

Contesting the Colonial Order on the Canadian Prairies: Government Policy, Indigenous
Resistance and the Administration of Treaty 6, 1870-1890

by

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A thesis submitted in partial fulfillment of the requirements for the degree of

Doctor of Philosophy

in

History

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Abstract

This dissertation highlights the responses of Indigenous leaders and communities to the emergence of the colonial order on the Canadian prairies between 1870 and 1890. The complexities of their actions reveal significant points of weakness in the colonial order. Colonial governance strategies for the administration of Indigenous populations in western Canada intersected with Indigenous tactics in the face of the overwhelming economic transitions and other pressures of settler colonialism, and this resulted in unexpected outcomes. Paylist data, contextualized by other historical sources, reveal the various ways in which Indigenous peoples used both mobility and manipulation of status categories as forms of tactical resistance to the implementation of government administrative strategies. Indigenous contestation of the colonial order was intertwined with elements of adaptation to new economic, political and social realities of the mid to late nineteenth century.

The construction of ‘Indian’ and ‘Metis’ status categories were negotiated by both Indigenous peoples and colonial administrators in various ways, which resulted in unintended/unforeseen consequences for Indigenous familial and community identities. Indigenous peoples, both First Nations and Metis, were forced to choose between these racialized categories during and after Treaty negotiations, and it is evident that the historically contingent creation of the Metis status category challenged a particular bureaucratic understanding of Indigenous identities. Indeed, treaty commissioners barely muddled their way through instances of Metis communities agreeing to self-identify as ‘Indian’ in the early Numbered Treaties. The result was an ad-hoc colonial administration that failed to reflect the very circumstances of the peoples those policies were meant to ‘assist.’ Between 1876 and 1884, the Canadian government was fearful of losing control of the various Indigenous groups that made up Treaty 6. Consequently, people in this territory had some power to influence the

administration of policy. Indigenous communities employed tactics of mobility and the negotiation of identities to expose the porous realities of Canadian policy and to subvert, at least for a time, the actions and intentions of Indian agents and their superiors. As the colonial order gained strength following the military victory of 1885, government officials could more effectively constrain the tactics of individuals and communities. Yet even then Indigenous tactics often resulted in outcomes unanticipated by both colonial administrators and Indigenous peoples.

Given the contemporary efforts of Indigenous communities and settler-allies to de-colonize Canadian policy, this study serves to underscore the historical points of Indigenous resistance tactics in response to ill-conceived state strategies. It is my hope that the exposure of colonialism's malleable moments, the instances of weakness, will encourage scholars to continue the search for ways in which Indigenous communities actively contested powerful structural and repressive forces.

Acknowledgements

This dissertation was a decade-long journey and could not have been completed without the incredible support of mentors, funders, friends, and family. My supervisor, Gerhard Ens, provided wonderful guidance and meaningful encouragement. Always generous with your time and advice, I cannot thank you enough. Thank you also to members of my supervisory and examining committees - Sarah Carter, David Mills, Jane Samson, Sarah Krotz, and George Colpitts - for seeing me through this long process. This research would not have been possible without the generous financial support provided by the University of Alberta, the Luxton Foundation, the Alberta Lands and Settlement Infrastructure Project, and the Social Sciences and Humanities Research Council (SSHRC).

So many friends and colleagues have inspired me, and kept me grounded. Thank you to Bob Cole, Chris Hackett, Robin Adkins, Katherine Zwicker, Sharon Romeo, and the entire Clio's Hags slo-pitch team for your support, friendship and many coffee dates and/or beers over the years. Laura Adkins-Hackett: thank you for not only your friendship, but also your help with all that crazy data entry. Shannon Stunden Bower and Sean Gouglas, James Muir and Karine de Champlain, Karen and Mark Edwards, Sarah and Archie Maclean, Maggie and John Harris, Jessica McMinn and Ben Wheeler, Tolly Bradford and Lesley Harrington: thank you for all the Friday night pizzas, the wine, the stimulating conversations, the babysitting swaps, and more playdates over the years than I can count. To all of you, thank you for keeping me sane! I cannot imagine getting through this PhD without every single one of you.

A lot of life happens in ten years. I found my life partner and best friend, Jim Bohun, and now have two lovely, fun, energetic boys, Sam and Adam. While at times family-life felt as though it was slowing the dissertation process down, it also made it far more meaningful. Thank

you, Jim, for your unwavering support and always being by my side. I am also thankful for his wonderful parents Ed and Deanna Bohun. Ed passed away just before my defence – I know how proud he was that I saw it through. To my amazing sister, Jessica Hein, her husband Dan Hein, and my loving parents, Tony and Florance Niemi: you have supported me through every moment. You all mean absolutely everything to me. Thank you.

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Introduction

Historically, the Canadian Prairies was a contested space. In a literal sense, this landscape claims a long history of Indigenous resistance to government actions, culminating in, but certainly not ending with, the 1885 Rebellion.¹ From a scholarly perspective, this landscape has fostered rich debates on Indigenous-state relations. Scholars over the course of the last few decades have produced hundreds, if not thousands, of articles, book chapters, and monographs on the emergence of a Canadian colonial order into western Canada and the tragic results for Indigenous peoples.² This literature, by and large, seeks to throw light on the repressive effects of structural colonial forces to explain the continued cultural, social and economic marginalization of Indigenous communities across Canada.³ There is no doubt that the various

¹ I use the term ‘Indigenous’ rather than ‘Aboriginal’ or ‘Native’ in recognition that many Indigenous scholars and communities view the acceptance of the latter terms as acceptance of the Canadian colonial order. Since my work highlights the historical significance of Indigenous contestation of the colonial order on the Canadian Prairies from 1870-1890, I heed the argument of Taiaiake Alfred and Jeff Corntassel, in their article, ‘Being Indigenous: Resurgences against Contemporary Colonialism’ that “The acceptance of being ‘aboriginal’ (or its equivalent term in other countries, such as ‘ethnic groups’) is a powerful assault on Indigenous identities. . . . Indigenous peoples are forced by the compelling needs of physical survival to cooperate individually and collectively with the state authorities to ensure their physical survival. Consequently, there are many ‘aboriginals’ (in Canada) or ‘Native Americans’ (in the United States) who identify themselves solely by their political-legal relationship to the state rather than by any cultural or social ties to their Indigenous community or culture or homeland.” Taiaiake Alfred and Jeff Corntassel, ‘Being Indigenous: Resurgences against Contemporary Colonialism’ in *Government & Opposition* 40, Issue 4 (Fall 2005): 597-614, 599. I use the terms “Indian” and “Aboriginal” when appropriate in their historical context. For example, when discussing issues of land title, I use the term “Aboriginal” as it is presented in the historical record.

² I define the ‘emerging colonial order’ as an evolving process through which a nation-state (in this case, Canada) attempts to, and eventually does, impose a system of governance - that is, political, economic and social control - over a resident peoples and their territories, eventually occupying and exploiting those lands with and by its own settlers, resulting in the marginalization and displacement the original residents.

³ The most recent work to represent the repressive and subjugative effects of colonialism is James Daschuk’s, *Clearing the Plains: Disease, Politics of Starvation, and the Loss of Aboriginal Life* (Regina: University of Regina Press, 2013). Earlier examples include Sarah Carter, *Aboriginal People and Colonizers of Western Canada to 1900* (Toronto: University of Toronto Press, 1999); and in particular, John Tobias’s scholarship, “Protection, Civilization, Assimilation: An Outline History of Canada’s Indian Policy,” *The Western Canadian Journal of Anthropology* 6:2 (1976) and “Canada’s Subjugation of the Plains Cree, 1879-1885,” *Canadian Historical Review* 64:4 (1983). This literature is particularly poignant given the recent report of the Truth and Reconciliation Committee, which

forms of political-economic colonialism resulted in the eventual dispossession and marginalization of Indigenous communities in the Canadian west, with tragic social, cultural and economic outcomes. Yet, the emergence of a colonial order in western Canada was not a linear or ‘progressive’ historical process. Evolving Indigenous-state relations in particular were complicated, confusing and disorderly.⁴ Indigenous leaders and their communities consciously, and at times, effectively, contested attempts by the Canadian state to impose a colonial order in the West. Indigenous contestation of the colonial order was also intertwined with elements of adaptation to new economic, political and social realities of the mid to late nineteenth century.

The period between 1876 and 1890 in western Canada was characterized by a remarkable degree of social, environmental and economic change for Indigenous societies on the Canadian Plains.⁵ From a twenty-first century perspective, it is easy to view the negotiation and signing of the numbered treaties as a signal that European settlement would soon displace Indigenous communities, and capitalism would replace the existing fur trade and hunting-based economy.

highlighted the Canadian government’s role in the “cultural genocide” of First Nations, Metis and Inuit peoples in Canada.

⁴ The most recent example of Canadian scholarship that complicates earlier views of colonialism is Courtney Mason’s, *Spirits of the Rockies: Reasserting an Indigenous Presence in Banff National Park* (Toronto: University of Toronto Press, 2014). Scholarship that has inspired my search for nuanced and complicated sites of colonial interaction are Sarah Carter, *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: University of Alberta Press; Athabasca: AU Press, 2008); Alexandra Harmon, *Indians in the Making: Ethnic Relations and Indian Identities around Puget Sound* (Berkeley: University of California Press, 1999) and “Wanted: More Histories of Indian Identities,” in Philip Deloria and Neal Salisbury (eds.), *Companion to American Indian History* (Malden, Mass.: Blackwell Publishers, 2002); Cole Harris, *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia* (Vancouver, UBC Press, 2002); Mary-Ellen Kelm, *Colonizing Bodies: Aboriginal Health and Healing in British Columbia, 1900-50* (Vancouver: UBC Press, 1998); Robin Jarvis Brownlie, *A Fatherly Eye: Indian Agents, Government Power, and Aboriginal Resistance in Ontario, 1918-1939* (Oxford University Press, 2003); Tina Loo, “Dan Cramner’s Potlatch: Law as Coercion, Symbol, and Rhetoric in British Columbia, 1884-1951,” in *Canadian Historical Review* 78 (1992): 125-65.

⁵ I define the region of western Canada as the territories ceded by the Numbered Treaties following the transfer of Rupert’s Land to the Dominion of Canada. The start date of 1870 represents the transfer of Rupert’s Land from the Hudson’s Bay Company to the Dominion of Canada, and the beginning of what I view as the start of an emerging colonial order in the West – that is Canadian state’s attempt at a systematic expansion of control of ceded territory. The end date of my study has less to do with a date of historical significance, and more to do with placing a reasonable limit to the construction of the paylist data base; fifteen years of data captured both the period of transition in early years of Treaty 6 implementation, and the aftermath of events in 1885.

The complex personal and trading relationships that developed between Indigenous peoples and European fur traders were replaced relatively quickly by new relationships with agents and commissioners of the Canadian government charged with, as historian James Daschuk recently described, “clearing the plains,” to make way for an emerging colonial order in the west.⁶

This study challenges readers to reconsider their twenty-first century perspectives. Within the context of shifting Indigenous–Canadian state relations, and severe economic, environmental and social challenges in the nineteenth century, I ask readers to consider instead the tensions between Indigenous resistance tactics and the colonial agents’ attempts to implement policies intent on absorbing them into the Canadian body politic. These tensions become evident in treaty annuity paylists and government correspondence files. Based on their previous colonizing experiences in Upper and Lower Canada, state administrators thought they understood how to establish a colonial order in the Canadian West. Once the process was underway, however, many of these administrators quickly realized they knew very little about the resident Indigenous communities. This lack of knowledge, the inability to differentiate between different groups, and lack of historic relationship, resulted in volatile and unpredictable conditions for those in charge of treaty and Indian policy implementation.

My dissertation, in contradistinction to much past scholarship, emphasizes the nuances and complexities of our colonial past and present; however, it does not purport to provide an emic Indigenous perspective.⁷ Indeed, at its base, this study consists of an interrogation of the

⁶ James Daschuk, *Clearing the Plains*, x-xii.

⁷ While there are very few Indigenous authored sources from this period of study, I attempt to “decolonize” colonial methodologies, interrogating colonial historical sources in such a way as to reveal Indigenous-settler moments of encounters, as particularly evidenced in the Treaty Annuity Paylists. One of the most prominent works on decolonizing research methods is Linda Tuhiwai Smith’s *Decolonizing Methodologies: Research and Indigenous Peoples* (London: Zed Books Ltd and University of Otago Press, Dunedin, 1999 and 2002). More recent scholarship in the Canadian context that provides additional insight into the practise of history and decolonizing methods includes, Mary Jane McCallum, “Indigenous Labor and Indigenous History” in *American Indian Quarterly* 33 no. 4

colonial archive both “along” and “against” the grain. Reading this archive “along” the grain reveals not only state strategies for dealing with the Indigenous peoples of the Canadian west, but also the contradictions, gaps, uncertainties and anxieties that accompanied them.⁸ Reading this archive “against” the grain also permits me, as Keith Smith has noted, to reveal the “whispers, and even shouts, of Indigenous peoples ... though the written records left behind.”⁹

This is also a study that differs from past scholarship in its perspective of scale. Many of the interpretations presented in this study are the result of a micro-level analysis of fifteen years of all treaty annuity paylists for Treaty 6. In the same way that adjusting the scale on a map reveals different perspectives of landscape, adjusting the scale of historical analysis permits fresh interpretations. The evidence gathered from the 38 000 individual entries in my Paylist Database, and which are contextualized by other documented historical sources, reveals many Indigenous “whispers” and “shouts” in response to the emerging, and increasingly repressive, colonial order in Treaty 6.¹⁰

My use of data extracted from fifteen years of Treaty Annuity Paylists provides a unique perspective on both the possibilities and limitations of this particular colonial archive. Created by the state as a means to track monies paid out to Indigenous peoples under Treaty terms, annuity paylists were first used in Upper Canada after the War of 1812. Through the nineteenth century,

(Fall 2009): 523-544; and Adam Gaudry and Robert Hancock, “Decolonizing Métis Pedagogies in Post-Secondary Settings” in *Canadian Journal of Native Education* 35 no. 1 (2012): 7-21.

⁸ The term “along the archival grain” and the perspective that it encapsulates comes from Ann Laura Stoler’s *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton & Oxford: Princeton University Press, 2009).

⁹ Keith Smith, ed. “Introduction.” *Strange Visitors: Documents in Indigenous-Settler Relations in Canada from 1876* (Toronto: UTP, 2014), xxi.

¹⁰ I relied on the following works to navigate the complexities of quantitative analysis: Maggie Walters and Chris Andersen, *Indigenous Statistics: A Quantitative Research Methodology* (Walnut Creek: Left Coast Press, 2013); Charles Feinstein and Mark Thomas, *Making History Count: A Primer in Quantitative Methods for Historians* (Cambridge and New York: Cambridge University Press, 2002); Derek Rowntree, *Statistics without Tears: A Primer for Non-Mathematicians* (Boston: Pearson, 2003). For a full description of variables and coding for the Treaty 6 Paylist Database, please see Appendices 1.0-1.1.

both the construction of annuity payroll forms and information collected changed. Initially, colonial agents tracked only the name of an Indigenous head of family and the payment amount. As government officials became increasingly concerned to collect and classify as much information as possible as a means of control and surveillance over Indigenous lives, the payroll forms collected more detailed census-type data. While the information collected by colonial agents is problematic for its inconsistencies, errors and colonial perspective, this record set is also an incredibly rich historical source.

As historical documents, paylists are a fascinating link to nineteenth-century colonialism and state expansion into western Canada – a time when the classification of people into racial and gendered categories was not an insignificant preoccupation for government institutions and the individuals who worked within them. Although constructed and controlled by Indian agents, treaty paylists not only reveal government policies (and their contradictions and anxieties) and perceptions (and misperceptions) of Indigenous peoples, but when used carefully can also provide unique insights into demography, health, and familial and kinship ties. They also provide a glimpse into how the colonial perceptions of gender and family were challenged. For example, there are instances where notations made by Indian agents reveal confusion over who was considered female or male, who was considered married, and thus, whose children were or were not considered ‘legitimate’ by colonial authorities. These records are part of a colonial archive and have significant limitations, but they do reflect Indigenous volition, actions, and decisions.

In order to make better sense of all of the information contained within the payroll records between 1876 and 1890, I created a Paylist Database. I coded and entered all of the information from every payroll in Treaty 6 for my period of study. Once the Paylist Database was complete, I conducted quantitative analysis of the dataset contextualized by other historical sources. The

quantification of this historical evidence, and the adjustment of the scale of view, provides an opportunity to reveal new insights and interpretations on a well-researched and controversial period in our collective past. However, as revealing and interesting as some of the quantitative evidence may be, I am also cognizant of the very real social complexities that numbers and statistical evidence can obscure. As Maggie Walters and Chris Andersen argued, “In a straightforward Foucauldian sense, statistics - and official statistics in particular - operate as a powerful truth claim in most modern societies.”¹¹ The research questions I posed for this line of quantitative inquiry, the ways in which I coded payroll information, and how I interpreted and used the resulting data, were all deeply subjective decisions. With this in mind, I strongly encourage readers to view my use of quantitative analysis as a tool for generating avenues of new understandings and further research rather than a positivist statement of historical ‘truth.’

While the intended purpose of the payroll was to track who was paid treaty monies in a given year, these documents represent a structural form of colonial violence committed upon Indigenous communities. Payrolls represent the repressiveness of the colonial order: the classification of Indigenous peoples into desirable ‘band’ units that suited the Canadian State’s goal to move Indigenous people off of their lands to make the west ‘suitable’ for ‘white’ settlement. Yet, as with so many other colonial records, when read against the grain payroll records tells us much about Indigenous lives at these specific moments of encounters with colonial agents. For example, payrolls show both where and with which bands individuals and families collected annuities, often revealing a level of mobility that frustrated colonial administrators tasked with trying to sort out band membership as part of implementing a colonial sense of order. Indigenous responses, in turn, expose colonialism’s points of weaknesses and

¹¹ Maggie Walters and Chris Andersen, *Indigenous Statistics: A Quantitative Research Methodology* (Walnut Creek: Left Coast Press, 2013), 9.

direct us to new avenues of historical inquiry and understandings.

In the 1970s western Canadian historiography on treaties and Indian policy dramatically shifted away from an earlier generation of scholarship that portrayed treaties as largely a sham imposed on Indigenous peoples. This early scholarship, exemplified by G.F.G. Stanley, portrayed Indigenous people as incapable of adapting to a rapidly changing political, social and economic environment. From Stanley's view Indigenous communities had little understanding of what was being negotiated in the treaties; regardless, though, he contended that subsequent Canadian Indian policy was deliberate, wise, and benevolent, particularly when considered alongside American Indian policy.¹²

As Canadian historians in the 1960s became more aware of concepts of class, gender, race and ethnicity, and as arguments on cultural relativism, and individual and group agency emerged as mainstream in academia, historians began to view treaties as a sacred trust rather than a sham. Indigenous peoples in Canada, this scholarship generally argued, not only understood what was at stake in negotiating treaties with the British, and then Canadian government, but even demanded specific provisions that were eventually included.¹³ While this historiographical shift towards viewing Indigenous people as active agents during treaty negotiations was a welcome innovation, some scholarship, somewhat paradoxically, also posited that immediately after the treaties were negotiated the Canadian state unilaterally dictated an

¹² This view was common before the 1970s. For example, see George F.G. Stanley, *The Birth of Western Canada: A History of the Riel Rebellions* (Toronto: University of Toronto Press, 1960).

¹³ Important revisionist works in this vein include: Jean Friesen, "Magnificent Gifts: The Treaties of Canada with the Indians of the Northwest, 1869-1876," in *Transactions of the Royal Society of Canada*, Series V, Volume 1 (1986); John Leonard Taylor, "Two Views on the Meaning of Treaties Six and Seven," and "Traditional Premises and Necessary Innovation" in *The Spirit of the Alberta Indian Treaties*, edited by Richard T. Price (Montreal: Institute for Research on Public Policy, 1979).

Indian policy which eliminated any agency previously exercised during treaty negotiations.¹⁴

Since the 1990s, scholarship on the history of Indigenous – Canadian state relations turned toward a more nuanced understanding of colonialism, which exposed the ways in which various Indigenous communities maneuvered within, and pushed back against, the repressive forces of the colonial state. Within this literature there is great variation in topical and chronological focus; Canadian historians have made great strides in rejecting assimilationist-based interpretations and ideological perspectives that leave Indigenous peoples as victims of mono-causal government subjugation.¹⁵

When viewed through a thematic lens, however, the evolution of scholarship on Indigenous-state relations reveal a sense of unevenness. Most of the literature on the development of Canadian Indian Policy has focused on the twin themes of civilization and assimilation. The attention was warranted. The civil rights and labour movements, feminism, and more recently, post-colonial theory, were (and are) all philosophically inclined to search for oppression in the past to explain injustice in the present. Following the publication of the Department of Indian Affairs' *White Paper* in 1969, more than a few scholars with an interest in the historical administration of Canada's Indigenous peoples took the opportunity of a heightened political climate to produce numerous studies.¹⁶ Thick dissertations on the evolution of Indian Affairs' bureaucracy and policy in Canada were not uncommon through the 1970s and

¹⁴ The clearest statement of this view can be found in John Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy," *The Western Canadian Journal of Anthropology* 6:2 (1976); John L. Tobias, "Canada's Subjugation of the Plains Cree, 1879-1885," *Canadian Historical Review* 64:4 (1983).

¹⁵ See footnote number 4.

¹⁶ Statement of the Government of Canada on Indian policy (The White Paper, 1969), online access: <http://www.aadnc-aandc.gc.ca/eng/1100100010189/1100100010191> [Last accessed 17 August 2015]. Major studies of the Indian Department and development of Indian policy in this period include: John Milloy, *A Historical Overview of Indian-Government Relations* (Ottawa: Indian and Northern Affairs Canada, 1992); James Leighton, "The Development of Federal Indian Policy in Canada, 1840-1890" (Ph.D. Thesis, University of Western Ontario, 1975); John S. Milloy, "Era of Civilization: British Policy for the Indians of Canada, 1830-1860" (Ph.D. Thesis, University of Oxford, 1978).

early 1980s, and these dissertations formed the basis for how scholars think about the historical development of Indian Policy in this country. Each study has its own unique focus, however, as one reads through the thousands of pages written on the administration and development of Indian Policy one theme becomes abundantly clear. Scholars were intent on explaining and pinpointing how and when assimilationist policies made their way into the administration of Indian Affairs in Canada.

The historical development of Canada's Indian policy is generally considered contrary to the terms negotiated in Treaties negotiated between the Canadian state and Indigenous peoples. Historian John Taylor's work in the 1970s, for example, was very influential in shaping the way subsequent scholars viewed the treaty-making process.¹⁷ Taylor insisted that previous scholarship neglected to consider the influence of earlier government policies on the way each party approached treaty negotiations. He argued that while Indigenous groups and the government were not negotiating from an equal power relationship, Indigenous peoples did indeed want treaties and negotiated intelligently and strategically for specific terms. The problem, according to Taylor, was that the cultural gulf between the parties was too wide – there was no 'middle ground,' as coined by historian Richard White, and thus the subsequent treaty implementation process broke down.¹⁸

Historian J. R. Miller argued that the nature and tone of treaty-making changed through the first half of the nineteenth century. Unlike Taylor, he viewed the process initially as one of benevolence, the Crown wishing to maintain good relations with First Nations by treating with them fairly and openly. As settlement pressures mounted and the need for more Crown land

¹⁷ J. L. Taylor, 'The Development of an Indian Policy for the Canadian North-West, 1869-79,' PhD Dissertation for Queen's University, Kingston, Ontario, 1975.

¹⁸ Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815* (New York: Cambridge University Press, 1991).

became evident, treaty-making, he argued, became increasingly self-serving and legalistic.¹⁹ This view, however, was still generally representative of the “Warriors to Wards” thesis, in which Richard Allen argued that the government shifted from viewing Indigenous peoples as “warriors” in the pre-1815 period to “wards” of the state after the conclusion of the War of 1812.²⁰ This argument, though, failed to account for the degree to which officials in both the colonial office and Upper and Lower Canada attempted to grapple with the Crown’s moral and fiduciary responsibilities to First Nations people. The legislative process of ‘making’ Indians informed the extension of Indian policy westward, but is not adequately explained by the “warrior to wards” thesis. As historian Jane Samson argued, historians too readily accepted the dominant interpretations of the secondary literature on Indigenous-colonial relations in Canada. Studies, she suggested, that critically re-engage with primary sources would likely provide new and interesting perspectives.²¹

Following a line of historical inquiry that emphasized a sense of Indigenous advocacy for treaties, John Foster encouraged scholars to consider the importance of the fur-trade relationship in the treaty-making process. Foster contended that scholars had missed the significance of Indigenous influence and their role in controlling, to a large extent, the terms of the fur trade. By placing Indigenous people at the centre of the historical narrative, Foster highlighted the remarkable degree to which Indigenous peoples advocated on their own behalf and adapted to new socio-economic challenges in western Canada. Historian Jean Friesen took Foster’s analysis even further and outright rejected Taylor’s thesis of cultural misunderstanding. In separate

¹⁹ Miller also claims that the “divergence between oral and written accounts of treaty undertakings...became obvious after War of 1812.” J. R. Miller, *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada* (Toronto: University of Toronto Press, 2009), 100.

²⁰ Richard Allen, “From Warriors to Wards” is a chapter title in his monograph, *His Majesty’s Indian Allies: British Indian Policy in the Defence of Canada, 1774-1815* (Toronto: Dundurn Press, 1992).

²¹ Jane Samson, “British Voices and Indigenous Rights: Debating Aboriginal Legal Status in Nineteenth-Century Australia and Canada,” *Cultures of the Commonwealth* 2 (1996-97): 5-16.

works, Friesen and historical geographer Frank Tough respectively argued that although the power relationship may have been unequal, Indigenous people not only had control over their lives but understood the significance of the treaties and in some instances utilized and manipulated government policy for their own ends.²²

Arthur Ray's significant work on the post-1870 fur trade economy addressed the increased interference of government policy in the affairs of the Hudson's Bay Company and the development of government assistance for Indigenous communities. His work also highlighted the need for more research on how individuals and families were directly affected by, and responded to, changing economies of scale. Ray, Miller and Tough's *Bounty and Benevolence* bridged fur trade history and the history of treaties, but also acknowledged that more research was needed on issues of domesticity, gender, and identity.²³ They addressed how the complex socio-commercial relationship that existed between Indigenous peoples and the Hudson's Bay Company influenced the process of treaty negotiations. Their work, however, also highlighted the need for more research on the shifting and complicated relationship between the Crown and Metis peoples, the disintegration of Cree bands on the Plains, disagreement amongst Indigenous peoples on the benefits of treaties, the connections between treaties and scrip, the formation and dissolution of bands, and the integration of the fur trade economy with a new 'treaty economy'

²² Jean Friesen, "Magnificent Gifts: The Treaties of Canada with the Indians of the Northwest, 1869-1876," in *Transactions of the Royal Society of Canada*, Series V, Volume 1 (1986); Frank Tough, *As Their Natural Resources Fail: Native Peoples and the Economic History of Northern Manitoba, 1870-1930* (Vancouver: UBC Press, 1997).

²³ Arthur J. Ray, *The Canadian Fur Trade in the Industrial Age* (Toronto: University of Toronto Press, 1990). His books *I Have Lived Here Since the World Began: An Illustrated History of Canada's Native People* (Toronto: Lester Publishing, 1996) and *Indians in the Fur Trade: Their Role as Trappers, Hunters, and Middlemen in the Lands Southwest of Hudson's Bay, 1660-1870* (Toronto: University of Toronto Press, 1974), challenged previous fur trade scholars' 'nation-building' interpretations, including Harold Innis, E. E. Rich, A. S. Morton, by arguing the fur trade was/is Native history. Also see Arthur Ray's, "The Decline of Paternalism in the Hudson's Bay Company Fur Trade, 1870-1945," *Merchant Credit and Labour Strategies in Historical Perspective*, ed. Rosemary E. Ommer (Fredericton: Acadiensis Press, 1990), 188-202; Arthur Ray, Jim Miller and Frank Tough, *Bounty and Benevolence: A History of the Saskatchewan Treaties*, (Montreal: McGill-Queen's University Press, 2000).

that emerged through annuity payments.²⁴ Influenced by the important work of Ray, Tough, Miller and Friesen, some scholars started to explore the intimate links between familial histories in the fur trade economy and their involvement in treaty and scrip in the late-nineteenth century.²⁵

There is plethora of scholarship on the emergence of Metis communities and the political development of a Metis Nation in western Canada. Whereas early studies were focused the racial construct of “mixed-blood” or “half-breed” peoples, by the 1980s scholars, including John Foster, Jennifer Brown, Jaqueline Peterson, Nicole St. Onge and Gerhard Ens started to provide a more nuanced understanding of Metis ethnogenesis. Instead of viewing ‘Metisness’ as a racial construct, they explored the complex emergence of distinct communities, with their own cultural practises and political and economic systems. Most of this literature, however, focused on the emergence of Metis communities in the pre-1870 fur trade era, usually with an emphasis on their connections to Red River. Recently, Michel Hogue’s recent work placed the emergence of Plains Metis ethnic and political identity within the context of borderlands studies to show how political borders imposed across continuous landscapes challenged the making of racial classifications by British and American authorities.²⁶ Indigenous communities, including Metis, challenged the 49th parallel, and in doing so, also became “implicated in boundary making across the West.”²⁷

²⁴ J. R. Miller, *Compact* (2009). Similar to his work with Ray and Tough, this book provides synthesized the scholarship to date on Treaties.

²⁵ Heather Devine *The People who Own Themselves: Aboriginal Ethnogenesis in a Canadian Family, 1660-1900* (Calgary: University of Calgary Press, 2004); Melanie Niemi-Bohun, ‘Gendered Strategies of Treaty and Scrip: The Edmonton and District Stragglers, 1876-1886’ (MA Thesis, University of Northern British Columbia, 2003) and “Colonial Categories and Familial Responses to Treaty and Metis Scrip Policy: The ‘Edmonton and District Stragglers,’ 1876-1886” in *Canadian Historical Review* 90, 1 (2009): 71-98.

²⁶ Michel Hogue, *Metis and the Medicine Line: Creating a Border and Dividing a People* (Chapel Hill: UNC Press, 2015).

²⁷ *Ibid.*, 9. Hogue argued that: “Restrictive notions of race and nationality undermined Metis efforts to claim land, to vote, to move freely across the border, and to reconstitute their communities outside of the U.S.-Canadian borderlands...”

More recently Chris Andersen argued that the concept of peoplehood must be at the center of any scholarly discussion of Metis identities. He argued that while concepts of race as a form of difference has long played a role in shaping Indigeneity in Canada. To be Metis, whether in the past or the present, came from strong, yet complex, kinship ties woven between individuals, families, and communities, which ultimately created and maintained a Metis peoplehood.²⁸ The Metis, he argued, were given little option but to engage in forms of racial administrative classifications through colonial impositions.

The development of those forms of racial administrative classification, which Andersen problematizes as a tool for the recognition of Canada's political legitimacy, are also addressed, although in different ways, by the recent scholarship of Gerhard Ens. In his article "Hybridity, Canadian Indian Policy, and the Construction and 'Extinguishment' of Metis Aboriginal Rights in the Nineteenth Century," Ens exposed the intersections between Canadian Indian policy and the construction of a racialized Metis status category in 1870, which provides a basis for understanding how the concepts of 'hybridity' and self-identification complicated the administration of the colonial in western Canada.²⁹ Building on the concept of hybridity, Gerhard Ens and Joe Sawchuck's new work on Metis identity has influenced my own thinking of how scholars come to view the emergence of a historically distinctive Indigenous group. Ens and Sawchuck, for example,

focus on the ethnic group rather than on a way of life and shift the analysis to those cultural, economic, and political strategies that serve to define a people's boundaries. This approach takes seriously the importance of ascription (self-definition) in dealing with questions about who is and who is not a member of a particular people.

²⁸ Chris Andersen, *The Metis: Race, Recognition and the Struggle for Indigenous Peoplehood* (Vancouver: UBC Press, 2014)

²⁹ Gerhard Ens, "Hybridity, Canadian Indian Policy, and the Construction and 'Extinguishment' of Metis Aboriginal Rights in the Nineteenth Century," in *Reconfigurations of Native North America: An Anthology of New Perspectives*, John R. Wunder and Kurt E. Kinbacher, ed. (Lubbock: Texas Tech University Press, 2009).

Ethnicity, in this view, is a function of the beliefs of historical actors who are both “insiders” and “outsiders.”³⁰

In other words, the emergence of Metis identity must be located within the sphere of local circumstances (familial and community context); but must also be placed within view of ‘external’ circumstances including interactions with outside groups.

It is clear that economic and social circumstances of the fur-trade created unique communities distinct from Red River that were neither ‘Indian’ nor ‘white’ and that these freemen communities represent the beginnings of Metis peoplehood in western Canada. When Metis traders established themselves as economic middlemen or ‘freemen,’ they also provided an important trading and cultural link between Indigenous and European groups involved in the fur-trade economy.³¹ It was a particular behaviour and lifestyle that resulted in the emergence of the Plains Metis as a group that differed from both Indigenous Indian bands and Euro-Canadians. The emphasis on the Red River Metis has resulted in neglect of the treaty era as an important thread in the formation and perhaps even solidification of some Metis political identities in response to external forces and outsiders west of Manitoba.

The early history of the reserve period in the west was examined by Sarah Carter’s first monograph *Lost Harvests*. Her study’s significance and influence is still felt within the field for its attention to the ways in which government administrators failed to respond to the needs of

³⁰ Gerhard Ens and Joe Sawchuck, *From New Peoples To New Nations: Aspects of Métis History and Identity from the Eighteenth to the Twenty-first Centuries*, forthcoming (Toronto: UTP, 2015). They also argue that the term “Métis” means something quite different today than it did 150 years ago, and the meaning is still changing. Indeed, no one definition is monolithic, and different concepts of Métis identity can coexist in different regions.” 5.

³¹ See Jacqueline Peterson, “Prelude to Red River: A Social Portrait of the Great Lakes Métis,” in *Ethnohistory* 25, No. 1 (Winter 1978): 41-67; John Foster, ‘Wintering, the Outsider Adult Male and the Ethnogenesis of the Western Plains Métis’ *Prairie Forum* 19, No. 1 (Spring 1994): 1-13; Jennifer Brown, “Fur Trade as Centrifuge: Family Dispersal and Offspring Identity in Two Company Contexts,” in *North American Indian Anthropology: Essays on Society and Culture*, Raymond J. DeMallie, ed., (University of Oklahoma Press, 1994): 197-217.

First Nations agriculture.³² Since the publication of her work in 1990, numerous other scholars shifted their attention to the state's interference in the daily lives of Indigenous peoples on reserves. Katherine Pettipas examined the state's attempt to suppress and criminalize cultural activities, while J.R. Miller and John Milloy published in-depth and detailed works on the history of residential schools.³³ Thus scholars over the last quarter of a century have committed to, as historian Stephen High argued, rejecting the post-treaty years as simply an "era of irrelevance," where the outcomes of repressive colonial policies are already established and unquestioned.³⁴

When teleological frameworks such as "assimilation" and "cultural conflict" are placed aside, the unfolding of Indigenous-state and Indigenous-settler relations can be viewed instead as complex, negotiated interactions, and often influenced by local circumstances. From a global perspective, new histories on settler colonialism reveal that Indigenous peoples through the late-nineteenth and early twentieth centuries actively engaged in various forms of resistance that continue to this day.³⁵ In western Canada, communities circumvented laws used to criminalize cultural practices including polygamy, Sundance and Thirst Dances on the Plains, and potlaches in British Columbia. Carter's book *The Importance of Being Monogamous* revealed a determined persistence in Indigenous communities to both circumvent and fight for the "right to live under

³² Jill St. Germain's recent comparative study American and Canadian treaty implementation, '*Broken Treaties*': *Indian Treaty Implementation in Canada and the United States, 1868-1885*, (Ph. D. Diss., University of Calgary, 2005) provides a critique of how scholars have continued to rely on Tobias' interpretation. J.R. Miller's "Owen Glendower, Hotspur, and Canadian Indian Policy," *Ethnohistory* 37:4 (Fall 1990) and Tina Loo's, "Dan Cramner's Potlatch: Law as Coercion, Symbol, and Rhetoric in British Columbia, 1884-1951," in *Canadian Historical Review* 78 (1992): 125-65, make a point of demonstrating Indigenous agency and understanding in contrast to the views held by Tobias, Carter and synthesized in Miller's work elsewhere.

³³ J. R. Miller, *Shingwauk's Vision: A History of Native Residential Schools* (Toronto: University of Toronto Press, 1996); John Milloy, *A National Crime: The Canadian Government and the Residential School System – 1879 to 1986*. (Winnipeg: University of Manitoba Press, 1999).

³⁴ Steven High, "Native Wage Labour and Independent Production during the 'Era of Irrelevance,'" in *Labour/Le Travail* 37 (Spring 1996):243-264.

³⁵ Julie Evans and Patricia Grimshaw et al., *Equal Subjects, Unequal Rights: Indigenous Peoples in British Settler Colonies, 1830-1910* (Manchester and New York: Manchester University Press, 2003); Zoe Laidlaw and Alan Lester eds., *Indigenous Communities and Settler Colonialism, Land Holding, Loss and Survival in an Interconnected World* (Palgarve Macmillan, 2015).

their own laws”:

Officials were constantly frustrated that Aboriginal family laws persisted, that people protested, that women and men refused to stay in bad marriages and that some people continued to separate, divorce, and remarry according to these laws.³⁶

Meanwhile Shelley Gavigan’s recent work on criminality on the plains also complicated how Indigenous communities responded to, and manoeuvred within, an emerging system of colonial law and order. She placed Indigenous peoples in the center of the historical narrative. In a similar vein to Tina Loo’s earlier work, “Dan Cranmer’s Potlatch: Law as Coercion, Symbol, and Rhetoric in British Columbia, 1884-1951,” Gavigan demonstrated the extent to which Indigenous communities advocated on their own behalf and how occasionally court rulings countered the assimilationist direction of Canadian Indian policies.³⁷

These studies undermine a linear understanding of colonialism, and form the basis for my focus on the tensions between Indigenous resistance/adaptation and colonial policies, and the unanticipated outcomes those interactions produced. I show that the process of Indigenous dispossession was non-linear by analyzing and contextualizing treaty annuity paylists, a source which has not been used in this manner previously. Paylists reveal individual moments of encounters between Indigenous people and government agents. These moments of encounters show more than the imposition of colonial policies; they expose the outcomes of policy implementation, and add a fine-grained understanding of processes of dispossession and Indigenous response. Put simply, this is significant because I show, through the fine-grained view of treaty paylists, how Indigenous lives were affected by policy, and how people in various communities tried to make the best of appalling situations and overwhelming injustice.

³⁶ Sarah Carter, *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: University of Alberta Press, 2008), 9.

³⁷ Shelley A.M. Gavigan, *Hunger, Horses, and Government Men: Criminal Law on the Aboriginal Plains, 1870–1905* (Vancouver: UBC Press, 2012).

My work is also grounded firmly in recent theoretical approaches to settler-colonialism. Recent Canadian scholarship demonstrates that settler-colonialism was a multi-layered and complex historical process, with various perspectives.³⁸ These works also speak to the resilience of Indigenous peoples in the path of imperial expansion.³⁹ My work follows this line of thinking, but with a focus on how people used status categories and band identities in response to a rapidly changing economic and social environment on the plains. Colonialism in this study refers to the construction of ‘Indian’ and ‘Metis’ status categories and the policy directives created to enforce their boundaries, but also refers to the ways in which these boundaries were constantly contested by those they were supposed to contain.

While Indigenous responses to the many different incursions of colonialism were complex, inconsistent, and at times contradictory, so too were the colonial responses. Colonialism was far from a monolithic force. It was fluid, multi-layered, and was constantly reshaped and challenged by individuals and groups, Indigenous and non-Indigenous, both on its periphery and at its core. My theoretical approach to colonialism is to view it as a dynamic and dialogical process. It is grounded firmly in the work of Ann Laura Stoler. She argued that ‘colonialism’ is the “social and cultural space where racial classifications were defined and defied, where relations between colonizer and colonized could powerfully confound or confirm

³⁸ For example, many contributors to recently published collected editions, including Katie Pickles and Myra Rutherdale (eds.) *Contact Zones: Aboriginal and Settler Women in Canada's Colonial Past* (Vancouver: UBC Press, 2005) and Celia Haig-Brown and David Nock, *With Good Intentions: Euro-Canadian and Aboriginal Relations in Colonial Canada* (Vancouver: University of British Columbia Press, 2006) explored the gendered nature of colonial encounters and apply postcolonial theoretical perspectives. These collections emphasized colonialism as a dialectic process with various perspectives. Specific examples include Carole Gerson and Veronica Strong-Boag, ‘Championing the Native: E. Pauline Johnson Rejects the Squaw’ and Cecilia Morgan, ‘Performing for “Imperial “Eyes”’: Bernice Loft and Ethel Brant Monture, Ontario, 1930s-1960s,’ in *Contact Zones*; and Sarah Carter, ‘“Complicated and Clouded”’: The Federal Administration of Marriage and Divorce among the First Nations of Western Canada, 1887-1906,’ in *Unsettled Pasts: Reconceiving the West through Women's History*, Sarah Carter, Lesley Erikson, et al. (eds.) (Calgary: University of Calgary Press, 2005).

³⁹ Sarah Carter, *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: University of Alberta Press, 2008).

the strictures of governance and the categories of rule.”⁴⁰ Stoler admittedly wrestled with the

conceptual fixity of categories and the fluidity of their content...[categories were] binding but unbound by those within, were excessively rigid and exceeded their limits, had nuanced criteria for inclusion that were reworked by people who made them and by those they could not contain.”⁴¹

Applying Stoler’s concept of fluidity to colonialism in western Canada provides me with the analytical concepts to focus on the permeability and fallibility of colonial categories, and provide a more nuanced understanding of the tensions between imposed status categories and human identities.

Although his work addressed a much earlier period, my thinking has also been heavily influenced by the scholarship of Ted Binnema. In particular, his book *The Common and Contested Ground: A History of the Northwestern Plains from A.D. 200 to 1806* demonstrated an important shift away from both the concept of “culture-conflict” and scholarly emphasis on homogenous Indigenous identities. He argued that Indigenous communities were

complex, dynamic interethnic entities that, although politically autonomous, were inevitably affiliated with neighbours. Both the local band and the interethnic coalition were usually more important in the history of the northwestern plains than was the cultural group. Euroamerican newcomers were not merely the representatives of an alien culture. They quickly became important participants in a dynamic mosaic.⁴²

Binnema’s rejection of a conflict-orientated approach to the study of the past inspired my own search for a more nuanced understanding of Indigenous-state relations. If only viewed through the lens of cultural conflict and assimilation, we miss out on the complex patterns of human interactions, not only those between Indigenous communities and the state, but also between communities.

⁴⁰ Ann Laura Stoler, “Tense and Tender Ties: The Politics of Comparison in North American History and (Post) Colonial Studies,” *The Journal of American History*, 88 (3) 2001, 1.

⁴¹ Stoler, *Carnal Knowledge*, 8-9.

⁴² Ted Binnema, *The Common and Contested Ground: A History of the Northwestern Plains from A.D. 200 to 1806* (Norman: University of Oklahoma Press, 2001).

While Binnema's contextualist work encouraged me to consider the complex ways in which Indigenous communities responded to each other, Alexandra Harmon's work inspired me to explore the ways in which multicultural, or interethnic, identities intersected with the construction of racialized status categories. Harmon encouraged historians to more seriously examine how a long history negotiation and interaction between Indigenous peoples and colonial/government agents resulted in the emergence of many modern Indigenous identities.⁴³ She used a micro-level approach to examine the intersections between colonial constructions of race and community ethnic identities, and how those intersections shifted through time in Puget Sound. This approach demonstrated the important role that both treaty terms and subsequent Indian policy had in forming the cultural and physical (spatial) parameters within which Indigenous peoples made decisions that would directly influence descendant identities.

Applying Harmon's reasoning to Indigenous-state interactions in western Canada, it follows that both the official bureaucratic and the personal formulation of Indigenous and band identities emerged from complex, intra-ethnic and cross-cultural dialogues. Colonization restricted movement, and in turn restricted the flexibility of previously fluid band identities. The increasingly restrictive 'choices' imposed on First Nations and Metis peoples to identify with a particular band or to withdraw from treaty solidified boundaries of classification; yet, at the same time group identities could be used as a means of resisting specific government policies.

The scholarship of Stoler, Binnema and Harmon all point the way to a more nuanced understanding of how Indigenous-state interactions played out on the ground. However, in terms of a framework through which to view those interactions, the works of Michel De Certeau and

⁴³ Alexandra Harmon articulates this argument in *Indians in the Making: Ethnic Relations and Indian Identities around Puget Sound* (Berkeley: University of California Press, 1999) and "Wanted: More Histories of Indian Identities," in Philip Deloria and Neal Salisbury (ed.), *Companion to American Indian History* (Malden, Mass.: Blackwell Publishers, 2002).

Ian Hacking provide, I think, the most potential for better understanding the confusing administrative experiences of the colonial order on the Canadian prairies. Certeau challenged the idea of the state as an all-pervasive power by revealing the tactics available to marginalized communities to reclaim some measure of autonomy.⁴⁴ He proposed a “de-centring” of the strategies of the powerful (i.e. the Canadian state) by shifting focus to forms of resistance, or the ‘tactics,’ of marginalized communities. Exposing these “everyday” tactics, and how they work, contributes to the de-stabilization of the political, social, cultural, and economic “strategies” of the dominant societal forces. My work fits firmly within Certeau’s framework to reveal Indigenous tactics in response to strategies of the emerging Canadian colonial order. This approach complicates historical narratives that focus on the overwhelming authority of the state, and instead sheds light on the intricate and nuanced ways in which Indigenous peoples in Treaty 6 pushed back against specific government policies. Indigenous tactics were not unilateral, nor were government strategies.

I do not reject the existence of structural forces, but by framing Indigenous-state relations within Certeau’s tactic-strategy relational framework, I can better explain Indigenous actions and responses to those structures as they emerged. The tactic/strategy framework provides room for both manoeuvrability and resistance within the emergence of a colonial order. When Certeau’s approach is applied to the study of history, it provides an alternative to structuralist understandings in which the individual or small group is overwhelmed by power of the state. Placing playlist data within the tactics/strategy perspective permits room for viewing both events and daily practices in relational terms to the state, and how they played out in Indigenous communities in a much more holistic manner. Certeau, however, made no attempt to re-establish

⁴⁴ Michel de Certeau, *The Practice of Everyday Life* (Berkeley: University of California Press, 1984).

the individual as an autonomous free agent. For him, colonial strategies are contested and have limitations, but so too are tactics. Tactics cannot overwhelm structures, but can push-back in unsuspecting ways. In his view, all human actions are intertwined with the expectations and socio-economic positions of families, communities, and larger society. Yet, while individuals, both past and present, may not be autonomous they do have varying degrees of maneuverability.

In my attempt to better understand the ways in which Indigenous individuals, families, and communities were forced to negotiate their identities in response to, and eventually constrained within, new forms of state classifications, (i.e. “Indian” or “Metis”) I borrow from Ian Hacking’s scholarship on “dynamic nominalism.”⁴⁵ Hacking views dynamic nominalism as rejection of single framework through which scholars can understand the making of new categories of classification. Rather, there are dynamic, interactive forces between the ‘classification’ or category and the people to whom the category applies:

...one vector in labelling from above, from a community of experts who create a “reality” that some people make their own. Different from this is the vector of autonomous behaviour of the person so labeled, which presses from below, creating a reality every expert must face.⁴⁶

This dynamism is evident throughout my study. There is no single framework through which we can accurately understand both the administrative making of ‘Indian’ and the administrative making of ‘Metis.’ Each category emerged from particular contextual and local circumstance. The ways in which people tactically interacted with those categories, (state strategies of classification) is also dynamic – there was no single ‘pan-Indian’ or ‘pan-Metis’ response to the emerging colonial order on the Canadian prairies.

⁴⁵ Ian Hacking, “Making Up People,” in *Reconstructing Individualism: Autonomy, Individuality, and the Self in Western Thought*, Thomas C. Heller, Morton Sosna, and David E. Wellberry, eds. (Stanford: Stanford University Press, 1986), 236.

⁴⁶ *Ibid.*, 234.

Hacking and Certeau provide a useful combination of approaches to the functionality of resistance and adaption theory. Hacking's contribution brings into sharp focus how colonial administrative classification systems were incorporated by those they were supposed to contain to reveal a fluid sense of identity of each individual through a period of transition and hardship. Certeau's tactics/strategies framework extends this even further to administrative systems, categories, even language, as a means through which communities re-empowered themselves. Both Hacking and De Certeau encouraged me to reconsider the dominant histories of categories that classify and differentiate some people from others; for example, why were they created? What are their purposes? It is on this premise that my investigation began.

When the legislative making of 'Indian' and 'Metis' status categories between 1815 and 1870 are viewed from the perspective of Indigenous-state relations in Treaty 6, the dominant historiographical interpretations do little to explain the confusing and contested ways in which the colonial order emerged on the Canadian Prairies. In my first chapter, I argue that the *Royal Commissions on Indian Affairs* between 1815 and 1858, and the historical documentation tracing the negotiation and implementation of the Robinson Treaties in Upper Canada, show that Indigenous peoples played a significant role in the construction of the first legislated definition of "Indian." These documents also show that prior to 1870 colonial administrators had little conception of, nor gave much thought to, the idea of a separate 'Metis' status. The first chapter, then, suggests that the legislative making of 'Indian' status, developed within a particular historical and intellectual context, and was then applied haphazardly in the newly acquired North West Territories.

Meanwhile, the legislative making of 'Metis,' which was the result of Manitoba's entrance into Confederation after Canada's acquisition of Rupert's land in 1870, created serious

implications for the negotiation of the Numbered Treaties. In chapter two, I bridge the construction of status ‘Indian’ to the ad-hoc creation of a Metis status in Manitoba by revisiting the implications of Britain’s imperial withdrawal and Confederation for the Department of Indian affairs and overall administration of Indian policy. I argue that ‘Indian’ and ‘Metis’ status categories were negotiated by both Indigenous peoples and colonial administrators in various ways, which resulted in unintended/unforeseen consequences for Indigenous familial and community identities.

Indigenous peoples, both First Nations and Metis, were forced to choose between these racialized categories during and after Treaty negotiations. Building on my argument that the construction of status categories created administrative confusion, and resulted in serious problems for treaty commissioners and Indian agents, I examine the implementation of the early numbered treaties (1-3). Based on the notes and correspondence of various government officials, it becomes evident that the historically contingent creation of the Metis status category challenged a particular bureaucratic understanding of Indigenous identities. Indeed, treaty commissioners barely muddled their way through instances of Metis communities agreeing to self-identify as ‘Indian’ in the early Numbered Treaties. This bureaucratic morass further complicated the implementation of Treaty 6, where the Metis joined treaty in large numbers, given that “half-breed” status only applied in the newly created province of Manitoba.

Even beyond status issues, many of the challenges that surfaced after the signing of Treaty 6 were a result of a weak, if not outright negligent, government response to the harsh realities of life on the Plains in the mid-1870s – mainly the dispersal of communities due to the impact of disease and the devastation from game depletion. The result, as I argue in chapter four, was an ad-hoc administration that failed to reflect the very circumstances of the peoples

those policies were meant to ‘assist.’

While government policy was generally negligent in responding to the needs of Indigenous peoples in the early years of treaty implementation, evidence from paylists reveals instances of government agents attempting to respond to various Metis tactics between 1876 and 1886 in order to avoid discontent. Rather than deny Metis families treaty, or force them to either form or join an “Indian” band, I argue in chapter five that colonial agents created the ‘straggler’ paylist category as a way to pay treaty annuities to families who seemingly belonged to no band. This, and the Metis movement into, and later, and out of treaty status provides evidence of Hacking’s feedback loop theory on the fluidity of human identities: how in some cases Indigenous communities negotiated their identities in relation to political and economic realities at the time.

The final two chapters engage with both qualitative and quantitative historical evidence of Indigenous mobility found in treaty annuity paylists. This paylist data is used to explain the degree of movement in Treaty 6, both before and after restrictive colonial policies were implemented. Between 1876 and 1884, the Canadian government was fearful of losing control of the various Indigenous groups that made up Treaty 6. Consequently, people in this territory had some power to influence the administration of policy. In chapter six, I show the various ways in which Indigenous communities employed tactics of mobility and the negotiation of identities to expose the porous realities of Canadian policy and to subvert, at least for a time, the actions and intentions of Indian agents and their superiors.

In the post-1885 period, following the military defeat of Riel and ‘rebel’ bands, the stakes for the negotiation of individual, family, and community identities in treaty were much higher. As the colonial order gained strength following the military victory of 1885, government

officials could more effectively constrain the tactics of individuals and communities. Yet even then (1885-90), I argue in chapter seven that Indigenous tactics often resulted in outcomes unanticipated by both colonial administrators and Indigenous peoples.

The confusion that arose in western Canada over the intersections between the constructed and racialized colonial categories and the realities of Indigenous identity, help explain why administrative practices in Treaty 6 were contested and inconsistent. Indigenous identities in western Canada emerged, I suggest, through interaction between various forms of colonial (i.e. policy development and implementation) and Indigenous (i.e. response and resistance) discourse. Status categories did not equate with Indigenous identities, but it would be naive to think that these categories had no influence on how groups came to present themselves to outsiders, and over time, within their own communities.

In the search for clear explanations, it is easy to dismiss anomalous or complex evidence as non-representative of the larger historical processes at play. This study, however, embraces anomalies, inconsistencies, and complexities in the historical record, while at the same time fully acknowledges the emergence of a repressive colonial order. Given the contemporary efforts of Indigenous communities and their allies to de-colonize Canadian policy, this study serves to underscore the historical points of Indigenous resistance tactics in response to ill-conceived state strategies. In this way, the scholarship of Laura Ann Stoler aptly fits the emergence colonialism on the Canadian prairies. Moreover, my study shows that these interactions, these moments of encounters that are uniquely captured within treaty annuity paylists, also reveal the “political consequence of racialized categories that were fixed and fluid, precise and protean, received and malleable, all at the same time.”⁴⁷ It my hope that the exposure of colonialism’s malleable

⁴⁷ Stoler, *Carnal Knowledge*, 8.

moments, the instances of weakness, will encourage scholars to continue the search for ways in which Indigenous communities actively contested powerful structural and repressive forces.

This study highlights Indigenous tactics to both contest and adapt to the new realities of an emerging colonial order on the plains. Through both collective and individual determination, Canada's Indigenous communities are reclaiming and exerting their political and cultural strengths – working to de-colonize Canada through political and social actions.⁴⁸ Indigenous resistance to the imposition of colonial structures is not new. I argue that the strengths of Indigenous leaders and communities between 1870 and 1890 – the complexities of their actions and decisions, their assertive, and sometimes violent resistance to the Canadian state's attempts to subjugate and displace them, reveals significant points of weakness in the colonial order, and helps us to understand present-day struggles.

⁴⁸ For example, the Idle No More movement: “The impetus for the recent Idle No More events, lies in a centuries old resistance as Indigenous nations and their lands suffered the impacts of exploration, invasion and colonization. Idle No More seeks to assert Indigenous inherent rights to sovereignty and reinstitute traditional laws and Nation to Nation Treaties by protecting the lands and waters from corporate destruction. Each day that Indigenous rights are not honored or fulfilled, inequality between Indigenous peoples and the settler society grows.” See: <http://www.idlenomore.ca/story> [Last accessed 14 August 2015].

Chapter 1

“The Lure of Inevitability”: Re-framing Pre-Confederation Canadian Indian Policy, 1815-1870¹

1.1 Introduction

The formation of Canadian Indian policy in the pre-Confederation era directly impacted the dynamics of the emerging, and contested, colonial order in western Canada. The purpose of this chapter is to show how Indian policies before 1870 impacted the administration of Treaty 6. It provides the historical context to understand the legislation that created status categories in the western Numbered Treaties and the North-West Scrip Commissions and the unintended, unexpected, and often tragic ways they were implemented by colonial authorities.² I show how our current understanding of Pre-Confederation Canadian Indian Policy evolved, and argue that the historiography needs to be re-framed to shed light on the dynamic forces of policy formation rather than the long-standing emphasis on the structural dominance of the British/Canadian colonizing efforts.³ For example, Richard Allen’s “Warrior to Wards” thesis combined with Tobias’s “Protection, Civilization, Assimilation” and “Subjugation of the Plains Cree” created a

¹ The turn of phrase “lure of inevitability,” coined by Jill St. Germain, succinctly captures one of the most problematic aspects in the historiography of Indigenous-settler relations. She argued that “By concentrating on the actors, the decisions they made, and the directions they chose to take, it is possible to avoid the lure of inevitability, which so often shadows discussions of Indian relations.” Jill St. Germain, *Indian treaty-Making Policy in the United States and Canada, 1867-1877* (Lincoln and London: University of Nebraska Press, 2001), xx.

² A couple of examples that I consider tragic are discussed in later chapters include budget retrenchment in 1883 when the Canadian government was forcing people, who were starving, out of the borderlands region; the dissolution of some bands in Treaty 6 after many Metis withdraw from treaty to take Metis scrip in 1885-1886.

³ I use the term ‘British’ when referring to policy developed in in the colonial office in London, which was the case until 1860. In 1860, the British colonial office transferred responsibility for Indian Affairs to the Province of Canada. I use the term Canadian when referring to policy after 1860.

powerful, and seemingly uncomplicated, explanation for the assimilationist policies as they evolved in the 19th century: the British, then Canadian, government's aim after the War of 1812 was to assimilate Indians into the general population, and this policy carried over to western Canada through the process of treaty-making.⁴ While seemingly explaining much, this simplification obscures as much as it clarifies. At various points in the evolution of Indian policy in Canada there is evidence of assimilationist motivation; yet, there is also evidence of something more complex, equally compelling, and which more clearly explains discrepancies between policy as it emerged in western Canada and its implementation in practical terms.

Intellectual, philosophical, and practical struggles found in the various Commissioned Royal

⁴ "From Warriors to Wards" is a chapter title in Richard Allen's monograph, *His Majesty's Indian Allies: British Indian Policy in the Defence of Canada, 1774-1815* (Toronto: Dundurn Press, 1992). The 'Warrior to Wards' phrase captures the generally accepted interpretation of the British government's views of Indigenous peoples before and after the War of 1812. Olive Dickason's textbook, *Canada's First Nations: A History of Founding Peoples from Earliest Times* (Norman: University of Oklahoma Press, 1992) used the phrase "Turntable of 1812-14" to exemplify the same idea. These views posit that there was a drastic policy shift with the conclusion of the War of 1812. However, this interpretation fails to account for the development of pre-1815 civilization policies and Indigenous views on, and participation in, the construction of these policies. Joseph Brant, for example, was a proponent of British civilizing policies: the idea that Christian-based education would "elevate" Indigenous peoples so that they could participate in British social and political society. The scholarly focus has instead revolved around post-1815 assimilationist policies, the idea that a person or persons were forcefully required to conform to the social and psychological characteristics of the dominant group, and generally views the end of the War of 1812 as a breaking-point in Indigenous-settler relations in Canada and assumes that a discourse of assimilation was the primary *modus operandi* to the formation of Indian policy after 1815. Other works that exemplify this approach includes John L. Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy" *Western Canadian Journal of Anthropology* 6, No. 2 1976: 39-53 and "Canada's Subjugation of the Plains Cree, 1879-1885" *Canadian Historical Review* 64, No. 4 1983. Even though John Tobias refers to the "civilization" of Indians, he portrays "civilization" as the same as assimilation. Comparative studies on the similarities and differences between Canadian and American Indian policy have also missed opportunities to highlight tensions between various government ministries and the individuals working within Indian Departments. American historian Roger Nichols commented that: "Without thinking the decision through carefully, imperial officials shifted the basic relationship between Indians and whites from that of allies to that of superior and inferior. Unlike the United States, which had the 1831 Cherokee v. Georgia Supreme Court decision to mark a formal shift, the Canadian government imposed wardship on the Indians of Upper Canada merely as a result of cost-cutting efforts begun in Britain." This statement misrepresents the state of the relationship in a number of different ways. While entrenchment was part of the equation, there was a great deal of thought put into the current and future state of Britain's Indian policy. There was, in fact, a great deal of resistance from within the Indian Department over the idea of discontinuing annual presents. There was also a great deal of resistance to Bond Head's removal scheme. See Roger Nichols, *Indians in Canada and the United States: A Comparative History* (Lincoln: University of Nebraska Press, 1998), 185-186. Jill St. Germain's comparative work, however, provided more nuance. Jill St. Germain, *Indian Treaty-Making Policy in the United States and Canada, 1867-1877* (Lincoln and London: University of Nebraska Press, 2001), xx; also, Jill St. Germain, *Broken Treaties: United States and Canadian Relations with the Lakotas and the Plains Cree, 1868-1885* (Lincoln and London: University of Nebraska Press, 2009).

reports on Indian policy between the 1820s and 1840s are just some of many examples in the first half of the 19th century of the uncertain path of British colonial efforts to construct and implement Indian policy in a rapidly changing world. My aim here is to provide an alternative understanding of Canada's early Indian Policy from 1815 to 1870. Informed by the various works of Ted Binnema, Julie Evans and John Weaver, this chapter demonstrates that British, and then Canadian, policies and attitudes concerning Indigenous communities did not evolve, or devolve, in a linear fashion: policies were debated, implemented, repealed, revised, and debated further.⁵

In the post-1815 era, when Indigenous communities were no longer needed as British allies against the Americans and the French, historians often posit that Indigenous communities no longer mattered to the British Crown; rather they were considered a barrier to the settlement of European newcomers.⁶ These communities, it is generally argued, were viewed in increasingly racialized terms, as 'wards', as children in need of protection and paternalistic care rather than as individuals and communities capable of adapting to new environmental, social and economic realities. When framed in this way, the interests of Indigenous communities are inherently at odds with the growing European settler colonies in Upper and Lower Canada. This popular historical perspective fits neatly within the generally accepted narrative of colonialism and western expansion. Conflict, it would seem, was an inevitable, and indeed, expected

⁵ Ted Binnema, 'Protecting Indian Lands by Defining *Indian*:1850-76' *Journal of Canadian Studies* 48, No. 2 Spring 2014: 5-39; Julie Evans and Patricia Grimshaw et al., *Equal Subjects, Unequal Rights: Indigenous Peoples in British Settler Colonies, 1830-1910* (Manchester and New York: Manchester University Press, 2003); John C. Weaver, *The Great Land Rush and the Making of the Modern World, 1650-1900* (Montreal: McGill-Queens University Press, 2003); Jill St. Germain, *Indian Treaty-Making Policy in the United States and Canada, 1867-1877* (Lincoln and London: University of Nebraska Press, 2001), xx; Jill St. Germain, *Broken Treaties: United States and Canadian Relations with the Lakotas and the Plains Cree, 1868-1885* (Lincoln and London: University of Nebraska Press, 2009).

⁶ Roger Nichols, *Indians in Canada and the United States, 185-186*; Richard Allen, *His Majesty's Indian Allies, 168-194*; Olive Dickason, *Canada's First Nations*, 216-224.

outcome; and Indigenous people the inevitable victims. When the past is viewed in this manner, the need to examine dissenting European views or Indigenous perspectives is diminished – a trap of presentist, linear, progressive history that, while highlighting Indigenous historical experiences, also places historically marginalized groups as inevitable victims of European colonial oppressors.

This chapter re-frames that view. Instead of operating under the colonial structural assumptions that all Indigenous communities would be inevitably marginalized through the process of colonization, this study instead focusses on evidence of dynamism to reveal how various communities engaged with, and resisted, colonial policies and structures within a rapidly changing social and economic world. Instead of assuming that the aim of all government officials was the assimilation, and ultimately, the disappearance of Indigenous communities, this study engages with evidence of conflict between various agents of the Department of Indian Affairs and the Colonial Office. All historical actors, Indigenous and non-Indigenous, between 1815 and 1870 were trying to figure out what the future relationship between Indigenous people and the government would look like. Evolving British ideas related to Indigenous-state relations from the 1820s through to the 1870s were gradually incorporated into policy. Indigenous perspectives and responses to those policies were often revealed within notes on specific policy discussion and/or implementation, and from these, we can better understand what was going on with the construction of status categories, legislation, and ultimately, the impact of policies on communities.

A series of *Royal Commissions* on the State of Indian Affairs in Canada between 1828 and 1858 provides a useful window through which we can glimpse the rationale for the first legislated definitions of ‘Indian’. The legislative process of ‘making’ Indians informed the

extension of Indian policy westward, but is not adequately explained by the “warrior to wards” thesis. The *Royal Commissions* reveal a strong preoccupation with the protection of Indian (and thus, Crown) lands from European settlers, timber harvesters and mining prospectors. In addition, Indian lands faced taxation threats from local ‘reform’ politicians who deliberately challenged the political authority of the Crown following the Rebellions in Upper and Lower Canada (and the political demise of the Family Compact). Even though most British officials were keen to construct and implement policies that would protect Indian lands from incursions, ultimately the concept of communal landholdings proved to be an intellectual and/or cultural barrier to meaningful protections. Commissioners, and British officials generally, were limited in their acceptance of Indigenous land-use systems because it conflicted with their own understanding of citizenship. From the British perspective, civilizing policies were designed to incorporate Indigenous peoples into the British body politic. Without individual land title, an individual could not, under British Common-law that privileged property rights, become a full citizen. Ultimately, officials struggled to envision a way to provide Indigenous individuals a path to citizenship while at the same time protecting communal reserve lands. As a result, British understandings of citizenship underscored all legislation leading to and including the definition of ‘Indian’ in 1850.

