THE CONSTITUTIONAL DEVELOPMENT
OF THE
NORTH - WEST TERRITORIES.
by
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PREFACE.

The government of the North-West Territories has been one of the neglected aspects of Canadian history, and one deserving and literally demanding attention. The area between Manitoba and British Columbia has too long been merely "The Prairies", with little thought for conditions apart from the success or failure of crops.

For this reason one aspect that of constitutional growth, has been selected for study. However, it must never be forgotten that in a very true sense the history of the west is the history of settlement. It is this aspect that makes one hesitate to use the term "imperialism" in respect to Canadian activities, for to an extent, which is a cause of regret to many loyal Canadians, it is the home of little Russias, Gallicias, Polands. All the nations of Europe have contributed their quota toward filling up the vast area which necessitated Canada's experiments in colonial policy. As Canadians we should know of her efforts, if only as a check to our interpretation of that of others.

There are many thought provoking ideas behind the quiet questioning of a student of Canadian history who would ask, when British policy is criticized, "What would Canada have done?"
By a study of governmental policy in and for the west, it is possible to secure in some slight measure, an idea of what Canada did do when confronted by a problem which up to that time, had been solved only by an imperial power. For this purpose the one phase of western development has been thrown into relief, other equally important aspects being used only for background. Small portions of the field must be explored before it is possible to produce a comprehensive study of intellectual, social and political development, moulded by the influence of geography.

As a background for this study, I have been fortunate in securing the training by all members of the History Department. Special mention must be made of the Seminar in Historical Method given by Professor F. H. Soward, and the practical application of that training in the group conducted by Professor D. C. Harvey. Valuable direction, especially in respect to the economic and social development of the west, has been given by Dr. W. N. Sage who has supervised the work through­out.
ABBREVIATIONS.


Statutes.--------Statutes of Canada.

Sessional Papers.--Unless otherwise designated, Sessional Papers of the Federal House.


Journals.--------Journals of the Councils of the North-West Territories, 1877-1887. Journals of the Legislative Assembly of the North-West Territories, 1888-1904.
CHAPTER I.

THE TRANSFER OF THE
NORTH-WEST TERRITORIES TO CANADA.

The Dominion of Canada, has been the testing place of many accepted principles of the government of the British Commonwealth of Nations. First federation within the Empire and the senior member of the Commonwealth, there are nevertheless within her borders two provinces Saskatchewan and unique Alberta, which have a history in the annals of the Empire.

These two with their sister province Manitoba, passed through a period of company rule, when under the Royal Charter of 1670 the Hudson's Bay Company exercised the powers of fur trader and governor alike. With her, they were transferred to the newly formed Dominion of Canada in 1870, but when the Red River Settlement entered the Canadian union, a break was made in the history of the west. From the rule of the company men, the North-West Territories passed under the power of the Canadian government and were controlled from Manitoba by men outside their borders. Soon a change took place, and a separate territorial government was set up with power still centered at Ottawa. As in the older provinces, there came a struggle for a greater measure of control. The growing population sought it by the same
means which had been used by Nova Scotia and the Canadas, with this difference, that the power for which it was struggling was held by a Canadian authority in Ottawa and not a British one in England. The increasing importance of the west led not only to the achievement of responsible government, but in time to provincial status within the Dominion.

Autonomy bills marked the birth of Saskatchewan and Alberta, and here their history links up with that of Manitoba. The west was again united, and with details differing in each province, fought the struggle for control of its natural resources. It is the development of the area, during the period when the foundations for the latter struggle were laid, which the following pages will attempt to trace.

The east fought the battle for self-government, the west that against monopoly. In studying the history of the Dominion, it is customary to look to the older provinces, the two Canadas and the Maritimes, and before Confederation this was the section which did matter. West of the Great Lakes was still a fur traders preserve. However, this vast area north of the "great American desert" was beginning to attract attention, and while it is questionable whether the influence of the Canadian frontier will ever be shown as great as that attributed by Frederick Jackson Turner to the American, it played an ever increasingly important part in

that Canadian experiment within the Empire, federation.

In July 1849, the British House of Commons passed an Address to the Crown, praying that an inquiry might be made into the legality of the powers claimed by the Hudson's Bay Company. Sir John Jervis and Sir John Romilly, law officers of the crown to whom the claims were submitted in the following year, expressed the opinion that the rights thus set forth by the Company properly belonged to it, but advised, for a more formal argument and decision of the questions at issue, a recourse to the Judicial Committee of the Privy Council. Mr. A. K. Isbister and the party which had

1. (con't.) Articles are beginning to appear on the subject of the Canadian frontier. Among the most valuable are:
   J. B. Brebner, Canada and North American History, Canadian Historical Association, Report, 1931.
   W. N. Sage, Some Aspects of the Frontier in Canadian History, Canadian Historical Association, Report, 1928.

2. In January 1849, a royal grant ceded Vancouver Island to the Hudson's Bay Company for colonization purposes. At that time, company policy in the Red River was reviewed and received unfavorable comment from Lord Lincoln afterwards Duke of Newcastle and Secretary of State for Colonies. See W. N. Sage, Sir James Douglas and British Columbia, (University of Toronto Press, 1930.), p. 146.

3. Arthur Kennedy Isbister, the son of an officer in the Hudson's Bay Company, was born at Cumberland House on the Saskatchewan in 1822. He was of Orkney descent with a trace of Indian blood, and when about sixteen years of age entered the service of the Company. In 1842, he went to England where he was instrumental in
presented a petition against the Company, upon which chiefly
the Address to the Crown had been based, declined the responsi-
sibility of appearing in order to test the case, and the mat-
ter was dropped for a time.

The year 1857 is outstanding in the annals of the North-West, for at that time, all eyes were turned toward the vast area which was later to become the granary of the Empire. In the North-West nearly six hundred settlers signed a petition to the Canadian Legislative Assembly, in the winter of 1856, praying that the country might be annexed. The inhabitants of the Red River Settlement asked that measures might be taken to extend to them:

"the protection of the Canadian Government, laws and institutions, and make them equal participators in those rights and liberties enjoyed by British subjects in whatever part of the world they reside".

The Hudson's Bay Company at this period appears to have been willing to come to terms for the transfer of a portion of the North-West Territory to Canada, although it held that to do so would likely entail loss upon it, through an increase of expense in conducting trade. The Canadian government, however, insisted upon testing the validity of

3. (con't.)


the charter, as it was believed that claims to the western territory, could be established upon the basis of French exploration in the days of La Verendrye.

The Board of Trade of the City of Toronto, presented a petition to the Legislative Council of Canada on April 20, 1857, which fairly represents Canadian feeling regarding the North-West and the powers of the Hudson's Bay Company in that area:

"Your petitioners—— humbly submit that a renewal of such license of exclusive trade is injurious to the interests of the country so monopolized, and in contravention of the rights of the inhabitants of Canada.

Your petitioners therefore humbly pray that your Honorable House will take into consideration the subject of how far the assumption of power on the part of the Hudson's Bay Company interferes with Canadian rights, and as to the necessity of more particularly declaring the boundaries of Canada on the northward, and of extending throughout the protection of Canadian laws and the benefits of Canadian institutions". 6.

To the petitions of the settlers of the Red River for union with Canada, was added the fear of Americanization.

The rapid expansion of Minnesota, caused apprehensions lest the Oregon question be repeated. Gold was discovered in Cariboo and wandering miners found traces in what is now the province of Saskatchewan. Because of the effect which these events would have upon government policy in respect to a renewal of the Hudson's Bay Company's license of exclusive trade which expired in 1859, the Company in 1856, attempted to secure a settlement of the question.

In the following year, the crown lawyers recommended that the question of the geographical extent of the Company's territory, be subjected to judicial inquiry. A Select Committee of the House of Commons was then ordered "to consider the State of those British possessions in North America which are under the Administration of the Hudson's Bay Company, or over which they possess a License to Trade".

The Canadian Assembly, in view of the approaching British enquiry, appointed a select committee "to receive and collect Evidence and Information as to the Rights of the Hudson's Bay Company under their Charter, the Renewal of the License of Occupation, the character of the Soil and Climate of the Territory, and its Fitness for Settlement". Opinions were received from Allan MacDonell, a Toronto railway promoter who had sought a charter and subsidy for a road to the Pacific, George Gladman, a native of Hudson's Bay Territory and retired servant of the Company, and William M. Dawson, head of the Woods and Forests Branch of the Crown Lands Department. The evidence submitted showed a united opposition to the continued sway of the Company, and the report was recognized by the British Committee as a valuable indication of Canadian feeling.

This was not the first time that Canadian official opinion had been shown to be in favor of uniting the whole of the North-West Territory to Canada. In the previous year,
Honourable P. M. S. Vankoughnet, President of the Executive Council, had declared, that he sought a boundary for Canada on the Pacific Ocean, that no charter could give a body of men control over half a continent, and that he was determined to do all in his power to have such a charter abolished.

Chief Justice Draper was appointed by the Canadian authorities to follow the investigation, and represent Canadian rights and interests in England before the proposed Committee of the Imperial government. His instructions, issued from the Secretary's Office, Toronto, declared in part:

"On the subject of the Hudson's Bay Company or territory— you will take steps for offering to afford all information in your power relating to the interest or claims of Canada.

You will consider it a part of your duty to watch over those interests by correcting any erroneous impressions, and by bringing forward any claims of a legal or equitable kind, which this province may possess on account of its territorial position or past history. His Excellency feels it particularly necessary that the importance of securing the North-West territory against the sudden and unauthorized influx of immigration from the United States should be strongly pressed. It is especially important that Her Majesty's Government should guard any renewal of a license of occupation (should such be determined on), or any recognition of rights by the company, by such stipulations as will cause such license, or such rights, not to interfere with the fair and legitimate occupation of tracts adopted for settlement".

In answer to question 4055:

"In what manner do you conceive that the inquiry before this committee affects the interests of Canada?"

Draper declared:

10. A. R. Roche, Draper's assistant, in his evidence before the Select Committee on the Hudson's Bay Company, declared that the suggestion was "echoed throughout the province by the press and by public men of all degrees". Report, 1857, p. 249.


First, very materially with regard to what I conceive to be the true boundary of Canada. I may say, secondly, with regard to the deep interest that the people of Canada have, that that territory should be maintained as a British possession. I may say, thirdly, because the people of Canada look to it as a country into which they ought to be permitted to extend their settlements". 13.

Draper maintained that the boundary must be settled by the Crown, and the portions which legally belonged to the Company, taken from them by arranging for compensation. With reference to the means of arranging at such a settlement, he stated:

"I have suggested a reference to the Judicial Committee, because I think its opinion would command the ready acquiescence of the inhabitants of Canada as to their legal rights, and because I believe they entertain a very strong opinion that a considerable portion of the territory occupied or claimed by the Hudson's Bay Company will be found to lie within the proper limits of the Province". 14.

It was further argued, that anxiety for the maintenance of British sovereignty throughout the North-West was a primary reason for the hostility of many Canadians to the Company and its monopoly, which they felt was keeping the country in a condition that increased the menace of the situation.

Canada was not yet ready to take over the administration of the territories, but it was felt that when the preliminaries regarding the settlement of boundaries and charter, had been accomplished, it would not only be possible but best, to attach the territory to Canada. Draper expressed the opinion that Canada would undertake the work of surveys and establishing communications, on the understanding that the territory

would be eventually transferred under its jurisdiction. He admitted, however, that so long as there was no proper means of communication between the province and the Hudson's Bay territory, Canada would not be a position to take over the latter, and therefore, he suggested, that the intervening country be first settled upon, and that in the meantime an ad interim provision be made for the government of the North-West.

John Ross, a member of the Canadian Legislature, for several years in the provincial government, and at the time of the inquiry president of the Grand Trunk Railway, was examined by the Committee. He was opposed to a complete withdrawal of Hudson's Bay Company power, which had kept the country at peace with the Indians. Ross recommended that as soon as the Canadian government wished to open up any part of the country to settlement, the Company should be required to surrender that territory within a stated time.

Canadian interests received favorable consideration in the Report of the findings of the Committee. It declared in part:

"Your committee consider that it is essential to meet the just and reasonable wishes of Canada, to be enabled to annex to her territory such portion of the land in her neighborhood as may be available to her for the purposes of settlement, with which lands she is willing to open and maintain communications, and for which she will provide the means of local administration. Your committee apprehend that the

17. Geographic conditions around Lake Superior made this impossible.
districts on the Red River and the Saskatchewan are among those likely to be desired for early occupation. Your committee trust that there will be no difficulty in affecting arrangements as between Her Majesty's Government and the Hudson's Bay Company, by which these districts may be ceded to Canada on equitable principles, and within the districts thus annexed to her, the authority of the Hudson's Bay Company would of course entirely cease.

9. In case, however, Canada should not be willing, at a very early period, to undertake the government of the Red River District, it may be proper to consider whether some temporary provision for its administration, may not be advisable", 20.

The Select Committee of the British House of Commons in 1857, brought the country before the eyes of both the British and the Canadian public. Apart from the various committees which had been formed to crystallize official Canadian opinion on the subject of the North-West, increasing efforts were being made to awaken the public to the importance of the problem of opening up this vast domain.

George Brown who will be particularly remembered for his part in the coalition which preceded Confederation, is an important factor in any study of Canadian interest in the North-West. His school master's characterization, "this young man is not only endowed with high enthusiasm, but possesses the faculty of creating enthusiasm in others", was put to the test in his work in Canada. Soon after Brown's arrival in this country, he became interested in the question of the west, and from 1847 on, the Toronto Globe published articles and editorials, the general purport of which was to point out that the western country was of great value,

21. Dr. Gunn of the Southern Academy in Edinburgh. Quoted by John Lewis, George Brown, The Makers of Canada,
and that Canada should challenge the validity of the Hudson's Bay Company's regime there.

Brown referred to the North-West in his opening speech in Parliament in 1851, and the following year the Globe published an article declaring "It is unpardonable that civilization should be excluded from half a continent, on at best but a doubtful right of ownership, for the benefit of two hundred and thirty-two shareholders". In 1857, William McDougall's paper The North American, was merged with the Globe, and McDougall, associated with Brown for the next three years, strengthened the Globe's campaign by his demand in its columns, that Canada acquire Rupert's Land and the North-West Territory.

Alexander Morris who was notable as a preacher of federation, was active at the time, and equally persistent in advocating the acquisition of the North-West. In his lectures, "Nova Britannia" and "The Hudson's Bay and Pacific Territories", he outlined the vast possibilities for Canadian westward expansion. These territories were a vast hinterland in which the Hudson's Bay Company's monopoly should be replaced by the colonizing efforts of the Canadian people. Morris' belief in the future of the British North American colonies was shown

22. This speech was reported in the Globe of March 2, 1857. For an interesting discussion of the newspaper campaign consult, in addition to Lewis, op. cit., F. H. Underhill, Some Aspects of Upper Canadian Radical Opinion in the decade before Confederation, Canadian Historical Association, Report, 1927.
by the statement:

"Who can doubt of the future of these British Provinces, or of the entire and palpable reality of that vision which rises so grandly before us of the Great British Empire of the North—of that new English-speaking nation which will at one and no distant day people all this Northern continent—a Russia, as has been well said, it may be, but yet an English Russia, with free institutions, with high civilization, and entire freedom of speech and thought—with its face to the south and its back to the pole, with its right and left resting on the Atlantic and the Pacific, and with telegraph and the iron road connecting the two oceans!" 24.

The British enquiry into the affairs of the Hudson's Bay Company in 1857, had enlisted the active interest of the Canadian government in the problem of the North-West. The termination two years later of the Company's license to the exclusive trade of the North-West Territory, as distinct from Rupert's Land, and the conflicting claims of Canada and the Company as to the extent of the latter's original charter rights, served to keep the question before the provincial government. The Canadian authorities had sent out surveying and exploring parties, and between 1858-1860, attempted to establish a mail service between Canada and the settlement, but the latter was abandoned as a failure.

24. "The Hudson's Bay and Pacific Territories", a lecture delivered before the Mercantile Library Association of Montreal, 1858. Alexander Morris, Nova Britannia; or Our New Canadian Dominion Foreshadowed, (Toronto, 1884.), p.89. Sir Edward Watkin was interested in railway and telegraph connections between the Red River and Canada, but his work was in a different connection from Brown and Morris.

25. In England correspondence was carried on between Sir Edward Bulmer Lytton and the Company relating to the submission of the rights of the latter to the Judicial Committee of the Privy Council. The Governor, however, was opposed to such action. "G. Series" 158, No. 102, pp.293-326.
The matter engaged the attention of British as well as Canadian authorities, and in 1860-1861, a bill was contemplated by the Duke of Newcastle to facilitate the acquisition from the Company, of lands required for settlement. By it the crown might take from time to time, such portions of the Company's territory as might be required for colonization purposes, for which it was to be compensated, but the source from which such compensation was to be derived, was not stated.

The Canadian government negotiated with the Company directly, and on April 15, 1862, addressed a letter to A. G. Dallas, the resident Governor in Montreal. It expressed a desire to come to an agreement, by which a road and telegraph line could be connected through the Company's territory, in order to unite Canada with British Columbia, and to open fertile portions of the territory to settlement. In his reply, Dallas stated that he felt that the partial concessions of the districts which must necessarily be alienated, would inevitably lead to the extinction of the Company. He declared however, that in his opinion, the Company would be willing to meet the wishes of the country at large, by consenting to an equitable arrangement for the surrender of all charter rights.

The agitation in favor of opening up the Hudson's Bay Territory continued in Canada, and in September 1862, two members of the Canadian government, Messrs. Howland and Sicotte, visited England in the interests of the question. Sir Edmund Head, formerly Governor in Chief of Canada, and
the Governor of the recently reorganized Hudson's Bay Company, stated that he was of the opinion that a complete purchase of the Company's territory by the Crown would be the best solution of the question. Recognizing the difficulties in the execution of this plan, he suggested that territory fit for settlement, be divided between the Company and the Crown, and that the former construct the desired road and telegraph.

Nothing was settled, and on February 19, 1864, Lord Monck, Governor-General of Canada in his speech from the throne on the opening of parliament said:

"I have considered it advisable to open a correspondence with the Imperial Government, with a view to arrive at a precise definition of the geographical boundaries of Canada in that direction. Such a definition of boundary is a desirable preliminary to further proceedings with respect to the vast tracts of land in that quarter belonging to Canada, but not yet brought under the action of our political and municipal system".26.

In the ensuing debate, Honourable William McDougall, Minister of Crown Lands, stated that the government had concluded it was time to determine whether that region belonged to Canada or some other country. His personal view was that Canada was entitled to claim all that part of the North-West


27. Looking ahead however, we see that as late as September 1868, according to a letter to Howe, every other member of the government, but himself and Tilley was "either indifferent or hostile to the acquisition of the North-West Territories" M. O. Hammond, Confederation and Its Leaders, (Toronto, 1927.), p. 89. It almost looks as if in the statement above, the wish was father to the thought.
territory, that could be proved to have been in the possession of the French upon the cession of Canada to the British.

While the Canadian House was in session, the matter was being discussed by the Duke of Newcastle and Sir Edmund Head. The minister declined the suggestions which the governor had made the previous autumn, but put forth counter proposals, by which the Company was to surrender its territorial rights, and to receive compensation for lands alienated, and land grants in proportion to the mileage of road and telegraph line built. Honourable George Brown who was in England representing the Canadian ministry on the question, put forward the contentions of his country with regard to the Charter rights. He declared that the Company was seeking, for an enormous sum, territory to which it had no title, and expressed the opinion


A. S. Morton, Memorandum on Natural Resources, (University of Saskatchewan, June 1930.), pp. 153-155, declares that claims such as those of McDougall were without foundation. His arguments in that work as in the undernoted review, centre around the preamble of the Quebec Act, 1774, "for the western boundary of Quebec running from the Mississippi'northward to the southern boundary of the territory granted to the Merchant Adventurers of England trading to Hudson's Bay' definitely limited Quebec, left at least that part of Rupert's Land to the West of the line outside Canada and made the claims to the Red River and to the 'fertile belt' of the Saskatchewan reiterated by Canadian governments from 1857 till 1867 without foundation in law". A. S. Morton, Review, Charters, Statutes, Orders, in Council, etc., relating to the Hudson's Bay Company, (London, 1931.), Canadian Historical Review, vol. XIII, No. 1. p. 70.
that the claim should be tested. He believed the Imperial authorities should secure the extinction of the Company's proprietary rights and exclusive privileges of trade, and that then Canada should undertake the duties of government.

For the next few years public men in Canada were concerned with the problems of government within their own borders. Various ministries succeeded each other, but were unable to secure any permanent settlement. When a coalition was formed to effect a working basis, the inclusion of Brown and McDougall, ensured that the future of the North-West should be taken into full account in the making of the new constitution.

From the scanty notes which remain of the proceedings of the Quebec Conference, it is evident that the problem of the North-West received attention. The government of Canada had long been negotiating for its cession, and in speaking on a resolution October 11, 1864, Honourable George Brown declared that:

"the British Government have offered the North-West Country to Canada already," and his resolution regarding the government of the proposed federation included "provision being made for the admission into the Union on equitable terms of the North-West Territory." It is interesting to note that Honourable Adams G. Archibald of Nova Scotia, who was later

30. Ibid, p. 32.
called upon to govern the Territory " approved of the general " principles of allowing the increase of territory as contemplated in the resolution". On October 12, " a discussion relative to inviting the Western Territory and British Columbia to unite with the Conference then ensued, and thereupon and owing to other circumstances connected with the delegation the Canadians adjourned to hold an Executive Council."

The "Report of Resolutions adopted" at the Quebec Conference, included among other clauses:

" 10. The North-West Territory, British Columbia, and Vancouver shall be admitted into the Union on such terms and conditions as the Parliament of the Federated Provinces shall deem equitable, and as shall receive the assent of Her Majesty; and in the case of the Province of British Columbia or Vancouver, as shall be agreed to by the Legislature of such Province.

" 69. The communications with the Northwestern Territory, and the improvements required for the development of the Trade of the Great West with the Seaboard, are regarded by this Conference as subjects of the highest importance to the Federated Provinces, and shall be prosecuted at the earliest possible period that the state of the finances will permit".33.

These bear evidence of a desire, on the part of some at least, of the Fathers of Confederation, to see a Dominion stretching from sea to sea.

With the Quebec Conference over, the Canadian government was in a position to deal with Colonial Secretary Cardwell's request of July 1, that it advise him whether or not Canada would be willing to take over the government of any portion

32. Ibid, p. 33.
of the Hudson's Bay Company's territory. If willing to do so, it was to send a delegate to participate in negotiations to that end. In the spring of 1865, a delegation visited England and took up the question of the Company's territory with the secretary of state. The representatives, John A. Macdonald, Cartier, Brown and Galt, shortly became convinced that it was impossible for Canada to secure the desired goal, without long protracted, vexatious and costly litigation. In view of the importance of having the North-West pass to Canada, the delegates concluded: "that the quickest solution of the question would be best—and proposed—— that the whole British territory east of the Rocky Mountains and north of the American and Canadian lines should be made "over to Canada, subject to such rights as the Hudson's Bay Company might be able to establish; and that the compensation to that Company (if any were found to be due) should 34 be met by a loan guaranteed by Great Britain".

The earlier plan for annexing small portions of the territories as needed for colonization, had not proven feasible. Geographic conditions around Lake Superior presented a barrier to transportation facilities. Further, the population of Lower Canada feared that such an addition to the area of the rival section of the province, would lead to swamping in the assembly.

No immediate results followed the visit of the delegation. The representatives favored the postponement in view of the probability of the province being soon absorbed in the proposed union. When other offers were made to the Hudson's Bay Company with respect to the North-West Territories, the question arose as to how long it should be kept open for Canada. On June 22, 1866, the executive council of Canada expressed the strong conviction of the importance of the early establishment of regular government in the territories intervening between Canada and British Columbia, and declared they would have opened negotiations with the Company for the extinction of their claims, were it not for the prospect of a speedy confederation of the provinces.

The Fathers of Confederation realized the importance of the westward movement, and made provision for such an extension in Article XI, section 146, of the British North America Act:

" It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such terms and conditions in each case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act, and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland". 35.

35. 30 Vict., chap., 3, s. 146.
Once Confederation was consummated, no time was lost in making attempts to acquire the west. Two Liberals, Howland and MacDougall, accepted office in Macdonald's Government on the plea that they should see the whole plan through, and later one of these, Honourable William MacDougall was sent to the Imperial government with Sir George E. Cartier to arrange for the acquisition of the west.

On December 4, 1867, Honourable William MacDougall, Minister of Public Works, introduced a series of resolutions in the Canadian House of Commons, to the effect that an Address to the Crown ask for the union of the North-West Territories to Canada. He maintained that it was in the interests of both the territories and Canada that such a step be taken, and that any questions raised by the Hudson's Bay Company, could be settled in Court.

In July the British Parliament passed an Act, to enable the crown to accept a surrender of the lands and rights of the Hudson's Bay Company. During the passage of this Bill through the House, the clause was inserted that such transfer should necessitate no charge upon the revenues of the United Kingdom; this accounts for the money payment by Canada. Changes in the British government delayed proceedings, but in April 1869, an agreement was reached whereby Rupert's Land was to be transferred to the Dominion of Canada.

36. References to the proceedings were made in editorials and news items of the period. Extracts from the Times are contained in the files of the Waddington Papers collected by Mr. R. L. Reid.
The Company was to retain its posts and to receive also extensive land grants, and was to be at liberty to carry on trade without hindrance. Canada was to pay the Company £300,000 and was also to buy at cost the materials on hand for the construction of the telegraph line. The Canadian parliament promptly accepted the terms agreed upon, and proceeded to arrange for taking over the government. By an Imperial Order in Council of June 24, 1870, Rupert's Land and the North-West Territory were formally made part of the Dominion of Canada, from and after July 15 of the same year.

By action of the Privy Council of Great Britain, the powers of the Hudson's Bay Company were wiped out, and the way was clear for Canadian enterprise in the North-West Territories. By the Charter of 1670, there was granted to the Company power "to make, ordain and constitute----reasonable laws, constitutions, orders and ordinances as to them, ----seem necessary" --- to put in use, and execute----at their pleasure to revokes and alter the same as occasion shall require". The Company had thus for two centuries "remained the most singular combination of trade, settlement and government to be found in the British Empire".

In 1835 Sir George Simpson had secured the appointment of a "Council of Assiniboia", consisting of himself as president, and fifteen influential members of the Red River Colony

as councillors. The first legislative body in Western Canada was nominated by the Hudson's Bay Company, and was not as representative of the people as an elective body would have been. Such was the background of the settlers who became restless during the period of uncertainty in the west, and refused to be swept into a union without their consent.

It is noticeable in a study of the steps leading to the transfer, that the people of the west had not been consulted, and apart from the rebellious actions of a portion of the inhabitants, ample evidence remains to show their feelings in the subject. Colonel Dennis, chief of the staff of surveyors, and Governor MacDougall's deputy in the new territory, went about amongst the white settlers and enquired as to the possibility of raising a force to escort in the new governor. He gave as a fair presentation of the views of the English speaking settlers:

"We feel confidence in the future administration of the government of this country under Canadian rule; at the same time we have not been consulted in any way as a people on entering into the Dominion. The character of the new government has been settled in Canada without our being consulted."

"When you present to us the issue of a conflict with the French party---we think the Dominion should assume the responsibility of establishing amongst us what it and it alone has decided upon?"

All classes held that they had received unfair treatment in the negotiations for the transfer, and that, in not having been consulted, they had been sold as mere chattels. Instead of asking the settlers how they wished to be governed, the

Canadian authorities made their own plans, and gave them no inkling of it. The people were willing to accept the authority of Canada, but were desirous of securing knowledge of conditions from an official source, and this important feature of administration was overlooked.

Another aspect of the transfer of the North-West Territories to Canada, and one which was vital in the discussion of the natural resources question, centered around the interpretation placed upon the payment of £300,000 to the Company. Did Canada purchase the West? Such a construction was placed upon it in the later struggle, and even close students of Canadian history use the term "purchase".

A. L. Burt, for example refers to the "buying" of the territory from the Hudson's Bay Company, and L. J. Burpee, speaks of "the period from 1834 to the sale of Rupert's Land to Canada in 1869". However, a close study of the steps leading to the transfer, show that such a term is not applicable. The payment came during the stage in which the rights of the Company were being returned to the crown. Once the way was thus cleared, the land was transferred from the crown to Canada. The Canadian delegates, Cartier and MacDougall regarded the payment as a species of settlement out of court—the "cost of legal proceedings necessary, if any be necessary, 

40. Howe visited the Territories, but any intimations which he may have given as to the policy to be pursued by Canada, are so vague that writers maintain that he aggravated conditions.
42. Rose, Newton and Benians, ed., op. cit., VI, 418.
to recover possession——- Compromises of this kind are not unknown in private life, and the motives and calculations which govern them may be applicable to the present case".43.

The acquisition of the North-West Territories was at once a manifestation of the presence of, and a spur to, the growth of a Canadian nationality. The achievement of Canadian Confederation, marked the beginning of a period when the hither-to distinct British American provinces united for the furtherance of their common problems. Such was the practical aspect of the question. Those who saw beyond the immediate needs of the member provinces, looked forward to a day when it would no longer be customary to speak of "British Canadian", "French Canadian", or, "Nova Scotian", but when one would be a Canadian first and a provincial second. In the larger arena men had their outlooks widened, and saw farther than when they were separated in a number of smaller colonies.

A new day dawned for the west when the Dominion of Canada came into being, and as we have seen, the steps which had been taken for the acquisition of the west were quickly drawn to a climax. The Hudson's Bay Company agreed to give up its rights under the Charter in return for compensation, and one of the first results of the federation of Canada, was the addition of the North-West to the new Dominion. The speedy acquisition by the Dominion of the territories as a great national public domain, not only provided a solution for the problem of government there, but was an event of tre-

43. Report of Delegates appointed to negotiate for the Acquisition of Rupert's Land and the North-West Territory, (Ottawa, 1869.).
tremendous advantage to the young federation. The shouldering of the great responsibility for opening up and developing the region, was inevitably a spur to the growth of a real national consciousness, and later the exploitation and building up of the prairies furnished a basis for patriotic pride common to all the older communities in the Dominion.

In the preface to Dr. R. G. MacBeth's work on the Selkirk Settlers, the late Lord Strathcona states:

"It is my opinion that the acquisition and development of the Hudson's Bay Territory was impossible prior to the confederation of the Dominion. No less a body than united Canada could have acquired and administered so large a domain, or have undertaken the construction of railways, without which its development could only have been slow and uncertain". 44.

44. R.G. MacBeth, The Selkirk Settlers in Real Life, (Toronto, 1898), Preface.
CHAPTER II.

GOVERNMENT FROM MANITOBA, 1870-1876.

Confederation is a landmark in the progress of Canada towards nationhood. Before this time the provinces which were to form the new Dominion, had achieved responsible government, not only in the limited form which Lord Durham had suggested, but bit by bit had secured control of their public lands and the regulation of tariffs. The former was a matter of expediency and came without any struggle, being so casual that it has received practically no comment from historians of the period. The latter, however, marked the

1. Instructions to Poulett Thomson, September 7, 1839:
   "The only topic which it remains to notice as affecting the two Canadian provinces alike, is that of raising an emigration fund from the proceeds of the sales of the Crown lands. Unfortunately, such is the extent of land alienated, and so inconsiderable the proportion which still remains vested in the Crown, that the hope of rendering any effectual aid to emigration by the sale of such lands, cannot at present be reasonably entertained, the necessary preliminary to the introduction of any such system, would be the resumption of the large tracts of land held by the grantees in a barren and unprofitable state. This could be effected only by the imposition of a tax on uncleared land, and by enactments for the collection of that tax, to insure the due execution of the law".

2. About the only references to the subject are to be found in:
   Chester Martin, The National Resources Question, (Winnipeg, 1920.).
beginning of a policy of fiscal independence which was to progress until Canada achieved the right to make her own trade treaties.

The new Dominion was equally energetic in respect to territorial aggrandizement, and, as has been seen, lost no time in extending her authority over the vast area which lay to the west of the Great Lakes. The British North America Act of 1867, had made provision for the admission of Rupert's Land and the North-west Territories into the union, and on July 15, 1870, as a result of negotiations carried on over a period of years, the powers of the Hudson's Bay Company as governors and administrators of this district were to cease.

