in 1945 for the purpose of providing an organization through which fishermen may market their fish in the consumers' markets and may receive the highest possible return.¹²

The CCF believed that companies such as the Hudson's Bay Company had exploited the labour of Aboriginal workers and that it was the government's role to intervene by introducing programs designed increase product prices and engage people in local management of the resource.¹³ The SFMS and the SFMB represented practical attempts to achieve lofty social democratic goals such as equality of opportunity.

Managed economy programs such as the SFMS set the CCF apart from previous governments. According to political scientist David Smith, "the CCF was from the beginning a programmatic party."¹⁴ The CCF was the first provincial government to plan past the next

¹¹ Ibid.

¹² Ibid.

¹³ Interview with Allan Blakeney, 14 December 2009.

¹⁴ David E. Smith, "Path Dependency in Saskatchewan Politics," in *The Heavy Hand of History – Interpreting Saskatchewan's Past*, Gregory P. Marchildon (ed.) (Regina: Canadian Plains Research Centre, 2005), 33.

election. The focus on long-term planning was key to the introduction of programs such as Medicare; however, it characterized the CCF's approach to all areas including natural resources and Aboriginal policy. Until 1944, Liberal governments had formed government for 34 of 39 years of the province's history. The Liberals spent decades lobbying for the *NRTAs* but did little to develop the public domain after the transfer in 1930. This may be partially explained by the effects of the Great Depression. However, the Liberal government did not have the administrative capacity to manage the resources or develop effective policy. They relied heavily on the federal government to manage the north. When the federal government diverted its interests elsewhere, programs such as the Northern Saskatchewan Conservation Board collapsed. The Green Lake Métis Settlement is another example of the Liberal government's failure to develop a workable policy. The problems with the leases granted on the settlements is evidence that even well-meaning public servants such as Gideon Matte, director of the Northern Areas Branch of the Department of Municipal Affairs, did not have the necessary background or support to run programs.

When viewed in contrast to previous Liberal governments (and the UFA and Social Credit governments in Alberta), the CCF policy measures designed to implement social democracy to ameliorate the harsh effects of the liberal order framework represented a sea change. Prior to the CCF, Liberal administrations made all decisions based on implications for the next election cycle. According to David Smith, the leading authority on the Liberal party in Saskatchewan:

The Liberals were not unfeeling, or unintelligent, or uninformed when it came to governing. But they were unmotivated. When it came to the long view there was never a problem to overcome, just problems. As a result, their policies tended to be diffused rather than focused. Because the Liberals had no program in the sense the CCF did, they

never thought or spoke in terms of a project or overcoming a problem...There was no sense of progress...Each step was never more than the first step.¹⁵

The Liberal's decision to fund the legal research in the SMS claim against the federal government is emblematic of this approach to governance. Rather than confront problems directly, the Liberals sought to avoid the issue by offloading the Métis and their claims onto the federal government. This opportunistic and haphazard approach to policy was anathema to the CCF, who were eager to apply their economic development planning solutions to the northern population.

The Douglas government developed a number of administrative innovations to implement their "Humanity First" vision for social and economic reform of the province. According to historian Jack Granatstein, the CCF refused to accept the idea that politics had limits and introduced processes that were "open and fresh, motivated by Douglas' Social Gospel idea that government was an instrument for positive change and social good."¹⁶ The CCF government believed that it had an obligation to improve the lives of all citizens living in the province regardless of race, class or ethnicity. Douglas assured the Métis at the 1946 conference that federal-provincial wrangling over jurisdiction would no longer be used as an excuse for government inaction. The administrative and government re-organization permitted the CCF to introduce a number of new programs designed to give Aboriginal people greater control over their own destiny. According to Allan Blakeney, legal adviser to the Government Finance Office during the 1950s and future NDP premier, "it was then politically incorrect to identify people by race...you talked about northern residents." Northern residents was a neutral phrase for

¹⁵ Ibid., 38.

¹⁶ Jack Granatstein, *Canada, 1957-1967* (Toronto: McClelland and Stewart, 1986), 170.

programs targeted at improving the economic condition of First Nations and Métis people living in the northern part of the province.