In addition to the problems caused by the British understandings of citizenship, the Crown generally failed to recognize the malleability of ethnic identities. It is evident from the *Royal Commissions* that a separate status category for ‘half-breeds’ was non-starter. As late as 1850 when Indigenous leaders requested land grants for their ‘half-breed’ brethren during the Robinson Treaty negotiations, government officials were not interested. Nuances in ethnic classifications were not considered necessary: a person was either “Indian” or a British subject,

there was nothing ‘in-between’. Questions of ethnicity apparent through the 1850 Robinson-Huron Treaty process point to Treaty Commissioners’ conceptual deficiencies with ethnic classifications as they entered into negotiations with Indigenous communities in western Canada. These conceptual deficiencies included a misinterpretation of the interconnectedness of the fur trade with Indigenous communities and economies, the complex relationships between group identities and ways of belonging, and the intrinsic incompatibility of ethnic identities and constructed definitions and/or administrative categories.

1.2 Treaty-Making and Policy Formation from 1815-1840

1.2.a Royal Proclamation and Treaty Precedents

After the fall of New France, Britain seized the opportunity to establish what is generally characterized in the literature as ‘conciliatory relations’ with France’s native allies.⁷ British officials were aware that its policy allowing colonies to deal with issues of trade and land had caused much dissatisfaction among various Indigenous groups. As such, imperial planners focused on changing the nature of the relationship between the Empire, the colonies and Indigenous peoples by implementing new constitutional conventions. These included the recognition of aboriginal rights to the land, the creation of a geographical barrier to western settlement, the creation of a land acquisition process through which land had to be legally purchased through negotiations between Tribal and Crown representatives. This framework was legally established by the Royal Proclamation of 1763, and arguably formed the basis of the land cession treaty system.⁸ By the late 18th century, the use of ‘treaties’ negotiated by Indigenous leaders and Crown officials were established as the primary mechanism of aboriginal land

⁷ See John Milloy’s chapter ‘Royal Proclamation, 1763 – A “Sound Policy” of “Conciliation”’ in his book, *A Historical Overview of Indian-Government Relations, 1755-1940* (Ottawa, Indian and Northern Affairs, 1992), 1.

⁸ *Ibid.*, 6.

cessions.⁹

J. R. Miller's recent monograph on the evolution of treaty-making in Canada suggests that treaties were not simply a tool for the dispossession of Indigenous peoples' lands, but were representative of changing relationships between communities and the Crown that evolved over 400 years.¹⁰ As relationships changed, according to Miller's thesis, so too did the meanings of, and responses to, treaty-making, from both European and Indigenous perspectives. The initial response to the arrival of Europeans was integration – that is, the incorporation of European 'newcomers' into existing Indigenous socio-economic systems. Treaties were a mechanism used to regulate relationships and provide shared ceremonial and commercial experiences between different groups, and kinship was the primary link that held it all together.¹¹ There is plenty of evidence to support this perspective. In fact there is very little to suggest otherwise.

Even a cursory reading of early treaty documents, fur trade, and Indian department records reveals an interconnected socio-economic system. Kinship was the glue that held it together. Scholars since the 1960s have generally viewed this period as one in which Indigenous communities, to varying degrees, wielded significant social and economic power, and one in which Europeans accommodated elements of Indigenous culture and ritual for the purposes of cultivating/maintaining trade and military alliances.

Treaty making, Miller argued, evolved from its initial form of creating bonds that regulated social and economic relationships prior to the War of 1812, to a necessary measure requested by First Nations to offset deteriorating economic and health conditions. The increased number of European newcomers that arrived in North America following the war competed with

⁹ Arthur Ray, J. R. Miller and Frank Tough, *Bounty and Benevolence*, 34-35.

¹⁰ J. R. Miller, *Compact* (2009).

¹¹ *Ibid.*, 284.

Indigenous communities for resources. Many settlers did not respect Indigenous fishing and agricultural sites, and some officials turned a blind eye to Indigenous requests for assistance in such matters. Miller viewed this as an indication that Indigenous people were, literally, losing ground to the increasing settler population.

However, there is an important contextual component missing from this argument: an articulation of the inherent tensions between British settler-colonialism (local politics) and the long-standing relationships between the military and civil branches of the Indian Department (personal relationships). Miller, for example, argues that “British immigration and settlement not only swamped them [Natives], but British policy began to promote efforts to change them through a ‘civilization program.’”¹² If we want to understand the changing relationships during this period, we need to explore not only the tensions between settler-colonialism and the Indigenous-Crown partnership in post-1812 era relationships, but also the intrinsic value placed on Indigenous loyalty to the British Crown during the War of 1812. To British officials in particular, but some Canadian-born as well, loyalty, both Indigenous and European, was viewed as an important social and economic commodity. While lower-level government agents may not have always understood the Crown’s prerogative to maintain Indigenous loyalty after the War, top officials certainly did, and understanding this prerogative is imperative to our understanding of how Status categories emerged as legislation in Upper and Lower Canada.

While Miller’s assertion that “British policy began to promote efforts to change [Natives] through a ‘civilizing program’” is accurate, it is also important to note that this civilizing agenda harkened back to the immediate post-Royal Proclamation years. In some cases British civilizing efforts were unwelcome; in others, they were requested by communities. The common thread

¹² Ibid., 291.

through this period, however, was the need for cooperation. The Crown certainly did not wield enough control or power to impose any type of agenda that Indigenous communities did not want or accept. Christian teachings were almost always adopted and transformed into existing religious and spiritual practices, just as Europeans adapted to Indigenous ceremonial trade systems. Communities wove European and Christian practices into their existing belief systems. If certain European practices were not beneficial to the community, they were rejected. Thus, the suggestion that ‘civilizing programs’ were imposed to create wards of the state in the post-1815 era contradicts the vast amounts of evidence of adoptive practices prior to the War of 1812.¹³ Relationships between the British Crown, local newcomer settlements, and Indigenous communities may have been in a state of flux, and the future unknown and unsure, but evidence suggests far more continuity in British civilizing policy than is evident in the literature.

While the pressures of new settlements, and settler colonialism more generally, encroached on Aboriginal land rights established by the Royal Proclamation of 1763, there were groups and individuals resolved to restore and protect those rights. However, after the War of 1812, budgetary constraints wrought havoc on the Indian Department and their established relationships with Indians. In 1823 there was pressure from British Treasury to retrench budgets, particularly in regards to the established and symbolic practice of giving presents. Many individuals in the Indian Department, including Lord Dalhousie and Sir James Kempt, emphatically opposed these cutbacks fearful that this would undermine a long-standing practice

¹³ There are many scholarly works that highlight the Indigenous incorporation of Christianity into existing belief systems. A few examples include Tolly Bradford, *Prophetic Identities: Indigenous Missionaries on British Colonial Frontiers* (Vancouver: UBC Press, 2012); Catherine Murton Stoehr, “Salvation from Empire: The Roots of Anishinabe Christianity in Upper Canada, 1650-1840” (Ph.D. Thesis, Queen’s University, 2008); Allen Greer, *Mohawk Saint: Catherine Tekakwitha and the Jesuit* (New York: Oxford University Press, 2005); Donald B. Smith, *Sacred Feathers: The Reverend Peter Jones (Kahkewaquonaby) and the Mississauga Indians* (Toronto: University of Toronto Press, 1987); Susan Neylan “‘Eating the Angels’ Food’: Arthur Wellington Clah - An Aboriginal Perspective on Being Christian, 1857-1909,” in *Canadian Missionaries, Indigenous Peoples: Representing Religion at Home and Abroad*, ed. Alwyn Austin and James S. Scott (Toronto: University of Toronto Press, 2005), 88-108.

central to the Crown's relationship with Indigenous communities.¹⁴

To add to the discontent over budget retrenchment, there was a surge of European immigration into the colonies after the War of 1812, which spurred the need for more land cession treaties. Deputy Superintendent of Indian Affairs William Claus, speaking to Ojibwa Chiefs at Port Hope in November 1818, noted: "You Must perceive the number of your Great Fathers [*sic*] children about here have no home, & out of pity for them, he wishes to acquire Land to give them."¹⁵ As a result of settlement pressures, seven treaties, five of them land cession treaties, were signed between 1815 and 1827.¹⁶ These treaties generally followed the established ceremonial protocols and gift giving. In 1818, the Crown convinced First Nations leaders to transition to annual payments at treaty time from the previous practice of one-time lump payments.¹⁷ Then in 1829, in order to combat the exchange of presents for liquor, the Department transitioned to cash annuities.¹⁸ This process was gradual, but it was indeed a change in policy, and one that would create questions about the meanings of 'tribes' and 'bands' and who was entitled to these monies.

The shift away from a single treaty payment was generally acceptable to the various parties; however, Chiefs in the region of Amherstburg made it clear that the annuity was to be separate from 'presents' already agreed to: "The payment for our lands is to be separate and

¹⁴ Leighton, "Federal Indian Policy," 37; John S. Milloy, "Era of Civilization: British Policy for the Indians of Canada, 1830-1860" (Ph.D. Thesis, University of Oxford, 1978), 106-107. This is also commented on at length in Justice Macaulay's Report on Indian Affairs. LAC, RG10, Macaulay Report, 1839, 15.

¹⁵ LAC, Claus Family Fonds, Minutes of a Council held at Amherstburg, 16 Oct. 1818, vol. 11, 94-6, reel C-1480; also quoted in Miller, *Compact, Contract, Covenant*, 95.

¹⁶ *Ibid.*, 95. Miller states that one of these treaties was strategic in nature – the land was need for access for a transportation corridor (would become Rideau Canal), but the six other treaties were principally land cession treaties for the purpose of non-native settlement.

¹⁷ *Ibid.*, 97-98.

¹⁸ According to Leighton's research, the cash was deposited in bank accounts controlled by the Department. The problems that arose from this change, however, were significant and far-reaching. Some Department employees, including the Superintendent of the Indian Department Samuel Peter Jarvis, found that funds in Band accounts were easy to embezzle. Records were incomplete, inconsistent, and money from these accounts was virtually untraceable. Leighton, "Federal Indian Policy," 20, 107-108.

distinct from the presents our Great Father the King gives us yearly for our loyalty and past service.”¹⁹ Some communities were likely more interested in annuities rather than upfront payments because they were accustomed to receiving annual presents from the Crown. The annuity payments would, in a way, continue this tradition which held a strong social component.²⁰ This change was explained as a means to provide long-term financial security. Annuities would, by the 1850s, completely replace annual presents as “major symbol of annual renewal of the link between Crown and First nations.”²¹ However, this was really about economics. This change in policy shifted the financial burden of treaty payments from the imperial government to the local colonial government.

Changing policy, much of which was in response to budget retrenchment, forced officials in both the Colonial Office and the governments of Upper and Lower Canada to grapple with the Crown’s moral and fiduciary responsibilities to Indigenous people. There was little in the way of clear policy directives through the 1820s and 1830s as individual government agents of various rank struggled to understand the nature of the Crown-Indigenous relationships: past, present and future. A close look at the Royal Commissions in the 1820s and 1830s reveals a complex set of motivations on the part of colonial administrators to sort out and establish the future pathway of these relations. There were many pressures coming to bear: Britain’s economic retrenchment following the War of 1812, insatiable settler demand for land, and conflict between the Colonial Office and local governance structures in the colony. From Indigenous perspectives, the same pressures brought to bear on the Crown played out on the ground in their communities. Some communities’ expectations and reliance on annual presents were curtailed; settlers

¹⁹ LAC, Claus Family Fonds, Minutes of a Council held at Amherstburg, 16 Oct. 1818, vol. 11, 94-6, reel C-1480; also quoted in Miller, *Compact, Contract, Covenant*, 97-98.

²⁰ Miller, *Compact, Contract, Covenant*, 99.

²¹ *Ibid.*, 99.

competed for resources and supported local government representatives who pushed for their own interests at the expense of Indigenous peoples.

The most important change in the post-1815 period was not policy, but settlement – a process to which the British government was now committed. Even if the British government had wanted to stop the tide of settlement, the Crown simply did not have the financial resources following the War of 1812. While many Indigenous communities faced an advancing settlement frontier, the British Government wanted to avoid the violence playing out in the United States for both financial and humanitarian reasons. The British government failed to foresee, however, that new settlements created new environmental and economic challenges. Permanent settlements undermined established economies of hunting, trade, and fishing. With certain elements of Indigenous economies unsustainable, many communities found themselves amenable to land surrenders for money, and this meant British officials found themselves with a negotiating advantage. British officials eagerly sought land surrenders after environmental and economic changes were underway, but before substantial settlement had taken place (unlike the US where government faced large numbers of settlers and conflict over land use). Even in those areas not settled there was competition for subsistence hunting, fishing, and timber. This competition created tension and mistrust. As John Weaver aptly explained,

Neo-European settlement resulted from a messy convergence of private impertinence and the coercive might of the state. Sustaining both aggressive land seekers and states in uneasy associations were evolving cultural attitudes about property, social station the market economy, popular democracy, and improvement.²²

Whereas the relationship between the Crown and Indigenous communities had been based on mutual respect and trust that evolved over long period of time, settler and Indigenous communities generally viewed each other with suspicion and misgivings. This distrust, combined

²² Weaver, *The Great Land Rush*, 5.

with the changing political realities following the War of 1812, resulted in tensions between private settler interests, the Crown, and Indigenous communities that were not easily navigated.

There were three factors that influenced the development and implementation of Indian Policy in this period: the historical relationship between the British Crown and Indigenous peoples, the antagonistic relationship between local colonial politics and Indigenous peoples, and the adversarial relationship between new settlers and Indigenous peoples. Settlers despised reserves, and the rise of ‘local’ Canadian politics created difficulties for the colonial office.²³ The British political system was less democratic than in the United States, so less political pressure could be brought to bear by local settlers. Politics in Upper Canada during this period were controlled by the Family Compact – Tory families who held patronage appointments.²⁴ This patronage system inadvertently created a temporary barrier between settler and Indigenous interests. Policy decisions made in London were more likely to be influenced by consultation with Indigenous leaders than by local politicians. However, communities were not completely insulated from settler incursions in British-claimed territory. As European newcomers established their own settlements, Indigenous communities were increasingly pushed to the margins.²⁵ Communities struggled to deal with both population losses due to disease and social dysfunction that occurred with the over-consumption of alcohol. Moreover, Indigenous

²³ Evans and Grimshaw et al., *Equal Subjects, Unequal Rights*, 8. Settlers despised reserves because they wanted the land, and because in very general terms, Indigenous peoples and settlers viewed their relationship to land in very different ways. For settlers land, or property holdings, meant status, loyalty and the right to vote. In other words, land gives you the right to participate in society as a full citizen. For Indigenous peoples, land meant survival. A popular nineteenth-century female settler perspective can be found in Susanna Moodie’s *Roughing it in the Bush: or, Forest life in Canada* (Toronto: Bell & Cockburn, 1913).

²⁴ For more on the political influence of the Family Compact see G. M. Craig, *Upper Canada: The Formative Years, 1784–1841* (Toronto: McClelland and Stewart, 1963) and David Mills, *Idea of Loyalty in Upper Canada, 1784–1850* (Kingston: McGill-Queen's University Press, 1988).

²⁵ For more on the marginalization of Indigenous communities and pressures for land holdings from European settlers in this period see John Weaver, *The Great Land Rush*; Evans and Grimshaw et al., *Equal Subjects, Unequal Rights*; Alan Lester and Zoe Laidlaw eds., *Indigenous Communities and Settler Colonialism Land Holding, Loss and Survival in an Interconnected World* (Palgrave Macmillan, 2015).

communities were politically caught between the new local ‘progressives’ and traditional ‘conservatives’ in the midst of a rapidly changing social and political climate.

1.2.b Darling Commission

As the political climate in Upper and Lower Canada became increasingly volatile through the 1820s and 1830s, the Crown continued to face serious economic restraints. As a result, the Indian Department was in a considerable state of flux. Looking for economic efficiencies and new ways of tempering reform sentiments in the colonies, the Colonial Office insisted on a complete reorganization of the Indian Department. In 1830, Colonial Secretary Sir George Murray transferred the department from military to civilian authorities:

The course which has hitherto been taken in dealing with these people, has had reference to the advantages which might be derived from their friendship in times of war, rather than to any settled purpose of gradually reclaiming them from a state of barbarism, and of introducing amongst them the industrious and peaceful habits of civilized life.²⁶

Murray considered civilizing policies more humane than the removal policies that were enacted in the United States.²⁷ However, by the mid-1830s British Treasury officials, concerned with escalating costs, questioned the necessity and feasibility of civilizing programs.²⁸ Imperial authorities demanded reports on the status of the program from the governments of both Lower and Upper Canada. The Executive Council of Lower Canada reaffirmed a report submitted by

²⁶ Quoted in Theodore Binnema and Kevin Hutchings, “The Emigrant and the Noble Savage: Sir Francis Bond Head’s Romantic Approach to Aboriginal Policy in Upper Canada, 1836-1838” in the *Journal of Canadian Studies* 39, No. 1 Winter 2005: 115-138, 118.

²⁷ Binnema and Hutchings, “The Emigrant and the Noble Savage,” 118. The United States passed the *Indian Removal Act* in 1830. Many Indigenous people lost their lives on what has been called the ‘trail of tears’ as the American government under President Jackson removed the Cherokee from their ancestral lands to make way for settlement. See John Ehle, *Trail of Tears: The Rise and Fall of the Cherokee Nation* (Anchor Books, 1988); Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln: University of Nebraska Press, 1984), 215-218.

²⁸ Mark Francis, “The “Civilizing” of Indigenous People in Nineteenth-Century Canada” in *Journal of World History* 9, No. 1 Spring 1998: 51-87.

Major General Henry Charles Darling in 1828.²⁹

The Darling Report supported the Colonial Office's efforts to create economic efficiencies, but was careful to warn that the Crown also had a fiduciary duty to protect Indian lands from European settlements.³⁰ The government, Darling argued, was responsible for Indian welfare and he encouraged the implementation of civilizing programs using funds from sale of Indian lands. Civilizing programs generally focused on education – providing schools for children and trade schools for young adults. Humanitarian societies, particularly the Aborigines Protection Society (formed in 1837), wielded an increasing strong influence over many of men in high office during this period, and civilizing programs were considered a humane way of incorporating Indigenous peoples into a British citizenship over time.³¹ The goal was to provide education and training to children so that they could return to their communities as leaders and role models in British manners and knowledge. This would, it was assumed, translate into future economic prosperity for Indigenous communities. For example, reporting to Sir Charles Metcalf, Indigenous leader and missionary Peter Jones wrote:

Our contemplated plans are to establish two Schools; one for one hundred boys, the other for one hundred girls. The boys to be taught in connection with a common English education, the art of Farming and useful trades. The girls to be instructed in Reading and Writing, Domestic Economy, Sewing, Knitting, Spinning; so as to qualify them to become good wives and mothers. It is also our intention to select from each School the most promising boys and girls, with a view of giving them superior advantages; so as to qualify them for Missionaries and School teachers

²⁹ Binnema and Hutchings, "The Emigrant and the Noble Savage," 124.

³⁰ For further discussion on Darling's argument about the government's fiduciary responsibilities see John F. Leslie, *Commissions of Inquiry into Indian Affairs in the Canadas, 1828-1858: Evolving a Corporate Memory for the Indian Department* (Ottawa: Treaties and Historical Research Centre, 1985), 21-23.

³¹ The British House of Commons Select Committee on Aborigines was established in 1835, and the Aborigines Protection Society formally established in 1837, and played a significant role in the abolition of slavery. Jane Samson, *Imperial Benevolence: Making British Authority in the Pacific Islands* (University of Hawaii Press, 1998), James Heartfield, *The Aborigines' Protection Society: Humanitarian Imperialism in Australia, New Zealand, Fiji, Canada, South Africa, and the Congo, 1837-1909* (London: C. Hurst and Co., 2011).

among their brethren.³²

This was also seen as a way to avoid costly conflict and brutal violence as seen in the United States during this period.

British authorities also tried to take steps to protect Indian land when they entered into land cession treaty negotiations prior to European settlement. The Darling Report recommended the establishment of a reserve system, which was subsequently implemented in 1830 as a central feature of the 'Indian civilization' program.³³ It was Darling's opinion that government's civilizing efforts in the 1820s had been successful and should be extended to all native subjects.³⁴ However, settler encroachment on Indian reserves began to create a problem as the population of Upper Canada continued to increase in the 1830s. Pressure from settlers coupled with pressure from the British Treasury to substantially decrease costs led to the consideration of removal policies. The notion that Indians were a 'dying race' was influential with certain government officials.³⁵ As a result, the 'dying race' philosophy filtered into policy decisions during the 1830s, even with the influence of the humanitarian movement.³⁶ In 1836, Sir Francis Bond Head's radical initiative to relocate Indians to Manitoulin Island suited both settlers and the British House of Commons. With economic concerns and pressures from the Treasury to severely retrench budgets colonial administrators such as Herman Merivale could see only two possible policy options for the future: civilization or outright removal. As Rebellion issues in

³² Quoted in Smith, *Sacred Feathers*, 195.

³³ LAC, RG10, Major H. C. Darling, Report of a British Parliamentary Select Committee looking into Aboriginal issues, 1837. For online access: <https://archive.org/details/reportparliamen00britgoog> [Last accessed 21 July, 2015].

³⁴ Binnema and Hutchings, "The Emigrant and the Noble Savage," 124.

³⁵ For example, British Colonial Secretary Lord Glenelg (1835-1839) and Lt.-Gov. of Upper Canada Sir Francis Bond Head (1836-1838) were both influenced by the 'dying race' theory. See Macaulay Report, 30; Binnema and Hutchings, "The Emigrant and the Noble Savage," 124-126.

³⁶ For a definitive work on the role the concept of the 'dying race' had in the formation of Indian policy in the United States see Brian Dippie, *The Vanishing American: White Attitudes and U.S. Indian Policy* (Middletown: Wesleyan University Press, 1982).

Upper and Lower Canada pushed aside dealing with the long-term relationship between Indigenous communities and the Crown, removal policies came to the forefront.

During his time as Lt.-Gov. of Upper Canada (1836-1838), Head proposed to relocate natives to Manitoulin Island to restrict their interaction with settlers. His Indian removal initiatives were largely based on notions of Romantic primitivism, a philosophy that idealized pre-contact Indigenous societies.³⁷ Problems that plagued Indigenous peoples, according to Head, were due solely to contact with Europeans; therefore, Indians needed to be removed and protected until their eventual extinction. These types of policies had garnered some support in the United States from humanitarians who believed that the “civilizing process would take so long that Indian communities in direct contact with civilization would succumb to the abuses of its all-to-common pernicious citizens before they were able to civilize themselves.”³⁸ However, while there was some support for removal initiatives, most of the response was negative. The Aboriginal Protection Society, in response to Head’s removal policies, wrote a scathing letter to Colonial Secretary Lord Glenelg, who had been an active member in Britain:

Never, perhaps, was the simple and unsuspecting Confidence of the Indians more clearly exhibited, and seldom has the Confidence been more abused, than in the late Exchange of 3,000,000 Acres of the richest Land in Upper Canada for 23,000 barren unproductive Islands remote from the Seat of Civilization and unfit for the residence of Europeans. We object then to the Treaty of the Ground of its Injustice....³⁹

Public pressure from humanitarian groups eventually persuaded the government to change course. Different philosophical approaches to the administration of Indian Affairs in British territory always existed; however, Sir Francis Bond Head’s Indian removal initiatives galvanized the political and philosophical opinions of colonial and imperial authorities.

³⁷ Binnema and Hutchings, “The Emigrant and the Noble Savage,” 115-138.

³⁸ *Ibid.*, note 6, 135.

³⁹ *Ibid.*, 130.

1.2.c Macaulay's Report

In 1839 Justice John Macaulay submitted a report on the status of Indian affairs in Upper Canada that was in part a response to Head's controversial Indian removal program.⁴⁰ To Macaulay, a High Tory with political connections to the Aboriginal Protection Society, the idea of dismantling the Indian Department and removing Indians to remote areas to await their extinction was unfathomable. However, his report was also a response to the rebellions that broke out in Lower Canada on 16 November 1837 and in Upper Canada on 4 December 1837.⁴¹ While the Rebellion was crushed reasonably quickly by government forces, these events were important to Indigenous communities and the development of ensuing Indian policies. During the Rebellion, the Indians of Upper Canada, as they had during the War of 1812, "turned out with alacrity, and joined their brethren in the Militia in defense of the Country."⁴² Their solid display of loyalty to the government made it difficult for Tories to ignore their concerns over land.

Loyalty to the government and the Crown, not race, informed how British policy makers viewed rights of citizenship, including those of Indigenous people. Macaulay was the last Tory political figure to address Indigenous legal status before the transition to responsible government in the Canadas and the subsequent demise of the Family Compact. The relationship between land and loyalty, and thus citizenship, underscored the ideological and philosophical divergences

⁴⁰ LAC, RG10 Vol. 11206, item 3, J. Macaulay, "Report on Indian Affairs," 22 April 1839. For Macaulay's biographical information, Barrie Dyster, "MACAULAY, JOHN SIMCOE," in *Dictionary of Canadian Biography*, vol. 8, University of Toronto/Université Laval, 2003:

http://www.biographi.ca/en/bio/macaulay_john_simcoe_8E.html [Last accessed 17 July 2015].

⁴¹ Lord Durham's Report may have also played a part in the Executive Council's decision to commission a report on the status and future of the Indian Department in Upper Canada. See J.M.S. Careless, *The Union of the Canadas* (Toronto: McClelland and Stewart Ltd., 1973); G.M. Craig, ed., *Lord Durham's Report: An Abridgement of Report on the affairs of British North America* (Montreal and Ithaca: McGill-Queen's University Press, 2007); Janet Ajzenstat, *The Political Thought of Lord Durham* (Kingston and Montreal: McGill-Queen's University Press, 1988).

⁴² Binnema and Hutchings, "The Emigrant and the Noble Savage," 133.

between Tories and Reformers. Head's predecessor, Lt.-Gov. Sir John Colborne had been a strong proponent for civilizing rather than removal policies:

All the Indian Tribes in Canada are collected in Villages....Schools are instituted for their benefit,... they are placed under the Care of Persons interested in their Welfare....[F]ew cases of Intoxication now occur, except among the visiting Indians chiefly resident in the United States.⁴³

Colborne's comments on the abuse of alcohol among "Indians chiefly resident in the United States" reflects the strong Tory resentment of American liberalism and perceived failings of American Indian policy in general.

Land was central to the struggle against the threat of republicanism in the British colonies. Thus, Tories used Crown land for patronage purposes, as a way to establish and maintain relationships and suppress reform. However, critics of the Family Compact gradually attained some electoral success in 1828 (but lost in 1830), and again in 1834 (to lose again in 1836).⁴⁴ These political events had a significant impact on the direction of Indian Policy in Upper Canada, and the impact was invariably tied to divergent views of land, loyalty, and citizenship.

Tory ideals are evident throughout Macaulay's commentary on Indian affairs. It is likely that during his time as a judge, Macaulay developed a unique sensitivity to the plight of many Indigenous communities. In his report, Macaulay commented on how he perceived the role of the courts in relation to Indigenous peoples:

Instances could be cited in which Indians in different parts of the Province have been arraigned criminally, for homicides committed on white people and on each other, and also for other indictable offences. An Indian of the Six Nations was tried and convicted before myself at a late Niagara Assaizes [sic], for stealing one or two blankets from a squaw on the Grand River tract....So as respects civil matters, I

⁴³ Ibid., 124.

⁴⁴ Colin Read, *The Rebellion of 1837 in Upper Canada* (Ottawa: The Canadian Historical Association, 1988), 7.

believe our courts are considered open to enforce their contracts, or to afford redress for injuries to their persons or property, not only as between them and the white people, but in relation to each other, unless mental incapacity to contract, fraud, or some other valid defense could be established, or some special ground be relied upon in peculiar cases.⁴⁵

In other words, Macaulay considered Indigenous communities as just another group that formed part of Upper Canada's Loyalist mosaic. They were entitled to the same rights of citizenship, which included use of the courts and subject to British criminal law.

In response to the 1837 Rebellion, the Colonial Secretary Lord Glenelg wanted the Executive Council to undertake a comprehensive report on the Indians who remained loyal during the recent uprisings. The Executive Council of Upper Canada had approved the use of Indians to counter American border raids at Prescott in December 1838.⁴⁶ Thus, Macaulay would have been sensitive to the political realities that impacted Indigenous communities while preparing his report. He had to balance the need to maintain the loyalty of the Indian alliance with providing the answers to questions on policy issues that imperial authorities desired.⁴⁷

Macaulay argued in 1839, as had Darling in his 1828 report, that the Indian Department was crucial to maintaining the allegiance and loyalty of tribes and its disintegration would be a "general signal for plunder and persecution" against Indian property by settlers.⁴⁸ In a postwar recession, the British treasury actively looked to cut its spending wherever it could, particularly in the colonies. However, Macaulay was adamant that the government could not in good faith reduce spending on presents and civilizing programs without alienating Indigenous communities. Macaulay's final report provided the Executive Council of Upper Canada with a strongly worded defense of the government's attempts to civilize Indians and a rebuttal of Head's removal

⁴⁵ Macaulay, "Report on Indian Affairs," 125.

⁴⁶ Leslie, *Commissions of Inquiry*, 51.

⁴⁷ *Ibid.*, 51.

⁴⁸ *Ibid.*, 21.

initiatives:

The civilization of the Aborigines is highly interesting and the papers before me exhibit enlarged views and copious suggestion on the subject. The Home Government does not despair of achieving this desirable object, and it is expected of the local authorities to second and give the best to the instructions of the Colonial Secretary relative to its prosecution. There is not apparent reason for deeming the North American Indians irreclaimable although only to be accomplished by long continued and unremitted exertion... No doubt the vicinity of white settlements is often prejudicial but much of this arises from the description of white persons who usually encroach upon or reside near the Indians [sic] lands. Intemperance may prevail to a greater extent, but wherever the Indians may be assembled, the adventurous white man will find him out, and make profit of him if he can. It is the business of supervision to counteract such evils...⁴⁹

Macaulay argued that it was the business of the government to protect the land interests of Indigenous communities, but not to remove or isolate them from British society. To Macaulay, it was crucial to maintain the long historical tradition of providing the Indians with presents, no matter what the cost to the Treasury. The tradition of providing presents was more than supplying goods and could not be viewed in terms of welfare. This practice, he believed, held significant symbolic value. The government could not risk, particularly within the context of the 1837 Rebellion, alienating loyal communities by rejecting this important tradition.

As important as maintaining traditional symbolic practices, was protecting Indigenous land from settler incursions. Debates over the best methods to protect Indian property rights dominated the Tory political discourse on Indian affairs. In July 1834 the following address from the House of Commons to the King expressed these concerns and passed unanimously:

That His Majesty's faithful Commons in Parliament assembled, are deeply impressed with the duty of acting upon the principles of justice and humanity in the intercourse and relations of this country with the native inhabitants of its colonial settlements, of affording them protection in the enjoyment of their civil rights, and of imparting to them that degree of civilization, and that religion, with which Providence has blessed

⁴⁹ Macaulay, "Report on Indian Affairs," 119.

his nation, and humbly prays that his Majesty will take such measures, and give such directions to the governors and officers of His Majesty's colonies, settlements and plantations, as shall secure to the natives the due observance of justice and the protection of their rights, promote the spread of civilization amongst them, and lead them to the peaceful and voluntary reception of the Christian religion.⁵⁰

The Government of Upper Canada faced significant challenges in devising policies to protect Indian lands, not the least of which were settler claims to lands based on their willingness to cultivate. Settlers angrily disapproved of any policy scheme that proposed to apply tax revenue to support development on Indian lands which stood in the way of further expansion.⁵¹ They argued that Canada's "peaceable settlement had left the Indians...in possession of advantages which far exceed those of the surrounding white populations, and which afford them the means under a proper system of mental improvement, of obtaining independence and even opulence."⁵²

As settler populations in Upper Canada increased, so did rhetoric opposed to government protection of Indian lands. The Colonial Secretary, Lord Bathurst was concerned to keep Indian affairs out of reach to local legislatures, which would be inclined to ignore Indigenous interests in favour of gaining popular political support from new settlers by expropriating Indian lands to encourage expansion.⁵³ Colonial Secretary George Murray observed that

If, on the one hand there existed a disposition with the aboriginal Inhabitants to cling to their original habits & mode of life, there was a proneness also in the new occupants of America to regard the Natives as an irreclaimable race & as

⁵⁰ "Report from the Select Committee on Aborigines" *British Parliamentary Papers* 1837 (425) Vol. 7, 5. The entire report can be accessed online: <http://www.empire.amdigital.co.uk/Documents/Details/Report-from-The-Select-Committee-on-Aborigines--British-Settlements--With-the-Minutes-of-Evidence-/Report%20from%20The%20Select%20Committee%20on%20Aborigines%20British%20Settlements> [Last accessed 17 July 2015].

⁵¹ Evans argues that to settlers "the 'humane' course of action was to induce 'the Indians by offers of compensation, to remove quietly to more distant hunting grounds, or to confine themselves within more limited reserves, instead of leaving them and the white settlers exposed to the horrors of a protracted struggle for ownership.'" Evans and Grimshaw et al., *Equal Subjects, Unequal Rights*, 47.

⁵² Quoted in Evans and Grimshaw et al., *Equal Subjects, Unequal Rights*, 47.

⁵³ Leslie, *Commissions of Inquiry*, 9.

inconvenient neighbors, whom it was desirable ultimately to wholly remove.⁵⁴

However, by 1840, with the political successes of reformers, the sentiments such as those above became evermore rare as British authorities, pressured by local settler politics, gradually became more concerned with settler interests at the expense of the Crown's relationship with Indigenous communities.

Macaulay devised his response to the question of individual land title by first exploring the historical elements of possessory land rights. Macaulay argued that to make the civilization program successful, Indians must be allowed their right to individual land title.

As in the old colonies, so ever since the conquest of Canada, the territorial estate and eminent domination has been held to reside in the Crown. Acknowledging to the Indians however the possessory right of original occupancy with an expensive privilege of pre-emption reserved to the Sovereign. Subject to which restriction the claims of the aborigines have always been respected.⁵⁵

Without individual deeds, there was little incentive to improve the land because it could be sold off to 'white' settlers. Realizing that land agents would immediately attempt to persuade Indians with land title to sell, Macaulay suggested that "lands might be granted to Trustees or the respective Indian settlements might be incorporated for the purpose of holding the estates...."⁵⁶

While his suggestion was not implemented, it reveals that these issues were of concern, and men such as Macaulay made sincere attempts at reasonable solutions.

Striking a balance between granting individual deeds and affording protection was the primary challenge facing the Crown. Macaulay advocated that the only way to successfully incorporate Indians into the British body politic was to allow them title to lands in "the same

⁵⁴ Quoted in Evans and Grimshaw et al., *Equal Subjects, Unequal Rights*, 48.

⁵⁵ Macaulay, "Report on Indian Affairs," 128.

⁵⁶ *Ibid.*, 129.

manner pursued by whites.”⁵⁷ Title to lands, in other words, ownership of property, would also extend additional rights of citizenship:

I believe our courts are considered open to enforce their contracts, or to afford redress for injuries to their persons or property, not only as between them and the white people, but in relation to each other.... Then as to political rights the same principles seem to apply and if possessed of sufficient property to qualify them, then competency to vote at elections or fill municipal offices if duly appointed thereto, could not be denied.⁵⁸

In reference to Joseph Brant’s adopted son, John, a man of mixed Cherokee and Scottish descent elected as a member of the Assembly in 1832, Macaulay lamented the lack of measures to secure freehold tenure for Indigenous communities:

I believe the late John Brant was once elected a member of the Assembly, and though he lost his seat from want of sufficient freehold property, his origin was not urged as a disqualification.⁵⁹

Macaulay considered rights of citizenship, not in terms of race or ethnicity, but in terms of allegiance, loyalty, and ultimately, land-holdings. For the Tories in Upper Canada, John Brant’s ethnicity was insignificant. Indigenous people in British colonies were a part of the Loyalist mosaic in Upper Canada – race, so it seems, was irrelevant. The main question that underscored Indian Affairs for Macaulay, and for all subsequent Royal Commissions in these matters, was how to effectually strike a balance between the protection of Indian lands with individual rights.

Macaulay’s views complicate the general understanding of government aims in this period as strictly assimilative in approach. The idea of a separate ‘Indian Status’ initially emerges as a means to confer “peculiar privileges or exemptions” to Indigenous individuals while at the same time providing land protections.

If it is deemed expedient that the Indians should enjoy peculiar privileges or

⁵⁷ Ibid., 131.

⁵⁸ Ibid., 126-127.

⁵⁹ Ibid.

exemptions, they should be conferred by Legislative enactments, and protection against over reaching contracts, and in some other particulars would be very desirable as far as practicable. This appears to me a subject on which the law officers of the Crown should be called upon to advise.... At present it does not appear that adult Indian subjects can claim merely by reason of their origin any peculiar privileges or immunities as a distinct class of society, rendering it the more important that their interests should be carefully guarded, and their affairs be sedulously watched over by the government.”⁶⁰

Macaulay’s suggestion that legislative enactments were necessary to permit Indians to be considered a “distinct class of society” foreshadows the creation of a separate ‘status category’ for Indigenous people in Canada legislated in 1850.

By 1830, settler interests were increasingly at odds with policies and legislation concerning Indigenous communities. As Britain transferred more governance to Upper and Lower Canada, ultimately granting Responsible government in 1848, the socio-economic interests of Indigenous communities were gradually undermined by local settler interests and their local representatives, some of whom made personal financial gains through the sale of surrendered Indian lands.⁶¹ However, Indigenous communities did not accept pressures to surrender their lands without voicing opposition and re-invoking their loyalty to the Crown as a form of social or political capital.

Through the 1820s and 1830s, pressures from the Aborigines Protection Society shifted the government’s focus from the Indigenous ‘warrior’ from the early decades of the nineteenth-century to trying to explain social conditions and develop long-term civilizing policies. This included ruminations on the problems associated with lands held in common. Macaulay believed that the future of the Crown’s relationship with Indigenous people centered on figuring out how to incorporate them into the British body politic while simultaneously protecting their land.

⁶⁰ Ibid., 126-127.

⁶¹ For example, the Chief Superintendent of Indian Affairs, Samuel Peters Jarvis, deposited monies belonging to the Oneidas in his personal bank account. See Leighton, “Federal Indian Policy,” 20, 107-108.

However, with Lord Sydenham's death in 1841, Macaulay's report, and his suggestions, were shelved.⁶²

1.3 Defining Indians, Protecting Land: the 1840s, 1850s and 1860s

The 1840s offered little in the way of new policy direction, but did highlight dissatisfaction with the current state of policy implementation and enforcement from both government and Indigenous perspectives. Communities reported abuses of their lands from European intruders. Divisions within communities also arose when some individuals were permitted to collect annuities and/or benefits, but were not considered band members by the larger community. The government had little in the way of legislative authority to sort out these problems.

For the British, concepts of individual land holdings and citizenship were inseparable. Government officials, it seemed, could simply not envisage how to encourage 'Aboriginal civilization' with the intention of creating British subjects, without creating and enforcing a reserve land policy based on individual allotments. Furthermore, the political fall-out from the Rebellions in Upper and Lower was felt directly by Indigenous communities. Lord Durham's Report on the State of Affairs in the Colony resulted in the Union of the Canada in 1841. The union of the Canadas coincided with the Indian Department's announcement that the Crown would no longer provide presents to 'visiting' Indians after 1843.⁶³ Indigenous people who were loyal to Britain but resident on the American side of the border would have to relocate or no longer receive presents. This was a cost-cutting measure by the Department, but also an attempt to create an over-arching Indian Department policy on annuities, while avoiding what many

⁶² Leslie, *Commissions of Inquiry*, 91.

⁶³ Leighton, "Federal Indian Policy," 37-38.

British officials considered the drastic and inhumane American Indian removal policy.

1.3.a The Bagot Commission

Within the context of the political fall-out of Lord Durham's Report and the union of the Canadas, Governor General Charles Bagot commissioned an inquiry into the general State of Indian Affairs. Prior to the Union in 1841, the colonies of Upper and Lower Canada had distinct Indian policies. Many of Bagot's recommendations in 1842 were implemented in the Indian Acts of 1850 and 1851, which would form the basis for the consolidation of Canadian Indian policy with the 1876 Indian Act. However, at the time of the Union, government officials were unsure what the future direction of Indian Policy would look like. Along with the traditional search for financial and administrative efficiencies, the commission was instructed to investigate numerous complaints about incursions on Indian lands and look for ways to improve the living conditions of Indigenous communities.⁶⁴

During the 1840s there were petitions and complaints from communities reporting abuses of their lands by squatters, mining prospectors, illicit timber harvesters, and corrupt and/or inept officials. There were also concerns expressed from communities in Lower Canada about people collecting benefits who were not considered band members. The Province of Canada had very little to offer in the way of protection for any of these problems. It was obvious to everyone that policy without enforcement was ineffective. However, the greater obstacle in the eyes of British authorities was the unwillingness of Indigenous communities to compromise their communal land holding rights. The connections between individual property holdings and citizenship were inseparable under British common law. This incompatibility with Indigenous communal property, as the government saw it, impeded their efforts to advance incorporation into British

⁶⁴ Ibid., 96.

society at large.

One of the surprising aspects of Bagot's Commission was the amount of Indigenous consultation that took place. Praised by one historian as "the most comprehensive and sophisticated piece of social research to date," the results of the Bagot Commission demonstrate that in this period Indigenous people were active and knowledgeable participants in this particular process.⁶⁵ Similarly, historian Douglas Leighton also concluded that Indigenous presenters "were neither ignorant nor unfamiliar with the workings of government."⁶⁶ Chief Pautash of the Rice Lake Ojibways, for example, filed a complaint with the Commission in 1842. He was concerned about his band's account records, and more specifically, with the fact that they had not received annuity payments since 31 March 1836.⁶⁷

Perhaps the most prominent person to present to the Commission was Peter Jones (Kahkewaquonaby). A community leader and Methodist minister, Jones was held in high esteem by his band and Crown officials. He was also not new to petitioning the Government. In 1825 he signed, along with three other leaders, a petition requesting that the Crown provide protection of their fishery. With no evidence of improvements, he signed another petition requesting assistance in fishery protection and restitution for damages committed by 'white' intruders, which resulted in legislation.⁶⁸ Jones' opinions in the 1830s and 1840s held as much sway as those of Joseph

⁶⁵ Leslie, *Commissions of Inquiry*, 3-4; Leighton, "Federal Indian Policy," 119.

⁶⁶ Leighton, "Federal Indian Policy," 119.

⁶⁷ Ibid.

⁶⁸ Miller, *Compact*, 103-104. Chief Joseph Sawyer (Mississaugas) was assisted by Peter Jones in 1838. Much to the chagrin of Bond Head, Jones traveled to London to protest Head's removal scheme. Although the confrontations in London did not result in any specific actions or improvements, they are, as Leighton argues, still significant. They were an "eloquent comment on Indian grievances, the shortcomings of the Indian Department, and the quality of Indian leadership. Indian complaints had been accumulating for a decade and had become acute under the urgings of active spokesmen of the 1840s. Men like Peter Jones were particularly useful to the Indian cause because of the connections with outside organizations such as the Methodist church." Leighton, "Federal Indian Policy," 113.

Brant in the previous century.⁶⁹ Peter Jones was adamant that Indigenous people be afforded all the rights and privileges of other British citizens, but also called for the protection of Indian lands:

I am of the opinion that all the Christianized and civilized Indians ought to be (as soon as they are sufficiently instructed) considered in all points as Her Majesty's subjects, and so be invested with all the civil privileges enjoyed by the English Settlers, such as voting for members of parliament, voting at Township meetings, the right of sitting as jurors, & the holding of situations & offices under the Government...[S]cattered and surrounded by the White people as the Indians are, it would be vain for them to attempt to keep up a separate form of Government from their neighbours, who form the largest population.⁷⁰

He viewed the protection of Indian lands as a way to dispel fears of being removed, which he argued “acts as a check upon their industry and enterprise.”⁷¹ Thus, to Jones, the concept of protected communal lands did not, and would not, interfere with civilizing efforts. Unfortunately, while Bagot held a great deal of respect for Jones and his opinions, the Governor General could not reconcile these ideas.

The results of Bagot's commission were mixed. Almost all of the Commission's findings, however, centered on creating a *legal* status for Indigenous people that would protect their land, but that would also support the government's 'civilizing' efforts.⁷² Generally speaking, the handling of band accounts improved with more oversight through the Receiver General and strict regulation.⁷³ But on the issue of protection of lands, little progress was made. Bagot recommended that local band members be put in charge of protecting lands as appointed local

⁶⁹ Leighton, “Federal Indian Policy,” 113.

⁷⁰ Peter Jones quoted in Smith, *Sacred Feathers*, 183-184.

⁷¹ *Ibid.*, 184.

⁷² The main recommendations of Bagot's report include: collective title deeds to be registered with the province (open for inspection); lands to be carefully surveyed (previously recommended by Macaulay, but never completed); bands encouraged to keep 100 acres per family, and sell the rest; each Aboriginal person to get a title deed to his reserve land, but cannot sell to non-Aboriginals; annual presents to take the form of agricultural supplies; when an Indian can “maintain” himself, he is to be given title in fee simple to his land, surrender annual presents, but retain interest in the tribal annuities.

⁷³ Leighton, “Federal Indian Policy,” 108.

timber rangers; however, there is little evidence as to whether or not this measure prevented abuses.⁷⁴ Overall, the Bagot Commission proposed a more active and larger Indian Department, but one not likely to be considered by a British Treasury intent on economic retrenchment.⁷⁵

Regardless of how many of the Commission's recommendations were implemented, they provided an important precursor to the first legislated definition of an Indian in 1850.⁷⁶

Underscoring almost all of the Commission's findings was the creation of a legal status for Indigenous people that would protect their land and simultaneously enhance the government's civilizing efforts. In other words, there was a clear preoccupation with creating British citizens. One of the ways Bagot proposed to do this was to encourage communities to sell, not lease, their lands. He argued that the practice of leasing of large portions of their lands was undermining civilization efforts by keeping large Indigenous communities intact: "It is not desirable that the present quasi corporate character of the Indian communities should be perpetuated. Its existence is one of the greatest obstacles to their advancement in civilization."⁷⁷ The Bagot Commission may have demonstrated the Government's willingness to consult Indigenous communities, but it also revealed reluctance, or perhaps even an inability, to intellectually grapple with the perception that land protections and 'civilizing' efforts were incompatible. The Commissioners could not, in the end, envisage a future for Indigenous communities that included lands held in common, and this intellectual barrier would continue to inform the development of Indian policy through the next half a century. Although the 1850 Indian Act, along with subsequent versions, included provisions for lands held in "trust", that is, common land, the undeniable aim from this point forward was to undermine common land holdings. In the end, the great failure of the Indian

⁷⁴ Ibid., 110.

⁷⁵ Ibid.

⁷⁶ Ibid., 114.

⁷⁷ Ibid., 119.

Department in this and later periods was its neglect to work the abilities of men like Chief Pautash and Peter Jones.⁷⁸ These men advocated many of the same principles as Bagot. But unlike Bagot, they envisioned the protection of Indian lands working alongside a civilization program consisting of education and integration. Had the Indian Department taken these leaders into their confidence, many of the issues of this period may have been avoided and many problems solved.⁷⁹

Even though Bagot's Commission was unable to resolve the perceived issues of communal land-holding, it did attempt to respond to Indigenous concerns about the lack of land protections in both Lower and Upper Canada. In order to protect their lands from incursions, leaders requested a clear definition of who was and who was not eligible to reside on reserve lands and receive government-allocated benefits. There is evidence that both Indigenous communities and the Government struggled to construct a definition of 'Indian.'⁸⁰ This is contrary to the prevailing view that legislation coming out of the 1850s was a unilateral change from a conciliatory to an assimilationist policy.⁸¹ Indigenous communities were generally positive about certain elements of the government's civilizing efforts, mainly education, and were willing to use portions of annuity payments as funding for schools. Counter to Milloy's argument that legislation in the 1850s was an intentional "assimilative amendment" to Indian Policy, it was actually an extension of the Government's attempts to reconcile land and subject-status.⁸²

In the years leading up to the first legislative definition of 'Indian,' the Indian

⁷⁸ Ibid., 129.

⁷⁹ Ibid., 129.

⁸⁰ Binnema, 'Protecting Indian Lands by Defining *Indian*: 1850-76,' 1-2.

⁸¹ Ibid., 1-2.

⁸² Milloy, *A Historical Overview of Indian-Government Relations*, 40.

Department can be generally characterized as floundering. Examining the immediate post-1850 years provides insight into why Indian agents, treaty commissioners and other high-level government officials were so unprepared to deal with issues of ethnicity and band membership during and following the signing of the western numbered treaties. It is during this decade that we see *both* Indigenous communities and Government agents attempt to grapple with the creation of ethnic definitions and the administrative ‘making’ of Indians through legislation.

While historians generally describe the legislative process in the 1850s as shift away from accepting the importance of the Indigenous community to policy centered solely on the individual, this perspective explains only part of the legislation in the mid-nineteenth century. Just as the connections between land, loyalty and citizenship have been overlooked in the literature dealing with the post-War of 1812 era, historians are missing important elements that underscored the first definition of ‘Indian.’ Not only were some Indigenous leaders continuing to invoke the idea of loyalty to the British Crown through the 1850s, but they were also, as we have already seen, lobbying the Crown for assistance in matters of land protection, which included defining who was, and who was not, an ‘Indian.’⁸³ While racialization and ‘dying-race’ theories informed the intellectual climate on human classifications, the sheer number of immediate Indian land issues, which included dealing with corrupt department officials, meant that any attempt to implement thoughtful long-term policy was a low priority.⁸⁴

⁸³ Chief Shinguakouse invoked rhetoric of loyalty during the Robinson treaty negotiations. See Robert J. Surtees, *The Robinson Treaties (1850)*, Treaties and Historical Research Centre (Ottawa: Indian and Northern Affairs Canada, 1986). This document can be found online at: <https://www.aadnc-aandc.gc.ca/eng/1100100028974/1100100028976> [Last accessed 17 July 2015].

⁸⁴ Leighton, “Federal Indian Policy,” 20. The fiscal carelessness of the Jarvis scandal, for example, where monies from Oneidas’ land sales were placed by Jarvis, the Chief Superintendent of Indian Affairs, in his own personal bank account, caused resentment and distrust. As a result of the Bagot Commission’s Report in to the matter, he was fired in 1845. Anthony Hall, *The Red Man’s Burden: Land, Law, and the Lord in the Indian Affairs of Upper Canada, 1791-1858* (PhD, University of Toronto, 1984), 310.

1.3.b Municipal Taxation

In addition to protection from physical incursions, Indigenous communities petitioned for protection from municipal taxation. The *Municipal Governance act* passed by the Canadian parliament shortly after the Union in 1841 provided a further threat to Indian lands and thus Indigenous-Crown relations.⁸⁵ Local and municipal politicians were often reformers who opposed the Crown's protection of Indian lands because it closed off valuable acres from speculation and settlement. When municipal politicians were granted powers of taxation they were keen to try and apply those powers to reserves.⁸⁶ The fact that all Crown lands were exempt from municipal taxation did not stop municipalities from harassing some Indigenous communities to pay taxes, even in the face of vehement protests from those communities and Crown officials. The Oneida, for example, sent the following petition complaining of local municipal officials:

We the Indians of the Cayuga Tribe Long and old Settlers in the now Township of Onieda part of the Six Nation Indians of the Grand River your Petitioners has never payed any Taxes ever since they became British Subjects and that now this year the municipal Council of the Gore district Has passed a law dated the 9th Feby 1847 of which we send you a True Copy. Taxing all the Indians in the said Township Lands and Chattles and on the 18th the assessor commenced assessing among us in Rather a Clandestine Manner.”⁸⁷

Numerous petitions were sent from communities angry that municipalities continued to circumvent Crown laws, and the Crown did not appear to have any mechanisms in place to prevent illegal taxation.

Even after specific legislation, *An Act to exempt the property of the Crown from Local*

⁸⁵ *Statutes of Canada* 1841, 4 and 5 Vic. Cap. 10.

⁸⁶ The role of coercive and illegal municipal taxation of Indian lands in this period deserves more thorough investigation. Binnema touches on this issue very briefly in, 'Protecting Indian Lands by Defining *Indian*: 1850-76,' 8; he deals with this issue in more depth in his unpublished paper, "'A New Class of Evils': The Policies of Civilization and Protection, 1838-1850" (Unpublished paper, used with permission of author, 2003).

⁸⁷ Binnema, "A New Class of Evils," 1.

Rates and Taxes in Lower Canada, was passed in 1847 to prevent further abuses from municipal politicians, as late as 1849 a petition was sent to the Governor General stating: “we are daily threatened to be prosecuted for not being able to pay the School Tax like the white people.”⁸⁸ In response, Lieutenant-Colonel J.B. Clench expressed his disappointment to the Governor General that actions had not been taken to solve the problem:

[T]he Chiefs from the Grand river request that through me they may be permitted to approach their great Father with sentiments of affection and crave permission to plead for their Oneida brethren who from choice placed themselves under the protection of the Crown with an assurance from the late Chief Supt Indian Affairs that their lands should be free from taxes and that they should share in the bounty of the Crown the same as the Indian tribes of the Province.

The Oneida Chiefs then stated that the minds of their people were much alarmed at the idea of being taxed and that they blamed the Chiefs for persuading them to emigrate and that by changing their allegiance they lost their Presents and subjected themselves to taxation!

That they had petitioned to the Great Council of the Province (Provl Parliament) for redress but that Body seemed unwilling to interfere as they had never heard the fate of their petition, and that their last hope is through their great Father who sits in power at Toronto of whom they seek for justice and beg that they late Chief Superintendent be examined touching the terms and conditions upon which they settled in this Province.⁸⁹

The realization by both Indigenous communities and government officials that legislation alone was not enough to protect Indian lands from aggressive municipal ‘reformers,’ and even the Crown’s own unscrupulous individuals, provides an important element understanding the motivations behind the development of Indian policy in the 1850s.

The first legislated definition was prompted not by assimilationist motivations, but rather to establish a legally distinct status to deal with the increasing number of land issues that arose

⁸⁸ Ibid., 4.

⁸⁹ Ibid., 2.

through the 1840s. After a decade of haphazard efforts to curtail squatters, and with brewing distrust over mineral explorations and corruption within the Indian Department, the need to clearly define who was entitled to Crown protections and annuities was felt by both Indigenous communities and government officials. The first legal definition of ‘Indian’ in North America passed in Lower Canada by the Province of Canada in 1850 with *An Act for the Better Protection of the Lands and Property of the Indians in Lower Canada*. Apparently not satisfied with the initial version of this legislation, the government revised it with the passing of *An Act to repeal in part and to amend an Act, instituted, An Act for the better protection of the Lands and property of the Indians in Lower Canada*.⁹⁰ The second version contained a revised definition of ‘Indian’:

And it be declared and enacted, That for the purpose of determining what persons are entitled to hold, use or enjoy the lands and other immovable property belonging to or appropriated to the use of the various tribes or bodies of Indians in Lower Canada, the following persons and classes of persons and none other shall be considered as Indians belonging to the tribe or body of Indians interested in any such lands or immovable property:

Firstly. All persons of Indian blood, reputed to belong to the particular tribe or body of Indians interested in such lands or immovable property, and their descendants:
Secondly. All persons residing among such Indians, whose parents were or are, or either of them was or is, descended on either side from Indians or an Indian reputed to belong to the particular tribe or body of Indians interested in such lands or immovable property, and the descendants of all such persons: And

Thirdly. All women, now or hereafter to be lawfully married to any of the persons included in the several classes hereinbefore designated; the children issue of such marriages, and their descendants.⁹¹

This legislation applied only to Lower Canada (or Canada East). The circumstances behind and need for land protections in Lower Canada and Upper Canada differed. In Lower Canada, the

⁹⁰ *Statutes of the Province of Canada*, 1851, c. 59.

⁹¹ Bill to repeal in part and amend an act, instituted, “An act for the better protection of the lands and property of the Indians in Lower Canada” No. 268. 4th Session, 3rd Parliament, 14 & 15 Vict., 1851; “Received and read a first time, Wednesday, 30th July, 1851. Second reading, Friday, 1st August, 1851. “Mr. Sol. Gen. Drummond.” http://eco.canadiana.ca/view/oocihm.9_05209/1?r=0&s=1 [Last accessed 25 February 2012].

definition of ‘Indian’ was drafted by Solicitor General Lewis Thomas Drummond with, as it turns out, at least some consultation with Indigenous communities. The concerns expressed centered on issues of intermarriage between Indigenous women and European men, and between Indigenous women and Indigenous men from other communities. As Binnema explains,

In Lower Canada, Indian land and property were most threatened by people who had a plausible claim to Indian rights. Thus, although in 1840 the Governor General was empowered by the Parliament of Great Britain to order any person to remove from any Indian village in Lower Canada (1841, no-11), that order apparently did not solve the problem of encroachment. As people with defined reserves and considerable experience with non-Aboriginal settlers, however, Indians in Lower Canada were less vulnerable to Whites who attempted to acquire their land or property illegitimately, for example as payment for debt, at unrealistically low prices, or in exchange for liquor.⁹²

Indeed, in Lower Canada, Indigenous communities themselves, after centuries of intermarriage, found defining “Indian” difficult. As was the case in other regions of North America, an individual who held no biological indigenous ancestry could still be considered *Indian*. It was up to communities themselves to decide whether or not a person *belonged*. For example, a man of mixed Scottish and Cherokee ancestry, John Norton (Teyoninhokarawen) was adopted into the family of Joseph Brant. Norton eventually became the Chief of the Six Nations band and an influential intermediary between the Six Nations and the Indian Department.⁹³ There were cases where people claimed rights to reserve lands even though a majority of community members considered them outsiders. These situations could cause considerable conflict and division within a community. Sometimes band members would appeal to government administrators to provide provisions against certain individuals with ‘uncertain status’ from making claims. The first definition of ‘Indian’ in Lower Canada was an attempt to deal with this issue.

⁹² Binnema, “Protecting Indian Lands by Defining Indian,” 9.

⁹³ John Norton in Dictionary of Canadian Biography http://www.biographi.ca/009004-119.01-e.php?&id_nbr=3050, [Last accessed 29 Feb 2012]; Robert Allen, *His Majesty's Indian Allies: British Indian Policy in the Defence of Canada, 1774-1815*, (Toronto: Dundurn, 1992), 105.

Even though the Province of Canada was united under one government, it passed legislation for the two halves of the province. The Act for Upper Canada is less well-known because it does not define Indians.⁹⁴ As Binnema argues, the relationship to land and private property was the distinguishing element between the two colonies: “In Upper Canada, these outsiders were the primary threat. In other words, Indian property in Upper Canada was threatened primarily by obvious outsiders (who did not need to be defined in law), while property in Lower Canada was threatened primarily by plausible insiders.”⁹⁵ The contextual differences are found in the legislative preambles. For example, the preamble for Upper Canada reads:

*“Whereas it is expedient to make provision for the protection of the Indians in Upper Canada, who, in their intercourse with the other inhabitants thereof, are exposed to be imposed upon by the designing and unprincipled, as well as to provide more summary and effectual means for the protection of such Indians in the unmolested possession and enjoyment of the lands and other property in their use or occupation: Be it therefore enacted...”*⁹⁶

The preamble for Lower Canada reads:

*“Whereas it is expedient to make better provision for preventing encroachments upon and injury to the lands appropriated to the use of the several Tribes and Bodies of Indians in Lower Canada, and for the defence of their rights and privileges: Be it therefore enacted ...”*⁹⁷

Even though Solicitor General Drummond wrote in 1851 that “the Act of last session was framed with a strict view to equity and to these [ancient] customs and traditions [of the Indians themselves],”⁹⁸ the definition did not actually provide solutions to any of the outstanding issues,

⁹⁴ It included, for example, provisions preventing the seizure of an Indian’s property for debts, preventing the taxation of Indian property on reserves, preventing Indians from selling lands, and placing the legal penalty for participating in a land transaction with an Indian upon the buyer, rather than the seller. Binnema, “Protecting Indian Lands by Defining Indian,” 8.

⁹⁵ Ibid., 9.

⁹⁶ Ibid., 9-11; *Statutes of the Province of Canada*, 1850, 13 & 14 Victoria Chapter 74.

⁹⁷ Ibid., 10.

⁹⁸ Ibid., 11.

and as a result there were subsequent revisions to the definition of ‘Indian’ through the next quarter-century.

In Upper Canada, though, there was no attempt to define who was and who was not an ‘Indian.’ Issues pertaining to annuities or presents were boiled down to residence. If an individual resided on ‘Indian’ lands, then they were, in essence, considered an ‘Indian’ from the British perspective. Rather than based on a legal authority, the determination of one’s rights and privileges was, according to Binnema’s argument, based on land usage.⁹⁹ And there is certainly evidence to support his conclusion. Binnema cites, for example, the 1840 motion adopted by Ojibwa leaders who met in Credit River to deal with members transferring from band to band.¹⁰⁰ The chiefs adopted and subsequently informed the Government of Upper Canada of the following motion:

Father, We have taken into consideration the practice of our people removing from one Tribe to another, and in order to have a proper understanding on the subject, we have agreed that any of our people leaving their Tribe shall forfeit their portion of the Land payments, and on presenting a certificate from the chief or chiefs to which they belonged, shall henceforth become one of the Tribe to which they remove and be entitled to all the allowances received by them. It is further agreed that when any of our people leave their Tribe they shall be paid for the Buildings they may have put upon the land where they have resided and after having left their Tribe, and been adopted into another, they shall not be allowed to return to their former residence, without the sanction of the Chiefs in Council.¹⁰¹

Considering that this motion was adopted by the General Council in 1840, it is reasonable to assume that this was not only a reflection of previously established and agreed upon customs, but that both Bagot and Pennefeather were familiar with them as well. Indeed, in 1858, Pennefeather generally followed the above motion when he constructed a draft definition of Indian dealing the

⁹⁹ Ibid., 20.

¹⁰⁰ Ibid., 20-21.

¹⁰¹ Ibid., 20-21.

rights of native women who had married outside the community. According to Pennefeather, Indians were

not only all persons of pure Indian blood, but also those of mixed race, who are recognized members of any tribe or band resident in Canada, and who claim Indian descent on the father's side. An Indian woman marrying a white loses her rights as a member of the tribe, and her children have no claim on the lands or moneys belonging to their mother's nation.¹⁰²

The British preoccupation with the concept of subject status and land-holdings influenced subsequent attempts of defining who was and who was not an Indian. From the government's perspective, any effort to implement policies to protect land created obstructions for Indigenous people to participate in the British body politic. As such, the government considered it necessary to create the legal process by which people legally defined as Indians in the 1850 Act could give up their status to become part of the British body politic.

The 1857 Act was another attempt to reconcile the contradictory goals of protecting Indian lands with the new legal status afforded to Indians in 1850, the by-product of which would be increasingly assimilative policies through the rest of the nineteenth century. Any effort to implement policies to protect land created obstructions for Indigenous people to participate in European society. While some people may have been interested in incorporating education and other elements of the Government's 'civilizing' efforts into their communities on their own terms, when it came to the idea of individual allotments of land they were uninterested. This latter issue, however, became entrenched in the government's thinking on civilizing policy and when native communities continually resisted, the government formulated and passed legislation to provide a means by which individuals could attain full subject status through land ownership. As such, the government considered it necessary to create the legal process by which people

¹⁰² Ibid., 21.

legally defined as Indians in the 1851 Act for Lower Canada could give up their status to become part of the British body politic. However, as Binnema has argued, the preamble to *An Act to Encourage the Gradual Civilization of the Indian Tribes in this Province, and to Amend the Laws respecting Indians* suggests that the government understood the contradictions inherent within it:

Whereas it is desirable to encourage the progress of Civilization among the Indian Tribes in this Province, and the gradual removal of all legal distinctions between them and Her Majesty's other Canadian subjects, and to facilitate the acquisition of property and of the rights accompanying it, by such individual Members of the said Tribes as shall be found to desire such encouragement and to have deserved it...¹⁰³

The 1857 *General Enfranchisement Act* was the legal extension of this intellectual hurdle for Indian Department officials. As an attempt solve the 'problem' of communal lands, Sir Edmund Head drafted the 1857 Enfranchisement legislation to provide Indigenous people a legal avenue to pursue full citizenship – that is to 'enfranchise' and thus no longer participate in communal land holdings. It is this element of the 1857 Act that historians argue "broke" with previous imperial 'civilization' policy and cemented an assimilationist approach to all policy dealing with Indigenous populations. However, the portrayal of the 1857 Act as simply an assimilationist measure fails to recognize the significance of not only a long established corporate memory within the DIA, but also the influence of previous legislation that emphasized land protection.

In creating a distinctive legal status for Indians in 1850 and 1851, the Government placed its 'civilizing' policies aimed at the incorporation Indians into the British body politic in peril.

¹⁰³ An act to encourage the gradual civilization of Indian tribes in this province, and to amend the laws relating to Indians: http://www.canadiana.org/view/9_07030/3; The Gradual Civilization Act, SPC 20 Vic, c. 26; This is the first Indian legislation that applied to both Canada East and Canada West, and according to Binnema, "It does not appear that the government consulted with Indians when it drafted this act." Binnema, "From Legal Definition to the Gradual Civilization Act: 1850-57" (Unpublished Paper used with permission of author, 2003), 7.

However, from the government's perspective the creation of a distinct legal status was the only way to respond to concerns about the protection of land and property. The by-product was the setting apart of Indigenous communities from the rest of the British population because the Crown maintained title to the lands. By vesting the title of Indian lands in the Crown, Indigenous people were left with no means of exercising political rights that came with land ownership under British common law. Pennefeather expressed concerns in his 1856 Annual Report:

[T]he present anomalous position of the Indians, at once labouring under the disabilities imposed by law upon minors, and enjoying some of the territorial privileges of independent sovereigns, involve any measure of this kind in difficulty, which it will be the province of the Commissioners to solve.¹⁰⁴

Pennefeather's report made a number of recommendations similar to those of previous commissions. He rejected the re-visiting of any kind of American-style removal scheme and suggested that all legislation pertaining to Indians be consolidated.¹⁰⁵

Similar to Bagot's proposal, Pennefeather wanted the government to create a legal means to bring Indian individuals into general society through land allotments. The main result of Pennefeather's report was the redefinition of the Indian civilization program. This redefinition of civilizing efforts, in the view of most historians, shifted to policies focused specifically on the assimilation of Indigenous people. According to Leslie, for example, "Assimilation became the watchword of the programme and departmental officials and missionaries worked towards the goal."¹⁰⁶

One of the most pressing issues facing Indigenous communities in Upper Canada through this period was membership. Leaders were concerned about who was, and who was not, entitled

¹⁰⁴ Pennefeather's Annual Report, 24 November 1856, "Copies or Extracts of Correspondence between the Secretary of State for the Colonies and the Governor General of Canada respecting Alterations in the Organization of the Indian Department in Canada," *British Parliamentary Papers* 1860 (595) (Colonies, Canada, vol. 23), 4.