Before discussing the measures which Canada took to deal with this vast public domain, it would be interesting to look at the policy pursued by the United States in a similar case. That the "Fathers of Confederation" were students of American federalism, and that they profited by the experience of their southern neighbour, is well known. As the subject of the government of Canadian prairies is developed, many interesting comparisons and contrasts will become evident.

2. (con't.)
Joseph E. Howe, Quit Rents in New Brunswick, Canadian Historical Association, Report, 1928.
One of the earliest influences which the presence of the west had upon the American constitution, was the imperial nature which it imparted the federal government. Among the causes of contention between the colonies and Great Britain, had been the failure of the latter to recognize the growing maturity of the former, and the fact that economic policy was formulated mainly in the interests of the mother country. When the new nation was faced with the problem of government for the western territory ceded by the Treaty of Paris, she determined that no such discrimination should exist. In fact, so careful were the formulators of policy to omit even the slightest reference to inferiority, that the word "colony" was never mentioned.

Historians have differed as to the interpretation which they place upon this aspect of federal activity. Farrand quotes Senator Dickerson of New Jersey who declared that his country had no colonial policy. However, the writer maintained "that is just what America has always had". To substantiate his belief Farrand states, "It is over one hundred and forty years since the Ordinance of 1787 was adopted, during which period more than thirty territories of the United States have been organized, and there has never been a time when one or more territories were not under Congressional supervision, so that the process of legislative control has been continuous". H. A. Smith, a Canadian writer on

4. Ibid, p. 78.
5. Ibid, p. 77.
the subject says, relative to the early continental expansion of the United States; "these were problems not of empire but of constitutional development within the limits of the nation". C. P. Patterson, one of the more recent writers on the subject, refers to "the colonizing game", which the American, in company with other peoples, was destined to play. Her contribution was not that she refrained from entering the race for possessions, but that when, through the activities of her people, new areas were opened up, they passed so rapidly from a period of inferiority to equality of status. This is important. Canadians followed much the same path, with both British and American precedents to guide them.

The American policy provided a radical departure in colonial administration, for by virtue of the system embodied in the Ordinance of 1787, areas opened up as a result of the westward trend of population, were able to pass, by intermediate stages, from a condition of government by governor and judges appointed by the president, to full states rights.

As a result of the presence of the west a modification was made in the workings of the written constitution. For example, the document itself made no provision for the purchasing of territory, and the buying of Louisiana struck a blow at the strict constructionist theory. On the question of whether or not the federal government had the power to buy that domain, the Supreme Court declared: "The Constitution

7. C. P. Patterson, American Government, (Boston, 1929.), p. 466.
confers absolutely on the Government of the Union the powers of making war and of making treaties; consequently the Government possesses the power of acquiring territory either by conquest or by treaty”.

The work of the Ordinance of 1787, was in a certain sense supplementary to that of framing the Constitution, for by it a territorial government was set up with governor, courts, magistrates and militia. Not much was said in the Convention of 1787 regarding the best methods of extending government over the unsettled territories lying beyond the Alleghany Mountains. It was however, assumed that they would develop as the older colonies had done, and in point of fact each district, when it became sufficiently populous was formed into a self-governing state, the less populous divisions still remaining in the status of semi-self-governing territories. At first, local legislative power was vested in the

This is one of the many instances upon which the Supreme Court came to the assistance of the federal government in respect to territorial administration. A similar rôle was played by the Minister of Justice in respect to the Canadian North-West Territories, especially during the incumbency of the Honourable J. S. D. Thompson, at a period when the aspirations of the Assembly were blocked by federal enactment.

9. Nevertheless, this does not conflict with the idea of a "colonial policy" of the United States. The new nation merely applied the principles which Great Britain had failed to recognize, that is, the ultimate equality of younger settlements.
governor and judges, and later was exercised by an elective legislature.

The executive consists of a governor appointed for four years by the president with the consent of the senate and removable by the former, together with a secretary, treasurer, auditor, and usually a superintendent of public instruction and a librarian. The governor who commands the militia, and has a veto upon the acts of the legislature, is responsible to the federal government, and reports yearly to the president on the condition of the territory. The legislature is composed of two houses; a council of twelve persons, and a house of representatives of twenty-four members.

The sphere of legislation allowed to the legislature is wide, but subject to certain federal restrictions. "The legislative power of every Territory shall extend to all rightful subjects of legislation and laws of the United States. But no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed on the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents". "The legislative assemblies of the

10. The distinction between state and territorial powers in respect to education is made clear by this provision. A comparison may be found in the Canadian field, where a memorial was passed in 1889 to the federal government for a land grant for a university, national control of the public domain rendering this necessary. Educational clauses of the autonomy bills are another instance of dominion legislation over local affairs.

several Territories shall not grant private charters or
especial privileges, but they may, by general incorporation
acts, permit persons to associate themselves together" for
various industrial and benevolent purposes specified" It
is subject also to the more important right of congress
to annul or modify by its own statutes any territorial act.
Congress may exercise without stint its power to override
the statutes passed by a territorial legislature, but this
power is not largely or often exercised.

The law administered by the judiciary, which consists
of judges of a supreme court appointed by the president, is
partly federal, all federal statutes being construed to take
effect, where properly applicable, in the territories, partly
local, created in each territory by its own statutes. The

11. (con't.) The American precedent in respect to the con­
trol of the public domain, must be kept in mind when
studying the foundations of the natural resources
question in Canada. A. S. Morton, op. cit., passim, has shown that control of the natural resources, by
the common law of the British Empire, belongs to the
colony itself.
12. Revised Statutes of the United States of 1878, #1889.
Quoted by, Bryce, op. cit., I, 554.
The powers of the assembly of the North-West Territor­
ies were even more circumscribed. It was not until
1876, after repeated memorials, that it was given
power to incorporate companies with territorial objects.
14. This was one of the chief grievances of the assembly
of the North-West Territories.
15. In Canada, ordinances after receiving the assent of the
lieutenant-governor of the North-West Territories--
had no power of disallowance but might reserve a
bill-- were subject to disallowance by the governorgeneral-in- council upon the advice of the minister
of justice. Such action was taken in respect to bills
ultra vires of the territorial assembly.
16. The judicial system of the Canadian North -West Territ­
ories consisted in 1875 of not more than three
expenses of territorial governments are born by the federal treasury. The territories send neither senators nor representatives to congress, nor do they take part in presidential elections. The house of representatives, under a statute, admits a delegate from each of them to sit and speak but not vote, because the right of voting in congress depends on the federal constitution.

When the population of a territory becomes equal to that of an average concessional district, claim to be admitted as a state is strong, and in the absence of specific objections will be granted. Congress has absolute discretion in the matter. When congress resolves to turn a territory into a state, it usually passes an enabling act, under which the inhabitants elect a constitutional convention. This body frames a draft constitution, and when such has been submitted to and accepted by the voters of the territory, the act of congress takes effect. The territory is transformed

16. (con't.) stipendiary magistrates. It was modified by successive stages until 1886 a supreme court was established by dominion legislation. The law which they administered was the British, revised by imperial or federal acts applicable to the territories by ordinance of the lieutenant-governor in council.

17. Here again the Canadian parallel is evident, funds raised by local ordinance being practically all turned over to municipalities.

18. No such arrangement existed in Canada. In 1886 the British North America Act was formally amended, in order to provide for the representation of the North-West Territories in the senate and house of commons.

19. Utah is a case in point. The two national parties on the political platform and in congress, attacked and opposed Mormon institutions of polygamy. Statehood, therefore, was not granted until January 4, 1896, owing to the apparent hostility of the Mormon authorities
into a state, and proceeds to send its senators and representa-
tives to congress in the usual way. The enabling act may
 prescribe conditions to be fulfilled by the state constitution,
 but cannot legally narrow the right which citizens of the newly
 formed state will enjoy of subsequently modifying that instru-
 ment in any way not inconsistent with the provisions of
 the federal constitution.

Unlike the American, British colonial policy has re-
ceived marked attention. The effect which the removal from
the old land had upon the ideas of the people has been traced,
but as Professor Burt rather pointedly puts it, the transfor-
mation of character was "wrought by crossing the land and
not the sea". He continues to say, "our society has thus
grown by continually returning to primitive conditions on the
margin of settlement". Burt is referring particularly to the
social effects of the frontier, but the same is true of the
governmental. In the North-West Territories, there was an
evolution from government by an appointed council, to a mod-
ified provincial status, within a single generation. In this
short period political evolution such as elsewhere had exten-
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19. (con't.) to non-Mormon settlers and to repeated clashes
between the Mormon Church and the United States govern-
ment regarding the extent of control of polygamous prac-
tices, etc.
20. cf. Canadian policy where creation into provinces came
as a result of repeated memorials to the federal govern-
ment, and correspondence between the parties concerned.
As finally drawn up, the constitution was supposed to be
based on territorial suggestions. However, failure to do
this resulted in one of the chief causes of dominion-
provincial friction 1905-1930; the struggle for control
of natural resources.
21. A. L. Burt, Our Dynamic Society, Minnesota History,
vol. 13, No. 1., March 1932.
22. Ibid, p. 5.
ed through generations, was reproduced with amazing rapidity.

Professor Martin's summary brings out the point of comparison between the colonial policy of Great Britain, and what he calls the "colonial policy" of the Dominion: "The stages through which these territories passed from primitive colonial status under Governor and Council in 1870 to responsible government in 1897 and provincial status in 1905, afford a very remarkable parallel to the various colonial stages of the original provinces of the Dominion. In that comparison it will be found that the Canadian territories have enjoyed many advantages; not always, it is to be feared, attributable to the "colonial policy" of the Dominion.

In both cases there was a preliminary conciliar stage; in one case from the Proclamation of October, 1763, to the Quebec Act of 1774, in the other from the transfer of 1870 to the North-West Territories Act of 1875. In both cases there was a stable and statutory period under Governor and Council: In the one case from the Quebec Act to the Constitutional Act of 1791, in the other from the Territories Act to its consummation in an Assembly in 1888. In both cases the contest for responsible government followed inevitably with inexorable though in some respects very dissimilar results: in the one case the Act of Union and the administration of Lord Elgin, in the other the contest for fiscal control and the Act of 1897. In both cases a period of strenuous politics supervenes before provincial
organization in the Dominion".

With American and British policies reviewed, it will now be possible to trace the various stages of the development of a Canadian system and to compare and contrast it with that used by other countries. Canada had been eager to acquire the west. There were many reasons why it should not remain subject to the Hudson's Bay Company, not the least of which was Canadian ambition. Acquisition brought the need for government, and on June 22, 1869, "An Act for the Temporary Government of Rupert's Land and the North-Western Territory when united with Canada", was passed as a preliminary step in taking over the districts from the local authorities. By it the name "North-West Territories" was given to the entire country, and provision was made for the appointment of a lieutenant-governor who was empowered to legislate subject to federal ratification. He was to be guided by instructions issued from time to time under order-in-council, and was to be assisted in administration by a council. The difficulties which followed the passing of the Act and the appointment of William McDougall as lieutenant-governor under its terms, do not concern this study, but its bearing upon later legislation dealing with the North-West Territories, warrants quotation at considerable length.

2. It shall be lawful for the Governor, and from time to time made, with the advice of the Privy Council, (and subject to such conditions and restrictions as to him shall seem meet) to authorize and empower such Officer as he may from time to time appoint as Lieutenant-Governor of the North-West Territories, to make provision for the administration of Justice therein, and generally to make, ordain, and establish all such Laws, Institutions and Ordinances as may be necessary for the Peace, Order and good Government of Her Majesty's subjects and others therein; Provided that all such Orders in Council, and all Laws and Ordinances, so to be made as aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

3. The Lieutenant-Governor shall administer to time given him by Order in Council.

4. The Governor may, with the advice of the Privy Council, constitute and appoint, by Warrant under his Sign Manual, a Council of not exceeding fifteen nor less than seven persons, to aid the Lieutenant-Governor in the administration of affairs, with such powers as may be from time to time conferred upon them by Order in Council.

5. All the Laws in force in Rupert's Land and the North-Western Territories, at the time of their admission into the Union, shall so far as they are consistent with "The British North America Act, 1867,"—with the terms and conditions of such admission approved of by the Queen under the 146 section thereof,—and with this Act,—remain in force until altered by the Parliament of Canada, or by the Lieutenant-Governor under the authority of this Act. 25.

The following year Sir John A. Macdonald introduced into the Canadian House of Commons a bill creating the province of Manitoba. By this Act, which received assent May 12, 1870, "there shall be formed out of the same --

Rupert's Lands and North-West Territories -- a Province, which shall be one of the Provinces of the Dominion of Canada, and which shall be called the Province of Manitoba". As in all the other provinces of the Dominion, full responsible government was set up, and the first addition to the original Confederation had been made. In this sense the Reil Rebellion had been successful for Manitoba entered as a province, although she had been created by the new federal government.

A new province had been created, but while given responsible government, the first addition modified the original nature of the federal constitution. Public lands, the revenue from which, "colonists of the Anglo-Saxon race look upon ---as legitimately belonging to the community", were vested in the Dominion. The reason given for this provision was that the settlers were opposed to immigration, and it was feared that the provincial government might obstruct the building of the transcontinental. Further, eastern electors had been promised that the railway would not be a charge upon the treasury. Reimbursement for the expenses of the transfer was also to be paid by the income from the public lands.

However, there was a feeling older in the minds of Canadian legislators. When the transfer of the west was

26. 33 Vict., cap. 3, s. 1, Statutes, 1870, p. 20.
27. Reference to the effect which this had upon the nature of the union will be made later.
first discussed, the idea had been to annex it, as settlements were opened up. Under this system, the public domain would have been added to that of Canada. Geographic factors hindered such a union, and the plan had to be dropped as a result of the fear of Lower Canada that it would be swamped in the union. This older idea was never dropped, and is manifested in the phrase that the lands of the west should be "administered by the Government of Canada for the purposes of the Dominion". Thus the Canadian as opposed to the British interpretation appeared in the statutes. "The phrase "acquisition of Rupert's Land" is not found in the Imperial documents, only the Canadian. It represents the Canadian point of view. The first new province was an anomaly, and until 1905, when it was joined by Saskatchewan and Alberta, was an "odd" member of the federation.

Provision was made by the Manitoba Act, for the remaining parts of the western territory in clause 35:

Lieut.-Governor )  "35. And with respect to such portion of
Governor )  Rupert's Land and the North-Western Territory,
to govern )  as is not included in the Province of Manitoba,
N. W. Terr.- )  it is hereby enacted, that the Lieutenant-
Canada. )  ity for the Governor of the said Province shall be appoint-
( )  ed, by Commission under the Great Seal of
Canada. )  Canada, to be the Lieutenant-Governor of the
North-West Territories, and subject to the provisions of the Act in the next section mentioned.

31. The natural resources question is a field in itself, which has been but slightly explored. The two most valuable contributions on the subject are:
Chester Martin, The Natural Resources Question(Winnipeg, 1920.).
A. S. Morton, Memorandum on Natural Resources,
( University of Saskatchewan, June 1930.).
Act 32 and 33 V., c. ) 36. Except as hereinbefore is enacted and provided, the Act of the Parliament of Canada, passed in the now last Session thereof, and entitled, "An Act for the Temporary Government of Rupert's Land, and the North-Western Territory when united with Canada", is hereby reenacted, extended and continued in force until the first day of January, 1871, and until the end of the Session of Parliament then next succeeding". 32.

Nothing definite had been said in the original British North America Act regarding the power of the federal government to create new provinces. The extension of the Dominion of Canada from sea to sea is one illustration of the British practice of taking necessary steps and then regularizing the action later. The Act of 1867, had made provision for the admission of the provinces existing at the time, and upon the authority given in section 146, British Columbia entered the Dominion in 1871, and Prince Edward Island two years later. No provision had been made for the admission of other territories, but when the need arose acts were passed and later regularized by the amendment of 1871.

The sections of the British North America Act of 1871 which had as a title, "An Act respecting the establishment of Provinces in the Dominion of Canada", show its relation to the legal problem created by the transfer of the North-West Territories to Canada. The preamble states:

Preamble ) "Whereas doubts have been entertained respecting the powers of the Parliament of Canada to establish Provinces in Territories admitted, or which may hereafter be

32. 33 Vict., cap. 3, p. 27.
admitted, into the Dominion of Canada, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said Parliament:

Be it enacted -------

2. The Parliament of Canada may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order, and good government of such Province; and for its representation in the said Parliament.

4. The Parliament of Canada may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any Province.

5. The following Acts passed by the said Parliament of Canada, and entitled respectively, - "An Act for the temporary government of Rupert's Land and the North West ern Territory when united with Canada"; and "An Act to amend and continue the Act thirty-two and thirty-three Victoria, chapter three and to establish and provide for the government of " the Province of "Manitoba", shall be deemed to be valid and effectual for all purposes whatsoever from the date at which they respectively received the assent, in the Queen's name, of the Governor-General of the said Dominion of Canada". 34.

Manitoba was thus declared to have entered Confederation in a constitutional manner, and acting upon the authority given at this time, the provinces of Saskatchewan and Alberta joined in 1905. Because of the latter, the Act of 1871 has a particular place in the history of the Prairie

Provinces, but it has a broader significance. By the powers conferred through amendment to the original British North America Act of 1867, Canada was given power to perform acts of an imperial state. The original members of Confederation had entered as a result of the action of their legislature, although not necessarily of the people themselves. Manitoba, however, was created under the power of the new federal government and in a certain sense owed its existence to that agency. Moreover, the North-West Territories were directly under the rule of the Dominion government, and "Canada thus ceased to be a confederation of equal provinces and became "a veritable Empire, entrusted with the direct government "and administration of the widest range of unappropriated "public lands to be found at that time in the British "Empire".

What were the conditions of the country with which the federal government had to deal? The Territories

35. "Imperial"—"of or pertaining to a state as being sovereign and independent and as governing or being supreme over colonies, dependencies, or many parts". Webster's New International Dictionary of the English Language, (Springfield, 1928.), p. 1079.

Use of the term "imperial" appears to be borne out by the statement of Professor A. S. Morton, relative to the Rupert's Land Act: "What the Act really does for "Canada is to entrust it with the duties which would "have fallen upon Her Majesty's Government and Imperial "Parliament had Rupert's Land been made a Crown "Colony according to plan of four years before, viz., "create institutions of Government!" Morton, op. cit., p. 22.

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possessed no form of government prior to their incorporation in the Dominion. There were very few settlements except those that clustered around the frontier forts of the traders, or the early missionary outposts. It had been useless for a settler to leave the Red River Colony and push north or west. He could get no title to the land; the Company would give none, and the government, whether of Great Britain, Canada or Assiniboia, could not, even if it would. As the Company had granted no deeds to land in what are now Saskatchewan and Alberta, there were, previous to 1870, no white settlements or white settlers, in any numbers so far west. All the inhabitants were Indians, or employees of the Hudson's Bay Company. Apart from these, there were only a few travellers, very few gold seekers and a stray free-trader.

The separate political history of the North-West Territories dates from 1870, when they were given the institutions of crown colony government with administration centered at Fort Garry. The earlier suggestion that the Territories govern themselves was not put into effect for some time, and in the interval they were governed by a lieutenant-governor who received his orders from Ottawa. The first incumbent of the office was the Honourable A. G. Archibald of Nova Scotia who, it will be remembered, "approved of the general principles of allowing the increase of territory as

37. When a settler desired to take up land, and could pay for it, a long term lease was granted. The half-breeds merely squatted.

38. The idea of a crown colony which the Duke of Newcastle had entertained when he proposed purchasing the west in the early 'sixties.
"contemplated in the resolution" of Honourable George Brown at the Quebec Conference.

The "Act for the Temporary Government of Rupert's "Land" had struck a snag when Lieutenant-Governor William McDougall attempted to put it into operation. He had been unable to enter the territory and for that reason Honourable A. G. Archibald was the first to make use of the powers which the Statute bestowed. It seemed to have been doomed. One governor knew the terms of the Act but was unable to get in to use them; his successor got in but had no copy of the Act and only a hazy recollection of its terms! The correspondence therefore, passing between the lieutenant-governor and the federal authorities, furnishes the source of the early governmental history of the district.

By his instructions issued August 4, 1870, Lieutenant-Governor Archibald was to:

"3. You will have the goodness to report with all convenient speed, for the information of His Excellency, on the state of the Laws now existing in the Territories, transmitting copies of any Laws, Ordinances or Regulations of the Hudson's Bay Company now in force there, together with a full report as to the mode of administering justice, the organization of the Courts, the number and mode of appointment of Justices of the Peace, the Police arrangements and the means adopted for keeping the peace, &c., &c.

4. You will have the goodness to report also, on the system of Taxation (if any) now in force in the Territories, the system of licensing shops, taverns, &c., the mode of regulating or prohibiting the Sale of Wine, Spirituous and Malt Liquors, and further as to the mode of keeping up the Roads, and generally on the Municipal Organization (if any) existing in the Territories.

6. You will have the goodness to report also, on the

on the nature and amount of currency or circulating medium now employed in the Territories, and of the probable requirements of the Territories in that respect in the future.

7. You will also please report as to such lands in the Territories as it may be desirable to open up at once for settlement -------

8. ------- you will report generally on all subjects connected with the welfare of the Territories upon which it may seem to you desirable to communicate with the Government of the Dominion? 40.

In eastern Canada little was known of the territory between the Great Lakes and the Rockies, and every opportunity had to be taken to learn the needs of the new domain.

Lieutenant-Governor Archibald proceeded to set up what he believed to be the form of government instituted by the Act dealing with the question. On October 21, 1870, he appointed Francis Goodshall Johnson, Donald A. Smith and Pascal Breland to be members of the Executive and Legislative

40. E. A. Meredith, Under-Secretary of State for Provinces to Lieutenant-Governor Archibald, August 4, 1870, Sessional Papers, 34 Vict., No. 20, p. 8.

41. Francis Goodshall Johnson, Q. C.: Member of Montreal Bar. Appointed Recorder of Rupert's Land, Assessor and Legal Advisor to the Governor of Assiniboia and to the Company. Governor of Assiniboia, 1855-1858. Assisted in the organization of the government of Manitoba as a special commissioner, 1870-1872. In 1872 he was interim lieutenant-governor of Manitoba and the North-West Territories. Apart from the periods noted, residence was in Montreal.

42. Donald Alexander Smith: Long period of service in Hudson's Bay Company, including post as chief factor in charge of the Montreal Department. In December 1869, was appointed Chief Civil Authority by Colonel Wolseley, pending arrival of Lieutenant-Governor Archibald. Member of the first legislative assembly of Manitoba, and member of the Canadian House of Commons for Selkirk. In 1871 was appointed Chief Commissioner to assume control of the Hudson's Bay Company's affairs in the North-West Territories. In 1889 was chosen Governor of the Hudson's Bay Company, and in 1896 succeeded Sir Charles Tupper as High Commissioner for Canada.

43. Pascal Breland: Half-breed, who had been a member of the
Councils for Rupert's Land and the North-West Territory. Smallpox had broken out, and in order to prevent its spread provisions were enacted by the "Legislative authority of the Governor and Council of Rupert's Land and the North West Territories".

The report of these actions brought early and rather unexpected replies from the Honourable Joseph Howe, Secretary of State for the Provinces:

"I have no doubt that in making these appointments you have acted after full consideration of the question as to your authority to make them. In the absence, however, of information on this point, the Government here are in the dark as to the authority under which you have acted, & would desire explanations from you in order that in case any irregularity may have occurred, it may be remedied by confirmatory action here." 45.

"The Ordinance seems well adapted for the purpose for which it was enacted, and the only question is as to the authority to pass it. On this subject I would refer to the observations in my Despatch to you of the 17th instant on the appointment of Messrs. Johnson, Smith and Breland(d) as His Excellency the Governor General desires to be informed as to the nature and intent of the authority under which you are acting". 46.

On November 17, 1870, the first step was taken for a

43. (con't) Pascal Breland: committee formed in 1849 by Louis Riel, Senior, to secure free trade in furs. His wife was the daughter of Cuthbert Grant, Warden of the Plains, and Breland succeeded to much of the influence of his father-in-law over the Metis. In 1870 he prevailed upon a group not to join Riel. A member of the legislative assembly of Manitoba, and appointed member of the Councils of the North-West Territories. A merchant of Cypress Hills. References to "Pascal", "Paschal", and "Patrice" Breland, but all appear to relate to the same person.

44. Archibald to Howe, October 22, 1870. Sessional Papers, 34 Vict., No. 20, p. 69.

45. Howe to Archibald, November 17, 1870. Reprinted in Oliver, II, 980.

46. Howe to Archibald, November 19, 1870. Sessional Papers, 34 Vict., No. 20, p. 73.
properly constituted council, for at that time Howe asked Archibald to transmit to him a list of names of those eligible. The minimum was fixed at seven, and details were to be given regarding their qualifications for the position. On December 6 and 7 the desired list was sent, but over a year elapsed before the federal government acted upon Archibald's suggestion, and by that time he had been succeeded by Lieutenant-Governor Morris.

The first form of local government organization to be established in the Territories was a Board of Health, to cope with the epidemic of smallpox which broke out among the Indians in the winter of 1870-71. At a meeting held at Edmonton on April 21, 1871, the Saskatchewan District Board of Health was organized by William J. Christie, Hudson's Bay Company's Chief Factor; Reverend George McDougall, Methodist Missionary; Reverend Father Leduc, and Reverend Father André, and Richard Hardisty, Hudson's Bay Company's Factor. The offices of these men show the character of the leading inhabitants of the country, fur-traders and missionaries.

The following were named members of the Board:—John Bunn, Edmonton (Secretary); Father Tourmond, Lac Ste. Anne; Reverend Henry Steinhour, Whitefish Lake; Bishop Grandin, St. Albert; Bishop Farrand, Lac la Biche; Father Lacombe, Plains; Reverend Peter Campbell, Pigeon Lake; and Reverend John McDougall, Victoria. This group was acting without authority, but its efforts deserve a place in a study of the

47. See accompanying map; note the distance between the seat of government and the district for which provision had to be made.
Canadian west. The government situated at Winnipeg was unable to deal with the vast territory under its rule, and at least one other extra-legal body was to be set up, to cope with an emergency before a new constitution was given.

During the session of the federal house in 1871, a discussion arose as to the provisions to be made regarding the regulation of trade and liquor traffic in the North-West Territories. It was declared that the governor-in-council had power to deal with these questions. Before the union, regulations made by the Hudson's Bay Company had been in force, but the ministers did not know their nature. The government had not had time to ascertain the requirements of the North-West, and was so lacking in knowledge of the conditions of affairs there, that it was obliged to seek the council of the officers of the Hudson's Bay Company and the missionaries, before committing itself to any policy. For this reason it was not until the following year that any provision was made for the establishment of a real government in the far west.

In December 1872, Alexander Morris was appointed lieutenant-governor of Manitoba and ex-officio of the North-West Territories, to succeed the Honourable A. G. Archibald.

Archibald's action with respect to the offer of Louis Riel to defend the province against the Fenian invasion, had been severely criticized. However, he did not retire from public life, for after a short period as judge of equity in his native province, Nova Scotia, he succeeded Honourable Joseph Howe as lieutenant-governor.
Like his predecessor, Morris had manifested an early interest in the North-West, and to his confidence in the potentialities of the district, had been added a period spent as chief justice of the area. While holding this office, he organized the supreme court, and, as lieutenant-governor his greatest energies were to be spent in the conclusion of Indian treaties. The minutes of the council during his leadership deal with this very important problem, and what is almost a corollary, the sale of spirituous liquors. It was a period in which the settlers were building homes, and attempting to provide the necessary means of communication. Their records bear evidence of ferries built and postal communications set up. For any trace of constitutional nature, we must look to the acts of the federal government.

At the session of 1871, an Act was passed to provide for the government of the North-West Territories, by the lieutenant-governor of Manitoba, and a council of from seven to fifteen persons. In January, 1873, the first North-West council was gazetted, the following members being called:

Marc A. Girard, Donald A. Smith, Henry J. Clarke,

49. An Act to make further provision for the government of the North-West Territories, 24 Vict., cap. 16, s. 1, and 3. Statutes, 1871, pp. 84-85.

50. Marc Amable Girard: Practised law in the province of Quebec until 1870, when he went to Manitoba. In September 1870, he was sworn in as a member of the lieutenant-governor's council and provincial treasurer. Elected by acclamation to the legislative assembly for St. Boniface East. On December 13, 1871, he was called to the senate and nominated senior member of the North-West council. In 1873, became premier of Manitoba.

51. Henry James Clarke, Q. C.: Came to Red River from Ireland,
Pascal Breland, Alfred Boyd, John Schultz, Joseph Dubuc,
Andrew G. B. Bannatyne, William Fraser, Robert Hamilton and
William J. Christie. On March 8, 1873, the council was

51. (con't.)
Henry James Clarke: shortly after the arrival of the
Wolseley expedition. Was returned for St. Charles in
the first provincial legislature of Manitoba, and be­
came a member of the executive council and attorney
general. Premier of Manitoba. Appointed legal ad­
visor to the council of the North-West Territories.

52. Alfred Boyd: Wealthy Englishman, resident in the coun­
try for several years carrying on a commercial business.
One of the delegates who met at Fort Garry in 1870,
to draft Bill of Rights. He and Honourable M. A.
Girard were called upon by the lieutenant-governor to
assist in putting the law into operation. Pending
elections for a legislative assembly, he was represen­
tative of the English section of the community. Held
portfolio in the Manitoba House.

53. John Christian Schultz, M. D: Born in Essex County,
Ontario, he removed to the Red River where he practis­
ed medicine and was connected with The Nor'Wester. He
opposed the Hudson's Bay Company and became a leader
of the Canada party. In 1871, was elected member for
Lisgar in the Canadian House of Commons, In 1883, he
became a senator, and was lieutenant-governor of Man­
itoba, 1888-1895.

54. Joseph Dubuc: Educated in the province of Quebec where
he was born. Member of the legislative assembly of
Manitoba, 1870-1878. Called to the Manitoba Bar, 1871.
Editor of Le Métis. In 1874, he became legal advisor
of the North-West council, and attorney general of
Manitoba. Speaker of the Manitoba assembly. In 1878,
elected member for Provencher in the federal house.

55. Andrew Graham Ballenden Bannatyne: Born in the Orkney
Islands, he was surrounded by the tradition of Hudson's
Bay Company service. In 1869, he was member of the
provisional government established by Louis Riel. In
1875, he was elected member for Provencher on the ex­
pulsion of Riel.

56. William Fraser: Formerly member of the council of Assin­
iboia. Resided on the west side of the Red River,
north of the parish of St. John's.

57. Robert Hamilton: Became chief factor of the Hudson's
Bay Company in 1867, and five years later inspecting
chief factor.

58. William Joseph Christie: Son of Alexander Christie,
chief factor and twice governor of Assiniboia, and
himself chief factor of the Hudson's Bay Company post
at Fort Edmonton in 1860. Later he was in charge of
called together for the first time, and the members took the oath of office, but no business of importance was transacted.

An amendment to the "Act for the Government of the North-West Territories" was passed on May 23, 1873, which provided:

Governor in Council may make such laws as the Governor-in-Council is empowered to make.

Extent of either authority:

2. Subject to the provisions hereinafter made, it shall be lawful for the Governor-in-Council to make laws for the peace, order and good government of the said North-West Territories and of Her Majesty's subjects therein, in relation to all matters and subjects in relation to which the Lieutenant-Governor and his Council aforesaid are not then empowered to make laws; and for that purpose, either to make new laws or to extend and apply and declare applicable to the North-West Territories, with such amendments and modifications as may be deemed necessary, any Acts or Acts of the Parliament of Canada, or any parts thereof; and from time to time to amend or repeal any such laws, and make others in their stead. The power hereby given shall extend to the modification, amendment, or repeal of any Act mentioned in the schedule of this Act; and the Lieutenant-Governor, acting with the advice and consent of his Council, shall have like powers with respect to the subjects and matters in relation to which he is empowered to make laws;

3. ———

Disallowance of laws and the Lieutenant-Governor of the said Territories and his Council shall be mailed for before Parliament transmits them to the Governor-in-Council within ten days after its passing,

58. (con't.)


It will be noted, that the majority of these men were primarily interested in Manitoba and not in the North-West Territories.
may be disallowed by him any time within two years after its passing; and every such law made by the Governor-in-Council shall be laid before both Houses of Parliament as soon as conveniently may be after the making and passing thereof. 59.