With respect to the purpose behind programs such as the SFMS, Blakeney has stated that “we were hoping to get a system which, overall, increased the income of Aboriginal peoples, increased their involvement in the whole process, and one would hope, provided a future where they could increase both their income and their involvement.” The CCF assumed that Aboriginal peoples shared their communitarian ethos and would quickly adopt socialist economic development measures such as marketing agencies, crown corporations and co-operatives. According to Blakeney, there was no talk of leaving treaty Indians to the federal government and aiming programs at the Métis and non-status Indians. The government was aware that treaty Indians, Métis and non-status were living together in communities (the Green Lake Métis settlement was an exception) and that people on the ground were not worried about constitutional issues such as jurisdiction.¹⁷ This shift in focus represents a marked departure in government attitudes towards policy design for Aboriginal peoples in Alberta and Saskatchewan. The Alberta government created the Métis settlements on an identity based model of entitlement and, over time, introduced restrictions as to who could live on the settlement. Previous Saskatchewan administrations had vehemently argued that they had no obligation to assist the Métis and that the federal government should take full responsibility for the failure of the scrip program. The CCF government moved away from rights-based entitlements based on constitutional jurisdiction and based its policies purely on a citizenship model. The citizenship model for government action represents a significant departure in the CCF government’s approach to Métis claims. The belief in equality of opportunity for all underlay another key aspect of the CCF’s economic

¹⁷ Interview with Allan Blakeney, 14 December 2009. Appendix A.

development programs in the north. With respect to resource use and management the CCF encouraged the Métis to participate in decision-making processes. The CCF hired Métis leaders such as Malcolm Norris and Jim Brady, who had become disillusioned with the Alberta government, to help study and implement programs in the north. They supported the re-organization of the SMS and created fur councils that included Métis trappers in the decision-making processes. Until 1944, no government had involved Métis to any significant degree in the governance of natural resources. Douglas and the CCF were committed to supporting the Métis in the integration in the political and economic mainstream of the province and believed that the Métis should have a voice in how this process unfolded. Douglas's commitment to Métis participation was deep. According to Blakeney, Douglas was frequently frustrated by Malcolm Norris and Jim Brady because they tended to push too quickly for change without enough involvement by community members in decision-making processes.

As a party, the CCF was firmly committed to the principles of participatory democracy, which extended to Métis and Aboriginal peoples as citizens of the province. In 1945, Francis Pegahmagabow, a famous World War I veteran, praised Douglas as the first Canadian politician “since the influx of white people into our country to recognize native people as human beings.”¹⁸ Alex Bishop, on behalf of the other Métis settlers at Green Lake, decried his people's treatment under the former Liberal administration “as Negroes, used to serve for years as slaves”. Individual members of the CCF administration may have held racist views; however, the government was committed to improving the socio-economic conditions of the Métis. In their work, Barron, Dobbin and Quiring have stressed the racist and colonial attitudes of the CCF towards the Métis and First Nations. However, a comparison to the attitudes of previous

¹⁸ SAB, R-33.1 Douglas Papers, XLV 864a(49) Francis Pegahmagabow to Douglas, 30 December 1945.

governments proves that the CCF attitudes towards Aboriginal peoples were more nuanced than these authors suggest and certainly more than previous governments' attitudes had been. The CCF believed that they were obligated to introduce democratic processes to the Aboriginal population so that they could achieve a measure of equality with other citizens in the province. The CCF believed that Aboriginal people had been exploited by the economic system and that the government had the means to help them throw off the yoke of their oppressors. The programs designed and implemented by the CCF were a conscious effort to promote democratic principles by first developing the economic base so that they were freed from the debt economy model. According to Blakeney, the CCF were aware of the complexities inherent in democratizing the north:

The belief that you can create democracy by calling an election is a myth...you have to create an economic system, which is something more than a simple economic dictatorship. This can be done by getting a competitive market economy, if it's fiscally competitive...[the colonial peoples] can become part of running the economic system, similarly if they can become part of running the political system, and similarly if they can become part of running the social system.¹⁹

The CCF economic development programs in the north were the first step in a process of decolonization. They conceptualized themselves as an interim power with a responsibility to increase economic capacity and eventually devolve power to people by establishing co-operatives. The CCF has been denounced as yet another colonial power imposing its economic and political solutions on Aboriginal peoples. However, the key question when assessing this motivation is whether the power had any intention to devolve power. As Premier and Minister of Co-operative Development and Co-operation, Douglas promoted co-operatives as the best

¹⁹ Interview with Allan Blakeney, 14 December 2009. Appendix A.

means of introducing self-help, democracy and self-determination to the Métis. Another dissertation could be written about the success and failures of these programs. Arguably, the CCF did not fund its northern programs sufficiently nor did it pay any attention to culture or identity. However, for the purposes of this study, it is evident that the CCF had significantly different motivations framing its interactions and relationship with the Métis – they ‘reasoned otherwise’.

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