¹⁰⁵ *Ibid.*, 13.

¹⁰⁶ Leslie, *Commissions of Inquiry*, 157.

to lands and monies as set forth in previous treaty terms. These leaders looked to the Crown to assist with the creation and enforcement of band membership policies. However, without consultation, these issues fell from the agenda. For the most part, government officials did not know how to respond to immediate issues, let alone long-term issues; and when it did respond, the response was usually ineffective resulting in feelings of distrust and frustration. This is evident in all of the reports commissioned between 1820 and 1860. However, these reports also demonstrate that when government officials took time to think through issues carefully, and with consultation, reasonable solutions were often suggested. The problem was application: by the time anyone took the initiative to legitimately deal with one issue, repercussions were already at play and officials had moved on to putting out the next fire.

Just as the Province of Canada attempted to sort out a legal definition of ‘Indian’ with the aim of protecting land, William Benjamin Robinson was appointed by the government to sign land cession treaties with Indigenous communities in the Lake Huron and Lake Superior regions. As Robinson negotiated terms of treaty with Indigenous leaders, the Government had not yet sorted out a working definition of who and who was not to be included in these agreements. Even though leaders in the more eastern parts of the Province had petitioned the government to provide some means of excluding certain individuals from participating in treaty benefits, whether it be land, annuities, or both, these concerns were usually left to communities to sort out for themselves. Even with the 1857 *Gradual Enfranchisement Act*, seven years after the signing of the Robinson treaties, there had been little effort by the government to interfere with band membership lists. Even though the Crown had instituted a policy to limit presents to only ‘resident’ Indians as a cost cutting measure in the early 1840s, bands themselves were still responsible for determining their own membership, and the meaning of what constituted a ‘band’

was never questioned. However, when Robinson negotiated the Lake Superior and Huron treaties, the issues of who ‘belonged’ and what constituted a ‘band’ started to emerge.

1.4 The Robinson Treaties

The 1850 Robinson treaties have been characterized as the immediate precursor to the western Numbered Treaties. These treaties are significant to understanding the emergence of colonial policy on the Canadian Prairies. Looking at issues concerning ethnic classifications and band membership during the negotiations and post-treaty period provides some context to emergent problems in the west. An investigation into band membership lists by the Province of Ontario in the 1890s provides some insight into policy formation and implementation following the Robinson Treaties (1850), including the initial legislated definitions of ‘Indian’ and how this status category came to complicate, rather than simplify, understandings of who was and who was not entitled to treaty annuities. Lawyer E. B. Borron, hired by the Province of Ontario to investigate the legitimacy of annuity paylists, concluded that the federal Indian Department had little understanding of the legal implications of its own policy, and little to no sense of the future direction of the Crown’s relationship with Indigenous peoples.

The Robinson Treaties were signed with the “Chiefs and Principal Men of the Ojibbewa [sic] tribes or bands of Indians inhabiting the main land and contiguous islands on the Northern Shores of Lakes Superior and Huron.”¹⁰⁷ The emergent mining industry in the North-West region of what is now known as Ontario, instigated the Government’s need to negotiate for a land surrender.¹⁰⁸ The Province of Canada had sold large tracts of land to various mining

¹⁰⁷ Ontario, Legislative Assembly, Sessional Papers 53 Vic. (1890), No. 87, p. 85; *Northerly and Westerly Ontario: E. Borron’s Reports 1880-92* (Toronto: Queen’s Printer, 1892); “Report on the Robinson Treaties and the Claims of the Indians Under the Same,” 1.

¹⁰⁸ Surtees, *The Robinson Treaties*, Online access: <http://www.aadnc-aandc.gc.ca/eng/1100100028974> [Last accessed 21 July 2015].

companies, and on 7 April 1846, a land surveyor in the temporary employ of the government was threatened by Chief Shinguakouse of Garden River.¹⁰⁹ Upset by this practice and frustrated by the lack of action on behalf of the Crown to their petitions sent earlier that year, Shinguakouse and his followers took possession of the Quebec Mining Company's mine at Point "Aux Mines" on the North shore of Lake Superior, threatening violence if the mining prospectors did not leave.¹¹⁰ The fact that relations had been allowed to deteriorate to the point of violence, also known as the 'Mica Bay War,' caused great annoyance to the new Governor General of Canada in 1849, James Bruce, 8th Earl of Elgin:

I cannot but think that it is much to be regretted that steps were not taken to investigate thoroughly and extinguish all Indian claims before licenses of exploration or grants of land were conceded by the Government in this Territory. This omission is the pretext for the present disturbances...."¹¹¹

Even though the Governor General had doubts about the legitimacy of some of Chief Shinguakouse's claims, given the circumstances at the time, Elgin was eager to enter into negotiations for land cessions from Indigenous communities in the territory around Lake Huron and Superior.¹¹²

In 1847, the government had sent Alexander Vidal and Anderson to investigate and report on the possibilities of negotiated land cessions in the area:

The Committee recommend that Mr Alexander Vidal of Port Sarnia Deputy Provincial Surveyor be deputed on the part of the Government jointly with Mr Anderson Superintendent of Indian Affairs to investigate and ascertain the expectations of the Indians with a view to the final action of the Government upon the same and to proceed at as early a period as possible this year to Lakes Huron and Superior to meet the Indians on their grounds and report fully upon their claims to the executive Government with as

¹⁰⁹ Ibid.

¹¹⁰ Borron, "Report on the Robinson Treaties", 1.

¹¹¹ Doughty, ed., *The Elgin-Grey Papers*, vol. 4, p.1485, Elgin to Grey, 23 November, 1849. For biographical information see: http://www.biographi.ca/009004-119.01-e.php?id_nbr=4324 [Accessed 27 February 2012].

¹¹² Surtees, *The Robinson Treaties*, Online access: <http://www.aadnc-aandc.gc.ca/eng/1100100028974>

little delay as possible.¹¹³

During the meetings, Vidal and Anderson met with people from a variety of bands, many of which included Metis families. However, Metis families in attendance were not permitted to have a say in the proceedings. In a letter to his superiors on 18 October 1849, N. Fremiot, of the Jesuit Fathers, expressed concerns over Metis exclusion during the meetings at Fort William:

The metis were passed by in silence, for they have not the right to speak at such gatherings. Is this wise? Do some people fear that they, better informed that [sic] the Indians themselves, might be in a better position to defend their rights?¹¹⁴

Vidal and Anderson reported on a number of unique issues regarding the people resident the Superior-Huron territory. Most striking is their discussion about the substantial number of Metis with close connections with various bands, including a number of Metis bands. The ‘half-breeds,’ they concluded, would likely want to be included in treaty arrangements:

Another subject [which] may involve a difficulty is that of determining how far halfbreeds are to be regarded as having a claim to share in the remuneration awarded to the Indians and (as they can scarcely be altogether excluded without injustice to some) where and how the distinction should be made between them; many of these are so closely connected with some of the Bands, and being generally better informed, exercised such an influence over them, that it may be found scarcely possible to make a separation, especially as a great number have been already so far recognized as Indians, as to have presents issued to them by the Government at the annual distribution at Manitowaning.¹¹⁵

Robinson refused to have any specific Metis clauses in the treaty. However, when communities asked if they could permit people of mixed ancestry to join the band and share in annuity money, he suggested this could be done if the Metis individual declared him/herself an ‘Indian.’

Robinson’s approach to this issue followed an established government practice that harkened back to the 1830’s. People of mixed ancestry who lived a ‘tribal life’ and were accepted by the

¹¹³ Alison E. Gale, “The Metis of the Robinson-Superior Treaty Historical Report” (Ottawa: Indian and North Affairs Canada, 1998), 2.

¹¹⁴ Gale, “The Metis of the Robinson-Superior Treaty,” 3.

¹¹⁵ Vidal and Anderson, Report to Governor General in Council, December 5, 1849. Online access: <https://archive.org/details/VidalAndAndersonReport1849> [Last accessed 21 July 2015].

community were considered 'Indian.' Bagot's Commission in 1842 solidified this practice. Even though Robinson, and the government generally, may have been aware that some Metis were emerging as separate communities, the notion of a 'half-breed' category in treaty was never considered. Not wanting to declare themselves as 'Indian,' some Metis simply did not join the treaty. Over time, however, many would, and the Ontario government would challenge their right to treaty annuities in the 1890s. The failure to recognize and include 'half-breeds' in the treaty as a separate category would turn out to be a decision that would later complicate not only relations between the Crown and Indigenous communities, but also between the Crown and Provincial authorities after Confederation in 1867.

Encouraged by attorney Allan MacDonnell, Shingwaukouse had his grievances printed in the 7 July 1849 edition of the *Montreal Gazette* as an attempt to draw public attention to the concerns of Indigenous communities in the Great Lakes regions.¹¹⁶ In his petition, Shingwaukouse invoked his people's loyalty to Britain and their service during the War of 1812 and his disappointment that the government had thus far failed to make any progress towards offering treaty.

Father - Was it for this we first received you with the hand of friendship, and gave you the room where on to spread your blanket? Was it for this that we voluntarily became the children of our Great Mother the Queen? Was it for this we served *England's Sovereigns* so well and truly, that the blood of the Red Skins has moistened the dust of his own hunting grounds to serve these Sovereigns in their quarrels, and not in quarrels of his own.

Father- Three years have passed since your white children, the miners, first came among us, and occupied our lands; they told us that we should be paid for them, but they wished to find their value. With this reply, at the time we were satisfied; but our

¹¹⁶ Alan Knight and Janet Chute, "A Visionary on the Edge: Allan MacDonnell and the Championing of Native Resource Rights" in Celia Haig-Brown and David A. Nock, eds., *With Good Intentions: Euro-Canadian and Aboriginal Relations in Colonial Canada* (Vancouver, UBC Press, 2006), 87-106. MacDonnell had Tory connections and was also involved in mining in the area. See DCB Online: http://www.biographi.ca/en/bio/macdonell_allan_11E.html [Last Accessed 23 February 2016]

lands being still occupied and claimed by them we became uneasy, and sent some of our Chiefs to see you in Montreal. You promised that justice should be done us, a year passed, and there is no appearance of a treaty; again we sent, again the same reply, and again last Autumn we sent and still there is no appearance of a treaty.¹¹⁷

Shingwaukouse's persistence that the Government deal with claims before any more settlement, resource surveys or extraction could take place finally resulted in the Commission of William Benjamin Robinson to negotiate a treaty with the Indians of the region. Lord Elgin approved Robinson's commission in council, on 11 January 1850, six months before the first definition of 'Indian' would be passed in parliament.

Indigenous communities continued to petition the government for redress of their grievances whenever opportunities presented through the 1850s and 1860s. In 1860, for example, the Prince of Wales toured North America and Indigenous leaders took the opportunity to "affirm their own loyalism and cultural integrity, and demand redress of political grievances" to a Royal and very public audience.¹¹⁸ In 1860 state authorities considered Indigenous peoples both as "sovereign nations and long-standing allies of Great Britain *and* as the Crown's wards, in need of civilizing and evangelizing before they could become full subjects."¹¹⁹ Henry Pelham-Clinton, Duke of Newcastle, took a particular interest in the grievances of Indigenous communities, and was even under special instruction from the Queen to consult with them about

¹¹⁷ Partial quotation found in Knight and Chute, "A Visionary on the Edge," 92. Full quotation found in *Montreal Gazette*, 7 July 1849; also found in William and Robert Smeal, *The British Friend: A Monthly Journal Chiefly Devoted to the Interests of the Society of Friends* 1 Volume 8, 1st Month, 31st day, 1850 (Glasgow: William and Robert Smeal, 1850), 31.

¹¹⁸ Ian Radforth, *Royal Spectacle: The 1860 Visit of the Prince of Wales to Canada and the United States* (University of Toronto Press, Toronto, 2004), 206. Radforth argued that "If the pressure to adapt had become irresistible by 1860, nowhere were indigenous peoples choosing to accept the cultural norms of the colonizers completely. Resistance took every imaginable form, including migration to remote northern districts, passive resistance, and petitioning authorities." Also see Miller, *Skyscrapers Hide the Heavens*, 41-115; Bill Parenteau and James Kenny, 'Survival, Resistance, and the Canadian State: The Transformation of New Brunswick's Native Economy, 1867-1930,' in *Journal of Canadian historical Association* 13 (2002): 49-71.

¹¹⁹ Radforth, *Royal Spectacle*, 208.

their plight.¹²⁰ During the tour, the “organizers of the celebrations, the aboriginal participants, and the journalists covering the tour repeatedly alluded to the presence of Indians and made much of the relationship between royalty and Canada’s First nations peoples.”¹²¹

Robinson was considered a competent and informed choice for the task at hand. However, he was also well-connected to the Family Compact, which caused some resentment from Reformers.¹²² Robinson had been a fur-trader in and around the Great Lakes region, and as a result he had good knowledge of the both the people and the land. According to Borron’s 1890 report into the Robinson Treaties for the Province of Ontario, Robinson was well-suited to the task of negotiating fair and reasonable terms for both the Government and the Indians:

In his intercourse with the Indians [Robinson] could not fail to have acquired a thorough knowledge of their character, as well as of their manner of living, and of the influences making for, and against their survival as a race in view of the opening up and settlement, of the territory and of approaching civilization.¹²³

However well-suited Robinson may have been to lead treaty negotiations on behalf of the Crown, it became apparent that the legal definition of Indian, based on petitions and consultations in the eastern, more settled, parts of the Province, bore little reality to many of the people inhabiting the northern and western areas of Canada West. Even though Vidal and Anderson’s 1849 report highlighted concerns about the lines between ‘Indian’ and ‘half-breed,’ Robinson concluded the treaty with no concessions for the inclusion of Metis. The reasons for this are twofold. Robinson’s report reveals that he believed leaving the issue of determining band membership best left to communities, as it had been in the east. He also believed that ‘Indians’

¹²⁰ Ibid.

¹²¹ Ibid., 209.

¹²² Surtees, *The Robinson Treaties (1850)*, <http://www.aadnc-aandc.gc.ca/eng/1100100028974> [Last accessed 21 July 2015]. His brother was John Beverly Robinson, Chief Justice; and his brother-in-law was Samuel P Jarvis, a recent Chief Superintendent of Indian Affairs. Julia Jarvis, “ROBINSON, WILLIAM BENJAMIN,” in *Dictionary of Canadian Biography*, vol. 10, University of Toronto/Université Laval, 2003–, accessed July 21, 2015, http://www.biographi.ca/en/bio/robinson_william_benjamin_10E.html.

¹²³ Borron, “Report on the Robinson Treaties,” 2-3.

were a 'dying race.' Robinson negotiated terms of treaty on behalf of the government with a firm assumption bands would eventually disappear.¹²⁴

Instead of the large, more settled, communities in the east, the bands in the Huron-Superior regions and to the north were loosely structured. The population of roughly 3000 people was divided into smaller family units, each with its own chief and distinct hunting grounds.¹²⁵ There were twenty-one chiefs present at the treaty negotiations representing a range of views and opinions. There was very little consensus, and the issue of Metis families was a contentious one, particularly to Chiefs Shinguacouse and Nebennigoebing.¹²⁶ They negotiated vigorously for better treaty terms, including higher annuity payments and land grants set aside for the Metis. Both of these requests were, in the end, denied.¹²⁷

While Bagot's Royal Commission recommended that the Government take more control over band membership lists, the Robinson treaty negotiations suggest the opposite. Thus, even with the new definition of 'Indian' legislated in 1850, Robinson did not see the need to interfere with who was and who was not permitted to receive annuities as part of a band. While Robinson refused the request for lands set aside for half-breeds, according to the agreed upon terms of treaty, annuities would be paid in lump sums to band chiefs and then distributed as determined

¹²⁴ Gale, "The Metis of the Robinson-Superior Treaty Historical Report," 49.

¹²⁵ Surtees, *The Robinson Treaties*, <http://www.aadnc-aandc.gc.ca/eng/1100100028974>; Robinson's report in 'The Treaties of Canada with The Indians': <http://www.canadiana.org/view/30387/0019>; Report mentions "numerous bands of Indians" and twenty two chiefs present. Robinson attempted a census of Indians, differentiating half-breeds, but no discussion of the criteria used was included.

¹²⁶ Alexander Morris, "The Robinson Treaties" in *The Treaties of Canada with the Indians of Manitoba and the North-West Territories, including the negotiations on which they were based, and other information relating thereto* (Toronto: Belfords, Clarke, 1880), 18. Online access: <http://www.canadiana.org/view/30387/0019> [Last accessed 21 July 2015].

¹²⁷ Surtees, *The Robinson Treaties*, <http://www.aadnc-aandc.gc.ca/eng/1100100028974>. Robinson commented that "[They] also insisted that I should insert in the treaty a condition securing to some sixty half-breeds a few grant of one hundred acres of land each."

by the band.¹²⁸ Since annuity payments were made as lump sums to the leader of each band, Robinson assumed that it was up to each community to sort out the issue of who was entitled to an annuity. According to his Report, Robinson told the Metis in attendance that individual chiefs would receive annuities to be distributed to whom they saw fit, and that this appeared to satisfy everyone: “I told them I came to treat with the chiefs who were present, that the money would be paid to them – and their receipt was sufficient for me – that when in their possession they might give as much or as little to that class of claimants as they pleased.”¹²⁹ In essence, Robinson thought he had resolved the issue for everyone by requiring individuals to declare themselves as either Indian or non-Indian. If an individual declared him or herself to be an ‘Indian’ and were accepted by a band he or she could receive annuities. If the band chose to include Metis families and increase the number of individuals dividing the lump annuity payment, each individual would be paid a smaller amount. In his Report, Robinson makes clear that he considered it unlikely that bands would allow their membership to increase if each individual would, as a result, receive less. In fact, according to Robinson, some bands requested he omit certain individuals from large families from the paylists: “The number paid as appears on the pay-list does not show the whole strength of the different bands, as I was obliged at their own request to omit some members of the very large families.”¹³⁰ Robinson was never clear about the exact numbers of people he considered eligible for treaty annuities, but he attempted to create a census

¹²⁸ Alexander Morris, “The Robinson Treaties” in *The Treaties of Canada with the Indians of Manitoba and the North- West Territories, including the negotiations on which they were based, and other information relating thereto* (Toronto: Belfords, Clarke, 1880), 18. Online access: <http://www.canadiana.org/view/30387/0019> [Last accessed 21 July 2015]; Borron commented that annuities would be “paid and delivered to the said chiefs and their tribes.” Borron, “Report on the Robinson Treaties,” 5.

¹²⁹ Morris, “The Robinson Treaties,” 18-19.

¹³⁰ *Ibid.*, 19.

record of those who appeared for future use by the government.¹³¹

Surtees argued that the failure of Robinson to recognize ‘half-breeds’ as a separate group within treaty effectively limited the emergence of politically distinct Metis communities in Ontario like those in western Canada.¹³² Perhaps he is right. Regardless of the development of a ‘political consciousness,’ Metis communities certainly existed west and north of the Great Lakes. Of more significance than political formation were their socio-cultural and economic modes of existence. Fur trade activities still dominated the northern and western regions. These bands were dependent on the fur trade economy and nomadic lifestyles; a very different existence from the more southern communities like the Six Nations with whom the government’s relationship extended back generations.

It is also evident from Robinson’s report that he was intellectually inclined towards the theory that the Indian was a ‘dying race.’ Certain treaty terms that he negotiated on behalf of the government assumed that Indian populations would decrease over time. In particular, the “augmentation clause” made clear that as populations declined, the amount of annuity could be augmented to a certain point:

...in case the territory hereby ceded by the parties of the second part shall at any future period produce an amount which will enable the Government of this Province without incurring less to increase the Annuity hereby secured to them, then, and in that case, the same shall be augmented from time to time, provided that the amount paid to each individual shall not exceed the sum of one pound provincial currency in any one year...and provided further that the number of Indians entitled to benefit of this treaty shall amount to two thirds of their present numbers which is twelve hundred and forty....¹³³

In other words, as the numbers of people on the payroll decreased, the annuities would increase

¹³¹ Ibid., 19. Robinson wrote that he recorded “...the names of the chiefs, their localities, and number of souls in each band as recognized by me in apportioning the money, thinking it will be useful when paying the annuity hereafter.”

¹³² Surtees, *The Robinson Treaties*, <http://www.aadnc-aandc.gc.ca/eng/1100100028974>.

¹³³ Gale, “The Metis of the Robinson-Superior Treaty Historical Report,” 10.

to a certain point, after which there would be no further increase.¹³⁴ It would stand to reason that Robinson negotiated this clause to benefit the government. At a certain threshold, the government would pay less money.¹³⁵ Robinson was also cognizant of the importance to make sure there were no outstanding complaints. To his mind, the augmentation clause provided the best of both worlds: it would, over time, decrease annuities for the government, but also increase individual annuities for Indians:

...desirous of leaving the Indians no just cause of complaint... I inserted a clause securing to them certain prospective advantages, should the lands in question prove sufficiently productive at any future period to enable the Government without loss of annuity.¹³⁶

According to Borron's investigation, Robinson simply did not consider the possibility that Indigenous populations would increase:

Under the circumstances, Mr. Robinson never could have anticipated that there would be any increase whatever in the number of Indians. On the contrary, he was unquestionably led to believe that they would diminish in number.¹³⁷

And as a result, the augmentation clause would cause distress for both the future Province of Ontario and the federal government. However much Borron criticized Robinson for the inclusion of the augmentation clause, he also subscribed to the theory of Indians as a dying race. He attributed the increase in population to mistakenly viewing 'half-breeds' as 'real Indians.'

I myself believe, that the Indians are, as a race, dying out: and will continue to do so until comparatively few if any remain. I am convinced that a revision of the pay lists will prove that there has been no increase whatever in the number of real Indians, included in the Robinson Treaties. As regards to several of the bands, I am persuaded more one half of those whose names appear on the pay lists of the Department as having been paid Annuities last year are really half breeds."¹³⁸

When the Robinson-Huron treaties were negotiated, it was under the auspices of the

¹³⁴ Ibid., 2-3.

¹³⁵ Ibid.

¹³⁶ Ibid., 12-13.

¹³⁷ Ibid., 20.

¹³⁸ Quoted in Gale, "The Metis of the Robinson-Superior Treaty," 49-51.

Province of the United Canada. Thus the Province assumed responsibility for annuities and received the land surrendered. However, Confederation in 1867 changed the responsibility for annuity payments and privileges of land. Under section 111 of the BNA Act, lands as resources were surrendered to the provinces (in this case Ontario) and the federal government assumed all debts of the former colonies. The federal government also assumed responsibility for Indian Affairs. However, Section 112 of the BNA Act specified that Ontario and Quebec were liable to Canada for the amount to which their debt exceeded the amount calculated in 1867. These debts included annuity payments. The augmentation clause in the Robinson-Huron Treaties resulted in an increase in the amount of annuities paid out. Since Robinson had failed to consider the possibility of increasing native populations, by 1875, the government owed substantially higher annuities to bands than at the time of Confederation.¹³⁹ Under Section 112 of the BNA Act the Federal Government held the provinces of Ontario and Quebec as partially liable for these increased annuities. This started a series of negotiations and arbitrations to fix the amount paid to bands in these treaties. The Province of Ontario commissioned E.B. Borron to investigate the terms of the Robinson-Huron treaties as an attempt to limit the province's liability.

Since the rules or eligibility for the inclusion of 'half-breeds' in treaty had never been effectively spelled out, the federal government agreed to an arbitrated settlement in 1894 for limited liability. However, Ontario wanted ineligible 'Metis' and others removed from the treaty rolls to reduce this amount. Borron argued that Robinson had been in error when he assumed that Indian populations would not increase, and that the augmentation clause had not been part of the initial negotiations.¹⁴⁰ But most significantly, Borron's report goes to great lengths to show that

¹³⁹ Borron, "Report on the Robinson Treaties," 4-5. He concludes that Robinson believed the Indian population would only decrease in numbers.

¹⁴⁰ Borron, "Report on the Robinson Treaties," 1.

the government erred in ever allowing ‘half-breeds’ on treaty paylists, and why they should be removed.

The augmentation clause was brought into effect in 1875. This increased annuities to four dollars for each band member. According to Borron,

The position of the parties to the treaties at once and forever completely changed. It would appear that every Indian entitled to participate in the annuities at all, is entitled to four dollars, be they ten hundred or ten thousand – if the revenue derived from the ceded territory will permit of such being done without loss. The number now on the pay-lists double what it was when the treaties were made.¹⁴¹

Borron claimed that the only reason paylists showed an increase in population was the negligence of Indian Agents. He argued that these men had had been derelict in their duties to make sure only “real Indians” were permitted to collect annuities.

It remains unproved whether there has been an increase in the number of real Indians. Thus is the most important point in connection with these claims... These paylists and reports [are] incorrect and unreliable and afford no evidence of a legitimate increase. They do show however (in the writer’s opinion) that a great number of persons are in receipt of annuities who have no legal right or title whatever.¹⁴²

Borron argued that the Metis actually benefited from the land surrenders; thus, they had no moral or legal claim to treaty annuities. He based this argument on the premise that Robinson had not committed the government to recognize half-breed claims to annuities or land.¹⁴³ Half-breeds, he argued, should instead be treated as “squatters” and dealt with liberally.¹⁴⁴

Borron’s report reveals that even with legislation defining Indians, by the 1890s there was still confusion and disagreement between different levels of government and individuals

¹⁴¹ Ibid., 3-4.

¹⁴² Ibid., 4-5.

¹⁴³ Ibid., 5.

¹⁴⁴ Ibid., 5-6.

within them.¹⁴⁵ He called for clear definitions of the terms “Indians” and “half-breed,” and even called for a definition of the term “inhabiting” to clear up confusion over different understandings of residency and land use.¹⁴⁶ Borron chastised the federal government over its handling of Indian Affairs and concluded that the DIA was solely responsible for irregularities:

In the matter of these Robinson treaties it has been exceedingly remiss both in the discharge of its duties to the Indians and to the Public...It would appear that the annuities for many years after the conclusion of the treaties have been paid by the Department in a very loose and unbusiness-like manner.¹⁴⁷

The federal government, for its part, consistently opposed Borron and the Ontario government.

Borron argued that because initially the Indians were paid by a lump sum and hence the payment had to be split amongst their numbers, the proviso could be in effect, but once each Indian was entitled to receive a fixed sum yearly, the proviso is no longer applicable.¹⁴⁸ Not only did Borron believe that the augmentation clause was invalid because of individual annuity payments, but he also believed that there really had not been an increase in the number of “real” Indians, only an increase in number of Indians not actually entitled to receive annuities:

...a great number of half-breeds and others, have been permitted to draw annuities, who had no just right or legal claim thereto....In the making of treaties and the interpretation of the obligations contained therein, the writer contends that “Indians” means and was intended to mean one class of persons -- and “Half-breeds” another and different class of persons.¹⁴⁹

However, Mr. Lawrence Vankoughnet (Deputy Superintendent General of Indian Affairs) disagreed. In 1884, when the question of Metis in treaty was raised by the Treasurer of the Province of Quebec, his response was “Half-breeds are by the law of Ontario Indians – as long as

¹⁴⁵ Ibid., 9. See Meeting in Ottawa October 21-22, 1884 between Treasurers of Ontario and Quebec and the Ministers of Finance of the Dominion of Canada. Differences of opinion over meaning of terms of treaty, Reported fully in Canada, *Sessional Papers* No. 60 A, 1887.

¹⁴⁶ Borron, “Report on the Robinson Treaties,” 6.

¹⁴⁷ Ibid., 7.

¹⁴⁸ Ibid., 17.

¹⁴⁹ Ibid., 34.

they have Indian blood in their veins they are Indians legally.”¹⁵⁰ Individuals within the DIA were hardly infallible interpreters of the law. Even though Robinson made clear that anyone with mixed-ancestry could declare themselves “Indian” and participate in annuities if accepted by the band, it is evident that this practice was not always followed by department officials. There was no clear sense from individuals within the Department on how to apply legal definitions to on the ground interactions. And perhaps more important, there was no clear sense about how significant the future relationship between the Crown and Metis populations would become in the post-Confederation years.

1.5 Conclusion

The formation of Indian policy through the nineteenth century was neither a linear nor monolithic process; rather, it was a dialogical process. Through three decades of Royal Commissions on the State of Indian Affairs, policy makers struggled to envision the future of Indigenous-Crown relations. Assimilative elements are evident through the Commissions, but the over-riding concern through this period was the protection of Indian lands, including those ceded through treaties with Indigenous communities. Assimilationist and racial discourse becomes increasingly pervasive through the latter half of the nineteenth century, but the legislative history of the term ‘Indian’ demonstrates that land protections from both ‘outsiders’ and ‘insiders’ was at the driving force behind the construction of ‘Indian’ status.

The *British North America Act* in 1867 gave the Canadian Government jurisdiction over Indigenous populations and lands reserved for them. Canada inherited over a century of established practises and principles (civilization policies) for dealing with ‘Indian territory.’ Within the context of American expansionism, the new federal government was determined

¹⁵⁰ Ibid., 22.

protect its claims to western territory. In addition, the established practices from the pre-Confederation era were considered ‘enlightened’ in comparison to violence seen in the United States. Unlike in the United States, “Indian” title to lands in Canada was inherently recognized by the British and then Canadian government, and thus, the government needed to extinguish title through negotiation and purchase of land.

However, the government knew very little about the lands and the peoples who lived in the western and northern regions which were added to Canada in 1870. The government assumed the process and outcomes would be the same as in the east. But the combination of governmental ignorance and environmental factors proved disastrous for Crown-Indigenous relations. When starting the negotiations in the West, the government did not realize the extent of food shortages, the harshness of winters, and scope of disease outbreaks. Nor did officials take seriously the nuances of group identities. ‘Metis’ were not seen as a separate ethnic category or status. Either they were members of bands and were considered ‘Indian’ or they were simply British subjects. While Metis identity was not a political issue prior to Confederation, it certainly became one shortly thereafter. The Metis opposed the annexation of Rupert’s Land, and as a result of their resistance, Canada inserted a provision in the *Manitoba Act* that appropriated land “for the benefit of the families of the half-breed residents”, “towards the extinguishment of the Indian Title to the lands in the Province.”¹⁵¹

Essentially, problems arose because the government applied policy in the west that was based on their experience with agricultural/semi-agricultural Indigenous communities in the east. Although problems concerning Indian status surfaced during the Robinson treaties, they were not resolved. The government had failed to acknowledge the Metis as a separate category, and even

¹⁵¹ Section 31, *Manitoba Act*, 1870.

after the creation of a Metis status in 1870, the government tended to view them as a monolithic group with little consideration of Metis connectedness to Indian bands. Indian policy leading up to western expansion and the numbered treaties in the post-Confederation years was not linear in either its formation or its implementation. Policy was informed by Indian leadership far more than is acknowledged in the literature and usually in response to community concerns over the lack of land protections.

To understand how status categories were used, we need to understand how and why they existed, and continue to exist. The ‘assimilationist’ model expressed and recycled in most of the literature on Indian Policy in Canada fails to explain the historical processes and contingencies through which Indigenous peoples came to be administratively defined in various forms of legislation; nor does it explain the varying Indigenous responses to, and uses of, constructed status categories. Alternative interpretations might afford us a less comfortable, but more nuanced understanding of Indian policy and implementation, and various Indigenous responses to it.

Chapter 2

Confederation, Dominion Expansion, and the Colonial Construction of a Metis Status Category

2.1 Introduction

The development of Canada's Indian policy up to the 1860s has been characterized as contradictory and assimilative, but evidence shows that when it came to the creation of status categories, policy was driven by a protectionist philosophy. The first legislated definition of "Indian" reflected concerns from various Indigenous communities about squatters, illegal timber harvesters, and others who attempted to use resources or claim rights and privileges entrenched in various treaties. For communities in Lower Canada, concerns tended to focus on protection from so-called 'insiders': that is, non-Indigenous men and women who married into a community and then claimed rights to land and resources. For Upper Canada, concerns tended to focus on protection from 'outsiders': that is, non-Indigenous squatters and timber harvesters. It is clear that while the Canadian government responded to Indigenous concerns about resource and rights protections through the 1850 and 1851 legislated definitions of "Indian," colonial administrators up to that point had little interest in interfering with band membership.

In the pre-1870 period, the Canadian state authorities had not considered the creation of 'Metis' or 'half-breed' status category. From the perspective of colonial administrators, there was no need for such a status, since generally speaking they tended to avoid issues related to Indigenous identity. This was evident from the Robinson Treaty negotiations. When discussions

of 'half-breeds' in treaty came up, Treaty Commissioner Robinson, as the government representative, was very clear that any person with both European and Indian ancestry could enter treaty as long as they were accepted by the community. Individuals or families would, however, be administratively considered an "Indian" from the government's point of view.¹ Thus, Canadian Indian policy, as it concerned status categories, was relatively uncomplicated during the pre-1870 period. An individual could claim Indian status through treaty provisions based on their acceptance by an Indigenous community or status as a British subject. The idea of an administrative category for Indigenous Metis communities was simply not entertained by government officials.

Unanticipated events immediately following Confederation would change the way government officials viewed the legislated definition of 'Indian' and the role of communities in determining their own membership lists. The unexpected creation of a new official "Half-breed" status category in 1870 complicated the administration of Indian policy in the recently acquired North-West Territories. The 'Half-breed' status meant that the Crown had a noteworthy economic interest in determining not only who was and who was not eligible for treaty annuities, but also for who was and was not eligible for Half-breed scrip. Although there was some acknowledgement of an ethnic identity of people "in-between" or "children of the fur trade," for the most part status categories were viewed through racial terms: 'mixed-blood' or 'Indian' versus 'white.' However, instead of viewing 'children of the fur trade' as a separate status, they were viewed as people of mixed ancestry and who could be *either* 'white' or 'Indian,' not both. Government officials were not interested in sorting out the implications or meanings of a mixed-ancestry ethnic identity. They just wanted a clear policy about who was 'in' treaty and who was

¹ Ens and Sawchuck, *From New Peoples To New Nations*, 134.

‘out’ of treaty, which became increasingly muddled after 1870. Thus, the addition of the official ‘Half-breed’ status category, with very specific rights and privileges, resulted in significant interference by government officials with band membership lists and identity issues. ‘Half-breed’ status also created serious implications for the negotiation of treaties. The issuance of ‘Half-breed’ scrip, with its legislated economic benefit tied to proving one’s “mixed” ancestry, became inextricably linked to the politicization of this racialized colonial category, which in turn influenced the politicization of ‘Metis’ as an ethnic identity regardless of community and/or kinship ties.

To better understand the often confusing and contradictory ways in which Indian policy was administrated in Treaty 6, this chapter provides a brief overview and analysis of the events leading up to and following British imperial withdrawal, Confederation, and the acquisition of Rupert’s Land. The focus of this chapter is to provide the appropriate background to the negotiations and implementation of Treaty 6 – that is, to lay out the administrative issues that directly impacted the lives and responses of Indigenous peoples during the 1870s and 1880s. While government authorities assumed that Indian Policy in Canada was relatively well-established with all major issues and kinks worked out with the Robinson Treaties, the events of 1869-70 complicated matters a great deal. These significant complications, which arose over the intersections between the construction of racialized colonial categories and the realities of historic Metis and other Indigenous ethnic identities, would play out in unexpected ways in Treaty 6.

2.2 Imperial Withdrawal: Colonial Continuity, with a Dash of Change

In the 1850s, as Britain was withdrawing from the colonies of Upper and Lower Canada, Canadian Indian policy underwent some minor philosophical transformations in response to an

unknown future. Evidence shows that while the Indian Department became more concerned with developing a ‘civilizing policy,’ overall the focus remained on the protection of Indigenous lands, with a strong pre-occupation with budget retrenchment.² That being said, there was also general realization within the Indian Department that policy constructed was too often disconnected from the process of implementation.³

Civilization policies became more prominent under the direction of Superintendent General R. Bruce. He advocated that the Department needed a broader view of the future relationship between the Crown and Indigenous people beyond just land and money. While Douglas Leighton’s study placed emphasis on the violent events that took place during the Robinson Treaties as the impetus for this change in direction, a reading of both the Bruce correspondence and Pennefeather’s 1858 Report suggests that the perceived financial burdens of the Indian Department were at the root of civilizing policies.⁴ Violent actions that took place over concern about mining activities certainly made officials realize that they knew very little about Indigenous communities west and north of the Great Lakes. Indeed, this may in part explain the philosophical shift from ‘protection’ to ‘civilizing.’ However, evidence from the Bruce correspondence places at least as much emphasis on the colony’s financial burdens as on violence.⁵ As Britain prepared to financially withdraw from the colonies, departments prepared

² “Report of the Special Commissioners appointed on the 8th of September, 1856, to Investigate Indian Affairs in Canada.” Appendix to the sixteenth volume of the Journals of the Legislative Assembly of the Province of Canada, 25th February to 16 August, 1858. 21 Victoria, Appendix (No. 21.) A. 1858. Also known as the “Pennefeather Report.”

³ LAC, RG10, Volume 514, House of Commons Papers 32, Civil Secretary’s Office, Letterbooks (R. Bruce, Superintendent General), Circular, 3 February 1854, 6-9. Online access: <https://archive.org/details/parliamentarypa168commgoog> [Last Accessed 22 July 2015].

⁴ Ibid, 6-9; Pennefeather Report; Leighton, “Federal Indian Policy,” 173;

⁵ LAC, RG10, Volume 514, House of Commons Papers 32, Civil Secretary’s Office, Letterbooks (R. Bruce, Superintendent General), Circular, 3 February 1854, 6-9. Online access: <https://archive.org/details/parliamentarypa168commgoog> [Last Accessed 22 July 2015].

for severe budget retrenchment.⁶ Leighton's suggestion that Bruce shifted Indian policy from land protection and monetary issues to simply using the DIA by the mid-1850s as a "vehicle of assimilation" does not, in my view, reflect the various, and at times contradictory, perspectives of DIA administrators, nor the disparities between policy formation and policy implementation in this period.

Imperial authorities made their intentions to withdraw from the administration of the Canadian colony abundantly clear by the late 1850's. Colonial officials started to collect information from various ministries in attempt to strategize a clear process for the inevitable transfer of powers. Pennefather's report was part of that process. Superintendent General Richard Pennefather, as discussed in the previous chapter, was directed to head a commission to try and figure out the best possible direction for the future relationship between Canada's Indigenous populations and the Crown. Pennefather's 1858 report did not veer much from the recommendations made years earlier by Bagot, but it did address some specific implications of imperial withdrawal, particularly those related to finances. He was critical, though, of what he perceived as the lack of "progress" of Britain's "civilization policy" and made suggestions for improvements, primarily in the form of cost savings measures.⁷ Pennefather's report was more or less a suggestion that the new government of Canada follow policy directions as set out by Britain, although with a revised 'civilization' policy. Any additional recommendations made by Pennefather, as with those of his predecessors, were generally ignored or put aside.

On 1 July 1860 the Province of Canada took over responsibility for the Department of Indian Affairs from the British Colonial Office. Responsibility for Indian policy fell to the

⁶ Ibid.

⁷ Pennefather Report.

Crown Lands Department.⁸ Crown Lands Commissioner Philip M.M.S. Vankoughnet, was appointed as Chief Superintendent.⁹ The shift from imperial to Canadian control, however, did not result in much overall change. Indian policy remained primarily focused on land, timber, and band finances.¹⁰ Civilization policies continued as previously, but as historian John Taylor has shown, both education and agricultural implements were paid for out of band funds or by Christian missions, not the government.¹¹ Any significant changes in policy development and implementation would come during and after Confederation. Perhaps the most important continuity in Canada's Indian policy through the process of imperial withdrawal was that: "The Canadian, like the imperial authorities continued to recognize aboriginal title in the soil underlying that of the Crown."¹² Thus, Treaties, similar to those negotiated between the Province of Canada and the Indians of Lakes Huron and Superior, were continued with the acquisition of Rupert's Land.¹³

2.3 Confederation and the Acquisition of the Northwest: Indian Policy and the Indian Act 1869

The Confederation of Britain's colonies in North America in 1867 did not result in much overall change in Indian policy initially. It did, however, clearly demarcate that Indian affairs would be under Federal, not Provincial, jurisdiction. Under terms of the *British North America Act*, "Indians, and Lands reserved for the Indians" and all aspects of the administration of Indian

⁸ Canada, *Statutes*, 31 Vic., Cap. 42.

⁹ W.L.Morton, "Vankoughnet, Philip Michael Matthew Scott," in *Dictionary of Canadian Biography*, vol. 9, University of Toronto/Université Laval, 2003–, accessed August 4, 2015, http://www.biographi.ca/en/bio/vankoughnet_philip_michael_matthew_scott_9E.html.

¹⁰ J. L. Taylor, 'The Development of an Indian Policy for the Canadian North-West, 1869-79,' PhD Dissertation for Queen's University, Kingston, Ontario, 1975, 21.

¹¹ Taylor, 'The Development of an Indian Policy,' 21.

¹² Ibid.

¹³ Ibid., 22. Alexander Morris characterized the Robinson Treaties as "forerunners of the future treaties." Morris, *Treaties*, 16.

affairs were the responsibility of the Governor General of Canada.¹⁴ Confederation also required that all legislation and policies from the various colonies be brought together under single umbrella ministries, including Indian policy. Each colony had, over time, established its own unique administrative approach to policy development and implementation. Indian policy in New Brunswick and Nova Scotia, for example, evolved quite differently from that of Canada. As historian John Milloy has noted, the guarantees specified in the Royal Proclamation of 1763 for Indian land-rights were not considered applicable to the Maritime colonies.¹⁵ Thus, land cession treaties had not been signed in either New Brunswick or Nova Scotia, with the unfortunate implication that colonial administrators claimed the right to sell Indian lands without consent of Indigenous communities.¹⁶

With a view to acquiring land rights west of the Province of Canada, a committee was established in 1857 to enquire about the future of the territory under jurisdiction of the HBC.¹⁷ The report submitted by the committee made clear that “the company and the fur trade must retreat before settlement.”¹⁸ The committee recommended that the lands of the Northwest should be administered by the province of Canada to, in the words of historian William Morton, “form an empire within the Empire.”¹⁹ Colonial administrators wanted to control and regulate the profitable trade in the Red River region and, at the same time, make lands available for ‘white’ settlers, ultimately resulting in Indigenous displacement. Some newspapers, including George

¹⁴ *British North America Act, 1867*, 30-31 Vic., c. 3; Taylor, ‘The Development of an Indian Policy,’ 22.

¹⁵ J. S. Milloy, *An Historical Overview of Indian-Government Relations 1755-1940*, 64-70.

¹⁶ W.E. Daugherty, *Maritime Indian Treaties In Historical Perspective*, Treaties and Historical Research Centres, Research Branch, Corporate Policy, Department of Indian and Northern Affairs Canada, January 1983; L. F. S. Upton, “Indian Policy in Colonial Nova Scotia, 1783 -1871” in *Acadiensis* 5, No. 1 Autumn/Automne 1975: 3-31; L.F.S. Upton, *Micmacs and Colonists: Indian White Relations in the Maritimes, 1713-1867* (Vancouver: University of British Columbia Press, 1979).

¹⁷ Morton, *The Critical Years*, 29.

¹⁸ *Ibid.*, 30.

¹⁹ *Ibid.*, 31.

Brown's influential *The Daily Globe*, started advocating for Canadian expansion into the Northwest, in part as a response to fears of American expansionism in the 1850s.²⁰

Confederation and the acquisition of Rupert's Land were the result of a culmination of political and commercial aspirations combined with a small dose of fear of American expansionism.

Prime Minister J. A. Macdonald immediately entered negotiations with the Hudson's Bay Company to purchase Rupert's Land. However, there was little discussion about the thousands of people who actually inhabited the North West Territories, and there was certainly no consultation.

Colonial administrators were initially hesitant to negotiate treaties with Indigenous peoples as part of establishing a colonial order in western Canada. Some Indigenous leaders in the Northwest Territories also petitioned on behalf of their people to the Canadian Government in Ottawa for aid in the form of negotiated treaties.²¹ This was in part due to disease outbreaks, changing environmental conditions and food shortages that resulted in conflict over diminishing resources between First Nations groups and between Metis and First Nations groups. From an Indigenous perspective, treaties were seen as a way to receive some assurances that, in times of need, their communities would receive necessities.

Once the Canadian government had acquired the North-West Territories in 1870, it quickly made plans for expansion and the negotiation of Indian treaties, but it had little

²⁰ "The Great North-West," *The Daily Globe*, Saturday, 10 January 1857. George Brown was a crucial figure in the negotiations leading up to Confederation. J. M. S. Careless, "BROWN, GEORGE," in *Dictionary of Canadian Biography*, vol. 10, University of Toronto/Université Laval, 2003–, accessed August 4, 2015, http://www.biographi.ca/en/bio/brown_george_10E

²¹ For example, Chief Yellow Quill sent a letter to the Treaty Commissioner chastising the government for taking so long to start a treaty process. See PAM, MG12, A1, Archibald Papers, 1870-1872, Document 164; PAM, MG12 A1 (Dealing with Treaties One and Two), Statement of Council resolution to the Lt. Gov. of Manitoba (Archibald) from the Principal Indians of Portage La Prairie, 30 May 1871; Further west, Cree, Saulteaux, Chipewyan, Assiniboine and Stoney/Nakoda leaders lobbied hard on behalf of their people for aid in the form of Treaties. See Morris, *Treaties of Canada*, 171.

understanding of the people resident there. As J.R. Miller has noted,

Central Canadians knew generally that there were both Indians and mixed-blood people, Metis, in the region, but beyond such rudimentary knowledge they had very little appreciation of the diversity, numbers, and attitudes of western Aboriginal peoples.²²

By 1870 Indigenous communities had long-established relations with European fur traders; however, they rarely had dealings with anyone associated with the government. The Canadian government readily admitted its ignorance, and relied heavily on HBC employees for information about the land and its inhabitants.²³

2.4 The Manitoba Act, 1870 and the Colonial Construction of a Metis Status

The notion of land rights linked to Metis indigeneity and existing separate from recognized treaties appeared only in western Canada. Parsing out why and how this separate Metis status category emerged in 1869-70 is integral to understanding the chaotic nature of policy development and implementation in the numbered treaty years. The creation of the Dominion of Canada through the *BNA Act* was centered on the nineteenth-century ideas of modernity and expansionism. Opening and settling lands to the west was key to this enterprise. Prime Minister Macdonald was quick to enter negotiations with the HBC to transfer Rupert's Land, but the inclusion of Metis and First Nations in these negotiations was not considered. As Macdonald and Cartier entered into negotiations with Riel's delegates in 1870, other colonial officials were making preparations to negotiate treaties with some Indigenous groups. Concerned that the Red River Metis would try to engage Indians in hostilities against the Government, officials started gathering intelligence to stave off an 'Indian uprising' as seen in the United

²² Miller, *Compact*, 131.

²³ Ibid., 130-131; Taylor, 'The Development of an Indian Policy,' 23.

States.²⁴ Chief Engineer for the Department of Public Works Simon J. Dawson was concerned about the extent of Metis unrest he witnessed in the region. He was also concerned that this unrest would extend to the Saulteaux unless the government took steps to get out in front of the situation. Dawson suggested to the Superintendent General of Indian Affairs Joseph Howe that a former HBC employee, Robert Pither, be appointed as an Indian Agent at Fort Frances. Howe agreed with Dawson's suggestion and emphasized the need to establish an Indian agent to counter any Metis attempts to influence Saulteaux communities – in other words, to establish surveillance over Indigenous communities and

ensure a continuance of friendly relations between them and the Government....The point above all others on which you will have to exercise vigilance is the risk of their being tampered with by Emissaries from the insurgents at the Red River Settlement.²⁵

Thus, even before a treaty had been signed in the Rainy River and Lake of the Woods regions, the Canadian government took measures to counter Metis influence.

Indigenous communities were worried by the prospect of European settlement by the 1860s. Incoming Protestant settlers from Ontario wanted the annexation of Rupert's Land quickly, and wanted Indigenous peoples cleared from prime farm lands. Annexation would bring roads, other infrastructure, and encourage economic development in the district, all of which aligned with Macdonald's nation-building agenda.²⁶ Canada's interest in the Northwest, as explained by historian W. L. Morton, "sprang from a desire to appropriate the trade of Red River and to settle its lands."²⁷

Rumours that started to circulate in Red River about deliberations taking place between

²⁴ Taylor, 'The Development of an Indian Policy,' 29. PAM, Archibald Papers, memorandum of S. J. Dawson, December 17, 1869.

²⁵ Taylor, 'The Development of an Indian Policy,' 29. PAM, Archibald Papers, memorandum of S. J. Dawson, December 17, 1869.

²⁶ Miller, *Compact*, 140.

²⁷ Morton, *The Critical Years*, 31.

Canada, Britain and the HBC only served to increase Indigenous consternation. The rumours proved true when surveyors arrived in Red River in the fall of 1869. Louis Riel Jr., along with a party of other Metis men, ordered surveyors to leave Red River. The designated future Lt.-Gov. of the Northwest, William MacDougall, was also stopped by a road blockade.²⁸ Correspondence between Joseph Howe and McDougall reveals that when news of McDougall's inability to get to Red River reached Canada, officials were concerned about potential violence:

The Government entertain the hope that the opposition presented will be withdrawn when the prejudices aroused have been allayed by frank explanations and in the meantime they would deeply regret that blood should be shed or that any hasty or intemperate exercise even of lawful authority should in the transfer of the country allay the feelings of any large portion of the people against your administration.²⁹

As an attempt to stave off violent conflict, McDougall was instructed to avoid making any claims of the government's "authority in the Hudson's Bay Territory until the Queen's Proclamation annexing the country to Canada" reached him. However, McDougall ignored Howe's instructions and

slipped over the border in the dead of night on 30 November, and read to the prairie wilderness the proclamation of the transfer of Rupert's Land to Canada and his own appointment as its lieutenant governor.³⁰

As a result of McDougall's actions, tensions continued to rise, and Riel set up a provisional government.

The Metis of Red River had three main concerns about their rights. They wanted assurances of linguistic rights, religious rights, and land rights. Negotiations about linguistic and religious rights for the Metis resulted in some progress, but negotiations stalled on the issue of

²⁸ These events have been discussed in numerous monographs. D. N. Sprague's *Canada and the Metis, 1869-1885* (Waterloo, Wilfred Laurier Press, 1988) and Thomas Flanagan's *Metis Lands in Manitoba*. Scholarly debate over the issue of Metis lands in Manitoba has been highly politicized due to recent land claims since 1980.

²⁹ *Accounts and Papers of the House of Commons*, Vol. 50, 1870, 10. Secretary of State for the Provinces of Canada, Joseph Howe, Ottawa, 19 November 1869.

³⁰ Miller, *Compact*, 143.

land rights. The Metis wanted pre-emption for lands settled, control of local lands and resources, and provincial status; the Canadian government was unwilling to compromise on the issue of control over land and resources. At this point in the negotiations there was no discussion about Metis aboriginal rights of any kind.³¹ Negotiating on behalf of the Metis, Roman Catholic Priest N. J. Ritchot noted that the Metis were not claiming ‘privileges’ as Indians, but they wanted to be treated as settlers were in other provinces. The Canadian government was faced with the question of how to compensate a group of people for loss of control over land and resources. The answer, as it turned out, was to provide a large land grant to the Metis through the justification of the need to extinguish Indian title to the land.

The discussion of compensation for loss of control over resources hinged on the fact that the federal government did not want Assiniboia to have provincial status. Rather, Macdonald and Cartier wanted Assiniboia to be a territory with very limited jurisdiction over its own affairs. This was rejected outright by Ritchot and the other delegates. Macdonald and Cartier conceded this point, but then refused to grant the same powers over resource development and land rights as the other provinces. According to Ritchot’s diary of the negotiations, the discussion from this point on shifted to compensation for the residents of Red River for loss of control of their lands.³² This idea, it seems, may have stemmed from precedent set in the United States during the two previous decades.

2.4.a “Half-breed” Category Precedent in the United States

There is no conclusive evidence that American land grants for “half-breeds” living

³¹ N. J. Ritchot (Metis negotiator for Riel), as quoted in Flanagan, *Metis Lands in Manitoba*, 34; Also see Ens, *Hybridity*, 242; Darren O’Toole, “The Red River Jig Around the Convention of “Indian” Title: The Métis and Half-Breed Dos à Dos” in *Manitoba History* 69 (Summer 2012): 17-29; Darren O’Toole, “Métis Claims to Indian Title in Manitoba, 1860-1870.” *Canadian Journal of Native Studies* 28, 2 (2008): 241-270.

³² N. J. Ritchot (Metis negotiator for Riel), as quoted in Flanagan, *Metis Lands in Manitoba*, 34.

among Indians provided the impetus for the idea of a Metis land grant to emerge in the negotiations between Riel's delegates and the Canadian government. However, given the familial and economic connections throughout the Red River Valley, it is certainly plausible that Metis communities near and through the borderlands were aware of the concept. When the American government negotiated the Chippewa Treaty in 1854, officials did not view the "grant" of land to "half-breeds living among the Chippewa" as a precedent for a Metis land rights.³³ When this clause of the treaty was implemented in 1863 it was done via scrip. However, there is no direct evidence to link the scrip precedent to "half-breeds" in the Chippewa Treaty to the initial Metis land grant in Section 31 of the 1870 *Manitoba Act*. What can be said for certain is that neither side went into the negotiations with a Metis land grant as the objective.

There is a direct connection, however, between the American use of scrip for Metis and the Canadian government's initiation of this policy in 1872. Between 1820 and 1870 there were various treaties signed in the United States that included special provisions or clauses to provide lands to "half-breeds" through cash payments, grants of land, and scrip.³⁴ As mentioned above, Article 2 of the 1854 Chippewa Treaty signed at Lapointe, Wisconsin stated:

Each head of a family, or single person over twenty-one years of age at the present

³³Half-Breed Scrip, Chippewas of Lake Superior. The Correspondence and Action Under 7th Clause of the 2nd Article of the Treaty With the Chippewa Indians of Lake Superior and the Mississippi, Concluded At La Pointe, in the State of Wisconsin, September 30, 1854. On-line access at:

https://archive.org/stream/cihm_39318/cihm_39318_djvu.txt [Last accessed 4 August 2015].

³⁴ Various treaties included the Chippewa Treaties, the Kansa Treaty, and the Yankton Sioux Treaty. See Francis Prucha, *American Indian Treaties: The History of a Political Anomaly* (Berkeley: University of California Press, 1994) and *Documents of United States Indian Policy*, (Lincoln: University of Nebraska Press, 2000); Charles J. Kappler, ed., *Indian Affairs: Laws and Treaties, Vol. II*, (Washington: Government Printing Office, 1904).

On-line access: <http://digital.library.okstate.edu/kappler/Vol2/treaties/chi0648.htm#mn1> [Last Accessed 4 August 2015]; Half-breed scrip, Chippewas of Lake Superior: the correspondence and action under the 7th clause of the 2d article of the treaty with the Chippewa Indians of Lake Superior and the Mississippi, concluded at La Pointe in the state of Wisconsin, September 30, 1854. Including the report of the commission appointed by the Secretary of the Interior, 21 April 1871, composed of Henry S. Neal, Selden N. Clark, Edward P. Smith, and R.F. Crowell: and the report of the commission appointed 15 July 1872, composed of Thomas C. Jones, Edward P. Smith, and Dana E. King. On-line access at: https://archive.org/stream/cihm_39318/cihm_39318_djvu.txt [Last accessed 4 August 2015].

time of the mixed bloods, belonging to the Chippewas of Lake Superior, shall be entitled to eighty acres of land, to be selected by them under the direction of the President, and which shall be secured to them by patent in the usual form.³⁵

Only a few years later the Ponca Treaty of 1858 made similar provisions in Article 3 for Metis band and/or family members:

The Poncas being desirous of making provision for their half-breed relatives, it is agreed that those who prefer and elect to reside among them shall be permitted to do so, and be entitled to and enjoy all the rights and privileges of members of the tribe; but to those who have chosen and left the tribe to reside among the whites and follow the pursuits of civilized life...[A]t the Omaha mission, there shall be issued scrip for one hundred and sixty acres of land each, which shall be receivable at the United States land-offices in the same manner, and be subject to the same rules and regulations as military bounty-land warrants. And in consideration of the faithful services rendered to the Poncas by Francis Roy, their interpreter, it is agreed that scrip shall, in the like manner and amount, be issued to his wife and to each of his six children now living, without their being required to leave the nation. *Provided*, That [sic] application for the said scrip shall be made to the Commissioner of Indian Affairs within five years from and after the date of the ratification of this agreement.³⁶

Given that many Metis resident in the Assiniboia district had relatives and friends throughout the Red River Valley, it stands to reason that as news about the potential for scrip spread some families may have decided to relocate south of the 49th parallel to take advantage of an economic opportunity.³⁷ Speculators were eager to purchase scrip certificates from Metis recipients and many Metis were eager to sell. Although the American government attempted to limit

³⁵ Charles J. Kappler, *Indian Affairs: Laws and Treaties*, <http://digital.library.okstate.edu/kappler/Vol2/treaties/chi0648.htm#mn1> [Last accessed 4 August 2015]

³⁶ Charles J. Kappler, ed., *Indian Affairs: Laws and Treaties*, (1904). On-line access: <http://digital.library.okstate.edu/kappler/Vol2/treaties/pon0772.htm#mn18> [Accessed 31 July 2012]

³⁷ Studies that demonstrate the cross-border or 'borderland' identities, familial and economic ties throughout the Red River Valley include Katie Pollock's 'From Borderlands to Bordered Lands: The Plains Metis and the 49th Parallel, 1869-1885,' (MA Thesis, University of Alberta, 2009), 74-105; Gerhard Ens, "After the Buffalo: The Reformation of the Turtle Mountain Metis Community 1879-1905," in *New Faces of the Fur Trade: Selected papers of the Seventh North American Fur Trade Conference, Halifax, Nova Scotia, 1995* (East Lansing, Michigan State University Press, 1998); Gregory Camp, "The Turtle Mountains Plains-Chippewas and Metis, 1797-1935," (PhD Dissertation, Albuquerque, University of New Mexico, 1987). Borderland Metis studies further west along the 49th parallel include Gerhard Ens, "The Border, the Buffalo, and the Metis of Montana" and Martha Foster, *We Know Who We Are: Metis Identity in a Montana Community* (Norman, University of Oklahoma Press, 2006). Michel Hogue, *Metis and the Medicine Line: Creating a Border and Dividing a People* (Chapel Hill: University of North Carolina Press, 2015).

speculation by including a five-year residency provision in the Ponco Treaty of 1858, speculators generally found a way to circumvent restrictions.³⁸ What is important to note, however, is that there was a precedent for Metis scrip, and it is likely that residents of Red River were well aware of it.

Once Ritchot realized that Macdonald and Cartier were not going to concede on the issue of local control over lands and resources, the idea of compensation through a land grant apparently seemed a reasonable counter offer. The construction of a new legal status category in Canada is what differentiates it from the United States. During a time when politicians were not terribly beholden to party lines, Macdonald could not assume that a land grant would pass through Parliament – he could not rely on his own MP’s to support this bill. Therefore he recommended dealing with the grant through the justification of extinguishing Metis aboriginal title by way of their Indian ancestors. Opposition to this proposal was vehement. Leader of the Liberals, Alexander Mackenzie, railed against the Section 31 of the Manitoba Act that would grant 160 acres of land to every Metis child. He argued that it was unasked for by the people of Red River. He also noted:

A certain portion to be set aside to settle Indian claims and another portion to settle Indian claims that the half-breeds have. But these half-breeds were either Indian or not. They were not looked upon as Indians, some had been to Ottawa, and given evidence, and did not consider themselves Indians. They were regularly settled upon farms, and what the object could be in make some special provision for them that was not made for other inhabitants was more than he could well understand.³⁹

The Manitoba Act passed through Parliament, creating, for the first time, the racialized status category of “Half-breed.” As the Manitoba Act came to be interpreted after 1870, all children of

³⁸ Flanagan, *Metis Lands in Manitoba*, 23-24.

³⁹ Canada, House of Commons, *Debates*, May 9, 1870. Reprinted in Morton, *Manitoba: The Birth of a Province*, 225. Also see Ens, *Hybridity*, 243.

“Half-breed” heads of families were accorded an outright grant of 240 acres to extinguish their claim to Indian title. But restricting this grant to the children of the Metis and justifying it in terms of “extinguishment”, the Canadian government was faced with the problem of how to extinguish the claims to Indian title of Metis parents. They eventually did this by granting them scrip via an Order-in-Council in 1874. By these means, a land grant to Metis children and a grant of scrip to Metis parents, a new kind of status category had been invented.⁴⁰

There were three reasons, according to Gerhard Ens, why the Metis in western Canada were accorded aboriginal rights that existed as separate from Indian treaties: first, the Canadian government viewed metissage in a positive manner (unlike in the United States) and considered this ‘new race’ as a facilitator of civilization; second, the political crisis that ensued over the transfer of Rupert’s Land required a fast solution to enable the peaceful acquisition of the territory; and finally, as a result of this fast-tracked policy, Metis could enter treaty or take scrip, which led to over thirty years of confusion and inconsistent policy.⁴¹ All of these factors created a situation in which racialized categories, unintentionally constructed, would have long-term implications. Distinct meaning and identities would become attached to these status categories over time, and as hard as the Canadian government might try to contain problems concerning who could ‘belong’ to a specific status category, once Metis status came into existence, there was no going back.

2.5 Indian Policy, 1870-1876

After the creation of a racialized Metis status in 1870, Canadian Indian policy was no longer just about “Indians.” The *1876 Indian Act* was an attempt at standardizing various parts of

⁴⁰ See Ens and Sawchuk, *From New Peoples to New Nations*, 133-154.

⁴¹ Ens, ‘Hybridity,’ 236-237; and “Dispossession or Adaptation?: Migration and Persistence of the Red River Métis, 1835–1890,” *Canadian Historical Association, Historical Papers* 23, no. 1 (1988): 120–144.

legislation dealing with the administration of Indian Affairs in Canada after Confederation, but the end result was confusing, inconsistent, and administratively messy. The 1870s were eventful years in terms of the expansion Canada's colonial order across the West. Not only was the new Canadian government dealing with the contested, and at times violent, creation of the Province of Manitoba, it was also trying to coax British Columbia to join the federation. This latter deal depended on Government promises to link east to west by rail. All of a sudden, securing aboriginal land cessions became a top priority.

These factors combined together underscored the Canadian government's rationale for consolidating all legislation concerning Indians into the *1876 Indian Act*. The goal of 'civilizing' Indians, always present, was woven throughout the new legislation. However, creating administrative efficiencies also loomed large in re-evaluating and constructing this umbrella-type legislation. Between 1870 and 1876 the Canadian government negotiated a series of treaties with Indigenous communities across the Prairies, and at the same time devised an over-arching piece of legislation that would attempt to govern all aspects of Indigenous lives and bodies. This legislation, known as the *Indian Act*, would set the structure for the administration of Indian policy in Canada for the next century and a half. Unlike the earlier formation of the legislated definition of "Indian" in Upper and Lower Canada, there was no consultation with western Indigenous communities about policy formation.

The legislative history of the *Indian Act* in the years immediately following Confederation is confusing and convoluted. The first change the government made to legislated Indian policy after Confederation was to replace the 1850 *Management of Indian Lands and Property Act* with *An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*, otherwise known as

the *Indian Lands Act*.⁴² This new piece of legislation in 1868 transferred the power of the Commissioner of Crown Lands, who functioned as the Chief Superintendent of Indian Affairs, to the Secretary of State. After 1868, the Secretary of State functioned as the Superintendent General of Indian Affairs. This new position controlled the administration of *all* reserve lands and the property of any communities recognized as “Indians” by the federal government.

The following year, the 1869 *Act for the Gradual Enfranchisement of Indians and the Better Management of Indian Affairs* instituted rules for local band governance. This legislation removed powers from local band councils.⁴³ This version of the *Gradual Enfranchisement Act* was an amendment to the earlier 1857 *Gradual Civilization Act*, but the changes made this legislation applicable to all territory under the *BNA Act*. Then in 1876 the Government consolidated all legislation concerning Indian Affairs into *An Act to amend and consolidate the laws respecting Indians*.⁴⁴ By the time the 1876 version of the *Indian Act* was enacted, the state of the administration of Indian affairs in the west was inefficient, to say the least. While the aim of the 1876 *Act* was to streamline Indian policy across the Dominion, and thus make the administration and implementation of Indian affairs more efficient, it had the opposite effect. With an eye only to creating administrative efficiencies, there was no consideration given by government officials to the very real environmental, economic, and cultural differences amongst

⁴² Sharon Helen Venne, *The Indian Act and Amendments 1868-1975 – an indexed collection* (Saskatoon: Saskatoon Law Centre, 1981); (S.C. 1868, c. 42 (31 Vic.))

⁴³ *An Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada*, S.C. 1869, c. 3 This was followed by *An Act to amend and continue the Act 32 and 33 Victoria, chapter 3 ; and to establish and provide for the Government of the Province of Manitoba*, S.C. 1870, c. 3 which created Manitoba. One year later in 1871 the government passed *An Act to make further provision for the government of the North West Territories*, S.C. 1871, c. 16 and *An Act to continue for a limited time the Acts therein mentioned*, S.C. 1871, c. 29. On-line access: <http://www.aadnc-aandc.gc.ca/eng/1100100010204/1100100010206> [Accessed 5 September 2012]

⁴⁴ *An Act to amend and consolidate the laws respecting Indians*, S.C. 1876, c. 18 <http://www.aadnc-aandc.gc.ca/eng/1100100010252/1100100010254> [Accessed 6 September 2012]

resident Indigenous communities.