By an Act which received assent May 3, 1873, it was provided that the council might be increased from eleven to twenty-one, and that in no sense was it to consist of less than seven members. Acting upon the powers of this Act, five additional members were called to the Council in the winter of 1873: James McKay, Joseph Royal, Pierre Delorme, W. R. Bown, 

59. An Act to make further provision for the government of the North-West Territories, 34 Vict., cap. 16, s.1, and 3. Statutes, 1871, pp. 84 - 85.


61. Acting under the authority given in 34 Vict., cap. 16, s.3, " Act to make further provision for the government of the North-West Territories", eleven members had been called to the council, although the act allowed any number from seven to fifteen.

62. James McKay: A half-breed, son of a servant of the Hudson's Bay Company, born at Edmonton. Sir George Simpson's special voyageur. He was president of the executive council in the first provincial cabinet, speaker of the first legislative council and later minister of agriculture of Manitoba.

63. Joseph Royal: Born at Repentigny, Lower Canada, in 1837. Journalist, historian, lawyer and legislator, his name is connected with events in both eastern and western Canada. He was a member of the North-West Council and the Manitoba Assembly before becoming lieutenant-governor of the Territories in 1888. See infra, Chapter IV.

64. Pierre Delorme: A half-breed, born at St. Boniface, he was a representative in Riel's convention of December 21, 1869. A member of the legislative assembly of Manitoba and representative of Provencher in the Dominion House.

65. Dr. Walter Robert Bown: Came to the Red River about 1866, and in 1868, purchased the Nor'Wester from Dr. Schultz. Bown was for several years private secretary to the lieutenant-governor of Manitoba and Keewatin. Name frequently appears as "Brown".
and W. N. Kennedy. Further additions were made to the council in 1871, when John H. McTavish and William Tate were sworn in.

Government far removed from the people for whose direction it was inaugurated, particularly in a day when transportation was slow, could exercise little influence in distant settlements. That such was the case is manifested by the establishment in 1875, of a provisional government among the half-breeds in the Batoche and Carleton districts. The head of the movement was the famous hunter and warrior Gabriel Dumont, who came to Saskatchewan in 1868. Under his presidency, the Metis organized themselves upon the basis of the laws of the buffalo hunt. The proceedings however, were illegal and Lieutenant-Governor Morris was obliged to interfere.

Canadian attitude toward the North-West Territories was clearly manifested when Honourable Alexander Mackenzie, introduced and passed his North-West Territories Act in 1875. While the premier and some members of the house showed an

66. William Nassau Kennedy: Came to Winnipeg with Lord Wolsley's expedition as lieutenant in the Ontario Rifles. In 1872 he was appointed Registrat of Deeds for Selkirk. In 1875 and 1876 he was mayor of Winnipeg.

67. John H. McTavish: A grandson of Sir George Simpson, he was surrounded by a tradition of service to the Hudson's Bay Company with which he was connected. He was a member of the first legislative assembly of Manitoba, and in 1881 was appointed chief land commissioner of the Canadian Pacific Railway.

68. William Tait: A native of the Red River Settlement, engaged in farming in the parish of Headingley. In 1861 he was the representative of the English district in which he resided, in the Convention of Twenty-four.

69. Gabriel Dumont: A half-breed born in Assiniboia in 1838. Took no part in the North-West Rebellion of 1870, but
understanding of the Territories, there was a total lack of comprehension of their needs on the part of some who were most directly concerned with the government of the west. No better evidence can be given, than the speech of Sir John A. Macdonald, relative to the appointment of a special lieutenant-governor for the North-West Territories:

"The hon. (sic) gentleman should be prepared to show---that there was a necessity for appointing an additional Governor just now. Manitoba was a very small Province in itself, with a very small population, and if one Lieutenant-Governor was sufficient for the Government of Ontario, surely one ought to be enough for Manitoba and the North-West for some time to come at all events". 70.

The Conservative leader regarded the North-West in "the light of a colony", to which the popular elements in government should not introduced for the time being. In spite of such opposition, the premier insisted upon the absolute necessity of a government in the Territories themselves, in which the popular element was promised as an inducement to future settlers.

The control of the liquor traffic had been one of the important problems in the days of the company rule, and the government of Canada was called upon to furnish a solution. In the east an agitation had been begun for prohibition, and the North-West Territories were to be the testing place of this legislation. Honourable Alexander Mackenzie declared:

69. (con't.)

Gabriel Dumont: was adjutant-general of the rebel forces in the Rebellion of 1885.

70. Debates in the House of Commons, 1875, p. 656.

71. Debates in the House of Commons, 1875, p. 656.
"This would give the Dominion a fair opportunity to commence with a clean slate in this enormous territory, and test practically the operation of a prohibition of a liquor law where there has been no law on any subject before. If we were able to accomplish prohibition in that territory it would enable us to better accomplish the object that so many were petitioning for as regards the whole Dominion". 72.

By the constitutional provisions of the Act, a separate government was set up in and for the North-West Territories, with provisions for the addition of elected members to the council, and the introduction of a popular assembly. The Act provided:

"I.------

(2) For the North-West Territories there shall be an officer styled the Lieutenant-Governor, appointed by the Governor General in Council, by instrument under the great seal of Canada, who shall hold office during the pleasure of the Governor General; and the Lieutenant-Governor shall administer the government under instructions from time to time given him by Order in Council, or by the Secretary of State of Canada:

3. The Governor-General, with the advice of the Queen's Privy Council for Canada, by warrant under his privy seal, may constitute and appoint such and so many persons from time to time, not exceeding in the whole five persons, of which number the Stipendiary Magistrates hereinafter mentioned shall be members ex officio, to be a Council to aid the Lieutenant-Governor in the administration of the North-West Territories, with such powers, not inconsistent with this Act, as may be, from time to time, conferred upon them by the Governor General in Council; and a majority shall form a quorum.

72. Debates in the House of Commons, 1875, p. 655.
When and so soon as the Lieutenant-Governor is satisfied by such proof as he may require, that any district or portion of the North-West Territories, not exceeding an area of one thousand square miles, contains a population of not less than one thousand inhabitants of adult age, exclusive of aliens or unenfranchised Indians, the Lieutenant-Governor shall, by proclamation, erect such district or portion into an electoral district, and such electoral district shall henceforth be entitled to elect a member of the Council of the Legislative Assembly, as the case may be.

An important omission from the new territorial constitution was that of any provision for representation in the Dominion Parliament. However, the Act of 1875 was a landmark in the development of the constitution of the North-West Territories, for by it transition from conciliatory to full representative government was made possible, and the way prepared for the next stage in political development.

73. 38 Vict., chap. 49. Statutes, 1875, pp. 261, 265, 266.
CHAPTER III.

GOVERNMENT BY THE COUNCIL OF THE NORTH-WEST TERRITORIES.

When on October 7, 1876, the North-West Territories Act was brought into force by proclamation, and the Honourable David Laird became lieutenant-governor and superintendent of Indians, a new era was opened alike in the government and the development of the west. The Act of 1875, has "been called the Constitutional Act of the Territories. From that period the North-West Territories have enjoyed independent government, and have risen from a state of semi-"feudalism" to full provincial autonomy. Laird had been a delegate from Prince Edward Island when negotiations were taken for its entry into the Dominion, and in 1873 was elected to the house of commons. In Mackenzie's administration he held the office of minister in the newly created Department of the Interior which was entrusted with the supervision of territorial matters, and in that capacity he had already played an important part in relation to the negotiations of Indian treaties.

The first council under the Act was convened at

2. An Act to provide for the establishment of "The Department of the Interior", received assent May 3, 1873. 36 Vict., chap. 4. Statutes, 1873, pp. 5-7.
Livingston, Swan River, on March 8, and sat until March 22, 1877. The members were the Honourable David Laird, lieuten-
ant-governor, Mathew Ryan and Lieutenant-Colonel Hugh Richardson, stipendiary magistrates and members ex officio, Lieutenant-Colonel James F. Macleod, commissioner of the North-West Mounted Police and appointed member. Amédée E. Forget who later became lieutenant-governor under responsible government and first lieutenant-governor of the province of Saskatchewan, was clerk.

3. Pending the erection of suitable buildings at the capital, Battleford, meetings were held at Livingston, Swan River, in the North-West Territories, about twenty miles west of the boundary of Manitoba.


5. Lieutenant-Colonel Hugh Richardson: Practised law in Ontario until 1872, when he became chief clerk in the Department of Justice. Four years later he was sent to the North-West Territories as stipendiary magistrate and legal advisor to the lieutenant-governor. Rose by successive stages to the position of judge of the Supreme Court of the North-West Territories.

6. Lieutenant-Colonel James Farquharson Macleod, C. M. G: A member of the Bar of Upper Canada, he served in the militia during the North-West Rebellion. Through his position in the North-West Mounted Police, he exercised great influence over the Indians. This officer by whom Calgary was named after his home in Scotland (Aulagarry), in 1887 became a puisne judge in the supreme court of the Territories.

7. Amédée Emanuel Forget: Born in Lower Canada he was called to its Bar in 1871. Four years later he was appointed on the commission for the settlement of the half-breed claims in the North-West Territories, and in 1888 became assistant-commissioner of Indian affairs for Manitoba, and the North-West Territories. He was also a member of the Canadian Senate from 1911 until his death in 1923.
The first step towards responsible government was now taken, for henceforth administration was to be by men resident within the Territories, and not by those from an adjoining province. The importance of this was shown by the lieutenant-governor in his address to the council:

"Gentlemen:

You have the honor to be the first Council under the Government of Canada ever convened within the North-West Territories.

----- It will be your duty to carry on the work of legislation with prudence, neglecting no opportunity to profit by such experience as residence in the Territories and free intercourse with the people is calculated to afford". 8.

At their second meeting rules and forms of proceeding in legislative sessions were drawn up. The seventh declared:

"In the absence of the Lieutenant-Governor, such member of the Council shall preside, as His Honour may from time to time appoint for that purpose". 10.

In addition to the right to appoint a member to preside in his stead, the lieutenant-governor also had special privileges in regard to the introduction of legislation:

"The clerk of the North-West Council shall keep a book to be called the "Notice Book", in which every member of the Council shall enter one day's notice for leave to introduce a Bill, Resolution or Address, or for the appointment of a Committee; but this rule shall not apply to Bills presented by the Lieutenant-Governor". 11.

A section dealing with private bills throws interesting light

9. No record can be found of executive meetings.
   The lieutenant-governors did not appear to be anxious to delegate their powers in this respect. In checking the Journals from 1877 to 1887, no record was found in which the minutes did not open "---the Lieutenant-Governor presiding".
not only upon the whole subject of journalism, but also sug-
gests the influence which the period of government from
Manitoba had left upon future legislation:

"17-- Before passing such Bills, the Council may require
that notice of the application be published for three months
in some newspaper in Manitoba or in the Territories". 12.

Apart from the discussions which resulted in the for-
mulation of the above rules of procedure, attention was cen-
tered upon the subject of the prevention of prairie and for-
est fires, protection of buffalo, ferries and toll bridges.
Arrangements were made respecting licenses, the administrat-
ion of justice, and regulations to prevent the spread of infec-
tious diseases. A petition was received from Moise Cuellette
and Pierre Landry praying for assistance towards the estab-
ishment of a school house at St. Laurent and the salary of a
teacher. While this thesis does not propose to touch on the
very important matter of education in the Territories, it is
interesting to note how rapid were the actions of the various
officials on this particular occasion. On March 21, 1877,
the resolution was passed that the request be sent to the
Dominion government, but it was not until December 6, that
the petition was forwarded by Laird to the Minister of the
Interior. In the letter, he showed the predicament in which

Relative to the subject of the press, Professor A. L.
Burt writes: "I do not know of any paper published in
the North-West Territories in 1877. I suspect that the
clause---- was inspired by anticipation". A. L. Burt
to the writer, August 24, 1932.
the council found itself:

"It does not appear that the Council has now the power to impose direct taxation except in Electoral Districts" and as no electoral district could be erected until there were one thousand adult persons in an area of one thousand miles, the people of the North-West were entirely dependent upon Ottawa for any service which could not be rendered by the meagre income from license fees and fines.

On previous occasions the westerners had set up provisional governments to fulfill their needs, but at this time the authorities brought forward a suggestion themselves:

"While agreeing with you that the Council of the North-West Territories has not the power to impose direct taxation for school or other purposes, it appears to me that the Council might obtain the end in view, namely, the raising of a fund for School Corporations and giving them the right to impose a school rate. The constitutional objection of want of representation which would apply in the case of taxation by the Council, would not be applicable to School Corporations who would merely tax themselves".

In the older provinces population centered around towns and villages, and forests and the presence of the Cambrian shield confined these to a relatively small area. No such geographic factors limited those who made their homes in Manitoba and the North-West Territories, and the problems which they were called upon to solve, differed materially from those of the pioneers in Canada and the Maritimes. Canadians knew little of the district for which they were legislating, and even when the Territories had reached the stage when they were

capable of putting forward a form of government for themselves, legislators at Ottawa stretched the constitution until it was almost unrecognizable.

When the council met in July 1878, a new appointed member was present, Pascal Breland, a merchant of Cypress Hills. This was the first meeting to be held at Battleford, and the first recognition of the citizens themselves. To this council were given added powers, by virtue of amendments to the North-West Territories Act of 1875. Changes were effected in the administration of justice, and the council was empowered to legislate in regard to marriage. Funds were accruing under the operation of the Ordinances of the North-West Territories from fines and license fees, and it was necessary to regulate with regard to the disposition of such moneys. In respect to the enlarged powers of the council, Laird laid before it a copy of a despatch from the Minister of Justice transmitting a copy of the order of the Governor-General in Council regarding the matter. The order, which bore the date May 11, 1877, read in part as follows:

"---- The Lieutenant-Governor in Council------ is hereby empowered to make Ordinances in relation to the following subjects--------

1. The establishment and tenure of Territorial Offices, and the appointment and payment of Territorial Officers.

15. An Act to amend the " North-West Territories Act, 1875, was assented to April 28, 1877. 40 Vict., chap. 7. Statutes, 1877, pp. 33 ff.

The chief amendments were provisions for raising the number of councillors from five to six, and permitting the Governor-General in Council to increase the legislative powers of the Lieutenant-Governor in Council."
2. The establishment, maintenance and management of prisons in and for the North West Territories.

3. The establishment of Municipal Institutions in the Territories, in accordance with the provisions of "The North-West Territories Acts, 1875-1877".

4. The issue of Shop, Auctioneer and other Licenses in order to the raising of a revenue for territorial or municipal purposes.

5. The Solemnization of marriage in the Territories.

6. The Administration of Justice including the constitution, organization and maintenance of Territorial Courts of Civil Jurisdiction.

7. The imposition of punishment by fine, penalty, or imprisonment for enforcing (sic) any Territorial Ordinance.

8. Property and civil rights in the Territories, subject to any Legislation by the Parliament of Canada upon these subjects.

9. Generally on matters of a merely local or private nature in the Territories."

It will be seen that a real advance had been made in the powers of the North-West Council to deal with those matters which most directly concerned it. Not only was its income from licenses and fines confirmed, but its powers were increased in respect to the administration of justice. The clause with regard to marriage lead to considerable discussion between the clergy and laity in the Territories, but it was ninth which caused the greatest amount of correspondence between Dominion and Territorial capitals. What were" matters


17. The Roman Catholic clergy complained that the system of licenses interfered with the religious nature of marriage, that the government was receiving an income from the services of the church.
of a merely local or private nature in the Territories?"

Councillors were never sure until Ordinances which they had passed, supposedly acting under authority given by the clause were disallowed by Ottawa.

In the interval between the meetings of the council in 1878 and 1879, Lieutenant-Governor Laird took occasion to point out inconsistencies in the Act under which the North-West Territories were governed. In a despatch dated January 1, 1879, he stated:

"I have the honor to call your attention to the conflicting character of two or three sections of the "North-West Territories Act, 1875".

The 9th. section of the said Act in effect provided that when any electoral district shall be established the Lieutenant-Governor and Council shall have power to pass Ordinances for raising within such District, by direct taxation, etc., a revenue for local and municipal purposes of such district.

The 10th. section provides that when any electoral district shall be found to contain not less than one thousand inhabitants, Ordinances may be passed for erecting the same into a municipal corporation or corporations, etc. The powers contained in the 11th section with respect to legislating on Education are evidently dependent upon one or both of the next preceding sections. Now, when we turn to the 13th section of the same Act we find that an electoral district cannot be erected unless it contain a population of not less than one thousand inhabitants of adult age."

The council had already pointed out the need for power to legislate with regard to schools, and, as we have seen,

18. Extension of federal acts to the Territories led to considerable uncertainty. Cf. Poynings' Acts, by which all laws passed by the English Parliament were declared to be in force in Ireland.

the Canadian authorities suggested an ingenious way of getting around the difficulty. However, the terms of the Act still presented a problem to the residents of the sparsely settled west, for in the days before the railway, there was no incentive to settle in any particular locality. Even legislators at Ottawa, who found it difficult to realize western conditions, provided that juries should be composed of only six or eight men depending upon the gravity of the offense. This was a concession due to the widely scattered nature of the population. Laird put forward suggestions on the subject of education, including references to conditions in Manitoba and British Columbia, which are interesting in the light of future arguments, although at the time, the despatch received the usual acknowledgement— a promise to lay the matter before the proper authorities. The lieutenant-governor suggested:

"If the words "electoral district" were struck out in the first line of the 10th section and the words "a portion or district of the North-West Territories" substituted, a part of the difficulty would be removed. It is doubtful also whether such district should be limited to one thousand inhabitants. In short, it appears to me that sections 9, 10 and 13 should be wholly revised to make them in harmony with each other.

I am inclined to the opinion that a less number than one thousand inhabitants of adult age within an area of one thousand square miles, as provided in the 13th section, might properly have the privilege of electing a member to the Council. Both in British Columbia and Manitoba there are smaller constituencies than half the above number represents". 20.

This last clause is important, for all through the arguments for full provincial status, the reference is made

to the treatment of Manitoba and British Columbia. Beginning their existence under the Hudson's Bay Company they passed, by various methods to membership in the Canadian Federation. Manitoba was created a province, British Columbia entered, and the North-West Territories grew until they had re-enacted within their borders the struggles of the Maritimes and Canada, and then became members of the Dominion.

The question of representation was one for the Dominion government to settle, but the council was still anxious about its schools. There was no thought yet about responsible government, the council being all appointed. "Control of the purse" did not enter the struggle until representatives of the settlers were in the majority, and there was some purse to control. Schools, however, were essential if the new community were to attract settlers, and while the control of immigration was in the hands of the Dominion government, it did little in the matter of education. A grant would be given when once the local authorities had taken the initiative, but under the existing laws it was difficult to ascertain just what powers rested with the councillors.

No matters of constitutional importance came before the council in 1879. It was still concerned with its communications regarding schools; its marriage licenses, which, by the way, formed the most lucrative source of income directly under the council; ferries, prairie fires, infectious diseases.

21. Receipts, July 9th, 1878 to September 26th, 1879.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marriage Licenses</td>
<td>$16.00</td>
</tr>
<tr>
<td>Ferry Licenses</td>
<td>4.00</td>
</tr>
<tr>
<td>Fines Under Ordinances</td>
<td>5.00</td>
</tr>
</tbody>
</table>

$25.00

Journals, 1879, Appendix C, p. 32.
diseases, sudden deaths, dangerous lunatics and matters equally important to a growing community, but of little concern to a Dominion feeling its way in the field of international affairs. However, one important item did appear in the estimates for the North-West Government, 1879-80. One thousand dollars was set down as "probable election expenses". Settlement was becoming sufficiently concentrated for the provisions regarding the erection of electoral districts to come into force, and a new era was dawning in the government of that unknown area between Red River and the Rockies. The lieutenant-governor still listened to discussions regarding an appropriate reply to his speech at the opening of council, but no longer were the ideas originating in Ottawa to be accepted with thanks. From the time when the first elected member took his seat until the council gave way to an assembly, there was a divergence of opinion, slight at first but greater as years passed, between appointed and elected members.

No meeting of the North-West Council was called in 1880, as the lieutenant-governor issued a proclamation on November 13, of that year, erecting the electoral districts of Kimberley, Salisbury and Lorne. On February 5, 1881, he issued another proclamation regulating the proceedings of elections in the North-West Territories, and eleven days after,

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23. "Bona fide male residents and householders of adult age, not being aliens, or unenfranchised Indians", who have resided within the electoral district for at least twelve months immediately preceding, were entitled to vote and to be elected. 38 Vict., chap. 49, s. 13 (3-4), Statutes, 1875, p. 265.
a writ was addressed to Edward Richard, sheriff, commanding him to cause an election to be held in the district of Lorne. Nomination of candidates was to take place on March 9, 1881, and as a result of the first election in the North-West Territories of Canada, Lawrence Clarke, Chief Factor of the Hudson's Bay Company at Carlton took his seat on the council. Once erected, Kimberly and Salisbury drop out of the picture, for Laird received notification that an extension was to be made in the province of Manitoba, and that townships forming part of the electoral districts, would be included within the borders of that province.

When the council met in May 1881, Laird was forced to share honors with Clarke. Neither missed a meeting, and between them they introduced all the bills of the session.

24. It is interesting to note that Richard had previously practised law in Quebec with Sir Wilfrid Laurier, and had been a member of the Canadian House of Commons. He was born in an Acadian settlement in Quebec, and manifested his interest in the history of his forefathers, by a study of "Acadia": Missing Links of a Lost Chapter in American History", 2 vols., (Montreal, 1895.).

25. Lawrence Clarke: A notary public and a justice of the peace. First elected member of the North-West Council, he manifested his interest by an active participation in its discussions.


27. It was sheer interest in the country that kept Clarke there, for no settlement with regard to the payment of elected members was made till 1884. In Appendix C of the Journals of that year, an entry shows that the question of an indemnity to elected members of the council received attention. It was suggested they be paid $400.00 per annum out of the Consolidated Revenue Fund of Canada, and that their travelling expenses be taxed by the Lieutenant-Governor.
New subjects presented themselves; the study and practice of law in the Territories, and medical examining boards, for by this time the problems of the people were beginning to change from those caused by mere necessity, to the satisfaction of their desire for comfort. As in other years the question of half-breed claims came before the council, and a memorial was forwarded to the Dominion government, to be duly acknowledged and filed.

Lieutenant-Colonel Hugh Richardson, stipendiary magistrate laid before the council a statement containing his opinion with regard to the legality of the legislation being enacted. Coming as it did one day before the conclusion of business—June 10, 1881, it made little difference as far as actual work was concerned. Richardson had missed only one meeting of the session up to that time, so that the telegraph line which was always out of order at convenient moments, must have been acting true to form, or else the magistrate was very obliging.

The difficulty arose as a result of section 95 of the North-West Territories Act, 1880, which repealed the Acts of 1875 and 1877:

"except as to 'Any duty accrued, right acquired, or penalty, forfeiture or liability incurred, or appointment made under the said Acts or any of them or any offense committed under them". 29.

The major problem was created by section 9 of the Act of 1880,

28. Meetings were held from May 26 to June 11, 1881. He was absent Saturday, June 4.
which provided:

"That the Lieutenant-Governor in Council shall have such powers to make Ordinances for the Government of the North-West Territories as the Governor in Council may from time to time confer upon him, provided that such powers shall not at any time be in excess of those conferred by Sections 92 and 93 of the British North America Act, 1867, upon Provincial Legislation.

So far as at present known, (although advised that the subject of conferring powers under Section 9 of the Act of 1880, has engaged the attention of His Excellency the Governor in Council,) no order under the Section has been passed conferring powers upon the Lieutenant-Governor in Council to make Ordinances, which in the opinion of the undersigned—is necessary before His Honor the Lieutenant-Governor in Council can make Ordinances legally, which opinion he has entertained unchanged from first perusing the Act of 1880". 30.

Apparently the federal authorities were not as particular regarding legal or constitutional matters as was the magistrate, for the Ordinances do not appear to have been disallowed.

Laird's term of office as lieutenant-governor expired in December 1881, when he was succeeded by the Honourable Edgar Dewdney. The latter had been appointed Indian Commissioner two years earlier, when the office was separated from that of lieutenant-governor of the Territories. Indian affairs had received scant attention at Ottawa but in 1879, an advance had been made by the creation, as a sub-department under the Minister of the Interior, of the Department of Indian Affairs, presided over by Edgar Dewdney, at that time member of parliament for Yale, British Columbia.


31. Dewdney had been active in British Columbia in the days of the gold rush, and in 1865 had built a trail which was a connecting link through British territory between the
In May 1882, on the suggestion of Lord Lorne, who had visited the Territories in the previous year, the Dominion government by Order-in-Council, created four provisional districts in the North-West Territories, chiefly for the convenience of the Post Office Department. These received the names of Assiniboia, Saskatchewan, Alberta and Athabasca. No meeting of the North-West Council was held until August 1883. The choice of the southern route for the main line of the Canadian Pacific Railway, rendered it undesirable to retain Battleford as the capital, and the question of the location of the site now caused delay. This was also lengthened by the fact that many districts were ready for erection into electoral constituencies. Added to these problems arising within the Territories themselves, were the doubts as to the council's powers. The Saskatchewan Herald offered another explanation, the "decision not to call the Council during 1882 arose from the manifest expectation of the early creation of two provinces." Where these feelings were expressed is not known, for the Journals contain no discussions on the subject.

Dewdney met his first council and the fifth to be held in the North-West Territories, on August 20, 1883. It was the first meeting at the new capital, Regina, finally selected from various claimants for the honour. It had been chosen

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32. (con't.) coast and the Kootenays.
33. See accompanying map.
34. Saskatchewan Herald, 1882, (exact date not given). Quoted by N. F. Black, History of Saskatchewan and The Old North West, (Regina, 1913.), p. 227.
35. Both Troy or South Qu'Appelle and Fort Qu'Appelle were
but it took a wide
as a central point for the transaction of business, stretch
of imagination for many to agree with the lieutenant-governor;

" Regina was considered the most favorable point and I think every day makes it clearer that the location is a wise one situated as it is in the heart of one of the most fertile regions of the Territories". 36.

To the majority it was merely: " the point where the rail-
" way crosses the Pile of Bones Creek, about fifty miles
" southwest of Fort Qu'Appelle and twelve miles south of that
" river, in or near township eighteen, range twenty-one, 37.
" west of the Second Meridian".

In the council of 1833, six elected members took
their places instead of the one of two years earlier. Captain
38 Day Hort Macdowall represented Lorne; Francis Oliver, Edmonton, 39
John Claude Campbell Hamilton, Broadview, Thomas Wesley Jackson
40
\(\text{(con't.)} \) considered, but Lieutenant-Governor Dewdney
35. finally selected Wascana or Pile of Bones Creek.
37. Saskatchewan Herald, June 24, 1882; Quoted by Black, op. cit., p. 228.
39. Francis Oliver: Born in Ontario of Irish and English descent. Went to the west at early age. A merchant, journalist and founder of The Edmonton Bulletin. Represented Edmonton in the North-West Councils and Assemblies from 1883 to his resignation in 1896, and later in the Canadian House of Commons. From 1905 to 1911, he was Minister of the Interior and Superintendent General of Indian Affairs in the Laurier Cabinet. A Liberal.
for Qu'Appelle, William White for Regina and James Hamilton Ross for Moose Jaw. This meant that there was a majority of one in favor of the elected members, whose influence was manifested in a lengthy memorial forwarded to Ottawa. Many of the requests were regarding land policy; the council wanted more extended surveys; protested against the leasing of arable lands for grazing purposes; asked that cancelled homesteads should be reopened for entry and not held for sale; wanted action abolishing reserves; protested against the proposed abolition of pre-emption rights, and declared that the system of granting immense tracts of lands to colonization companies, was opposed to the interests of the Territories. The councillors desired increased powers with regard to the incorporation of companies, and urged that the territorial grant should be on a per capita basis. The last demand showed the growing desire for a share in the formulation of Canadian policy:

"16. Your Memorialists believe that the success of the North-West Territories is of such importance to the whole Dominion that the time has arrived when representation for the Territories should be had in Parliament. At the present time the people of the North-West are without representation of any kind, and have to depend solely on Petitions.

41. Thomas Wesley Jackson: A barrister, formerly a resident of Chatham, Ontario.
and Memorials to make their wants known".

When the council met at Regina in July 1884, the balance of power had been shifted further in favor of the elected members. Charles Borromee Rodeau, Stipendiary Magistrate had been added to the number of appointed and ex-officio members, but there had been two new electoral districts created, Moose Mountain, represented by John Gillanders Turriff, and Calgary which returned James Davidson Geddes. There were now six appointed and ex-officio members and eight elected members. Friction arose and many of the questions which were formed at this time, remained unanswered until the council gave way to an assembly in which was fought out the struggle for responsible government. A select committee on finance was appointed and in giving a supplementary report, D. H. Maddowall declared:

"Your Finance Committee advise that this Council might with

44. Journals, 1883, p. 42.
45. Charles Borromee Rouleau: Called to the Bar of Quebec, his native province, in 1864. Was district magistrate for the District of Ottawa from July 12, 1876, until September 28, 1883, when he was appointed a stipendiary Magistrate for the North-West Territories.
47. James Davidson Geddes: Formerly a resident of Galt, Ontario, where he was for some years employed in the Merchant Bank. Engaged in cattle ranching.
propriety raise the question as to what is the nature of their Executive capacity, and it appears to your Committee that they are called into existence in their Executive capacity, to aid the Lieutenant-Governor in the Government of these Territories, and that the expenditure of the funds granted for the Government of the same should come within the province of such Executive Council". 48.

When the question was put that the report of the Finance Committee be considered, Frank Oliver moved, seconded by J. H. Ross:

"That the Report be not now received but referred back to Committee for the purpose of substituting the following to the Supplementary Report of the Finance Committee, namely:

That all the words after "Council" in the first paragraph of the Supplementary Report be struck out and the following substituted, "should forthwith assert its rights to the legislative and executive control of all matters relating to the Government of the North-West Territories, such as is exercised by representative Legislative Bodies of all the Provinces within the British Empire as well as of the Empire itself, and at once inform the Minister of the Interior for Canada, or such other Minister or official as may be proper or necessary, of their desire to have the funds granted or to be granted by the Parliament of Canada for the expenses of Government in the North-West, placed under their control as the representatives of the people of the North-West, instead of in the hands of the Lieutenant-Governor, as the representative of the Canadian Government in these Territories, and that the sum now granted be further increased for the following reasons:

They conceive that although the North-West has not been admitted into Confederation as a Province, the people being governed directly from Ottawa are held to be, as they hold themselves to be, Canadians, they therefore are entitled to be placed upon the same footing, and treated as Canadians elsewhere in Canada, whether the organization provided for their local self government is called a Council or a Legislature.

2. They consider that the fact of their paying taxes to the Canadian Treasury which they do under the same laws, rules, regulations and provisions as the people of other parts of Canada, proves that they are an integral part of the country and not in any sense an outside or

48. Journals, 1884, pp. 32-33. The money raised by Territorial Ordinances was practically all turned over to the Municipalities for local improvements.
dependent, or partially independent portion, and therefore having been called upon to exercise the functions of Local Self Government by the Parliament of Canada, they are entitled to receive a return on the amount paid by them into the Federal Treasury of a sum similar to that received by the various provinces comprising the Canadian Confederation, to be applied to such purposes of Local Government or public improvement as they or their duly elected representatives.

3. --- Much larger proportion of taxation per head from the people of the North-West, than from the people of other parts of the country, and that therefore the North-West is entitled to a proportionately greater subsidy per head, or return upon taxes paid, than the people of other portions of the Confederation.

4. They still further urge that inasmuch as the lands, timber and minerals of the North-West are held for sale by the Canadian Government, and the money resulting appropriated to the general uses of the country, and as in all the provinces of the Confederation, except Manitoba these resources of revenue accrue to the Local and not to the Federal Government--, which places the Local Government of the North-West at a disadvantage in the matter of funds compared with the provinces, and as the public works or improvements or government of the North-West out of local funds must necessarily increase the value of land held within the Territories by the Federal Government--, in justice to the people of the North-West, who under other circumstances will have to pay from local funds, for the improvement of Federal Lands, a proportionate increase of subsidy should be granted pending the taking over of such lands by the Local Government of the North-West Territories at some future time.

5. (Ask control of school lands).

This Council desires to dwell upon the urgency of immediate action being taken to place the funds at present granted for expenses of government--- in the North-West under their control for expenditure at this Session of Council, as the people of the country desire the responsibility to be assumed at once by the Council, and applications are being received daily for the expenditure of funds upon most necessary public works, which at present the Council has no funds to carry on.