The 1876 *Indian Act* may have brought all the policy together under one roof, but the reality was that conditions in the west were not the same as conditions in the east. Indigenous communities in the west faced different challenges than those in Ontario and Quebec. Agriculture, for example, had been practiced in some form for centuries prior to the government's 'civilizing' efforts, which was not the case in the west. In addition, until the creation of Metis status, government had little interest in band membership issues. On the prairies, however, with the creation of this new status category, the government attempted to control who was considered a status 'Indian,' who was considered a status 'Half-breed,' and who was considered neither. The Canadian government's obsession with racial classification, which did not necessarily reflect the realities of a community's ethnic self-identification, created frustration for everyone as both officials and communities tried to establish the beginnings of a long-term relationship in the West.

The original legislated definition of who was, in the eyes of the government, considered an 'Indian' in 1868 was very similar to the definition originally adopted in Lower Canada in 1851; however, in 1868 this definition was applied to all First Nations communities in the Dominion. The attempt at a 'one size fits all' policy became particularly problematic from a gendered perspective. The first legislated definition of 'Indian' was passed in response to some community concerns over outsiders, usually European men who married Indigenous women, taking advantage of community reserve lands. This definition, according to Lt.-Gov. Drummond, was the result of consultation with communities. In his mind, particularly in case of women, Drummond thought that it would be

considered as a violation of the rights of the present proprietors to allow the white man who marries an Indian woman to claim a share in the rights of her tribe. I,

therefore, propose to amend that portion of the law so as to exclude the white man who marries an Indian woman and his descendants, without depriving the Indian who marries a white woman, or his heirs, from a share in the rights of the tribe.⁴⁵

The 1851 Act was amended to read as follows:

And be it declared and enacted, That for the purpose of determining what persons are entitled to hold, use or enjoy the lands and other immovable property belonging to or appropriated to the use of the various Tribes or Bodies of Indians in Lower Canada, the following persons and classes of persons, and none other, shall be considered as Indians belonging to the Tribe or Body of Indians interested in such lands or immovable property:

Firstly. All persons of Indian blood, reputed to belong to the particular Tribe or Body of Indians interested in such lands or immovable property, and their descendants:

Secondly. All persons residing among such Indians, whose parents were, or are, or either of them was or is, descended on either side from the Indians, or an Indian reputed to belong to the particular Tribe or Body of Indians interested in such lands or immovable property, and the descendants of all such persons: And

Thirdly. All women, now or hereafter to be lawfully married to any of the persons included in the several classes hereinbefore designated; the children issue of such marriages, and their descendants.⁴⁶

In 1868 the government passed legislation to extend the definition of “Indian” to the entire Dominion. Shortly thereafter, many individuals who had previously been struck off band membership lists applied to have their status re-instated.⁴⁷ For communities in Ontario, this change meant that some of the women that had married out of the band in previous years, as well as their descendants, might qualify to re-join the band and share in the community’s lands and annuities.⁴⁸ Government officials were determined to prevent women and their children from retroactively regaining their status, and so *An Act for the gradual enfranchisement of Indians, the better management of Indian Affairs , and to extend the provisions of the Act 31st Victoria, Chapter 42* (S.C. 1869, c. 6 [32-33 Vict.]) was passed. This legislation amended the definition of

⁴⁵ LAC, RG10, vol. 190, Memorandum of Solicitor General Lewis Drummond, 22 July 1851.

⁴⁶ *Statutes of the Province of Canada*, 1851 Chap 42.

⁴⁷ Binnema, “Protecting Indian Lands,” 22.

⁴⁸ *Ibid.*

an Indian in Section 6 so that

any Indian woman marrying any other than an Indian, shall cease to be an Indian within the meaning of this Act, nor shall the children issue of such marriage be considered as Indians within the meaning of this Act; Provided also, that any Indian woman marrying an Indian of any other tribe, band or body, shall cease to be a member of the tribe, band or body to which she formerly belonged, and become a member of the tribe, band or body of which her husband is a member, and the children, issue this marriage, shall belong to their father's tribe only.⁴⁹

Communities that traditionally traced their lineage through the female line strongly opposed these changes. For example, Iroquois communities petitioned that these rules should not be rigidly enforced. The minutes of a Six Nations Council meeting recorded their complaints about Section 6:

Moved by Chief Simcoe Kerr, seconded by D. Sawyer, that Section 6th is rejected, because it is unjust in depriving woman of her birthright, has a very immoral tendency for the Indian women, is inconsistent with the Act of 1868, and breaks through an ancient and acknowledged custom of the Indians. Carried.⁵⁰

The 1876 *Indian Act* was, and is, a confusing piece of legislation. It was difficult for both agents and administrators to interpret and implement.⁵¹ Much of the confusion was over the government attempt to govern band membership lists through the *Act*. The 1876 *Indian Act* focused primarily on gender as a means of defining who was considered an 'Indian:

Indian women who married non-Indians shall cease to be an Indian in any respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents; but this income may be commuted to her at any time at ten years' purchase with the consent of the band.⁵²

As Gwyneth Jones pointed out in her work on treaty and scrip policy for the case *Daniel's v. Canada*, this resulted in many women and their children being removed from annuity paylists. In

⁴⁹ *Statutes of Canada* 1869, c. 6 (32-33 Vict.).

⁵⁰ Quoted in Binnema, "Protecting Indian Lands," 26. General Council. *General Council of the Six Nations and Delegates from Different Bands in Western and Eastern Canada*, June 10, 1870, 25.

⁵¹ Gwyneth Jones, Expert Report For Daniels V. Canada, Prepared for the Congress of Aboriginal Peoples, 11 June 2011.

⁵² *Statutes of Canada* 1876, c. 18 (39 Vic).

Treaty 3 for example, Jones demonstrated that some women from the regions of Lake of the Woods and Rainy Lake who had married “American Indians,” wanted to be paid annuities with their former band. However, because of this new provision governing the definition of status “Indian,” these women were instead deemed ineligible for treaty payments.⁵³ It is important to note, however, that local Indian agents did maintain some degree of discretion. Evidence from correspondence between Vankoughnet and Indian Agent Amos Wright in the Robinson-Superior treaty shows that there were still grey areas:

The Dept. does not intend however to interfere with the persons of that class above referred to by you who have heretofore been participating in the Robinson Treaty moneys and whose names are now on the Pay List. But no new names of persons who are not Indian within the meaning of the Act must be added to the Pay [Lists].⁵⁴

This point is important to note as it foreshadowed governmental difficulties in attempting to control band membership as the colonial order emerged on the Prairies.

The Canadian government’s attempt to construct, and then implement, a one-fits-all Indian Policy for all of Canada undercut the collaborative relationships that had been previously established between the Crown and Indigenous communities. A sense of willful blindness to the varied realities and traditional cultural practices, particularly concerning the rights and roles of individuals and gender, would forever change the course of Indigenous-Crown relations in Canada. The government aimed to define all Indigenous peoples, male and female, according to classifications that were inherently unrealistic. The government also wanted to apply these classifications consistently to all Indigenous communities and individuals anywhere the Dominion claimed control. The harder the government tried to apply blanket policies, the more people resisted and the messier the administration of Indian affairs became. With the addition of

⁵³ Jones, Expert Report, 73.

⁵⁴ Quoted in Jones, Expert Report, 74. LAC, RG10, Vol. 2090, file 14455, L. Vankoughnet to A. Wright, 1 August 1879.

a Metis status to the policy-mix, defining ‘Indians’ and, in particular, determining the status of women became doubly complicated.

2.6 Conclusion

Riel wanted the new province of Manitoba to have control over lands and resource development, but Cartier and Macdonald refused. Negotiating on behalf of Riel, Ritchot countered that in order to reach a compromise the federal government needed to provide some sort of compensation for loss of control over the lands. Ritchot’s counter-proposal then turned into a proposal for a land grant. However, Macdonald’s hold on power was tenuous, and he was not convinced that he could persuade enough MP’s to pass legislation to award a land grant as compensation for loss of control over resources. Thus, in order to get the *Manitoba Act* through parliament Macdonald framed the Metis land grant in terms of the “extinguishment” of Indian title. Essentially what originated as a compromise between the two negotiating parties for control of provincial lands became an issue of aboriginal rights, something that was never requested by Riel or his delegates.

Section 31 of the 1870 *Manitoba Act*, which established a kind of Metis status, would have far-reaching implications for Indian policy and treaties in western Canada. The Metis land grant and the later grant of scrip, both administered by the Department of the Interior, also had implications for the numbered treaties, as western Metis could choose treaty status instead of Metis status and this involved the Department of Indian Affairs. There seems to have been very little consideration initially that treaties, Indian policy, and scrip policy would be interrelated and very complicated.

When the Canadian government got around to negotiating the numbered treaties in 1871, officials knew very little about the interconnections between the Metis and Indians of the North-

West Territories. This, in turn, led to confusion about who belonged in treaty and who did not. Not until the eve of the 1885 Rebellion did the Canadian Government revisit its policies concerning Indian and Metis status and band membership.

When colonial officials decided to consolidate all legislation concerning Indigenous peoples into one *Indian Act*, it was a reflection of a perceived need for administrative efficiency. However, as the following chapter demonstrates, it was also a reflection of the plethora of administrative issues that arose when trying to formulate an Indian policy in the West after 1870. Essentially, the addition of a Metis status category complicated everything. At the time, though, officials within the Department of the Interior and the Department of Indian Affairs had no idea of the problems they would encounter in trying to formulate and implement Indian policy in the West.

Evidence examined in Chapter Three shows that the Canadian Government's extension of a colonial order into the West encountered problems right away, both in the process of treaty negotiation and implementation. What had previously been, in the government's view, a fairly clear demarcation between 'Indians' and 'Whites,' turned into a quagmire of contradictions. In the years following the transfer of Rupert's Land in 1870, the administrative creation of Metis status forced the government to re-consider the place of hybridity within its Indian policy. Through this process of re-consideration, treaty commissioners, Indian agents, lawyers, and other bureaucrats struggled to figure out who should, or could, take treaty and who should, or could, participate in the Metis scrip program.

Chapter 3

Setting Precedents: Negotiating Metis Inclusion in the Early Numbered Treaties, 1870-1873

3.1 Introduction

Metis status in Manitoba was created to expedite the entrance of Manitoba into Confederation. Its inclusion in the *Manitoba Act* was justified by Prime Minister J. A. Macdonald as a means to extinguish Aboriginal land title, which was considered a necessary step for the political and economic expansion into western Canada. The creation of this new status category had unintended consequences. From the government's perspective, Metis individuals who participated in the 1.4 million acre land grant, or the Metis scrip program, extinguished their Aboriginal land title and thus became *de facto* British subjects. Designed to expedite the colonization of western Canada, both the Metis land grant and Metis scrip instead were used as a legislated means by which Metis communities would force the government of Canada to include them as a distinct Indigenous group in the Canadian Constitution.¹

This chapter investigates the process of treaty implementation in the years immediately following the Canadian state's creation of a Metis status category. My analysis of this process

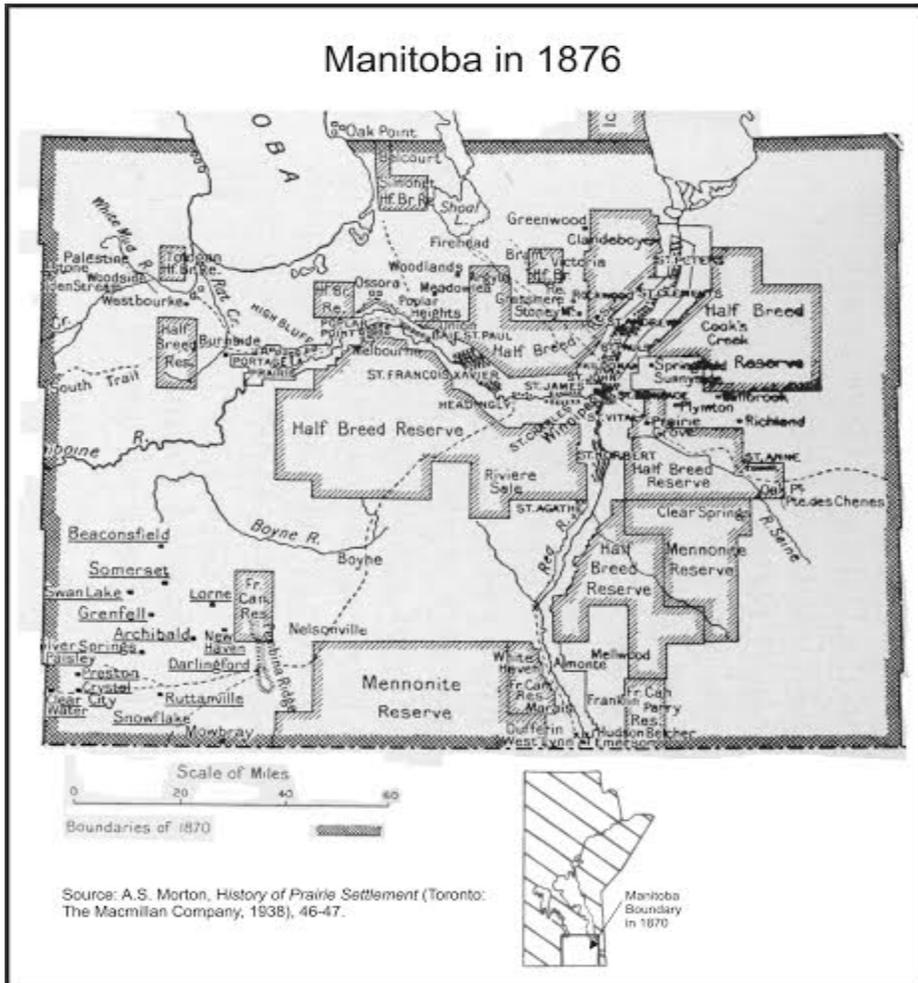
¹ Section 35 of the *Constitution Act* 1982 recognizes Aboriginal and treaty rights in Canada, including Indian, Metis and Inuit peoples. On 10 January 2013, the Honourable Michael L. Phelan ruled on *Daniels v. the Queen* that Metis and Non-Status are Indians under subsection 91 (24) of the Constitution Act, 1867. Another recent landmark decision in the *Metis Federation of Canada v. Canada*, the Supreme Court of Canada declared that "the Federal Crown failed to implement the land grant provision set out in s.31 of the Manitoba Act, 1870 in accordance with the honour of the Crown." See Supreme Court of Canada, *Metis Federation of Canada v. Canada*, Judgment, 7.

will set the stage to better understand the issues and problems that emerged in Treaty 6.

For those Metis who resided within the newly-created Province of Manitoba, the options were fairly straight forward – they could apply to participate in the land grant or scrip program, and those who did not could enter treaty as ‘Indians.’ Outside the boundaries of the Province of Manitoba the issue of self-identification became more complicated. If an individual who self-identified as Metis resided outside of Manitoba’s political borders, the legislation that granted land rights within Manitoba’s borders did not apply. As a result, there were no special land rights or privileges set aside for anyone who claimed Metis status outside of Manitoba. In an attempt to placate Metis outside of Manitoba, treaty commissioners permitted the Metis to join treaty instead. For those who did not wish to enter treaty, Commissioner Alexander Morris gave verbal promises that the “the Queen would deal justly, fairly and generously with all her children.” He would not, or could not, however, provide any details on what that policy would look like.² In other words, neither Morris, nor anyone else in the government, had any idea how to deal with the rights of the Metis outside of Manitoba unless they were willing to self-identify as ‘Indian’ in treaty.

² Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories: Including the Negotiations on which they were based, and other information relating thereto* (Toronto: Bedford, Clark, 1880), 123.

Figure 3.1 Map of Manitoba in 1876



When the Canadian Government created and implemented a new status category to bring Manitoba into Confederation, it was also preparing to enter into the first of several treaties with the residents inhabiting lands to the west. Treaty 1 and 2 negotiations began almost immediately after the *Manitoba Act*, and would be followed shortly after by the negotiation and signing of Treaties 3 through 7. In these negotiations, Indigenous communities attempted to retain as much autonomy as possible while agreeing to share their land with the expanding settler populations. As has been well-addressed in the scholarship on treaties in western Canada, the terms and

outcomes turned out to be a huge disappointment to Indigenous communities, resulting in their eventual economic and social marginalization within Canadian society.

There are a number of studies detailing this negotiation process and the outcomes and consequences of the numbered treaty agreements in western Canada.³ However, while the scholarship is extensive, these studies on the early numbered treaties generally focus on three issues: the unpreparedness of government to enter into treaties with people about whom they knew very little, the initiation of treaties by Indigenous communities concerned about their present-day and future well-being, and the ‘outside promises’ – verbal terms promised that were not written in the text of the treaty. There are, however, other issues that remain to be adequately addressed. In the first three numbered treaties, the government had little understanding of Indigenous political and social dynamics. This ignorance led to confusing inclusion/exclusion policies governing treaty administration. And while studies of the treaty negotiations usually include a discussion of the significant role that certain Metis individuals played, they do not address the challenges posed by the creation of Metis status in Manitoba and its link to other administrative issues in treaty implementation.

This chapter provides a brief discussion of the important historical context for understanding the process of treaty negotiations, but its main focus is to reveal how the

³ The most recent study on the treaty negotiations is Sheldon Krasowski’s, “Mediating the Numbered Treaties: Eyewitness Accounts of Treaties between the Crown and Indigenous Peoples, 1871-1876” (Ph.D. Thesis, University of Regina, 2011). Also see J. R. Miller, *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada* (Toronto: University of Toronto Press, 2009); Jill St. Germain, *Broken Treaties: United States and Canadian relations with the Lakotas and the Plains Cree, 1868-1885* (Lincoln: University of Nebraska Press, 2009); Robert Talbot, *Negotiating the Numbered Treaties: An Intellectual and Political Biography of Alexander Morris* (Saskatoon: Purich Publishing, 2009); Arthur Ray, J. R. Miller and Frank Tough, *Bounty and Benevolence* (2002); Jill St. Germain, *Indian Treaty-making Policy in the United States and Canada, 1867-1877* (University of Nebraska Press, 2001); Richard Price (ed.), *Spirit of the Alberta Indian Treaties* (Edmonton: University of Alberta Press, 1999); Gerald Friesen, *The Canadian Prairies: A History* (Toronto: University of Toronto Press, 1987); Jean Friesen, “Magnificent Gifts: The Treaties of Canada with the Indians of the Northwest, 1869-1876,” in *Transactions of the Royal Society of Canada Series V, Volume 1* (1986); John Taylor, “The Development of an Indian Policy for the Canadian North-West, 1869-79,” (PhD Thesis, Queen’s University, 1975).

historically contingent creation of the Metis status category challenged a particular bureaucratic understanding of treaty implementation inherited from the Robinson Treaties in 1850. The *Manitoba Act* twenty years later created a new, racialized, way to legally ‘define’ people of both European and Indigenous ancestry. The construction of this category defied how most government administrators and policy makers thought about the place of hybridity within racial classifications. As discussed in the previous chapter, for most commentators in this period, it was assumed that hybridity would eventually disappear – that is, the Metis would either ‘regress’ to ‘being Indian’ or ‘progress’ to ‘being white.’⁴ There is nothing in the documentary record to suggest that anyone in government, whether negotiating on behalf of the Canadian Government or the Provisional Government of Manitoba, considered even the short-term consequences of creating this new status definition, let alone the long term ramifications.

In the archival files on Treaties 1 through 3, evidence shows that Indigenous communities expressed concern over group representation in treaty negotiations, band membership, and the inclusion of Metis family members in treaty. In Treaty 1, the case of Yellow Quill provides a stark example of how the absence or presence of particular leaders exacerbated existing fractures within some communities and challenged the treaty commissioners’ misguided notions about band cohesiveness and the existence of Metis communities outside Manitoba’s borders. In Treaties 2 and 3, there are plenty of examples of how the treaty commissioners muddled their way through issues of Metis individuals agreeing to self-identify as ‘Indian’ to come into treaty. In the case of a Metis community at Fort Frances in Treaty 3, the government even designated a “Half-Breed Reserve,” which demonstrates the degree of confusion around racial identification

⁴ This argument is found in Gerhard Ens, “Hybridity, Canadian Indian Policy, and the Construction and “Extinguishment” of Metis Aboriginal Rights in the Nineteenth Century,” in *Reconfigurations of Native North America: An Anthology of New Perspectives*, eds. John R Wunder and Kurt E. Kinbacher (Texas: Texas Tech University Press, 2009), 236-251.

and status categories. All of these issues continued to play out through subsequent numbered treaties covering most of western Canada as both the government and Indigenous communities navigated the “Metis status.” The government generally viewed hybridity as a disappearing racial category. The result of this approach to hybridity were misguided policies that failed to acknowledge the flexible socio-political and the historical cultural elements inherent in most Indigenous communities across the North-West Territories.⁵

3.2 Setting a Precedent at the Stone Fort: Indigenous Prescience in Treaty Negotiations

Over the last few decades, many scholars have revealed Indigenous prescience and agency (both group and individual) through the recorded oral histories and the textual record on the negotiation process of the numbered treaties.⁶ In the spirit of this earlier literature, this chapter highlights the interactive elements of the Indigenous-government relationship as it emerged through the negotiation and implementation process of Treaties 1, 2 and 3. Much to the indignation of the treaty commissioners, there was no monolithic, or “pan-Indian,” response to the treaty negotiation process, nor its outcomes. Indigenous leaders, and their communities, responded in various ways to colonial expansion and resulting intrusion into their territories. The Canadian state’s attempt to organize and administrate people in treaty created confusion and tension. Given the high stakes for Indigenous residents, community representation during the treaty negotiations was a key issue and treaty commissioners were keen to avoid claims that any

⁵ Susan Sharrock, “Crees, Cree-Assiniboines, and Assiniboines: Interethnic Social Organization on the Far Northern Plains,” in *Ethnohistory*, 21(2), Spring 1974, 95-122. Also see Theodore Binnema, *Common and Contested Ground: A Human and Environmental History of the North-Western Plains* (Norman: University of Oklahoma Press, 2001), xii.

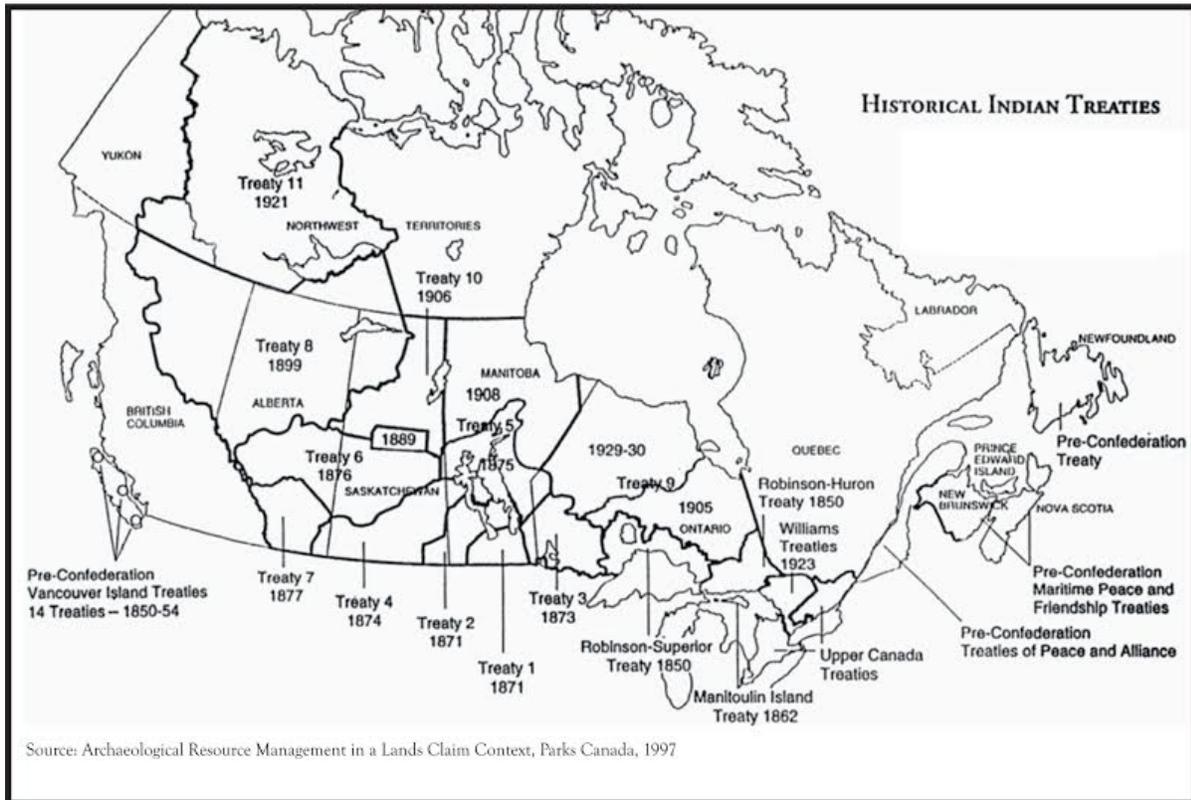
⁶ Particularly relevant scholarship that highlights Indigenous agency in the context of fur trade and Treaties includes, for example, Jean Friesen, “Magnificent Gifts: The Treaties of Canada with the Indians of the Northwest, 1869-1876”; Gerhard Ens, *Homeland to Hinterland*; Frank Tough, *As Their Natural Resources Fail*; and Arthur Ray, J. R. Miller and Frank Tough’s *Bounty and Benevolence*.

group was not appropriately represented.⁷ Yet, in an effort to expedite the negotiation process, they failed to take the time necessary to ensure that all bands, and factions within them, were represented. This failure led to the grouping of various bands that did not necessarily reflect political and social realities of its members and consequently created dissatisfaction with the negotiation and administrative process.

From the government's perspective, too many voices would slow down its efforts – it was more efficient to make large tribal groupings rather than deal with small band representation. The consequences of these efforts were twofold – bands designated for reserves did not necessarily reflect the reality of First Nations' politics and social dynamics, which included the emergence of, and connections to, Metis communities. More significantly, many people within various factions felt disaffected and unrepresented in the process. Thus, the very process of the negotiations caused tension, both within communities and between those communities and the treaty commissioners.

⁷ Historical precedence stems from the Selkirk Treaty of 1817. Some groups claimed that they had not been properly represented. See Morris, *The Treaties of Canada with the Indians*, 33.

Figure 3.2 Map of the Boundaries of the Numbered Treaties



The treaty commissioners' general lack of understanding of Indigenous political and social dynamics in the region, combined with confusion over the new "Metis status," resulted in different groups being lumped together as single bands on the treaty annuity paylists. Sorting out who represented whom, and who belonged to which 'band' turned out to be a far greater challenge than any colonial official seemed ready to admit. In the end, the treaty commissioners' obsession with efficiency backfired, creating upset, confusion, and bands splitting apart from one another. The treaty commissioners were never able to grasp the complexity of these issues; as a result, the same issues over band representation and membership would re-appear in Treaty 6.

After the Red River Resistance the Government of Canada wanted to ensure military troops could be easily moved through the territory if needed to quell or subvert a future

resistance to state expansion. Prime Minister Macdonald was also concerned about maintaining peaceful relations with the residents of the North-West so that European settlement could proceed uninhibited. He was slow to realize that the transfer of Rupert's Land to Canada not only upset the Metis communities of Red River, but many other Indigenous communities as well.⁸ The Macdonald government needed to reach out to those communities already upset with previous land transactions, such as the Selkirk Treaty of 1817, as well as those who up to that point had no previous dealings with the government and whom the government knew little about.⁹

In the fall of 1869, the Ojibwa community around Fort Garry wanted treaty and were pressing Lt.-Gov. designate, William McDougall, for action.¹⁰ Kewetaosh and “three other local chiefs had agreed the previous winter on a division of the country amongst them.”¹¹ Historian John Taylor commented on the fact that these groups had taken the “initiative” in discussing amongst themselves the division of the territory and in “approaching McDougall as soon as he arrived in the vicinity.”¹² However, the combination of communities' prescience and willingness to push for matters that were of utmost importance to their future well-being should not be surprising. Indeed, the sale of Rupert's Land to the Dominion sparked serious concerns. These communities also knew about Metis concerns at Red River. One thing made abundantly clear in the files related to the Manitoba and North-West Territories of this period is that Indigenous

⁸ Report of the Indian Branch of the Department of the Secretary of State for the Provinces, Submission of Adams G. Archibald, Lt. Gov., Fort Garry, 29 July, 1871, (Ottawa: I. B. Taylor, 1872), 14-15.

⁹ For more detail on the Selkirk Treaty see Ray, Miller, Tough, *Bounty and Benevolence*, 21-31.

¹⁰ *Canada: Sessional Papers*, Vol. V, Third Session of First Parliament, 1870, No. 12, 17-18. William McDougall was Lt. Gov. from 1869-1870 and was replaced by Adams Archibald 10 May 1870. McDougall was an Anglophone with very little sympathies for the French and his appointment had further angered the Red River Metis. Suzanne Zeller, “McDougall, William,” in *Dictionary of Canadian Biography*, vol. 13, University of Toronto/Université Laval, 2003–, accessed August 7, 2015, http://www.biographi.ca/en/bio/mcdougall_william_13E.html.

¹¹ Quoted in Taylor, “Development,” 37-38.

¹² Taylor, “Development,” 37-38.

communities consistently and strongly advocated for their own interests:

...as soon as the spring opened they became anxious about the Treaty. They have scat [sic] repeated messages enquiring when the Treaty was to come off, and appeared very much disappointed at the delay. They have interfered with emigrants, warning them not to come on the ground outside the Hudson's Bay Company's surveys, and lately they have posted up a written notice on the door of the church at Portage La Prairie, warning parties not to intrude on their lands until a Treaty should be made.... With this anxiety and uneasiness among the Indians, with a feeling of danger on the part of emigrants seeking lands and ready to commence work, but subjected to enforced idleness by the danger of entering against the will of the Indians, you will easily understand that I awaited with much anxiety and hailed with much pleasure the arrival of Mr. Simpson.¹³

Various Indigenous communities requested treaties because they were aware of the pressures encroaching European settlement would place on lands and resources they held to be essential for survival. Kewetaosh's efforts to get negotiations underway as quickly as possible demonstrated both his pragmatism and foresight in the face of Canada's expansionist efforts. Already facing resource shortages and population loss due to disease, community leaders were concerned to protect their followers, and to do so from the strongest possible position. As Jean Friesen argued, communities who participated in treaty negotiations "tried to exert some control over their own destiny. Through their treaty they had sought to secure some of the economic independence that is essential to political autonomy."¹⁴ In far from ideal conditions, chiefs and their councils negotiated resolutely and hard – refusing to submit to government terms until they received the best deal they thought they could.

While McDougall (the designate Lt.-Gov.) could not act on the Kewetaosh's request (Canada did not yet have any authority over Rupert's Land), there was a general sense amongst those in the government's employ that a treaty would be needed in a timely manner. Simon J.

¹³ Canada, *Sessional Papers*, (Ottawa: 1872), Government House, Silver Heights, Archibald to Howe, July 19th, 1871, http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-119.01-e.php?page_id_nbr=151&&&&PHPSESSID=mtsmaq90urmcsn4rn8dpvi0b5,11, [Accessed 24 November 2012].

¹⁴ Jean Friesen, "Magnificent Gifts," 152-153.

Dawson, for example, realized the immediate need to treat with communities in the region. A member of the Youle and Hind expedition in 1857-1858, Dawson was considerably more knowledgeable of the land and the various communities in and to the West of Assiniboia country than most government officials at the time.¹⁵ Employed by the Indian Department shortly after the Rupert's Land transfer came into effect and Riel's resistance at Red River was subdued, he recommended to Secretary of State for the Provinces Joseph Howe that the government should enter into a treaty with the Saulteaux.¹⁶ Less than a month later, Dawson wrote to Robert Pether, the Indian Agent at Fort Frances, to recommend he start communications with Saulteaux leaders to make sure they would be willing to sign treaties the following summer:

In the natural course of things, a treaty must soon be made with the Indians and negotiations to that end will likely be entered into early next summer. In the meantime, you can ascertain that they particularly desire and impress upon the Chiefs that they will be liberally and fairly dealt with as the Indians ever have been within British Territory.¹⁷

Minister Howe informed Agent Pether that a special commissioner would be appointed and sent to Fort Frances the following summer in attempt to treat with the Saulteaux before they left for

¹⁵ Elizabeth Arthur, "Dawson, Simon James," in *Dictionary of Canadian Biography*, vol. 13, University of Toronto/Université Laval, 2003–, accessed August 7, 2015, http://www.biographi.ca/en/bio/dawson_simon_james_13E.html.

¹⁶ The chronology of events in 1870 is confusing and easily muddled. Here is a brief timeline: In 1868 the Rupert's Land Act authorized the transfer of Rupert's Land from the HBC to Canada. On 19 November 1869, the HBC signed the deed of transfer. Then the British Crown immediately ceded the land to Canada. However, because of the Red River Resistance Macdonald wired London to stop the transfer (payment of £300,000 to the HBC) until order could be restored. This delay made McDougall's proclamation annexing Rupert's Land illegal and cancelled his appointment as Lt. Gov. Prior to this he was only Lt. Gov. "designate" until the transfer was complete. The Manitoba Act was passed in Parliament in May of 1870 and received royal assent 12 May 1870 and went into effect 15 July 1870. On 15 July 1870 Manitoba entered Confederation and the payment of £300,000 went through. The transfer was complete. On 23 August 1870 the Wolseley expedition arrived in Red River and Riel was forced to flee.

¹⁷ Provincial Archives of Manitoba (PAM), MG12, A1, Archibald Papers, 1871-72, S.J. Dawson to Robert Pether, 6 January 1870. Robert Pether was previously employed as a Clerk with the HBC. He was listed as "Native" on an 1857-58 employee for Fort Alexander and Eagle's Nest. See Clint Evans, 'A History Of Metis Activities And Settlement in Eastern Manitoba, 1800–1881,' Report Prepared for Manitoba Conservation and the Constitutional Law Branch of Manitoba Justice, Winnipeg, Manitoba, 24 April 2009, 35.

their hunting grounds.¹⁸ On 6 January 1870 Howe ordered Pether to establish and “keep up such intercourse with the Indians who resort to that place as will ensure a continuance of friendly relations between them and the government.”¹⁹ Five months later, 10 May 1870, Prime Minister Macdonald appointed one of the ardent supporters of Confederation, Adams G. Archibald, as the Lt.-Gov. of Manitoba and the Northwest Territories.

Archibald started his new position in September 1870 and was provided instructions from Prime Minister Macdonald to ensure peaceful conditions for economic expansion and settlement.²⁰ In addition, the peaceful cession of Indian lands would also ensure that troops could move across the territory if needed. However, treaties were not signed before frustrations between incoming European settlers and Indigenous communities threatened to ignite undesirable conflict. In a letter to Archibald dated 30 May 1870, Chief Yellow Quill voiced his concerns about angry ‘white’ settlers taking members of his community hostage. Yellow Quill explained that since government had not yet fulfilled the promise to treat with them by early spring, his followers were enacting their own laws to impose fines and penalties on any new settlers who trespassed on their lands or otherwise caused harm. Basically, Yellow Quill took the opportunity to chastise the government for, in his view, taking so long to get treaty negotiations underway.²¹

Wemyss M. Simpson was appointed as ‘special commissioner’ to follow through with the government’s intentions to sign treaties with communities across the North West Territories.

¹⁸ PAM, MG12, A1, Archibald Papers, No. 143, Secretary of State Howe to Robert Pether, 11 March 1870. Also see Taylor, “Development,” 30-31.

¹⁹ PAM, MG12, A1, Archibald Papers, 1871-72, S.J. Dawson to Robert Pether, 6 January 1870.

²⁰ *Canada: Sessional Papers*, Report of the Indian Branch of the Department of the Secretary of State for the Provinces, http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-119.01-e.php?page_id_nbr=143&PHPSESSID=mtsanqd90urmcn4rn8dpvi0b5,3, [Accessed 24 November 2012].

²¹ PAM, MG12, A1, Archibald Papers, 1870-1872, Document 164, PAM, MG12 A1 (Dealing with Treaties One and Two), Statement of Council resolution to the Lt. Gov. of Manitoba (Archibald) from the Principal Indians of Portage La Prairie, 30 May 1871.

Simpson went to treat with the “Celtis” or Saulteaux (Ojibwa) at Fort Frances in 1871.²² His initial address to those present at the meeting does not mention treaty. Instead he remarked on the Wolseley expedition sent out to stifle Riel’s resistance at Red River in 1870. Wolseley’s expedition marched troops through Fort Frances, Lake of the Woods and finally to Fort Garry. Instead of focussing on negotiating a treaty, Simpson wanted to deal with troop movement through the area. But the Saulteaux were not interested. Rather, their reply referred only to treaty:

...answer...our demands...so that we may know how to act and when to assemble for the payment. For this we are willing to allow the Queen’s subjects the right to pass through our lands to build and run steamers, build canals and rail roads [sic] and to take up sufficient land for buildings for Government use - - but we will not allow farmers to settle on our lands. We want to see how the Red River Indians will be settled with & whether the Soldiers [sic] will take their lands.²³

John Taylor has suggested that Simpson did not negotiate a treaty at Fort Frances because he was unable meet to Saulteaux demands. It is more likely that the Saulteaux were put off by Simpson’s focus on government needs and not their own. Nevertheless, the Saulteaux wanted a treaty.²⁴ When questioned by Joseph Howe about making treaties in September, Archibald replied in November that he wanted to hold off on signing treaties until he better understood the territorial claims of all the bands in the region.²⁵ In February of 1871 Dawson reported that there were concerns that treaties had not been concluded, yet there was plenty of on-going government activity in the area. Dawson was worried that if the government did not fulfill its promise to negotiate treaties in a timely manner, “It would be unfortunate and might lead to difficulties if

²² PAM, MG12, A1, Archibald Papers, 1870-1872, Document 164, PAM, MG12 A1 (Dealing with Treaties One and Two), Ottawa, 28 April 1871, Secretary to State Joseph Howe to Lt. Gov. Archibald, OIC to appoint Simpson as Indian Commissioner. Also see Wayne Daugherty, *Treaty Research Report Treaty One and Two*, <http://www.aadnc-aandc.gc.ca/eng/1100100028660/1100100028662#top10>, [Last Accessed 13 October 2012].

²³ PAM, MG12, A1, Archibald Papers, Simpson to Howe, 19 August, 1870.

²⁴ See *The Globe*, 29 August, 1870.

²⁵ Taylor, “Development,” 35.

they had grievances real or imaginary to complain of.”²⁶

Months prior to the start of negotiations for Treaties 1 and 2, Simpson, Dawson and Pether negotiated with the Saulteaux (Ojibwa) and “forty-nine half-breeds” for payment of a ‘right of way’ that became known as the ‘Dawson Route.’²⁷ In his 1868 Report, Dawson strongly advocated that the government secure a ‘right of way’ treaty with the Saulteaux prior to any other discussions with them about land cessions or treaties generally. In Dawson’s view

One of the first necessary steps to be taken, will be to arrive at a distinct understanding as to right of way, and to have the same embodied in a formal treaty. This treaty, if confined solely to that one point – right of way – as it should be without reference to land for settlement....²⁸

When Simpson, Dawson and Pether arrived at Fort Frances to meet with the Saulteaux in June and July 1871 they did just as Dawson had recommended three years earlier. This was not, however, what Simpson had expected. This time Simpson was hoping to negotiate for the Saulteaux surrender of their territorial rights, not just for government access. Simpson negotiated a treaty for the ‘right of way’ as requested, which included “forty-nine half-breeds” that, alongside their Ojibwa relatives, would enter Treaty 3.²⁹ The connections between the ‘Indian’ and ‘Metis’ were obvious to the commissioners, and there was no question on the part of the commissioners that people who declared themselves Metis would still receive their \$3/person payment for the right of way as ‘Indians’ of this country.

The large presence of Metis at the Treaty 1 negotiations was noted in Archibald’s report describing his party’s arrival at the Stone Fort in late July:

On [Thursday] the Indians from all the sections of the country to which the invitation

²⁶ PAM, MG12, A1, Archibald Papers, Dawson to Langevin, February 7, 1871. Hector Langevin was the Minister of public works.

²⁷ Jones, 43; LAC, RG 10, Vol. 1675, Reel T-1777, “Dawson Route” paylists, 17 October 1871.

²⁸ S. J. Dawson, ‘Report on the Line of Route between Lake Superior and the Red River Settlement,’ 1868, 27-28. http://archive.org/stream/cihm_30133#page/n5/mode/2up, [Last accessed 24 November 2012].

²⁹ LAC, RG 10, Vol. 1675, Reel T-1777, “Dawson Route” paylists, 17 October 1871.

extended were found present to the number of about one thousand. A considerable body of half-breeds and other inhabitants of the country were also present, awaiting with some anxiety to learn what should be announced as the policy of the Government.³⁰

The first sentence of the above quotation from Archibald is often referenced in the literature on treaties to show an approximation of numbers of people present at the meeting; however most of these published studies leave out the second part – the notable number of Metis families who arrived as well. Most studies of treaties tend to limit their examination of Metis during this period to those who were in direct employ of the government as interpreters or guides. While the Metis presence at the Stone Fort may in some cases be that of an ‘outside observer,’ many Metis families were there because of their close ties to the resident Ojibwa population and their own interest in the treaty.

The issue of Metis self-identification within Manitoba’s political borders was fairly straight forward in a colonial administrative sense. Metis not interested in self-identifying as “Half-breed” to participate in the 1.4 million acre land grant available within Manitoba’s political borders could enter treaty as ‘Indian,’ and many did. This was a situation that confounded the treaty commissioners. Metis were interested in taking treaty, and in doing so, challenged the government’s understanding of the nature of ethnological hybridity and legal status categories. Simpson, for example, found this situation odd given that there was another option for people of ‘mixed-ancestry’ in Manitoba – the ‘Half-breed’ land grant. Simpson made it clear that before any ‘Half-breed’ person was placed on the treaty payroll it must be explained to them that they were making a choice to give up their claims for Metis scrip. In his Report to Joseph Howe on 3 November 1871, Simpson noted that:

³⁰ Alexander Morris, *The Treaties of Canada*, 33; see also *Canada: Sessional Papers*, 1872, Lower Fort Garry, Archibald to Howe, 29 July 1871.

During the payment of the several bands, it was found that in some, and most notably in the Indian settlement and Broken Head River Band, a number of those residing among the Indians, and calling themselves Indians, are in reality half-breeds, and entitled to share in the land grant under the provisions of the Manitoba Act. I was most particular, therefore, in causing it to be explained, generally and to individuals, that any person now electing to be classed with Indians, and receiving the Indian pay and gratuity, would, I believed, thereby forfeit his or her right to another grant as a half-breed; and in all cases where it was known that a man was a half-breed, the matter, as it affected himself and his children was explained to him, and the choice given to him to characterize himself. A very few only decided upon taking their grants as half-breeds. The explanation of this apparent sacrifice is found in the fact that the mass of these persons have lived all their lives on the Indian reserves (so called), and would rather receive such benefits as may accrue to them under the Indian treaty, than wait the realization of any value in their half-breed grant.³¹

Even though the Robinson Treaties provided a model on which the numbered treaties were based, the creation of a legislated Metis status category complicated the implementation of the colonial order by inadvertently offering some people with both European and Indigenous ancestry a choice of self-identifying as either an 'Indian' in treaty, a 'Half-breed' through the *Manitoba Act's* land grant, or claiming British subject status with no Aboriginal rights. This was an unprecedented situation for government administrators, and one which they hoped to avoid in future treaties.

Before Archibald opened the treaty negotiations, he asked that all groups select someone to represent their views and interests in the process. As mentioned earlier, his caution stemmed from concerns that had been expressed by some communities over the legality of the Selkirk Treaty. When the Selkirk Treaty was signed, "certain Indians signed as Chiefs and representatives of their people. Some of the Indians now deny that these men ever were Chiefs or had authority to sign the treaty."³² In his report to Howe, Archibald explained that

With a view therefore to avoid a recurrence of any such question, we asked the Indians, as a first step, to agree among themselves in selecting their Chiefs, and then

³¹ Morris, *The Treaties of Canada with the Indians*, 41.

³² *Ibid.*, 33.

treaty commissioners assumed, and the inability of some bands to reach a consensus resulted in requests for separate reserves. One of the Indigenous leaders, Swan from Manitoba Lake West, for example, claimed that his Chief did not make clear “the nature of the Treaty as regards to the Reserves....”³⁶ Swan and his followers were so angry about the treaty terms that they demanded the government recognize their request to have their “own chief and a Reserve separate from our fellow Indians....”³⁷ In addition, the availability of a land grant for Metis residents in Manitoba provided other options for status self-identification. Yet, as much as this process of taking treaty or Metis scrip confounded Simpson and Archibald, their confusion would escalate in subsequent treaties when self-identified Metis families outside Manitoba were ineligible to opt for the scrip option.

3.3 The Case of Yellow Quill: Band Representation, Membership and Metis Status in Treaty 1

A plethora of scholarship on Metis ethnogenesis over the last thirty years has shown that Metis communities emerged in various places and time periods in western Canada. These communities had strong connections to place, and were formed largely through generations of fur trade intermarriage and kinship connections.³⁸ In the 1870s many Metis settlements had very

³⁶ PAM, MG12, A1, Archibald Papers, 1870-1872, Document 472, PAM, MG12 A1 (Dealing with Treaties One and Two), Manitoba Lake West, September 18, 1871, Swan to Archibald.

³⁷ PAM, MG12, A1, Archibald Papers, 1870-1872, Document 472, PAM, MG12 A1 (Dealing with Treaties One and Two), Manitoba Lake West, September 18, 1871, Swan to Archibald.

³⁸ Brenda McDougall, *One of the Family: Metis Culture in Nineteenth Century Northern Saskatchewan*, (Vancouver, UBC Press, 2010); Carolyn Prochukny, and Nicole St-Onge (eds.), *Contours of a People: Metis Family, Mobility, and History*, Brenda McDougall “‘Wahkootowin: Family and Cultural Identity in Northwestern Saskatchewan Metis Communities,” *Canadian Historical Review* 87, no. 3 (2006): 431–62; Jennifer Brown, ‘Fur Trade as Centrifuge: Familial Dispersal and Offspring Identity in Two Company Contexts,’ *North American Indian Anthropology: Essays on Society and Culture*, ed. Raymond J. Demaillie and Afonso Ortiz (Norman: University of Oklahoma Press, 1994), 197–219; Heather Devine, *The People Who Own Themselves*, 6–9, 11; John Foster, ‘Wintering, the Outsider Adult Male and the Ethnogenesis of the Western Plains Metis,’ in *From Rupert’s Land to Canada*, ed. Theodore Binnema, Gerhard Ens, and Rod Macleod (Edmonton: University of Alberta Press, 2001), 179–92; and Jacqueline Peterson, ‘Prelude to Red River: A Social Portrait of the Great Lakes Metis,’ *Ethnohistory* 25, no. 1 (1978): 41–67. Unpublished scholarship includes, Clint Evans, ‘A History Of Metis Activities And Settlement In Manitoba’s Southern Interlake Region, 1800–1881,’ Report Prepared for Manitoba Conservation and

close familial and economic ties to resident First Nations communities. While some of those communities had closer ties to the Red River Settlement, and there were strong familial connections to both.³⁹ However, there is no ‘model’ historic Metis community from which scholars can draw conclusions on the degree of connectedness or distinctiveness from self-identified ‘Indian’ communities.

There are number of Metis settlements in Manitoba, beyond the scope of Red River, that generally receive little attention from scholars because many of them were absorbed into reserves.⁴⁰ People who self-identified as Metis, yet chose to enter treaty, confounded treaty commissioners like Simpson. Even though there was a general awareness by government officials that Metis individuals and communities varied in terms of how they viewed their own ethnic identities when the Robinson Treaties were implemented twenty years earlier, at that time there was no separate policy or acknowledgement that persons of both European and Indigenous could be legally considered anything other than ‘Indian’ or ‘white’. The choice by many Metis within the boundaries of Manitoba to enter treaty was antithetical to the government’s linear

the Constitutional Law Branch of Manitoba Justice, Winnipeg, Manitoba, 14 March 2008; Clint Evans, ‘A History Of Manitoba Metis Activities And Settlement West Of Lakes Manitoba and Winnipegosis, 1800–1912,’ Report Prepared for Manitoba Conservation and Manitoba Justice, Constitutional Law Branch, Winnipeg, Manitoba, 6 December 2006; Clint Evans, ‘A History Of Metis Activities And Settlement in Eastern Manitoba, 1800–1881,’ Report Prepared for Manitoba Conservation and the Constitutional Law Branch of Manitoba Justice, Winnipeg, Manitoba, 24 April 2009; Gwyneth Jones, ‘*Historical Profile of the Great Slave Lake Area’s Mixed European-Indian Ancestry Community*,’ Report Prepared for Department of Justice Canada and Office of the Federal Interlocutor for Métis and Non-Status Indians, 2005.

³⁹ Economic activities varied according to region, but included hunting, trapping, tapping for maple in the southern interlakes region, and salt mining. The emergence of numerous Metis settlements and the extent of their relationships and ties to First Nations communities is examined in Clint Evans, ‘A History Of Metis Activities And Settlement In Manitoba’s Southern Interlake Region, 1800–1881,’ (2008); ‘A History Of Manitoba Metis Activities And Settlement West Of Lakes Manitoba and Winnipegosis, 1800–1912,’ (2006); ‘A History Of Metis Activities And Settlement in Eastern Manitoba, 1800–1881,’ (2009), Reports Prepared for Manitoba Conservation and the Constitutional Law Branch of Manitoba Justice, Winnipeg, Manitoba.

⁴⁰ Clint Evans, ‘A History Of Metis Activities And Settlement In Manitoba’s Southern Interlake Region, 1800–1881,’ (2008); ‘A History Of Manitoba Metis Activities And Settlement West Of Lakes Manitoba and Winnipegosis, 1800–1912,’ (2006); ‘A History Of Metis Activities And Settlement in Eastern Manitoba, 1800–1881,’ (2009), Reports Prepared for Manitoba Conservation and the Constitutional Law Branch of Manitoba Justice, Winnipeg, Manitoba. Also see Ens and Sawchuk, *From New Peoples to New Nations* (2015).

views of ‘progress’ and ‘advancement’ of a colonial order in the West.

The role of the liminal ‘Half-Breed’ status in Manitoba in the process of Metis self-identification has often been dismissed by scholars. For example, Frank Tough has argued that the result of a legal Metis status was the creation of a large ‘non-status Indian’ population. People were forced to choose between artificial, yet legal, definitions that did not necessarily reflect an individual or community’s own self-identity.⁴¹ Yet, regardless of how artificial these colonial categories appear from a present-day perspective, they held very real economic and social consequences for individuals and communities at the time.⁴² The artificial nature of the racially constructed Metis status cannot be denied. However, with a 1.4 million acre land grant and an extensive scrip program attached to it, issues of self-identification and hybridity became of critical economic and political importance within Manitoba’s borders. The unique cultural, political and social characteristics of historic Metis communities, and the emergence of Metis peoples in western Canada, was, after 1870, forcibly intertwined with this new racialized status category. In other words, a person of both European and Indigenous ancestry could claim “Half-breed status,” in Manitoba, while having never belonged to a Metis community.⁴³

A close look at Chief Yellow Quill’s band provides a stark example of the ways in which Metis communities were at the same time connected to, but distinctive from, ‘Indian’ bands. This history also demonstrates how the Canadian Government’s attempts to impose a static ‘tribal’

⁴¹ Tough, ‘*As Their Natural Resources Fail*’, 162-165. Heather Devine, Brenda McDougall and Nicole St. Onge also dismiss the role of imposed categories in the process of Metis self-identification in their respective scholarly works.

⁴² Harmon articulates this line of argument in *Indians in the Making: Ethnic Relations and Indian Identities around Puget Sound*, (Berkeley: University of California Press, 1999).

⁴³ See Chris Andersen, *Metis: Race, Recognition and the Struggle for Indigenous Peoplehood* (Vancouver: UBC Press, 2014), 11. Andersen rejects any notion that the emergence of “Metis” and an Indigenous peoples had anything to do with “mixed-race,” and argues that the idea of racial ‘mixed-ness’ needs to be firmly rejected as representing any sense of Metis identity. Rather, Metis peoplehood, and individual Metis identity is rooted only in the sense of belonging to a community. That is to say, you are Metis if you are claimed by a Metis community, not simply because you can trace both European and Indigenous ancestry.

presence on reserves, which failed to recognize the flexibility of Ojibwa political and social structures, caused a great deal of confusion and frustration. At the behest of Yellow Quill, an Ojibwa Chief present at the Stone Fort negotiations in July 1871, treaty commissioners placed three groups together on one annuity payroll, under his name, with the expectation that they would all share a reserve as a single ‘Indian band.’⁴⁴ While this arrangement pleased Yellow Quill and his followers, the followers of Short Bear and Baptiste Napakiset (White Mud Indians), who were not present at the Stone Fort negotiations, were less amenable to the idea of sharing reserve space with those who belonged to other groups. They were also opposed to adhering to Yellow Quill as their leader. Evidence from government correspondence in the years following the Stone Fort negotiations suggests Yellow Quill used a tactic of claiming absentee groups in order to claim a large reserve area since acreage was determined by the number of band members.⁴⁵ Combining all various communities or ‘bands’ together, as it turned out, also fit neatly within the government’s plan for bureaucratic efficiency – one big band with one big reserve was more efficient and cost effective than three smaller reserves since all three would require schools and other amenities. No one questioned Yellow Quill’s claims to represent people who were absent.

Government officials had difficulty understanding why members of the same ‘tribe’ required, or would even want, separate reserves. This was made all the more complicated, of course, by the fact that Yellow Quill was trying to persuade Short Bear and Napakiset to stay.⁴⁶ To Treaty Commissioner Morris and Agent St. John, for example, the Yellow Quill issue was analogous to a family dispute, one that with a little time and encouragement would be mended.

⁴⁴ PAM, MG12, B2, Alexander Morris Papers, Ketcheson Collection, Item 180, Morris to Laird, 8 July 1876.

⁴⁵ Ibid.

⁴⁶ Ibid.

Treaty commissioners had a particular conception of what constituted an ‘Indian band,’ but generally speaking, someone belonged to a ‘band’ if they said they did. This explains, in part, why Commissioner Simpson did not question Yellow Quill’s claims to represent people or groups who were absent from the negotiations. However, this did not translate into a shared meaning of the word ‘band’ with Indigenous communities, whose boundaries were flexible and ever-changing.⁴⁷ Band flexibility, on the other hand, was not a concept well understood within the government bureaucracy, nor was it inherent within the concept of transforming Indigenous communities into permanent agricultural settlements. As a result, once an individual declared they belonged to a particular band (or in the case of Yellow Quill, had this declared for them), there was a hesitancy on behalf of Indian agents and their superiors to change band membership once placed on the paysheets. That being said, as much as administrators tried to resist and limit flexibility and movement, they sometimes had little choice but to acquiesce to a community’s demands. In the case of Short Bear and Baptiste Napakiset’s followers, their persistence in claiming their own reserve space apart from Yellow Quill eventually convinced the government to survey a separate reserve for each group.⁴⁸

In his 1873 Report to Indian Commissioner J. A. Provencher, Indian Agent Molyneux St. John described some of the difficulties he had sorting out various ‘bands’ and reserves. Part of the problem, as St. John described it, was anger over the non-fulfillment of ‘outside promises’ in Treaty 1. These verbal agreements were not included in the written text of the treaty. As a result, various communities lobbied the government to live up to everything promised during the negotiations, whether or not included in the written version of the treaty. In addition, news that better terms had been granted to those inhabiting the area ceded by Treaty 3 caused a great deal

⁴⁷ See Susan Sharrock, “Crees, Cree-Assiniboines, and Assiniboines,” 95-122.

⁴⁸ PAM, MG12, B2, Alexander Morris Papers, Ketcheson Collection, Item 180, Morris to Laird, 8 July 1876.

of consternation. However, in particular reference to the ‘Yellow Quill Band,’ St. John outlined some specific concerns:

The Indians of this Band are divided amongst themselves on the subject of a Chief. A large party of them have settled near White Mud River, and allege that they were not reported at the time of the Treaty; that they have their own Chief, their own habitations and lands on the borders of the lake, and they persistently refuse to have anything in common with Orzahwaguan’s [Yellow Quill’s] Band. Their names are on the same pay-sheets, but that, they say, is our doing, not their own. Another party in the Band desire to secede, taking for their Chief the grandson of him who was in times past the Chief of the whole Band. I have not yet thought it wise to give them any encouragement, in the belief that their wish will be gratified. In the case of the White Mud River Indians, I have told them that men occupying houses would not be ejected, and that the Government would be informed of their position with a view to protecting them in the occupancy of such land as they really possess.⁴⁹

The concerns that St. John described, however, were not simply the result of minor internal disagreement. This community was not, as he put it, “divided amongst themselves.” This was, in fact, three separate communities, each with their own designated leader.

In the case of Short Bear, Yellow Quill and their respective followers, there was a fundamental split between leadership models – one hereditary (in the case of Short Bear) and the other designated (in the case of Yellow Quill). Yellow Quill had been appointed “Chief” of the community by the Hudson’s Bay Company after Short Bear’s father died. At the time of his father’s death, Short Bear was a young child; however once he became of age, approximately half of the community wanted Yellow Quill to step aside and allow the hereditary leadership model to be reinstated.⁵⁰ While Short Bear’s followers may have previously belonged to the same community, the fact that they were not present at the treaty negotiations with Yellow Quill is a good indication that this disagreement had already resulted in a group separation.

The government’s response to Short Bear’s request for his own reserve brings into focus

⁴⁹ Canada, *Sessional Papers*, “Annual Report of the Department of the Interior for the Year Ended 30th June, 1874.” Report by Molyneux St. John, 22 October 1873, 59.

⁵⁰ Morris, *The Treaties of Canada*, 135.

how little the government understood about Plains Ojibwa political and social structures. As ethno-historian Susan Sharrock has argued, prior to the implementation of reserves, a flexible band structure allowed for members who disagreed with leadership to break away from the larger band and form another under someone's leadership.⁵¹ It was not uncommon for small family groups to break away from the main band because of disagreement or differences of opinion. This political and social flexibility was stymied by the implementation of reserves and surrounding European settlement. Both Morris and St. John tried to cajole Short Bear and Napakiset into joining with another band. In his 1873 report, St. John was less than clear on whether or not Short Bear's request for his own reserve would be granted:

Another party in the Band desire to secede, taking for their Chief the grandson of him who was in times past the Chief of the whole Band. I have not yet thought it wise to give them any encouragement, in the belief that their wish will be gratified.⁵²

Short Bear and his followers had the prescience to realize that if they stayed under the leadership of Yellow Quill, there would be little chance of separation once the reserves were established. They refused all government attempts to re-join Yellow Quill and persisted with their claim for a separate reserve suitable for agriculture.

Both Short Bear and Napakiset's followers were interested in settlement, while Yellow Quill and his followers, on the other hand, were "almost exclusively plain hunters, and...more independent of the White man than are others in the Province."⁵³ Short Bear's followers disapproved of Yellow Quill's selection of a location for a reserve, considering it unsuitable land

⁵¹ Susan Sharrock, 'Crees, Cree-Assiniboines, and Assiniboines,' 95-122. This concept is discussed in Theodore Binnema, *Common and Contested Ground: A Human and Environmental History of the North-Western Plains* (Norman: University of Oklahoma Press, 2001).

⁵² Canada, Department of the Interior. "Annual Report of the Department of the Interior for the Year Ended 30th June, 1874." Report by Molyneaux St. John, 22 October 1873, 59.

⁵³ Ibid.

for farming.⁵⁴ Given his reluctance, it appears that Yellow Quill was primarily concerned about the size of the reserve, not the quality of the land for transitioning to agriculture. Yellow Quill's fierce independence and reluctance to settle was a constant source of frustration for Indian Agents who continually complained of his band's commitment to hunting and refusal to settle down.⁵⁵

Meanwhile, the White Mud community was distinct from Yellow Quill in a number of additional ways. They were primarily a collection of mixed-descent families and were Roman Catholic. However, as Morris reported, both Short Bear and Napakiset's followers had already initiated some permanent settlement.⁵⁶

The Yellow Quill band still desired a reserve for the whole. The others wished to remain, the Bear's party at the Round Plain, and the White Mud River Indians at Lake Manitoba, where they resided and had houses and farms. In the interval from the previous year, the Bear's band had built several houses, and made enclosures for farming. Eventually, the Indians were made to comprehend the extent of land they were really entitled to, but the Governor intimated that the land was for all, and that he would divide the band into three, each with a Chief and councillors, and that he would give each band a portion of the whole number of acres, proportionate to their numbers--the Bear at the Round Plain, the White Mud Indians at their place of residence, and the Yellow Quill band wherever they might select, in unoccupied territory. After long consultations among themselves the Indians accepted the proposal. The Bear was recognized as a Chief, and a Chief selected by the White Mud River band was accepted as such.⁵⁷

In addition to concerns about being placed on a paysheet under the name of Yellow Quill, the White Mud community was concerned about keeping their homes and settlement on the White

⁵⁴ 'Annual Report of the Department of the Interior for the Year Ended 30th June, 1876,' Special Appendix A., His Honor Governor Alexander Morris to the Honorable the Minister of the Interior, Government House, Fort Garry, Manitoba, 8th July, 1876.

⁵⁵ There are many references, but some examples include: 'Annual Report of the Department of Indian Affairs For The Year Ended 31st December 1881,' Report Of Francis Olgetree, Indian Agent, Part 1, 62; 'Annual Report Of The Department Of Indian Affairs For The Year Ended 31st December, 1882,' Report of E. McColl, Inspector of Indian Agencies, Part 1, 153; 'Annual Report of the Department of Indian Affairs for the Year Ended 31st December, 1883,' Report of Francis Olgetree, Indian Agent, Part 1, 5s3.

⁵⁶ PAM, MG12, B2, Alexander Morris Papers, Ketcheson Collection, Item 180, Morris to Laird, 8 July 1876.

⁵⁷ Morris, *The Treaties of Canada*, 131.

Mud River. This community was comprised of approximately 180 people, most of who were transitioning to farming and had invested time and infrastructure to settling in this particular area.⁵⁸

By 1875 Morris was finally convinced that the followers of Chief Baptiste Napakiset needed a reserve separate from Yellow Quill and suggested that they “should be recognized as a distinct band and should elect a chief.”⁵⁹ With instructions from Superintendent-General of Indian Affairs and Minister of the Interior Laird to settle the issue, Lt.-Gov. Morris made his way to meet with the three groups at Long Plain on 17 June 1875. When he arrived, he “found about five hundred Indians assembled, but camped in three separate encampments.”⁶⁰ In one last attempt to persuade Napakiset to change his mind, likely as way to save money for the Crown, Morris pleaded with him “join one of the other bands.”⁶¹ The White Mud community, though, continued to press for their own reserve suitable for farming.⁶² Unable to convince Napakiset to join with another band, Morris finally provided surveyor J.L Reid instructions to allocate them a reserve in the fall of 1876. In Reid’s report to Morris dated 30 November 1876, he complained that Napakiset was away hunting, but band councilor Baptiste Spence assisted him in locating the desired boundaries of the reserve.⁶³ Spence also requested the band’s name be changed from White Mud to ‘Kaw-wee-ka-ton-gack’ or Sandy Bay.

Meanwhile, as Napakiset and Short Bear demanded their own reserve locations, Yellow

⁵⁸ “Annual Report of the Department of the Interior for the Year Ended 30th June, 1875. Report by Ind. Com. Provencher, 30 October 1875, 41.

⁵⁹ Report of Morris, 2 August, 1875 in Morris, *Treaties*, 138.

⁶⁰ PAM, MG12, B2, Alexander Morris Papers, Ketcheson Collection, Item 180, Morris to Laird, 8 July 1876. See also, ‘Annual Report of The Department of the Interior for the Year Ended 30th June, 1876, Special Appendix A,’ Government House, Fort Garry, Manitoba, 8th July, 1876, His Honor Governor Morris to The Honorable the Minister of the Interior, xxv.

⁶¹ PAM, MG12, B2, Alexander Morris Papers, Ketcheson Collection, Item 180, Morris to Laird, 8 July 1876.

⁶² Ibid.

⁶³ PAM, MG12, B2, Alexander Morris Papers, Lieutenant Governor Collection, Item 1372, Reid to Morris, 30 November 1876.

Quill and his councillors persistently pushed for all groups to be paid and located together on one large reserve under his leadership. Yellow Quill and his headmen did not want to lose the square miles attached to the followers of the Short Bear and Napakiset. It was only after Indian Agent St. John finally agreed to give Yellow Quill more land than he was entitled to by the terms of the treaty that he and his followers agreed to the separation.⁶⁴

The White Mud/Sandy Bay community finally received a separate reserve in 1876. Then in 1877 they joined forces with other Catholic communities and petitioned for the creation of a large Roman Catholic mission under the direction of Reverend Pere Camper on their reserve. As Roman Catholics, these families were interested in having a mission and priest in close proximity, and Reverend Camper eagerly took up their cause. In a petition sent to Lt.-Gov. Liard, dated 20 May 1877, the Metis who lived in the vicinity of White Mud and Water Hen Rivers, Duck Bay, and Duck Portage expressed their interest in “their removing from their present locations, and settling together with the view of establishing a Roman Catholic Mission.”⁶⁵

Reverend Pere Camper established a mission at St Laurent ten years prior, and now he wanted expand on his earlier efforts by bringing scattered Catholics together into one location. Liard forwarded the petition to the Minister of the Interior, David Mills. In his letter of introduction to the petition, Laird was very supportive of Reverend Camper’s initiative

As scattered as they are it is impossible for them to receive any benefit from schools, or other educational or Christian influences. The advantages of having them living together are self-evident and need not be enlarged on.⁶⁶

Not all the groups who signed the petition, however, lived in the same Superintendency or treaty area. Those living at Duck Bay and Duck Portage were included in Treaty 4, not Treaty 1:

⁶⁴ PAM, MG12, B2, Alexander Morris Papers, Ketcheson Collection, Item 180, Morris to Laird, 8 July 1876.

⁶⁵ PAM, MG12 B1, Reel M137, Alexander Morris Papers, Lieutenant Governor Collection, Item 1522, 20 May 1877, Lieutenant Governor David Liard to Minister of the Indians, re: Petition for Reserve.

⁶⁶ PAM, MG12 B1, Reel M137, Alexander Morris Papers, Lieutenant Governor Collection, Item 1522, 20 May 1877, Lieutenant Governor David Laird to Minister of the Indians, re: Petition for Reserve.

As I understand those of the petitioners at present living near Manitoba Lake have not secured a reserve there, owing to the land being within sub-divided town ships it might be well to encourage them to move West of Lake Winnipegosis where the surveyors have not yet reached. They belong to the White Mud River Band who separated from Yellow Quill's band at Portage La Prairie, and were recognized by His Honorable Lieutenant Governor Morris last spring as a separate band.⁶⁷

Laird, though, was primarily convinced of the validity of this petition because it would, in his view, provide a means through which these 'bands' could be more easily managed in both the administrative and civilization sense. Bringing communities together who all adhered to a particular denomination would allow for efficiencies in infrastructure and consistencies in spiritual and educative administration.

...the Chief reason why I would strongly urge upon the Government to accede to the prayer of the petitioners is that they adhere to the Roman Catholic Church, and it is a great deal easier to manage bands in regard to schools, and general improvement if grouped together in one denomination.⁶⁸

Christian, and in this case Catholic, influences were so intimately linked to the government of Canada's overall 'civilizing' efforts, as part of establishing a colonial order, as to be virtually inseparable.⁶⁹

This petition not only provides some insight into the influence of religion as a connective force between scattered communities, but also helps determine that these were, in fact, historic Metis communities. Although from Laird's perspective, all of these families "receive[d] annuities" as "Indians", surnames on the White Mud River section of the petition – Spence, Desjardins, and Desjarlais are a few examples of Metis names that reinforce their distinctiveness

⁶⁷ PAM, MG12 B1, Reel M137, Alexander Morris Papers, Lieutenant Governor Collection, Item 1522, 20 May 1877, Lieutenant Governor David Liard to Minister of the Indians, re: Petition for Reserve.

⁶⁸ PAM, MG12 B1, Reel M137, Alexander Morris Papers, Lieutenant Governor Collection, Item 1522, 20 May 1877, Lieutenant Governor David Liard to Minister of the Indians, re: Petition for Reserve.

⁶⁹ The most thorough examination of Christian missions in Western Canada is Raymond Huel's, *Proclaiming the Gospel to the Indians that the Metis* (Edmonton: University of Alberta Press, 1996).

from Yellow Quill.⁷⁰ In addition to the Metis names on the petition, there is scrip evidence to support the argument that these communities, while connected, were also distinct from other self-declared ‘Indian bands’ in treaty. With the exception of three families, the ‘White Mud Indians,’ later called the Sandy Bay Band, withdrew from treaty in 1887 and applied for scrip when the North-West Scrip Commission travelled through the region.⁷¹ Recall that this was an option unavailable to Napakiset and his followers in 1870 because, while they often hunted and travelled through the Totagen, Westbourne, and Portage regions, they had no permanent residences inside the boundary of Manitoba. With no evidence of permanent residence inside Manitoba, they did not meet the residency requirements to participate in the 1.4 million acre land grant or Manitoba Metis scrip. When scrip became available to Metis outside the boundaries of Manitoba in 1885 most of the band withdrew from treaty and took scrip.⁷²

While drawing out evidence of the distinctions between the White Mud ‘Indians’ and Yellow Quill are imperative to explaining why they were so determined to have a separate reserve, it is also true that there were important connections and similarities to other ‘Indian’ communities. The followers of Baptiste Napakiset at White Mud River were willing to self-

⁷⁰ PAM, MG12 B1, Reel M137, Alexander Morris Papers, Lieutenant Governor Collection, Item 1522, 20 May 1877, Lieutenant Governor David Liard to Minister of the Indians, re: Petition for Reserve.

⁷¹ When Roger Goulet and the North-West Scrip Commission arrived into take applications for scrip, families requested that they be allowed to locate their scrip on the Sandy Bay reserve since those families who remained in treaty had already left. Goulet was unwilling to allow this, but they decided to accept scrip regardless with the hope that that their application to the Minister of the Interior to open their Reserve for ordinary settlement would allow them to stay on the lands they had settled on. Their request was again disallowed, so they asked to be readmitted into treaty. By early 1891 the Sandy Bay Metis were re-admitted on the condition that the value of the scrip they had received was deducted from their treaty annuities until the full amount had been repaid. Ens and Sawchuk, *From New Peoples to New Nations* (2015). See also Clint Evans, “A History Of Metis Activities And Settlement In Manitoba’s Southern Interlake Region, 1800–1881,” (2008); “A History Of Manitoba Metis Activities And Settlement West Of Lakes Manitoba and Winnipegosis, 1800–1912,” (2006); “A History Of Metis Activities And Settlement in Eastern Manitoba, 1800–1881,” (2009), Reports Prepared for Manitoba Conservation and the Constitutional Law Branch of Manitoba Justice, Winnipeg, Manitoba. Evans also points to an interesting case where some Metis in Treaty asked for scrip when available in 1886-1887 then when commission arrived no one took scrip. See Evans, “A History Of Metis Activities And Settlement in Eastern Manitoba, 1800–1881,” 62; See also Department of the Interior Annual Report 1887, Sessional Papers, 1888, No. 14, pt. 5, 3-8.

⁷² Ens and Sawchuk, *From New Peoples to New Nations* (2015).

identify as ‘Indian’ for the benefit of claiming a communal land reserve under Treaty 1, and while evidence indicates that they were in some ways distinct from other ‘Indian’ bands in treaty, they generally followed the Ojibwa way of life between 1850 and 1870.⁷³ The White Mud ‘Indians’ in that period were a nomadic community that hunted in the Riding Mountains and fished on Lake Manitoba, but eventually decided to settle permanently at White Mud River.⁷⁴

Government officials often portrayed individuals or groups who disagreed with the terms of treaties as ‘trouble-makers’ or rogue elements within bands that did not represent the concerns of the larger community. Morris, for example, complained that Yellow Quill’s band was always “dissatisfied” and “difficult to deal with.” He added that he “found them in an intractable frame of mind, and the difficulty of the position was enhanced by a division amongst themselves.”⁷⁵ The government, however, exacerbated disunity by tying the size of each reserve to the number of people who ‘belonged’ to the band. This created an inflexible system for determining the land and resource needs of each community and created artificial constraints for what was previously a flexible political structure. The case of Yellow Quill’s ‘band’ provides an example of how these artificial constraints negatively affected community relations. Groups or individuals who disagreed with Yellow Quill’s leadership could no longer just engage in the traditional form of “disagreement” by leaving and forming a new band with whomever agreed to follow. This case is also a clear example of how racial classifications, status categories, and perceptions of hybridity and ethnicity complicated the Canadian government’s efforts in treaty implementation, administration and ultimately, political expansion.

⁷³ See Evans Report on Metis West of Lake Manitoba and Ens and Sawchuk, *From New Peoples to New Nations*, 205-209.

⁷⁴ The case of Yellow Quill, Short Bear, and Napakiset and their respective followers is analogous to other communities that Evans examined in the Southern Interlake Regions of Lake Manitoba and Lake Winnipeg. There was also a Metis community at Fort Alexander in Treaty 3 that was absorbed into the Fort Alexander Reserve. See Evans, Eastern Report, 48-60.

⁷⁵ Report of Morris, 2 August, 1875 in Morris, *Treaties*, 135.

3.4 The Fort Frances “Half-Breed Reserve” in Treaty 3

In 1875 Surveyor General J. S Dennis was instructed to treat with a Metis community at Fort Frances who refused treaty two years earlier. This meeting resulted in an adhesion to Treaty 3 and the creation of a “Half-breed Reserve.” However, scholarship on this unique aspect of Treaty 3 is limited.⁷⁶ The only thorough examination of the historic Metis community at Fort Frances, and their entry into treaty, was published recently by Victor Lytwyn.⁷⁷ Within the historical context of a changing fur trade economy and expansionistic efforts of the Canadian Government, Lytwyn not only reconstructed many of the Metis families with deep fur trade roots in the region, but he also explained Nicholas Chatelain’s connections to the earlier Robinson treaties and influence of earlier American treaties. While his research on the emergence of the historic Fort Frances Metis community is solid, his argument that the Canadian government’s failure to follow through on the verbal and written promises made during the Treaty 3 adhesion

⁷⁶ In 1986, an employee of Indian and Northern Affairs Canada, Wayne Daugherty, wrote a “Treaty Research Report Treaty Three (1873)” in which he provided a concise overview of the 1875 Metis adhesion. His report, though, was not intended to be an in-depth examination of government response to Metis communities in treaty, and thus does not address why the government appeared to veer away from its previous policy that mandated all those in Treaty declare that they belong to an ‘Indian Band.’ Wayne Daugherty, *Treaty Research Report Treaty One and Two*, <http://www.aadnc-aandc.gc.ca/eng/1100100028660/1100100028662#top10>, [Last Accessed 13 October 2012]. David McNabb’s 1985 article, *Metis Participation in the Treaty-Making Process in Ontario: A Reconnaissance*, provides some analysis and raises good questions about the role of government policy in development of Metis communities and identities in Ontario. However, as the title of McNabb’s article indicates, his work was a general ‘reconnaissance’ and while it raised some important questions, it did not explain the government’s intentions in permitting the creation of the “Half-Breed reserve.” David T. McNabb, *Metis Participation in the Treaty-Making Process in Ontario: A Reconnaissance*, *Native Studies Review* 1(2):57, 1985.

⁷⁷ Victor P. Lytwyn, “In the Shadows of the Honourable Company: Nicolas Chatelain and the Metis of Fort Frances” in *Contours of a People: Metis Family, Mobility, and History*, edited by Nichole St-Onge, Brenda McDougall and Carolyn Prochny (Nebraska: University of Oklahoma Press, 2012), 194. Lytwyn is a scholar and historical consultant with a long track record of working with archival files related to Treaty 3. It is very unlikely that there are documents on Treaty 3 that Lytwyn has not encountered. He also worked as an expert witness alongside Arthur Ray in the land mark case on Metis resource and hunting rights, *R. v. Powely*. Some of Lytwyn’s previous scholarship includes, *The Fur Trade of the Little North: Indians, Pedlars and Englishmen east of Lake Winnipeg, 1760-1821*, (Rupert’s Land Research Centre, 1986); “Anishinabeg and the Fur Trade,” in *Lake Superior to Rainy River: Three Centuries of Fur Trade History: a Collection of Writings*, Jean F. Morrison, ed., (Thunder Bay Historical Museum Society, 2003) “Echo of the Crane: Tracing Anishnawbek and Metis Title to Bawating (Sault Ste Marie)” in *New Histories for Old: Changing Perspectives on Canada’s Native Pasts*, Ted Binnema and Susan Neylan, eds., (Vancouver: UBC Press, 2011).

negotiations was a systematic attempt to erode the Metis identity of the community at Fort Frances needs a closer look. Lytwyn argued that

promises rang hollow when Canadian government officials decided to extinguish their distinct Metis identity. Forced to choose to become either Indian or white, many opted to join the Anishinabeg on Rainy Lake under the leadership of Chief Little Eagle.⁷⁸

His characterization of the government's response leaves the impression that there was an organized and methodical approach to developing and implementing policy during this period, an assumption for which there is no supporting evidence. Lytwyn interprets the creation of the "Half-Breed Reserve" as an overt recognition by the government of Canada that the Metis were a distinct group within treaty. Yet evidence suggests that the designation of this particular reserve as "Half-breed", and the fact that the Fort Frances Metis under the leadership of Nicholas Chatelain negotiated directly with Dennis, speaks to administrative confusion over the status of Metis individuals and communities in treaty, not a new policy directive. Since there was no provision for Metis rights outside of the *Manitoba Act* and the political borders of that new province, the government could not define Metis on the basis of whether or not a person 'chose' to participate in the land grant or take treaty. While the main discussion point in the Yellow Quill case was the government's ignorance about and resulting confusion over band definition, leadership and membership, the case of Yellow Quill also demonstrated the muddled use of racial classifications and status categories for people of both European and Indigenous ancestry outside of Manitoba's political borders. This muddling of race and status is also evident in the case of the Fort Frances Metis community.

Alexander Morris (Lt.-Gov. of Manitoba and the North-West Territories), Lindsay Russell (Assistant Surveyor-General of Dominion Lands and Dominion Lands Agent in

⁷⁸ Lytwyn, "In the Shadows of the Honourable Company," 220.

Manitoba), and J.A.N. Provencher (Indian Agent in Winnipeg), were appointed as Treaty Commissioners for Treaty 3 in June, 1873.⁷⁹ As with Treaties 1 and 2, the instructions sent to the Commissioners were to keep the terms as treaty as favourable to the government as possible.⁸⁰ A consistent issue throughout the numbered treaties was the inclusion of Metis families. After demanding that Metis family members be permitted to take treaty, Chief Mawedopenes's forced Morris's hand by stating: "I wish you to understand you owe the treaty much to the Half-breeds."⁸¹ Morris was forced to acknowledge not only the important role that Metis peoples had played thus far, but also that First Nations leaders were well aware of the tenuous power relationship that existed. On one hand, Metis who held intimate knowledge about First Nations communities were touted as useful agents when in the government's employ – they were hired as guides and interpreters and assisted government officials in the negotiations. On the other hand, that space of intimacy within and alongside "Indian bands" confused the government's attempts at implementing and solidifying racial and status categories necessary, in its view, for economic and political colonial expansion in the West. Metis connections to "Indian bands" could work for the government's interests as easily as it could work against them. Keeping the Metis onside as the treaty commissions moved westward was an important consideration for Morris. First Nations communities also understood the significant role of the Metis in the treaty process, and used their standing to call for Metis inclusion in the treaties.

Morris's response to Chief Mawedopenes's request that Metis families be "counted with

⁷⁹ Crown Canada Commission to Morris, Russell and Provencher, 16 June 1873, and memorandum of W. Spragge, 23 June 1873, reprinted in *Book of Documents*; Jones, Expert Report, 46.

⁸⁰ LAC, RG10, Vol. 1904, file 2235, Minister of the Interior to A. Morris, 5 August 1873; see telegrams of Morris to Campbell, 19 September 1873 and Dennis to Morris, 20 September 1873 reprinted in *Book of Documents*; Morris, *Treaties*, 45; LAC, RG2, Series A-1-a, Canada Order in Council 821, 16 October 1872; LAC, RG2, Series A-1-a, W. Spragge to Governor General in Council, 31 May 1873, and Canada Order in Council 705, 16 June 1873; W. Spragge to Governor General in Council, 5 June 1873, and Canada Order in Council 707, 16 June 1873; Jones, 46.

⁸¹ *The Manitoban*, 18 October, 1873, in Morris, *Treaties*, 69.

us and have their share of what you have promised” was an attempt to impress on him that only two racial categories were an option – white or Indian:

I am sent here to treat with the Indians. In Red River, where I came from, and there is a great body of Half-breeds, they must either be white or Indian. If Indians, they get treaty money; if half-breeds call themselves white, they get land....⁸²

Morris then reported on the above discussion with Chief Mawedopeness in correspondence to Archibald:

...there were some ten to twenty families of half-breeds who were recognized as Indians, and lived with them, and they wished them included. I said the treaty was not for whites, but I would recommend that those families should be permitted the option of taking either status as Indians or whites, but that they could not take both.⁸³

However, recall that in 1871 Simon Dawson paid nine Metis families, forty-nine individuals in total, annuities of three dollars to compensate for trespasses of government through territory in the Fort Frances/Rainy River region, also known as the ‘Dawson Route.’⁸⁴ Two years later, this region fell under territory ceded in Treaty 3, and with Dawson no longer a participant in the treaty process, Morris faced demands that these families be brought under terms of the treaty. It made little sense to Chief Mawedopenes that relatives would not be permitted into treaty:

I should not feel happy if I was not to mess with some of my children that are around me – those children that we call the Half-breed – those that have been born of our women of Indian blood. We wish that they should be counted with us and have their share of what you have promised. We wish you to accept our demands, It is the Half-breeds that are actually living amongst us – those that are married to our women.⁸⁵

⁸² *The Manitoban*, 18 October, 1873, in Morris, *Treaties*, 69. In her unpublished research report on Metis in treaty, Jones makes the point that Morris misrepresented the state of affairs at Red River. While legislation existed for a Metis land grant within the *Manitoba Act*, this land grant arrangement was “different from both that made with original non-Aboriginal settlers, who were to be confirmed in the lands they occupied up to a certain maximum, and the arrangements made with “Indians” under Treaty. A “Half-breed” had to call himself a “Half-breed” in order to qualify for land under the *Manitoba Act*.” Jones, Expert Report, 48.

⁸³ Report of Morris, 14 October 1873, in Morris, *Treaties*, 50.

⁸⁴ The heads of Metis families listed are Michel Morrisseau, Jean Baptiste Jourdain, John Jourdain, Joseph Jourdain, Son Jourdain, Louis Jourdain, Francois Mainville, John Linklater and Xavier Ritchot. LAC RG10, Vol. 1675 Series A, Treaties 1 and 2, Treaty No 3 and Dawson Route (Fort Frances) – Paylists, “Dawson Route Paylists,” 17 October 1871.

⁸⁵ *The Manitoban*, 18 October, 1873, in Morris, *Treaties*, 69.

On 12 September 1875, the Surveyor General J. S. Dennis treated with Metis communities at Rainy River/Lake or Couchiching through an adhesion to Treaty 3.⁸⁶ These communities were represented by a Metis man, Nicholas Chatelaine, who had previously served as a government interpreter and had been considered indispensable to the government in convincing many of the chiefs to sign the treaty.⁸⁷ However, the issue of Metis communities wanting to enter Treaty 3 had not been resolved. Although the Metis at Fort Frances refused to sign on to Treaty 3 during the initial negotiations, they were still interested.⁸⁸

The issue of their entrance into treaty and how this could be accomplished came up a number of times in government correspondence in 1874 and 1875. For example, in the fall of 1874, Dawson met with the Metis community of Rainy River. In a telegraph to the Minister of the Interior David Laird, Dawson asked for advice on how to proceed with their request to enter treaty: “Half-breeds of Rainy River numbering about one-hundred desire to join the Indians & have elected a Chief. Are they to be treated as an Indian band in the matter of reserves.”⁸⁹ Subsequently, Surveyor General J.S. Dennis received instructions to lay out a reserve the following summer, which would be designated by him as a “Half-Breed Reserve.”⁹⁰ What, if anything, changed between Dawson’s report that the Metis were interested in “Joining the Indians” and Dennis’s creation of a “Half-breed Reserve”? Examination of the correspondence between Dawson’s 1874 Reports and the adhesion signed in the fall of 1875, provides some insight into how government officials in positions of authority over policy construction and

⁸⁶ See Morris, *Treaties of Canada* volume 3, (Half-breed bands in Treaty 3).

⁸⁷ Lytwyn, “In the Shadows of the Honourable Company,” 208.

⁸⁸ One of the main reasons why the Metis at Fort Frances refused to sign the initial Treaty in 1873 was because Morris had granted the HBC post 640 acres that the Metis claimed was their territory. See Lytwyn, “In the Shadows of the Honourable Company,” 208.

⁸⁹ LAC, RG10, Vol. 1918, File 2790D, Telegraph from S.J. Dawson to Minister of the Interior, 9 October 1874.

⁹⁰ Lytwyn, “In the Shadows of the Honourable Company,” 208. There is no citation for the source of these instructions, nor could I locate them in the archival files related to Treaty 3 and the 1875 Adhesion.

implementation were thinking about race, status and the issue of Metis in treaty.

The first record of Metis wanting to be included in treaty after the initial negotiation failed in 1873 is Dawson's report dated 2 March 1874. In this correspondence Dawson made it clear to Minister of the Interior Laird that there were Metis families who wanted to take treaty at Fort Frances:

The few half-breed families living among the Saulteaux certainly expressed a desire to be treated as Indians but I think they may safely be allowed a little time for reflection for they may not know that in joining an Indian Band and receiving annuities, they would become minors, could neither acquire nor alienate property except with the consent of the Band and the Government and would forfeit that most inestimable of all advantages to half breeds, the privilege of voting at elections. Their judgement must have been influenced last fall by the presents which they saw the Indians receiving while they got nothing.⁹¹

Referencing the information received from Dawson about Metis families asking for treaty the Minister of the Interior E.A Meredith wrote to Provencher in Manitoba to provide clarification on the government's policy. In his response to the letter dated 21 April 1874 the Deputy Minister wrote:

It is further represented that, outside of Manitoba, especially about Fort Frances, there are a few families of half-breeds who have married Indian women and adopted the habits of Indians and who desire to be included in the band and treated as Indians.

There can be no objection to allowing these half breeds to elect whether they shall be treated as half breeds or Indians, but it should be explained to them that, in the event of their electing to be considered Indians altho they will not thereby forfeit a claim to an allotment of land like the half breeds of Manitoba, they would render themselves minors and be unable to acquire or alienate property except with the consent of the Band and the Government and would also lose the right of voting at elections.⁹²

According to Meredith, the government still operated under a policy of self-declaration of "Indian" if in treaty. In other words, a person may well identify as Metis, but if they choose to

⁹¹ LAC, RG10, Vol. 1922, File 2970, Report of Dawson, 2 March 1874.

⁹² PAM, MG12, B1, Deputy Minister of the Interior E.A. Meredith to Indian Commissioner J.A.N. Provencher, 21 April 1874. Also see Daugherty's 'Treaty Three Report.'

enter they are doing so as an “Indian.” Meredith also wanted it made clear that this was considered a ‘regressive’ step in the move towards civilization. Those Metis families who opted for treaty would “render themselves minors” in the eyes of the government and would not have the right to vote.

In his Report dated 17 February 1875, Dawson again referred to requests for treaty from the Metis at Rainy River: “The Half-breeds of Rainy River District, numbering about ninety persons, have decided on joining the Indians. They will require a Reserve laid out for them next summer.”⁹³ Dennis was sent to Fort Frances to lay out the reserve and it was the first time a Metis community collectively treated with the Canadian Government.⁹⁴ However, this aberration does not reflect a change in overall policy direction, as alluded to by Lytwyn.⁹⁵ In the correspondence preceding and following the creation of the reserve, there is no discussion of a change in policy. Both Laird and Morris, the two men who held authority over the construction and implementation of policy, viewed the entrance of Metis into treaty as their acceptance of ‘becoming’ Indian. The case of the Fort Frances “Half-breed Reserve” is an indication of how communities who were connected to, but still uniquely distinct from, “Indian bands,” caused massive confusion for colonial administrators obsessed with the concept of racial hierarchies.

Morris, for example, tried to define who was and who was not a Metis and who should and who should not enter treaty as an “Indian.” However, since there were no rights attached to self-declaring oneself as Metis outside of Manitoba, his attempts at defining eligibility for treaty were futile. In other words, the Metis adhesion to Treaty 3 in 1875 and the creation of a “Half-breed Reserve” is an indication that the government would, at some point, need to figure out

⁹³ LAC, RG10, Vol. 1918, File 2790D, Report of S. J. Dawson, Ottawa, dated 17 February 1875.

⁹⁴ Lytwyn, “In the Shadows of the Honourable Company,” 208.

⁹⁵ *Ibid.*, 220.

some sort of policy related to Aboriginal land rights for Metis outside of Manitoba. In 1875, however, it appears as though no one, including Laird and Morris, had any sense of what that policy would look like. Only with the prospect of rebellion in 1885 did the government finally agree to extend Aboriginal land rights to the Metis outside of the political borders of Manitoba. This extension was, as was the case with the creation of Metis status to begin with, born of political exigency, not thoughtful or long-term policy discussion.

3.5 Conclusion

As David McNabb wrote in his 1985 article, *Metis Participation in the Treaty-Making Process in Ontario: A Reconnaissance*, “The federal government’s views on the Metis in the treaty-making process cannot really be dignified by the term policy. Sometimes the Metis were included in treaties; sometimes they were not.”⁹⁶ Metis were generally welcome to be included in treaty as long as they were willing to identify themselves as “Indians.” The existence of Metis communities had been a challenge for the government’s treaty policies since the Robinson Treaties of 1850. But with the entrance of Manitoba into Confederation and the 1.4 million acre land grant intended to extinguish Aboriginal land rights, the challenge of sorting out who belonged where – in treaty or not – eligible for the land grant, or not – became increasingly complicated. Unlike the Robinson Treaties two decades earlier, in the 1870s the government had to figure out how to deal with a new legal status category and Metis individuals and communities who did not easily fit within racial classifications created for bureaucratic or administrative purposes. When Metis families did not respond to the government’s ideas of civilization as expected, for example, refusing to apply for the Metis land grant in Manitoba when they

⁹⁶David T. McNabb, *Metis Participation in the Treaty-Making Process in Ontario: A Reconnaissance*, *Native Studies Review* 1(2):57, 1985.

qualified, their actions confounded colonial officials.

Thus, construction of the Metis status category, combined with the Canadian government's institutional memories of the Robinson Treaty negotiation and implementation process in the 1850s, resulted in a bureaucratic obsession with classification systems that idealized racial, ethnic, and gendered orderings. These idealized categories of human classifications were enthusiastically applied within the Department of Indian Affairs and/or the Department of the Interior, particularly when associated with treaty and land grant eligibility. Metis and First Nations communities constantly challenged, both overtly and subversively, government administrators' associations of status identity with racial classifications. Whether in the case of Yellow Quill, Short Bear and Baptise Napakiset, or the Metis at Fort Frances, prescience and persistence challenged the colonial administrative system and in certain instances, resulted in the achievement of specific objectives.

Chapter 4

The Making of Treaty 6 and the Problem of Indian Affairs Administration on the Prairies, 1876-1880

4.1 Introduction

The previous three chapters explored the socio-economic and political contexts for Treaties 1 to 2, which set the stage for later colonial administrative challenges and confusion in Treaty 6. This chapter contextualizes the challenges of negotiating Treaty 6 and the resulting administrative confusion as bureaucrats within the Department of the Interior, Indian Branch tried to figure out how to not only pay treaty annuities to nomadic communities, but also induce those communities to settle on chosen or allocated reserve lands. As part of the settlement process the Canadian government attempted to impose a governance structure and administrative policies, in other words, a colonial order on the prairies that was antithetical to the various world views of Indigenous communities. A close look at this process reveals that most administrative challenges subsequent to the signing of Treaty 6 were a result of intersecting realities of life on the plains in the mid-1870s, mainly the dispersal of communities due to the impacts of disease transmission and devastation from game depletion. The Canadian government's weak response to those realities exacerbated the issues. The result was ad-hoc administration of ill-conceived policies that failed to reflect the very circumstances of the peoples those policies were meant to 'assist.'

The lands included in Treaty 6 are vast. In 1876, the boundaries encompassed 121 000

square miles. These lands included many different cultural groups: Chipewyan or Dene, Woodland Cree, Plains Cree, Assiniboine, Stoney-Nakoda, and Metis. Within these large groups there were many fluid bands and/or communities, each with their own unique experiences and different levels of trust of the government's intentions. These various Indigenous communities used a range of tactics in response to the Canadian government's Treaty 6 negotiations and subsequent attempts to impose settlement and assimilation policies. Treaty 6 negotiations resulted in the inclusion of the famine and medicine chest clauses, which differentiated it from previous treaties and caused a great deal of tension between the treaty commissioners and the ministry responsible for Indian affairs. After the making of Treaty 6, Indigenous communities challenged the location and timing of annuity payments, the allocation of reserves, the quality and amount of implements and food, and policies on membership, marriage and family. These tactics forced treaty commissioners, Indian agents and their superiors to constantly adapt their strategies.

This interplay between government strategy and Indigenous tactics is a useful way of making sense of the administrative difficulties and confusion in the early years of Treaty 6. People did not respond in ways that administrators expected. These unexpected responses and actions challenged the ways in which policy was carried out, and in some cases Indigenous tactics resulted in policy revision. The fact that Indigenous communities exercised the limited powers they held does not diminish the tragic consequences of settler-colonialism in this period. However, unpacking these tensions provides a more complete understanding of how government officials and Indigenous communities responded to each other during this transformative era in western Canadian history. These tensions are part of the historical narrative that is too often overlooked in a field of study that tends to focus on the outcomes of colonialism as a structural

force rather than the complex realities and fallibilities of human interactions contained within it.

4.2 Dispersal, Disease, and Devastation on the Plains Pre-Treaty 6

In Treaties 1 through 3, the government appeared unaware of, or disinterested in, the flexible political and social structures of Indigenous communities. Various groups, many of whom were loosely connected at best, were placed on a single paysheet. For some of these communities, sharing a reserve with another group was untenable. On the other hand, some leaders and their followers pressed the government to force smaller bands to join with them in an effort to claim a larger reserve based on the government's calculus of 640 acres per family of five.¹ The administration of Treaty 6 was similar to earlier treaties. Instead of learning from the ways in which communities came into treaty - and the particular challenges of Metis wanting treaty, group identification, leadership, membership, and reserve allocation in the earlier numbered treaties - the government simply pressed forward and encountered the same issues again and again.

By the time Treaty Commissioner Alexander Morris made his way to Fort Carlton and Fort Pitt in the summer of 1876 to treat with Indigenous communities west of Treaty 4 lands, people were not only feeling anxious about the government's attempts to set up telegraph lines, but many communities were just recovering from epidemic diseases such as smallpox (1869-70) and were also suffering from food shortages. As a result, some communities were pleased the government was finally willing to negotiate a treaty, an act which they thought was long overdue. Others were suspicious of the government's intentions. As other scholars have rightly

¹ By the time Treaty 4 was negotiated, the Canadian government increased its land calculus from 160 to 640 acres per family of five.

noted, there was no pan-Indigenous response to treaties, nor were the outcomes inevitable.² With different opinions on the merits of signing a treaty, combined with very little time allotted to reach consensus during the negotiations, communities were in a state of flux as people moved to follow leaders who shared their views.

Concerned about the depletion of bison herds and recent smallpox outbreaks, some Cree leaders petitioned Treaty Commissioner Wymess Simpson for treaty shortly after the transfer of Rupert's land from the HBC to the Government of Canada.³ In a despatch dated 3 November 1871, Simpson explained to the Secretary of State Joseph Howe that

The intelligence that Her Majesty is treating with the Chippewa Indians has already reached the ears of the Cree and Blackfoot tribes. In the neighborhood of Fort Edmonton, on the Saskatchewan, there is a rapidly increasing population of miners and other white people, and it is the opinion of Mr. W. J. Christie, the officer in charge of the Saskatchewan District, that a treaty with the Indians of that country, or at least an assurance during the coming year that a treaty will shortly be made, is essential to the peace, if not the actual retention, of the country.⁴

It would take five more years before the people of the plains were greeted by the treaty commissioners, and six years for the Blackfoot. Life was not easy for many Indigenous communities during the intervening years. Bison were increasingly difficult to find. Father Lacombe, for example, recounted a story from a Cree elder who suggested that bands separated because they were forced to go farther afield in search of herds.⁵ Cree interpreter and trader Peter Erasmus also commented that by 1870 “the vast herds that crowded the banks of the

² For example, see Jean Friesen, “Grant Me Wherewith to Make My Living” in Kerry Abel and Jean Friesen (eds.), *Aboriginal Resource Use in Canada: Historical and Legal Aspects* (Winnipeg: University of Manitoba Press, 1991), 141-156; J.R. Miller, *Compact*, 150-155; John Taylor, “Two Views on the Meanings of Treaties Six and Seven” in Price, Richard T., ed., *The Spirit of the Alberta Indian Treaties* (Edmonton: Pica Pica Press, 1987), 9-46; Ray, Miller, Tough, *Bounty and Benevolence*, xvii, 141.

³ For example, Cree Chief's Wikaskokiseyin, Ki-he-win (The Eagle), and Sweet Grass. Morris, *The Treaties of Canada*, 171.

⁴ Morris, *The Treaties of Canada*, 168.

⁵ David Mandelbaum, *The Plains Cree: An Ethnographic, Historical, and Comparative Study* (Regina: Canadian Plains Research Center, 1979), 42.

Saskatchewan River and crossed over even into the timber country fifteen to twenty miles north of the river were no longer to be found.”⁶ Bands were forced to travel long distances into southern, and in some cases, enemy territory to find herds, and when the bison were found, the herds were noticeably smaller. With these food shortages and disease large bands splintered into smaller groups to make it easier to provide for surviving members. Population losses from disease, combined the smallpox outbreak in 1869-70, meant that large bands were forced to break down into smaller bands in order to survive.⁷ Cree communities dispersed in small groups as a means to keep the disease from infecting large numbers of people camped together.⁸

The introduction of Christianity may have also contributed to, or exacerbated, the dispersal of communities on the plains. During the Hind and Palliser expedition, Hind observed in 1857 that leaders who were Christian were no longer influential with those who refused the Christian teachings of missionaries.⁹ In some instances, Christian and non-Christian factions developed within bands that resulted in some members leaving to be with others who better shared their spiritual views.¹⁰ Deep divisions that played out during Treaty 6 negotiations can also be explained in part by religious differences. For example, Peter Erasmus remarked on the conflict between Poundmaker and Attackahkoop (Starblanket)/Mistawasis (Big Child) during the

⁶ Peter Erasmus, *Buffalo Days and Nights* (Calgary: Glenbow Institute, 1976), 213. Also quoted in Stephen Sliwa, “Treaty Day for the Willow Cree,” *Saskatchewan History* 47, no. 1 (1995), 5.

⁷ The scattering of bands in times of epidemics and starvation was not unusual. In his study of the northwestern plains, Theodore Binnema found evidence of band dispersal following the 1781 smallpox epidemic. Theodore Binnema, *Common and Contested Ground*, 124-125. For more on the rapidly changing demographic conditions on in the prairie and parkland regions between 1821 and 1870 see Arthur Ray, *Indians in the Fur Trade*, 182–192.

⁸ Mandelbaum, *The Plains Cree*, 42.

⁹ Henry Yule Hind, *Narrative of the Canadian Red River Exploring Expedition of 1857 and of the Assiniboine and Saskatchewan Exploring Expedition of 1858*, Volume 1 (London: Longman, Green, Longman, and Roberts, 1860), 324.

¹⁰ Tolly Bradford, “‘Missionaries Will Endeavor to Make Peace Amongst Us:’ Christianity and Cree Politics in the Saskatchewan River District, 1840- 70.” *Canadian History Brown Bag Lunch Speaker Series*. Department of History, University of Alberta, Edmonton, March 2013. (Used With permission of author).

negotiations held at Carlton.¹¹ While tensions between groups may have existed previous to the arrival of missionaries, it is certainly plausible that differences in religious practice could have further entrenched divisions.

The various perspectives and degrees of disunity amongst some communities at the Treaty 6 negotiations appears to have been greater than in previous treaty negotiations. Eyewitness accounts, both Indigenous and non-Indigenous, during the period leading up to and during Treaty 6 negotiations and payments of annuities helps explain why this might be the case. Many commentators remarked on the high degree of band dispersal during this period. For example, when George McDougall traveled the prairies in 1875 to explain the government's intentions to negotiate treaties the following year, some Cree leaders expressed concerns about the high rate of band dispersal and lack of respect for existing leadership amongst the younger generation. They hoped that Canadian government would support existing chiefs or leaders.

Band dispersal was on the rise because of an increase in independent or freemen traders. Some traders who were seen to be successful managed to set themselves up as leaders of small factions that broke away from the main band. Cree populations in the district appeared to be particularly fractious. An unnamed Cree chief complained to McDougall that traders would “[set] up his own chief and the result is we are broken up into little parties, and our best men are no longer respected.”¹² While many of the more established chiefs wanted the government to support the interests of the larger bands, in many cases the groups that had split off refused to re-join. This situation is somewhat analogous to the case of Yellow Quill in Treaty 1: one leader claimed members as part of their band, but some of these members did not recognize his leadership. In the case of Yellow Quill, the government was unable to force those members to

¹¹ Peter Erasmus, *Buffalo Days and Nights*, 244-257.

¹² LAC, RG10, vol. 3624, file 5152, George McDougall to Lt. Governor A. Morris, 23 October 1875.

join or re-join the 'main' band.

Similarly, the Deputy Superintendent-General of Indian Affairs Lawrence Vankoughnet commented in his 1876 annual report that: "The Government found it necessary to recognize three divisions of the Band, each with its own Chief..."¹³ In other words, the government was unable to support the previous old chiefs in Treaty 6. Meanwhile, Inspector L.F. Crozier of the North-West Mounted Police noted the scattering of bands in the region: "It was most unfortunate in the Indian being so scattered owing to the different tribes being now at peace, consequently they go where they will over the country; this is the first year they were ever known to be so scattered."¹⁴ Crozier's comments are also supported by Chief Factor Richard Hardisty's remarks that "[t]he main tie...which binds the Cree band is residential juxtaposition of individuals at the time the band was formed [at treaty time]. Most of its members might with equal propriety belong to any band other than that with which they are actually connected."¹⁵ In Hardisty's view, the manner in which people came into treaty in the Edmonton District indicated the relative insignificance of cohesive band identities during this transitional period. While Hardisty's comments do not apply to all groups coming into treaty, evidence from paylists and other sources supports the notion that there were many people without strong band affiliation.

Given increasing fracturing of bands and the dire conditions that communities faced through the 1860s and 1870s, it is understandable why some Cree, Saulteaux, Chipewyan, Assiniboine and Stoney/Nakoda leaders lobbied hard on behalf of their people for aid in the form

¹³ Deputy Superintendent-General of Indian Affairs Lawrence Vankoughnet, Annual Report for the Department of the Interior for the year ended December 31st 1876, vii.

¹⁴ LAC, RG10, vol. 3624, file 5152, Inspector Crozier (NWMP) to Minister of the Interior, 19 February 1876.

¹⁵ HBCA B. 60/b/3, Fort Edmonton Correspondence 1878-1886, Richard Hardisty to Joseph Wriggles, Commissioner, Hudson's Bay Company, 17 August 1885.

of treaties.¹⁶ After the acquisition of the Hudson's Bay Company territory by Canada in 1870, Cree Chief Wikaskokiseyin expressed his concern for the condition of his people to Lt.-Gov.

Adams George Archibald at Upper Fort Garry (Winnipeg):

Our country is getting ruined of fur-bearing animals, hitherto our sole support... We have had great starvation the past winter, and the small-pox took away many of our people, the old, young, and children. We want you to stop the Americans from coming to trade on our lands, and giving fire water, ammunition and arms to our enemies, the Blackfeet.¹⁷

Wikaskokiseyin's concerns about starvation, disease and the impact of American whiskey traders were real and shared by many others, including Little Hunter and Sweet Grass. Leaders wanted representatives be sent immediately to negotiate a treaty so that they could receive assistance from the government.¹⁸

In preparation for the Treaty 6 negotiations, Commissioner Morris, on behalf of the Canadian government, asked Reverend George McDougall to travel the across the Plains to spread word of the government's intentions. According to Morris, McDougall was an excellent candidate for such a mission because he "had been resident as a missionary amongst these Indians for upwards of fourteen years, and [he] possessed great influence over them..."¹⁹ McDougall agreed to Morris' request, and in 1875 he met with as many communities as he could to read the government's letter of intent to treat with them the following summer. His mission was well-timed, according to McDougall, because there were various groups who "were

¹⁶ Brian M. Owens and Claude D. Ridge, eds., *The Diaries of Bishop Grandin, 1875-1877, Vol. 1*, trans. Alan D. ridge (Edmonton: Historical Society of Alberta, 1989); John Hines, *The Red Indians of the Plains: Thirty Years Missionary Experience in the Saskatchewan* (Toronto: McClelland Goodchild and Stewart, 1916), 144-146; Erasmus, *Buffalo Days and Nights*, 239-264; Hugh A. Dempsey, ed., *William Parker: Mounted policeman* (Calgary: Glenbow-Alberta Institute, 1973), 21-35; Constance Kerr Sissons, *John Kerr* (Toronto: Oxford University Press, 1964); John Andrew Kerr, "The Indian Treaties of 1876," *The Dalhousie Review*, Vol. XVII (1937): 186-195; John McDougall, *Opening the Great West* (Calgary: Glenbow-Alberta Institute, 1970), 57-60; Morris, *Treaties of Canada*, 171.

¹⁷ Morris, *Treaties of Canada*, 171.

¹⁸ Ibid.

¹⁹ Ibid., 173.

unanimous in their determination to oppose the running of lines, or the making of roads through their country, until a settlement between the government and them had been effected.”²⁰ In other words, some communities were unwilling to stand by and watch government sponsored incursions on their land while their concerns were still outstanding – this was the first of many tactical responses to the government’s strategy to colonize the North-West Territories.

Treaty 6 negotiations, the terms of the treaty, and the general administration of Indian policy in Canada have been examined and debated in great depth and breadth.²¹ From the government’s perspective the numbered treaties were an expedient to open land for settlement and to stifle any American intentions to claim the territory. These treaties were also a means through which the government established a relationship with Indigenous peoples in the West in order to bring them into the reach of their “civilization” policies and establish a colonial order. However, for Indigenous communities treaties were a sacred trust and tool for survival in rapidly deteriorating circumstances. Thus, the parties understood the historical and symbolic meanings of treaties in different ways.

Colonial aspirations were behind the government’s rationale for the numbered treaties, but they were also a response to American expansionism and fears of violence in the West as had occurred in the United States. For the Canadian government, the treaties were a way to manage and limit the interactions between new European settlers pouring into the region, and Indigenous

²⁰ Ibid., 175; and LAC, RG10, vol. 3624, file 5152, George McDougall to Lt. Governor A. Morris, 23 October 1875.

²¹ John L. Taylor, *Two Views on the Meaning of Treaties Six and Seven: An Examination of the Significance of Treaties Six and Seven in the Light of Archival Records and Indian Testimony*, (Ottawa: Indian Claims Commission, 1986); Friesen, “Magnificent Gifts”, 41-51; Rob Innes, “‘I Do Not Keep the Lands nor Do I Give Them Away’: Did Canada and Plains Cree Come to a Meeting of the Minds in the Negotiations of Treaty Four and Six?” *Journal of Indigenous Thought* 2, no. 2 (1999); Neal McLeod, “Rethinking Treaty Six in the Spirit of Mistahimaskwa (Big Bear),” *Canadian Journal of Native Studies* 19, no. 1 (1999): 69-89; Richard T. Price, ed. *Spirit and Terms of Treaties 6, 7 & 8: Alberta Indian Perspectives* (Edmonton: Indian Association of Alberta, 1975); Ray, Miller, and Tough, *Bounty and Benevolence*; Sarah Carter, *Aboriginal People and Colonizers of Western Canada to 1900* (Toronto: University of Toronto Press, 1999); Derek Whitehouse, “The Numbered Treaties: Similar Means to Dichotomous Ends,” *Past Imperfect* 3 (1994): 25-45.

peoples who rightfully claimed these lands as their own. For Indigenous communities, treaties were a sacred trust to secure guarantees that they would be a part of, and have a say in, the changing economic and social world characterized by the arrival of settler-colonialism. They wanted to secure a future for their children, and to do this many leaders wanted access to European knowledge and technologies that, in their view, would assist in the survival and prosperity of future generations.

Indigenous desire for assistance, however, should not be read as an implicit acceptance of European terms of reference or constructs of civilization. For example, an 1871 message sent by a number of Cree leaders in the territory demonstrates that treaties, and the terms of them, were viewed in relational, rather than dichotomizing terms:

The Chief Sweet Grass, The Chief of the Country: ... We want cattle, tools, agricultural implements, and assistance in everything when we come to settle – our country is no longer able to support us. Make provision for us against years of starvation. We have had great starvation the past winter, and the smallpox took away many of our people, the old, the young, and children...

Ki-he-win (The Eagle): “Great Father – Let us be friendly. We never shed any white man’s blood, and have always been friendly with the whites, and want workmen, carpenters and farmers to assist us when we settle. I want all my brother, Sweet Grass, asks. That is all.

Kis-ki-on (Short Tail): My brother, that is coming close, I look upon you as if I saw you; I want you to pity me, and I want help to cultivate the ground for myself and descendants. Come and see us.²²

As Jean Friesen has argued, there was as an acknowledgement that a transformative process was already underway - the old ways of life were indeed changing - and thus, Indigenous leaders sought the best possible means of co-existing with, not assimilating into, this new European colonial socio-economic system.²³

²² Morris, *The Treaties of Canada*, 171.

²³ Friesen, “Magnificent Gifts,” 50-51.

4.3 Treaty 6 Negotiations

Given the large geographic area covered by Treaty 6, it should not be surprising that some bands, no matter the advance notice given, were not present on the days of the negotiations. Some who were absent refused to attend, while others simply could not afford the travel time away from hunting for food, or could not make it in time.²⁴ In other cases, bands sent a few representatives but were not necessarily keen to be a part of the negotiations. And of course those bands who were present for the negotiations held various opinions, in part based on their own recent experiences with disease, game depletion and relationships with traders, missionaries, and the HBC.

There were two rounds of negotiations for Treaty 6 at two locations. The first, at Fort Carlton, resulted in a treaty signed on 23 August 1876 by nine leaders, followed by the Willow Cree leaders on 28 August. The second, at Fort Pitt, likewise resulted in the signing of Treaty 6 on 9 September. Just as during previous numbered treaty negotiations, Morris made an attempt to avoid questions of legitimacy of leadership by asking those present to select leaders to speak for them:

I did not want to hurry you, I wanted you to think of my words, and now I will be glad if you will do as I asked you then, present your Chiefs to me, and I shall be glad to hear the words of the Indians through the voice of their Chiefs, or whoever they may appoint.²⁵

However, Morris, as he had done previously, gave attendees one day to do this. After Morris's speech, in which he laid out the government's starting terms for treaty, he reiterated his view that groups were provided with ample time to reach consensus:

I have not hurried you, you have had two days to think; I have spoken much to you, and now I wish to hear you, my ears are open and I wish to hear the choices of your

²⁴ For example, nine out of twenty families who followed Chief Kiheewin were not present.

²⁵ Morris, *The Treaties of Canada*, 203.

principal Chiefs or of those chosen to speak for them. Now I am waiting.”

When Attackahkoop requested an afternoon for everyone to consider what had been said, Morris’s patience appeared to be wearing thin, or at least that was the impression he tried to convey: “I grant the request of the Indians but I give them a word of warning, do not listen to every voice in your camp, listen to your wise men who know something of life, and do not come asking for what is unreasonable....”²⁶

Even though Morris claimed that there was no hurry to select leaders, given the distances various groups had traveled and the likelihood that many of the family groups had not seen each other in quite some time, a day or two was simply not enough time to ensure all perspectives and views would be considered equally. Chief Beardy, for example, was very aware of the variance in views. He sent a messenger to Morris decrying that “I am at a loss at this time what to say, for the Indians’ mind cannot be all the same, that is why I came to tell the Governor the right of it....”²⁷ Various other examples throughout the negotiation records point to a great deal of disunity amongst different groups.²⁸ This lack of agreement should not be surprising – there were many bands, many people, and many perspectives. Perhaps, given the degree of disunity, no amount of time would have been enough to build consensus. However, given the political tradition of consensus building amongst most Plains Indigenous communities, it is at the very least reasonable to speculate that the degree of disunity would have lessened had more time been

²⁶ Ibid., 214.

²⁷ Ibid., 203.

²⁸ On the Fourth day of the negotiations at Fort Carlton, disunity amongst different groups caused Morris frustration. On August 23rd a Chippewa man stood up and started talking loudly to others. While there is no account of what this man said, his words obviously caused Morris to be upset: “if the chippewas want to talk with me I will hear them afterwards...I have treated with their whole nation, they are not wiser than their people.” There was also the case of Joseph Toma, a Saulteaux, who spoke for the Red Pheasant, Chief of the Battle River Crees: “[He] made demands....he said what was offered was too little....The principal Chiefs then rose and said that they accepted our offers, and the Red Pheasant repudiated the demands and remarks of Toma, and stated that he had not authorized him to speak for him.” At the Fort Pitt Negotiations, “one of the oldest and most respected Cree Chiefs” arrived on the 6th of September and was pleased at the arrival of the Commissioners. Morris, *The Treaties of Canada*, 186, 229, 232.

allotted.

There were also many people absent from the treaty negotiations. Big Bear's frustration with the negotiation process was at least in part because there were so many bands absent or not represented:

I find it difficult to express myself, because some of the bands are not represented. I have come off to speak for the different bands that are out on the plains. It is no small matter we were to consult about. I expected the Chiefs here would have waited until I arrived. The different bands that are out on the plains told me that I should speak in their stead; the Stony Indians as well. The people who have not come, stand as a barrier before what I would have had to say; my mode of living is hard.²⁹

This did not stop Morris's effort to get the treaty signed: "Your tribe is not all here at the present time, some of the principal Chiefs are absent, this cannot be avoided, the country is wide and when the buffalo come near you must follow them; this does not matter, for what I have to give is for the absent as well as the present."³⁰ Simply put, Morris and his counterparts did not appear to learn from previous experience, and thus, instead of allowing the time needed for groups to consider the many difficult realities and points of view, Morris, like Archibald and Simpson before him, pressured groups into making decisions without the benefit of all voices having been heard.

Realizing that reaching full consensus amongst all the bands concerning treaty terms was unlikely, Morris attempted to remove the influence of resistant voices to hurry the process. In his opening remarks at the Fort Pitt negotiations, for example, he attempted to undercut opposing views to the treaty terms by describing them as "bad voices of men who have their own ends to serve."³¹ He urged people to "listen rather to those who have only your good at heart."³²

²⁹ Morris, *The Treaties of Canada*, 239.

³⁰ *Ibid.*, 233.

³¹ *Ibid.*, 232. In his article "Treaty Day for the Willow Cree" Stephen Sliwa examined this strategy, which was employed by Treaty Commissioners and other eyewitnesses to the negotiation process. John Kerr, for example, a

Morris's frustration shows that he did not necessarily consider the signing of this treaty as inevitable.

As the negotiations wore on it became increasingly clear to Morris that getting all leaders to sign would be unlikely; however, he needed to get enough people on board to make the treaty meaningful. Morris's acceptance of Red Pheasant's 'famine clause' is evidence of his desperation. Morris realized that Treaty 6 would not get signed without it. The treaty commissioners, however, had instructions that the "the terms to be granted to the Indians treated with should not – unless under very special circumstances exceed the terms granted to the Indians of Treaty No. 4 or if possible, should be limited to the terms granted by Treaty No. 5."³³ Morris's promise that the Canadian government would come to the aid of Indigenous peoples in treaty should they be afflicted by famine or pestilence was far outside his official instructions. The famine and medicine chest clause substantially differentiated Treaty 6 from the earlier numbered treaties.

In his writings on the negotiation process, Alexander Morris discussed how recent experiences with food shortages and disease impacted the views of Indigenous communities: "The Indians were apprehensive of their future. They saw the food supply, the bison, passing away, and they were anxious and distressed....They desired to be fed. Smallpox had destroyed them by hundreds a few years before, and they dreaded pestilence and famine."³⁴ As a result, the final wording in Treaty 6 read as follows:

That in the event hereafter of the Indians comprised within this treaty being overtaken by any pestilence, or by a general famine, the Queen, on being satisfied

Crown interpreter, called Chief Beardy "a stumbling block in the negotiations." *Saskatchewan History*, 47 (1), Spring 1995, 4.

³² Morris, *The Treaties of Canada*, 233.

³³ LAC, RG10, Vol. 3636, File 6694-1, No. 660, Report of the Privy Council, 21 July 1876.

³⁴ Alexander Morris, *The Treaties of Canada*, 177.

and certified thereof by her Indian Agent or Agents, will grant to the Indians assistance of such character and to such extent as her Chief Superintendent of Indian Affairs shall deem necessary and sufficient to relieve the Indians from the calamity that shall have befallen them....That a medicine chest shall be kept at the house of each Indian Agent for the use and benefit of the Indians, at the discretion of such Agent...³⁵

Not understanding the difficulties faced by the commissioners to get the treaty signed, administrators in Ottawa viewed the Treaty 6 famine clause only in terms of future financial obligations. This disconnect between the realities on the ground and the bureaucratic mind set in Ottawa paralleled the differences between how the various treating parties viewed the meaning of the treaty. In a letter referring to the treaty terms the Minister of the Interior of Indian Affairs noted in reference to the ‘famine’ clause:

The stipulation the undersigned regards as extremely objectionable....Although the undersigned considers the terms of the Treaty to be very onerous, none of the provisions being exceedingly objectionable and such as ought not to have been made with any race of savages, he nevertheless thinks it proper to recommend the same for ratification of your Excellency, as the mischief which might result from refusing to ratify it might produce discontent and dissatisfaction, which in the end would prove more detrimental to the country that the ratification of the objectionable provisions referred to.³⁶

In response to the criticism from Ottawa, one of the treaty commissioners, James McKay, defended the action taken by Alexander Morris and himself by emphasizing the difficulties in getting the various communities on side:

This Treaty was not as any other previous one had been, merely to contend with one or two united Tribes of Indians, but in this case the Commissioners had to deal with five different Tribes they being the “Wood Crees” “Plain Crees” “Crees of the North” “the Chippawayans” and “Saulteaux”, and to contend with all their opposite and different opinions (for they all disagreed) as to the conditions and stipulations whereby they would conclude a Treaty at all with the Commissioners and seemed quite indifferent on the matter, unless they received better terms, than had been given

³⁵ Ibid., 354-355.

³⁶ LAC, RG10, Vol. 3636, File 6694-2, Memorandum of the Minister of the Interior, to the Governor General in Council, dated Ottawa, 31 January 1877; Letter of the Minister of the Interior to Lt. Governor of Manitoba, A. Morris, dated Ottawa, 1 March 1877.

to other Indians. As they considered their country with the Great Saskatchewan Rivers more valuable than any country yet ceded to the Dominion Government by Indian Treaty, which no doubt is fact.³⁷

It is likely that without the inclusion of the famine and medicine chest clause Morris and the other commissioners would have failed to get enough signatures to validate the treaty. While Morris was willing to concede on this point as a way to get a treaty signed, his rush to complete the negotiation process undermined the attempt of Indigenous leaders to come to a consensus. In the meantime, those bands whose leaders did not sign the treaty at Carlton and Fort Pitt travelled south to hunt bison.

Lucky Man and Little Pine, for example, did not come into Treaty 6 until 1879. They were suspicious of the government's intentions and, along with Big Bear and Poundmaker, wanted to select adjoining reserve lands in the Cypress Hills region. The Canadian government, however, fearful of that large communities joining together in close proximity could undermine the government's 'civilizing' efforts and concerned with the pragmatics of reserve locations so close to the American border, rejected the Cypress Hills reserve idea.³⁸ Eventually, however, the risk of starvation forced those bands whose leaders had rejected treaty at Carlton and Fort Pitt to sign adhesions. Some held out longer than others, but all leaders eventually signed – Big Bear being the last holdout to sign in 1882.³⁹ As well, some northern groups not signatories to the

³⁷ LAC, RG10, Vol. 3636, File 6694-2, James McKay, Treaty Commissioner, Letter to Lt. Governor of Manitoba, Alexander Morris, 28 March 1877.

³⁸ See Chapter 6.

³⁹ Signatories to Treaty 6: At Fort Carlton August 23, 1876: "Head Chiefs of Carlton Indians": MIS-TO-WA-SIS, AH-TUK-UK-KOOP, representing "Chiefs": P EE-YAHN-KAH-NICHK-OO-SIT, AH-YAH-TUS-KUM-IK-IM-AM, KEE-TOO-WA-HAW, Cha-Kas-Ta-Pay-Sin, JOHN SMITH, JAMES SMITH, CHIP-EE-WAYAN; Fort Carlton, August 28, 1878: Willow Cree (Duck Lake) Indians: KAH-MEE-GIS-TOO-WAY-SIT (Beardy), KAH-PAY-YAK-WAHSK-OO-NUM, SEE-SEE-KWAHN-IS (Okemasis); Fort Pitt, September 9, 1876: WEE-KAS-KOO-KEE-SAY-YIN, PEE-YAS-EE-WAH-KAH-WE-CHA-KOOT, JAMES SEENUM, OO-NAH-TAH-MEE-NAH-HOOS, SEE-KAHS-KOOTCH, TUS-TUK-EE-SKWAHS, PEE-NAY-SIS, KEE-YE-WIN, (Cree Chiefs), KIN-OO-SAY-OO (*Chipewayan Chief*), SEE-WAS-KWAN, WAY-WAY-SEE-POO-WE-YIN; Adhesion Fort Pitt, August 9, 1877: PAY-MO-TAY-AH-SOO, KAH-SEE-MUT-A-POO, AAH-PAY-SIS (KE-HI-WIN'S Headman); Adhesion Edmonton, August 21, 1877: ALEXIS KEES-KEE-CHEE-CHI, CATCHIS-TAH-WAY-SKUM, PAHS-

original treaty, signed an adhesion in 1889.

4.4 Coming into Treaty

Communities felt pressured to get the business of treaty signing done, and as a result, many people did not have their concerns adequately addressed. Some leaders, including Big Bear and his band, refused to sign the treaty and went south to hunt, while others signed reluctantly. Some bands, including those of Big Bear and Bobtail, split over disagreements over the best course of action for their future. Some members chose to settle on reserves while others left the region to follow the remaining bison. These community factions created a problem unanticipated by Indian agents responsible for the payment of annuities – unpredictable and fluid band membership. This flexible and fluid membership was not easily transcribed onto band membership lists, or into policy.

The first Treaty 6 annuity paysheets were created by treaty commissioners. Band leaders provided the names of their followers, and those names were transcribed onto a government form called a paysheet. The idea was that every community or ‘band’ would have its own paysheet, with every head of family (usually the man) named and the number of dependants (women and children) noted beside his name. However, government agents occasionally recorded more than one group as a single ‘band’ on one paysheet, which led to confusion in subsequent years as people’s names were noted on paysheets for bands with whom they claimed not to belong. Exacerbating this issue was the government’s calculation of tying the size of reserves to band

PAHS-CHASE, TAH-KOOTCH; Adhesion Blackfoot Crossing of Bow River, September 25, 1877: KISKAQUIN (BOB-TAIL MEMINOWATAW); Adhesion August 19, 1878 (no location provided): PUSKEE-YAH-KAY-WEE-YIN, MAH-KAYO, PAY-FRAHM-US-KUM-ICK-IN-UM, ISADORE; Adhesion Battleford, August 29, 1879,(Stonies): SU-KE-MAN (MISKETO) [Misquito], ETA-ME-PE-TON (USES BOTH ARMS), NESO-AU-ASIS (Two CHILD), KA-WA-SA-SKO-TRE-PAH-IK (or LIGHTNING); Adhesion Carlton, September 3, 1878, (Wood Cree Tribe of Indians): KO-PAH-A-WA-KE-MUM, SA-SE-WA-HUM, KENE-MO-TAY, MAS-E-NAS-CHOSE; Adhesion, September 18, 1878: MICHEL CALISTROIS [Calihoo], Adhesion Fort Walsh, July 2, 1879: LITTLE PINE, T H E LUCKY MAN; Adhesion December 8, 1882: Big BEAR, PIE A POT; Adhesion February 11, 1889: JAMES ROBERTS, WILLIAM CHARLES.

membership numbers. Every leader had an incentive to claim as many members as possible in order to increase his band's claim for as big a reserve as possible.

While the government's response to issues of band membership was inconsistent, problems in the administration of treaty and/or Indian policy in Treaty 6 were in part reflective of problems that emerged in the earlier numbered treaties. In some instances these issues were dealt with quickly and efficiently, but in other cases they were ignored. In order for yearly annuities to be paid, an individual had to belong to an 'Indian Band,' and consequently some family groups decided to form a band at the time of annuity payments and selected a Chief or group leader on the spot.⁴⁰ The Indian agent or commissioner then recorded this name on the paysheet. In other words, the Indian agent was administratively 'making' new bands. As I will argue in the next chapter, some of these 'new bands' were groups of Metis families who, with no option to take scrip, came into treaty.

The payment of treaty annuities is a core term of treaty – it symbolizes the yearly renewal of the treaty relationship. In terms of a financial benefit, it is small, but in 1876 this amount was not insignificant. However, the logistics of treaty annuity distribution caused frustration for both people waiting to be paid, and government officials trying to sort out how to pay them. This was particularly the case in the first few years of Treaty 6 implementation. As already noted, Indigenous communities were still nomadic in the mid-1870s. While reserve allocations were part of the treaty process, the act of surveying reserves did not take place until the early 1880s. Thus, the years between the signing of Treaty 6 and the selection/allocation, survey, and settlement on reserves was characterized by administrative confusion and delay. The Canadian government's main focus after Treaty 6 was signed was to get communities onto reserves, but

⁴⁰ *1876 Indian Act*, Chap. 18 Section 3.

administrators also had to figure out how much money to transport, and how to pay people treaty annuities when they were not on reserves or in stable bands.

In the time between the Treaty 6 signings in 1876 and the various adhesions in the years following, many communities continued to hunt in the southern area around Fort Walsh and the Cypress Hills, which was located within Treaty 4 territory. While communities were busy trying to feed themselves, Indian Agents were under instruction to encourage people to move northward, away from the American border, and settle on reserves. Even after some leaders decided to sign adhesions to Treaty 6, many bands and individuals continued to hunt in the south, much to the frustration of the Canadian government. Inspector Walsh of the NWMP, who was in charge of the annuity distributions in the Fort Walsh region in 1877 and 1878, summed up his frustration in a letter to the Minister of the Interior, David Mills: “I now am of the opinion it will require an agent’s whole time to give them the attention required in encouraging them to settle on a reservation....”⁴¹ But Indian agents were in no position to wield authority, and although they tried to convince leaders in and around Fort Walsh to head northward to collect their treaty annuities, when they were met with refusal, agents were forced to circumvent their official orders.

The initial plan was not to pay the ‘northern’ bands at Fort Walsh with the intention of encouraging them to move northward and settle down. David Laird, Lt.-Gov. and Indian Superintendent of the NWT, instructed Lt.-Col. Allen Macdonald “to notify the Crees and Saulteaux...that none will be paid at Fort Walsh except Assiniboines.”⁴² So many people congregating around the Fort Walsh area made the government nervous, an indication of just

⁴¹ LAC, RG10, Vol. 3658, File, 9399 ½, Inspector Walsh, NWMP, Fort Walsh to David Mills, Minister of the Interior, Ottawa, 17 September, 1878.

⁴² LAC, RG10, Vol. 3658, File, 9399 ½, D. Laird, Lt.-Gov. and Indian Superintendent, Battleford, to A. G. Irvine, Assistant Comptroller NWMP, Fort Walsh, 17 June 1878.

how tenuous and uneasy officials felt about the colonization process at the time. Nothing was predictable, and in 1878, Canadian Indian policy in the West could be characterized as a policy of appeasement. In response to Lt.-Gov. Laird's instructions, NWMP Assistant Comptroller A. G. Irvine wrote to the Secretary of State, R. W. Scott, that the Crees and Saulteaux "say they cannot go to Qu'Appelle or Old Woman's Lake they are hunting south of this and are anxious to be paid here this year. I recommend that...it would be on the whole politic to meet their views."⁴³ Irvine's recommendation was accepted and permission was granted for him to pay annuities to those deemed eligible.

Administratively, the payments at Fort Walsh were challenging. There were no annuity rolls from previous years, and many American Assiniboine and Metis were requesting they be permitted to join the treaty. As Inspector Walsh summed up:

So many Indians of different bands were paid here this year that I am not sure whether the public was defrauded for not, inasmuch as I had no rolls of the Indians from the North...the Crees and Saulteaux should be encouraged to move with the Headquarters of their bands and be paid together. Paying Indians from a distance in this manner will certainly prove disastrous before long in a financial point of view.⁴⁴

The payment of Treaty 6 peoples in the territory of Treaty 4 was demonstrative of the challenges of implementing an Indian policy in the West before reserves were surveyed and people were ready to settle. In other words, the Canadian government had no clear sense of what it was doing during this early period in Treaty 6. The result was ad-hoc administration and very inconsistent policy decisions. Indeed, Indigenous communities during this period had far more power and control than they knew.

The movement of communities in search of food was a source of great frustration for

⁴³ RG10, Vol. 3658, File, 9399 ½, A. G. Irvine, NWMP Assistant Comptroller, Fort Walsh, to R. W. Scott, Secretary of State, Ottawa, 4 August 1878.

⁴⁴ LAC, RG10, Vol. 3658, File, 9399 ½, Inspector Walsh, NWMP, Fort Walsh to David Mills, Minister of the Interior, Ottawa, 17 September, 1878.

Indian agents tasked with encouraging bands to settle and assimilate. Reading through the various annual reports and record books certainly gives the sense of bureaucratic frustration but, as with all colonial texts, it is difficult to gauge the actual extent of this Indigenous mobility. Paysheets provide additional insight into the extent of this mobility in the form of changes in the number of people collecting annuities from one year to the next.

There was no immediate solution to the logistical problems of paying treaty annuities. In 1876, 2785 people were paid annuities on twenty-two separate paysheets under twenty-two respective Chiefs or band leaders. The following year saw a dramatic increase in the number of people collecting annuities as more bands and families presented themselves for treaty. In 1877, a total of 4982 people (out of 6390 people counted in the census) presented themselves at a designated location for payment of treaty annuities.⁴⁵ This left 1408 people unaccounted for in 1877. Paylist analysis shows another significant decrease between 1879 and 1880. The discrepancy between the number of people paid versus the number of people deemed eligible to be paid in Treaty 6 is worthy of further investigation. An increase in annuity collections is generally indicative of bands and individuals or families not present at the initial treaty signing coming into treaty in years following. Between 1879 and 1880, paylist analysis shows an overall decline of 968 people collecting annuities, even though the number of overall bands in treaty increased. This decline had much to do with the need for people to hunt, but was also indicative of changes in paylist policies.