The question being put on amendment, it was moved by Mr. Jackson, seconded by Mr. Macleod, in amendment to the amendment, "That whereas the several questions and subjects dealt with in the amendment are already provided for by a reference to the Executive Council, it is not desirable to deal further with the subject".

And the question being put on the amendment---------

Yea, Messrs. Richardson, (A) Macleod, (A) Rouleau, (A)
Yeas, (con't.)
Breland, (A) Irvine, (A) Reed, (A) Macdowall, (E)
Nays, Messrs. Oliver, (E) Ross, (E), Turriff, (E)
Geddes, (E).- 4. 49.

Although the amendment to the amendment passed, and
the statement of claims made by a section of the council fail­
ed to become official, the action was important. It marked
the beginning of a period when the elected members would rule.
It was only the strength of the appointed members, who voted
solidly for the amendment to the amendment, which swung the
vote. The elected members were divided; three in favor and
four opposed.

Again the powers of the North-West Territories Council
came into question, this time over the erection of electoral
districts.

" On July 29 it was " ordered that Mr. Oliver have leave
to bring in a Bill providing for the erection of certain
Electoral Districts in the North-West Territories and the
holding of elections of members of the North-West Council
therein". 50.

On August 1, Hayter Reed, appointed member and representative

"A", signifies appointed members: "E", elected members.
Not designated in original.
Both Irvine and Reed received appointments to the North­
West Council in April 1882.
Lieutenant-Colonel Acheson Gosford Irvine: For several
years, followed a mercantile career in Quebec, where
he was born. Served under Wolseley, and later as a
commissioner of the North-West Mounted Police, as­sisted in the suppression of the Rebellion of 1885.
Reed Hayter: A native of Kingston, Ontario. Served
as adjutant in the Provisional Battalion of Infantry,
on service in Manitoba, Was for a time in the out­
side service of the Department of the Interior, and
was Indian Agent for Battleford District. Appointed
Assistant Indian Commissioner.
of the Standing Committee on Miscellaneous Subjects presented to council the following report:

"The Miscellaneous Committee which has had before it for consideration "An Ordinance providing for the creation of certain Electoral Districts in the North-West Territories and the holding of elections of Members of the Northwest Council therein"; think that the same is ultra vires as it conflicts with the 15th Section of the North-West Territories Act. 51.

The session of 1885 lacked some of the fire of that of the previous year. Five new elected members appeared:

Qu'Appelle and Regina each had two representatives and Moosomin, Macleod and Saint Albert returned members for the first time.

43 Vict., chap 25, s. 15, reads as follows:
"When and so soon as the Lieutenant-Governor is satisfied by such proof as he may require, that any district or portion of the North-West Territories, not exceeding an area of one thousand square miles, contains a population of not less than one thousand inhabitants of adult age, exclusive of aliens or unenfranchised Indians, the Lieutenant-Governor shall, by Proclamation, erect such district or portion into an Electoral District, by a name and with boundaries to be respectively declared in the proclamation, and such electoral district shall henceforth be entitled to elect a member of the Council, or of the Legislative Assembly, as the case may be", Statutes, 1880, p. 171.

52. Members of the North-West Council, 1885.

Lieutenant-Governor: His Honor Edgar Dewdney.
Stipendiary Magistrates and Lieutenant-Colonel Hugh Richardson, Lieutenant-Colonel James Farquharson Macleod, C. M. G., Charles Berrome Rouleau.
Ex-officio Members: Appointed Members: Paschal Brelend, Lieutenant-Colonel Acheson Gosford Irvine, Hayter Reed.

Elected Members:
Moose Mountain: John Gillanders Turriff.
Calgary: James Davidson Geddes.
Qu'Appelle: Thomas Wesley Jackson.
William Dell Perley.
The reply to Dewdney's speech at the opening of the council, suggested that the lieutenant-governor was hesitating to create new electoral districts, and referred pointedly to the census which the councillors hoped would remove any doubts.

52. (con't.)

Moose Jaw: James Hamilton Ross.
Moosomin: Spencer Argyle Bedford.
Regina: David Finlay Jelly.
John Secord.
Macleod: Richard Henry, Viscount Boyle.
Saint Albert: Samuel Cunningham.
Broadview: Charles Marshallsay.
Lorne: Owen Edward Hughes.

Amedee E. Forget: Clerk.

William Dill Perley: Born in New Brunswick, of United Empire Loyalist descent. A member of the Municipal Council of Sunbury, and chairman of the first Municipal Council of Wolseley. Sat in the North-West Council 1885-1887, and in the Canadian House of Commons for Assiniboia 1887-1888 when he was called to the senate. A Conservative.

Spencer Argyle Bedford: Came to Canada from England in 1863. Farmed in Manitoba and the North-West Territories. Active in companies which promoted immigration. In 1888 became superintendent of the Experimental Farm at Brandon. Professor of Field Husbandry in the Manitoba Agricultural College.

David Finlay Jelly: Born in Ontario where he taught school. Settled in the North-West Territories 1882, where he engaged in farming and stock raising. An Independent.

John Secord: Called to the Ontario Bar in 1876. First city clerk of Regina. Sat in the councils and assemblies of the North-West Territories, 1885-1891. A Conservative.


Herbert Charles Wilson, M. D. Born at Pictou, Ontario, of United Empire Loyalist descent, he went to the Territories in 1888. First speaker of the North-West Assembly. Retired from public life in 1891. A Conservative who placed the interests of the west ahead of party.

Samuel Cunningham: Born at Lake St. Ann's, Saskatchewan District, the son of a fur-trade agent of the Hudson's Bay Company. Engaged in stock-raising and farming.
which he entertained regarding the population of such districts. However, they expressed their confidence in him to the extent that no new machinery was created for his securing advice during recess:

"We note your desire for some means of obtaining the advice and assistance of the Council during recess and would recommend the local member should assist you during recess with any particular advice required as to the purely local matters concerning his District either personally or by letter". 53.

The usual memorial was forwarded to the Dominion government, in which the main demands were for power to incorporate companies with purely Territorial objects, the extension to the Territories of the rights of Habeas Corpus, and the establishment of a Territorial court of appeals.

Territorial affairs had been very prominent in the Dominion Parliament in 1885, though the debates resulted in but little good. M. C. Cameron, member for Huron Ontario had introduced a bill for representation of the Territories

52. (con't.)

53. Journals, 1885, p. 46.
54. Malcolm Colin Cameron; Born at Perth, Upper Canada, 1832. Educated at Knox College, Toronto, and called to the Bar in 1860. Practised law in Goderich, Ontario, and represented South Huron in the House of Commons from 1867-1882, and West Huron from 1882-1887. Was reelected for West Huron at bye-election in January, 1896, and at general elections of the same year. A supporter of provincial rights, and was opposed to the coercion of Manitoba, though willing that any rights or privileges enjoyed by the Catholics of Manitoba prior to 1890, which had been encroached on should be restored to them.
in parliament, but it did not reach the later stages. Again, on November 27, he moved in amendment to the motion that the house go into committee of supply, "that the House should re-
solve itself into Committee to consider the conditions, com-
plaints and demands of Manitoba, and the North West Territory,
with a view to devise some means of remedying any well found-
ed grievances and complying with any reasonable demands".
He referred to the memorial of the North-West Council, and declared that many of the grievances still existing were worthy of serious consideration. However, by the vote of fifty-seven to fifty-nine, the government's policy was sustained and the North-West had to wait.

By 1886, the question of representation of the Terr-
itories in the federal parliament could no longer be disregard-
ed. In that year the British North America Act was formally amended by an imperial statute, pursuant to a joint address of the Dominion Parliament. The purpose of the amendment was to enable that parliament to provide representation in the senate and house of commons for the Territories. The latter were given two representatives in senate, and four electoral

54. (con't.)
Malcolm Colin Cameron: by the province. On June 7, 1898, he was sworn in as lieutenant-governor of the North-West Territories, but died shortly afterwards at Regina, on September 26, 1898. A Liberal.

55. Debates in the Commons, 1885, p.
56. 49-50 Vict., chap.25. An Act respecting the Representat-
districts for Dominion purposes were created in the North-West Territories. Alberta returned D. W. Davis; Saskatchewan elected D. H. Macdowall who had opposed the Honourable David Laird; East Assiniboia sent W. D. Perley and Nicholas Flood Davin defeated James H. Ross in West Assiniboia.

The treatment of the Territories in the framing of Dominion estimates, was distinctly more favorable than hitherto. A change was also made in the administration of justice. The old system stipendiary magistrates, subject to appellate jurisdiction of the Manitoba Court of Queen's Bench was abolished. In its stead, five judicial districts were established and a supreme court constituted consisting of the Honourables Hugh Richardson, James F. Macleod, Charles B. Rouleau and Edward L. Wetmore.


58. Nicholas Flood Davis: (1843-1901) Lawyer, journalist and politician. Irish. Came to Canada 1872, and joined the staff of the Toronto Globe and later of the Toronto Mail. In 1874 he was called to the Ontario Bar and in the general elections of 1878, was the unsuccessful Conservative candidate for the House of Commons in Haldimand. In 1883 he went to the North-West and established the Regina Leader, the first newspaper issued in Assiniboia, and in 1887 was elected member for West Assiniboia in the House of Commons. He continued to represent this constituency in parliament until 1900. A Conservative.

59. See Appendix for table showing Federal grant 1887-1899.

60. 49 Vict., chap. 25: An Act further to amend the law respecting the North-West Territories. Assented to June 2, 1886. Among other terms it was enacted: 4. There is hereby constituted and established in and for the Territories a supreme court of record and appellate jurisdiction, which shall be called "The Supreme Court of the North-West Territories".
In 1886, the weight of numbers was still further on the side of the elected members, for Calgary returned two representatives in place of one as formerly. At least some

60. (con't.)

5. The Supreme Court shall consist of five puisne judges, who shall be appointed by the Governor in Council by letters patent under the great seal.

6. Any person may be appointed a judge of the court who is or has been a judge of a superior court of any Province of Canada, a stipendiary magistrate of the Territories or a barrister or advocate of at least ten years standing at the bar of any such Province, or of the Territories.

7. No judge of the court shall hold any other office of emolument under the Government of Canada, or any Province thereof, or of the Territories; but this provision shall not prevent the judges from being eligible for appointment as members of the North-West Council without emolument. Statutes, 1886, pp. 124-129.


62. There were six appointed and fourteen elected members; those elected were:

- Moose Mountain: John Gillanders Turriff.
- Qu'Appelle: William Dell Perley.
- Macleod: Richard Henry, Viscount Boyle.
- Broadview: Charles Marshallsay.
- Saint Albert: Samuel Cunningham.
- Lorne: Owen Edward Hughes.
- Regina: David Findlay Jelly.
- : John Secord.
- Calgary: John D. Lauder.
- : Hugh S. Cayley.
- Qu'Appelle: Robert Crawford. (second member).

John D. Lauder, M. D: Went to the North-West Territories as a member of the Mounted Police, and after serving for some years, retired and took up his practice.

Hugh St. Quinton Cayley: Born in Ontario where he
satisfaction was given by the fact that certain of the demands of the previous year had been granted. Not content to leave their memorial to the tender mercies of uninterested and uninformed eastern members, the council had appointed Messrs. Perley, Wilson and Ross, all elected members, to visit Ottawa and plead its case. As a result, seventeen of the twenty-seven requests had been agreed to, including the right to incorporate companies with Territorial objects, the establishment of a supreme court in the Territories, and the decision that direct taxation within the Territories for local purposes was legal.

In his speech the lieutenant-governor suggested a revision of the present boundaries of the electoral districts, with a view to a more completely representative character being given to the council. In answer to this, the council declared:

"We unite in believing that the time has come when that character should be given to the Council which appertains to the Legislative Assemblies of the older Provinces. The census of the Territories, recently taken, seems to show that a redistribution of Electoral boundaries will bring the Elective Members of the Council up to that number which would bestow on the Territories the Assembly indicated in

62. (con't.)

Hugh St. Quinton Cayley: received his education including graduation from the University of Toronto. Was engaged in journalism for some years, and took charge of the Calgary Herald in December 1884. Later practised law in the same city and is a barrister of the North-West Territories and British Columbia to which he later removed. In the latter province he holds the office of Judge of County Court (to be retired in October 1932). Premier of the Territories in 1893. A Conservative.

Robert Crawford: Came to Canada in 1849, and five years later entered the service of the Hudson's Bay Company
the North-West Territories Act. It seems to be a matter only of such distribution of seats, as will leave no qualified voter in the country unenfranchised, to secure the result desired by the framers of the Act". 63.

Between the meetings of the council in 1886 and 1887, little material change took place. There were no new electoral districts, and on the surface it would appear that the council was in exactly the same position as previously. The lieutenant-governor's speech, however, showed there was a changing attitude at Ottawa toward the people of the North-West. Had the authorities learned a lesson from the Rebellion? For years, memorials had been sent from the Territories as to the policy it was felt would best meet the half-breed situation. These suggestions had been disregarded, and as a result there had been long marches with skirmishes at the end. Students have debated whether or not Great Britain learned her lesson from the American Revolution. Changing ideas and a long period of experience in empire government made possible a solution in 1849 unthinkable in 1783.

62. (con't.)
Robert Crawford: as apprentice clerk. Retired in 1878.
A general merchant and postmaster at Indian Head, North-West Territories. Paymaster to the commissariat and transport service during the Rebellion of 1885.
63. Journals, 1886, p. 15.
64. Dr. N. F. Black, op. cit., chaps. XXI-XXVII, gives his account of the Rebellion of 1885 with many vivid descriptions not entirely satisfactory to some who were there. An interesting sidelight is thrown on the question by the notes of an unknown commentator in the copy in the North-West Collection of the Provincial Library, Victoria, B. C. This man who declares he was at Batoche, sneers at the "grand and noble action" ( quoted by Black, op. cit., p. 324), and suggests there were no bayonets at Batoche and no need for any.
Canada had also to learn that the Territories were determined to secure their full status, but by this time federal authorities were beginning to take advice from those resident in the area.

In his opening address to the council of 1887, Lieutenant-Governor Dewdney stated:

"Although in all probability this is the last Session of the North-West Council, as at present formed, you will be asked to consider some important matters; chief among which will be the changes necessary in the constitution of your Government. At the last meeting of the Dominion Parliament two private bills were introduced dealing with this question, but the Government, being at this time unable to give the matter the attention it deserved, decided to postpone its consideration and to continue the North-West Council as then constituted for another Session. I have been requested to confer with you upon the subject, as it was thought from your knowledge of the wishes of the people and the requirements of the country, that you could suggest some inexpensive form of Government, which would give the people a greater control over the management of their affairs and,

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65. Elected Members Were:

**Moose Jaw** : James H. Ross.
**Moose Mountain** : John G. Turriff.
**Moosomin** : Spencer A. Bedford.
**Edmonton** : Herbert C. Wilson.
**Whitewood** : Charles Marshallsay (deceased November 5, 1887).

**St. Albert** : Samuel Cunningham.
**Prince Albert** : Owen E. Hughes.
**Regina** : David F. Jelly.
**Regina** : John Secord.
**Calgary** : John D. Lauder.
**Qu'Appelle** : Hugh S. Cayley.
**Qu'Appelle** : Robert Crawford.

**Macleod** : William Sutherland.
**Macleod** : Frederick W. G. Haultain.


Frederick William Gordon Haultain: Came to the Territories in 1884, where he was admitted as advocate and for a time, crown prosecutor at Fort Macleod. From his election in 1887, until 1905, he was active in the councils and assemblies of the North-West Territories. A Conservative.
by subdividing the whole of the Territories into Electoral Districts, would enable every Settler to have a voice in the Government of his Country." 66.

The councillors were not slow to take advantage of the opportunity, and a special committee, composed of all elected members of council and Mr. Hayter Reed, appointed, drew up a memorial which was presented by James H. Ross of Moose Jaw. Their document warrants quoting in full. It was in a sense, the greatest achievement and the final flourish of a body which, in a decade, rose from being the mouthpiece of authorities in Ottawa, ignorant of the conditions with which they were dealing, to the voice of a steadily growing population, which had brought traditions of self-government from their old to their new homes.

"The Memorial of the Lieutenant-Governor of the North-West Territories in Council to His Excellency the Governor-General in Council,

Humbly sheweth that the present method of introducing legislation into the North-West Council has been proved by a number of years' experience to be unsatisfactory and leads to an ill-considered and inconsistent body of legislation.

And, further, that the method of dealing with the public funds at present in force, is one which excludes the people of the country from any control in their disposal;

And, that it is considered by this Council that the time has arrived to remove these difficulties;

Now therefore your petitioners pray;

That at the next session of the Dominion Parliament legislation be introduced,

First- To amend the Constitution of the North-West Council as hereinafter set forth;

Second- To add the powers hereinafter mentioned to those already possessed by the North-West Council.

Constitution.

Your petitioners pray-

(a) That the system of having appointed members in the North-West Council be abolished, and that the Council

hereafter be purely elective and in the first instance to consist of Twenty-five members, to be elected for the Electoral Divisions set forth in the Schedule hereto:

(b) That the members of the Council be elected for a term of four years, and not for two years as at present;
(c) That the qualification of a voter in elections for the North-West Council be, that--------
(d) That the Council be presided over by one of their own number;
(e) That the Lieutenant-Governor carry on his executive functions by and with the advice of an Executive Council of three, who shall be from time to time chosen and summoned by the Lieutenant-Governor and sworn in as Privy Councillors, and who shall hold seats in the North-West Council.

Additional Powers.

Your Petitioners pray-
That the following provisions of the British North America Act respecting the Parliament of Canada; namely
(a) The provisions relating to Appropriation and Tax Bills, the recommendation of money votes, the Assent of Bills, the Disallowance of Acts and the Signification of Pleasure on Bills reserved—being Sections 52, 54, 55 and 56 of the British North America Act shall extend and be made applicable in terms to the North-West Council, with the substitution of Lieutenant-Governor of the Territories for the Governor-General, and of the Governor-General for the Queen and for a Secretary of State, and of one year for two years, and of the North-West Territories for Canada;
(b) That the Council should have power to amend its own Constitution from time to time." 67.

The manner in which their suggestions were put into practice belongs to the next stage of the constitutional development of the North-West Territories, Provision had been made by the North-West Territories Act that when the elected representatives reached twenty-one the council should terminate and a legislative Assembly be constituted. Although that number was not reached—fourteen—the council of 1887 was the last. When the Dominion Parliament met in February, 1888, the North-West Territories Act was passed abolishing the council and creating

67. The Memorial of the Lieutenant-Governor of the North-West Territories in Council to His Excellency the Governor-General in Council, November 19, 1887. Journals, 1887, pp. 72-73.
68. 51 Vict., chap. 19. An Act to amend the Revised Statutes
a legislative assembly. It was to consist of twenty-five
69
members, twenty-two to be elected, and three, who should have
no vote, chosen from the Territorial judiciary, to act as legal
experts. Apparently at Ottawa, members considered that the
majority in the west were still "wild and woolly" when it came
to constitutional practice. The assembly was given, by statute,
powers analogous to those of provincial legislatures, but sub­
stantially the same as those latterly exercised by the North­
West Council under Orders in Council issued by the govern­
general. The members were to be elected for three years, but
the assembly was to be subject to dissolution at the discretion
of the lieutenant-governor. Provision was also made for
an advisory council of four members, who, with the lieutenant­
governor would constitute an executive committee in all matters
of finance. The assembly would henceforth conduct proceedings
under the presidency of a speaker, elected from among its
members. The federal government had found it necessary to
recognize the wishes of the elected members of the Territorial
70
Council. As has been noted, this meant the creation of an ass
assembly, and apparently Ottawa accepted it as that: the terms
of the Act suggest this. However, to legislators in the west
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68. (con’t.) of Canada, chapter fifty, respecting the North­
69. By the Act, nineteen electoral districts were created—
see map—, three of which, Calgary, Edmonton and Prince
Albert, were to return two members each.
70. The Memorial of the Lieutenant-Governor of the North-West
Territories in Council to His Excellency the Governor­
General in Council, November 19, 1887. Journals, 1887,
pp. 72-73.
it was to mean more, for they had the British tradition behind them and were bound to control their executive. The men who could make the "great American desert" "blossom like a rose" were going to show they could also govern themselves, and the struggle which they put forward for responsible government would have done credit to many an older community.
CHAPTER IV.

THE STRUGGLE FOR RESPONSIBLE GOVERNMENT.

"At the Grand Remonstrance where the " contest for " 'responsible government' may be said to have begun, the " undercurrent was religion. In Prince Edward Island two " centuries later it was part of the 'eternal land question'. " In the old province of Canada problems of patronage--- " 'the universal thirst for place', as Bagot wrote--played " no small part. In the North-West Territories of Canada " fifty years later, the issue turned largely upon parliamen­" tary technique--- the appropriation of federal subsidies by " the local Assembly". In these last few words Professor Martin dismisses the question of the struggle for responsible government in what were later the Prairie Provinces. It will be the purpose of this chapter to trace the arguments which would lead one to such a conclusion.

The principles which were worked out in the older colonies of Great Britain were applied in the territory under Canadian jurisdiction, and for the "laissez-faire" attitude of the Britisher, was substituted the "land complex" of the Canadian. To him the west was the "land of opportunity". It was a map, marked out into squares containing six hundred and

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forty acres, a quarter of which would be given free as a homestead. The books of the period reflect the attitude: land, and North-West Mounted Police to keep the peace and protect the property. Apparently, no government was needed. The people of the North-West thought otherwise.

The legislative assembly which met at Regina on October 31, 1888, was in a very real sense, the voice of the people. For the first time, all parts of the Territories were represented by elected members, they were presided over by:

2. Moosomin : James Ryerson Neff.
   Wallace : Joel Reaman.
   Whitewood : Alexander Gillan Thorburn.
   Souris : John Gillanders Turriff.
   Wolsley : Benjamin Parkyn Richardson.
   South Qu'Appelle : George Suize Davidson.
   North Qu'Appelle : William Sutherland.
   North Regina : David Finlay Jelly.
   South Regina : John Secord.
   Moose Jaw : James Hamilton Ross.
   Medicine Hat : Thomas Tweed.
   Macleod : Frederick William Gordon Haultain.
   Calgary : John Lineham.
   Red Deer : Hugh St. Quentin Cayley.
   Edmonton : Robert George Brett.
   Frank Oliver.
   Battleford : James Clinkskill.
            : John F. Betts.
   Batoche : Hillyard Mitchell.
   Kinistino : James Hoey.

R. B. Gordon, Clerk.

Legal Experts: - Judges of the Supreme Court of the North-West Territories.

#Hugh Richardson.
#James Farquharson Macleod.
#Charles Borromee Rouleau.

# Had previously held seats in the North-West Councils.

by one of their own choosing—Herbert C. Wilson—Edmonton—and in the elections every qualified resident was allowed to exercise the franchise. A third of the members had already served its apprenticeship in the councils of the North-West Territories, and taken part in the drawing up of the memorial

2. (con't.)


George Suize Davidson: Came to the Territories in 1883 where he engaged in the hotel business and farming.

Thomas Tweed: Served under Wolseley in 1870. Settled at Medicine Hat, 1883. A merchant and President of the Board of Trade. A Conservative.

John Lineham: Born in Ontario, he came to the Territories in 1878, where he engaged in business as a stock dealer. A Conservative.

Robert George Brett; M. D.: One of the incorporators of the Manitoba Medical College. Medical director of the Banff Sanitarium. A Conservative.


Hillyard Mitchell: Came to the Territories in 1876, and engaged in the fur trade. Took active part in the North-West Rebellion. A magistrate and coroner. A Conservative.

to the Dominion government as to the manner in which they desired to be governed. With such a background it was natural that the assembly should seek its full rights, and readers of the Journals are not to be disappointed.

As early as 1884, the first opposition to the control of the expenditure by the lieutenant-governor had become apparent. Members of the council asserted their rights to legislative and executive control of all matters relating to the government of the North-West Territories, such as was granted to the legislative assemblies of the older provinces of Canada. Frank Oliver and James Hamilton Ross, had led the opposition in the form of an amendment to the Report of the Committee on Finance, in framing the annual budget to be sent to the federal government, and both were present in the Assembly of 1888. The earlier encounter had been only a preliminary skirmish, preparing its participants for the "battle royal" when a governor, bearing that name, took the reins of office and attempted to drive.

Climate affects one's character, the colder regions producing a race quick in its movements. Quantity and quality of soil regulate not only the method of farming but the width of the outlook of its cultivators. The men of the west were accustomed to plenty of room; vast fields where a few feet of land made relatively little difference to the size of the crop, and unfenced ranges where cattle roamed at will. The same idea was applied to their political life, and the
first meeting of the legislative assembly was marked by the rapidity with which they made their demands, and the scope which these covered.

It is an old maxim "If you want a thing done right, "do it yourself". The representatives of the people of the North-West lost no time in applying it, and to show their spirit the speaker of the assembly addressed the lieutenant-governor to the following effect:

"May it please Your Honor:
I beg to lay claim, on behalf of the Legislative Assembly of the North-West Territories, to all our ancient privileges, especially freedom of speech, access to Your Honor and that the most favorable construction maybe placed upon our proceedings". 3.

A mere form worked out in the older communities and repeated by rote at the opening of their parliaments. However, to the assembly at Regina it meant far more. Symbolism was used not only for its own sake as the trappings of the British constitutional practice, but the members were determined to copy the practice itself. Royal declared:

"In the progressive evolution of our present constitution towards thoroughly representative Government, you will find that I am in full accord with your legitimate aspirations". 4.

The assembly, as has been noted, was already truly representative, but the Territories had secured parliamentary institutions without responsible government. This may have satisfied the rancher farm removed from settlement, but the representatives of the population in the growing communities

were determined to exercise their rights. They were members of a British parliament, despite the fact that they were in a relatively unknown part of the Empire, and in the fight for the "control of the purse", they were placed in the position of waging a contest with the lieutenant-governor who represented the Dominion government.

The reply to the speech from the throne, foreshadows what is to come later:

"Your Honor's career in the past affords us the happiest anticipations as to the discharge as a constitutional Governor, of your high duties". 5.

It was the old problem over again—"What were the duties of a constitutional governor?" To Royal, it meant carrying out the dictates of the Dominion government, under the authority given him in the North-West Territories Act, as he interpreted it. Like Lord John Russell in 1839, he wanted good government, but that did not mean the form used in the older provinces. The former believed that the governor should listen with deference to the views of the assembly, but was not obliged to follow them. Royal listened, but whether or not the phrase, "with deference" can be applied depends upon the charity with which one views the part he played in the struggle of the next five years.

The assembly left no room for doubt as to its ideas of the part it expected to play:

"It is our earnest hope and desire that our present

6.
powers will, before next session, be so far extended as to give us the full measure of responsible Government, which we believe the country desires". 7.

In this last statement may be seen its own aspirations rather than the wishes of the great majority in the country. As we have seen, the members of the assembly prided themselves upon enjoying the privileges of those who belonged to the "Mother of Parliaments"—and were jealous lest any clause or interpretation be placed upon an Act to limit their powers. Struggling farmers feared lest full responsible government would mean a greater burden of taxation to maintain the offices for which Ottawa was paying, but just as at an earlier period it was impossible to draw the line between imperial and domestic problems, so it became impossible to separate Dominion and Territorial, and the fight was on.

For this very stormy session, in which he had expected the question of the consolidation of the Ordinances to receive "chief attention", Royal chose as his advisers, F. W. G. Haultain, member for Macleod, David F. Jelly from North Regina, William Sutherland, North Qu'Appelle, and Hillyard Mitchell of Batoche. Under the provisions of section 13 of the North-West Territories Act of 1888, they were to be known as "an advisory council on matters of finance", but like the question of what constituted local affairs, only future struggles were to determine the meaning of this term.

Memorials to the federal government were still the accepted mode of making western issues known, and if Territorial representatives lost touch with their constituencies when in the larger political arena, the language with which local legislators jogged the memories of apathetic officials, was clear and to the point. On November 28, 1888, the question of embodying a demand for responsible government in the memorial, was raised, and the report of the committee which was presented on December 10, leaves little doubt as to the position in which the members found themselves, or the manner in which they expected it to be solved:

"The Memorial Committee of the Legislative Assembly of the North-West Territories to the Governor General-in-Council showeth:—

That although this Assembly has been granted control of all expenditure for the current year, (11), yet the North-West Territories Act does not clearly give the Assembly that control of the moneys voted by the Dominion Government for the expenses of Government in the Territories, which, in the opinion of this Assembly, they are undoubtedly entitled to.

That there is no permanent responsible body whose business it is to prepare legislation for the consideration of this Assembly, and in consequence its legislative functions cannot be satisfactorily performed; for instance, the Assembly has had to present an humble address to His Honor the Lieutenant Governor, praying that he may be pleased to appoint a Committee to draft, during the recess, certain measures deemed advisable by the Assembly; measures which it should be the duty of a Legislative Government to submit.

Therefore the Assembly recommends to His Excellency the Governor General-in-Council, that full responsible Government should be given to the Territories with other powers, in addition to those already possessed by the Assembly,

10. Lieutenant-Governor Royal permitted the federal grant for roads and bridges, etc., to be included in the sums dealt with by the Appropriation Ordinance, No. 8, 1888. His action was taken as a precedent, and many speeches in the ensuing years referred to conditions existing at this time.
granted by the British North America Act to the Provinces of Canada, with the exceptions of the power to raise money on the public credit". 11.

Following closely upon the suggestion that the question of responsible government be referred to the Memorial Committee, November 28, 1888— was the resolution that a special committee be appointed to inquire into the financial arrangements existing between the Dominion government and the North-West Territories, with a view to making a recommendation thereon. For this important task Messrs. Oliver, Betts, Haultain, Tweed and Cayley, the last two being mover and seconder respectively, were chosen. Their report was submitted on December 11, and contained many arguments that were to be reiterated numerous times during the struggle for provincial status and control of natural resources.

The first criticism and suggestion which they had to make, concerned the allotment of the annual grant from Ottawa. Under the system in vogue, the amount was given as a rate which lapsed at the end of the fiscal year for which it was voted. The committee recommended a definite grant, which should be placed at the disposal of, and subject to the vote of, the North-West Legislative Assembly. They considered that the sum being received was totally inadequate for the services which they were expected to render, and put forth causes substantiating the view that the Territories were entitled to a larger subsidy. Foremost among these was the—

"That although the North-West Territories have not been admitted into Confederation as a Province, yet they consider that the fact of their paying taxes to the Federal Treasury under the same laws, rules and regulations and provisions as the people of other parts of Canada, and having been called upon to exercise the functions of local self-government (12) by the Parliament of Canada, they are entitled to receive a return on the amount paid by them into the Federal Treasury of a sum similar to that received by the various Provinces comprising the Canadian Confederation".

The committee argued that a greater proportion of taxation per head was being paid by the people of the Territories than by residents in any other part of Canada. Scattered settlements, which the easterners could not understand, made the cost of administering the government much larger in proportion to the population than in any other part of the Dominion. They were hinting at an argument which was to be well-worn in years to come. The improvements for which pioneers were petitioning the local assembly, were enhancing the land owned by the Dominion. Why should federal authorities not pay towards such work, when a potential unearned increment was being built up? Furthermore, Canada was securing the revenue ordinarily accruing to the provinces as an income from lands, timber and minerals, Manitoba, the only province denied this source of revenue, having been given a

12. These men were shrewd. They had asked for an assembly, but since the enacting of granting it came from the Dominion, why not let the federal authorities pay for it?
14. With the figures available, it is practically impossible to check the truth of this statement. Judging from the period after 1905, one wonders if British Columbia might not be a possible exception.
grant in lieu of lands in 1882.

The assembly did not confine itself to merely theoretical arguments which were to bear fruit in the future. Like the council before it, consideration was given to the matter of homesteads and half-breed claims. The report of the committee appointed to revise and consolidate the Ordinances of the North-West Council was received and discussed. The assembly was still anxious regarding the liquor traffic. Not content with the old powers of putting a federal law into operation, the members were desirous of passing an Ordinance for taking a vote on the question of license versus prohibition. The legal experts, appointed under authority from Ottawa to see that the "small town politicians" did not stray too far from the accepted constitutional path, decided that the assembly had not the power to pass such an Ordinance. The discussion continued in spite of such an encouraging report, and after adding this item to an already lengthy memorial, it was resolved that in the opinion of the assembly, a vote should immediately be taken on the question of license or prohibition,

15. Honourable Mr. Justice Richardson and A. E. Forget.
16. Unfortunately, for the comfort of Lieutenant-Governor Royal and federal officials, western members knew the traditions of parliamentary procedure too well.
17. The legal experts were willing to concede some powers to the local legislature, for on November 6, Mr. Justice Richardson, speaking for himself and colleagues, J. F. Macleod and C. B. Rouleau, "reported that in their opinion, the right of determining all matters relative to its own Elections is inherent in the assembly". Journals, 1888, p. 17. The question arose as the result of a petition against the return of Hillyard and Mitchell for Batoche.
and that if provision for taking such vote were not made in
the next session of the Dominion parliament, powers similar
to those enjoyed by the provinces should be granted to the
assembly. The house divided, thirteen to seven on the ques-
tion, which, was passed.

Before the session ended, the assembly presented its
supply bill and received assent in the manner usual in pro-
ceedings where responsible government is the rule:

" --- We humbly beg to present for Your Honor's acceptance
a Bill intitled, ' An Ordinance for granting to Her Majesty
' certain sums of money to defray the expenses of the public
' service of the Territories------'thus placing at the dis-
posal of the Crown the means by which the Government can
be made efficient for the service and welfare of the Ter-
ritories.

The Royal Assent to this Bill was announced by the
Clerk of the Legislative Assembly in the following words:
'His Honor the Lieutenant Governor doth thank Her
' Majesty's dutiful and loyal subjects, accepts their ben-
' evolence, and assents to this Bill in Her Majesty's
' name.' " 19.

Again it may be said, " mere form", but nevertheless
it was a form which was to be taken as a precedent in the
later struggle. Before dissolving the assembly, Royal de-
clared that he had no cause to regret the fact that he had
given them as large a share of responsibility as possible.

18. Yeas, Messrs. #Haultain, #Mitchell, #Sutherland,
Flaxton, Hoey, Richardson,
Neff, Brett, Tweed,
Cayley, Lineham, Davidson,
Betts. 13.

Nays, Messrs. #Jelly, Reaman, Thorburn,
Oliver, Secord, Turriff,
Ross. 7.

Those whose names are marked were members of the advis-
ory council on finance.

He may not have regretted the action, but during this session were sown the seeds which must have caused him many anxious hours. The ground was prepared earlier, during the regime of his predecessor in the days of a council, but in his five year tenure of office, Royal was to reap the harvest.

The struggle was continued in the session of 1889, with the lieutenant-governor taking the stand more in accord with the prevailing opinion at Ottawa, and the assembly showing greater persistence than ever. Early in the session H. S. Cayley asked the advisory council if it had signified its wish, as adviser to the lieutenant-governor in matters of finance, to prepare, in conjunction with him, the estimates for the year 1889-90, and to submit the same to the assembly before forwarding to Ottawa. F. W. G. Haultain, replied that the council had not expressed any such wish to the Honourable Joseph Royal, but that the latter had been in the habit of asking the assistance of the council in preparing the estimates. As regards laying the matter before the assembly, such was impossible, since the estimates were a purely departmental affair, and could not be published pending their transmission to the Minister of the Interior.

On October 28, 1889, on motion of H. S. Cayley, seconded by Thomas Tweed, a special committee consisting of Messrs. Oliver, Ross, Haultain, and the mover and seconder, was

During the recess his actions had been criticized by Sir John A. Macdonald.
appointed to draw up a memorial to the Dominion government on matters affecting the Territories, particularly with regard to legislation relating to the same. Before the report of this committee was received, routine was upset by the resignation of the advisory council. Mr. F. W. G. Haultain representing that body, declared, on October 29:

"I have to announce to the House on behalf of the Advisory Council that we have tendered our resignation to His Honor, the Lieutenant Governor, and I am authorized to state that His Honor has been pleased to accept it". 21.

In stating its position to the lieutenant-governor, the advisory council pointed out that it recognized the difficulty in which he was placed by the transitory period through which the Territories were passing. The members referred to the departure from his policy of the previous year, and declared that they could not accept responsibility for such actions. They showed that they were more sensitive to criticism from members of the house than would be customary under a completely responsible system of government. They were ready to acknowledge the generous spirit in which His Honor yielded control in matters which he believed were entirely within his own personal province.

"But in so important a matter as the construction of the Act under which we have our existence as a Council, such a grave difference of opinion can only lead to friction, which must inevitably destroy our usefulness. We therefore tender our resignations, because we cannot continue to work under a system in which our most important powers are only granted to us in the form of concessions, and because we are unwilling to accept responsibility without a corresponding right of control. We believe that our withdrawal from the Council will

tend to bring about a more definite understanding with regard to the various powers and authorities of the Territories, and we can assure your Honor that our successors, if true to the general policy outlined by yourself last year, will always receive from us a loyal and generous support". 22.

On October 31, 1889, as a result of a motion by F. W.G. Haultain, seconded by William Sutherland, it was,

" Resolved------ that Messrs. Oliver, Tweed, Ross, Cayley, Jelly, and the mover and seconder, be a Select Committee to consider and report on;-

1. The position of the Advisory Council and the Assembly with regard to the Dominion grant.

2. The mode in which the said grant is now made.

3. What recommendation (if any) should be made by the Assembly to the Lieutenant-Governor the Minister of the Interior and the Governor-General-in-Council, as to the North-West vote for next Session". 23.

A new council assumed the reins of office on November 5, when Royal communicated to the assembly, that he had chosen R. G. Brett of Red Deer, J. F. Betts, Prince Albert, D.F. Jelly, North Regina, and B. P. Richardson, Wolseley, as his advisors.

The statement made by Brett suggests that this group would work "hand-in-glove" with the lieutenant-governor:

" The Council of His Honor's Advisors, formed under the Law, will exercise the functions of an Executive in matters affecting the Territorial Finances only, as well as in the discharge of the duties assigned by the Ordinances to the Lieutenant Governor in Council". 24.

Brett declared that the lieutenant-governor was prepared to go further, and intended

" to continue in consulting and seeking the advise of the

advice of the Council upon all matters——of public affairs, and to comply, as in the past, with the recommendations of the House in a liberal and constitutional spirit". 25.

The statement made by Brett concerning the powers which the council were to exercise, brought forth a prompt reproof from the assembly. Some of the members tried to smooth over the difficulty by "beating about the bush", but were overridden. The wording of the various motions demonstrates the spirit of the assembly:

" Moved by Mr. Clinksill, seconded by Mr. Thorburn, That the position assumed by the Advisory Council as set out in the statement of their leader, when announcing the same, was assumed contrary to the wishes of this Assembly, and the Advisory Council do not possess the confidence of this Assembly.

And the question being put on the said motion, Mr. Reaman moved, seconded by Mr. Plaxton, that all the words after the word 'same' be struck out and the following substituted therefor: ' appears to be a step not in the direction of responsible government, as formerly held, therefore, this Assembly views with regret the position necessarily taken by the Advisory Council' ". 26.

Following a debate, the amendment passed in the negative.

27. Yeas, Messrs. # Brett, #Jelly, # Hoey, # Richardson, # Betts, Reaman, Plaxton, Second. 8.
Nays, Messrs. Thorburn, Tweed, Haultain, Turriff, Neff, Cayley, Davidson, Clinksill, Sutherland, Lineham, Oliver, Ross, Mitchell. 13.

Journals, 1889, p. 75.
# signifies members of the advisory council.
The figures 13 and 8 do not mean as much as if the members on the council had not voted: four out of the eight who were in favor of the motion, were trying to prevent the passing of a vote of want of confidence in themselves.
With the way thus cleared, the vote was taken on the original motion, and passed thirteen to eight, or, if we omit those who were interested because of their position, thirteen out of seventeen members of the house had lost confidence in the lieutenant-governor's advisors.

In spite of its earlier stand on the subject of powers, the advisory council responded to the above vote in the accepted constitutional manner, by resigning. On November 11, R. G. Brett, for the advisory council, declared, in a letter to Lieutenant-Governor Royal:

"I beg leave to tender Your Honor my resignation and that of my colleagues. While believing the position we have taken on this question is in strict accordance with Law and the Interests of the Territories, at the same time we feel you are entitled to this action on our part". 29.

This statement, together with the reply which it received, was laid before the assembly on November 12, 1889. Royal refused to abide by the wishes of his councillors "in the absence of any act showing they had proved themselves unworthy of the trust reposed in them". He declared:

"Territorial matters alone are intended by the statute to be placed under the control of the Assembly, and it is only in the event of your administering such affairs in opposition to the wishes of a majority of the House that your resignation as Members of the Executive can be entertained". 31

28. Position on amendment just reversed.
The lieutenant-governor soon found the way blocked, for on November 14, the assembly by a vote of twelve to seven, refused to consider any further supply until that voted in the previous year had been properly accounted for. The following day an address was forwarded to Lieutenant-Governor Royal, asking that he accept the resignation of the council, and select members who possessed the confidence of the assembly. In laying the matter before his superior, Brett declared that he and his colleagues of the advisory council were still of the opinion that they could not be held responsible for the expenditure of Dominion funds. However, they did believe that the council should possess the confidence of the house.

32. Yeas, Messrs. Thorburn, Neff, Sutherland,
    Tweed, Cayley, Lineham,
    Davidson, Oliver, Ross,
    Clinksill, Mitchell Haultain. 12.

Nays, Messrs. Brett, Richardson, Betts,
    Jelly, Reaman, Hoey,
    Secord. 7

Journals, 1889, p. 94.

As was to be expected the council voted against the motion. Parties did not exist in the Territories, and federal affiliations did not determine the stand taken by members, for all were Conservatives - Haultain, Liberal Conservative - with the exception of Messrs. Thorburn, Oliver and Jelly, Independents, Ross described as a "Reformer", and Davidson whose politics were not disclosed.

( Based on Parliamentary Companion for 1891).

33. The stand was taken following a motion to the effect "That the Assembly recommend to His Excellency the Governor-General in Council that full responsible Government should be given to the Territories".

Journals, 1889, p. 93.

Apparently some members doubted the value of the constant recommendations which had been made to the federal authorities, and took the more certain means of securing redress-withhold supply. It was the old struggle for the control of the purse being reenacted among new surroundings. The original motion was defeated 7-12: the same groups being allied as in the vote on the amendment above.
and on that grounds, again asked to be allowed to retire. Royal was forced to comply with their demands for business was at a standstill. More than that, the grounds upon which he would accept their resignations, administration of affairs contrary to the wishes of the majority, were present: "Your first executive act having failed to secure the support of the Assembly".

The lieutenant-governor was without a council, and although his attempts were not extended over so long a period as were those of Sir Charles Metcalfe at an earlier date in Canada, yet he had his own troubles. On November 19, Royal held interviews with Messrs. Tweed, Clinksill, Cayley and Neff, with a view to the formation of an advisory council in accord with the majority of the assembly. The following day, however, in a note to Tweed, the lieutenant-governor was forced to acknowledge that his advances were without result. The members upon whom he called, put forth conditions which he was unable to accept.

1st. 'Full accounts of 1888-89 according to vote, as shown by Ordinance No. 8 of 1888,'.

2nd. '--- that 'the Estimates to be communicated to the Assembly contain the full account of the Dominion vote for Territorial purposes for 1889-90'.

3rd. '--- that 'all the moneys both Federal and Territorial are to be voted by the Assembly and expended by the Advisory Council'". 37.

36. It took Metcalfe eleven months to form a ministry, at once in accord with his views and those of the people.
Royal declared relative to the first demand:

"If as stated by you, your contention is that you should have the Federal accounts in order to criticise and investigate them, a right that you appear to claim under the Appropriation Ordinance of 1888, in which several Federal items were allowed to be included, I will say, regarding this contention, that, according to my interpretation of the amended North-West Territories Act, the Territorial Accounts are the only accounts which the Assembly seems to have the right to examine, and investigate and inquire into, and such accounts have been duly laid before the Assembly by order of the Lieutenant-Governor.

While it is correct to assert that certain items already voted by the Dominion Parliament were embodied by the Assembly in its Appropriation Ordinance of 1888, the insertion of these items could not, in my view, imply anything more than an expression of the opinion of the Assembly respecting the apportionment of these moneys, by reason of the fact that the Assembly had not in my view any right to control their expenditure, or to alter, or divert any portion from the purposes, for which they were originally voted".38.

In explaining his stand of the previous year, the lieutenant-governor declared, that he had allowed the federal grant for roads and bridges to be placed with that under the jurisdiction of members of the assembly. The legislators has resorted to an unconstitutional procedure, but one which suited pioneer conditions. All moneys coming under the above head had been equally divided amongst elected members, for improvements in their constituencies. The plan whereby federal moneys was allotted in this manner, permitted a larger sum for expenditure under the advice of the local representatives. As a result of having had the action of 1888 taken as a precedent, the lieutenant-governor now declared that this was a mere concession which he had no intention of repeating.

The official stand with regard to the second and third demands is really contained in that on the first. In Royal's opinion, only Territorial funds were under the jurisdiction of the assembly. The last proposition of the members dealt with both Territorial and Dominion funds. On this subject he declared:

"I have upon every occasion shown that I have admitted the proposition, and I am still of opinion, that under the present law all the Territorial moneys should be voted by the Assembly and expended under the authority and responsibility of the Advisory Council.

As far as Federal moneys are concerned, I must hold that the law requires me to expend them under the direction of the Dominion Government and not under the direction of the Assembly.

I must therefore express my regret that under the law, as I read it in the Statute Book, I cannot accede to this portion of your last proposition". 39.

Lieutenant-Governor Royal had failed in his attempts to secure an advisory council, and the assembly now took the matter in hand. It passed an Ordinance requiring that an advisory council of two members be appointed by the assembly instead of the four previously summoned by the lieutenant-Governor. These representatives were to hold office subject to the pleasure of the legislative assembly, whose servants they were. The Ordinance further demanded that before any act of the lieutenant-governor became legal, it must be concurred in by both members of the advisory council. The two members so honored were Thomas Tweed and J. R. Neff, and the session of 1889 closed without any estimates having been passed.

Not content to leave the matter for settlement within the Territories, a lengthy resolution was passed, to be forwarded to the President of the Privy Council of Canada. It traced the difficulties of the session, and pointed out that as a result no estimates could be laid before the assembly, and the business of the Territories was seriously impeded. The whole resolution shows that it was a struggle between the representative of Canada and those of the people of the Territories. Unlike the conflict in the older provinces, it was not a case of executive council versus assembly, but rather of a lone executive trying to secure followers, who, when found, had the disconcerting habit of joining their fellow representatives when Canadian policy threatened to take precedence over Territorial wishes.

The special committee which had been appointed on October 28, to draw up a memorial to the Dominion government on matters affecting the Territories, presented its report on November 21, 1889. In it, the committee reviewed the demands of the previous year; doubts as to their powers should be removed and full responsible government given the Territories. The members declared, that although a session of the Dominion parliament had been held in the meantime, nothing had been done "either to remedy the existing state of affairs or to carry into effect the recommendation above contained."

40. For the text of the motion and amendment see Journals, 1889, pp. 111-115. Reprinted in Oliver, II, 1110-1113.
In the memorandum was traced the struggle which had been waged in the current session, and the opposing interpretations which had been placed on the federal act pointed out:

"The Lieutenant-Governor holds that the Assembly is not entitled to have a statement of Public Accounts laid before them, showing what disposition has been made of moneys voted last Session by the Assembly, on the ground that the moneys unaccounted for were part of the Dominion vote to the Territories for 1889-89.

The Assembly considers that these moneys, having been voted on Estimates sent down by message of the Lieutenant-Governor, and by an Ordinance of the Assembly assented to by the Lieutenant-Governor, should be duly accounted for to the Assembly". 42.

The above was merely the particular case engaging the attention of the representatives at the moment. However, the principle at stake was clearly stated:

"It is held by the Lieutenant-Governor that the Advisory Council has control and is responsible to the Assembly with respect to the Territorial Revenue only, and that the words 'matters of finance' in Section 13 of the North-West Territories Act of 1888 are restricted in their application to Territorial Revenue exclusively.

A majority of the Assembly, on the contrary, holds that the Section means all matters of finance, including in consequence the Dominion grant". 43.

As a result of the determination of either side to maintain its stand and gain its point, the Territorial estimates had not been voted, and the powers previously granted to the advisory council under the Ordinance withdrawn. Having experienced the effects of trying to put an impossible system into practice, the assembly declared the present mode of government in the Territories was defective:

"--- and desires to repeat its recommendations of last

year, and the recommendations of the North-West Council of previous years, in favor of full control of the finances of the Territories'. 44.

It has been noted all the way through the struggle for greater powers, that the people of the North-West Territories did not merely criticize the existing form of government; they put forth an alternative which their experience and intimate knowledge of conditions, suggested would better the needs of the area and stage of development. The year 1889 was no exception in this respect, and the memorial continues:

"The Assembly does not ask for the abolition of the Advisory Council, although if the number of Councillors were reduced to three, it thinks that would be sufficient, but it asks that the Advisory Council should be paid, that the Lieutenant-Governor should not be a member of it, and that it should be definitely declared that the Dominion grant is to be expended only on a vote of the Assembly". 45.

The statement discussed the matter of finance, and as on a previous occasion, asked for a fixed payment in the nature of a provincial subsidy:

Dominion legislation received comments from the members of the assembly who had sent numerous memorials to the federal authorities, only to see their suggestions passed over when reforms were introduced. A Bill to amend and consolidate the existing laws dealing with the North-West Territories, had been introduced into the Dominion House of Commons the previous session, but withdrawn after the second ---------


46. For whole statement on finance, see Journals, 1889, pp. 128-129. Reprinted in Oliver, II, 1116-1118.
reading. However, the assembly devoted considerable attention to the question, for only one clause showed that it had been modified in the light of the memorials of past years.

The assembly of 1889 did not confine itself to the constitutional struggle, although it is that aspect of their work which most directly concerns the subject of this thesis. It was there with a definite purpose, that of legislating for the needs of the residents of the North-West Territories. One of the first questions which concerned the members was a "Bill entitled An Ordinance to amend No. 6 of 1888 intitled An Ordinance respecting the Registration of Births, Marriages and Deaths." "When it was moved on October 24, 1889, that the Bill be read a second time, a point of order was raised that the Bill dealt with the appropriation of a part of the Public Revenue and had not been first recommended by message of the Lieutenant-Governor". For this reason the speaker ruled the motion out of order. This was one of many examples which showed that the lieutenant-governor by virtue of his office, was the dominating factor in the affairs of the assembly. His consent had to be received before even local enactment might receive the stamp which might put it into operation.

The members discussed the use of two languages in the debates and public records of the Territories. By Section 110 of the North-West Territories Act, either the English or

the French languages might be used in the debates of the
Legislative assembly and in the court proceedings, and
journals and ordinances were to be printed in both languages.
The assembly was of the opinion that the needs of the Territ­
ories did not demand the official recognition of a dual lan­
guage, and that the people themselves were opposed to it and
the expenditure which it necessitated. They also believed
that sound public policy demanded the discontinuance of two
official languages in the North-West Territories. A draft
petition to the Dominion parliament asking that the section
in question be repealed, was agreed to without amendment.

The question of irrigation received considerable at­
tention and again, the matter had to be embodied in a Memor­
ial to the federal government. Endless memorials remind one
of the traditional church steeple before the French Revolut­
ion, for action in each case was about equally effective.
Another matter very dear to the interests of those in the
Territories, concerned immigration. It was decided at this
time, to appoint Mr. C. E. Cullen "Emigration Agent in Great
Britain in the interests of these Territories". His appoint­
ment was rather disastrous, for Cullen's career was infamous
rather than favorable to the Territories, but although unfor­
tunate, it should be considered. It must be remembered,

50. The matter received considerable attention in future
assembly meetings, Cullen having apparently greater
ingenuity in the matter of attracting money to his own
pockets than settlers to the Territories.
that although the action in the matter originated in the West, it was Ottawa that ultimately paid the bill. The recommendations of the Standing Committee on Immigration, in addition to Cullen's appointment, suggested:

"That a memorial to the Dominion Government be prepared, setting forth fully the benefits to be derived from a comprehensive scheme of emigration, such as the Assembly may be ready to consider and carry out, asking that the sum of twenty-five thousand dollars ($25,000) be placed in the estimates, to be used under the direction of the North-West Legislative Assembly, for the purpose of emigration". 51.

It has been noted that demands for grants in aid of education were among the first to be received by the Council of the North-West Territories. During the conciliar period interest in education continued to grow, and by the time the assembly appeared, the desire for higher learning was making itself felt. As usual, the subject had to be placed in a memorial, to be duly acknowledged and then pigeon-holed. The question concerned the request "that a grant of land be made for "University purposes in the North-West Territories". On Wednesday, November 20, 1889, the following note appears:

"This Assembly would respectfully suggest the advisability of selecting and setting apart lands for University purposes in the Provincial Districts of Assiniboia, Alberta and Saskatchewan, so that the same may be available to be granted, when the Country is divided, and erected into separate Provinces; otherwise, when that time arrives, no lands may be available for that purpose, or, if available, may be of comparatively little value". 53.

This thesis is not concerned with the subject of education itself. It speaks well for the character of the people, that in a year when drought had prevailed and harvests had been

52. Journals, 1889, p. 72.
small, that they should be thinking of higher education for their children, but for the purpose in hand, the light which it throws upon Dominion—Territorial relations is interesting. On a question which the British North America Act declared rested with the people within a province themselves— and one would imagine within a Territory— the Territories were forced to have recourse to the Dominion authorities. The difficulty arose because the desired land was part of the public domain of Canada. The phrase "eternal land question" immediately suggests Prince Edward Island. The Territories however, were forever being confronted by the difficulty that the land, for which they desired to legislate, belonged to a power in Ottawa. Absentee landlords, on the one hand basing their claims upon what fate had given them on a certain memorable day when the Island found itself "in a hat in sixty seven pieces", on the other, upon a theory of purchase denied by western residents, were in both cases out of touch with the interests of those who actually settled the territory.

Viewing the breath of subjects with which the assembly dealt, running as they do, the whole gamut from homestead rights to university grants, one cannot help but remark that the session was indeed memorable. More than that, the struggle

54. This is one example of the evidence which manifested the distinction between provincial and territorial status. Elementary and secondary education was under the control of the local authorities, but no grants existed for anything higher. cf. American policy re land grants for Territorial universities.

55. Supra, chapter I.
for the full powers enjoyed by assemblies in other parts of the Empire was continued, although many more advisory councils were to resign before a satisfactory arrangement could be reached. Royal acknowledged the spirit in which business had been carried on, in his address before proroguing the house:

"I have to congratulate you upon the practical character of your legislation during the present Session. The various incidents, which followed the resignation of my first Advisory Council, the attitude assumed by a majority of the Members, and the earnest desire of all that the business of the Country should not suffer in consequence, are circumstances, which will tend to mark this Session as an historical one". 56.

When the assembly met in its third session on October 29, 1890, there were many questions which were prominent in the minds of the members. The memorials of the previous year had received scant attention; certain Territorial Ordinances had been disallowed by Ottawa, and the differences of opinion which existed between the majority in the assembly and the advisory council had not been cleared up. During the recess, the lieutenant-governor had chosen an advisory council"from amongst those willing to comply with the law, irrespective of the fact whether they possessed the confidence of the House or not". 57

In respect to the response which memorials had received, an almost hopeless note is struck:

"The circumstances of the country and of the Assembly 

56. Journals, 1889, p. 139.
57. Lieutenant-Governor Royal to the Legislative Assembly, November 14, 1890. Journals, 1890, p. 50.
oblige us from year to year to make representations to the Federal government on various matters. Our experience of the way in which these representations have been met make us little desirous of repeating them. 58.

The comment regarding the disallowance of Territorial Ordinances, referred to the action of the Governor-General in Council with respect to "the Ordinance to amend the Interpretation Ordinance, the Ordinance for the Protection of Game and the Ordinance respecting the Legal Profession". The members pointed out the impression which this action made upon their minds as to the powers held by the assembly:

"By the disallowance of the first, it would seem that our right to interpret expressions used in the Ordinances of this Assembly is questioned. By the disallowance of the second it would seem that existing Dominion Statutes and Treaties are not sufficient to protect the Indians without the co-operation of the Assembly, and doubt is even expressed as to whether the Assembly has any right at all to protect the game of the Territories from wanton destruction. 60.

In the correspondence which was laid before the assembly at a later date, the cause, or rather the ostensible reason for disallowance, was the fact that the Honourable John S. D. Thompson, Minister of Justice:

"---desires -- to observe that it may be doubtful whether the North-West Assembly has authority to legislate in respect to hunting and fishing upon the Public Domain of Canada."

By the control of the public lands, the Dominion government had a "stranglehold" upon the Territories. Professor D. C. Harvey has declared in respect to Prince Edward Island, "Both the power of the purse and the question of land tenure were

61. Journals, 1890, p. 17. Italics not in original.
62. Term used in conversation, by a member of the assembly.
"vital elements in the Island's history; and, until their influence relative to the political and personal elements in the struggle has been weighed and indicated, the unique character of responsible government in Prince Edward Island cannot be revealed." His description is also applicable to conditions in the North-West Territories. The control of federal grants was the subject which excited greatest interest, but behind it loomed the land question. All revenue from the sale of lands, which had accrued to local governments in the older colonies, found its way into the Dominion coffers. Revenue from Territorial Ordinances was turned over to municipalities, and all that remained was a small amount allowed each constituency for the construction of roads and bridges. This limited sum constituted the sole supply which the members of the assembly could appropriate. The disallowance of the Ordinance with respect to the legal profession, in the words of the reply to the speech from the throne:

"...would seem to show that the power accorded to the Assembly by Order-in-Council to legislate with regard to the constitution, organization and maintenance of Territorial Courts of Civil Jurisdiction is subject to many restrictions which are not apparent in the Order-in-Council conferring the same." 65.

The assembly at this time was voicing a complaint which existed until the conferring of provincial status. Not only did


64. Essential differences in the systems in vogue are recognized, but in both provinces it was the land question which coloured all others.

its interpretation of federal Acts differ from the Canadian and ministers', but concurrent legislation, restrictions of customs rather than law, narrowed the field over which the Territorial assembly had control.

The above comments with regard to the unsatisfactory nature of the relations between the Territories and the Dominion of Canada, paved the way for a discussion of the troubles centered within the Territories:

"The Assembly regrets that Your Honor has not seen fit to allude to the circumstances which have lead to Your Honor's selection and retention in office of an Advisory Council not in accord with, nor possessing the confidence of, the majority of this Assembly. It appears to us to be necessary to the good government of the country, that the measure of control, possessed by the Legislature over the Acts of the Executive should be clearly defined. Having been left without the guidance of Your Honor in this matter, the Assembly can do no less than assume its rights to be such as the North-West Territories Acts and constitutional usage having the force of law appear to give. They are therefore compelled to believe in the right of the majority not only to pass legislation, but to advise and control in the matter of its being given effect— that the North-West Territories Acts, interpreted in the light of constitutional usage, provide for control of the executive by an Advisory Council having the confidence of a majority of the House; that the assumption of such control by any Members of this House not possessing its confidence is a violation of the spirit and intent of the North-West Territories Acts, and an infringement upon the rights of the House against which it feels compelled to enter its most solemn protest, and to take such measures to protect itself as best it may." 66.

The members declared that in their opinion, the action taken by those of their number who were members of the advisory council, rendered them unworthy of taking any part in the business of the assembly. To show their attitude,

and "as the only means—of vindicating— the common rights of majorities in representative Assemblies" they planned to exclude all legislation and motions offered by members of the advisory council, and excluded them from positions on standing committees while they "maintained their present attitude of de­finance". The members went on to state their ideas of the chaos which would result if councillors who did not possess the confidence of the house, were allowed to introduce legislation. There would be endless debates which it was feared might be used to prevent the introduction of necessary legislation. In respect to the latter, the members promised that the needs of the Territories would receive their careful consideration. They went on to show that there were very few subjects upon which they were allowed to legislate under Dominion Orders-in-Council, which did not involve the question of finance. The motion closed with the words:

"The House very deeply regrets the extraordinary circumstances which compel it to take this stand in defence of its rights and dignity, and the rights and dignity of those whom it represents, but feels compelled to inform Your Honor thus clearly as to what its position is and as to the course which it intends to pursue, believing that as Your Honor's Advisers do not represent the majority of this House, they cannot properly represent to Your Honor the position which the House has taken, its reasons for taking that position, and its intention to maintain it". 70.

The debate on the above memorial continued until 3.30 A.M.

70. Journals, 1890, p. 41. Reprinted in Oliver, II, 1130.
Tuesday, November 11, 1890. When the vote was finally taken, a division of fifteen to six was recorded:

"Yea, Messrs. Plaxton, Thorburn, Neff, Sutherland, Tweed, Cayley, Lineham, Davidson, Haultain, Oliver, Jelly, Turriff, Clinkskill, Ross, Mitchell.-15.

Nays, Messrs. #Richardson, Hoey, #Brett, #Betts, Reaman, #Secord. - 6.

The above resolution brought forward a counter statement from Lieutenant-Governor Royal. He outlined the conflicting interpretations placed upon the term "matters of finance" by members of the assembly and by himself:

"While certain Honorable Members of the House contended, on the one hand, that the words 'matters of finance' contained in the Act included not only the Territorial Revenues, but also the appropriation made by the Parliament of Canada for the expenses of Government in the Territories, His Honor, on the other hand, contended that those words refer only to the Territorial Revenues, or, in other words, that the Act gave the Advisory Council and the Lieutenant Governor absolute control over the Territorial Revenues, but the moneys voted by the Parliament of Canada, being at the disposal of His Excellency the Governor, could not be at the disposal of, or under the control of, the Advisory Council".

The lieutenant-governor declared that his interpretation had been upheld by the Minister of Justice in his report of January 1890. Royal maintained that he was bound to adopt such interpretation, since the report had been given by "the legal adviser of His Excellency the Governor in Council, under whose instructions His Honor administers the Government of the Territories". This statement makes clear the inferior

71. Journals, 1890, p. 42.
Four (#) of the six who opposed the motion were members of the advisory council.
72. Journals, 1890, p. 49.
73. Journals, 1890, p. 50.
This statement throws interesting light upon the part
status of the North-West Territories, and when the decision of the Honorable John S. D. Thompson is noted, the quibbling which took place to maintain Canadian supremacy in the matters of Territorial government, will be apparent. The portion to which Royal referred is as follows:

"The appropriation made by the Parliament of Canada, being placed at the disposal of Your Excellency, may be administered in various ways without being placed under the control of the Lieutenant-Governor, but the local Revenues of the Territories are necessarily under his control, by virtue of the Statutary provision, which creates his office, and invests him with the administration of the Government.

Being clearly of opinion, therefore, that the duty is imposed on the Lieutenant-Governor of appointing an Advisory Council on matters of finance, and that these matters of finance, on which he has to be so advised, include the administration of the Territorial Revenues, the undersigned, etc. etc." 74.

There is nothing in this statement to show that under no consideration are the funds to be placed in the hands of the advisory council. Thompson declared there were various ways of administering them without the advice of the members. Further, he stated that the "matters of finance" upon which the lieutenant-governor has to be advised "include Territorial Revenues". That term "include" suggests that there are others.

The lieutenant-governor went on to explain his position with regard to the appointment of an advisory council.

76. (con't.) played by the Minister of Justice in the administration of the Territories.
74. Minister of Justice to His Excellency the Governor-General in Council, January 3, 1890. Quoted by Royal to the Assembly, November 14, 1890. Journals, 1890, p. 49.
75. Minister of Justice to His Excellency the Governor-General in Council, January 3, 1890. Quoted by Royal to the Assembly, November 14, 1890. Journals, 1890, p. 49.
He referred to the negotiations with Thomas Tweed of Medicine Hat, who refused to accept office or form a council unless it "were invested with the control of expenditure of both the Federal and Territorial funds and that no Advisory Council would possess the confidence of the House, unless such control were conceded". Royal declared he believed such to be the opinion of a majority of the assembly, and that "under the existing law it would be impossible for him to select a Council possessing the confidence of the House".

The difficulty arose as a result of the opposing interpretations placed upon the North-West Territories Act. Royal read it in the same spirit as did the framers in Ottawa; the Territories possess an inferior status, and must be made to realize their position. The members of the assembly were aspiring to greater powers and read the act, hoping to find in it justification for their stand. Because of the interpretation which Royal placed upon the Act, he selected a group who were willing to serve whether or not they commanded the confidence of the House, since it was required by law that there should be an advisory council. The lieutenant-governor declared he had:

"always been desirous that the Advisory Council should possess the confidence of the Assembly, but he has not been made aware that the views of the majority of the House--- respecting the claim to control the expenditure of Federal funds have undergone a change". 78.