With the decline in bison herds, many bands and individual traders had to travel long distances to the south, with many ending up in the vicinity of Cypress Hills, located within

⁴⁵ 'Census Returns, Province of Manitoba and North-West Territories,' in the Annual Report of Department of the Interior for the Year Ended June 30th 1877, 171.

Treaty 4 territory.⁴⁶ Evidence of this southward movement has been commented upon by other scholars, but has not been examined from an administrative perspective. The payment of annuities outside a band's designated treaty area appears, in this instance, to have been an acceptable practice. Even as late as 1880, the Indian agent for Treaty 4, Allan McDonald, continued to pay Treaty 6 people at this location: "Of this sum \$18,152 was paid to Indians of Treaty No. 6, whom I found at Fort Walsh, poor and deficient of horses to move north to their respective places of payments."⁴⁷ In the historical record, communities paid at a Treaty 4 location were indexed under that treaty number, even though they were signatories to Treaty 6. Little Pine, Lucky Man, Mistawasis from the Carlton region, and Thunder Companion from the Battleford region were all mistakenly indexed as Treaty 4 bands.⁴⁸

The chart below shows the number of people from Treaty 6 who were paid annuities in Treaty 4. The numbers peak in 1881 and 1882 as more and more bands went south in hopes of a successful bison hunt. Then the numbers decline drastically, as bands, on the verge of starvation, were coerced into heading north to settle on reserves in Treaty 6. A more detailed analysis of the southward movement between 1880 and 1882 can be found in Chapter 6.

⁴⁶ David Laird, Indian Superintendent, Battleford, 18 November 1877, Annual Report of Department of the Interior, for the Year Ended June 30th 1877, 45.

⁴⁷ A. McDonald, Indian Agent, Treaty 4, Qu'Appelle, 12 September 1880, Annual Report for the Department of Indian Affairs, for the year ended December 31st 1880, 104-105.

⁴⁸ LAC, RG10, Index, Treaty Annuities, 1880, p. 2-3. Thunder Companion or Pee-Yas-Ee-Wah-Kah-We-Chah-Koot signs Treaty Six at Fort Pitt, September 9, 1876.

Figure 4.1 Treaty 6 People Paid Annuities in Treaty 4 Territory, 1876-1884

Band Affiliation	1876	1877	1878	1879	1880	1881	1882	1883	1884
Bobtail				31	78				
Strike Him				169					
Northern Saulteaux						93	238	21	28
Little Pine				319	600	785	697		
Lucky Man				456	754	791	868		
Stragglers*	8	11				1077	857		
Mistowasis					3				
Sweet Grass				66					
Annual Total	8	11	0	1041	1435	2746	2660	21	28
*Totals on Straggler paysheets include both Treaty 4 and Treaty 6									

Comments made by Treaty 4 Indian Agent, Edwin Allen, in 1880 reveal the frustrations and difficulties trying to meet the government’s dates and locations for annuity distribution in this period. Writing at Fort Walsh on 30 September 1880, Allen commented that

...there were several chiefs present, the principal being Pie-a-pot, Little Pine and Lucky Man. The first two of these chiefs expressed a wish of settling in this mountain, and Lucky Man wished to locate in the neighborhood of Battleford. I could get no definite answer from any of the chiefs as to when they would settle down. They were anxious to receive their annuity payments. It appears they were on the Missouri River hunting buffalo when warned of the time the payment would take place, their horses were in very low condition and the distance being so great they could not arrive here in time. I consulted Colonel Macleod, and he agreed with me in recommending the payment of those who had not arrived for the regular payment in July...the camp numbered about 2,500 persons drawing rations.⁴⁹

By 1882, most of the Treaty 6 bands disappear from the Treaty 4 region of Fort Walsh, with the exception of Little Pine and Lucky Man.⁵⁰ Indian Commissioner Dewdney’s growing frustrations in getting the remaining people to settle on reserves are evident in his 1883 Report:

The large sum expended last year in assisting Indians to remove to their reserves

⁴⁹ Edwin Allen, Indian Agent Treaty No. 4, Fort Walsh, 30th September, 1880, Annual Report for the Department of Indian Affairs, for the year ended December 31st 1880, 105-107.

⁵⁰ There are also a number of Straggler paylists in Treaty 4 in 1882.

was, to a great extent, thrown away, the greater number of them having returned to Fort Walsh, where they had been accustomed to be fed without work, and where they had been bribed by the traders to remain and receive their payments.⁵¹

Dewdney went on to describe that: “Repeated promises were then made on the part of the Indians, and as often broken by them, to leave Cypress Hills, until after two months constant talking and urging, the end of July saw all but some 125 lodges of recalcitrants with their backs towards the hills on the trails leading to their respective reserves.”⁵² Lucky Man and Little Pine had many members who refused to settle. Dewdney describes how Assistant Commissioner Hayter Reed was finally able to coerce them back to their reserves:

Some few of the Indians under Lucky Man who went north, returned to Maple Creek, their excuse when leaving the north being that the promises made to them were not carried out; but on being met at Maple Creek by Mr. Reed, my Assistant Commissioner, Lucky Man stated that he had come to fetch some of his Indians left behind. Mr. Reed had instructions from me to compel these Indians to return north and if necessary to call on the police for assistance. This he did, and I feel sure this prompt and determined action will have a good effect on those who, I believe, were only waiting to hear what success their friends had met with in the south to again congregate at Maple Creek, if they saw they would be fed there. In fact, I am aware that runners were sent all over the territories to try and bring this about. Not only were the last mentioned Indians forced to retrace their steps much more hurriedly than was their wont, but also, I am happy to have to relate, all the Saskatchewan Indians south of the railway track, under Little Pine and other minor Chiefs, were compelled to start for the north. These were escorted across the South Saskatchewan by the detachment of North-West Mounted Police, and were, by last reports, wandering their way northward.⁵³

4.5 Conclusion

The challenges of getting Treaty 6 signed led directly to the challenges in Treaty 6 administration in the years following. The inclusion of the famine clause demonstrates how desperate Commissioner Morris was to get the treaty signed by enough people to render it

⁵¹ Edgar Dewdney, Indian Commissioner, Regina, 2 October 1883, *Annual Report of Department of Indian Affairs*, year ended December 31st 1883, 93.

⁵² Ibid.

⁵³ Ibid.

legitimate. Whether or not a consensus over treaty terms could have ever been reached during the treaty negotiation is open for debate; however, Morris' imposition of short timelines certainly did not permit the time necessary to adequately address the various perspectives. As a result, people who were unsatisfied with the treaty terms attempted to join a band or community that better reflected their own views, creating even further dispersal. As government administrators tried to figure out the logistics of paying annuities to people who were not yet settled on reserves, communities demanded they be paid at locations conveniently located near hunting grounds. In the early years of Treaty 6 administration, Indian agents had little choice but to heed the views of these Indigenous communities, as much as it frustrated the Indian affairs bureaucrats in Ottawa.

The Canadian government was fearful of losing control of the various Indigenous groups that would make up Treaty 6, and consequently people in this territory had some power to influence the administration of policy in the years 1876 to 1884. The demand for a treaty resulted in the government sending out treaty commissioners sooner than anticipated for fear of violence directed at colonial agents in this territory not yet covered under treaty. Other adaptations the government was forced to make included the addition of the famine clause in treaty, the acceptance of movement of individuals between bands, and allowing the payment of annuities close to the hunting grounds of the various bands. Indigenous tactics could at least mitigate the overall colonizing strategies of the government and exposed the porous realities of policy implementation.

The next chapter examines the role that Metis people played in the Treaty 6 negotiation process and how they challenged the government's perceptions of Indian and Metis identities in western Canada. The inclusion of Metis 'bands' in Treaty 6 created administrative challenges not experienced in other numbered treaties. When the Canadian government extended Metis scrip to

western Canada in 1885 as a way to extinguish their Aboriginal title to the land, many of those Metis families and individuals who had entered treaty decided to withdraw in order to take advantage of this financial benefit.

Chapter 5

‘Where shall the line be drawn...?’: Government Categorical Strategies and Metis Familial Tactics in Treaty 6, 1876- 1884

5.1 Introduction

Prior to the 1885 Rebellion, large numbers of Metis families entered Treaty 6 and were subsequently defined as ‘Indians’ under the Indian Act by the Canadian government. As we saw from the Treaties 1-3 examples, however, the narrow status category ‘Indian’ did not necessarily reflect the lived experiences of Metis families and larger communities. While some Metis families were willing to take the government at its word that they would receive assistance if they took a reserve as Treaty Indians, other Metis families were not keen to abandon their work in the fur trade. As a result, many Metis families who entered treaty were categorized as ‘stragglers’ on treaty paylists, rather than as an ‘Indian band.’ In addition to the outlier straggler paylist category, DIA administrators in the Edmonton District of Treaty 6 also created the ‘St. Albert Orphans’ paylist, which listed the names of Indigenous children resident at the St. Albert Mission Orphanage. In this chapter I explain why so many Metis families entered Treaty 6 until 1884, and how the tactics of Metis families intersected with the strategies of the DIA during this transitional period. I argue that during Treaty 6 negotiations, treaty commissioners failed to acknowledge the various degrees of Metis connectedness to, and distinctions from, Indian bands. This in turn led to a great degree of ad-hoc policy administration between 1876 and 1884.

Generally speaking, the only option for Metis to claim their Aboriginal land rights outside of Manitoba was to enter treaty and thus declare themselves as ‘Indian,’ which not surprisingly, did not necessarily reflect their own lived experiences.

Drawing on some of my earlier scholarship that examined the creation of the ‘straggler’ category (which, in the Edmonton District was used almost exclusively by Metis women), I explain a wider range of tactics employed by both communities and individuals in Treaty 6.¹ Evidence shows that the administrative challenges encountered by DIA colonial agents in the Edmonton District were not unique, but rather extended throughout the territory of Treaty 6. A close look at evidence from the treaty implementation process reveals that Indigenous communities and individuals employed various tactics, including resistance, manipulation, and circumvention of ill-considered colonial policies.² These tactics challenged the emergence of a colonial order in western Canada.

5.2 Creating New Colonial Categories

Distinctive to Treaty 6 was the large number of Metis who entered treaty. There was a large Metis population in the geographic regions covered by Treaty 6. In a similar vein to the administration of the earlier numbered treaties, some government agents attempted to thwart Metis efforts to enter treaty. Colonial administrators on the ground, however, gave way and allowed entire communities, and even individuals without band affiliation, to collect treaty annuities as ‘Indians.’ In the cases of individuals who entered treaty without band affiliations, they were listed on paylists designated ‘Stragglers.’ There was also a paysheet for children

¹ Portions of this chapter have appeared in my earlier work: Melanie Niemi-Bohun, ‘Gendered Strategies of Treaty and Scrip: The Edmonton and District Stragglers, 1876-1886’ (MA Thesis, University of Northern British Columbia, 2003) and “Colonial Categories and Familial Responses to Treaty and Metis Scrip Policy: The ‘Edmonton and District Stragglers,’ 1876-1886” in *Canadian Historical Review* 90, 1 (2009): 71-98.

² The idea of daily ‘tactics’ in response to colonial power structures or government ‘strategies’ is borrowed from philosopher Michel de Certeau’s, *The Practice of Everyday Life*.

resident at the St. Albert Mission Orphanage called ‘Orphans.’³ The creation and/or use of these paylist categories in Treaty 6 is representative of the administrative and conceptual difficulties of imposing a colonial political and socio-cultural system on inherently flexible and consensus oriented communities.⁴ It also exposed that colonial administrators were unable to imagine policies that could appropriately reflect the diverse ethnic make-up of residents in the North-West Territories. Metis communities varied in their degrees of connectedness to and distinctiveness from Indian bands in Treaty 6, and this made consistent policy implementation virtually impossible.

The institutional construction of these new categories fit well within the context of a mid-19th century Victorian era obsessed with classification systems that idealized racial, ethnic, and gender orderings. And as demonstrated in the previous chapters, these idealized categories of human classifications were enthusiastically applied within the DIA for the purposes of determining treaty eligibility. And yet, confusion over treaty eligibility, particularly for Metis, was a constant source of tension among various communities and government administrators. Indigenous communities constantly challenged, both overtly and subversively, government administrators’ use of status identity with racial classifications. In response to these challenges the Canadian government instead equated race and status to an individual’s mode of living – those who followed the “customs and habits of the Indians” were considered Indians.⁵ The meanings attached to categories were generally vague and inconsistent. The paylist called ‘Orphans,’ for example, consisted of both First Nations and Metis children, some of whom still

³ There was a similar list for Orphan children at the Lac la Biche Mission.

⁴ As noted in Chapter 4, there was some use of the ‘straggler’ category in Treaty 4, but to a much lesser extent than seen in Treaty 6.

⁵ Department of the Interior Annual Reports for the Year Ended December 31st, 1877, Special Appendix C ‘Report of M.G. Dickieson to the Honourable Minister of the Interior,’ 7 October 1876, 31–36.

had living biological parents and family.

However, multi-layered Indian and Metis identities undoubtedly intersected with government imposed status and racial categories. These intersections, I argue, resulted in negotiated categories as a response to colonial impositions, and these everyday interactions challenged ideas of who was, and who was not, considered Indian by colonial administrators. Bands and individuals also shifted their tactical responses as government policies became increasingly repressive in the post-1885.

Communities and individuals used administrative categories, including 'Indian,' 'Half-breed,' 'straggler,' and 'orphan' in ways unanticipated by colonial agents. Some people insisted on treaty, others refused, and some joined and then changed their mind. Sometimes a person would enter treaty with one band and then leave to join another, sometimes entire bands would leave treaty. Evidence shows that Metis people employed a range of tactics in response to the government's attempt to implement a totalizing 'Indian Policy' as part of the colonial order in western Canada. Tactics that challenged colonial bureaucratic structures included passive, assertive - and occasionally - aggressive forms of resistance. In Treaty 6, the practice of everyday life for most Indigenous people encompassed the incorporation of bits and pieces of the colonial vocabulary and processes for physical survival, while at the same time rejecting forms of colonial violence in as many ways as possible. For example, maneuvering between Indian and Metis status categories was one way for individuals and families to maintain some semblance of control over their own lives.

As noted in earlier chapters, many Metis communities were interested in treaty as early as the Robinson Treaties in 1850. The creation of Metis status in Manitoba in 1870, however, complicated matters from the government's perspective. Whereas in 1850 there was no legal

category to recognize Metis as distinct from Indian, the creation of the Metis status category in the *Manitoba Act* entitled Metis peoples within the borders of Manitoba to a land grant or scrip. This was not available to Metis outside the province's borders, which produced confusion at treaty time. Government officials pondered the 'rules' of treaty eligibility in Treaties 1 through 3, but evidence shows that officials continued to struggle with how to conceptualize a Metis population which were neither 'Indian' nor 'white,' yet claimed the rights of both. Metis connections to, and distinctions from, other Indigenous communities in treaty was a classification puzzle that confounded government administrators. In the midst of their confusion, administrators applied various strategies to solve this perceived classification problem. For example, treaty commissioners and Indian agents tried to manipulate band membership of Indigenous communities to make them fit within the government's constructed status categories. Simultaneously, Indigenous leaders applied their own tactics in response – the intersections of which sometimes resulted in the government's softening, or simply ignoring, its own policy on the ground between 1876 and 1884.

5.3 Negotiating Metis in Treaty 6

The presence of Metis at treaty negotiations and their participation in the numbered treaties is a consistent theme in the colonial history of western Canada. Many eyewitness accounts, both during and after the treaty negotiations, remarked on the influence and roles of Metis families and individuals.⁶ Peter Erasmus, for example, played a crucial role as interpreter

⁶ Cecil Denny, *Riders of the Plains: Reminiscence of the Early and Exciting Days in the North West* (Calgary: The Herald Company, 1905); Brian M. Owens and Claude D. Ridge, eds., *The Diaries of Bishop Grandin, 1875-1877, Vol. 1*, trans. Alan D. Ridge (Edmonton: Historical Society of Alberta, 1989); John Hines, *The Red Indians of the Plains: Thirty Years Missionary Experience in the Saskatchewan* (Toronto: McClelland Goodchild and Stewart, 1916); Peter Erasmus, *Buffalo Days and Nights*; Hugh A. Dempsey, ed., *William Parker: Mounted policeman* (Calgary: Glenbow-Alberta Institute, 1973); Samuel Steele, *Forty Years in Canada: Reminiscences of the Great North West With Some Account of His Service in South Africa* (Toronto: McGraw Hill Ryerson, 1972); Constance

during the negotiation process. Other Metis, many who were related to bands participating in the negotiations, made their views on the treaty process and terms of treaty known to family members.⁷ The impact of Metis peoples' decisions and their influence should not be underestimated.

Whether Cree, Chipewyan, or Assiniboine, many Indigenous communities were concerned that their Metis family and friends would also be 'taken care of' by the Queen. For example, in Treaty 4, Morris attempted to placate chief The Gambler's concerns about his Metis brethren stating that the government would "deal generously and justly" with the Metis outside of the treaties:

We have here Crees, Saulteaux, Assiniboine's and other Indians, they are all one, and we have another people, the half-breeds, they are of your blood and my blood. The Queen cares for them, one of them is here an officer with a Queen's coat on his back. At the Lake of the Woods last winter every Half-breed who was there with me was helping me, and I was proud of it, and glad to take the work back to the Queen, and her servants, and you may rest easy, you may leave the Half-breeds in the hands of the Queen who will deal generously and justly with them. There was a half-breed came forward to the table. He was only one of many here. I simply wanted to know whether he was authorized by you to take part in the Council, as it is the Indians alone we are here to meet. He told me you wanted him here as a witness.⁸

On the 6th day's conference at Treaty 4, Kamooses requested that "the half-breeds may have the right of hunting" to which Morris replied: "As to the half-breeds, you need not be afraid; the Queen will deal justly, fairly and generously with all her children."⁹ Similarly, during Treaty 6 negotiations Mistowasis requested that the Metis who wished to live on reserves also be brought into treaty. At the Carlton negotiations in Treaty 6, Red Pheasant raised concerns that the land

Kerr Sissons, *John Kerr* (Toronto: Oxford University Press, 1964); John Andrew Kerr, "The Indian Treaties of 1876," *The Dalhousie Review*, Vol. XVII (1937): 186-195; William Graham, *Treaty Days: Reflections of an Indian Commissioner* (Calgary: Glenbow Museum, 1991).

⁷ Allyson Stevenson, "The Metis Cultural Brokers and the Western Numbered Treaties, 1869-1877" (MA Thesis: University of Saskatchewan, 2004).

⁸ Morris, *The Treaties of Canada*, 99.

⁹ *Ibid.*, 123.

rights of Metis would not be respected by the government, stating, “He wished the claims of the Half-breeds who had settled there before the government came to be respected...”¹⁰ In response to Mistowasis, Morris claimed that he “explained the distinction between the Half-breed people and the Indian Half-breeds who lived amongst the Indians as Indians, and said the Commissioners would consider the case of each of these last on its merits.”¹¹ He also stated:

I have explained to the other Indians that the Commissioners did not come to the half-breeds: there were however a certain class of Indian half-breeds who had always lived in the camp with the Indians and were *in fact* Indians, would be recognized, but no others.¹²

As far as Morris was concerned, Metis who were integrated into an Indian band and were “*in fact* Indians” would enter treaty as any other Indian. Morris believed that the government would, in fact, deal “justly and generously” with Metis outside the boundaries of Manitoba, but there was no sense of how this would be accomplished.

Regardless, Morris’s response to The Gambler, Kamooses and others, while vague, was apparently good enough to convince many to sign. The claims, concerns and rights of other Metis families and communities, was, in Morris’s view, a different subject altogether. During the various treaty negotiations Morris and his colleagues were aware that their current process (or lack thereof) for determining treaty eligibility was problematic. Their approach, however, in the spirit of advancing Victorian scientific human classification systems, was to provide further taxonomies for the classification of ‘Half-breeds.’ Both Commissioner Morris and Indian Branch paymaster M. G. Dickieson separately spent some effort constructing similar taxonomic systems for the Metis. Both men placed an emphasis on classifying those Metis who appeared more like ‘Indians’ separately from Metis who appeared more like ‘whites.’ According to Morris:

¹⁰ Ibid., 193.

¹¹ Ibid., 187.

¹² Ibid., 228.

The half-breed in the territories are of three classes – 1st, those who, as at St Laurant, near Prince Albert, the Qu'Apelle lakes and Edmonton, have their farms and homes; 2nd, those who are entirely identified with the Indians, living with them, and speaking their language; 3rd, those who do not farm, but live after the habits of the Indians, by the pursuit of the buffalo and the chase.... There is another class of the population in the North-West...I refer to the wandering half-breed of the plains, who are chiefly of French descent and live the life of the Indians. There are a few who are identified as Indians, but there is a large class of Metis who live by the hunt of the buffalo, and have no settled homes.¹³

Perhaps Morris thought that by applying an ethnic or racial classification system to the Metis, those in the government's employ could better determine who should or could enter treaty and who should or could not. Morris, along with and his contemporaries, obviously struggled to understand the complexity of status categorization and Indigenous identities during this period. Morris's awareness that race did not necessarily translate into identity is evident, but within the context of his institutionalized bureaucratic training, the only solution he could come up with was the construction of more detailed human taxonomic categorizations. In other words, if the categories you have are not working, then you need more categories.

Morris was not the only official to contemplate the issue of treaty eligibility and Metis status. In an 1876 Report, Dickieson considered the issue of Metis wanting to take treaty, and expressed his frustration with the lack policy or process to determine eligibility:

I experienced considerable trouble from Half-breeds who wished to join Bands and draw money as Indians. This was particularly the case at Qu'Appelle Lakes, where a large number of Half-breed heads of families wanted to draw annuities. I enquired if they had ever belonged to "any particular Band," or had recognized any Indian as their Chief. They replied in the negative, and informed me their desire was to form a Band, distinct from the Indians, and under a Chief of their own.¹⁴

Dickieson's remark is striking. It demonstrates that many Metis families did not necessarily identify with, or even want to belong to, an Indian band. Rather, they viewed themselves as a

¹³ Ibid., 294-295.

¹⁴ Report of the Department of the Interior for the year ended December 31 1877, Special Appendix C, "Report of M. G. Dickieson to the Honourable the Minister of the Interior," 7 October 1876.

distinct community. Metis families around Qu'Appelle wanted to enter treaty, but also wanted to do so as 'Metis' and not 'Indian.' Dickieson, however, refused the Qu'Appelle Metis request. His decision was based on his interpretation of the legislated definition of 'Indian' in the 1876 *Indian Act*, which stated that to be considered an Indian, the individual had to belong to an 'Indian' Band:

I assured them that this could not be done, and cited the Act of last Session which defines who shall be accounted as Indians, viz: "First - Any male person of Indian blood reputed to belong to a particular Band." "Secondly, any child of such person" as the authority under which I acted.¹⁵

In response to Dickieson's refusal to recognize them as a distinct Metis band within treaty, the Qu'Appelle Metis changed tactics – they then presented themselves as 'Indians' as part of an Indian band to meet the *Indian Act's* definition of 'band:' "The Term 'band' means any tribe, band or body of Indians who own or are interested in a reserve or in Indian Lands in common..."¹⁶ Since the original tactic of claiming distinctiveness did not result in the desired outcome, this community employed a new tactic.

These decisions reflect the ability of individuals to adapt to changing bureaucratic realities beyond their control. This suggests, as Gerhard Ens argued, that "[r]ather than being passive victims of the actions of others, or simply a problem confronting the federal government, the Metis [were]... active agents in their history and development."¹⁷ Communities, families, and individuals made strategic economic decisions that would later represent the 'making of' their own political identities.¹⁸ In other words, the 'practice of everyday life' – the daily tactics

¹⁵ Report of the Department of the Interior for the year ended December 31 1877, Special Appendix C, "Report of M. G. Dickieson to the Honourable the Minister of the Interior," 7 October 1876.

¹⁶ *1876 Indian Act*, Chap. 18 Section 3.

¹⁷ Gerhard Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis* (Toronto: University of Toronto Press, 1996), 5.

¹⁸ See Ian Hacking, "The Looping Effects of Human Kinds" *Casual Cognition: A Multidisciplinary Debate*, ed. Dan Sperber, David Premack and Ann James Premack (Oxford: Clarendon Press, 1995), 351-394; and Ian Hacking,

used to resist, challenge, and/or adapt to colonial structural impositions - took place on a variety of levels with various outcomes.¹⁹ When Dickieson claimed the Qu'Appelle Metis needed to be 'Indians,' they changed tactics and maneuvered between colonial definitions out of necessity. But it is also important to remember why so many Metis requested treaty in the first place – there were no other options. This is an important fact that Dickieson failed to mention in his report. With the bison herds becoming increasingly sparse, and with generally difficult economic conditions across the prairies, the idea of collecting a treaty annuity, no matter how small, would have seemed appealing. Dickieson stated:

Finding I could not accede to their demands, they presented themselves as members of Bands which were being paid, but I refused to pay them. Several of them maintained they were Indians and not Half-breeds. I told them if they would swear their fathers were or had been Indians I would pay them, but not otherwise. This they refused to do, and I accordingly had to abide by my decision.²⁰

Dickieson's emphasis on the paternal lineage was not unusual. Nor was it a steadfast policy or rule for gauging treaty eligibility. To further justify his refusal to allow these Metis families at Qu'Appelle treaty, Dickieson also emphasized their so-called 'mode of living' as being distinctive from the Indians:

These persons have always been accounted Half-breeds, have never adopted the Indian habits or ways of life, and most of them as such, signed an address to His Honour Lieut.-Governor Morris, in the summer of 1874, which will be found printed

"Making up People" in *Reconstructing Individualism: Autonomy, Individuality, and the Self in Western Thought* (Stanford: Stanford University Press, 1986), 222-236.

¹⁹ Integrating Ian Hacking's theory that the construction of administrative categories affects the very idea of what it is to be an individual with de Certeau's theory that marginalized individuals and group use tactics as part of everyday life exposes weaknesses in state strategies to subdue or suppress them. This framework exposes complexities, contradictions and weakness in the emergence of the colonial state in western Canada on multiple levels – the individual, the family, and the community. Hacking's work raises an important irony when considered within the context of the Metis communities who did not qualify for the 1.4 million acre land grant in Manitoba. With no immediate options available outside taking treaty, many Metis attempted to maneuver between the status categories of "Half-breed" and "Indian" no matter their own ethnic identity, but which would hold long-term implications for their descendants.

²⁰ Report of the Department of the Interior for the year ended December 31 1877, Special Appendix C, "Report of M. G. Dickieson to the Honourable the Minister of the Interior," 7 October 1876.

in the report of the Department for the years 1873-74.²¹

Dickieson's report explained the difficult task of determining treaty eligibility. He was frustrated with government policy. He wanted his superiors to understand that he was attempting to sort out the 'Half-breed-Indian' issue as best as he could under less than ideal circumstances. Dickieson feared instigating resistance should he refuse too many people treaty annuities, yet he felt pressured by what he perceived as the government's duty to "elevate the Indian in the scale of humanity not to degrade the White to the position of the savage." Dickieson rightly asked his superiors:

[W]here shall the line be drawn to decide who is or who is not an Indian? The Indian Act of last session, which defines that an "Indian shall be any male person of Indian blood reputed to belong to any particular Band" or, "any child of such person," does not cover the ground, for under the strict interpretation on the law, as I understand it, many who are of pure Indian blood would be excluded as they have never belonged to "any particular Band," and a few of these have followed to a considerable extent the customs of the Whites.²²

Overall, a reading of Dickieson's report in its entirety reveals that if refused on one pretext, the individual, family, and community could and did change tactics in order to enter treaty. It was also common for Metis to employ kinship and familial relationships. If one member of a family managed to enter treaty, then surely the other members of the family should also be eligible? This tactic of persistence and maneuverability was unexpected by government agents, and as expressed by Dickieson, caused great difficulty.

In Morris's report to the Privy Council on the results of his mission he submitted a list of his own reflections and suggestions on how to more effectively address eligibility issues of Metis wanting treaty. Interestingly, Morris even proposed that the Canadian government provide a land base for Metis in the North-West for the purpose of establishing agricultural communities:

²¹ Ibid.

²² Ibid.

There is another class of the population in the North-West whose position I desire to bring under the notice of the Privy Council. I refer to the wandering Half-breeds of the plains, who are chiefly of French descent and live the life of the Indians. There are a few who are identified with the Indians, but there is a large class of Metis who live by the hunt of the buffalo and have no settled homes. I think that a census of the numbers of these should be procured, and while I would not be disposed to recommend their being brought under the treaties, I would suggest that land should be assigned to them, and that on their settling down, if after an examination of their circumstances, it should found necessary and expedient, some assistance should be given them to enable them to enter upon agricultural operations.²³

None of Morris's suggestions were heeded. As a result, with no offers of assistance or land from the government, thousands of Metis entered treaty to be administratively made into 'Indians,' whether or not this category was an accurate reflection of their own historic community identities. There were simply no other options if an individual or group wanted compensation or support, no matter how small, from the government.

5.4 Government Administrative Responses

Even though many Indigenous communities expressed concerns for the well-being of their Metis relations and friends during treaty negotiations, and even though Treaty Commissioner Morris recommended that some sort of policy be implemented to reflect the concerns of this growing population, there were no policy developments until the *1879 Dominion Lands Act*. In 1878, the Canadian government received petitions from Metis residents of Prince Albert, St. Laurent, demanding land and scrip such as had been granted to the Métis in Manitoba.²⁴ In response, the *Dominion Lands Act of 1879* was passed, which in theory, enabled the government to:

²³ Morris, *The Treaties of Canada*, 195.

²⁴ Petition of the settlers and residents at Prince Albert Settlement to the Governor-General, Reprinted in Canada *Sessional Papers*, 1885, no. 116(e), 29 – 31; Gabriel Dumont and others to Lieutenant-Governor of the North West Territories, 1 February 1878, Reprinted in Canada *Sessional Papers* no. 116(e), 28; LAC, RG15, Vol. 341, file 89435, David Laverdure and others to the President and the Honorable members of the Privy Council for the North West Territories, attached to D. Laird to Minister of the Interior, 30 September 1878. Jones noted that they Metis "living in the vicinity of the Cypress Mountains" also petitioned the Government, but rather than scrip, they demanded a "relaxation of hunting restrictions and a reserve of land." Jones, Expert Report, 76.

...satisfy any claims existing in connection with the extinguishment of the Indian title, preferred by half-breeds resident in the North-West Territories *outside of the limits of Manitoba*, on the fifteenth day of July, by granting land to such persons, to such extent and on such terms and conditions, as may be deemed expedient.²⁵

This *Act* made it legally possible, for the first time, for the government to deal with Metis claims outside of Manitoba. The *Indian Act* was also amended in 1879 to include the following:

And any half-breed who may have been admitted into a treaty shall be allowed to withdraw therefrom on refunding all annuity money received by him or her under the said treaty, or suffering a corresponding reduction in the quantity of any land, or scrip, which such half-breed as such be entitled to receive from the Government.²⁶

However, there was no explanation within the *Act* on how those claims connected to the extinguishment of Indian Title should be handled. As a result, the Canadian government failed to deal with Metis concerns, and nothing changed until the threat of a Metis rebellion in 1885.

Even leading up to the *Dominion Lands Act* of 1879, there was generally little sympathy for the concerns or land rights of Metis communities, nor for the fact that treaty seemed the only option. Commissioner James McKay, a Metis man from Red River indoctrinated into colonial privilege through his work as a guide and interpreter for the government, did not believe that Metis should be permitted to collect annuities: "...we did not come as messengers to the Half-breeds, but to the Indians."²⁷ Yet, regardless of the personal opinions of various treaty commissioners, there were no legal means to prevent anyone with Indigenous ancestry from collecting treaty annuities as Indians. In 1873, Indian Commissioner J.A.N. Provencher drafted

²⁵ Canada Statutes, *An Act to amend and consolidate the several Acts respecting the Public Lands of the Dominion*, 15 May 1879, 42 Vic., Cap. 31, s. 125. Emphasis my own.

²⁶ Canada Statutes, *An Act to Amend "The Indian Act, 1876"*, 42 Vic. Cap. 34 s. 3(1). Also quoted in Jones, Expert Witness, 76.

²⁷ Morris, *The Treaties of Canada with the Indians*, 222. For more of the role of Metis colonial "intermediaries like James Mackay see <http://vantagepoints.ca/stories/metis-intermediaries/>; According to Alan R. Turner, "James McKay was educated at Red River. In the employ of the Hudson's Bay Company, 1853–60, he advanced rapidly, serving as clerk and postmaster, principally in the Swan River district, and establishing posts on the Sheyenne and Buffalo rivers in American territory in 1859. His facility in Indian languages, which he may have acquired through his mother who was either Métis or Indian, and his thorough knowledge of the prairies combined to make him a notable guide whose services were sought by distinguished travellers." See entry for James MacKay at *DCB* online: http://www.biographi.ca/en/bio.php?id_nbr=5145 [Accessed 15 June 2015].

recommendations in attempt to clarify the legal positions of Metis and Indians in the North-West:

The legal position of the Indians in the North West Territories has not yet been defined, and the consequence is that many Half-breeds will be now on the Pay lists, unless I am authorized to have their names expunged. Altho. the Act organizing the Department of the Secretary of State, and which defines the Status of the Indians does not apply to this part of Canada, I venture to believe, that in acting according to its spirit without any special legislation, or any formal instructions, I should follow it in this matter.

According to Vic. 31. Cap. 42 Cl. 15. It is enacted what persons may be considered Indians and consequently admitted to take their positions accorded by the Government, among the different Tribes. --

1. All full blooded Indians reputed as belonging to the nations, tribe or particular people of Indians interested in these lands or immovable properties and their descendants
2. All persons residing among those Indians, of whom their parents, from either side, were descended from Indians, or reputed Indians belonging to the Nation, Tribe, or particular People of Indians interested in Real Estate, or their descendants
3. All women legally married to persons comprised in the above classes; the issue of such marriages and their descendants — These halfbreeds live with the Indians; have the very same habits; and actually form part of the Tribe, in accordance with the Act above mentioned. — Their position would be quite regular if they had not afterwards shared in the lands specifically set apart for Halfbreeds...²⁸

At the core of Provencher's recommendations was the idea that Metis who wanted to collect annuities needed to belong to an 'Indian band.' His recommendations were not followed. Metis who neither belonged to a band nor abided by the "very same habits" as Indians continued to collect annuities. Three years after the submission of Provencher's report, there still were no specific instructions to guide Indian agents in charge of annuity distribution. In order to maintain good relations with the various Indigenous groups in the Northwest, Metis continued to be

²⁸ LAC, RG10, vol. 3608, f. 3084. Translation of Report of J. A. N. Provencher, Indian Commissioner, 31 December 1873.

admitted to treaty.

The fact that so many of the government's own policies were simply ignored or changed between 1876 and 1884 demonstrates the contradictions and fallibility of Canada's colonial order during this period. As noted previously, according to Dickieson, it was virtually impossible to allow one member of a family who more obviously led the 'mode of life of the Indians' while refusing to pay their brother or sister.²⁹ Some Metis communities followed, as government administrators termed it, "the mode of life of the Indians," while other Metis communities were settling and undertaking agricultural pursuits. Some communities were involved with both settlement and nomadic hunting practices. This range of lifestyle, economies, and political and social structures confused government officials and challenged their understandings of what it meant to be an Indian rather than Metis. It also opened the door for different communities to challenge the government's own racially based status categories.

Without the extension of the Metis land grant outside of Manitoba, the Metis status category held no tangible benefit. As a result, Metis families requested treaty, and continued to do so even after Treaty 6 was signed. As Inspector Walsh noted in a letter to the Minister of the Interior David Mills:

A great many half-breed who have never drawn their scrip requested to be admitted in the Treaty. I informed them I could not grant their request, if they wished to receive annuities they should appeal to the Govmt [sic] although I considered it useless."³⁰

Eventually, Metis requests were granted, and since many of these families did not necessarily belong to a 'band' per se, a new category was constructed. Even though Dickieson initially

²⁹ Annual Report for the Department of the Interior for the Year Ending December 31st, 1876, Special Appendix C, Report of M. G. Dickieson to the Honourable Minister of the Interior, 7 October 1876, Winnipeg, Manitoba.

³⁰ LAC, RG10, Vol. 3658, File, 9399 ½, Inspector Walsh, NWMP, Fort Walsh to David Mills, Minister of the Interior, Ottawa, 17 September, 1878.

refused to pay treaty annuities to some Metis families, others had been admitted. As Dickieson reported in 1876:

You will understand the difficulty of the position I was placed in, when I had to refuse to pay the brothers, sisters, and in some instances the parents of these persons [in treaty]. In the view of the Indians and some of their Chiefs, either wrong had been done last year in admitting those, or I was not doing right now in refusing to admit their relations into the Bands. I saw, that if one Half-breed was paid, who had never before received treaty money, all would have to be admitted, and therefore positively declined to pay any for the first time, except those who were undoubtedly of pure Indian blood.³¹

This was Dickieson's attempted to "draw the line." It was unsuccessful, and Morris and others knew that the government could not, in reality, continue to restrict the entrance of Metis families into treaty, particularly if they were willing to join a band and settle on a reserve.

Even then, other problems quickly surfaced. Could the government deny Metis who refused to belong to a band from taking treaty? Dickieson seemed to think so, but by 1878 the government had created a new paylist category to pay annuities to those who did not claim membership in a particular band – 'Stragglers.' The creation of a straggler designation countered most notions of how ethnic or racial categories were constructed by governmental institutions. Rather than creating a new way for people to *be*, it appears to respond to how people *were*.³² Administrators were not trying to accommodate a 'Metis' community – they were finding a way to pay individuals who wished to receive annuities but were without a band.³³ It was worth it, from the government's perspective, to permit Metis without a band affiliation to receive

³¹ Report of the Department of the Interior for the year ended December 31st 1877, Special Appendix C, "Report of M. G. Dickieson to the Honourable the Minister of the Interior", 7 October 1876.

³² Niemi-Bohun, "Colonial Categories," 75. This concept is borrowed from Ian Hacking, "Making up People," *Reconstructing Individualism: Autonomy, Individuality, and the Self in Western Thought*, ed. Thomas C. Heller (Stanford: Stanford University Press, 1986). As Hacking explains, "There is a looping or feedback effect involving the introduction of classifications of people. New sorting and theorizing induces changes in self-conception and in behavior of the people classified. Those changes demand revisions of the classification and theories, the causal connections, and the expectations. Kinds are modified, revised classifications are formed, and the classified change again, loop upon loop." Hacking, "The Looping Effects of Human Kinds," 370.

³³ Niemi-Bohun, "Colonial Categories," 75.

annuities rather than risk already heightened tensions. As Dickieson explained:

I knew it was the desire of the Department that nothing should occur which would tend to disquiet the Indians or weaken their confidence in the Government, especially at the present time, in view of the trouble in the United States, and was pleased to learn that any decision instead of giving offence as I expected was a cause of gratification to the majority.³⁴

In this case, it was the Canadian government's strategy to placate the Indigenous population as much as possible until Canada's hold on the NWT was absolute. In the meantime, the tactics employed by Metis and First Nations communities pushed Indian Agents and their superiors to respond to their demands. In Treaty 6, a number of different factors coalesced, resulting in large numbers of Metis and fragmented bands entering treaty – numbering far more than had been experienced in the earlier numbered treaties. These factors included: the flexible nature of Cree society; the general scattering of bands due to disease; the decline in bison herds; the unavailability of a land grant or policy addressing Metis concerns outside of Manitoba; and finally, the rise of a mixed-labour, freeman and fur trade economy that was developing in the West by the 1870s. Government administrators could not, however, conceptualize a population that claimed to be neither 'white' nor Indian, yet claimed the rights of both.

Once officials realized there was little use in trying to prevent Metis from collecting treaty annuities, whether part of a band or not, their focus shifted from attempting to define Metis treaty eligibility to preventing so-called 'double-dipping.' In particular, Commissioner McKay was concerned to learn that some Metis from Manitoba had managed to collect both their land rights as Metis and treaty annuities as 'Indians':

The Queen has been kind to the Half-breeds of Red River and has given them much land; we did not come as messengers to the Half-breeds, but to the Indians. I have heard some Half-breeds wanted to take lands at Red River and join the Indians here,

³⁴ Report of the Department of the Interior for the year ended December 31st 1877, Special Appendix C, "Report of M. G. Dickieson to the Honourable the Minister of the Interior", 7 October 1876.

but they cannot take with both hands. The Half-breeds of the North-West cannot come into the Treaty. The small class of Half-breeds who live as Indians and with the Indians, can be regarded as Indians by the Commissioners, who will judge each case on its own merits as it comes up, and will report their action to the Queen's Councillors for their approval.³⁵

McKay's comment that, "some Half-breeds wanted to take lands at Red River and join the Indians here, but they cannot take with both hands" is a reflection of the Metis migration out of Red River in the early 1870s.³⁶ From the government's perspective, however, those Metis had already extinguished their Aboriginal title by accepting their part of the 1.4 million acre grant or scrip. Men like McKay opined that if these same Metis were also permitted to collect treaty annuities, they would have their Aboriginal title essentially extinguished twice over. For many Metis families, however, taking treaty was a tactic used to obtain at least a small economic benefit during a period of immense hardship.

5.5 The 'Straggler' Colonial Category

By 1878, Indian Agents in Treaty 6 were inundated with Metis and Indian men, women and children who either did not belong to band or refused to join one. Even though these individuals and families were not band members, they were enrolled in treaty and entitled to receive treaty annuities. Inspector of Indian Agencies Thomas Wadsworth placed the names of these individuals and families on a payroll called 'Stragglers' as a way to administratively deal with this bureaucratic classification problem. The creation of this administrative payroll category has been thoroughly examined elsewhere, but it is useful to raise it again here because it also

³⁵ Morris, *The Treaties of Canada*, 222.

³⁶ Ens argued that "While high tariffs and increased border surveillance would discriminate against Metis traders, or any small trader after 1876, the Northwest still offered the Metis traders a competitive market that had closed for them in Manitoba by the early 1870s... If Metis wished to continue trading robes, they had to move west." Ens, *Homeland to Hinterland*, 139. However, in a recent landmark case the Supreme Court of Canada ruled that the Government failed in its duty to distribute the 1.4 million acre land grant in a fair manner within a reasonable time frame to the Metis of Manitoba, and failed to guard against speculation.

speaks to the administrative chaos and the government's lack of awareness concerning community socio-political structures, familial groupings and overall flexibility of bands coming into treaty.³⁷ It also provides a unique example of how daily tactics used by marginalized groups can complicate and challenge the power structures of a colonial project. The creation of straggler nomenclature also demonstrates that band membership was traditionally more flexible and less important in terms of identity than what was portrayed in both anthropological and historical literature. The term 'straggler' was the product of both historic social structures of Indigenous communities and ad-hoc government Indian policy.

There is also a gendered aspect to the straggler category. Individuals listed as stragglers on treaty paylists at Battleford and Edmonton were overwhelmingly female and their husbands were not in treaty. The creation of the straggler category thus also reveals some of familial tactics used by Metis and First Nations people during this transitional economic period. The gendered use of the straggler paylist shows that, even facing extreme colonial pressures, decisions on who should and who not enter treaty were strategic and made within each family. Men chose to remain outside of treaty and keep their freedom, while women chose to enter treaty to receive an annuity. Indian agents appeared to accept, until 1885, the use of the straggler category in this manner, in large part out of fear of creating discontent. Thus, many Metis women collected a small treaty annuity as 'Indians' and since they did not maintain administrative membership with a government-recognized 'Indian band,' this tactic permitted their continued engagement in the fur trade, labor, freighting and freeman economy alongside their families. Meanwhile, with her husband outside of treaty, the family could also settle outside

³⁷ Melanie Niemi, 'Gendered Strategies of Treaty and Scrip: The Edmonton and District Stragglers, 1876-1886,' MA, University of Northern British Columbia, 2003 and "Colonial Categories and Familial Responses to Treaty and Metis Scrip Policy: The 'Edmonton and District Stragglers,' 1876-1886" in *CHR* 2009.

a reserve and farm, which many families did alongside their other fur trade related economic activities.

Women whose names appear on the straggler payroll originated in various locations throughout the North-West Territories and had traveled extensively throughout the territories with their families. There was little cohesive about these families listed on paylists– they did not identify as a Metis ‘band’ as was the case with other Metis families who came into treaty.³⁸

Women on the straggler paylists ranged from young unmarried women with no children to grandmothers with numerous children, male and female, and grandchildren.³⁹ Although many of these women were related to each other, as well as to and Cree communities in the region through kinship and marriage, they did not represent a cohesive group that made collective decisions. They were, however, women who, despite their variations in age, marital status, place of birth, and residency, participated in a new form of mixed-economy in the North-West – the collection of treaty payments combined with freighting, hunting and fur gathering with their families. Women’s connections to the fur trade economy are also noteworthy. Many women were married to non-treaty men who were employed as labourers, freemen, freighters, and farmers. These occupations reveal not only the strong connections to the fur trade economy in the prairie and parkland regions, but also provide an insight into the adaptability of families to conditions beyond their control.⁴⁰

³⁸ For example, the Peeaysis Band was a group of Metis families who entered Treaty together and were granted a reserve and considered “Indians” under the Indian Act. The formation of the Peeaysis Band is discussed in Chapter 7.

³⁹ Most young unmarried women on the withdrawal list were paid with their mothers. However, there were two women who were unmarried. Margaret Marie Rose Cardinal was a young woman whom had previously been paid as an orphan at the St. Albert Mission. She was only 17 when she applied for scrip in 1885. LAC, RG15, Volume 1326, claim #1120. The second was Justine (Caroline) Short alias Muskatawpaw, also a young 18 year old woman, identified her occupation as an unmarried “spinster.” LAC, RG15, Volume 1332, claim #650.

⁴⁰ Using quantitative analysis of scrip records from metis in Treaty 8, Ens concluded that “Metis adaptations to the economic conditions of northern Alberta was very opportunistic and sophisticated...all followed a very flexible

5.6 The 'Orphan' Colonial Category

The orphan payroll category, similar in nature to the straggler category, also reveals some intriguing tactics and strategies employed by missionaries, government officials, Metis parents and Metis children.⁴¹ Through the 1870s, Bishop Grandin, who ran the St. Albert Mission, repeatedly requested government funding for his orphanage.⁴² Shortly after Christmas in 1876, Sister St. Roch of the Grey Nuns order wrote to Morris informing him that as a demonstration of their appreciation, “we have named one [orphan] after your wife.”⁴³

The first payments to Grandin for ‘orphan’ children at his mission were paid as a group payment that shows up on the Papaschase paylists from 1877 to 1879. In 1880, Grandin provided a list of children’s names in his care to the Agent James Stewart at Edmonton, who in turn created a separate payroll for the children designated the ‘St. Albert Orphans.’ Grandin’s motivations for having the children acknowledged as Treaty Indians were likely a result of his wanting monies to fund his Mission. It is interesting to consider Grandin’s tactic of using the Indian status of children as a means of securing funds within the context of the government’s overall strategy of civilization and assimilation. Suggesting that these children remain, or be administratively recognized as, Treaty Indians seems counter to the government’s overall

subsistence and wage earning strategy. These occupational strategies, combined with the fact that few metis farmed exclusively, made the choice of money scrip the more rational choice of action.” “Taking Treaty 8 Scrip, 1899-1900: A Quantitative Portrait of Northern Alberta Metis Communities,” in *Treaty 8 Revisited*.

⁴¹ To date, the literature makes no mention of the ‘orphan’ payroll category. The closest reference I could find was concerning missionary activity and residential schools mentions orphans in relation to missions and residential schools in Raymond Huel’s *Proclaiming the Gospel to the Indians and the Métis*, (Edmonton: University of Alberta Press, 1996), 63. He mentions that there were missionaries ‘taking in orphans’ at various missions in the North-West. For example, at Pelican Lake Etienne Bonnard, in attempts to cut down on the costs of hiring a servant or labourer, “raised two orphans and they assisted him in his work around the mission”; however, there is no mention of orphan children in Treaty.

⁴² PAM, MG12 B1, Alexander Morris Papers, Lieutenant Governor collection, Item 412, 20 August 1873, and Item 546 31 October 1873, Campbell to Morris; Item 537, 25 October 1873, Reverend Leduc to Morris; Item 694, 9 April 1874, Laird to Morris; Item 774, 20 June, 1874, Grandin to Morris; Item 897, 4 January 1875, Grandin to Morris; Item 961, 13 March 1875, Laird to Morris.

⁴³ PAM, MG12 B1, Alexander Morris Papers, Ketcheson Collection, Item 210, 28 December 1876, Sister St. Roch to Morris.

assimilative goals. For Grandin, however, the creation of an orphan payroll provided his mission with predictable funding once a year. The treaty money was paid directly to the orphanage and there is no evidence to suggest that the children or their families ever received annuities for their own use.⁴⁴

Evidence suggests that Metis families also used the mission and orphanage strategically - as a tactic for social and economic mobility. Some children had living biological parents. Evidence from scrip, paylists, and withdrawal applications show that some Metis children whose names were placed on the St. Albert Orphans paylists withdrew from treaty and received Metis scrip when it was made available after 1885.⁴⁵ It was not uncommon for Indigenous families and communities to use missions for their own means.⁴⁶ Many Indigenous families choose to send their children to missions in hopes of securing an education and social mobility in what was obviously a changing economic and socio-political world. When considered in this context, it is not unreasonable to speculate that some Metis families in and around Edmonton viewed the St. Albert Mission in this way – as an opportunity to adapt to a changing world. Thus, for a young Metis woman named Julie Bouchard the St. Albert Mission was a place to be educated and

⁴⁴ Many of the children listed as orphans in St. Albert lost their families during the 1868-69 smallpox epidemic. Since by this point many bands were completely destitute and suffering from severe population loss, it is not surprising that many children found themselves under the care of the Grey Nuns of Montreal who had a convent / orphanage / school called Foyer Youville Home at St. Albert, which opened in 1863. This facility operated until it was destroyed by fire in early 1948. Unfortunately most of the documentation the orphanage was lost in a fire. There are a few references to the orphan children at St. Albert in the Oblate records housed at the Provincial Archives of Alberta. PAA, OMI, 71.220, 5442 B.123, St. Albert Codex Historicus, 1875-1884, p. 137, 167.

⁴⁵ Glenbow Archives, Hobbema Indian Agency Series, M4433, *List of Halfbreeds who have withdrawn from Treaty, June 1st, 1888*; Gail Morin, *North West Half Breed Scrip 1885* (Pawtucket: Quintin Publications, 2000).

⁴⁶ Works that reveal the various ways in which Indigenous communities and families both resisted and incorporated aspects of missionaries activities in unexpected ways in western Canada include Kerry Abel *Drum Songs: Glimpses of Dene History*, Second Edition (Montreal: McGill-Queen's University Press, 2005); Raymond Huel, *Proclaiming the Gospel to the Indian and the Metis* (Edmonton: University of Alberta Press, 1996); J. R. Miller "Owen Glendower, Hotspur, and Canadian Indian Policy" in *Ethnohistory* 37, No. 4 (Fall 1990): 386-415 and *Shingwauk's Vision: A History of Native Residential Schools* (Toronto: University of Toronto Press, 1996); Tolly Bradford, *Prophetic Identities: Indigenous Missionaries on British Colonial Frontiers, 1850-1875* (Vancouver: University of British Columbia Press, 2012).

housed while the rest of her family hunted and trapped.⁴⁷ For her parents, providing their daughter with an education may have been a means for increasing her social and economic mobility.

Since there is evidence that children were categorized as orphans by missionaries and Indian agents when they still had living parents, the very meaning of the term orphan needs to be unpacked. The term ‘orphan’ was a colonial construct for administrative and funding purposes, whose meanings would have made little sense to communities who were bound together through kinship ties. Children could simply not be ‘orphaned’ in an Indigenous community – they were part of larger kinship networks that cared for and incorporated children regardless of blood-ties.⁴⁸ The ‘orphan’ category was used by different groups in different ways: Grandin used ‘orphan’ as a means to secure more funding, families used this category as a means of trying to get support, and government used it as a means of organizing people as part of the overall colonizing strategy.

Both the straggler and orphan categories are peculiar because they do not fit within the Canadian government’s own understanding of an ‘Indian band.’ While the straggler category in the Edmonton District primarily consisted of Indigenous women in treaty whose husbands and fathers were not in treaty, the orphan list consisted of children in treaty without their parents, but who were not necessarily deceased. Thus, individuals in both these categories existed outside of what colonial authorities considered normative familial/band structures. These two categories – orphan and straggler - provide an interesting way to examine how colonial policies were reworked and challenged through conflicting perspectives on family, gender and identity; and

⁴⁷ For example, Julie Boucher’s father, Thomas Boucher, claimed St. Albert as his residence on his scrip application in 1885. LAC, RG15, Vol. 1325, NWHB Scrip Claim #680, Thomas Boucher.

⁴⁸ Marilyn Holt, *Indian Orphanages*, (University Press of Kansas, 2001).

how the government constructed these categories to recognize the status of individuals who may not have been recognized as directly affiliated with a band but were entitled to annuity payments.

5.7 Conclusion

Metis communities and individuals in Treaty 6 between 1876 and 1886 employed a range of tactics to resist and challenge ill-thought out government policy. In response to Metis wanting to take treaty, the government was forced to employ adaptive strategies to prevent discontent. Once in treaty, Metis families used tactics to collect treaty while refusing to settle on a reserve or belong to a band. The government was forced to accommodate this tactic by paying people annuities on straggler paylists. Some families chose the tactic of one spouse entering treaty while the other remained outside of treaty, as was often the case with women listed on the Edmonton District Straggler payroll. Some families chose a tactic of ‘orphaning’ one child at the mission to receive an education as a status ‘Indian,’ while the rest of the family remained outside of treaty to hunt and farm. All of these actions and tactics were in one way or another in contradiction to the terms of the *Indian Act*. Government agents had little means to enforce *Indian Act* provisions without risking trouble and their tenuous hold in western Canada and thus acquiesced to those Metis tactics.

In the next Chapter, I delineate the actions and tactics of Indigenous peoples through a quantitative analysis of Treaty 6 paylists. These tactic-strategy tensions are particularly revealing when annuity paylists are analyzed in detail. Paylist data illuminates both the mobility and flexibility of band membership and helps to explain the tactics used by Indigenous peoples in dealing with policies they could do little to control. In the years following the signing of Treaty 6, payroll data tells us where people collected their annuities, and that people often collected it in different bands, and at different locations, from year to year. This movement frustrated colonial

administrators tasked with trying to sort out band membership, and to settle Indigenous peoples on reserves, and in some instances, helped to mitigate repressive colonial policies.

Chapter 6

Indigenous Resistance and Mobility in Treaty 6, 1876-1884

6.1 Introduction

The Canadian state was ill-prepared to deal with not only the numbers of Metis peoples wanting to take treaty, but also the numbers of Indigenous people who continued to travel extensively in search of bison after Treaty 6 was signed. Department of Indian Affairs (DIA) administrators were also unprepared to face the grim economic realities, including the very real threat of starvation for many Indigenous bands. Thus colonial administrators constructed and re-constructed treaty policies in an ad-hoc manner with too little consideration of their impact on Indigenous communities.

While there is a plethora of literature on treaties and colonialism's impact on the lives of Indigenous peoples in western Canada, there are still many policy-related issues and Indigenous responses that have not received adequate scholarly attention. In this chapter, I explain government policies specific to the process of identifying bands and individuals on annuity paylists and settling them on reserves. These annuity lists are important not only because they represent a person by person accounting of the government's economic relationship with 'Treaty Indians,' but these annuity payments were also a yearly renewal of the treaty relationship between the Crown and Indigenous communities. I also use these annuity lists to illustrate many of the arguments made in earlier chapters in relation to Indigenous tactics and resistance; in particular these yearly paylists help to understand Indigenous mobility, band formation, movement between bands, and the dynamics of policy changes on the ground.

Analysis for this chapter is derived from the construction of a detailed database that includes all individuals paid treaty annuities in Treaty 6. This payroll database consists of over 38,000 individual entries belonging to seventy-six respective band designations over a period of fifteen years, 1876-1890.¹ This chapter has three aims: to show that the Canadian state was unprepared to implement and administer Treaty 6, to illuminate the ways in which Indigenous peoples challenged government administrative categories and policies, and finally, to argue that in response to these challenges, the government both altered its policies to accommodate the situation on the ground, and later to coerce recalcitrant bands and individuals onto reserves.

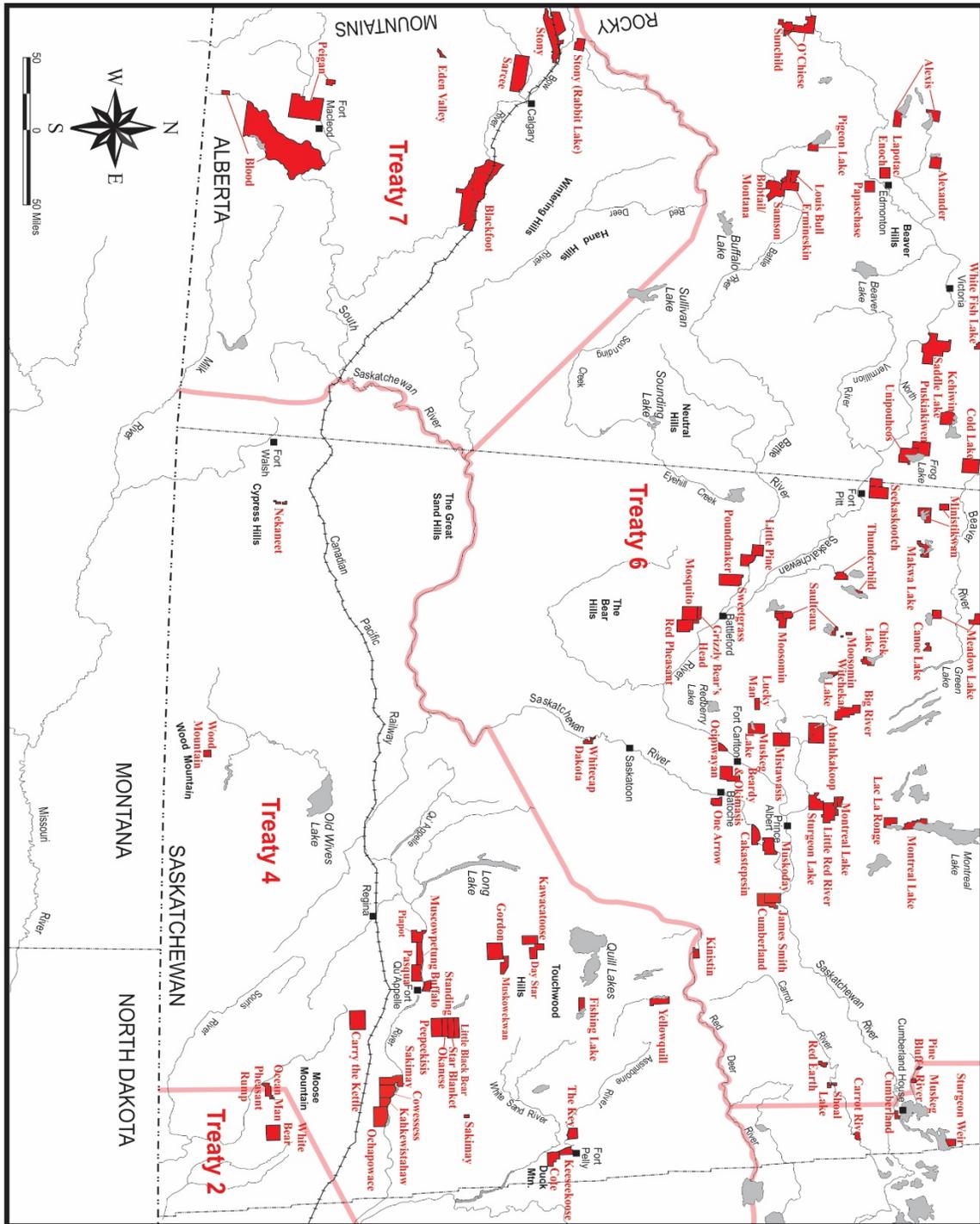
To accomplish these aims this chapter is organized both thematically and chronologically into three sections. The first section explains the payroll data from which my analysis is derived and provides a basic overview of changes in these paylists from 1876 to 1885. The second and third sections of the chapter attempt to explain two crucial transition points in the period prior to the 1885 rebellion. The post 1885 period will be explored in the succeeding chapter.

6.2 Interpreting Paylist Data: Continuity and Change in Band Membership

To better understand how payroll data can help explain the administration of Treaty 6 it is useful to revisit the challenges faced by both the Canadian state and Indigenous peoples as Treaty 6 was negotiated and implemented. This treaty covered a huge geographic and multi-cultural area, and as a result there were many dissenting views on both its terms and legitimacy. The Willow Cree, or ‘Duck Lake Indians,’ for example, three communities under the leadership of Chiefs Kahmawistahwasit (Beardy), Kapeyakwaskonam (One Arrow) and

¹ See Appendix 1.0 for information on data collection methodology and variables.

Figure 6.1 Map of Treaty 6 Reserves



Adapted from map in Deanna Christensen, *Ahtahkakoop* (Shell Lake: Ahtahkakoop Publishing, 2000).

Saswaypew (Cut Nose), refused to attend the official treaty negotiations at Carlton and instead met Treaty Commissioner Alexander Morris halfway between Duck Lake and Carlton. Unable to

receive improved terms of treaty, they reluctantly signed on 28 August 1876. In addition, given the vast territory included in Treaty 6, not all bands and leaders were present during the treaty negotiations. Thus, many bands were unwilling or unable to attend the original Treaty 6 signings in 1876 and entered treaty at later dates through adhesions. For example, Bobtail's band signed in 1877, while bands from the Fort Edmonton vicinity signed in 1879. In the south, Little Pine and Lucky Man bands adhered to Treaty 6 at Fort Walsh (located within the lands designated as Treaty 4) on July 2, 1879. During these first few years of treaty, bands entered at different times, at different locations, and under different circumstances.²

With different bands coming into treaty at different times, government administrators in this early treaty period focused on organizing people in such a way as to keep track of who was entitled to receive annuity payments. After the signings at Fort Carlton on 23 August 1876, and at Fort Pitt on 9 September 1876, chiefs and/or band leaders informed Indian commissioners who belonged to their bands. The clerk in charge of the initial annuity distribution created a paysheet under each leader's designation, and listed the names of heads of families who were present to receive annuities for themselves and family members. It was important, from the government's perspective, to track individuals who entered treaty for the first time since that person would receive a twelve dollar annuity for the first year, and a five dollar annuity thereafter. What the administrators failed to foresee, however, was the significant amount of movement that would take place from year to year, and this movement was difficult to track.

The process of creating 'band' paylists on paper under the direction of band leaders was a seemingly reasonable way to proceed. Government agents assumed that people would be paid annuities with a band leader whom they followed. However, as I argued in the previous chapter,

² Additional adhesions include Big Bear signed an adhesion in 1882, and the Lac La Ronge and Montreal Lake bands to the north signed in 1889.

there were also many people who did not ‘follow’ anyone, as was the case with individuals paid annuities on ‘Straggler’ paylists. These people were individual traders, freighters, labourers, and their families; they were women, some married to men who were not eligible for, or not interested in, treaty. However, all of them had to, at some point, decide on whether or not they wanted to ‘join’ a band – in other words, select a name under which they would be paid their treaty annuity, and a reserve on which they would settle.

In some cases, new bands formed during the process of coming into treaty, which facilitated the Canadian government’s established administrative practice of paying annuities only to people who belonged to bands, rather than as individuals. A group of Metis families from the vicinity of Lac La Biche formed a band under the leadership of Francois Desjarlais, or Peeaysis, when they entered Treaty 6.³ Bands also formed when some people paid on Straggler paylists transferred to a new band payroll. The Tommy Lapotac Band at Stony Plain near Edmonton formed through this process.⁴ Various bands also experienced significant population instability as smaller groups splintered off or joined another band. Bobtail’s band, for example, experienced this type of fluctuation as many of his members left to join other bands or withdrew for scrip in 1886.⁵

The administrative recognition of band designations based on leadership input was a continuous practice from the government’s previous experience for the creation of band annuity paylists. However, in the case of Treaty 6, this practice seemed inadequate given the continued mobility of Indigenous people over a vast landscape and the interconnectedness of Metis and

³ I discuss this band in more detail in Chapter 7. The Peeaysis bands dissolved when most band members withdrew from treaty to apply for scrip in 1886.

⁴ Paylists show that people who joined Lapotac, and later Enoch, were paid on the Tail Creek Stragglers, Papaschase, Edmonton Stragglers, and other paylists. See Chapter 7.

⁵ The dissolution of the Papaschase and Bobtail Bands is discussed in Chapter 7.

Indian identities. For Indigenous communities, band membership was fluid; for government officials, however, band membership was thought to be stable and unchanging. These different views of band membership were embedded in different views of land and territory. For Indigenous communities, flexibility and fluidity permitted mobility across vast territories, which was necessary for survival. For government administrators, the goal was to constrain mobility and carve out reserves. These different perspectives on the meanings of paylists played out in interesting ways in Treaty 6, including the construction of the ‘straggler’ band category.

The construction of the straggler band categories was an attempt to adapt, or administratively ‘capture’ as it were, people with no particular band affiliation; however colonial governance structures were not easily changed. While Indian agents on the ground attempted to adjust policies where they could, overall these adjustments were inefficient and inadequate to meet the needs of people during this period of transition. These elements of colonialism’s vulnerabilities were also exposed during the treaty negotiation process. While the DIA certainly had treaty eligibility policies, when faced with the reality of implementing those policies, the path of least resistance usually won the day. When Chief Red Pheasant and Chief Mistowasis expressed concern that the land rights of Metis be respected by the government, Commissioner Alexander Morris claimed that “there were... a certain class of Indian half-breeds who had always lived in the camp with the Indians and were *in fact* Indians, would be recognized, but no others.”⁶ Morris’s claim, however, rang hollow as hundreds, if not thousands, of Metis entered treaty. Some Metis entered treaty as a band, as was the case with Peeaysis, while others who did

⁶ Morris, *The Treaties of Canada*, 193, 228.

not follow a particular leader were paid treaty annuities as Stragglers.⁷

Stragglers and band members who were at the treaty negotiations, and whose designated leader was willing to agree to the terms of Treaty 6, received an annuity payment in 1876. A tent and table was erected and the clerk distributed annuities to individuals. The clerk recorded each head of family's name on an annuity paysheet that was named after the band's leader or chief. The designated leader's name at the time of treaty negotiations was also used as the 'official' designation for each band. Generally speaking, this was probably the best practice available at the time. However, even though the government experienced challenges and disagreements over band membership in its administration of Treaty 3, DIA administrators failed to reflect on how those challenges could be better addressed in the future. The result was a similar pattern of administration as in Treaty 3, but amplified since there were so many more people in Treaty 6 who were Metis, not affiliated with a band, and moving across a vast landscape in search of bison.