76. Journals, 1890, p. 50.
77. Journals, 1890, p. 50.
78. Journals, 1890, p. 50.
The last statement suggests that until such time as the assembly was prepared to come around to his views, Royal and his advisers would continue in their independent attitude.

Lieutenant-Governor Royal's message was referred to a special committee, consisting of Messrs. Clinkskill, Neff, Cayley and the mover and seconder, Haultain and Tweed. Their report was brought down on November 27, 1890, and passed by a vote of thirteen to six. The report frankly stated the members' opinions regarding the stand taken by Royal, and pointed out weak points in his argument. In respect to the quotation from the decision of the Minister of Justice, Thompson, they declared:

"The Assembly feels bound to point out to Your Honor that the words of the Honorable Minister of Justice quoted are contained in an expression of opinion as to the alleged contradiction between a certain Ordinance passed by the Assembly at its last Session and a certain clause of the North-West Act, and did not relate to, or purport to be an expression of opinion regarding the position which Your Honor takes (80)---that control of the Territorial Revenues

79. Yeas, Messrs. Plaxton, Thorburn, Neff, Sutherland, Tweed, Lineham, Davidson, Haultain, Oliver, Jelly, Ross, Mitchell, Clinkskill. 13.
Nays, Messrs. #Brett, Reaman, #Richardson, #Betts, Hoey, #Secord. 6.

Journals, 1890, p. 122.
It will be noted that those dissenting consisted, as in the case of the reply to the lieutenant-governor's speech on the opening of parliament, of members of the advisory council, (#) plus Reaman and Hoey. Journals, 1890, p. 42. Reaman also voted with the advisory council on the question of a memorial to the Dominion regarding the education clause in the North-West Territories Act. Journals, 1890, p. 56.

80. Journals, 1890, p. 112.
The correspondence passing between the Governor-General-in-Council and the Minister of Justice on the subject was presented as Sessional Paper No. 2. of the Session.
rests with Your Honor and such Advisers as Your Honor may choose and not with this Assembly, - and that therefore the ruling of the Minister of Justice, quoted by Your Honor does not apply to this case". 81.

Apparently certain members of the assembly were sarcastic as well as shrewd, for they declared:

" The Assembly feels bound to inform Your Honor of its belief that the North-West Act, calling it into existence and defining its constitution and powers, is for the information and guidance of its several members and for that of the House as a whole, as well as for that of Your Honor, or the Minister of Justice, and that the Members of this Assembly are severally responsible to the people of the Territories for their own interpretation of the Act and for the course they take based upon that interpretation; which responsibility they are not relieved from by a mere expression of opinion on the part of anyone, or by anything short of a declaration from a superior authority. The Assembly regrets that Your Honor has not seen fit to point out the Section of the Act, which invests Your Honor and your Advisers with what appears to us to be the very extraordinary measure of financial control which Your Honor assumes to possess". 82.

After quoting sections of the North-West Territories Act, 83 and extracts from Orders in Council, they declared that in

80. (con't.) of 1890, in the North-West Territories. It concerned the disallowance of Ordinance No. 24 of 1889, relative to the administration of financial affairs in the Territories.
81. Journals, 1890, p.112.
82. Journals, 1890, pp. 112.
However, as noted above, the Act did not mean the same thing for all who read it. It was a case of attempting to read into it, the justification for local ambitions.
83. " The Lieutenant-Governor shall administer the Government under instructions from time to time given him by the Governor in Council or by the Secretary of State for Canada"--North-West Territories Act, s. 4.(2). Quoted by Journals, 1890, p. 113.
" There shall be a Legislative Assembly for the North-West Territories which shall have the powers and shall perform the duties heretofore vested in and performed by the Council of the North-West Territories"--North-West Territories Amendment Act of 1888, s. 2. Quoted by Journals, 1890, p. 113.
their opinion absolute control over the Territorial revenues was vested in the assembly, and not in the lieutenant-governor or his advisers, "inasmuch as the Act expressly states that "Your Honor shall govern, ' by and with the advice and consent "of the Legislative Assembly', and not by and with the consent 84. " of Your Advisory Council". They go on to show that the Amendment of 1888, did not repeal or alter any of the above considerations but added to them the following sections:

" 13. The Lieutenant-Governor shall select from among the elected members of the Legislative Assembly four persons to act as an advisory council on matters of finance, who shall severally hold office during pleasure and the Lieutenant-Governor shall preside at all sittings of such Advisory Council and have a right to vote as a member thereof, and shall also have a casting vote in case of a tie.

14. The Legislative Assembly shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to the Assembly by message of the Lieutenant-Governor in which such vote, resolution, address or bill is proposed".85.

In the opinion of the assembly, these clauses merely made a

83. (con't.)

" The Lieutenant-Governor in Council shall have such powers to make Ordinances for the Government of the North-West Territories as the Governor in Council confers upon them"—North-West Territories Act, , s. 13. Quoted by Journals, 1890, p. 113.

" An Order in Council of 1883 empowers the Lieutenant-Governor to raise revenues by certain licenses and another Order in Council of 1886, empowers the Lieutenant-Governor in Council to raise revenue by direct taxation? Quoted by Journals, 1890, p. 113. ( Funds raised in this manner were under the direction of the assembly.)

" The expression ' Lieutenant-Governor in Council', means the Lieutenant-Governor of the North-West Territories in Council or the Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the North-West Territories as the case may be". North-West Territories Act, , s. 2(c). Quoted by Journals, 1890, pp. 113-114.

84. Journals, 1890, p. 114.

"distinction in the financial authority respectively possessed by the executive and the legislative branches of the Government, known collectively as the Lieutenant-Governor in Council—by providing that while the power to initiate financial legislation rests with Your Honor the sole power to pass such legislation rests with the Assembly".86.

However, the sections quoted did not grant responsible government to the Territories. As on previous occasions, aspiring legislators were attempting to read into the Act something it did not contain. Local ambition and federal determination were opposed to each other, and in the struggle Royal had the law on his side.

The desires of the members were made manifest in a statement which shows that the majority wanted a really responsible government:

"They (51 Vict., chap. 19, s. 13-14.) further provide, as we understand them, that your initiative shall be on the advice of four Members of the Assembly, who, inasmuch as they are integral parts of the Assembly—by and with whose advice and consent Your Honor governs—must be held to represent, and therefore be responsible to it, as they cannot be to Your Honor, whom it is provided shall act on their advice. It therefore appears to this House that Your Honor's contention 'that the Act gave the Advisory Council and the Lieutenant-Governor absolute control of the Territorial revenues' is not born out, and indeed that the wording of the Act most distinctly contradicts Your Honor's contention".87.

They believed that if it had not been the intention of the framers of the Act, that the advisory council be responsible to the assembly, statement to that effect would have been made.

87. Journals, 1890, p. 115.
to prevent confusion. The stand taken by Royal regarding the appointment of a council from the minority, did not appear to the committee to be borne out by the terms of the North-West Territories Act. They declared:

"As we understand the Sections of the Act already quoted, Your Honor may govern under instructions from Ottawa (in cases when for any reason you cannot act with the House) or by and with the advice and consent of the Legislative Assembly; but we can find nothing to show that Your Honor is empowered to govern with Advisers responsible only to yourself and independent of both the Ottawa Government and this House, which is the position Your Honor appears to take." 88.

Having differed with Lieutenant-Governor Royal respecting his interpretation of the Act, the committee put forward the basis upon which the house asserted its right to control the moneys voted by the Parliament of Canada for Territorial government:

"1. They are in general terms appropriated for the purposes of the local Government, which Government we understand the North-West Act to declare must be carried on by and with the advice and consent of this Assembly.
   (b) In particular, they are apportioned to purposes which are controlled by, or dependent upon, the action of this House-----.

2. ---- if our legislation is to be of full benefit to the people of the Territories, we must be made aware from year to year of the amount of funds which can be depended upon to give effect to that legislation, and we can only properly become aware by the exercise of concurrent, if not absolute, control.

The Assembly further claims the right of the control of these funds on the ground that they must be considered as of the same nature as the subsidies received from the Federal Treasury by the several Provinces- that is, as a return, for the support of the local Government, on taxes paid by the people to the Federal Treasury-----.

-----To sum up: The Assembly bases its claim to control: 1st, On the intent expressed in plain terms by the title of the vote in Parliament; 2nd, On the necessities of the case, as it affects the people of these Territories through the legislation of this Assembly; and

3rd, on the absolute right of the people of the North-West Territories—according to the scheme of Confederation—to the full control of their own funds. 

The address drafted by the members of the special committee referred to the manner in which Royal had welcomed the first session of the assembly, and the form in which he gave his assent to Ordinance No. 8 of 1888, the supply bill. As was noted above, these were taken by the assembly as precedents in the fight for greater powers:

"It may be mentioned that the sums provided in the above mentioned Ordinance including funds derived from Territorial, Administrative and Federal sources, but only included that portion of such funds not expended under authority of Your Honor while acting as Administrator of the North-West Government before the Assembly had been called to your assistance. Thereby making clear that while the Assembly assumed full responsibility, with Your Honor's formal and full consent for all funds on hand at the time, it assumed and was accorded no responsibility regarding funds which were not to be administered by and with its advice and consent." 90.

The committee commented upon the apparent change in attitude of Lieutenant-Governor Royal, for which he had given no reason. They regretted that His Honor had withheld his statement for such a considerable period, and that in it they could find no "definite statement of Your Honor's authority for interposing Your Honor's power as Administrator of the North-West Government between the people of the Territories and what appears to us to be a proper control by them of the moneys appropriated by the Parliament of Canada for the purposes of their local government!" Reference was made to the

91. Royal was responsible to federal authorities in Ottawa from whom he received his appointment. It has been noted
report of Minister of Justice Thompson, and the committee declared that until a statement of authority was laid before the House:

"We are compelled to interpret the law—for ourselves and to assert by every legitimate means—our right to that measure of control of the public funds of these Territories which was exercised by us at the first Session of this Assembly, and of which we are now deprived by the action of Your Honor in ignoring the majority of this House without, so far as we are yet aware, any change in the Law on the subject having been made," 93.

Unfortunately, or possibly fortunately, this address was not presented to the lieutenant-governor, as no particular body was charged with the duty of seeing it reached the desired destination. It remains in the Journals, only to be brought to light by curious history students, who find in it the aspirations and wounded feelings of early legislators in the North-West Territories.

As in previous meetings of the assembly of the North-West Territories, much time was devoted to reiterating the demands of previous years. Education, local government, magisterial functions of police officers, all had failed to secure the desired attention from the federal government, and again the legislative assembly humbly prayed that action be taken thereon. The question of immigration occupied the attention of legislators, and when the matter of expenditure for advertising was raised, the committee on the subject recommended "that, before any large and expensive projects of this nature

91. (con't.) that his attitude in 1888 had received adverse criticism.
92. Journals, 1890, p. 120. Reprinted in Oliver, II, 1134.
93. Journals, 1890, p. 120. Reprinted in Oliver, II, 1134.
"are decided on, the Assembly should have the matter in its entirety submitted to it for approval." The assembly which desired to control the lieutenant-governor's advisers, also desired to control members of its own committees,

In closing the sessions of the first legislative assembly of the North-West Territories, Royal again congratulated the members upon the practical character of their legislation. It must never be forgotten, that the assembly represented the needs of a pioneer community, and that while it was attempting to secure the powers of older legislatures, the requirements of the settlers were not neglected. The lieutenant-governor referred to the constitutional difficulties which had arisen, and from his statements, it would appear that he was in accord with the aspirations of the assembly, but was restrained by federal policy:

"I cannot but regret the unfortunate difference of opinion, which has arisen respecting the interpretation to be placed upon the portion of our constitution, which relates to the powers of the Advisory Council, and I desire to again convey to you the assurance that while I cannot, for reasons already communicated to you, accede to your claim to control the expenditure of the moneys voted by the Parliament of Canada for the Government of the North-West Territories, I have always been thoroughly in accord with you in your contention that you are entitled to control, through an Advisory Council possessing your confidence, the expenditure of the Territorial Revenues! 97.

He paid tribute to those who had acted as an advisory council

95. Journals, 1890, p. 62.
96. By the terms of the North-West Territories Act of 1888, members of the assembly were elected for three years.
when he was faced with the problem of being unable to secure the services of a group, at once, in accord with his interpretation of the North-West-Territories Act, and possessing the confidence of the assembly.

An interesting side-light upon the attitude of the lieutenant-governor is given in an interview in Ottawa, December 1890:

"It is true that the Assembly did not vote estimates, but you know that amounts to a vote of confidence in me.'
'How so?'.
'Oh, because a clause in our constitution says that all unappropriated funds shall be expended by the Lieutenant-Governor'.
'So you will have control of all unvoted funds?'.
'Exactly!' 98.

Control of the civil list did not trouble this care-free representative of authority whose salary came from Ottawa, earmarked for the purpose. However, Royal must not be judged apart from his office. He was the representative of a ruling power, whose dictates must be observed whether or not they were in accord with his own ideas or those of his advisers.

Between the closing of the first legislative assembly of the North-West Territories, and the assembling of the second, an unprecedented step in the movement for greater powers was taken. Members of the advisory council, Messrs. Brett and Betts, who had been acting in opposition to the majority in the Territories, went to Ottawa to induce the Dominion government to give the Territories a complete system

of responsible government. The action developed a new difficulty which the members of the assembly must solve. In Regina the advisory council had encountered difficulties with a majority who claimed that responsible government was the aspiration of the people of the Territories. In Ottawa this delegation met with opposition from Territorial members of the senate and house of commons, who maintained that responsible government was not the aspiration of the people of the Territories. They insisted that the demand arose from the ambitions of the members of the assembly itself. Who represented the sentiment of the Territories? Feeling was not identical throughout the vast area. "It is probably true that that the people were not as enthusiastic for responsible government as the majority in the Assembly declared, nor as indifferent to it, or even as opposed to it, as the Territorial members at Ottawa suggested. It seems to be the case that the Advisory Council itself as represented in the delegation, although it could not command the support of the majority in the assembly, occupied a position with reference to responsible government that was not unlike that of the people of the Territories themselves,—they were not averse to it if it could be achieved within the law and if the advantages that would accrue would outweigh the additional expenses that would be entailed by having it".

99. It has already been noted that when representatives of the Territories entered the larger arena of federal politics, they lost touch with local members.

100. Oliver, loc. cit., p. 110.
On July 6, 1891, Honourable Edgar Dewdney introduced a Bill into the Dominion House to amend the North-West Territories Act. By it the legal experts who had hitherto sat with the assembly, were removed and the latter was given power to make Ordinances not only in relation to the expenditure of Territorial funds, but also in respect to those portions of the Dominion appropriation for the Territories which the lieutenant-governor was authorized to spend in concurrence with the legislative assembly or any of its committees. This left a portion of the federal grant still under the control of the lieutenant-governor.

The first assembly to meet under the act gathered at Regina, December 10, 1891, with over half its number being experienced legislators. In his opening address, Lieutenant-

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101. Members elected to serve in the Legislative Assembly of the North-West Territories, 1891.

Moosomin: John Ryerson Neff.
Wallace: Joel Reaman.
Whitewood: Daniel Campbell.
Souris: George Henry Knowling.
Wolseley: James Peers Dill.
South Qu'Appelle: George Suize Davidson.
North Qu'Appelle: William Sutherland.
North Regina: David Finlay Jelly.
South Regina: Daniel Mowat.
Moose Jaw: James Hamilton Ross.
Cannington: Samuel Spencer Page.
Medicine Hat: Thomas Tweed.
Lethbridge: Charles Alexander Magrath.
Macleod: Frederick William Gordon Haultain.
Calgary: John Lineham.
Banff: Hugh St. Quintin Cayley.
Edmonton: Francis Edward Wilkins.
St. Albert: Frank Oliver.
Battleford: Antonio Prince.
Mitchell: James Clinkskill.
Macleod: Hillyard Mitchell.
Governor Royal referred to the increased powers which enabled the legislature to pass Ordinances in relation to the expenditure of Territorial funds and the moneys appropriated by parliament which the lieutenant-governor was "authorized to expend by and with the advice of the Legislative Assembly or of any Committee thereof". On December 15, 1891, R. B. Gordon, Clerk.

Daniel Campbell: Unable to procure particulars regarding this member. In 1894 he was dismissed from the house following a charge of misappropriation of funds and failure to answer to same.

George Henry Knowling: Born in Ontario, where he was educated. A lumber merchant. A Conservative.


Daniel Mowat: Born in Ottawa where he received his education. A merchant. A Conservative.

Samuel Spencer Page: Born and educated in England. Came to Canada in 1882, settling at Cannington where he became a farmer and school teacher. A Liberal.


Francis Edward Wilkins)
Antonio Prince   } Unable to secure particulars.
Charles Nolin  


Thomas McKay: Son of Hudson's Bay Company Factor, he was born at Fort Pelly in the North-West Territories. A farmer. First Mayor of Prince Albert. Member of the Rebellion Losses Commission 1885-1886. Member of the Cayley Government 1892 when the Haultain Administration was defeated in the house. A Conservative.

Royal announced "that in view of the opinion expressed by

103

" the Deputy Minister of Justice—" he did not intend to
appoint an advisory council, unless the assembly considered
such appointment necessary to enable it to exercise the powers
conferred upon it. In replying to the speech from the throne,
the assembly showed itself willing to make the best of the
transitory nature of conditions in the Territories:

" The proper carrying out of these duties effectively, but
at the same time as economically as our responsibilities
will allow, is a task which demands judgement and discretion.
In providing the new machinery which it will be necessary
for the Assembly to devise in order to discharge these dut-
ies faithfully it will, no doubt, be necessary for a time,
while following them as far as possible, to deviate in some
slight respect from the models furnished in the Constitutions
of the various Provinces of the Dominion on account of the
differences which still exist in the measure of responsible
government possessed by them and by ourselves respectively.
Our local Constitution is still, as Your Honor is aware, to
a certain extent tentative, and, until this is remedied,
consequent action on our part must be "a similarly tentative
character." 104.

During this session a motion was brought forward to
substitute vote by ballot for the system of open voting which
105
had been in use. This was a step in advance, for it would
give the people greater liberty with respect to the exercise
106
of the franchise. In the same session, the control of the

103. Minister of Justice to the Deputy Minister of the In-
terior. Referred to, Journals, 1891-1892, p. 21.
105. "The grosser abuses of the system of non-simultaneous
"elections were remedied in 1874, but not till 1878,
" was the ballot used and simultaneous voting established
"in all but a few constituencies of the five eastern
"provinces. In 1882 Manitoba voted simultaneously with
"the east". Escott M. Reid, The Rise of National Parties
in Canada, Canadian Political Science Association, Pro-
ceedings, 1932.
106. The Bill however, was not passed owing to prorogation by
Royal. The first use of the secret ballot was at an
liquor traffic was placed in the hands of the assembly.

Control of the federal grant had been the bone of contention for several years. Funds furnished by Ottawa were allotted for various purposes, and could not be transferred to any other department. This was detrimental to the interests of the Territories, for, as has been seen throughout the whole period of Territorial history, authorities in Eastern Canada were too far removed to understand the needs of the people for whom they were legislating. On January 23, 1892, it was resolved:

"That the necessities of local government in the North-West Territories demand that instead of an annual vote by the Parliament of Canada of an indefinite sum for expenses of government, a fixed amount in the nature of a subsidy should be granted to the Territories". 107.

Among the considerations which the assembly felt should affect the amount of the grant, were that it should be upon a per capita basis, of eighty cents per head as allowed the provinces, and fixed for a term of not more than four years. The latter consideration was inserted because of the rapidly increasing population of the Territories. Members asked for interest at the rate of five percent per annum (5%) on the debt account, a specific grant for carrying on the government of the Territories at least as liberal as that to Manitoba, and a grant in lieu of lands. In this resolution were summed up the financial

106. (con't.) election in Whitewood in 1894.
108. In 1882 Manitoba received a grant in lieu of lands, and two years later swamp lands were transferred to the province.

(See next page)
needs of the Territories, demands which were to take precedence over all other questions once the first desires for responsible government were satisfied.

As a result of the memorials adopted by the Territorial assembly in regard to the federal grant, Haultain was invited to Ottawa in March 1892, to confer with the Dominion government. A sub committee of the Privy Council was appointed to consider the subject. As a result of its deliberations, it recommended a grant by way of subsidy, to the Territories of $250,000.00, in addition to provision by separate rates, for those special services administered by the Departments of Justice and the Interior, as well as for the office of the lieutenant-governor, and the statutory expenditure under the North-West Territories Act, making a total grant of over $300,000.00. This recommendation was not entertained by the Privy Council, but subsequently the lump sum of $193,000.00 was granted, an increase of over $50,000.00.

The second session of the legislature convened at Regina, August 2, 1892. The only change in personnel was -----

108. (con't.)
Possible income on the above basis:
Estimated population 1891, 67,500
Mean population next four years, 125,000
Yield at rate of 80¢ per head, $100,000.00.
On debt account 5% on $27.77 per head of 67,500, 93,723.75.
Special grant equal to Manitoba, 50,000.00
Grant in lieu of lands, 125,000.00
$363,723.75

Based on Alexander Begg, History of the North-West, (Toronto, 1894.), III,378, but obvious errors in calculation corrected.

109. All expenses of the trip were paid by the federal government.
the replacing of Charles Nolin, the member from Batoche, whose election had been declared void, by Charles Eugene Boucher. A special committee was appointed to consider the question of drafting a memorial to the Dominion government on the matter of land titles' offices in the Territories. As a result a resolution, embodying western feeling on the question, declared:

"That the attention of the Legislative Assembly of the Territories has been called to the fact that a Bill, introduced into Parliament last session, proposed to materially modify the principles upon which the registration of land titles in the North-West has principally been based, by changing the present decentralized system, which has been found adopted to the requirements of the country, to a centralized one, which, in the opinion of the Assembly, would not be adopted:

That in considering the matter, the Assembly is agreed that the time has come when control of the registration of land titles may safely be vested in the Territorial Government under whose management it is judged that the system, without disturbing the present incumbents of office or their emoluments, (111) could be materially cheapened both in cost of management and in the fee chargeable to the public.

That, in legislating upon property and civil rights, which is within the competence of the Assembly, Ordinances have been passed in regard - amongst other things - to Mechanics' Liens, Expropriation of Land and Tax (and other official) sales, and the question must frequently arise of how far such Ordinances are in harmony with the Territories' Real Property Act, or can be enforced with due reference thereto:

That it is an anomaly that with the other powers of legislation now possessed by the Assembly the power of legislating upon the registration of land titles should


111. Brings to mind the case of British Columbia where Musgrave promised positions or pensions to hesitant officials, whose security would be affected by union with Canada. Interesting light upon this aspect of official attitude towards Confederation is given by Dr. W. N. Sage in an article "The Critical Period of British Columbia History, 1866-1871. (Read in manuscript.)
The question of financial control soon came to the fore, with its attendant resignation of councillors. The rapid succession of executive committees of the North-West Territories, remind the reader of the short lived ministries which preceded Canadian Confederation. An Order-in-Council, announced that the moneys appropriated for the purposes of government in the Territories, to the amount of $193,200.00, had been transferred to the lieutenant-governor to be disbursed, upon the advice and consent of the legislative assembly, or any of its committees. At least some advance had been made as a result of the visit of Haultain to Ottawa. On August 23, 1892, he explained that the full import of that conference as a result of a question of Daniel Campbell, member for Whitewood. The executive committee was asked:

"1. What action, if any, has been taken in respect to the Resolution passed at the last Session of this Assembly, with reference to the annual appropriation made by the Parliament of Canada for the Government of the Territories?

2. What has been the result, if any, in regard to that Resolution?"

Haultain, the premier, replied by giving a summary of the outcome of his visit to Ottawa, the substance of which

112. Journals, First Session, 1892, p. 35.
113. Journals, First Session, 1892, p. 53.
114. By the Ordinance of December 24, 1891, respecting the executive grant of the Territories, an executive committee was created, consisting of four members. One member took up residence at Regina. This was a step in the direction of responsible government, but the term carried a vastly different meaning from that used in the provinces where parties existed.
was noted above. However, his conclusion with regard to the advances in power which the present session enjoyed over the previous one, is worth noting:

"Last Session the amounts for each service were specified by an itemized Vote. Now the Assembly apportions the lump Vote at its discretion and according to the actual necessities of the Country. Last Session the amounts of the several Votes had to be expended upon the service indicated by the Vote, or lapse. Now the whole amount of the lump Vote is available for any purpose". 115.

Following the conclusion of the budget speech, J. F. Betts, seconded by D. Mowat, moved a vote of want of confidence in the executive committee. It was moved in the amendment to a motion that the house go into committee of supply, "That --- the conduct of the Executive Committee towards the District of Saskatchewan, and in other respects, has been such as to destroy the confidence of the House in the Committee in their capacity as Ad visers of His Honor the Lieutenant-Governor". 116.

The amendment was passed by a vote of thirteen to twelve, and a subsequent motion proposed by H. S. Cayley, seconded by R. G. Brett to the effect that "The Executive Committee does not retain the confidence of this House", was passed by the same division. The ill treatment of the district of Saskatchewan to which the motion referred, concerned the appointment of H. S. Cayley to succeed James Clinkskill when the latter resigned as member of the executive committee during the


Nays—Messrs. Page, Knowling, Dill, Mitchell, Haultain, Tweed, Neff, Aliver, Wilkins, Campbell, Sutherland, Magrath. - 12.

118. Journals, First Session, 1892, p. 72.

119. Clinkskill opposed a new School Ordinance which provided that all schools should be inspected by the same officials, instead of by Catholic and Protestant inspectors.
session of 1891. Clinkskill represented Battleford in the District of Saskatchewan, and Cayley came from Calgary in the District of Alberta. Thus the balance which had existed between the various districts had been upset. Previously, each District had its representative in the executive committee. Dr. Oliver offers an explanation as to why Cayley should vote against Haultain on a motion which resulted from the appointment of the former:

"In the absence of Mr. Haultain in Ottawa (March 1892) Mr. Cayley acted as resident member of the Executive Committee directing public business. On his return from the east Mr. Haultain found that his deputy was aspiring to make his position permanent. The situation became so strained that Cayley resigned in January 1892",----and constituted himself Leader of the Opposition". 120.

Upon Cayley's resignation, Hillyard Mitchell of Duck Lake in Saskatchewan was appointed, but the old grievance swung the house against Haultain.

A new executive, consisting of Messrs. H. S. Cayley, Thomas McKay, Daniel Mowat and Joel Seaman, was announced on August 29, 1892. The committee, however, found itself unable to carry out a programme of legislation, for on the following day its bill to amend and consolidate the Game Ordinance was defeated. Haultain moved an amendment to the bill, which was carried after Speaker Ross came down from

119. (con't.) He was a member of the Established Church of Scotland, but among his constituents in Battleford, the Roman Catholics were numerous.


121. Cayley had built up a group in opposition to Mr. Haultain, and at a time when no parties were in existence, it was easy to swing the house by personal leadership.
the chair to support Haultain. Ross' reason for his action as given to the house, is worth noting, for without it Bagot's phrase "the universal thirst for place" is the most adequate description of the period in the Territories. Ross declared:

"I was elected Speaker of a House to which a large majority of those who for two years previously had been struggling for responsible government had been returned. As one of the party which had been engaged in that struggle and had been successful in the late general election, I reasonably expected that any Advisory Council or Committee which might be formed would be composed of those only who had belonged to that party. Being in perfect accord with the majority of the House as to the course which would be pursued in regard to responsible control of our affairs, and to that item of expenditure, the Roads, Bridges and District Vote, with which every Electoral District is more directly concerned, I was satisfied that the general rights of the Territories, as well as the particular interests of my own District, would be fully protected.

In view of the defeat of an Executive, advocating the principles which I had struggled for longer than any other Member of this House, and the success of a party evidently, indeed necessarily, opposed to those principles, I feel that in duty to myself and my constituents, I must place myself in such a position as to be able by voice and vote to advocate those principles and protect the interests of those who elected me to this House. I now resign the position of Speaker of this House". 122.

His resignation was followed by that of Deputy Speaker William Sutherland. Ross' action created a deadlock, as his vote, added to that of the Haultain faction would exactly equalize the parties in the house. Left without a presiding officer, the members dispersed.

On August 31, 1892, an attempt by the Cayley faction to have Sutherland elected speaker against his will, failed, 123

123. The reason for their selection of Sutherland is not apparent. Parties were non-existent at the time, and
the votes being equally divided. The following day, some of Cayley's followers signified to Haultain their willingness to co-operate in the election of a speaker. Haultain's choice was Magrath, but when he went to discuss the matter with the lieutenant-governor, Haultain found that Royal had already prorogued the assembly by proclamation, in an extra of the North-West Territories Gazette, leaving the Cayley Executive Committee in office. He thereupon issued a manifesto attacking the conduct of the lieutenant-governor for having "taken the position of a political partizan by his action "in thus unnecessarily and unjustifiably proroguing the House, "to the injury of public business, and in defiance of con-
stitutional law and usage".

The position was indeed serious, for an executive representing a minority of the assembly had full control of the public funds, amounting to $300,000.00. By the sixth clause of the Ordinance respecting the revenue, it was provided that unless the general fund was appropriated by the Ordinance, Act of Parliament, or order of the Governor-General in Council, the Lieutenant-Governor in Council,

123. (con't.) The study of factions in the councils and assemblies of the North West Territories is beyond the scope of this thesis. Begg, op. cit., III, 381, suggests bribery had been attempted, but it has been impossible to check this charge.

124. Manifesto of members of the Territorial opposition to the Dominion Government, August 31, 1892. Reprinted by Begg, op. cit., III, 382-383. The members here make a distinction between the unwritten laws of British constitutional government and the statute law under which they were governed. By the North-West Territories Act, 1891, the lieutenant-governor had the right to dissolve the assembly.
from time to time appropriate the said fund, or any portion thereof, for any purpose of public utility in the Territories. He was to present a statement of such expenditure to the legislative assembly, within the first ten days of the session following such expenditure. Under ordinary circumstances the provision would place great power in the hands of the representatives of the people, but in this case, it was to be administered by the minority.

In September, Royal visited Ottawa to consult with the federal authorities regarding the deadlock. It was well known that they disapproved of his action in proroguing the assembly, and from a constitutional standpoint, the situation in the Territories was certainly extraordinary.

During the recess, Cayley and other members of the executive committee proceeded with the conducting of public affairs, but the death of Joel Reaman, member for Wallace, and the election of F. R. Insinger, a supporter of Haultain, changed the balance in the house, and promised a defeat for the Cayley faction when the assembly next met. During the same period, the report of the Minister of Justice to the effect that Ordinance No. 1 of 1891-1892, which had defined the status of the executive committee, was ultra vires. It was in consequence of this report that the executive committee tendered its resignation the day before the session commenced.

125. Unable to procure particulars regarding this member.
126. Considering the division of the house, a defeat of the executive would have been inevitable.
When the session opened on December 7, 1892, J. H. Ross, and William Sutherland were unanimously elected speaker and deputy speaker. Royal, in his opening address referred to the Report of the Minister of Justice, and the statement regarding "An Ordinance respecting the Executive Government of the Territories". Thompson's views are worthy of note, not only as an example of Canadian opinion as to the federal relation to the Territories, but because of his position as Premier of Canada from December 5, 1892, to December 12, 1894.

Relative to the Ordinance he declared:

"The subject of which this Ordinance treats ('The Executive Government of the Territories') is regulated by 'The North-West Territories Act' of the Parliament of Canada and the Acts in the amendment thereof, and, in the view of the undersigned, the Parliament of Canada is paramount in authority as to all matters respecting that subject, and is indeed the only authority which can regulate and define the mode of government which is to exist in the Territories.

It follows from this that an Ordinance which goes beyond the mere regulation of detail and which is not entirely in subordination to the Acts of Parliament, or which limits or extends the powers and responsibilities of the Lieutenant-Governor as established by those Acts is, so far, ultra vires of the Legislature of the Territories". 127.