In the immediate aftermath of treaty signings, people moved around, for both want and need. This movement was a source of great frustration for the Canadian state, whose overall mission of western expansion was to settle Indigenous peoples onto reserves opening the land to 'white' settlement. The process of land dispossession through treaties was thought to work in tandem with limiting mobility. However, environmental and economic circumstances of the late 1870s and early 1880s created conditions under which Indigenous peoples would challenge the government's attempts to settle them onto reserves. Mobility, it turned out, was not easily restricted in this period. DIA correspondence files, annual reports and record books provide

⁷ The first Straggler Paylist in Treaty 6 appears in 1878 in the Districts of Battleford and Carlton. However, some Treaty 6 people who were in the vicinity of Fort Walsh in 1876 were paid on Straggler paylists. 'Stragglers Paid at Fort Walsh, Those wishing to draw alone,' Treaty 4, Paylist, Fort Walsh. RG10, C-7145, 1876, 170.

glimpses of this frustration. Charting annuity paysheet totals from year to year graphically illuminates some of the bureaucratic frustration. This data makes it possible to quantify fluctuations in band membership, and glean some insight into where people were going and why.

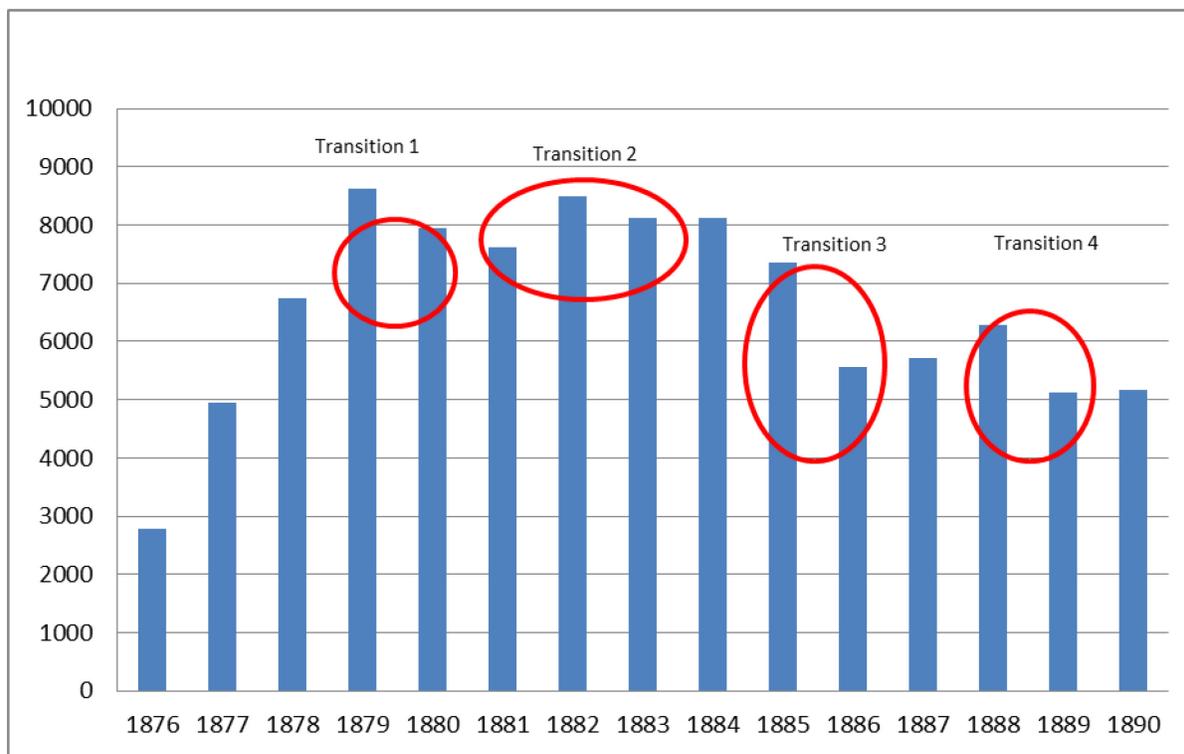
These paylists provide a complex and, at times, confusing picture. There are many ways to sort and link data to reveal new avenues for investigation, often revealing more questions than answers. When this data is used in combination with other historical texts, the meaning of this quantitative data becomes clearer. When the yearly paylist totals are analyzed, volatile population change over time is evident (see Figure 6.2 below).

6.2.a Treaty 6 Paylist Anomalies by Region

Between 1876 and 1879 an increasing number of bands and individuals signed and entered treaty. As the chart of paylist totals below reveals (Figure 6.2), following this initial climb in numbers, there was a significant decline in paylist totals from 1879 to 1880. This decline was followed by an overall increase from 1881-1883. These changes demonstrate not only a high degree of volatility in the yearly distribution of treaty annuities, but also the tactical responses of people changing bands and moving around in a period when bison could still be found on the northern plains. The chart below (Figure 6.2) also shows a significant decline in annuity payments from 1879 to 1880, followed by a significant increase from 1881 to 1883, which is evidence of a range of factors, including tightening membership lists, the need to go south to find provisions, and the movement back north when the bison disappeared in the borderlands. The overall increase in annuity collections from 1881 to 1883 is also an indication of the Canadian state's coercive strategies to remove all the people who were hunting and settling in the Cypress Hills region to more northern reserves far from the 49th parallel. This tension between the tactics of the Indigenous peoples of Treaty 6 and the strategies of the Canadian state illuminates specific points of resistance to the growing pressures of colonialism in this period.

A quick glance at the chart below (Figure 6.2) reveals that during the first three years of Treaty 6 annuity distributions, the overall totals increased as more and more people came into treaty. In 1876, 2785 people were paid annuities on twenty-two separate paysheets under twenty-two respective Chiefs or band leaders. The following year saw a dramatic increase in the number of people collecting annuities as more bands and families presented themselves for treaty payments. In 1877, a total of 4982 people (out of 6390 people counted in the census) presented themselves at a designated location for payment of treaty annuities.⁸ However, annuity payments declined significantly between 1879 and 1880.

Figure 6.2 Yearly Totals of People Paid Annuities in Treaty 6, 1876-1890



⁸ 'Census Returns, Province of Manitoba and North-West Territories,' in the Annual Report of Department of the Interior for the Year Ended June 30th 1877, 171. This leaves 1408 people unaccounted for in 1877.

An increase in annuity collections between 1876 and 1879 (see Figure 6.2 above) is generally demonstrative of bands and individuals not present at the initial signing coming into treaty in the years following 1876. Declining numbers raise questions, however, particularly when considered through the lens of the Canadian state's goals of assimilation and settlement on reserves. The period between 1879 and 1880 (see Figure 6.2 above), shows an overall decline of 968 people collecting annuities, even though there was an increase in the total number of bands from forty-eight to fifty-one. There are a number of factors that contributed to this decline: people following the bison into southern territories, game depletion, changes in payroll distribution policies, changes in band membership, and to a lesser extent, disease.

The period between 1881 and 1883 is also significant. In this instance, however, the payroll totals reveal a sharp increase in the number of annuities distributed. In 1882 the number of individuals who collected annuities increased from 7621 to 8492, a difference of 875 people. There is slight drop in 1883 to 8132 people as members of both Little Pine and Lucky went back to Fort Walsh to join others still at that location. The number of band designations also increases by three, from fifty-three in 1881 to fifty-six in 1883. Overall, the increase in payroll totals between 1881 and 1883 was indicative of those bands hunting in the southern territories moving north to settle on reserves being surveyed for them. The Canadian state, under pressure from the Americans, who did not want 'Canadian Indians' on the borderlands, used coercive strategies to induce people who were hunting and interested in settling in the Cypress Hills further north away from American territory.

6.2.b Edmonton District Paylist Anomalies

While general population changes over time are revealed through yearly totals for Treaty 6, a breakdown of individual band payroll totals provides an additional layer of quantitative evidence. The following series of graphs (Figures 6.3-6.6 below) show the total numbers of

people who received annuities for every band in Treaty 6 between 1876 and 1890. The bands are grouped by regions or districts to make the quantity of information easier to view and interpret. However, it is important to note that these regional boundaries are only approximations as bands were often paid at locations outside their reserves. These regional band groupings provide a general sense of a band's whereabouts. Some bands were paid in *both* Treaty 4 and Treaty 6 territories, which speaks to the high degree of Indigenous mobility and colonial administrative confusion between 1876 and 1884.

A quick glance at the 'Treaty Annuity Totals' (Figures 6.3-6.6 below) reveals a substantial number of interesting anomalies. The overwhelming number of questions that are raised by the fluctuations in payroll totals opens up many new avenues for investigations; so many, in fact, that it would be impossible to address all of them here. However, I address at least of couple anomalies from each district, highlighting in particular the mobility and dispersion of some Indigenous communities in the tumultuous period leading up to the 1885 Rebellion.

The chart below (Figure 6.3) shows every payroll total from between 1876-1890. Analysis of these totals for Edmonton District reveals a great deal of mobility and volatility in band membership numbers. This is very evident from the number of 'straggler' paylists and creation and dissolution of bands as seen in the chart below. While there are some stable or continuous bands, such as Alexander and Alexis, even they experience significant changes in population over time. The Edmonton District experiences a full range of annuity payroll anomalies: straggler bands, band formation (Tommy Lapotac/Enoch), bands separations (Alexis and Ironhead), band dissolutions (Papaschase and Bobtail), and new band categories (St. Albert Orphans).

The 'Tail Creek Indians' payroll appears in 1878 and then disappears in 1879. The Tommy

Lapotac payroll, also of the Edmonton District, is interesting as well. This payroll appears in 1879 then disappears for two years, only to reappear in 1882.⁹ The explanations for the appearance/disappearance of paylists vary from band to band. In some cases the concept of ‘straggler’ may explain this anomaly: if a person did not identify themselves as belonging to any particular band in treaty, but wanted to receive annuities, the Indian agent often placed their name on a ‘straggler’ payroll one year, then assigned them to a designated ‘Indian Band’ the next. In other cases, smaller bands requested to join or amalgamate with larger or other small bands. In these cases the names of the Heads of Families were transferred onto the ‘main’ payroll under a different name. In other cases still, as can be seen with Bobtail, the band had 431 people paid annuities in 1877, then as the band accrued new members it expanded to 549 people in 1878, and finally as some people left to join other bands declined again dramatically.¹⁰

⁹ The ‘Tail Creek Indians’ and ‘Tommy Lapotac’ paylists are examined in greater detail in Chapter 8 as a case study on population mobility and band formation in Treaty 6.

¹⁰ Bobtail band disappears after 1885 as most members leave Treaty to take scrip. Others join neighboring bands of Sampson and Ermineskin, and some join Enoch. This process of band dissolution is discussed further in Chapter 7.

Figure 6.3 Edmonton District Annuity Payment Chart, 1877-1890

Paylist Designation	1877	1878	1879	1880	1881	1882	1883	1884	1885	1886	1887	1888	1889	1890
Alexander	238	286	259	175	218	187	190	224	220	201	187	193	203	211
Alexis	173	61	181	92	149	189	206	199	211*	154	153	156	157	151
Bobtail	431	549	254***	163**	85	90	114	167	127*	35*	Band Dissolved			
Pigeon Lake/Cheepoos/Sharphead	127	147	219	115	162	148	164	192	179	187	128	106	90	86
Ermieskin			187	132	148	107	118	169	104	113*	136*	140*	127	126
Ironhead										61	59	54	55	68
Michel Caillhoo		179	232	187	199	174	167	176	88	54	58	74	75	76
Muddy Bull				59	65	79	88	96	89*	85	64	62	71	66
Northern Saulteaux					93***	238***	21***	28	Unknown					
Papaschase	179	209	227	190	161	201	188	231	194	82	0	Band Dissolved		
Sampson			194	162	174	271	294	319	325*	229*	265*	286*	292	274
St. Albert Orphans	25	27	28	31	30	33	31	30	14	12	11	10	11	13
Stragglers Beaver Hill						17	8	16	7	Join Sharphead or Sampson				
Stragglers Edmonton				389	386	147	147	141	18	0	Most take scrip or join Enoch			
Stragglers Maymay-Nowahow			238	Many names moved to Edmonton Straggler list										
Stragglers Southern ¹								152						
Stragglers Tail Creek		265	Join Lapotac, Stragglers, Sampson, Bobtail, Ermieskin											
Tommy Lapotac Enoch ²			165			199	212	173	138	145	216	183	174	176
Total	1173	1723	2184	1617	1870	2080	1948	2313	1714	1358	1277	1264	1255	1247

* Some or all band members considered 'Rebels' and some or all annuities withheld
 ** Some band members paid in Treaty 4
 *** Band paid in Treaty 4 Territory

¹This paylist is linked to a man named Passpasspachase (different person from the Papaschase at Two Hills and Edmonton) who was paid with Blue Quills Band as No. 2 in 1880. A remark on a later paylist bearing his name in 1884 states that "This man is one of the leaders of the party of Southern Stragglers now settled at Buffalo Lake. As he expects to have next year a large following I thought it advisable to place him at once on a separate paylist." RG10, Volume 9417, Treaty 6 Paylists, 1884, 164.
²This paylist disappears for two years in 1880 and 1881 because Inspector Wadsworth transfers the names of people paid under the "Tommy Lapotac" designation onto the Edmonton and District Stragglers paylist for those years.

The ‘Southern Stragglers’ payroll appeared for only one year in 1884 and consisted of families from various bands, including Blue Quill, Chipewyan’s at Heart Lake, Little Pine, Big Bear, Lucky Man and Battleford Stragglers who were paid at the Bear’s Hills Reserve.¹¹ The person listed as ‘Headman’ on the Southern Stragglers payroll was a man named Passpasschase (different person from the Papaschase at Two Hills and Edmonton) who was paid with Blue Quills Band as No. 2 in 1880. A remark on a separate payroll with his name in 1884 stated that “This man is one of the leaders of the party of Southern Stragglers now settled at Buffalo Lake. As he expects to have next year a large following I thought it advisable to place him at once on a separate payroll.”¹² In this case, the Indian Agent was clearly expecting an “Indian Band” to form with Papaschase as leader, but this did not happen, likely because of the outbreak of violence in the spring of 1885. It is unclear what happened to most of the people paid on the Southern Straggler payroll after 1884. A few were paid with Ermineskin in 1885, but given that the Rebellion broke out that year, it is possible that many of the families listed as ‘Southern Stragglers’ fled southward as so many others did for fear of reprisals.

6.2.c Saddle Lake/Victoria District Paylist Anomalies

The Saddle Lake/Victoria District is closely associated with the Edmonton District and was administered as one district until 1884. Commissioner Dewdney divided Edmonton district into three separate Agencies: the south (Peace Hills) under Samuel Lucas, who was the farming instructor (Bobtail, Ermineskin, Sampson, Sharphead); the east (Victoria/Saddle Lake) under Mr. Mitchell (Muskegawatic, Blue Quill, Seenum, Peeaysis, Kegnaman [sic], Antoine); and the west under William Anderson (Enoch, Alexis, Alexander, Michel, St. Albert Mission Orphans,

¹¹ This reserve is inhabited by the Bobtail, Sampson and Ermineskin bands.

¹² RG10, Volume 9417, Treaty 6 Paylists, “Passpasschase”, October 3rd, 1884, 164.

Stragglers).¹³

In the Edmonton District many Metis families associated with the fur trade were paid as stragglers, and then many either withdrew from treaty or joined local Edmonton bands. In the Saddle Lake/Victoria District a group of Metis families designated themselves the “Peeaysis Indian Band” for the purposes of taking treaty in 1876.¹⁴ There was also a group of Metis families initially designated ‘stragglers’ at Heart Lake in 1877, but they became the Antoine Band shortly after and had a relatively stable band population, as can be seen in the chart below (Figure 6.4), until 1889.

Annuity paylists also reveal band amalgamations. Little Hunter (and later, Thomas Hunter) joined with James Seenum at Saddle Lake in 1887. The chart below (Figure 6.4) also reveals examples of bands splitting, as in the case of Blue Quill. In 1880 Blue Quill or Sîpihtakanep led a group of 100 followers to settle at Egg (Whitford) Lake, leaving the main band under the leadership of Little Hunter. Blue Quill was not a Treaty 6 signatory, but rather a follower of Little Hunter at the time of the treaty signing in 1876. Bear’s Ears (Wahsatnow) also left Little Hunter in 1880 with seventy-nine followers. Thus, in this case, the significant decrease in payroll totals for Little Hunter from 1879 to 1880 is explained by the respective departures of Blue Quill and Bear’s Ears, not necessarily movement southward in search of bison. It is unclear in the records why these men and their followers decided to leave the main group under Little Hunter at Saddle Lake, only to return and eventually re-amalgamate under James Seenum (Pakan) at Saddle Lake in 1887.¹⁵

¹³ William Anderson, Indian Agent, Edmonton, 26 August 1885, Annual Report of Department of Indian Affairs, year ended December 31st 1885, 70.

¹⁴ The Peeaysis Band is examined in greater detail in Chapter 7.

¹⁵ According to the Saddle Lake First Nations community history, “In 1890, J. A. Mitchell, the Indian Agent, persuaded Chief Blue Quill to move back to the Saddle Lake reserve. Agent Mitchell promised that Blue Quill’s

Figure 6.4 Saddle Lake/Victoria District Annuity Payment Totals, 1876-1890

Paylist Designation	1876	1877	1878	1879	1880	1881	1882	1883	1884	1885	1886	1887	1888	1889	1890
Beaver Lake / R. Thompson / Kahquannum					144	130	150	160	165	160*	1*	5*	143*	108	114
Blue Quill	Split from Little Hunter in 1880				100	54	54	65	54	47	31	29	30	27	36
Chipewayan / Heart Lake	84	104	69	52											
Jackfish Creek / Apischamoose					25										
Jacob				19											
James Seenum	157	413	418	480	280	345	338	340	366	344*	276*	280*	291	306	311
James Seenum / T. Hunter / Saddle Lake										39	56	55	96	112	116
Little Hunter / Saddle Lake	35	224	254	262	124	61	102	99	97	30*	2				
Muskegwaic (Wasathow)					79	75	99	78	81	48	46	41	39	42	40
Peeaysis	50	97	201	308	152	152	172	176	150	24*	10	7	17	14	15
Stragglers / Antoine / Heart Lake / Chip		37	89	96	100	87	84	79	82	82	83	80	84	88	66
Victoria						28									
TOTAL	326	875	1031	1217	1004	932	999	997	995	774	505	497	700	697	698

* Some or all band members considered 'Rebels' and some or all annuities withheld

Band would have 30 acres of land broken for them at Saddle Lake, be given six cows, and compensation for the house a band member had built at their former location. Chief Blue Quill settled on the western end of Saddle Lake.” *Pimohtheskanaw (the Path)*, Blue Quills First Nations College, 30th Anniversary Edition, 2001, 3.

Little Hunter's influence started to decline in the late 1870s, possibly due to illness, and he died in 1882.¹⁶ In 1881 the payroll totals for Blue Quill decrease by almost fifty percent, from 100 to fifty-four people. I was able to trace six of the ten families on various paylists in the Edmonton/Peace Hills and Saddle Lake/Victoria districts: two families appeared on the Ermineskin and Battleford Stragglers paylists respectively, one family on the Edmonton Stragglers payroll, and one on Red Pheasant's list.¹⁷ Thus, there were a number of families whose names appear on three different paylists in three years – a strong indication not only of the mobility of families in the pre-1885 period, but also of the continuing flexibility of band membership as Indian agents struggled to administratively sort out the paylists.

The James Seenum band was composed of two groups. One group settled at Whitefish Lake (IR 128), while another group, along with most of the early followers of Little Hunter settled at Saddle Lake (IR 125). This latter group changed leadership after the death of Little Hunter in 1882. Headman Kake Kake (Fred Desjarlais) became leader, although not chief. Kake Kake was a councillor signatory to Treaty 6. According to remarks on the payroll, in 1880 he retired as headman. He travelled to Fort Walsh in 1881 and returned in 1882 and the Little Hunter payroll designation is changed to 'Kake Kake followers' for this year, and then later to Thomas Hunter.¹⁸ All these groups - Seenum's, Thomas Hunter's and Blue Quill's followers, were eventually amalgamated in 1887 at Saddle Lake on one large reserve block.

Some payroll anomalies have no obvious or clear explanations. The appearance of the

¹⁶ Devine, *The People Who Own Themselves*, 146.

¹⁷ I traced the following families who left the Blue Quill band in 1881: Kisano (no. 4 Blue Quill, no. 27 Ermineskin), Paysawis (no. 10 Blue Quill, no.10 Battleford Stragglers, Sowootequan (no. 15 Blue Quill, no. 28 Ermineskin), Charles Baptiste (no. 18 Blue Quill, no. 153 Edmonton Stragglers), Mrs. Sweet Grass (no. 20 Blue Quill, no. 20 Battleford Stragglers), Jean Baptiste (no. 21 Blue Quill, no. 37 Red Pheasant).

¹⁸“Final maps of the reserves were completed in 1887, and on May 17, 1889. Order in Council P.C 1151 confirmed Whitefish Lake I.R 128 for “part of Pakan’s Band”; Saddle Lake I.R 125 for the bands of Chiefs Little Hunter, James Seenum and Blue Quill; and Wahsatenow I.R 126 for the band of Chief Bear’s Ears.” Saddle Lake First Nations, online access: <http://www.saddlelake.ca/t6.swf> [Accessed 28 April 2015].

Jackfish Creek payroll for one year in 1880 is an anomaly that remains unclear. There were only five families paid on this list in 1880 at Battleford. Two of the five families appear on the Yellow Sky/Moosomin payroll of 1881 on a reserve located at Jack Fish Creek near Battleford. The Yellow Sky/Moosomin band had received their annuities at Battleford in 1880. Thus, it stands to reason that the small group of families paid under the designation of Jackfish Creek in 1880 were either already connected to Yellow Sky/Moosomin, or decided to join with them to settle at Jack Fish Creek. The Moosomin Band was forced to surrender their reserve in 1909 after the railway cut through their land and facing intense pressure from ‘white’ settlers and government officials.¹⁹

The Victoria Indians payroll designation also appears for one year only. There were five families paid on this list in 1881. These families were stragglers from various bands in the Saddle Lake district: Blue Quill, Battleford Stragglers, James Seenum and Little Hunter. It appears as though these families were paid on the same payroll due to their proximity to the locality, not because they formed a cohesive group. I traced three of the five families on the 1882 paylists; two of them appear in the Edmonton District on Tommy Lapotac and Edmonton Stragglers, while one family appears at Whitefish Lake with James Seenum.

6.2.d Prince Albert/Carlton Paylist Anomalies

Compared to the other three districts, the chart showing the annuity totals for the Prince Albert/Carlton District (Figure 6.5 below) shows relative stability in this period. There are a couple groups of ‘stragglers’, Carlton and Green Lake, but otherwise annuity payroll totals are fairly stable. There is some movement between bands, perhaps an indication of familial ties, however there are no major amalgamations or dissolutions as experienced in Saddle

¹⁹ Indian Claims Commission, Inquiry into the 1909 Reserve Land Surrender Claim of Moosomin First Nation, 1997.

Lake/Victoria and Edmonton Districts. The chart below (Figure 6.5) also shows the appearance of two new bands after 1885, Cumberland and William Charles. These additions were the result of an adhesion to Treaty 6. There were many bands that were considered ‘rebels’ by the Canadian government after the 1885 Rebellion and they had some or all annuities withheld between 1885 and 1888. Generally speaking, large decreases in annuity totals in this early period (1879-80) are the result of three factors: families away hunting, transfers into other bands and death.

The chart below (Figure 6.5) shows that Attackakoop’s paylists had a large number of annuitants from 1876-1879, and then dropped significantly from 270 people in 1879 to 195 people in 1880. This does not necessarily mean, however, that seventy-five people left the band to hunt or transferred into another band that year. Families also moved into this band, and there were births and deaths to account for as well. A breakdown of the changes noted on the 1880 paylists (see Figure 6.5 below) from the previous year shows that 114 people who were paid annuities in 1879 were not paid on the Attackakoop paylist in 1880.²⁰ This is an example of a Treaty 4 band from the region around the Crooked Lakes Agency being paid in Treaty 6 territory for one year. The substantial drop in Lucky Mans paylist totals from 1882 to 1883 was due to the band splitting. Some members followed Lucky Man in an attempt to settle near Battleford, while others refused to leave the borderlands region around the vicinity of Fort Walsh and Cypress Hills.

²⁰ Attackakoop Paylist Numbers: Total Paid 1879: 270; Total Paid 1880: 195; Difference: 75; Total Births: 1; Total Deaths 7; Total Enter/Return: 43; Total Absent/Transferred: 114; Discrepancy in difference unaccounted for 2.

Figure 6.5 Prince Albert/Carlton District Annuity Paysheet Totals, 1876-1890

Paylist Designation	1876	1877	1878	1879	1880	1881	1882	1883	1884	1885	1886	1887	1888	1889	1890
Attackakoop	276	293	304	270	195	188	185	192	180	201*	182*	188*	185*	157	182
Beardy	333	296	122	216	157	83	160	153	139	149*	146*	142*	133*	129	132
Chekastapasin	82	100	95	65	107	98	81	79	52	52*	62*	58*	19*		
Cumberland											74	75	93	96	93
James Roberts													278	334	320
James Smith ¹	74	97	111	105	104	139	134	142	142	257	145	141	127	137	117
John Smith ²	129	140	166	161	182	182	171	194	187	209	185	130	133	123	124
Keapahawakenuum / Green Lake		99	57	56	71	65	47	52	58	58*	58*	58*	66*	51	55
Mistawasis ³	314	319	281	251	233**	224	210	226	191	194*	190*	165*	168*	156	155
O'Kenasis / Saswaypew		Pd in Beardy	70	31	85	97	98	113	105	105*	105*	105*	86*	29	25
One Arrow / Kahpayatwais-Kaway		Pd in Beardy	96	58	88	93	91	127	92	92*	91*	91*	91*	88	94
Petaquay / Keetowayhow / Muskeg Lake	164	189	205	217	214	196	163	166	129	119*	118*	97*	93*	69 ⁴	64
Saysewah / Pelican Lake / Keenematayo			67	63	73	112	77	99	106	102*	107*	106*	131*	129	133
Stragglers Carlton				175	94	33	50		61						
Stragglers: Green Lake						61	52	109							
William Charles													99	101	97
William Twatt	107	147	155	161	139	140	154	141	148	155	148	146	149	136	145
Total	1479	1680	1904	1748	1681	1728	1623	1793	1590	1693	1611	1502	1851	1735	1736

* Some or all band members considered 'Rebels' and some or all annuities withheld
 ** Some band members paid in Treaty 4

¹The decline in the James Smith band is due to a number of families transferring to Cumberland. No reason is provided in the remarks.
²The sharp decline in the annuity total for the John Smith paylist in 1886 is due to people withdrawing from treaty to apply for scrip.
³It is difficult to pin point exactly why the Mistawasis Band had gradual decline. Rather, it seems to be a combination of death, some transfers into other bands, and a few families who withdraw from treaty for scrip.
⁴Most of the decline is annuity total for Petaquakey after 1888 is due to withdrawals from treaty for scrip.

A search through the paylists shows that eleven families totalling fifty-four people transferred into various other bands in 1880, which accounts for a large portion of the decrease. Three families transferred to Mistawasis, three families went to Keenematayo, two families to Keetowayhow, two families to Green Lake, and another to Petequakey. There were also eight deaths accounted for in the paylists, five men and three boys. One man was noted to have drowned, and the cause of death was not noted for the others. Two families who were noted absent returned to Attackakoop in 1881, but there was no indication where they had been. There are still families, however, that I was unable to account for in the paylists after 1879. Thus, while many families transferred into other bands and appear on other paylists, others may have gone south to hunt and remained there for a few years. Given the frequent changes in the spelling of names it is unlikely that these remaining thirteen families can be traced with any degree of certainty.

The Beardy paylists provide an interesting example of the complexities of band payroll designations intersecting with band or group identities. Chiefs Beardy and Okemasis signed treaty on behalf of the Willow Cree Indians from the vicinity of Duck Lake in 1876 (see Chapter 4). All the people who were considered “Willow Cree” were paid on one payroll called “Beardy” with a total of 333 annuities paid. However, this single designation did not take into account that the Willow Cree consisted of at least three different groups who were loosely associated. As a result, the Beardy payroll splits into three separate lists: Beardy, Okemasis and One Arrow. These bands continue to have their own payroll past the end date of this study.²¹

²¹ The Indian agent for Duck Lake noted the death of Chief Beardy in 1889: “On the 16th of April last the well-known “Chief Beardy” died from general debility and old age.” R. S. McKenzie, Indian Agent, Duck Lake, 16 September 1889, Annual Report of Department of Indian Affairs, year ended December 31st 1889, 68. Wadworth’s response to Beardy’s death was reflective of how the influential Chief was viewed by the Department of Indian Affairs: “Ex-Chief Beardy, once such a source of trouble to the department, paid the last debt of nature since my last

Most of the decline in annuity totals for Okemasis after 1888 was due to nine families (thirty-nine people) who either transferred or left the band in 1889. Three families transferred to One Arrow, one family to Beardy, two families were noted to be in the United States, and three families have unknown whereabouts. There is a fair amount of movement of families between these lists over the course of this study, demonstrating the interconnectedness, yet distinctiveness of these bands and how these complexities challenged colonial categories and bureaucratic practices.

6.2.e Battleford District Paylist Anomalies

The chart for the Battleford District (Figure 6.6 below), similar to Edmonton District chart (Figure 6.3 above), reveals a large number of people who collected annuities under the ‘straggler’ designation. There were many small bands in this district. Many people from this district traveled into southern territories around Fort Walsh and Cypress Hills to hunt bison during the first few years of treaty. Every paylist in this district was considered a ‘rebel paylist’ after the 1885 Resistance. In the Battleford District the ‘Sakemas Assiniboines,’ or Sakimay, had a paylist in 1878, were paid arrears for 1876 and 1877 in that year, but had no other paylist filed under Treaty 6.

The Battleford District also has a number of interesting fluctuations in 1883 and 1884. For example, the Loonskin/Strike Him on the Back paylist disappears in 1884, meanwhile the Sweet Grass paylist totals rise dramatically. Close examination of these two paylists, combined with other historical documentation, reveals connections between these bands that explain the

inspection. His demise is hardly to be regretted, as he remained to the last a heathen, a strict observer of old-time heathen rites, and an obstacle to the work of christianizing and civilizing the Indians. Okemasis, who was, until recently, a man of energy and an example to his followers, so far as regards farm work on his reserve, was so reduced by ill-health as to be almost incapacitated from performing any work whatever. He has some chronic affection that the doctor’s skill cannot reach.” RG10, File 67091, Edmonton District Files, Agent DeCazes monthly reports, 1890-91.

disappearance of one and the growth of the other. Chief Sweet Grass was a Treaty 6 signatory at Fort Pitt, but died only six months after the treaty was signed. His son, Young Sweet Grass (Apseenes) became hereditary Chief, but the band was splintering into factions. Over the next few years, unable to hold the various factions together, Young Sweet Grass left the reserve with seventeen followers and joined Chief Strike Him on the Back in 1882 on his reserve at Battle River.

Figure 6.6 Battleford District Annuity Paysheet Totals, 1876-1890

Paylist Designation	1876	1877	1878	1879	1880	1881	1882	1883	1884	1885	1886	1887	1888	1889	1890
Stragglers: Battleford			101	97	307	209	188	532	201	184*	9*	147*	147*		
Bear's Head							189	127	104	104*	62*	92*	92*	26	23
Big Bear				120***			244***	360	494	488*	488*	0*			
Keheewin	56	89	206	287	165	163	134	149	145	147*	95*	130*	134	90	100
Kinoosayoo / Fish Chipewayan	58	167	107	104	114	118	113	113	120	120*	135*	132*	134	119	152
Lean Man							74	47	37	37*	23*	31*	32*	9	4
Little Pine				319***	600***	785***	697***	418	309	309*	124*	297*	320*	127	112
Loonskin / Strike him on the Back	78	122	105	221**	145	116	190	225							
Lucky Man				456***	754***	791***	868***	367	82	82*	12*	62*	63*	4	14
Mahkayo Wemisiticoo-Seeahwasis			98	104	92	68	64	75	113	113*	91*	91*	68	89	89
Moosomin / Yellow Sky			50	122	174	99	98	101	142	126	98*	125*	117*	110	105
Mosquito (Stony)				217	286	231	162	126	118	119*	91*	104*	103*	71	62
Nipahases								82	98	89*	39*	59*	45		
Oonepowhayo / Tuskatakeeskwaize	179	143	160	137	102	72	60	73	66	66*	60*	68*	80	42	58
Oopuskee-yahkaywee ¹		26													
Paymootayahsoo		145	168	208	76	47	10	16	28	28*	13*	24*	24	3	3
Poundnaker				107	185	96	164	156	233	224*	134*	200*	198*	129	125
Puskeeahkeewenin			183	225	51	15	40	37	31	31*	21*	30*	28	30	26
Red Pheasant	105	184	217	203	148	136	139	105	142	129*	110*	127*	131*	115	120
Sakemas / Assiniboines			116												
Seekaskootch	187	202	276	255	136	108	144	167	169	169*	143*	179*	215	137	146
Stragglers: Fort Pitt					39	21	13								
Stragglers: Little Poplar								87	95*	1*	82*	82*			
Sweet Grass		236	97		31	10	17	17	317	327*	181*	286*	284*	151	147
Sweet Grass Son / Onion Lake			157**	91				18	18	18*	12*	14*	14	16	18
Thunder / Peeyaseewah	81	56	151	210	27***	0	74**	6	5	5*	3*	3*	3	2	4
Thunderchild					189	6	86	78	149	150*	121*	132*	148*	176	173
Young Chipewayans					40	0	26	17	18	18*	15*	14*	12		
Total	980	1231	2095	3483	3634	3091	3794	3394	3226	3178	2081	2429	2474	1446	1481

¹This paylist lists five families with Oopuskeeyahkaywee as their leader. They were paid together at Fort Pitt for one year. I was able to trace two of the five families to the Puskeeahkeewenin paylists in 1878, but do not know what happened to Chief Oopuskeeyahkaywee.

* Some or all band members considered 'Rebels' and some or all annuities withheld
 ** Some band members paid in Treaty 4
 *** Band paid in Treaty 4 Territory

Chief Strike Him on the Back had been a Treaty 6 signatory at Carlton on behalf of a group of Willow Cree Indians. Strike Him on the Back's band was very determined to claim a reserve in the Eagle Hills (same vicinity as Red Pheasant), but he was told that there was no good land left. Wadsworth observed in his 1881 Report that "as his band is fast leaving him, no doubt in a year or two there will be enough for himself and his brothers."²² It is not clear, however, why people were "fast leaving" Strike Him's band. People may have been leaving because they wanted to settle and were not pleased that Strike Him was holding out for a reserve in the Eagle Hills. There are numerous instances through 1880-1881 of band members leaving the reserve for various reasons – sometimes to hunt, but often to meet with other leaders and headmen of other bands to discuss their frustrations with the slow pace of government fulfilling its treaty promises. An excerpt from Indian Agent Reed's annual Report highlights some of this mobility and frustration:

The whole of Thunder Child's band left the reserve selected for him early in March and remained with Strike Him's until starting off with Poundmaker, leaving but six or seven behind who aided Strike Him's band. Moosomin has had but thirty odd souls on his reserve during the spring, the rest having left and joined Thunder Child, - the latter will not return to the reserve selected for him unless Farming Instructor Clink is dismissed, that is, he gives this as his reason but my impression is that the fact of desiring to be near Poundmaker and Strike Him's bands has greater weight with him. It would be absurd to allow him to remain on the spot selected by himself, as there is not over a thousand acres of good land.²³

Reed's frustration was "owing to the trouble experienced in keeping the Indians on their reserves."²⁴ Based on Reed's observations, combined with the fluctuations in payroll totals for various Battleford District bands, there was a great deal of turmoil and confusion as leaders and

²² T. P. Wadsworth, Inspector of North-West Territories Indian Agencies, Winnipeg, 1 December 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, 124.

²³ Hayter Reed, Indian Agent, Battleford, 26 May 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, xiv. It is unclear whether there is actually an issue with Clink.

²⁴ Hayter Reed, Indian Agent, Battleford, 9 July 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, xv.

their followers tried to figure out where their best chances for a future lay.

Young Sweet Grass and his seventeen followers joined with Strike Him on the Back in 1882. In 1884, however, Strike Him on the Back was removed as Chief and Young Sweet Grass took his place as leader. J. M. Rae commented on the retirement of Strike Him on the Back in his 1884 Annual Report:

Strike him on the back, who was too old, has been replaced by Young Sweet Grass as chief. This has been of great benefit, both to the Department and the Indians, as they have done a very great deal of work, and the band has increased through stragglers and others belonging to the band to over 300 souls, and much praise is due to their Instructor, Mr. Ballendine, who manages them well.²⁵

When Strike Him on the Back was removed as Chief, so to was the payroll designation. Names of people still belonging to the Strike Him on the Back band were transferred to the Sweet Grass payroll, which, along with the a number of ‘stragglers’ as mentioned by Agent Rae, explains the large increase in the payroll total in 1884.

The Nipahases payroll is interesting because it appeared in 1883 and then disappeared five years later in 1888. The 1883 the payroll shows that the Nipahases band was formed primarily from families that were at Fort Walsh in 1882, but also included families from Lucky Man, Little Pine, Northern Saulteaux and Sounding Lake. This band formation coincides with the government’s push to get people out of the Fort Walsh and Cypress Hills borderland region. Inspector Wadsworth commented in 1884 that Thunder Child and Nipahase bands had joined with Moosomin. On the paylists, however, they maintain their separate band designations. According to Wadsworth,

These Indians removed to this reserve early last spring, Thunder Child and his followers having worked with the Moosomin Band the previous year, and Nipahase coming directly from Cypress. Together they number one hundred and

²⁵ J. M. Rae, Indian Agent, Battleford, 13 October 1884, Annual Report of Department of Indian Affairs, year ended December 31st 1884, 84.

seventy-five souls. Forty men, women and boys are able to do work.²⁶ Nipahases was considered by the Department of Indian Affairs to be a “subsidiary band” to the ‘main’ bands of Moosomin and Thunderchild.

The Thunder Companion/Peeyaseewahkaweechakoot paylists in 1880 and 1881 are odd in that they are paid for only twenty-seven people in Treaty 4 at Fort Walsh in 1880 and for no one in 1881. There is a designated paylist for Thunder Companion in 1881 in Treaty 6, but it is blank, and there is no list for this band in Treaty 4 that year. It is possible this band followed bison into the United States and were unable to make it back to Fort Walsh for annuity payments. In 1880, the Indian Agent for Treaty 4 Allan McDonald, paid \$18,152 to Treaty 6 people at Fort Walsh whom he found too “poor and deficient of horses to move north to their respective places of payments.”²⁷ In 1882, however, Thunder Companion was back at Fort Walsh and received annuities. A few of this band’s members received annuities in Treaty 6 in 1883 at Onion Lake, but it appears as though most of this band either stayed in the United States or joined with other bands in Treaty 4.

Comparing and contrasting paylist totals from year to year gives us a general sense of both change and continuity over time; however the figures alone can be very misleading. For example, it is not evident how many people in treaty were receiving annuity payments for the first time in any given year, or how many people officially withdrew from treaty versus those who were away hunting or fishing. The number of band designations also changes from year to year – new bands entered treaty, others left treaty, split into separate groups, or amalgamated

²⁶ T. P. Wadsworth, Inspector of Indian Agencies and Superintendent of Indian Farms, Edmonton, 25 October 1884, Annual Report of Department of Indian Affairs, year ended December 31st 1884, 151-152. J. M. Rae also commented on the success of Nipahases in his Annual Report. J. M. Rae, Indian Agent, Battleford, 13 October 1884, Annual Report of Department of Indian Affairs, year ended December 31st 1884, 84.

²⁷ A. McDonald, Indian Agent, Treaty 4, Qu’Appelle, 12 September 1880, Annual Report for the Department of Indian Affairs, for the year ended December 31st 1880, 104-105.

with other bands. The number of variables that may account for change in payroll totals is challenging to quantify. The overall total number of annuities distributed may increase in a given year due to new people coming into treaty, but the numbers of band members already in treaty may decline at the same time. For example, if 100 people entered treaty, but thirty people left treaty, a change of seventy would be reflected in the figures. However, ‘seventy’ does not explain the total movement into and out of treaty for the given year. Thus, in order to understand the change occurring, or perhaps continuity, from year to year, we need to distinguish between the types of movement taking place. In the next section I attempt to explain in more detail the dynamics of the first significant crisis annuity payments.

The government treated with the people of the plains thinking that there would be plenty of time to gradually transition people onto reserves; however, the decline of the bison created the necessity to supply provisions very quickly. The government’s inability to adjust to this new reality created a crisis of provisioning and starvation on reserves. As a result, hundreds, if not thousands, of people were forced to follow the bison south in hopes of a more secure food supply.

6.3 Coming into Treaty, Going out to Hunt: Starvation in Treaty 6, 1879-1880

The first year of annuity payments made immediately after the treaty signing would prove a much easier task than the years following. Between 1877 and 1879 the paylists are confusing and difficult to follow, a reflection of the administrative confusion as agents struggled to figure out who belonged to which band and sort out an overall policy for annuity distribution. The first few years of Treaty 6 implementation were frustrating for everyone. Indigenous communities were constantly disappointed and angry with delays in the delivery of provisions and supplies. The Canadian government’s failure to adequately provision Indigenous

communities led members of many bands to leave in search of bison resulting in the first significant period of transition (1879-1880).

In this period, Indian agents and the Indian Commissioner were often left looking inept and feeling embarrassed about the lack of provisions. Even though the Canadian state had many years of experience with annuity distribution in other regions, administrative practices in western Canada were slow to adapt to inclement weather, inhospitable landscapes and lack of infrastructure. Lawrence Vankoughnet, Deputy Superintendent General of Indian Affairs, acknowledged some of this incompetence in 1879:

Some embarrassment was, however, occasioned through delay in the transportation of the money to Battleford. This was caused through failure on the part of the Hudson Bay Company to furnish transport at as early a date as was expected for the Farming Instructors, their supplies, and the officer in charge of the party, who had also under his care the money for making the payments among the Indians of the Saskatchewan. The difficulty was, however, to some extent got over by cheques being issued by the Indian Commissioner for the North-West Territories and the Indian Agent at Battleford, which were accepted at par by the Indians and by the traders.²⁸

Indigenous confidence in government representatives' abilities to produce not only annuities, but also, and perhaps more importantly, provisions, and the farming implements and seed promised in the treaty, declined radically in the period 1879-80.

While the administrators in Ottawa wanted to settle and 'civilize the Indians', the reality in western Canada was that there was no easy way to provide the provisions and guidance promised. Vankoughnet made it clear in his 1879 *Annual Report* that Indigenous peoples' ability to leave and hunt saved the government from complete administrative failure:

The Indians are at the present date for the most part still following the buffalo, and it is a subject for thankfulness that such is the case; as the Commissioner reports that were it found necessary to feed three-fourths of the Indians in the North-

²⁸ Lawrence Vankoughnet, Deputy Superintendent General of Indian Affairs, Ottawa, 31 December 1879, Annual Report of Department of the Interior, year ended December 31st 1879, 13.

West, the supplies of provisions sent to the Territories would not last more than one month.²⁹

In this crisis of provisioning and starvation many people from many different bands, hopeful that there were bison in the southern territories, left their reserves to go south into the borderlands. This movement south, in some cases, is captured on annuity paysheets. However, the analysis of movement into and out of bands is complicated by the range in band size, making comparisons of total annuities paid over time a challenge. To overcome this problem I analyzed the annuity totals on a per band basis by comparing the *percentage difference* of change for each significant transition year, rather than simply the number of annuities distributed. Bands with comparatively high fluctuations are investigated further to reveal factors to account for the change. The following charts show, on a per district basis, bands that experienced a decline in annuities during the 1879-1880 period.³⁰ For each 'District Percentage Difference Chart' I provide some descriptive analysis to draw out implications of this transition.

6.3.a Edmonton/Saddle Lake Districts: Percentage Difference and Movement Out of Attackakoop Band in 1880

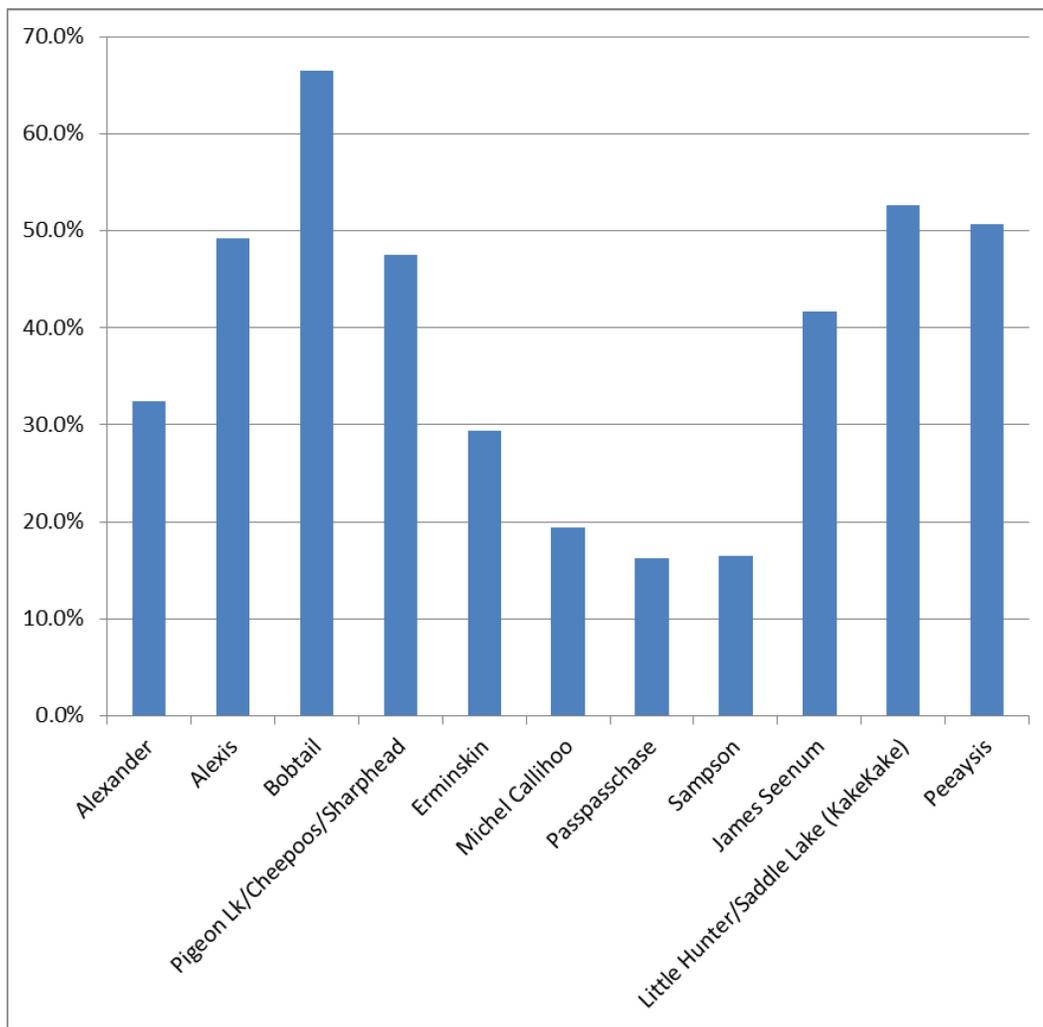
The Bobtail, Little Hunter and Peeaysis bands (see Figure 6.7 below) experienced the most dramatic decreases in annuity totals in the period 1879-80. Bobtail's band entered treaty in 1877 through an adherence to Treaty 6 during the Treaty 7 signing. Afterwards, many band members traveled south to hunt in the vicinity of Fort Walsh and Cypress Hills, a common theme in this period. In 1879, the paylists at Fort Walsh show that thirty-one people belonging to Bobtail received annuities at that location. In 1880, that number drops to thirteen. However, 254 members of the Bobtail band were paid at Battleford in 1879, and only eighty-five people paid at

²⁹ Ibid., 14. For literature on the failure of Government agricultural policies see Sarah Carter, *Lost Harvests*. By 1879 there were six farming instructors were located throughout the Treaty Six territory at Prince Albert, Duck Lake (near Carlton), Battleford, Fort Pitt, Saddle Lake (near Victoria), and Edmonton.

³⁰ I did not include 'Straggler' paylists in this analysis, since I have previously established that these lists are highly unstable in terms of population fluctuation.

Peace Hills in 1880 (see Figure 6.2 above), the site of their reserve. The sharp decline in the annuity totals in 1879 and 1880 is also indicative of Bobtail’s declining influence in the pre-Rebellion period. When Bobtail’s members returned to the Peace Hills later on, many of them choose to join Sampson’s, Ermineskin’s bands at Peace Hills, or Tommy Lapotac’s band at Edmonton.³¹

Figure 6.7 Percent Difference for Annuity Totals that Decrease in Edmonton/Saddle Lake/Victoria Districts, 1879-1880³²



³¹ Ermineskin and Sampson were not yet Chiefs in 1878, but become accorded that status by 1879-1880 as Chief Bobtail’s influence started to wane.

³² For this early transition period, 1879-80, I combined the Edmonton and Saddle Lake Districts, which were administered as one district in this period.

In comparison with the Edmonton District the Prince Albert/Carlton District showed more stability in the 1879-80 period (see Figure 6.5 above). However, Attackakoop and Beardy both experience significant outward movement compared to other bands in this district (see Figure 6.8 below). In the case of Attackakoop, much of the movement can be traced to other bands. Figure 6.8a (below) shows the various bands into which members of Attackakoop transferred in 1880. As noted earlier the number members receiving annuities in Attackakoop's band declined from 270 in 1879 to 195 in 1880. Of this decrease of seventy-five annuitants, I tracked sixty-three people who had either transferred to other bands or died. The remaining twelve people were absent from the paysheets. The numbers for Attackakoop tell us that, while many families may have been away on the hunt, others were not yet settled with one particular band.

Figure 6.8 Percentage Difference for Annuity Totals that Decrease in the Prince Albert/Carlton Districts, 1879-1880

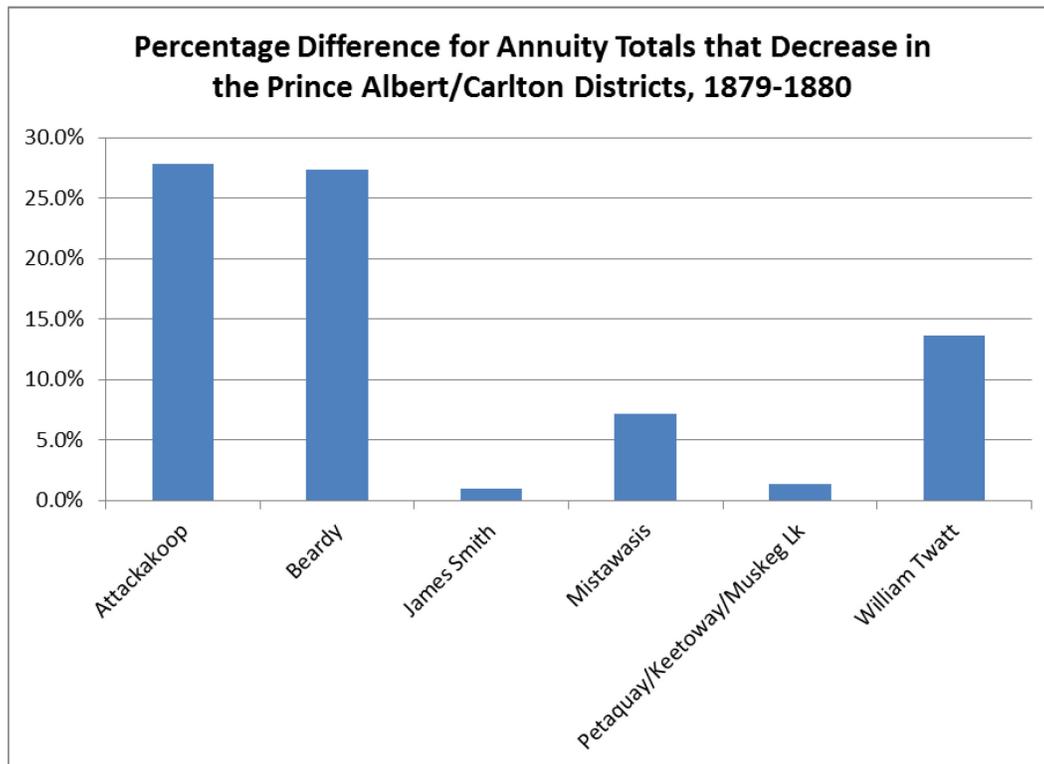
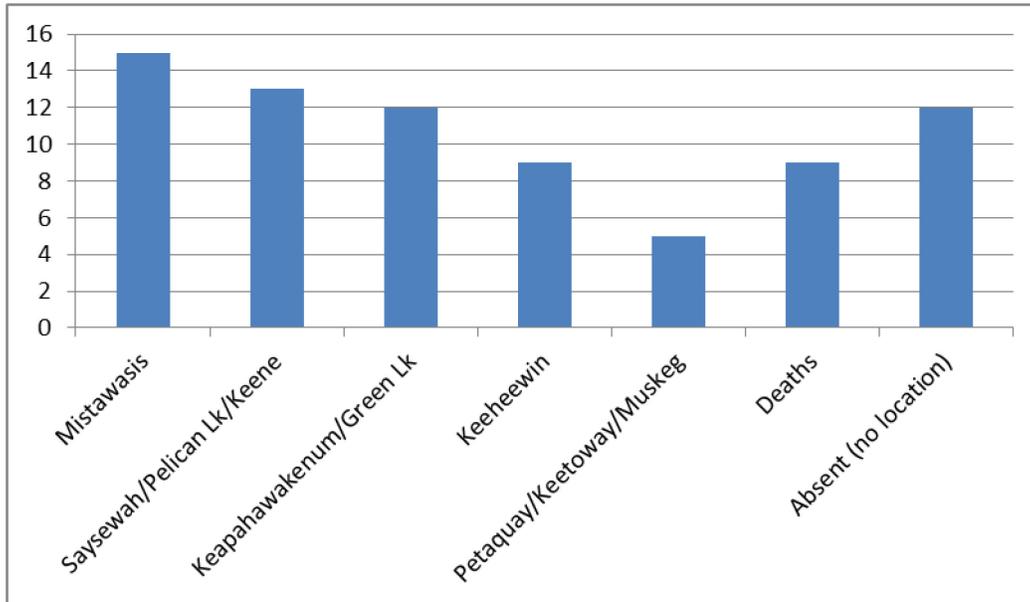


Figure 6.8a Movement Out of Attackakoop in 1880



This movement out of Attackakoop’s band is yet another example of the fluidity of band membership in this period of transition. This change in band membership was generally tolerated by government officials, in large part because administrators had no choice. As much as the Department of Indian Affairs wanted people to stop moving around, with the bureaucratic confusion and logistical challenges of implementing treaty promises, Indian agents on the ground were, for the most part, left to their own devices. With no instructions, Indian agents simply added new members to their paylists and paid the annuities.

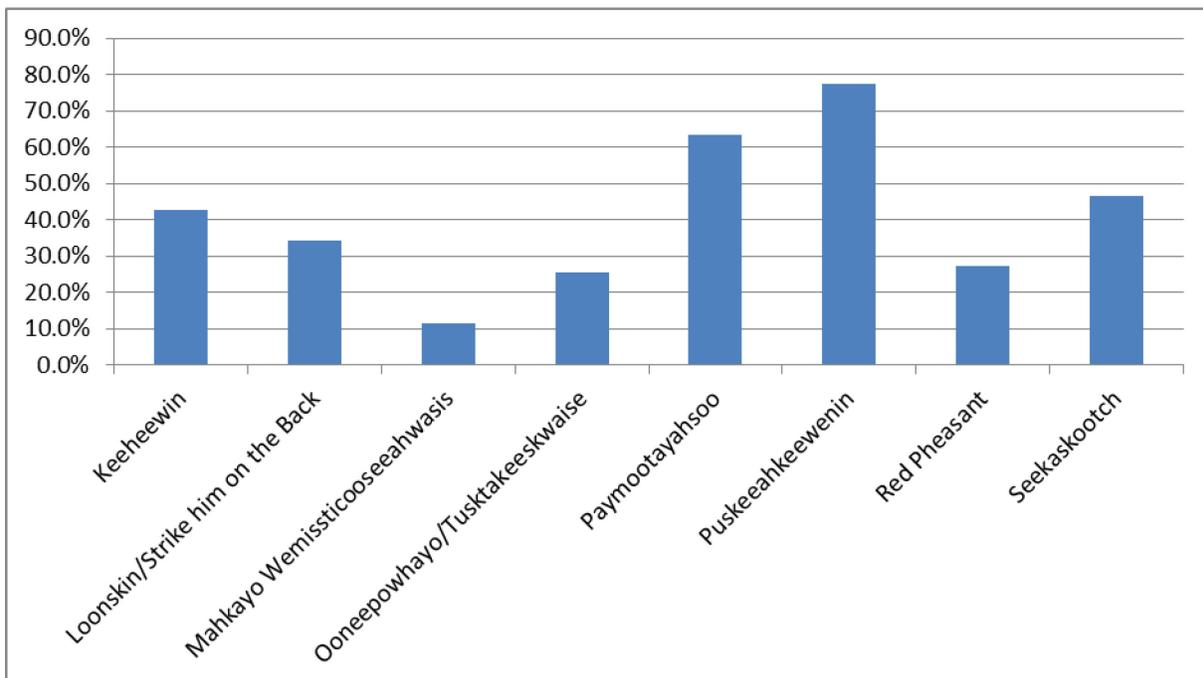
6.3.b Battleford District Percentage Difference

The Battleford District was particularly volatile in 1879-80. As Figure 6.9 (below) demonstrates, many bands experienced a high level of change from one year to the next. In particular, Puskeeahkeewenin and Paymootayahsoo both have differences over sixty percent. The relatively close proximity of many bands in the Battleford District to the Cypress Hills and Fort Walsh regions partially explains the high rate of decline in annuity payments. However, as

the chart below (Figure 6.9a) indicates, there was also a great deal of movement between bands.

The Puskeeahkeewin Band (see Figure 6.9 below) experienced significant decline in the collection of annuities in the period 1879-80 (over 75%). The total number of members collecting annuities in 1879 was 225 and declined to 51 members in 1881 (a drop of 174 members). This drastic decline was due to a combination of factors: the scattering of families to hunt, movement into other bands, and very likely, the absence of band leadership. According to notations made by Indian agents on the paysheets, Chief Puskeeahkeewin was away in the vicinity of the Cypress Hills and Fort Walsh in 1880. Meanwhile, two of his main headmen (councillors) Paypahmaynooskinemun and Meesickitoo, left the Band and were paid annuities in 1880 as Battleford Stragglers.

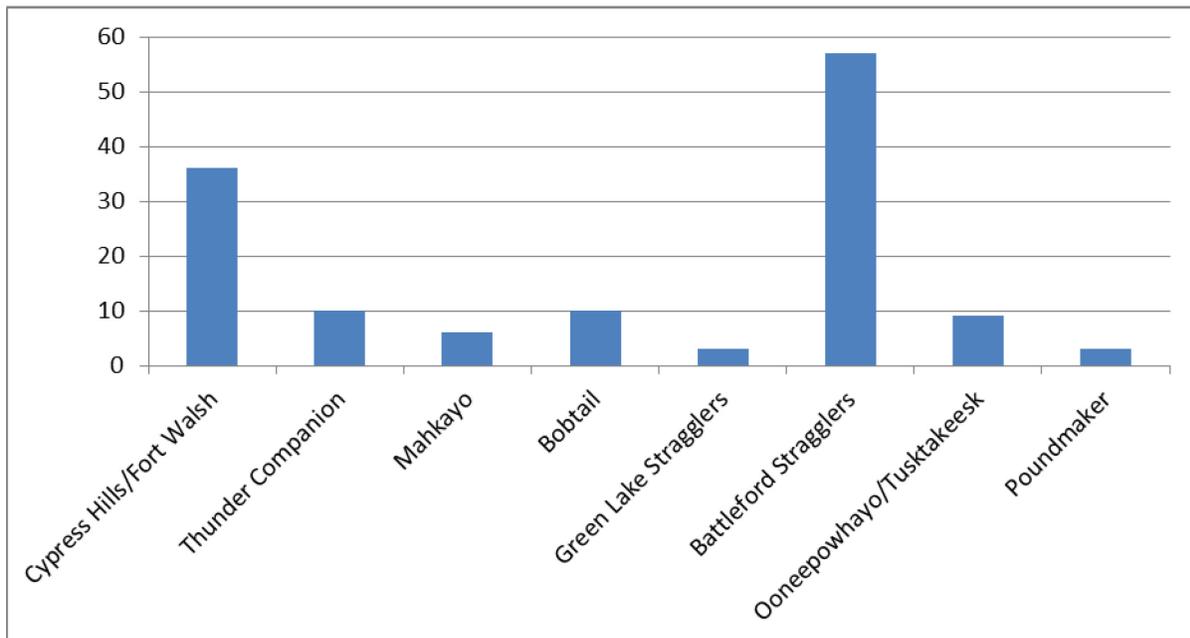
Figure 6.9 Percentage Difference for Annuity Totals that Decrease in the Battleford District, 1879-1880



Another man from the Puskeeahkeewin Band, Muskawwpit, left to join Thunder Companion and was appointed a councillor with that community in 1880. Chief Puskeeahkeewin

returned from Fort Walsh and was paid annuities at Frog Lake in 1882. By that time, he only had ten families with him, three of which were new to the Band. Assistant Indian Commissioner, Hayter Reed, reported in 1881 that “There was a complete exodus to the south in search of buffalo...”³³ And in reference to Puskeeahkewin’s band, he claimed that they “straggle” to Battleford and were “sorely pressed with a desire of proceeding southward.”³⁴ By 1884, according to Indian Inspector Wadsworth, Chief Puskeeahkewin’s band “has gradually dwindled away. They now number thirty-one souls.”³⁵ As families returned from the south, many of them did not return to the band with whom they had been paid in 1879. Rather, they were paid as stragglers at Battleford or with various other bands in 1880 and 1881. As the chart below (Figure 6.9a) indicates, there was also a great deal of movement between bands.

Figure 6.9a Movement Out of Puskeeahkeewin 1880



³³ Hayter Reed, Indian Agent, Battleford, 14 November 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, 80.

³⁴ Ibid., 81.

³⁵ T. P. Wadsworth, Inspector of Indian Agencies and Superintendent of Indian Farms, Edmonton, 25 October 1884, Annual Report of Department of Indian Affairs, year ended December 31st 1884, 148.

6.3.c Mobility and Administration in Treaty 6

While some bands remained relatively stable through this period, others experienced a dramatic decrease in annuity totals. Some of this change can be explained by proximity to Fort Walsh and Cypress Hills and the need to hunt. Other factors, including leadership and familial connections, were significant as families decided what was in their best interests in terms of settlement on reserves. Group identities likely factored into these important decisions to some extent; however, as discussed in earlier chapters, familial and individual identity did not necessarily equate to one's paylist designation. The amount of movement between various bands in this period demonstrates that administrators were both unable and unwilling to keep people associated with a single band. Commissioner Dewdney, for example, expecting a large number of people with reserves in the north to return from the hunt in the southern regions, warned Indian agents that it was inadvisable to encourage people onto reserves when they can still hunt since the government did not have enough provisions to feed people who settled down.³⁶ Thus, while the overall goal of DIA policies in this period was to encourage people to stop moving around and settle in one location, Indian agents were often left to adapt these policies to the realities of the time or risk discontent.

The 1879-80 period of transition was a difficult time for most people on the plains. The Department of Indian Affairs Annual Reports for these years contain a plethora of references to the difficulties finding game. Dewdney commented in 1880 that "there are numbers of helpless women and orphans, who can with difficulty get from their friends sufficient to exist on when food is comparatively plentiful; but in times such as these they are discarded, and the

³⁶ Edgar Dewdney, Indian Commissioner, Ottawa, 1 January 1882, Annual Report of Department of Indian Affairs, year ended December 31st 1881, 38.

Government must feed them or they will die like rotten sheep on the prairie.”³⁷ By 1881, Indian agent Anderson at Edmonton noted that “helpless women [were] flocking into the post...” and resulted in the establishment of soup kitchens at Peace Hills, Riviere Qui Barre, Victoria, Saddle Lake, and Whitefish Lake to ensure that people who could not leave to hunt did not starve to death.³⁸

The difficulties in delivering treaty promises, which contributed further to the need for people to leave on hunts, arose from a myriad of administrative challenges in annuity distribution. The process of procuring money for the payment of annuities was frustrating, difficult, and costly for the Canadian state. The banking infrastructure in western Canada in the late 1870’s and early 1880’s was almost non-existent, and there was very little cash to be found anywhere. The HBC was the primary source of financial transactions, and mostly consisted of barter, not cash. There was a bank at Fort Benton in Montana, and it was through this institution along with the I. G. Baker Company and Hudson’s Bay Company that the Canadian government procured the cash and implements required for treaty payments.³⁹ However, as with most financial and contractual arrangements in the nineteenth century, patronage and sometimes fraud, were almost always part of the equation.⁴⁰ The procurement of funds and implements by the

³⁷ Edgar Dewdney, Indian Commissioner, Ottawa, 31 December, Annual Report of Department of Indian Affairs, year ended December 31st 1880, 94.