The reason for the disallowance of the Ordinance regarding the executive government of the Territories is clear. Such an Ordinance would detract from the powers of the central authority, and satisfy the cravings of a growing body in the west, which must never be allowed to forget that it was subordinate. However, there were other Ordinances disallowed

for which no excuse can be given. No provision was made for the incorporation of insurance companies giving protection against hail, and attempts to overcome this difficulty were stifled. It was just another example of the already lengthy list of manifestations, that the Dominion government could not legislate satisfactorily for conditions of which they were practically ignorant. The third bill to be disallowed related to the use of rivers, creeks and streams for floating down logs, etc. This time the stubborn land question was clothed in humorous guise. The dignified Minister of Justice, sent forth a weighty decision to the effect that while the banks might be held by private persons, the water belonged to Canada! It has been noted that Royal must not be judged from apart from his office, and the same is true of Thompson. Both were giving form to the spirit in which eastern legislators regarded the west.

On December 12, 1892, it was resolved:

"That under the provisions of Sub-section 12 of Section 6, Chapter 22, 54 and 55 Victoria, a Committee of four members of this House be appointed to advise His Honor the Lieutenant-Governor in relation to the expenditure of Territorial Funds and such portion of any moneys appropriated by the Parliament of Canada for the Territories as the Lieutenant-Governor is authorized to expend by and with the advice of the Legislative Assembly or of any Committee thereof." 128.

The following day it was moved that Messrs. Haultain, Neff, Tweed and Mitchell be such a committee, but before the motion was passed the opposing party attempted to prevent such action being taken. Clinkskill, seconded by Betts wanted the 128. Journals, Second Session, 1892, p. 23.
committee so composed that representation should be given to both parties, which had recently existed in the assembly. The amendment however, failed to pass, and the original motion received the sanction of the majority of the house.

It will be noted that the committee was appointed for financial affairs only. Such a distinction was in order to keep within the bounds set by the Minister of Justice's interpretation of the Act of 1891. The powers, however, did not satisfy those who wanted full responsible government, and on December 19, 1892, Haultain moved, seconded by Tweed:

"Resolved, That this House claims the right of the House, through its Committee, to advise the Lieutenant-Governor in relation to all Executive Acts and Appointments made necessary by Territorial Ordinances". 130.

A copy was then sent by telegraph to the Prime Minister, John S. D. Thompson, and the Minister of the Interior.

A few days later Haultain introduced a bill to repeal the Ordinance respecting the executive government of the Territories, which had been declared ultra vires. In its stead was passed a bill respecting expenditure. Haultain and Tweed appear to be leaders in this move for greater power, for on December 31, 1892, they brought forth a motion by which it was resolved:

"That the Committee appointed by the Resolution of this House of the 13th. December to advise the Lieutenant-Governor in relation to expenditure be the Executive Committee of the Territories under the provisions of Ordinance No. 1 of 1892, intituled *An Ordinance respecting Expenditure*". 131.

130. Journals, Second Session, 1892, p. 44.
Certain functions which the assembly had delegated to the executive committee it had been beyond the competence of the former to impose, but a way out was found by adding these duties to those already performed by the committee for financial affairs. This meant that a real executive committee had been created, and the battle which the assembly had waged for so long was really won. The same year also witnessed a return to the forms used in 1888. A supply bill was presented, and assented to in the manner customary in the responsible form of government. There was still a slight divergence from constitutional practice which must be recognized, but which made no distinction as to effect. Instead of the lieutenant-governor appointing a ministry, or rather calling upon one man to form a ministry, he accepted as advisers, those whom the assembly selected. However, the result is the same in both cases, for the ministry represents the majority in the house, and at that time, no parties were recognized in the North-West Territories.

After the stormy sessions of the previous four years, that of 1893 appears very quiet. Of the questions previously noted, it is found that an address was forwarded to Ottawa to have the provisions of the Ordinance for protecting the public interest in rivers, creeks and streams, which had been disallowed, embodied in the Act of the federal parliament. The members also asked that vote by ballot be introduced, and one of the items which had been delayed through the "war of ministers" was thus cleared up.

There were no arguments upon the subject of responsible
government. For a time, the Territories had no great grievance to be aired. Not that all unfavorable conditions were removed, but members were just taking a breathing space before the campaign for full provincial status. Lieutenant-Governor Royal's farewell speech to the assembly, sums up the conditions which this chapter has attempted to trace. Of his own part in the contest he says:

"It was mine to carry into effect what I considered to be the law, as laid down by the Parliament of Canada, for regulating your share of responsibility in the administration of public affairs, and, whilst you claimed to exercise a more complete control over the expenditure, that law placed me in a somewhat invidious position of appearing to oppose the popular requests. Notwithstanding this controversy, no unpleasantness ever arose between me and the Assembly".

It is difficult to estimate Royal's stand upon the question of responsible government. In his first year he appeared to be in accord with the aspirations of the assembly. Such generosity however, brought its rebuke from an administration which was determined to keep the west in an inferior position as related to government. For this, perhaps, ignorance was as much to blame as definite policy, since there is no doubt that members at Ottawa had very hazy conceptions of conditions in the Territories. Royal was forced to be the governor during a period of transition, and to attempt to reconcile the opposing views of Ottawa and Regina. In so doing, he incurred the disfavor of both, but until official correspondence is made available, no clear idea of his private views on the matter can be secured, if then. It is his social graces and ability as a man of letters, which seem to have 132. Journals, 1893, p. 108. Reprinted in Oliver, II, 1153.
attracted the attention of the writers thus far.

With respect to the actual developments which had taken place, no better summary can be given than the contrasting pictures drawn by Royal, of conditions when he arrived and left.

"When on the 4th. July, 1888, I was sworn in as Lieutenant-Governor of the North-West Territories, the functions of that office were as totally different from those of the Lieutenant-Governors of the Provinces, as they will be found from those to be performed by my successor. I was responsible to the Privy Council of Canada alone for all executive acts done in the Territories. The Assembly had hardly a voice in the Government of the Country and the Lieutenant-Governor was practically a Political Commissioner under whose direct supervision and authority the affairs of the Territories were conducted and administered.

Now all this has been materially changed and hence my satisfaction.

The Legislature today practically enjoys the rights and privileges of self-government". 133.

Characteristics of the movement for responsible government are hard to define. First, and possibly foremost, it was a contest not against an executive entrenched by family and social connections, but the united representation of a people, and not the people themselves, bearing the traditions of responsible government, against the single representative of the ruling power. Secondly, the various factions which appeared in the struggle, differed as to the method rather than the goal. Both wanted the same thing, but sought it in different ways. With all the changes of ministry, it would appear that the group of which Haultain was spokesman, took the more effective method, the one which had stood the test in older colonies.

The struggle was intensified by the fact that control of the purse meant, in the last analysis, control of the federal grant. So circumscribed were the powers of the Territorial assembly, that the income accruing to it from local Ordinances was very meagre, and was practically all turned over to the municipalities for local improvements. While the Dominion grant was set down item by item, the local members had little to do. True, they could advise how the money might be spent, but could not shift an allocation from one department to another. Then too, by a clause in the regulations as Royal cleverly described it, it mattered little to the executive whether the assembly voted funds or not; he was really better off when it did not. The particular problem of the public domain also created friction, for two governing bodies were continually conflicting as to their laws. Also, revenue from sale or lease added nothing to the local chest.

Coming later than in the other provinces, the struggle suggests a comparison and contrast with older colonies. The above characteristics hint at some, and only one will be noted here.

Terms guaranteeing responsible government were contained in the federal Act. In the memorial Dominion government, October 23, 1896, the legislative assembly, in suggesting amendments to the North-West Territories Act, asked, among other things that an executive council be substituted for an executive committee. In the session of 1897, the parliament of Canada passed legislation giving the North-West Territories
completely responsible government. This was not such a radical departure, when one remembers that in the terms of union of British Columbia with Canada, the latter promised that the Dominion would "readily consent to the introduction of responsible government when desired by the inhabitants of British Columbia". More than that, Joseph Howe had wanted the provisions embodied in an Act. Perhaps the Prairies are entitled to a double distinction—followers of Durham and Howe.

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134. Terms of Union with British Columbia, s. 140. Order in Council, May 16, 1871.


CHAPTER V.

DEMAND FOR INCREASED SUBSIDIES AND PROVINCIAL STATUS.

Before responsible government was officially conceded through embodiment in an Act of the federal government, a new movement was being born, which came to the front with the removal of the earlier grievance. This was the struggle for provincial status. Until the control of the executive was secured, thoughts of the creation of a province took a very minor place in the interests of members of the assembly.

As early as 1884 members of the North-West Council were asking that they be given the right of self-government such as was enjoyed by provincial bodies; and in the Supplementary Report of the Finance Committee it was declared that the council:

"Should forthwith assert its rights to the legislative and executive control of all matters relating to the Government of the North-West Territories, such as is exercised by representative Legislative Bodies of all the Provinces 1 within the British Empire as well as of the Empire itself."

Lieutenant-Governor Royal's first address to the assembly, contained a reference to a prospective change in status for the Territories. Speaking of the completely representative nature of the gathering, he declared he regarded it "as the 2 preceding step to Provincial organization".

In replying to this portion of the message, the representatives very cleverly took the one aspect of provincial status then uppermost in their minds and commented upon it:

"We thank Your Honor for the intimation you have given us that, in your opinion, the present Assembly is to be considered a progressive step towards full responsible Government". 3.

Responsible government engaged the attention of legislators during the regime of Lieutenant-Governor Royal, and the next intimation of a growing desire for provincial status did not come for some years. During the discussions on the former subject (1888-1893) references were made to powers enjoyed by the various provinces, but more as a comparison than as a request for provincial organization. When debating the question of a vote on the subject of license or prohibition, members declared that if such a vote were not taken, "it is the opinion of this Assembly that powers similar to those enjoyed by Provinces under the British North America Act in respect of the Liquor question should be forthwith granted to this Assembly". If the Dominion government performed the desired objects, western legislators were content. Form may have attracted them in the struggle for responsible government, but in questions such as the liquor problem, they


The Scott Act, passed by the Mackenzie Government in 1878, made it possible for counties to prohibit the sale of intoxicating liquors. Thus even divisions within the provinces themselves, were given powers greater than those which accrued to the North-West Territories. The latter had no right to determine policy in this respect and could only enforce federal legislation.
were satisfied to allow federal authorities to take the lead. Some one must take it, if the Dominion authorities did so, well and good, if not, give the assembly the power to take the initiative.

In the report of the Memorial Committee of the same year -1888- another reference was made to provincial status, but was definitely secondary to the idea of responsible government. The memorialists declared:

"The Assembly recommends to His Excellency the Governor-General-in-Council, that full responsible Government should be given to the Territories with the other powers, in addition to those already possessed by the Assembly, granted by the British North America Act to the Provinces of Canada, with the exceptions of the power to raise money on the public credit--". 5.

They also asked for a subsidy similar to that received by the various provinces, basing their claims on the grounds that they paid taxes into the federal treasury.

On November 14, 1889, a motion essentially the same as the extract quoted above, was put forth by John Secord, seconded by Joel Reaman, as an amendment to a motion that the house go into committee of supply. It will be noted that responsible government was the first consideration, other powers being practically a corollary. During the extremely stormy sessions of Royal's regime, control of the executive and of government grants took precedence over all other questions. When such a demand was secured there was opportunity to think of the next step, provincial status. In telling the story of a little boy who declared "wait till we grow

up. We'll show them!" , a speaker remarked "That's the spirit of the Prairies". His statement fits conditions as they existed at this time. Like the small boy, the Territories were growing up, and experiencing all the flush of young manhood. They had many ambitions which must be satisfied, and needs which must be filled. Responsible government was one which would now be placed among the list of achieved desires. Next came financial needs to satisfy the demands of a rapidly growing and scattered population, brought out largely by the activity of the Dominion government.

From the viewpoint of Territorial legislators, a rapidly increasing population was not an unmitigated boon. If settlers had been attracted to areas already opened up, it would have relieved trying conditions. Once the population of a district reached a certain minimum, municipal organizations would be set up, and the expenses incidental thereto met by the people themselves. However, newcomers were attracted to the free land offered by the federal government, rather than the higher priced holdings near centers of settlement. This necessitated many new services for which the Territorial purse must pay. Not being made of elastic, there was a limit to which the funds could be stretched.

Such was the basis of the new cry to Ottawa—increased subsidy—and as was the case with responsible government, 

6. Similar arguments were used by British Columbia more than ten years later, when demanding increased subsidies. See Memorandum respecting claims of British Columbia for Better Terms, (Victoria, B.C., 1914.), passim, but especially pp. 1, 4 and 5.
provincial status trailed along as a corollary.

The lieutenant-governor during whose term of office the assembly was first to act with enlarged powers, was Charles Herbert Macintosh. When he met his first assembly on August 2, 1894, there was one change in the personnel from the previous session. Joseph Clemenston was returned for Whitewood in place of Daniel Campbell who had been dismissed the previous session. Special notice must be given to this election since it was the first to be conducted by secret ballot. The only item of particular interest to the present study, was the announcement of the disallowance of Ordinance No. 19 of 1893, entitled "An Ordinance respecting Municipal Assessment and collection of Taxes and Licenses". Honorable John S. D. Thompson, Minister of Justice, declared the Ordinance ultra vires of the legislature of the Territories in so far as it was inconsistent with or purported to repeal or alter any Statute of Parliament. The difficulty arose from

7. Note the contrast with British Columbia where entrance into the Dominion meant the securing of provincial status, and responsible government trailed along.

8. Charles Herbert Macintosh: Born in Ontario where he engaged in journalism. From 1879-1881 was mayor of Ottawa, and from 1882-1887 and again from 1890 to October 1893, when he was appointed lieutenant-governor of the North-West Territories, Macintosh represented the City of Ottawa in the Canadian House of Commons in the Conservative interest. In 1895 he incurred the disfavor of local members, by refusing to give his assent to the School Ordinance in that year, thereby killing the Bill. His action was not countenanced by the Dominion government. He resigned his office in January 1898.

9. Unable to secure particulars.

10. Campbell had failed to answer a charge of embezzlement.
the fact that certain property, such as railway lands was exempt under Dominion legislation.

A general election was held in October 1894, resulting in the return of over half the former members. The house did

11. Members elected to serve in the Legislative Assembly of the North-West Territories, October 31, 1894.

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<th>Moosomin</th>
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<td>North Regina</td>
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<td>South Regina</td>
<td>Daniel Mowat.</td>
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<td>East Calgary</td>
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<td>West Calgary</td>
<td>Oswald Asheton Critchley.</td>
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<td>High River</td>
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<td>Edmonton</td>
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<td>Victoria</td>
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<td>Kinistino</td>
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<td>Prince Albert West</td>
<td>John Lestock-Reid.</td>
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<td>Prince Albert East</td>
<td>John Felton Betts.</td>
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<td>R. B. Gordon, Clerk.</td>
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George William Brown: Born in Ontario of Irish descent. A
did not assemble until August of the following year, when John Felton Betts, was elected speaker. During the recess the North-West Territories Act had been amended, and as a result, a reorganization of the majesty was necessary. Amendments however, had failed to produce legislation with regard to the power of the assembly to charter hail insurance companies. Territorial politicians were never without subjects for discussion, for there was always a good supply of hardy perennials guaranteed to crop up every year and cause almost endless communications between Regina and Ottawa. During these years in which there is little progress of a constitutional nature to record, the social and economic conditions of the settlers were receiving attention. Some of the earlier problems

11. (con't.)

Edward Fearon: Went to the Yukon District in 1896 with a herd of cattle, the first to be taken into that region. He returned again to the Yukon in 1898, and in consequence missed the meetings of the assembly.
Oswald Asheton Critchley: Born in England where he was educated. A rancher. A Conservative.
Frank Fraser Tims: Born in Ontario where he was educated. A commission broker, Justice of the Peace, and Chairman of the School Board at Fort Saskatchewan. A Conservative.
were finding solution, and although immigration had not reached the desired figure, the country was beginning to fill up.

In the session of 1896, the constitutional position again came to the fore. At this meeting, one of the members whose name had been connected with councils and assemblies in the Territories since 1883, was missing. During the recess, Frank Oliver, member for Edmonton resigned due to his success in the federal election of 1896, when he was returned as an Independent member for the District of Alberta, and his place was taken by Matthew McCauley.

On Thursday, October 8, 1896, it was ordered on a motion of J. H. Ross, seconded by F. W. G. Haultain,

"that a Select Committee consisting of Messieurs INSINGER, BRETT, MAGRATH, TIMS, KNOWLING, LINEHAM, CLINKSKILL, BULYEA, BROWN, MEYERS, NEFF, Haultain and the mover be appointed for the purpose of drafting a Memorial to His Excellency the Governor-General in Council setting forth the financial and constitutional position of the Assembly, the amendments which should be made for the North-West Territories Act to secure further powers, and basis upon which the subsidy should be determined."

Its report, which was presented on October 23, outlined the powers enjoyed by the assembly, and set forth limitations placed upon privileges, seemingly within its scope:

"They find that they are not in a position to use the

12. I was fortunate in having an interesting conversation upon this subject with Professor A. S. Morton. His studies of the question should do much to place the various immigration policies of the late nineteenth and early twentieth centuries in their proper setting.


powers limited, they do possess to the best advantage and that their legislation on subjects coming strictly within the duties of a Territorial Assembly, not the necessary quality of security or completeness. As, besides the right of disallowance which Your Excellency in Council possesses over their legislation as well as over that of provinces, the legislation of the Assembly is also subject to any Act of the Parliament of Canada at any time in force in the Territories. Parliament, consequently, often passes Acts diminishing the legislative powers of the Assembly over parts of subjects ostensibly reserved for their control, and at other times over-riding Ordinances passed by them and approved of by Your Excellency in Council. It is unnecessary to point out how such concurrent powers will lead to insecurity and conflict". 15.

One example of how this affected legislation, was to be found in respect to Ordinances relating to taxation. No. 19 of 1893 referred to above, was disallowed because property which was exempt under Dominion legislation, would be assessed by Territorial Ordinance. In the period when government was directly from Ottawa, and before the west was represented in the house, certain concessions were made to the Hudson's Bay Company and the Canadian Pacific Railway Company with respect to taxation on their holdings. This was one of the particular grievances of the west. Half-breed settlers had been opposed to the township system of survey, since it interfered very materially with their sociable system of holding land in long strips after the manner of their forefathers in Quebec.


Territorial Ordinances were subject to disallowance by the federal authorities, cf. American system: "Speaking for the Supreme Court, Chief Justice Waite said: 'Congress may not only abrogate laws of the territorial legislatures, but it may itself legislate directly for the local government. It may make a void act of the territorial legislature valid, and a valid act void. In other words it has full and complete legislative authority over the people of the territories and all the departments of the territorial government' " Patterson, op.cit., p.473.

16. This had been one of the causes contributing to the
English speaking settlers had their grievances in this respect also. Along the line of railway alternate sections were reserved for the company, and these did not fill up as rapidly as those given free to homesteaders. These unoccupied tracts made difficult the development of the country. It led to scattered settlements and in respect to its effect upon improvements, they may well be compared with the clergy and crown reserves in Upper Canada.

The suggestion put forth by the committee to remedy this grievance, was to the effect that it was "not necessary to have recourse to the granting of a full provincial status", but that until that time arrived, which might not be far distant, the passing of a few amendments to the North-West Territories Act would allow them, "subject to disallowance of their Ordinances, 'to exclusively make laws in relation to matters' already within their legislative jurisdiction." They repeated the stand taken in 1888, that they did not ask for all rights inherent in provincial status, such as the right to raise money on the public credit, the chartering of railways, and the administration of justice with relation to criminal matters. However, they failed to understand why other principles of a territorial or provincial nature, should be

16. (con't.). Rebellion of 1885.
18. In this connection, the memorial continues, "when the Territories should be taken into Confederation (as one or more provinces)". Journals, 1896, p.68. Opinion at this time was not unanimous as to the manner in which the west should enter the Dominion.
20. This is one of the many examples which show that the
withheld from their administration, particularly since they had proven themselves equal to the task, by exercising most of the rights of provincial assemblies during the last five years. It was upon this occasion, referred to above that they requested "that their executive government should be "put on a firmer basis by substituting for the Executive Commitmittee an Executive Council".

The memorial committee outlined the manner in which the present conditions operated. The North-West Territories Act, 1891, made provision for a committee to advise the lieutenant-governor in matters of finance, but it did not create an advisory body in executive matters which should be responsible to the assembly. The latter had circumvented the problem by the ingenious method noted above, but this solution was essentially a makeshift. It had no basis in statute law, and there was considerable uncertainty as to whether or not it could be invested with the powers the assembly had placed upon it. Moreover, the present machinery did not admit of development, since, for example, it was impossible to have a division into departments with responsible heads. The advisory capacity of the committee was confined to matters contained in the Ordinances, and could be extended to the appointment of Justices of the Peace, or the convening or dissolving of

20. (con't.) Territories did not regard Manitoba as a regular province. It was not till 1888 that the right to charter lines in opposition to the Canadian Pacific Railway Company was won.
22. Supra, p.
the house to give the examples set forth in the memorial. The latter states:

"In general, the Assembly is of the opinion that for purposes of government a permanent committee of the House has no advantages over the Executive Council. The first is a creation without precedent to guide it, and lacks the well defined constitutional status which political development during a long course of time in Great Britain and her colonies has given to Executive Councils". 23.

The assembly of the North-West Territories loved precedents. Having stated particular provisions which caused difficulties, the committee recommended revisions which would remove uncertainty, and which could not be objected to on the grounds of increased powers. The subjects for which they asked particular consideration, concerned the creation of an executive council, the right to incorporate insurance companies with Territorial objects, and the right to appoint sheriffs, clerks of court and their deputies. The anomalous position in which the local legislators found themselves, throws interesting light upon the conditions existing in the relations between the federal and territorial authorities. The memorial stated:

"The North-West Territories Act states that the Assembly may define by Ordinance the powers, duties and obligations of Sheriffs and Clerks, and their respective Deputies (sub-section 4 of section 8 of 1891) and may determine the places where such Sheriffs and Clerks shall appoint Deputies. The Assembly also prescribes the fees which are allowed these officers in civil matters which constitute nearly all their emoluments. Notwithstanding the fact that the Assembly makes provision for both the duties and the payment of these officers their appointment remains in the hands of the Federal Government". 24.

It was certainly not a case of "he who pays the piper calls the tune".

The assembly desired the right to establish, maintain and manage hospitals, asylums and charitable institutions within the Territories. The confinement of lunatics in provincial jails was a thing of the past, but present conditions were not satisfactory. By an agreement expiring in 1898, lunatics were sent to Manitoba, at the cost of one dollar per day. The assembly however, was of the opinion that it could perform the services as well and more cheaply. However;

"The Assembly --- would only desire to undertake the care of the lunatics if the federal authorities would provide the necessary buildings, and make such increase in the grant or subsidy as would pay for the maintenance of patients and staff". 26.

The last provision shows the close relationship between desire for increased powers and increased subsidy. The two go hand in hand, and can barely be distinguished as to which is cause and which effect. Sometimes one, sometimes the other appears to be the dominating factor.

Such were the constitutional clauses of the memorial. In respect to the financial, the assembly reiterated, in part, the stand taken in 1892. This included the"demand that instead of the annual vote by the Parliament of Canada of an indefinite sum, for expenses of government, a fixed amount in the nature of a subsidy and should be granted to the Territories", and that the subsidy should be fixed for a

25. Between the federal authorities and the province of Manitoba.
term not exceeding four years.

As in the discussion of the constitutional question, present conditions were set out before remedies were proposed. The memorialists stated that the local revenues were very slight, and from the nature of things must remain so, since they were entirely composed of amounts received from granting licenses for such occupations as the assembly was allowed to regulate by legislation. The particular grievance of the Territories was that:

"all the assets which the Provinces (except Manitoba, which has been compensated for the lack of them), possess, are retained by the Parliament of Canada, who own and administer, with power to sell, or grant to railway companies, their public lands, their hay lands, their timber and their minerals". 30.

In spite of this, however, the assembly was expected to provide public services for a scattered and rapidly increasing population, which it declared, rendered the business of local government more expensive proportionately by population than in any province. The committee claimed that expenses were charged to the assembly over which it was allowed no control, and hence was unable to reduce. More than that, costs of services in unorganized territories had appeared among the

28. The last provision had been inserted, because of the optimism of the Territories in respect to population. It had particular force after the appointment of Clifford Sifton to the office of Minister of the Interior.

29. In 1895 such revenues amounted to approximately $30,000.00.


31. "Votes for Lieutenant-Governor's office, the Clerk of the Legislative Assembly, Legal Adviser, Registrars of Land Titles Offices". Journals, 1896, p. 76.
votes for the North-West Territories, thereby causing the liberality of parliament towards them to appear greater than was actually the case. The above memorial was forwarded to the Secretary of State for Canada, the Honorable Richard Scott, for submission to His Excellency the Governor-General in Council.

Before the assembly of the North-West Territories again met, legislators had the satisfaction of seeing some of their suggestions put into operation. The executive committee was replaced by a responsible executive council composed of Messrs. F. W. G. Haultain, J. H. Ross, Hillyard Mitchell, C. A. Magrath, and George H. V. Bulyea. Resignations had been received from William Sutherland, member for North Qu'Appelle, J. L. Reid of Prince Albert West, and F. R. Insinger of Yorkton.

Their places were taken by Donald Hogarth McDonald, Thomas James Agnew and Thomas Alfred Patrick respectively.

During the session, legislation was passed providing for the establishment and organization of the public service,

32. Donald Hogarth McDonald: Son of a Hudson's Bay Company Chief Factor, he was born at Fort Qu'Appelle in the North-West Territories. A private banker. The first local born man to represent his native constituency in the local legislature. A Liberal, but opposed to introducing party politics into North-West Assembly affairs.

33. Thomas James Agnew: Born at Guernsey, Channel Islands, where he was educated. Came to Winnipeg in 1876 and to Prince Albert in 1877. A hardware merchant, chairman of the Prince Albert School Board. An alderman and former mayor. In the Rebellion of 1885 he was a lieutenant in the Prince Albert Volunteers. An Independent.

and a consolidation of the Ordinances was effected. Of special interest was the motion of A. B. Gillis, seconded by J. P. Dill:

"That in the opinion of this House the North-West Territories as they are at present composed, should be maintained in tact for administrative purposes until the time has arrived for their entrance into Confederation as a Province." 35.

An amendment proposed by R. G. Brett, seconded by Joseph Bannerman, to the effect that the words "or Provinces" be added, was defeated, and the motion passed as originally presented. It was in this form that it was forwarded to Ottawa.

The session of 1898, and the first following the appointment of Malcolm Colin Cameron as lieutenant-governor, was important in the march of events leading to full provincial status. A statement which impresses a reader of the Journals with the idea that full responsible government was in vogue, is the continual reference to "my Government". This phrase, used by Cameron, was just one of the many forms manifesting the state for which the Territories had so long contended up to 1897, and part of the paraphernalia of British constitutional government. Provincial organization seems to have been the ideal at the back of all legislators' minds. A motion regarding the need for new and enlarged parliament buildings, was defeated by the argument that no such expenditure should be made until the question of the formation of one or more provinces in the Territories had

35. Journals, 1897, p. 89.
36. Journals, 1897, p. 89.
been definitely decided.

The same aspiration towards provincial status was manifested in the discussion of the question of Territorial boundaries. The assembly was of the opinion that these should be determined at an early date, but the legislature denied:

"the right of the Parliament of Canada to increase, diminish or otherwise alter the limits of the North-West Territories without its consent because it claims for the people it represents equal rights with the people of the Provinces in this respect". 37.

This appears to involve a possible denial of Canadian ownership of the public domain, and foreshadowing of the stand taken on the subject of natural resources. Territorial legislators had in mind provincial status as understood in the older provinces, and not with limitations such as had shackled Manitoba. The resolution was passed to the effect:

"That, while consenting to such alteration of the limits of the North-West Territories as will separate them from those areas lying north of the northern boundaries of the Provinces of British Columbia and Manitoba respectively, this Legislature is firmly of opinion that the political unity of the Territories should not be disturbed". 39.

The retarding influence of the system of land grants

At this time the Manitoba Assembly was demanding an increase of territory, but the resolutions which provoked the greatest discussions in the Territories came a few years later.

38. cf. Memorial to the federal government, Journals, 1896, p. 73.

On June 13, 1898, the Act cutting off the Yukon District, from the North-West Territories for purposes of administration, was signed by the governor-general. Between the introduction of the Bill, and its becoming law, the North-West Assembly reaped a harvest from liquor permits sold to the miners.
to the railway has already been noted, but the problem created by the provision that the Company was not obliged to take out patents for its lands, was not stressed. This meant that since the property could not be assessed for its proportion of taxes for schools, local improvements and other purposes, the burden was increased for the settlers. A resolution to remedy the above grievance was transmitted to the governor-general in council.

On Tuesday, April 4, 1899, Amédée Emmanuel Forget, lieutenant-governor, opened the first sessions of the fourth legislative assembly of the North-West Territories. It was

<table>
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<tr>
<th>Members of the Fourth Legislative Assembly of the North-West Territories.</th>
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<td>Yorkton                                          : Thomas Alfred Patrick.</td>
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<td>Lethbridge                                      : Leverett George DeVeber.</td>
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<td>Edmonton                                        : Matthew McCauley.</td>
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<td>St. Albert                                      : Frederic Villeneuve.</td>
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fitting that one whose name had been connected with territorial history for such a long period, should become the representative of the governor-general at a time when the assembly

40. (con't.)

Red Deer: John A. Simpson.
Prince Albert East: Samuel McLeod.
Banff: Robert George Brett.

John A. Reid, Clerk.


Richard Bedford Bennett: Born in Albert County, New Brunswick, and educated at Dalhousie University, where he received his LL.B. A barrister. Elected to the legislative assembly at the general election of 1898. Resigned to become Conservative candidate in Alberta for the house of commons at the general election of 1900. Defeated and was re-elected to the assembly March 22, 1901, and again in 1902. His greatest success has been in the federal field where he was made leader of the Conservative opposition in 1926 and premier of Canada in 1930.

Alfred Ernest Cross: Elected at the general election, November 13, 1898, after an error had been corrected by a recount.

Benjamin Prince: Born in Quebec where he was educated. Engaged in farming in Manitoba, 1878, and came to Battleford in 1880 in connection with the lumber and flour trade. Later engaged in cattle exporting to England. Served in the Battleford Home Guards in 1885. Mayor of Battleford for three terms and president of the Board of Trade. Called to the senate in 1900. A Liberal.


Charles Fisher: Born in Manitoba where he was educated. Sub-land agent 1897-1898. A Liberal.

was pressing for greater powers. In the discussions, the matter most directly concerned with the subject in hand, related to lands. The change of feeling which had been hinted at by comparisons with the stand taken in 1896 and 1898, was more marked than ever before in the discussion of the homestead policy. A motion proposed by J. W. Connell seconded by T. A. Patrick contained, among other clauses:

"The public lands of the North-West Territories should and of right do belong to the people of the North-West Territories, and are held and managed in trust for them by the Government of Canada pending the establishment of provinces in these Territories". 42.

No doubt could be left in the minds of federal statesmen after reading such a declaration. The legislators of the west had determined to oppose any theory of purchase, and to

40. (Con't.)


Richard Stuart Lake: Born and educated in England. A farmer. First elected to the assembly at the general election, 1898. Resigned to become Conservative candidate for the house of commons at the election in November 1900, for Assiniboia. Was defeated and re-elected to the assembly in March 1901, and again in 1902. A Conservative.


Frederic Villeneuve; Particulars unknown.


41. Supra, p. 168.


43. For a discussion of this subject see supra, chapter 1.
stand for full control of natural resources when provincial status finally came into consideration.

For the present, however, it was the financial problem which most directly concerned the assembly. Copies of correspondence on the subject passing between Regina and Ottawa, January 1, 1899 to April 15, 1899, were presented as Sessional Paper No. 23. F. W. G. Haultain occupied the position of treasurer in the government of the North-West Territories. Ability to deal with the federal authorities in relation to the financial arrangements existing between the two government, had already been manifested in the negotiations of March 1892, when, as a result of his efforts, an increase of approximately $50,000.00 was made in the Dominion grant. The correspondence in which he now engaged set forth the limitations of the Territories, laying particular emphasis upon the various services performed by the local government. He pointed out that during the past few years, the duties of the assembly had been increased, until they approximated those of a province. In this connection he declared:

"The annual appropriation for Government---is---based upon an estimate of the requirements for specific services in the Territories, originally made up in earlier days and added to from time to time without any serious consideration being given on the part of the Federal Government, to the actual necessities and conditions of the country, or the application of money appropriated. The other items included in the Federal appropriation for Government in Territories have never yet been placed at the disposal of the Government of the Territories, being variously administered by your Department, either directly or through the Lieutenant-Governor of the Territories personally". 45.

44. Sessional Papers bound with Journals.
He reminded the Minister of the Interior that such services as would yield a revenue to the local authorities had been withheld by federal jurisdiction. The old question of authority to pass Ordinances relating to lands was again aired, and it is interesting to note that the arguments which had been used by Manitoba nearly two decades earlier, were presented by Haultain. In his opinion there was only one alternative to the voting of a larger grant; that was direct taxation by the territorial authorities. The latter would fail to present a solution, since the pioneer conditions of the country made it impossible for settlers to carry such a burden, and therefore immigration would be stopped. In the final analysis, the question must be solved by the federal authorities, since it was they who controlled the immigration policy which had placed the Territories in the financial conditions in which they now found themselves.

To remedy conditions, Haultain proposed:

"that a tentative financial agreement be entered into, based upon the terms embodied in the British North America Act and the Manitoba Act, under which the North-West Government will be required to undertake all the services which fall upon Provincial Government". 47.

46. With reference to the financial difficulties of Manitoba in the early 'eighties, it was declared: "One of three courses must be adopted, viz. either the Province must obtain the means of revenue from the resources within its limits, such as Crown lands, timber limits, minerals, etc., or the Dominion, out of the public treasury, must supply the necessary funds to carry on the machinery of the local Government and improvements, or lacking these two sources of revenue, the people of the Province will be obliged to submit to direct taxation". "Manitoba", Letters on the Anomalous Position of Manitoba as a Province of the Dominion, (Free Press, 1881.), p. 5.

The close relationship existing between increased subsidies and status is shown in his statement:

"such a proposition implies that as ample powers will be given to the Legislative Assembly of the Territories as pertain to the legislatives of any of the Provinces". 48.

He continued:

"A favorable acquiescence in the terms need not place the Territories upon any other political footing than they occupy at present, --". 49.

It would appear that Haultain was attempting to reenact the drama of 1891. At that time the assembly invested the committee for financial affairs, which existed by statute law, with powers of a full executive council. Now Haultain asked for what was in essence, the complete power of a province, although he mentioned that the political footing which the Territories occupied in relation to other provinces of Confederation, need not be affected. Professor Martin's statement in relation to responsible government has been shown to be a just reflection upon conditions, and the western love of precedent. However, when it suited their purpose, western legislators cared little for form. They got the powers and form came later. They depended upon the course which at the time seemed most likely to lead to the desired goal, and in the majority of cases the indirect method proved the most valuable.

50. Supra, p. 89.
51. It appears that in federal circles, the spirit and the letter of the law were the same: keep the west in an inferior position politically.
Haultain usually secured what he desired, and the correspondence of 1899 was no exception. In the speech from the throne in 1890, the lieutenant-governor referred to the moderate increase in the annual grant. The cabinet however, was not going to rest on its oars, for, in spite of "the very substantial increase to the revenue", the government only looked upon it "as affording a temporary and partial amelioration of otherwise impossible financial conditions, and asked that the assembly "take action leading to the earliest practicable solution of Territorial financial and administrative problems".

Up to this time it has been unnecessary to comment upon the relations, other than official, existing between the members of the Territorial assembly and those of the federal. When local representatives entered the larger arena of Dominion politics, they appeared to lose touch with those whom they represented. A motion of Messrs McDonald and McLeod on April 30, 1900, however, hints at changing conditions:

"In the opinion of this House it is detrimental to the best interests of the North-West Territories, as long as our present status as Territories exists, for members of the Executive of this Government to take any active part in

52. There was one new member at this session—Arthur Lewis Sifton representing Banff. Arthur Lewis Sifton: Born at St. John's, Middlesex County, October 26, 1858. Elected member of the North-West Assembly 1899. Chief Justice of the North-West Territories 1903. Chief Justice of Alberta 1905, Prime Minister of Alberta 1910-1917. Member of Parliament and member of the Dominion Government 1917-1921. Member of Canadian delegation to Paris Peace Conference. Died January 21, 1921.

Federal politics".56.

The motion was defeated by a vote of six to twenty-one, and it is interesting to note, in the light of what happened in 1905, that Haultain voted in the negative.

Financial requirements and enlarged status received attention in a motion of F. W. G. Haultain, seconded by J. H. Ross. The history of the North-West Territories of Canada was outlined, and the success of various memorials commented upon. It was declared that representations had been made with a view to obtaining adequate financial assistance. These had resulted in merely:

"intermittent and insufficient additions to the annual grant, the provision so made by the Parliament of Canada never bearing any adequate proportion to the financial obligations imposed by the enlargement and development of the political institutions created by itself". 58.

The old argument was being used again: "Dominion policy put us "where we are; let the Dominion pay for it". The assembly desired the establishment of a basis " upon which the claims "of the Territories to suitable recognition might be settled".

56. Journals, 1900, p. 60.
57. The excuse given for passing over Haultain when a premier was being selected in 1905, was that in the campaigns preceding the federal election, he had spoken for the Conservative party. Federal authorities declared that as a follower of the Opposition, his attitude would not be conducive to a smooth working of the new constitution. It has also been suggested that it was his attitude on the school question, which caused the action—See R. G. McBeth, The Romance of Western Canada, (Toronto, 1918.), p. 229. The question calls for further checking, but it would appear that the Dominion government was attempting to play the role of dictator for the new provinces as for the Territories earlier: See J. Castell Hopkins, The Canadian Annual Review of Public Affairs, (Toronto, 1906.), pp.182-227.
58. Journals, 1900, p. 71. Italics not in original.
An address was forwarded to the governor-general:

"praying him that he will be pleased to cause the fullest enquiry to be made into the position of the Territories, financial and otherwise, and to cause such action to be taken as will provide for their present and immediate welfare and good government, as well as the due fulfilment of the duties and obligations of government and legislation assumed with respect to these Territories by the Parliament of Canada".60.

This enquiry was to extend "to the settlement of terms and conditions upon which the Territories or any part thereof shall be established as a Province". By this time provincial status was a live problem in the Territorial Assembly, and the members were demanding that their representatives be given an opportunity of discussing any terms proposed.

During the recess Premier Haultain entered into correspondence with the Minister of the Interior, on the subject of increased subsidy and provincial status, and he and J. H. Ross visited Ottawa in the interests of the question. In a letter to the Honourable Clifford Sifton, under date of January 30, 1901, Haultain pointed out the close relationship between financial and constitutional conditions. Upon this subject he stated:

"The Memorial, May 2, 1900- while leading to definite constitutional changes, approaches the subject from the financial point of view and points out how, in the opinion of the Legislature, our legislative jurisdiction and administrative responsibilities have been enlarged and increased out of all proportion to the means placed at our disposal". 62

Haultain however, wanted it clearly understood that the Territories had a real case for provincial status. Relative to this matter he declared:

60. Journals, 1900, p.72.
62. Haultain to Sifton, January 30, 1901. Journals, 1903,
While financial embarrassments rather than constitutional aspirations have led the North-West Government and Legislature to discuss the provincial status I think that sufficient practical reasons can be given for the early establishment of provincial institutions in the West", 63.

The reasons which Haultain advanced included a reference to the rapidly increasing population of the Territories. He declared that the population was greater than that of British Columbia ten years previously, or Prince Edward Island at the present day: "a population trained to the exercise of powers of self-government falling a little short only of those enjoyed by the Provinces". This was one aspect of the problem which eastern legislators failed to understand. To the inability to comprehend the problems created by scattered settlements, must be added the failure to recognize the nature of the people with whom they were dealing. At times it would seem that Canadian statesmen forgot the progress that had been made in the form of government, during the thirty years in which the west had been under Canadian jurisdiction. Haultain was going to leave them no room for doubt, and in their representative, the Territories had an agent capable of presenting their case in the clearest possible manner.

The second aspect of the question which Haultain pre-

62. (Don't.) Appendix, pp. 5-6. Reprinted in Oliver, II, 1158.
64. Population of B. C., 1891, 98,173.
P. E. I., 1901, 103,259.
N. W. T., 1901, 164,301. divided as follows; Saskatchewan 91,279.
Alberta 73,022.
164,301.

sented, dealt with the effect of the constitutional position upon finances. For nearly thirteen years the legislative assembly had been occupied with founding local institutions and laws, suitable to the conditions of the country. However, as had been previously pointed out, the, "parliamentary vote is apparently incapable of expansion at all in proportion to the needs of a rapidly developing country and our powers circumscribed as they are by the necessities of our present anomalous constitutional position, falls short just at the point where further progress demands their exercise". 66.

Haultain was not asking that the Territories be immediately transformed into provinces. The land question aggravated the conditions which he had outlined, and he felt that such difficulties should be settled before any further public lands should be alienated. Reservation of subjects such as the land titles law and the administration of criminal law, should also be withdrawn.

Sifton's reply was such as to encourage the premier. The Minister of the Interior declared that he realized "the difficulties of the position in which the Government and "Legislative Assembly of the North-West Territories are placed", and admitted that there was much in the suggestions made in the premier's letter, and the memorial to the assembly. More than that, while he would make no positive statement, Sifton was "prepared to say that the time has arrived when the question of organizing the Territories on the Provincial basis

"ought to be the subject of full consideration". He felt the best way to deal with the matter was to arrange a conference between the two governments, and promised to do all in his power to bring about such a meeting. It was impossible however, to arrange an interview before the Territorial legislature convened, and the discussion had advanced to this point only, when the members reassembled on May 2, 1901.

The only item in the proceedings of interest to this study, was a motion and amendment to the effect that the house was opposed to any extension of the western boundary of Manitoba, on the grounds that such extension would be detrimental to the interests of the Territories. At this time there were several proposals as to the manner in which the Territories should enter the Canadian Dominion, and in all of these, apparently, Manitoba expected to be considered. For the time, members of her assembly seemed to subscribe to the "purchase theory", for on March 23, 1901, T. A. Burrows declared, "It would now be only fair for the Dominion to help the Province by giving to it a portion of the Territories". The suggestions

69. During the recess, George Malcolm Annable was returned as member for Moose Jaw, in place of James Hamilton Ross who had resigned. The latter had been appointed commissioner of Yukon Territory, and held that position until he became a candidate for the house of commons, to which he was elected December 2, 1902.

George Malcolm Annable: Born in Ontario where he was educated. Had been town councillor and school trustee of Moose Jaw. A rancher. A Conservative.

70. Correspondence relative to the memorial on the constitutional financial position of the Territories, was presented as Sessional Paper No. 1, but was not published.
71. T. A. Burrows, M. L. A. in the Manitoba Assembly,
included the annexation of a portion of the eastern section of the Territories to Manitoba; the establishment of Saskatchewan and part of Alberta into one province, the centralization of all districts into one province, and the division into two provinces. Frederic Villeneuve, in an interview in Montreal, August 28, 1902, maintained that the six Saskatchewan members, and the Edmonton Board of Trade, favored two provinces, one to the north, and one to the south, under different latitudes and with a distinct political and geographical character. J. H. Ross desired one province with Calgary for its capital. Haultain also, wanted one province. There was only one point on which all agreed, and that was that the new province or provinces, as the case might be, should have control of the public lands.

When the assembly was again convened on March 20, 1902, the question of provincial status was well to the fore. The Territories were experiencing a period of great prosperity, and new settlements were springing up, with the promise of success which a good crop inspires. The speech from the throne containing a draft bill, contained a reference to the correspondence which had passed between the local and federal authorities on the question of increased powers, and to a meeting with a sub-committee of the Privy Council, on the same subject. Early in the session a long debate was held on the subject of provincial organization, and while the motion finally passed as originally proposed by

71. (con't.) March 28, 1901. Quoted in Hopkins, Annual Register of Canadian Affairs, 1901, p. 435.
Messrs Haultain and Bulyea:

"Whereas the larger powers and income incidental to the Provincial status are urgently and imperatively required to aid the development of the Territories and to meet the passing necessities of a large and rapidly increasing population:

BE IT RESOLVED, That this House regrets that the Federal Government has decided not to introduce legislation at the present Session of Parliament with a view to granting provincial institutions to the Territories," 72,

the debate brought out many interesting aspects of the later question. First, the Territories wanted to be "established on a plane of equality with the provinces of Ontario and Quebec in respect of ordinary provincial powers." It would seem that the assembly regarded Manitoba as an anomaly, with a position coming midway between the status of the older provinces, and the territorial situation in which they found themselves.

Second, the question of one or more provinces. This controversy is important, in view of the fact, that advantage was taken of the failure to present a united front, by the Dominion government in postponing their action. Messrs.

Patrick and Bennett moved an amendment that the area should be

The House divided, 22 to 7. Yeas, Messieurs Haultain, Sifton, Bulyea, DeVeber, Brown, Fisher, McIntyre, Meyers, Elliott, Cross, Rosenroll, Lake, Smith, Shera, Prime, Connell, McCauley, Simpson, Wallace, Gillis, Hawkes-21. Nays, McDonald, Bennett, Patrick, Villeneuve, McKay, McLeod, Amable-7. That dissent was not against provincial status, but the request for one province, was clearly brought out in the debates.

73. Journals, 1902, p. 18.
divided into two provinces, each large enough to enjoy economical government combined with a field to satisfy local ambitions. They declared that the arguments in favor of one large province defeated the desired ends; that is, equality with the other members of Confederation. Moreover, the establishment of such an unwieldy province would add weight to the plea to extend Manitoba's boundaries westward. Such an argument could not be advanced if two provinces were created, with an area proximating that of eastern and western sister provinces.

A third argument of especial interest in the light of events following 1905, was:

"That the establishment of two such provinces, would pave the way for united action with Manitoba to secure a fair and equitable settlement of our common claims against the Dominion for better terms and for co-operation in the great and necessary work of providing facilities for the transportation of our products to the markets of the world". 75

The history of the west had been broken when Manitoba was created a province in 1870, and for the thirty years following, the province went its own way, the Territories, their's. It would appear that their interests were again converging. The statement is almost prophetic, when the struggles 1905-1930, for control of natural resources are taken into account.

A debate arose with respect to a motion opposing the

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74. Patrick was from Saskatchewan and Bennett from Alberta, but both were opposed to the Haultain policy of one province for the Territories.
westward extension of the boundary of Manitoba, and as in the previous year, the house went on record as favoring present conditions. While the house was in session, a letter was received from the Honourable Clifford Sifton, Minister of the Interior, relative to the question of increased status. He advanced three reasons why the federal government had decided against introducing legislation to erect a province in the Territories. These included, the sparse population, the rapid increase taking place which would alter conditions within a short time, and the divergence of opinion with respect to the number of provinces to be created. Haultain, to whom the communication was addressed, replied on April 2, 1902, that the contents were a great surprise. He reminded the Minister of his statements of the previous year, and pointed out that the passage of time had augmented rather than diminished the need for action. The arguments for delaying action, he turned to suit his case. Population was not as sparse as it had been in other provinces upon their erection; rapidly changing conditions had caused the need for action, and delay would not settle the dispute regarding the number of provinces.

The statements put forth at this time were essentially the same as those which were used throughout the struggle.

76. Supra., p. 180.
78. Sifton to Haultain, March 21, 1901, and April 5, 1901. cf. Supra., pp. 179ff.
were present. These meetings are important in the light of what took place in 1905, when the lieutenant-governor called upon Scott to form a ministry in preference to Haultain.

Members of the Territorial assembly of 1903, came to their task with a fresh mandate from the people, elections being held April 13, 1903. The preliminary campaign had been

80. **Members of the Legislative Assembly of the North-West Territories 1903.**

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<td>Frederick William Gordon Haultain.</td>
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<tr>
<td>Lethbridge</td>
<td>Leverett George DeVeber.</td>
</tr>
<tr>
<td>Carstairs</td>
<td>John William Woolf.</td>
</tr>
<tr>
<td>Medicine Hat</td>
<td>William Thomas Finlay.</td>
</tr>
<tr>
<td>Battleford</td>
<td>Benjamin Prince.</td>
</tr>
<tr>
<td></td>
<td>John A. Reid, Clerk.</td>
</tr>
</tbody>
</table>

*Alexander Duncan McIntyre: Born in Ontario of Canadian*
The stand taken in 1902 was the pattern for that of 1903 and 1904. The memorials of the legislative assembly reiterated the same demands year after year, and Haultain made it his business to "hammer home" the points for which he was working.

In the spring of 1903, an event took place which gave rise to discussions regarding the possibility of engaging in federal political issues without introducing the same into territorial affairs. On January 21, a meeting of the District Conservative Association was held at Yorkton, when it was decided, on motion of R. B. Bennett, to hold a Territorial Conservative Convention. Such a gathering took place on March 25, when the principal speakers included F. W. G. Haultain, who was elected honourary president. Among other resolutions passed was:

"8. Decision to run the next Territorial elections on party lines and to place a Conservative candidate in every constituency". 79.

The question of introducing party politics into the Territorial elections was keenly discussed, and although approved by a large majority of the Convention, was deprecated by Messrs. Haultain and Elliott, among others, on the ground that it might unduly embarrass the North-West Government, and unnecessarily hasten an event which should be deferred as long as possible. A similar gathering of Territorial Liberals took place on March 4, when Walter Scott, member for Assiniboia West in the federal house, and D. H. McDonald leader of the Territorial opposition.

fought with increased subsidy and provincial status as its main planks. Haultain received no reply to his communication of April 2, 1902 with the Minister of the Interior, and in a further communication of January 31, 1903, renewed his demands.

The premier referred to a speech made to his constituents (Macleod), which gives an idea of how the subject was presented to the electors:

"At the present time the Government of the Territories is engaged in negotiations with the Dominion Government leading to the establishment of a part of the Territories upon the provincial basis. Apart from all other considerations, financial necessity has forced this question to the front". 82.

80. (con't.) parentage. General merchant and real estate agent. A Liberal.


Peter Talbot: Born in Ontario where he was educated. Holds teacher's certificate and taught before taking up farming. A Liberal in Dominion politics, and a supporter of the Haultain administration in the assembly.


Thomas MacHutt: Canadian. A farmer, real estate, loan and insurance agent. Been largely engaged in colonization work. An Independent Liberal, but opposed to Dominion party politics in Territorial legislative matters.


81. Or at least, so it appears, for no reply is printed in Sessional Papers, No. I, of the North-West Territories for 1903, which contains all correspondence relative to the financial and constitutional position of the Territories.

82. Haultain to his electors - quoted Haultain to Sifton, January 31, 1903. Reprinted in Oliver, II, 1208.
Haultain declared that while the controversy as to whether there should be one or more provinces had not been settled, there were other more pressing questions over which the government did not hesitate:

"These questions dealt with the things which the Government on behalf of the people of the Territories had claimed must of right belong to any Province established in the West, and which were practically unanimously approved by the Legislature at its last session.

They are briefly—

1. Equal rights with all the other Provinces of the Dominion and the same financial consideration that has been given to those Provinces;
2. Control of the public domain in the West, by the West and for the West;
3. Compensation for the alienation of any part of the public domain for purely federal purposes; and
4. The removal of the unjust and onerous Canadian Pacific Railway exempt from taxation". 83

With the subject thus presented to the electors at Macleod, and published in newspapers and repeated on platforms throughout the Territories, the house opened with a membership, differing as to the number of provinces, but united in the demand for increased status.

The speech from the throne referred to the negotiations being carried on, but the only advance which it could note, was the promise of the federal government to extend the jurisdiction of the local legislators to the subject of land titles. The debates on the question of status differed little from those of the previous year. Differences of opinion were submerged in a demand for what was believed to be the only

83. Haultain to his electors, quoted, Haultain to Sifton, January 31, 1903. Reprinted in Oliver,II, 1209.
means of solving the existing legislative and financial difficulties of the Territories, - "nothing short of that system" of government enjoyed by our fellow citizens in the Provinces.

A second session of the assembly of the North-West Territories was held in 1903, when it was announced that legislative jurisdiction had been extended so as to enable the local government to deal with the qualification of members of the legislative assembly. It would appear that the federal government was trying to satisfy the west by small concessions, and stave off the inevitable grant of equality. When the question of redistribution of members of the federal house was discussed, Laurier suggested giving the Territories ten representatives, not because they were entitled to them, but as an act of grace.

On November 7, 1903, the Toronto News published an interview with F. W. G. Haultain, the Territorial Premier. In it, he stated the grounds upon which provincial status was demanded: it would enable the legislature to deal without restriction, in regard to many matters in which it was now gravely hampered; it would permit the assembly to borrow money for improvements upon favourable terms, it would result in increased revenues, and what was vastly important in the light of this study, the Territories had become of age, and the people were demanding provincial status at the polls. H. V. Bulyea, was also quoted, and the chief reasons which he gave

34. Memorial to the Governor-General in Council, April 24, 1903, Journals, 1903, p. 32.
were the right to borrow money on the public credit, and to charter railways. The News declared that the real reason for the delay was the school question. The earlier troubles in Manitoba have been described as "a struggle between Quebec and Ontario transferred to the banks of the Red", and in the case of the autonomy bills, Orange influence on the one hand, and the church fathers on the other, caused delay and strife in the federal house.

The session of 1904, as far as provincial status was concerned, was merely a repetition of those of 1902 and 1903. The speech from the throne showed what little progress had made:

I have to express the regret of my Government that the movement towards the establishment of the Territories upon the Provincial basis has not been materially forwarded during the past year". 85.

The most promising communication of the year was that of Sir Wilfrid Laurier to Premier Maultain on September 30, 1904:

"Should my Government be sustained we will be prepared immediately after the election to enter upon negotiations for the purpose of arriving at a settlement of the various questions involved in the granting of provincial autonomy with a view to dealing with the question at the next session of Parliament". 86.

The elections saw a return of Liberal administrators, and true to the promise of their leader, autonomy bills were introduced into the federal parliament and received assent

85. Honourable A. E. Forget to the Legislative Assembly, September 22, 1904. Journals, 1904, p. 8. Correspondance relative to the subject was reprinted as a Sessional paper.

July 20, 1905. When the question came up for discussion, there were several points which required solution. The first of these concerned the number of provinces. The area was too great for one, as had been suggested earlier by Haultain, and it was finally decided to divide them by a boundary north and south. The financial terms were purely a matter of business and the school system which created an outburst of sectarian controversy, led to resignations in the cabinet. From the viewpoint of a "colonial policy" for the Dominion, and its bearing upon later history, it is the land settlement which is outstanding. There were two options, either give local control of the public lands as in the older provinces, or retain them as was done in Manitoba.

Among other clauses, it was enacted:

"All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the province under the Northwest Irrigation Act, 1898, shall continue to be vested in the Crown for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said province with the substitution therein of the said province for the Northwest Territories". 37.

This section revived all the arguments which had been used earlier in respect to the retention of the public lands of Manitoba "for the purposes of the Dominion". At that time the

37. 4-5 Edward VII, chap. 3, s. 21. An Act to establish and provide for the Government of the Province of Alberta. Statutes, 1905, p. 82.

38. 33 Vict., chap. 3, s. 30. An Act ---to establish and provide for the Government of the Province of Manitoba. Statutes, 1870, p. 25.
"purchase" theory had served the ends of a Conservative premier, who had promised the electors during his campaign, that the Pacific railway would be built by means of the "land through which it had to pass", and without any cost to them. The reason given for such a departure from British precedent was that the people of the new province were opposed to immigration and might hinder Canadian efforts in this field. When a similar question arose in 1905, the reasons given were that the land had been bought by the government of the Dominion and should be administered by it. The American precedent was quoted, and reference made to the federal immigration policy. As a writer on the natural resources question in Alberta expressed it:

"The Province had no constituted authority to accept or reject the terms set out in the Act that brought her into existence. The power that created the Province, that is the Dominion Government, fixed the terms and that power decided that an annual cash advance would be better for the about-to-be formed Province than to give her her natural resources." 91.

The Territories received only a modified form of provincial status, but, nevertheless, had achieved their purpose, and Canada's first experiment in colonial policy was at an end.

89. By the common law of the Empire, the natural resources belong to the local community. Morton, op. cit., passim. There had been a shift back to the earlier idea of "annexing" the lands, although the clause of the British North America Act-146- under which Manitoba entered, referred to the "admission of other colonies".

90. Supra, p. 31.
91. John D. Hunt, Work in manuscript, deposited in the Legislative Library, Edmonton, Alberta.
CONCLUSION.

THE NORTH-WEST TERRITORIES: COLONIES OF CANADA.

Britain's four greatest gifts to the world have been her empire, parliament, literature and law. To the first of these Canada has made, and is making, definite contributions. Through the activities of her statesmen she achieved responsible government, the practical though not the legal, distinction between a dominion and a colony. More than that, Canada had her period as director of another colony, the North-West Territories. These districts were in all essential respects colonies of Canada, owing their allegiance to her, and only indirectly to the Queen.

Territorial status has never been defined, and until greater study of the subject has been made, including Canada's activities in the present Territories, limits cannot be set as to the meaning of the term. As Great Britain before her, the Dominion had no definite policy. Canada was just starting her career as a nation, attempting to overcome the difficulties inherent in making a political union an organic whole. With these problems before her, her statesmen had little time, even if they had had the desire, which undoubtedly many did, to work out a consistent policy for the west.

In 1905 a conditional solution of the whole question of the constitutional growth of the Canadian west was achieved,
for in that year autonomy bills created the provinces of Saskatchewan and Alberta. The term "North-West Territories" took on a new meaning, those whose history these pages have attempted to trace, being, as it were, on the doorstep of Canadian Confederation. They had knocked and were being admitted, but another generation was to pass before they were really in the inner chamber. The end of a stage had been reached, but the constitutional development was the forerunner of the natural resources problem which was not solved until 1930.
APPENDIX A

Extracts from

THE ROYAL CHARTER FOR INCORPORATING THE HUDSON'S BAY COMPANY

A.D. 1670.

By these presents, for us, our heirs and successors, do give, grant and confirm, unto the said Governor and Company, and their successors, the sole trade and commerce of all these seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, creeks and sounds aforesaid, that are not already possessed by or granted to any of our subjects, or possessed by the subjects of any other Christian Prince or State, with the fishing of all sorts of fish, whales, sturgeons and all other royal fishes, in the seas, bays, inlets and rivers within the premises, and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid, and all mines royal, as well discovered as not discovered, of gold, silver, gems and precious stones, to be found or discovered within the territories, limits and places aforesaid, and that the said land be henceforth reckoned and reputed as one of our plantations or colonies in America, called "Rupert's Land."

And further we do, by these presents for us, our heirs and successors, make, create, and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits and places, and of all other the premises, saving always the faith, allegiance and sovereign dominion due to us, our heirs and successors, for the same to have, hold, possess and enjoy the said territory, limits and places, and every of their rights, members, jurisdictions, prerogatives, royalties and appurtenances whatsoever, to them the said Governor and Company, and their successors, as of our manor at East Greenwich, in our County of Kent, in free and common soccage.

We do grant unto the said Governor and Company, and their successors, that it shall and may be lawful to and for the
said Governor and Company, and their successors, from time
to time, to assemble themselves, for or about any the matters,
causes, affairs, or business of the said trade, in any place
or places for the same convenient, within our dominions or
elsewhere, and there to hold Court for the said Company and
the affairs thereof; and that also, it shall and may be lawful
to and for them, being so assembled, and that shall then and
there be present, in any such place or places, whereof the
Governor or his Deputy for the time being to be one, to make,
ordain and constitute such and so many reasonable laws, con­
stitutions, orders and ordinances as to them, or the greater
part of them being then and there present, shall deem necess­
ary and convenient for the good government of the said Com­
pany, and of all the governors of colonies, forts and plant­
tations, factors, masters, mariners and other officers em­
ployed or to be employed in any of the territories and lands
aforesaid.

The said Governor and Company shall have liberty, full
power and authority to appoint and establish Governors and
all other officers to govern them, and that the Governor
and his Council of the several and respective places where
the said Company shall have plantations, forts, factories,
colonies or places of trade within any of the countries,
lands, or territories hereby granted, may have power to
judge all persons belonging to the said Governor and Com­
pany, or that shall live under them, in all causes, whether
civil or criminal, according to the laws of the kingdom,
and to execute justice accordingly.

Report, 1857,
Appendix, No. 11, pp. 410-413.
APPENDIX B

Statement showing the amount of Local Revenue collected each year since August 31, 1887.

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount received.</th>
<th>Remarks.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1887-8</td>
<td>$16,533.40</td>
<td>12 months to August 31.</td>
</tr>
<tr>
<td>1888-9</td>
<td>16,109.38</td>
<td>10 months to June 30.</td>
</tr>
<tr>
<td>1889-90</td>
<td>19,559.11</td>
<td>12 months to June 30.</td>
</tr>
<tr>
<td>1890-1</td>
<td>18,731.93</td>
<td>12 months to June 30.</td>
</tr>
<tr>
<td>1891-2</td>
<td>46,227.39</td>
<td>12 months to June 30.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(including liquor licenses for 14 mo.).</td>
</tr>
<tr>
<td>1892-3</td>
<td>30,612.48</td>
<td>12 months to June 30.</td>
</tr>
<tr>
<td>1893-4</td>
<td>34,446.55</td>
<td>14 months to August 31.</td>
</tr>
<tr>
<td>1894-5</td>
<td>30,040.34</td>
<td>12 months to August 31.</td>
</tr>
<tr>
<td>1895-6</td>
<td>29,804.86</td>
<td>12 months to August 31.</td>
</tr>
<tr>
<td>1896-7</td>
<td>27,757.75</td>
<td>12 months to August 31.</td>
</tr>
<tr>
<td>1897-8</td>
<td>195,814.65</td>
<td>16 months to December 31.</td>
</tr>
</tbody>
</table>

Sessional Paper No. 26, Sessional Papers, 1899, p.38
APPENDIX C

Statement showing the amount of money received each year from the Dominion Government by the Government of the Territories since June 30, 1887.

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount Received</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1887-8</td>
<td>$96,707.29</td>
<td>These amounts were appropriated for expenses of Government in the Territories by Parliament and expended by the Department of the Interior, either directly or through the Lieutenant-Governor, without reference to the Assembly, except in 1888. They include appropriations for services still dealt with in the same manner, such as the maintenance of the Government House and the Lieutenant Governor's office staff; assistance to schools in the unorganized parts of the Territories; care of the Insane; cost of the Land Titles Offices; care of the several Court Houses and supplies for the Judges; etc., The same services in 1888-99 were estimated to cost $357,859.00, which amount was voted by Parliament. There were (and are still) other appropriations made by Parliament for the Territories and expended through the Department of Justice, Public Works, etc., the extent of which is not easy to accurately compute, but is known to be nearly $200,000.00</td>
</tr>
<tr>
<td>1888-9</td>
<td>142,889.10</td>
<td></td>
</tr>
<tr>
<td>1889-90</td>
<td>150,000.00</td>
<td></td>
</tr>
<tr>
<td>1890-1</td>
<td>246,465.04</td>
<td></td>
</tr>
<tr>
<td>1891-2</td>
<td>133,185.18</td>
<td></td>
</tr>
<tr>
<td>Year</td>
<td>Amount Received</td>
<td>Remarks</td>
</tr>
<tr>
<td>-------</td>
<td>-----------------</td>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>1891-2</td>
<td>$93,775.40</td>
<td></td>
</tr>
<tr>
<td>1892-3</td>
<td>195,700.00</td>
<td>Including an amount of $20,000.00 to defray expenses of elections.</td>
</tr>
<tr>
<td>1893-4</td>
<td>199,200.00</td>
<td>Including an amount of $45,000.00 on account of Relief Expenditure.</td>
</tr>
<tr>
<td>1894-5</td>
<td>225,534.00</td>
<td></td>
</tr>
<tr>
<td>1895-6</td>
<td>267,534.00</td>
<td></td>
</tr>
<tr>
<td>1896-7</td>
<td>242,879.00</td>
<td></td>
</tr>
<tr>
<td>1897-8</td>
<td>232,879.00</td>
<td></td>
</tr>
<tr>
<td>1898-9</td>
<td>232,879.00</td>
<td></td>
</tr>
</tbody>
</table>

Of this amount the sum of $66,605.40 was included in the usual Parliamentary appropriation for 1891-2 and transferred to the control of the Assembly before the end of the year at the Session of 1892, a supplementary appropriation of $27,170.00 was made on the representations of the Executive Committee, making a total of $93,775.00 as the first money placed at the disposal of the North-West Government by the dominion Government.

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