³⁸ William Anderson, Indian Agent, Edmonton, 13 December 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, 84.

³⁹ RG10, Vol. 3602, File 1760, No. 1421, E. Dewdney, Indian Commissioner to Deputy Minister of In Indian Affairs, 7 March 1882; No. 1962, Deputy Minister of Finance to Supt.-Gen. of Indian Affairs, 27 May 1882; No. 2401, Elliot Galt, Assistant Commissioner, Winnipeg, to Supt.-Gen. of Indian Affairs, 21 June 1882; No. 2331, Elliot Galt, Assistant Commissioner, Winnipeg, to Supt.-Gen. of Indian Affairs, 6 July 1882.

⁴⁰ For example, in 1873 Prime Minister J. A. Macdonald was accused of taking bribes in the Pacific Scandal. For an article on patronage in the DIA, see Vic Satzewich ‘Patronage, Moral Regulation and the Recruitment of Indian Affairs Personnel, 1879–1900,’ in the *Canadian Review of Sociology/Revue canadienne de sociologie* 33 (2), 213–234, May 1996. Inspector T. P. Wadsworth accused Commissioner E. Dewdney of having benefited personally from contracts awarded to I. G. Baker: “... what did I. G. Baker pay you to receive their contract goods.” File 42781, Government House Regina, E. Dewdney to Sir John A. Macdonald, Ottawa, Private letter [date not provided] July 1884, 5/26.

Department of Indian Affairs for distribution to the Treaty 6 peoples was no different.⁴¹ The government's general lack of knowledge of Treaty 6 people also made it difficult to provide reasonable estimates for the number of people expected to collect annuities. As discussed in Chapter Four, there were many more people in the vicinity of Fort Walsh demanding annuity payments than was expected. While instructions to the NWMP Assistant Commandant, A. G. Irvine, in charge of annuity distribution, were initially to turn away people who did not 'belong' to that agency, Irvine circumvented his orders. Fearful of unrest among the thousands of people who insisted they receive their annuity payment at that location, Irvine paid them. This meant he was short funds. Politically, this was a sensitive issue. The overdrawn amounts were "met by loans effected with Messrs. Baker and Co. of Montana and with the Hudson's Bay Company."⁴² However, the Auditor General expressed concern that requests for additional money would be met with protests from the opposition in Parliament.

In view of the impossibility of obtaining the customary authority of his Excellency for an advance, to be covered by the Supplementary Estimates next session, in time to prevent drafts being protested I have the honor to request that you will obtain permission, for this Department to use indiscriminately for Indian purposes in Manitoba and the N.W.T., the amounts included under the several votes, without reference to the special objects of those votes.⁴³

Thus, he suggested, funds should be shifted around to make up for the shortfall, without requiring any new funds for the Indian Branch.

There continued to be problems procuring enough money to pay annuities throughout Treaty 6. As late as 1882, Indian Agent William Anderson at Edmonton reported great difficulty in acquiring enough cash to make annuity payments. He resorted to providing vouchers to traders

⁴¹ James Daschuk discusses Indian Commissioner Edgar Dewdney's personal and financial interest in the I. G. Baker Company and accusations of corruption in the Department of Indian Affairs in his book, *Clearing the Plains*, 137-151.

⁴² RG10, Vol. 3658, File 9399 ½, J. L. McDougall, Auditor General to [unnamed], 18 October 1878.

⁴³ Ibid.

as a means of raising funds. These vouchers were to be cashed at Winnipeg since the Hudson's Bay Company refused to acknowledge the vouchers at Edmonton:

The Hudson's Bay Company refused to advance money on a voucher for Annuity Payments. They stated that they have had so much trouble with the Department Vouchers being returned and they being kept so long out of their money that they wish to deal as little as possible in the article.⁴⁴

The logistical challenges of delivering annuity monies and lack of banking infrastructure, combined with a general lack of knowledge about the people and the territory of Treaty 6 created a perfect storm of colonial maladministration.

In this situation people needed to hunt to survive. They went south in search of bison and requested to be paid their annuities in the vicinity of Fort Walsh. Even if some were willing to travel northward to their reserves, most did not have the food supplies to make the journey.⁴⁵ There was also a great deal of sickness. Agent Edwin Allen commented that while "Lucky Man wants to settle at Battleford – they had been south and were very destitute and suffering from scarlet fever."⁴⁶ With so many Treaty 6 people in the vicinity of Fort Walsh who either could not or would not go north, there was a flurry of correspondence between DIA officials as they attempted to devise a strategy to get people to leave the region. Telegrams were sent from Fort Walsh to Ottawa stating that Cree and Saulteaux people refused to go to their designated payment locations because they were heading south to hunt.⁴⁷ Agents on the ground were hesitant to push people to leave for fear of discontent. NWMP comptroller Irvine, for example, recommended that "to avoid dissatisfaction those formerly paid at Walsh be paid there this year

⁴⁴ RG10, Vol. 3602, File 1760, No. 1718, William Anderson, Indian Agent Treaty Six, Letter to the Office of the Commissioner, 8 November 1882.

⁴⁵ A. MacDonald, Indian Agent Treaty No. 4, Qu'Appelle, 12 September 1880, Annual Report of Department of Indian Affairs, year ended December 31st 1880, 105.

⁴⁶ Edwin Allen, Indian Agent, Fort Walsh, 30 September 1880, Annual Report of Department of Indian Affairs, year ended December 31st 1880, 106.

⁴⁷ RG10, Vol. 3658, File 9399 ½, A. G. Irvine, Fort Walsh, Telegram to R. W. Scott, Ottawa, 4 August 1878.

and not taken from Buffalo. Money can be obtained from Bakers Co.”⁴⁸

Figure 6.9 below shows the Treaty 6 bands and members of bands located around Fort Walsh in the pre-Rebellion period.

Figure 6.10 Treaty 6 Peoples Paid Annuities in Vicinity of Cypress Hills and Fort Walsh, 1876-1884

Band Affiliation	1876	1877	1878	1879	1880	1881	1882	1883	1884
Bobtail				31	78				
Strike Him on the Back/Loonskin				169					
Northern Saulteaux						93	238	21	
Little Pine				319	600	785	697		
Lucky Man				456	754	791	868		
Stragglers*	8	11				1077	857		
Mistawasis					3				
Sweet Grass				66					
Annual Total	8	11	0	1041	1435	2746	2660	21	
*Population includes both Treaty 4 and Treaty 6 peoples									
Paid in Treaty 4									
Paid in Both Treaty 4 and 6									

The DIA wanted to push people onto reserves and restrict their mobility, but the economic realities of life on the plains and the failure to provision Treaty 6 bands adequately undercut the Department’s influence. Indian agents and the NWMP could not induce people to stay put and starve waiting for the Canadian state to sort out its logistical problems. Bureaucratic failures meant that families needed to travel extensively for food, and tragically, these failures

⁴⁸ RG10, Vol. 3658, File 9399 ½, R. W. Scott, Ottawa, Telegram to Governor Laird, Battleford, 14 August 1878.

sometimes resulted in severe sickness and death.⁴⁹ In the meantime, colonial agents dealing with local realities were left trying to sort out annuity payments for people who were spatially challenging administrative mechanisms. The tactical responses of Indigenous peoples highlights the limitations of colonialism's reach at certain points in its evolution. While official policy had specific aims to settle and assimilate Indigenous peoples, the guiding force behind the implementation of policy during the 1879-80 period was the fear of Indigenous discontent.

6.4 Coming in from the Plains, 1881-1883

After the decrease in annuity payments between 1879 and 1880, there was an overall increase in these payments between 1881 and 1883. This increase was indicative of the Canadian state's coercive strategy to remove people from the borderland region, particularly in the vicinity of Cypress Hills. Faced with increasing pressures from the Canadian state, the American government's hostility to "Canadian Indians" in their territory, and the near disappearance of the bison, even in American territory, large numbers of people started heading north in the spring of 1881.⁵⁰ From the Canadian government's perspective, this was a welcome development. The contested borderland region caused problematic international relations with the Americans and undermined the Canadian government's goal of settling Indigenous peoples on reserves so as to open the west for newcomers. However, mandated budget retrenchment from the Treasury

⁴⁹ For more on the role of Canadian Indian policy on the health of Indigenous peoples in this period see James Dashuck *Clearing the Plains* (2013); Maureen Lux, *Medicine that Walks: Disease, Medicine, and Canadian Plains Native People, 1880-1940*, (University of Toronto Press, 2001).

⁵⁰ RG10, Volume 3744, File 29506- 1, Indian Agent Edwin Allen, Fort Walsh to Indian Commissioner E. Dewdney, Winnipeg, Letter dated May 4 1881. For more on the role of imposition and impact of the imagined line between American and Canadian territory on Indigenous peoples, see Michel Hogue's *Metis and the Medicine Line: Creating a Border and Dividing a People* (Chapel Hill: University of North Carolina Press; Regina: University of Regina Press, 2015); David McCrady's *Living with Strangers: The Nineteenth-Century Sioux and the Canadian-American Borderlands* (Lincoln: University of Nebraska Press, 2006); Sterling Evan's (ed.), *The Borderlands of the American and Canadian Wests: Essays on Regional History of the Forty-ninth Parallel* (Lincoln and London: University of Nebraska Press, 2006), Katie Pollock, "From Borderlands to Bordered Lands: The Plains Metis and the 49th Parallel, 1869-1885," (MA Thesis, University of Alberta, 2009).

Department and an obsession with reducing the growing budgetary allocations for rations and provisions, resulted in a new ‘work for rations’ policy. This, in turn, created the conditions that led to the Rebellion of 1885.⁵¹

Even if people wanted to leave the borderlands region, and many did not, it was an arduous task. With successful bison hunts a rare event, thousands of people were in destitute conditions for want of food and clothing. The agent at Fort Walsh, Edwin Allen, concerned about mass starvation, requested that Indian Commissioner Dewdney approve providing provisions for bands willing to undertake the long journey north to their reserves. He was nervous that discontent could escalate into violence at any moment and was determined to avoid large gatherings, worried that when people “feel their strength, become unruly and are difficult to manage.”⁵² Allen received the permission he sought, but was instructed to emphasize that the ‘work for rations policy’ would be enforced as soon as people arrived at their designated reserve.⁵³ This, of course further served to dissuade, rather than encourage people to leave. In the meantime, feeling budget pressures from Deputy Superintendent Vankoughnet, Dewdney instructed Allen to “cut down the rations in the event of the Indians refusing to proceed to their Reserves.”⁵⁴ The implementation of further ration reductions only served to upset people already hungry, angry and desperate for some relief.⁵⁵ In what was incredibly bad timing, the Canadian

⁵¹ See P. B. Waite’s *Arduous Destiny: Canada 1874-96* (Toronto: McClelland and Stewart, 1971), 148, for an overall view of the Canadian government’s budget deficits and cuts for this period.

⁵² RG10, Volume 3744, File 29506- 1, Indian Agent E. Allen, Fort Walsh, to Indian Commissioner E. Dewdney, Winnipeg, Letter dated 4 May 1881.

⁵³ RG10, Volume 3744, File 29506- 1, Indian Commissioner E. Dewdney, Winnipeg, to Indian Agent E. Allen, Fort Walsh, Letter dated 20 May 1881.

⁵⁴ RG10, Volume 3744, File 29506- 1, Item no. 2295, Assistant Indian Commissioner E. Galt, Winnipeg, to Superintendent General of Indian Affairs J. A. Macdonald, Ottawa, Letter dated 24 May 1881.

⁵⁵ In addition to the people at Fort Walsh who desperately required provisions, there were thousands of destitute and starving people in the borderlands around Fort Macleod. In May of 1881, Assistant Commissioner Galt reported over “6000 Indians” at that location. RG10, Volume 3744, File 29506- 1, Assistant Indian Commissioner E. Galt to Acting Superintendent General of Indian Affairs L. Vankoughnet, Ottawa, Letter dated 27 May 1881.

government tried to limit the expenditures of the DIA just as displaced bands needed more assistance and support than ever, and just as administrators on the ground needed to be able to exercise discretion and flexibility.

In attempt to counter, or at least control, the rising cost of food rations and equipment needed in the west,⁵⁶ government administrators put in place a number of policy initiatives, including a ‘work for rations’ policy and the requirement that annuity payments be paid on designated reserves only. The directive of a ‘work for rations’ policy came from Deputy Superintendent General of Indian Affairs Lawrence Vankoughnet:

Strict instructions have been given to the agents to require labor from able-bodied Indians for any supplies given them. This principle was laid down for the sake of the moral effect that it would have upon the Indians in shewing them that they must give something in return for what they receive, and also for the purpose of preventing them from hereafter expecting gratuitous assistance from the Government.⁵⁷

He also instructed Indian agents to implement a strict policy of annuity payments on reserves.

This was necessary, he stated, to not only avoid “embarrassment to the Department”, but to restrict the Indigenous peoples’ mobility:

It is to be hoped that next season the payments will be made for the most part upon the various reserves in the Territories, and thus avoid the congregating of large numbers of Indians at one point, which is always attended with expense and embarrassment to the Department, and loss of time and interruption of work to the Indians, who have to leave their farms or gardens, and go, some of them long distances, to the places of payment for their money.⁵⁸

Along with these changes, Indian agents were also instructed by Dewdney to “issue annuity

⁵⁶ Supplies for “destitute Indians” in the period 1881-1882 amounted to over \$500,000.00 out of a total Indians Affairs budget of \$1,183,414.40. Auditor General’s Report for 1881-82, in *Sessional Papers*, 1883, No. 6. Department of Indian Affairs, “Appropriation Accounts for Fiscal Year ended 30th June 1882,” 335.

⁵⁷ Lawrence Vankoughnet, Deputy Superintendent General of Indian Affairs, Ottawa, 31 December 1879, Annual Report of Department of the Interior, year ended December 31st 1879, 12. This policy is often mistakenly attributed to Hayter Reed.

⁵⁸ Lawrence Vankoughnet, Deputy Superintendent General of Indian Affairs, Ottawa, 31 December 1879, Annual Report of Department of the Interior, year ended December 31st 1879, 14.

tickets (and simultaneous payments) in order to prevent the collection of multiple payments. Children must be present in order to be paid.”⁵⁹ Dewdney claimed that the ticket system would further restrict mobility in order to reduce the number of people who were collecting annuity payments at more than one location.⁶⁰ Dewdney’s claims of fraud, however, are difficult to substantiate from the paylists.

With so many people still in the borderlands, the issue of annuity distribution on reserves was not a top priority for Indian agents on the ground. While Vankoughnet was concerned about costs, Dewdney and Galt were more concerned to push people out of the borderlands and onto designated reserves. Assistant Indian Commissioner Galt instructed Agent Allen at Fort Walsh to do all he could to “prevent Indians from again crossing the line. To use every endeavor to get Crees to go North to their reservations and not remain about Walsh.”⁶¹ This proved difficult. In 1881 people were not ready to completely let go of the hope of a good hunt across the line. Big Bear’s camp, for example, was reported to have “returned back towards Missouri to hunt Buffalo” even though he had been expected at Fort Walsh to sign treaty.⁶²

During the summer of 1881, when Allen was trying to convince destitute people at Walsh to head back to their designated reserve locations, the Indian Agent at Battleford, Hayter Reed, could not keep people already there from leaving and heading south in hopes of one last successful bison hunt. In the spring of 1881, Reed reported difficulty “in keeping the Indians on

⁵⁹ Edgar Dewdney, Indian Commissioner, Ottawa, 31 December 1880, *Annual Report of Department of Indian Affairs*, year ended December 31st 1880, 84-87, 93; L. W. Orde, Indian Agent, Battleford, 18 November 1880, *Annual Report of Department of Indian Affairs*, year ended December 31st 1880, 84-87. There were some claims that people would receive annuities for children that did not exist, but these claims are unsubstantiated and difficult to prove or disprove by looking at the paylists.

⁶⁰ See charts 6.1-6.4 Annuity Totals.

⁶¹ RG10, Volume 3744, File 29506- 1, Assistant Indian Commissioner E. Galt to Acting Superintendent General of Indian Affairs L. Vankoughnet, Ottawa, Letter dated 4 June 1881.

⁶² RG10, Volume 3744, File 29506-1, No. 31069, Indian Agent Edwin Allen, Fort Walsh, to Asst. Indian Commissioner E. Galt, Winnipeg, Telegram dated 29 June 1881.

their reserves in the neighborhood of this place during seed time....”⁶³ Puskeehkewen’s band, he claimed, were “stragglings” to Battleford and “sorely pressed with a desire of proceeding southward.”⁶⁴ Discontent and frustration also resulted in rumours of violence that further convinced people that they should leave their reserve and head south.⁶⁵ In reference to Strike Him’s band, Reed commented that

...it was a matter of difficulty to restrain [this Band] from joining the others at the outstart [sic], for all manner of devices were used, not only to influence them, but others to accompany the malcontents. For instance Poundmaker’s party circulated a report that 800 soldiers had landed at Prince Albert in order to take all the Indians prisoners, and abuse their wives and daughters. This had such a terrifying effect upon them, that suddenly one morning they were all in the greatest bustle repairing carts, harnesses &c., getting in horses and loading up, preparatory to a flight to the plains, that it was with the greatest difficulty they could be persuaded to the contrary and remain longer.⁶⁶

There were other instances in 1881 of bands leaving reserves for various reasons – sometimes to hunt, but often to meet with the leaders of other bands to discuss their frustrations with the slow pace of the government fulfilling its treaty promises.⁶⁷ From Fort Walsh Allen reported to Assistant Indian Commissioner Galt that

340 Battleford Indians arrived here from the north enroute to the buffalo, they claim that they were allowed to leave their reservations by consent of their agent. They were in very pitiful condition on arrival here, having been nearly starved to death on the journey. I told them I could not allow them to remain here, they either had to proceed to hunt or return to their Reservation, they promised to proceed to hunt, but

⁶³ Hayter Reed, Indian Agent, Battleford, 9 July 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, xv.

⁶⁴ Hayter Reed, Indian Agent, Battleford, 14 November 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, 81.

⁶⁵ Hayter Reed, Indian Agent, Battleford, 9 July 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, xvi.

⁶⁶ Hayter Reed, Indian Agent, Battleford, 9 July 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, xvi.

⁶⁷ Hayter Reed, Indian Agent, Battleford, 26 May 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, xiv.

the weather has kept them from moving as yet.”⁶⁸

Indian Agent Reed denied giving consent, but he could not prevent people from leaving their reserves.

To the dismay of Indian agents, people used mobility as a tactic against the Canadian state’s policies they considered detrimental to their survival. While they were in the vicinity of Fort Walsh, Agent Allen paid their annuities to forestall discontent even though the DIA had tried to implement a policy of only paying annuities on reserves.⁶⁹ There was some movement back to reserves by the end of 1881, and while this was the goal of the DIA, Dewdney warned that it was not advisable for people to stay on reserves when they could still hunt. The government, he claimed, did not have enough provisions to feed people who settled down.⁷⁰ Indian agent Reed was determined, however, to try and restrict mobility by curtailing relief to anyone in need unless they were on their reserve. Much to Reed’s consternation, his efforts were often undermined: “all sorts of devices are practiced in order to overcome this, such as coming to a forbidden reserve, and leaving old people and children on it, knowing well they could not be turned off.”⁷¹

During the summer of 1881 Fort Walsh was an administrative and humanitarian mess. Disobeying Vankoughnet’s orders, Indian agent Allen, working in coordination with NWMP Col. Irvine, tried to limit trouble by distributing rations, however inadequate, and paying annuities there. Justifying his non-compliance with departmental policy, Allen explained that:

⁶⁸ RG10, Volume 3744, File 29506- 1, Assistant Indian Commissioner E. Galt to Acting Superintendent General of Indian Affairs L. Vankoughnet, Ottawa, Letter dated 4 June 1881; RG10, Volume 3744, File 29506-1, Indian Agent Allen, Fort Walsh, to Assistant Indian Commissioner E. Galt, Winnipeg, Letter dated 14 June 1881.

⁶⁹ Edgar Dewdney, Indian Commissioner, Ottawa, 1 January 1882, Annual Report of Department of Indian Affairs, year ended December 31st 1881, 37.

⁷⁰ Edgar Dewdney, Indian Commissioner, Ottawa, 1 January 1882, Annual Report of Department of Indian Affairs, year ended December 31st 1881, 38.

⁷¹ Hayter Reed, Indian Agent, Battleford, 9 July 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, xviii.

“In conceding to Col. Irvine’s wishes, I considered it the best policy to adopt as I was alarmed that a stubborn resistance on my part might base the government a great deal of trouble in case of dissatisfaction among the Indians.”⁷² Concerned about the increasing discontent at Fort Walsh, and the costs associated with the rations, Galt requested that Inspector of Indian Agencies, T. P. Wadsworth, who had recently arrived at Fort Walsh, to assist Allen and Irvine to “control” the situation on the ground.⁷³

Vankoughnet agreed to Galt’s request, and Wadsworth remained to help distribute rations and over 3000 annuities at Fort Walsh during the summer of 1881.⁷⁴ While Wadsworth’s instructions from Galt were to “use your discretion about rationing Indians,” he was also directed that “No Indians but those you consider belong to Cypress should be paid there.”⁷⁵ Forcing people to relocate to receive annuities was impractical, however, as Galt explained the situation to Wadsworth.

It is the policy of the Government to keep the Indians on their Reservations as much as possible, and to that end to feed there only – and if they choose to roam about the Country they must not be permitted to think that they can go to any Post and receive a similar Ration to those Indians who belong there...you must use your discretion in these matters keeping down the expenditure as much as possible while at the same time making sure that peace and order will be preserved. You are on the spot and in a position to judge how far we can go in endeavoring to insist upon these Northern Indians going home without causing trouble.⁷⁶

Using his discretion, Wadsworth earned the ire of Vankoughnet who was concerned about the continued expense of rations at Fort Walsh, and the inability of Wadsworth to convince people to

⁷² RG10, Volume 3744, File 29506-1, No. 31069, Indian Agent Edwin Allen, Fort Walsh, to Asst. Indian Commissioner E. Galt, Letter dated 27 June 1881.

⁷³ RG10, Volume 3744, File 29506-1, No. 31069, Assistant Indian Commissioner E. Galt, Winnipeg, to Acting Superintendent of Indian Affairs, L. Vankoughnet, Ottawa, Telegram dated 13 July 1881.

⁷⁴ RG10, Volume 3744, File 29506-1, No. 31069, Assistant Indian Commissioner E. Galt, Winnipeg, to Acting Superintendent of Indian Affairs, L. Vankoughnet, Ottawa, Telegram dated 13 July 1881.

⁷⁵ RG10, Volume 3744, File 29506-1, Assistant Indian Commissioner E. Galt, Winnipeg, to Inspector of Indian Agencies T. P. Wadsworth, Telegram dated 13 July 1881.

⁷⁶ RG10, Volume 3744, File 29506-1, No. 31069, Assistant Commissioner E. Galt to Inspector of Indian Agencies T. P. Wadsworth, Excerpts from letter dated 13 July 1881.

travel northward to their designated reserves. Vankoughnet complained to Galt that Wadsworth did not have the “moral forces of character which the occasion would appear to demand in the person charged with the local administration of Indian matters at Fort Walsh at the present time.”⁷⁷ In the meantime, Wadsworth attempted various types of strategies to entice people to leave. In relation to the people from Battleford, for example, he instructed Agent Reed to treat them kindly and to let “bye-gones be bye-gones.”⁷⁸ Frustrated by the lack of progress on behalf of DIA agents, Vankoughnet ordered Indian Commissioner Dewdney to go to Fort Walsh and sort everything out, which included the option of working with NWMP Inspector Fred White to strengthen the police presence “should it become desirable.”⁷⁹

Irvine and Wadsworth took a different view, however. Instead of increasing a police presence, which they both felt would do more harm than good, Wadsworth and Irvine suggested that NWMP and DIA needed to permanently abandon Fort Walsh area in order to convince people to go north and at the same time, “be a great savings to the Department.”⁸⁰ Vankoughnet was not convinced. He was concerned permanent abandonment of the Fort “could not be followed without the government losing prestige with the Indians.”⁸¹ Wadsworth continued to press the point in a letter to Vankoughnet. He explained that the DIA’s ‘work for rations’ policy on reserves in north was problematic. It encouraged people already there to leave in hopes of a better life chasing the almost extinct bison. Most of these people ended up at Fort Walsh where no such policy was enforced. And for those who might otherwise be convinced to leave,

⁷⁷ RG10, Volume 3744, File 29506-1, No. 31069, Acting Superintendent of Indian Affairs, L. Vankoughnet, Ottawa, to Assistant Commissioner E. Galt, Winnipeg, Letter dated 23 July 1881.

⁷⁸ RG10, Volume 3744, File 29506-1, No. 31069, Report from Inspector Wadsworth to Assistant Commissioner E. Galt, Winnipeg, 18 July 1881.

⁷⁹ RG10, Volume 3744, File 29506-1, No. 31069, Acting Superintendent of Indian Affairs, L. Vankoughnet, Ottawa, to Assistant Commissioner E. Galt, Winnipeg, Telegram dated 23 July 1881.

⁸⁰ RG10, Volume 3744, File 29506-1, Assistant Commissioner E. Galt, Winnipeg, to Acting Superintendent of Indian Affairs, L. Vankoughnet, Ottawa, Letter dated 5 August 1881.

⁸¹ RG10, Volume 3744, File 29506-1, [unnamed] to Inspector Wadsworth, Fort Walsh, 13 August 1881.

Wadsworth argued that the ‘work for rations’ policy was prohibitive.⁸²

The presence of Metis at Fort Walsh also contributed to tensions over the summer of 1881. Chiefs Lucky Man and Little Pine both advocated on behalf of the Metis who had been excluded from taking treaty during annuity payments.⁸³ During the distribution of annuities, Wadsworth reported the Chiefs wanted “all Half-breeds to be taken in Treaty and paid and rationed similar to Indians.”⁸⁴ Vankoughnet instructed Wadsworth to not allow any more Metis into treaty and tensions continued to rise.⁸⁵ Violence was averted, however, by the appearance of a bison herd. As people traveled in search of the reported herd, the government was afforded a short reprieve from feeding and clothing the people of the plains.⁸⁶ By early October, however, Indian agent A. Macdonald from Fort Walsh reported that over 2000 people had returned from “across the line” and would winter there because the bison has disappeared.⁸⁷

As the bison herds continued to decline, the borderlands became an increasingly contested space. As winter set in, tensions increased not only between Indigenous people and colonial agents, but also between bands, as they competed for access to the last of the bison. Desperate for any form of economic autonomy some people opted to cross the border to trade. Unfortunately they were arrested by American authorities who reportedly:

placed their guns in position and ordered the camp to leave. The undersigned begs to remark that this conduct on the part of the American troops is at direct variance with the statement made in the Message of the President of the United States to

⁸² RG10, Volume 3744, File 29506-1, No. 32353, Inspector Wadsworth, Fort Walsh to Assistant Commissioner E. Galt, Winnipeg, Letter dated 29 August 1881.

⁸³ RG10, Volume 3744, File 29506-1, Inspector Wadsworth, Fort Walsh, to Asst. Indian Commissioner E. Galt, Winnipeg, Letter dated Aug 8, 1881.

⁸⁴ RG10, Volume 3744, File 29506-1, Telegraph from Wadsworth quoted in Agent Hugh A. J. Macdonald to L. Vankoughnet, Telegram 11 August 1881.

⁸⁵ RG10, Volume 3744, File 29506-1, L. Vankoughnet to Inspector Wadsworth, Fort Walsh, Telegram 12 August 1881.

⁸⁶ RG10, Volume 3744, File 29506-1, E. Galt to R. Sinclair, Telegram dated 5 Sept 1881.

⁸⁷ RG10, Volume 3744, File 29506-1, No. 33637, Indian Agent A. Macdonald, Fort Walsh to Asst. Indian Commissioner E. Galt, Winnipeg, 29 October 1881.

the effect that the United States troops had been ordered to avoid any collision with alien Indians, fending the issue of correspondence relative to our Indians Crossing the Border in quest of sustenance.⁸⁸

International relations were also contested in this borderland space. Vankoughnet was frustrated by the actions of American officials, and Indian agent, C. E. Denny, again recommended the solution of completely removing all government presence from the borderlands region at Fort Walsh.⁸⁹

As the year 1881 came to a close, Big Bear, aware of the international implications and tensions on the border, attempted to play American and Canadian officials against each other. Reporting to Indian agent Denny that the Americans offered him a large reserve, Big Bear forced Canadian officials to question American officials, which only served to further exacerbate international relations on the borderlands.⁹⁰ Correspondence between the Privy Council and American officials reveal that no such offer was made.⁹¹ Big Bear also engaged in talks with Louis Riel. Agent Denny wrote Galt about his concerns: “I hear him [unnamed messenger] that Riel’s camped across the Missouri, and that he and Big Bear are in frequent communication. Big Bear seems to be the leader of all the Crees now on the other side.”⁹² Big Bear’s border tactics did not succeed but they highlight the tenuous position of the Canadian government, and by 1882, his tactics delayed the removal of Treaty 6 bands from this contested borderland region.

⁸⁸ RG10, Volume 3744, File 29506-1, Series of letters from Indian Agent C. E. Denny, Fort Walsh to Indian Commissioner E. Dewdney, dated November 1881; RG10, Volume 3744, File 29506- 1, Deputy Superintendent General of Indian Affairs L. Vankoughnet to Superintendent General of Indian Affairs J. A. Macdonald, Letter dated 3 December 1881.

⁸⁹ RG10, Volume 3744, File 29506-2, Indian Agent C. E. Denny to Assistant Indian Commissioner Galt, Winnipeg, Letter dated 6 December 1881.

⁹⁰ RG10, Volume 3744, File 29506-2, Assistant Indian Commissioner Galt, Winnipeg, to the Privy Council of Canada, Letter dated 20 January 1882.

⁹¹ RG10, Volume 3744, File 29506-2, Copy of a Report of a Committee of the Honourable The Privy Council, dated 24 January 1882; RG10, Volume 3744, File 29506-2, Minister at Washington to the Governor General, Washington, Letter dated 5 March 1882.

⁹² RG10, Volume 3744, File 29506-2, Indian Agent Denny, Fort Walsh to Asst. Indian Commissioner Galt, Winnipeg, Letter dated 9 January 1882.

Environmental conditions also subverted government strategies to push people north. Heavy snowfalls through the month of January made it extremely difficult for people to hunt and move across the plains. The new acting Indian agent at Fort Walsh, McElroy, warned Galt that rations had to be increased to prevent full-scale starvation. There were no more bison to subsidize government rations, and people were “miserably clad.”⁹³ For those people who wanted to leave Fort Walsh and could not for fear of starvation, McElroy asked for permission to provide provisions. Commissioner Dewdney pressed the case with Vankoughnet, particularly since even more people were reported to be making their way to Walsh from south of the line with American troops after them.⁹⁴ Vankoughnet finally granted permission for the expenditure at the end of March, 1882.⁹⁵ In this case, getting permission to purchase provisions was the easy part; getting the provisions delivered was an entirely more complicated task. I. G. Baker was slow to deliver provisions, and by the end of March, Fort Walsh was “entirely out of provision.”⁹⁶

Enough supplies eventually arrived by May 1882 for some bands to start their long trek north.⁹⁷ Col. Irvine expressed his frustrations in dealing with the administrative aspects of arranging people to leave the borderlands over the past year. Although a lengthy quote, Irvine’s report is of some interest to understand the situation.

...I now have the Treaty Indians at present in the Cypress Hills systematically divided into separate camps. These Indians are now ready, in fact anxious, to move Northward, the only cause of delay is the want of provisions and transport; I

⁹³ RG10, Volume 3744, File 29506-2, Acting Indian Agent McElroy, Fort Walsh to Assistant Indian Commissioner Galt, Winnipeg, 1 February 1882.

⁹⁴ RG10, Volume 3744, File 29506-2, Acting Indian Agent McElroy, Fort Walsh to Assistant Indian Commissioner Galt, Winnipeg, 1 February 1882; RG10, Volume 3744, File 29506-2, Indian Commissioner Dewdney to Supt. Int. General of Indian Affairs, Vankoughnet, Memorandum dated 14 March 1882.

⁹⁵ RG10, Volume 3744, File 29506-2, Telegram dated 23 March 1882.

⁹⁶ RG10, Volume 3744, File 29506-2, Telegram dated 30 March 1882.

⁹⁷ RG10, Volume 3744, File 29506-2, Col. Irvine to Fred White, Telegram dated 20 April 1882.

cannot understand why I. G. Baker and Co. have failed to supply the provisions ordered by the Acting Indian Agent some time ago....It should be borne in mind that in many cases the mode of life, and particularly the surroundings will be different from that, to which the Indians have been accustomed, for this some little allowance should be made, the treatment they receive, particularly on arrival should be kind. If those recommendations are not acted on, I feel that I am not far astray in predicting in general stampede Southward; should this once occur, the final settlement of the Indians on allotted reservations will be materially retarded. The experience of our neighbors the Americans, cannot be without its lesson to us. In their case the non-fulfillment of treaty obligations gave rise to much of the trouble, and expense they have been put to in the governance of their Indians. If is worthy of note, too that even with a very strong force at their command it has not been found practical to force Indians to remain on a particular reservation.⁹⁸

Irvine's concerns about the non-fulfillment of treaty obligations were well-founded. Tensions only increased once people started arriving at their reserves with Indian agents ill-equipped to provision the starving masses. Irvine's frustration, and more sympathetic tone, however, should be placed within the context of his own employment. He was not a direct employee of the DIA. He was not under the same administrative pressures to limit spending. His duties were to keep peace and order, and the costs of doing so, in his view, were irrelevant.

Even when bands left Fort Walsh some employed resistance tactics that continued to undermine government's efforts to settle them on reserves. Dewdney was exasperated that Lucky Man and Little Pine would not go to Qu'Appelle, and frustrated by bands in other treaty areas that wanted to settle in Treaty 6 territory.⁹⁹ Big Bear, who had gathered a large number of people in the winter of 1881-82, arrived at Fort Walsh with 500 followers in the middle of May.¹⁰⁰ Here

⁹⁸ RG10, Volume 3744, File 29506-2, reference no. 370 of 1882, Col. Irvine, Fort Walsh, to NWMP Comptroller Fred White, Letter dated 20 May 1882.

⁹⁹ RG10, Volume 3744, File 29506-2, Indian Commissioner Dewdney to Supt. Int. General Vankoughnet, Letter dated 24 April 1882; RG10, Volume 3744, File 29506-2, Supt. Int. General Vankoughnet, to Indian Commissioner Dewdney, Letter dated 11 May 1882.

¹⁰⁰ RG10, Volume 3744, File 29506-2, Item 2065, Acting Agent McElroy, Fort Walsh, to [unnamed], Letter dated 17 May 1882; Item 2066, reference no. 367 of 1882, Col. Irvine, Fort Walsh, to NWMP Comptroller Fred White, Letter dated 20 May 1882; Edgar Dewdney, Indian Commissioner, Annual Report of Department of Indian Affairs, year ended December 31st 1881, 39.

he again engaged in fear tactics, hoping to secure more provisions.¹⁰¹ As tensions increased, Col. Irvine pushed hard to get some annuities paid as quickly as possible. Dewdney reluctantly agreed to the payments on 30 May, but wanted it made clear that “no payments will be made at Fort Walsh in the future, and it is expected that they will join their respective chiefs and be paid with them.”¹⁰²

By October 1882, over 2500 people were camped in the vicinity of the Fort Walsh and were desperate for food.¹⁰³ Dewdney was furious that such little progress had been made in moving people out the borderlands. He was so frustrated that he took the liberty of chastising Vankoughnet for not acting on earlier suggestions to abandon Fort Walsh: “I had talk with White about Indians and left him to act in such a manner as will satisfy Indians, had Walsh been abandoned our Indians would have been north today.”¹⁰⁴ Not only did the continued government presence at Walsh complicate matters in terms of getting people to leave, but it also complicated international relations with the American government. Peter Hourie¹⁰⁵ noted that “as long as there will be Indians at this place that it will give the Government some trouble to keep these people quiet, and not only that but it will be the means of creating a row between the two

¹⁰¹ RG10, Volume 3744, File 29506-2, Assistant Commissioner Galt to Supt. Int. General Vankoughnet Vankoughnet, Telegram to dated 22 May 1882; RG10, Volume 3744, File 29506-2, Item 6909, Assistant Commissioner Galt to Supt. Int. General Vankoughnet, Letter dated 22 May 1882.

¹⁰² RG10, Volume 3744, File 29506-2, Item 2502, Indian Commissioner Dewdney, Qu'Appelle, to Col. Irvine, Fort Walsh, Copy of Letter dated 30 May 1882.

¹⁰³ RG10, Volume 3744, File 29506-2, Copy of telegram from Irvine to [?] can't read; dated 12 September 1882; RG10, Volume 3744, File 29506-2, Item no. 3827, Galt, Fort MacLeod, to Vankoughnet, Ottawa, Telegram dated 17 October 1882.

¹⁰⁴ RG10, Volume 3744, File 29506-2, Item no. 3843, Dewdney to Vankoughnet, Telegram dated 18 October 1882.

¹⁰⁵ Peter Hourie (1827-1910) had for a time worked for the HBC and later became a free trader. In 1874 he entered the employ of the Canadian government as a special agent to help to convince various Indigenous people to enter treaty. He also acted as an advisor to various Indian commissioners, and during the 1885 Rebellion acted as General Middleton's interpreter.

Governments.”¹⁰⁶ In yet another attempt to limit discontent, Dewdney gave permission to Agent Macdonald and NWMP Inspector Norman to pay annuities at Walsh in hopes that bands would be more willing to leave in the spring [1883] – a virtual repeat of the previous year.

The government’s construction of the CPR line also played role in raising fears of Indian unrest in the south. NWMP Comptroller Fred White explained his concerns in a letter Commissioner Dewdney in the fall of 1882:

Of course they have asked again to have reservation here and say they may as well starve here as on the reservation north and east, but many of them are in such desperate condition that I fear hunger may compel them to commit illegal acts, and as large working parties are now grading the CPR north of here it would be a pity to risk trouble this winter, limited rations, absence of game, scarcity of clothing and the suffering they must endure this winter owing to the tattered condition of their lodges, will I hope bring them to their senses by next spring.¹⁰⁷

Although tensions were high, violence was avoided and Big Bear, who had steadfastly refused to sign treaty, relented as his followers, who were starving, pressured him to accept treaty so that they would be fed. He signed Treaty 6 on December 8, 1882.

The spring of 1883 finally brought the Canadian government what it had been unable to achieve over the last two years – movement of bands north out of the borderlands. As people arrived at their reserves throughout the summer of 1883, the challenges of implementing a ‘work for rations’ policy became increasingly clear to Indian agents. While some bands in Treaty 6 had been settled for a number of years by this point, those who had been in the borderlands were, for the most part, reluctant to engage in agriculture and settle. Meanwhile, the government’s obsession with budget retrenchment meant that resources required to support the transition to agriculture were sparse, if not completely unavailable.

¹⁰⁶ RG10, Volume 3744, File 29506-3, Item 4449, Peter Hourie, Fort Walsh to Indian Agent Col. A. Macdonald, Qu’Appelle, Letter dated 18 October 1882. Peter Hourie was Metis and employed by the DIA as Interpreter at Fort Walsh. Vankoughnet noted that “He is a man of much experience among the Indians.”

¹⁰⁷ RG10, Volume 3744, File 29506-2, Item no. 4057, Comptroller Fred White, Fort Walsh to Dewdney, Winnipeg. Letter dated 17 October 1882.

This process of returning to their reserves and settling down exacerbated political divisions within bands. For example, Dewdney commented on the background of the Thunder Child band and his own role in ‘recognizing’ Thunder Child as chief:

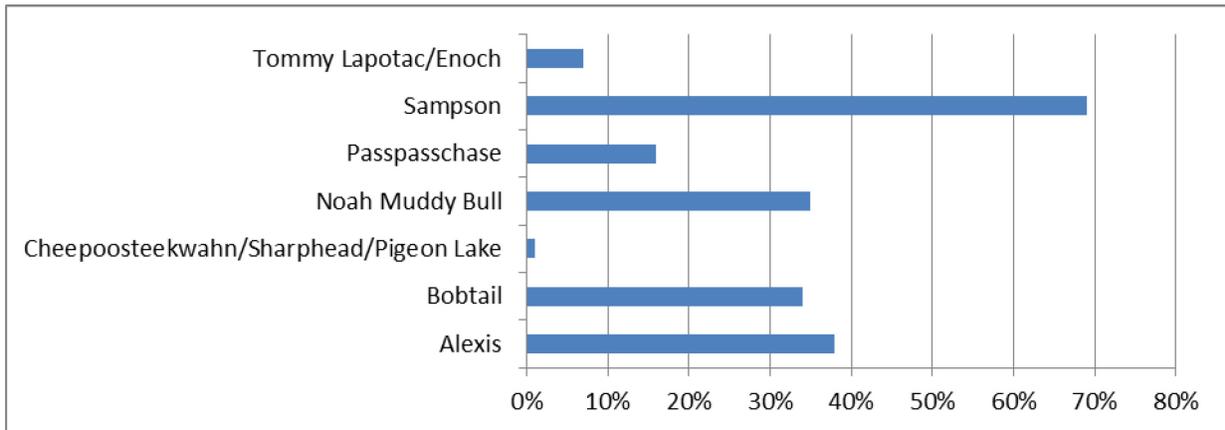
Thunder Child and his Indians are plain hunters; the chief was a follower of Big Bear, and one of those who held aloof from the treaty for several years, but in 1879 severed his connection with the old chief; and on entering the treaty, was promised by me, to be recommended for a chiefship [sic], provided he was able to collect the requisite number of families; this he has done, and I am glad the Government has recognized his worth, and confirmed him in the chiefship [sic]. This band will be held up as a pattern to those who are still unsettled, and who fear they will not be able to provide for themselves, with the assistance given them by the Government.¹⁰⁸

Dewdney’s strategy to use Thunder Child as positive example for others is evident, but this passage also reveals Thunder Child’s own treaty tactics. He disagreed with Big Bear’s decision to reject treaty, and as a result, used his influence with Dewdney to convince many of Big Bear’s followers that they would be better off with him as Chief, with the promise of government assistance.

This move back to the more northern reserves from the borderlands is reflected in the paylists between 1881 and 1883 (see Figure 6.11 below). Some bands experienced large increases in annuitants, while others experienced very little. By analyzing these paylists closely it is possible to see which bands were augmented, and from where their new members came from. While the movement in from the borderlands explains a good deal of the increased membership of some bands, some of this increase was also due to transfers from other bands. The following charts and discussion provide an overview of some of these dynamics between 1881 and 1883.

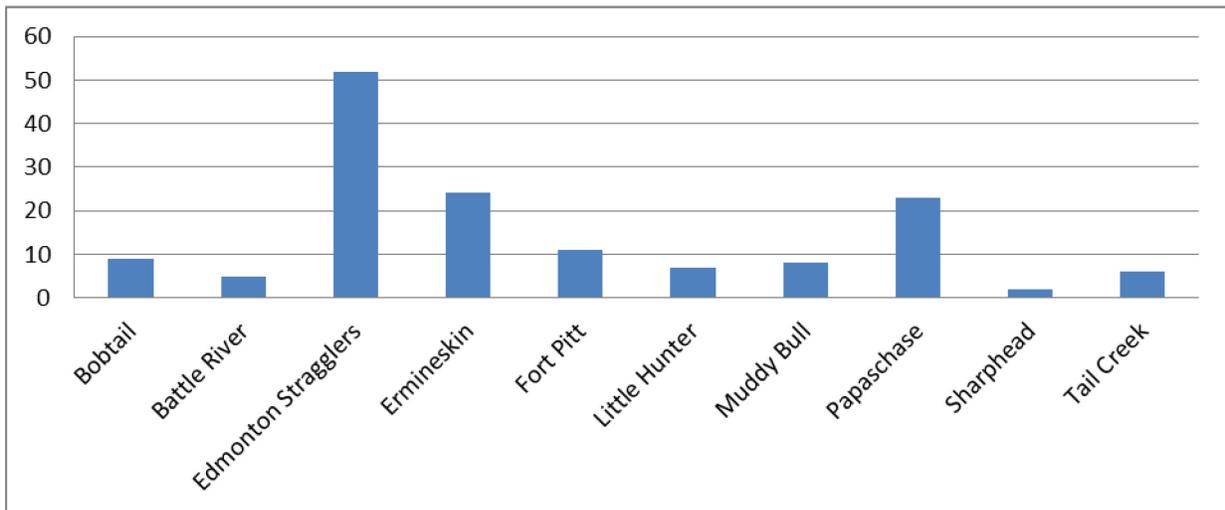
¹⁰⁸ Edgar Dewdney, Indian Commissioner, Regina, 25 November 1884, Annual Report of Department of Indian Affairs, year ended December 31st 1884, 157.

Figure 6.11 Percentage Increase of Annuity Payments for Edmonton District Bands, 1881-1883¹⁰⁹



In the Edmonton District the Sampson payroll had the largest increase in band membership. However, this increase does not appear related to the influx of people from the borderlands. Rather, as shown in the chart below, movement into Sampson came primarily from Metis families previously paid as Edmonton Stragglers.

Figure 6.11a Movement into Sampson Band 1881-1883

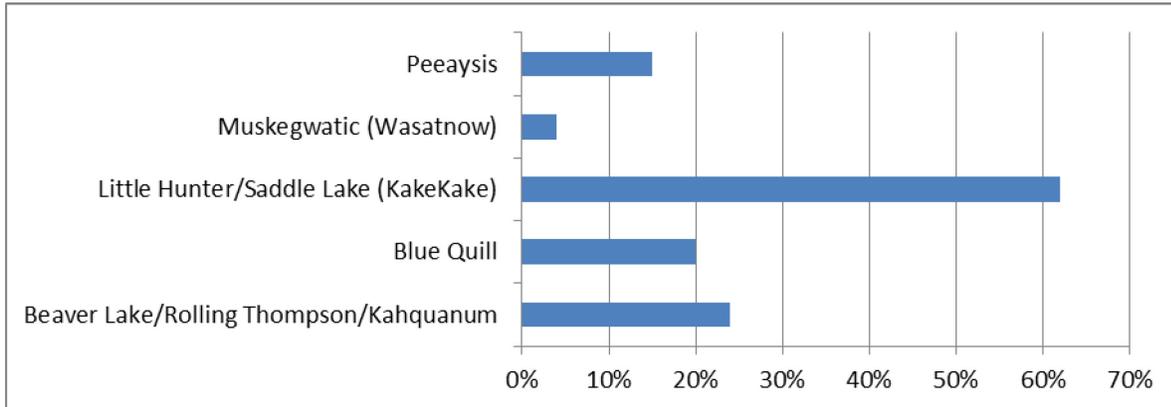


¹⁰⁹ Two new paylists are created in this period, the Beaver Hills Stragglers and Tommy Lapotac, both of which are discussed in detail in Chapter 7.

Over thirty-five percent of the movement into Sampson were people previously listed as Edmonton Stragglers, while sixteen percent were from Ermineskin and fifteen percent from Papaschase. This movement into the Sampson band, and between bands more generally, is reflective of the large number of treaty Metis in the Edmonton District who were trying to determine where to settle as they transitioned from the fur trade economy to the new reserve economy. As noted in chapter 5, many Metis entered treaty for lack of other viable alternatives and were designated ‘stragglers’ by Indian affairs. Between 1881 and 1883, some of these families decided to join their relatives and friends settling on reserves in the Peace Hills.

In the Saddle Lake District, Little Hunter’s band experienced the most change in membership between 1881 and 1883 (see Figure 6.12 below). Between 1879 and 1880 Little Hunter’s band had experienced a decrease of 138 people as people left to hunt in the south. However, southward movement was only a partial explanation for this change. The Little Hunter also split as his councillor, Blue Quill, left the main band in 1880. When people returned from the south between 1881 and 1883, some people choose to join Blue Quill and Muskegawatic (as represented in the above chart), and other bands. However, forty-two people returned to the main band between 1881 and 1883, forty of whom were noted as paid previously at Fort Walsh, and two of whom were paid at Edmonton as Stragglers.

Figure 6.12 Percentage Increase of Annuity Payments for Saddle Lake District Bands, 1881-1883



In the Prince Albert/Carlton District, One Arrow and Beardy’s bands showed the greatest percentage increase in membership during the 1881-1883 period (see Figure 6.13 below). In the case of One Arrow, the increase in population was due entirely to people returning from the borderlands. In the case of Beardy, most of the increase was due to people returning, but there were also some instances of people transferring in from other bands (see Figure 6.12b below).

Figure 6.13 Percentage Increase of Annuity Payments for Prince Albert/Carlton District Bands, 1881-1883

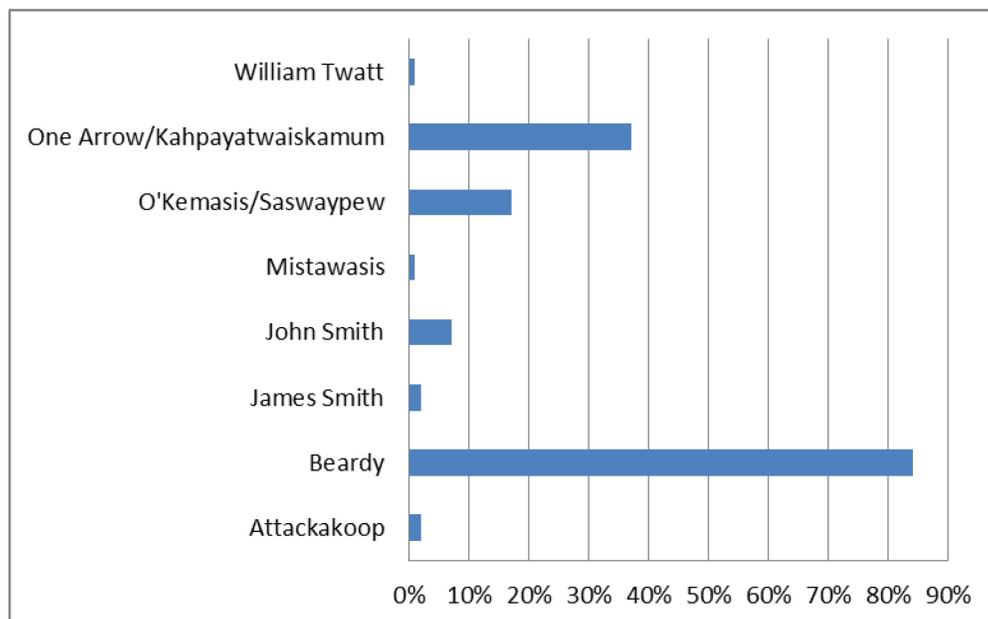
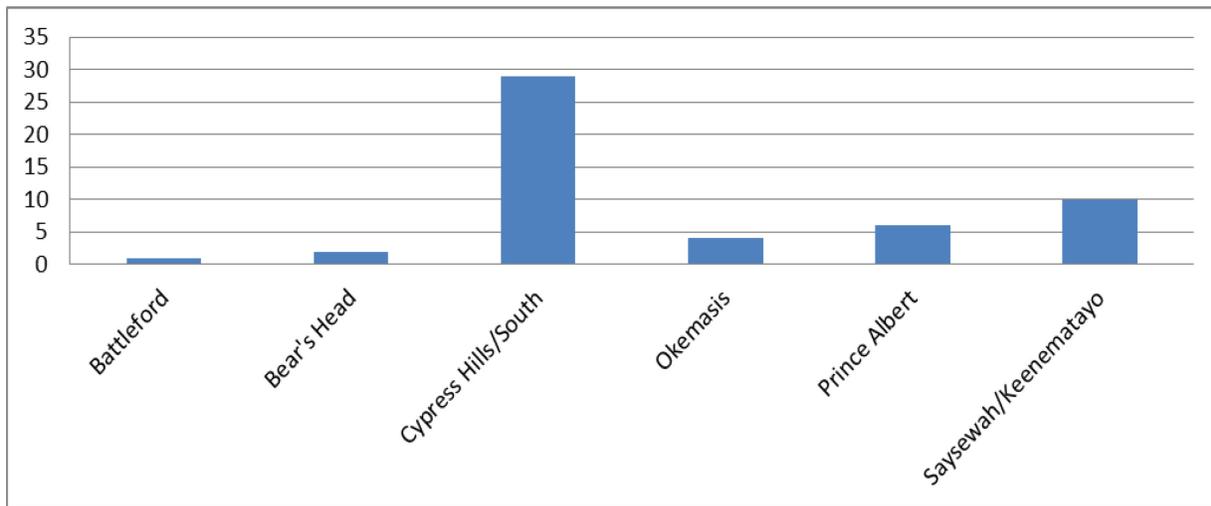


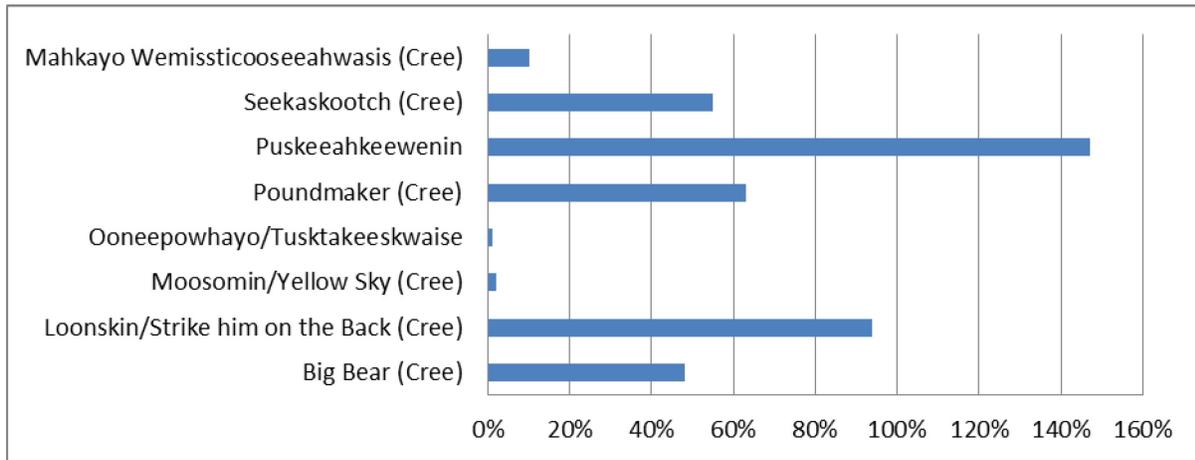
Figure 6.13a **Origin of the Movement into Beardy, 1881-1883**



Beardy's band had experienced a significant decline in population from 1880 to 1881 (157 people collected annuities in 1880 and only 83 people in 1881). About a third of the people who left in 1880 went south but returned to Beardy's band between 1882 and 1883. The other two thirds joined other bands. Thereafter, Beardy's paylists remained quite stable.

In the Battleford district, Puskeeahkeewenin's paylist shows a significant increase, however, when compared to the decrease this band experienced from 1879 to 1880, it is not as remarkable (see Figures 6.6 and 6.9a above). Between 1879 and 1881 the Puskeeahkeewenin paylists had declined from 174 members to 51 as many people went south or joined other bands. There was an additional drop from fifty-one to fifteen in 1882 and then membership increased from 15 to 40 in 1883 (see Figure 6.6 above). From 1884 onwards, the paylist totals remain relatively stable, with a slight drop due to treaty withdrawals in 1886. The significant amount of change over a short period of time speaks to the instability of band membership in this period owing to both the Canadian state's inability to provision bands during the transition to reserves and internal political discontent.

Figure 6.14 Percentage Increase of Annuity Payments for Battleford District Bands, 1881-1883¹¹⁰



In 1882, Hayter Reed blamed the instability in the Battleford district on the “...return of malcontents last fall from southern plains.”¹¹¹ He went on to complain that more work would have been accomplished in the district if not for the “arrival from the southern plains of a large number of Indians, both Stoney’s and Crees” some of whom were settling in the district for the first time and others to join their own bands.¹¹² John A. Macdonald noted in the DIA Annual Report of 1883 that “Moosomin’s Band, whose reserve is twelve miles up river from Strike Him on the Back and Poundmaker’s reserves, is experiencing the return of several people from the south. For these returnees, it is their first time farming.”¹¹³ Moosomin, Hayter Reed commented, had previously been “deserted by all his band, with the exception of about forty souls, of whom

¹¹⁰ Five new paylists appear in the Battleford District between 1881 and 1883, a reflection of people arriving from the borderlands: Bear’s Head, Big Bear, Lean Man, Nipahases, and Thunder Companion.

¹¹¹ Hayter Reed, Indian Agent, Battleford, 1 August 1882, Annual Report of Department of Indian Affairs, year ended December 31st 1882, 49.

¹¹² Ibid.

¹¹³ J. A. Macdonald, Superintendent-General of Indian Affairs, Ottawa, 1 January 1884, Annual Report of Department of Indian Affairs, year ended December 31st 1883, xlix

about six or eight were capable of work....”¹¹⁴ This instability, highlighted by Reed and Macdonald, is reflected in the paylists totals. Bands, families, or individuals who left for the borderlands to hunt between 1879 and 1880, or later, did not necessarily return to the same band and this created a situation that was not conducive to good management, and indeed resulted in policy decisions that created more problems than they solved.

The period of 1881 to 1883, as documented in the DIA correspondence files, was rife with frustration, anger, and confusion, mixed with occasional moments of empathy. Having forced Treaty 6 people from the contested borderlands to settle on more northern reserves, the Indian Department was not prepared to deal with the tenuous and fragile situation they had created. Their response after 1883 directly fueled the 1885 Rebellion that followed.

At the very time that the Indian Department pushed Indigenous peoples in Treaty 6 onto reserves, the Canadian government, faced with a large deficit, targeted ministries with large expenditures and demanded budget retrenchment. The brunt of this retrenchment in Indian Affairs was aimed at rations policy on reserves. Indian agents were granted some discretion at the behest of Dewdney, but only when tensions increased to the point of violence. Even then, Indian agents had to request permission to order supplies.

Dewdney expressed concerns to Deputy Superintendent General Vankoughnet about discontent over lack of rations in the fall of 1883, but his concerns generally went unheeded. The focus on limiting expenditures was still the priority.¹¹⁵ But the main cause of discontent, it seemed, was the DIA’s expectation that all Indian agents implement a ‘work for rations’ policy, even for people who had never before set foot on a reserve. Almost a year later the Indian agent

¹¹⁴ Hayter Reed, Indian Agent, Battleford, 9 July 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, xvii.

¹¹⁵ RG10, Volume 3744, File 29506-3, Item 9162, Indian Commissioner E. Dewdney, Winnipeg to Supt. General of Indian Affairs, Ottawa, Letter dated 27 September 1883.

at Battleford, J. Rae, wrote a private letter to Superintendent General (and Prime Minister) J. A. Macdonald pointing out the ludicrousness of this generalized policy. Rae hoped that a direct approach to Macdonald would circumvent Vankoughnet, who he saw the main architect of the ‘work for rations’ policy. In particular, Agent Rae was frustrated by the actions of Vankoughnet during his visit to the district earlier in the spring of 1883.

...On arrival at Pitt however Mr. Vankoughnet met one our bigbear [sic] and without listening to anything from him told Big Bear that he was to take his Reserve in one month or get no rations. This insulted Big Bear, and he immediately sent runners to Edmonton, Carlton, and B’ford asking all chiefs and Indians to meet him here for a thirst dance in June, and as you are already aware this meeting nearly caused a general outbreak. Our orders are that if an Indian won’t work he gets nothing. This is a very good order for Indians who have been settled some time, but it cannot be expected that these new comers who have always been either warriors or horse thieves will settle down to work at once. Neither the Commissioner I believe nor Agents (the latter I am sure of) have any discretionary power... It must be recollected that a great many probably 1500 souls are now in this District who have never been on a reserve and it is nonsense to say to them that they must work or starve. The thing must be brought about gradually and discretion placed in the powers of the Agents, or trouble will surely follow.... The Indians who are very badly off must be treated rationally, if not generously, or as I said before, we must be prepared to fight them, as they have come, especially the new comers, to a point where they are starving and desperate, and they say they might as well die fighting as by starvation.¹¹⁶

Rae’s letter prompted Macdonald to request a response from Commissioner Dewdney, who substantiated most of Rae’s assertions:

...to a very great extent I hold the views expressed in Rae’s letter – in fact for some months I have felt that Indian matters were drifting into a very unsatisfactory state as far as their administration was concerned, but I thought that all the changes and various instructions which have reached my office, as well as those of which I have heard second hand as having been sent direct to our Agents had been forwarded with your concurrence. I did not feel justified in interfering.¹¹⁷

¹¹⁶ LAC, Sir John A. Macdonald Papers, Volume 107, File 42807, Private, Indian Office Battleford, Indian Agent J. Rae to Supt. Intendant of Indian Affairs J. A. Macdonald, Letter dated 5 July 1884.

¹¹⁷ LAC, Sir John A. Macdonald Papers, Volume 107, File 42781, Government House Regina, E. Dewdney to Sir John A. Macdonald, Ottawa, Private letter [no date] July 1884, 1/26.

Here in a nutshell lay the seeds of discontent that would fuel the violence of 1885. During a period of instability when thousands of Indigenous peoples were resident in the borderlands in search of bison, the government expended very large sums for provisions to prevent violence at Cypress Hills. Then, having coerced people to travel north to reserves by 1882-83, the Department of Indian Affairs, under budgetary restrictions, believed it could create savings by introducing a 'work for rations' policy. Promoted by Vankoughnet, and surely endorsed by John A. Macdonald whose government had introduced the budget cuts, the 'work for rations' policy was resisted by agents in the field who understood its implications. This inter-departmental conflict only exacerbated a policy that was hopelessly flawed. Dewdney's frustration with Vankoughnet was palpable. He wrote that "Ever since Mr. Vankoughnet's trip there has been a [illegible] interference in small matters and a wish to curtail not only the discretionary power of the Agents, but my own, the Indians see it clearly as far as the Agents are concerned....Mr. Vt [Vankoughnet] is placing all the power he can in the hands of the Inspector [Wadsworth] without any regard to me."¹¹⁸

This internal bureaucratic conflict, and the ad hoc nature of policy making at a critical time, produced a crisis in Indian affairs and an even deeper one on reserves where Indigenous people were deprived of food and starving. Faced with budgetary pressures from Ottawa, all decisions on the ground were made according to costs at the expense of discontent, increasing tension and human suffering. Having brought the various Treaty 6 bands onto their reserves, some bureaucrats believed that coercion and starvation would force Indigenous peoples to farm. The 'work for rations' policy was instituted precisely when greater flexibility and individual Indian agent discretion was needed. The folly of this policy was only realized in Ottawa after

¹¹⁸ LAC, Sir John A. Macdonald Papers, Volume 107, File 42781, Government House Regina, E. Dewdney to Sir John A. Macdonald, Ottawa, Private letter [no date] July 1884, 9, 23/26.

violence had broken out.

6.5 Conclusion

When the Canadian government negotiated Treaty 6 with the people of the plains in 1876, it was assumed that the transition to reserve settlement would be a slow and gradual process. The rapid decline of the bison herds changed everything. Lacking both infrastructure and knowledge of the resident peoples, the Canadian state was unprepared to implement and administer Treaty 6, and was unable to provide the adequate provisions on reserves. Government administrators attempted to adjust policies to adapt to the changing circumstances in the West, but their efforts were inadequate. As a result, people traveled south in effort to feed their families. Government strategies to push bands out of the borderlands were curtailed in various ways by various groups and individuals, Big Bear in particular. These tactics and resistance were successful in some measure, forcing the government to moderate their policies by paying annuities and providing provisions at Fort Walsh. In returning to their reserves after the bison disappeared, some Indigenous peoples frustrated colonial efforts by joining whichever bands they desired, and in some instances formed new bands. Indian Affairs was largely powerless to stop these movements and simply accepted them as they played out on the ground.

Paylist data illuminates both the mobility and flexibility of band membership and helps to explain the tactics used by Indigenous peoples in dealing with policies outside of their control. In the years following the signing of Treaty 6, paylist data tells us that people often collected it in different bands and at different locations from year to year. This movement frustrated colonial administrators tasked with trying to sort out band membership and settle Indigenous peoples on reserves. In some instances this movement may have helped moderate repressive policies. There was a limit, however, to the tactics Indigenous people could utilize once the government imposed

the reserve system and instituted a 'work for rations' policy. For some the only tactic left was violence.

Chapter 7

1885 and After: Government Repression and Indigenous Resistance, 1885-1890

7.1 Introduction

The tragic events of 1885, and the resulting repression of Indigenous communities, have been well documented and interpreted in a range of ways by various academic works.¹ This chapter provides a brief overview of significant policy changes prior to, and after, the 1885 Rebellion, and how these policies are reflected in the payroll data from 1885 to 1890. I argue that the evidence from payroll data can help us form a better understanding of Indigenous responses to the Rebellion (including band formation, band transfers, treaty withdrawals, and taking Metis scrip) and in particular, the limitations they face given an increasingly restrictive government policy. Subjugation of Indigenous communities was a top priority for the colonial administrators constructing these policies, and they used various means to accomplish this goal, including the denial of rations and annuities, arrests, incarceration, and interference in band governance. While these policies principally targeted those the government considered ‘disloyal,’ they affected entire communities.² While Indigenous people’s maneuverability and mobility within the

¹ For a range of interpretations see Gerhard Ens “Gabriel Dumont, Big Bear, and the Indian Rebellion of 1885: The Case of the Peace Hills Reserves, 1884-1885,” in Denis Gagnon, Denis Combet, and Lise Gaboury-Diallo (eds) *Histoires et identités métisses: Hommage à Gabriel Dumont/Histories and Métis Identities: A Tribute to Gabriel Dumont* (Saint-Boniface: Presses Universitaires de Saint-Boniface, 2009); Blair Stonechild and Bill Waiser, *Loyal till Death: Indians and the North-West Rebellion* (Fifth House, 1997); F. Laurie Barron and James B. Waldram eds., *1885 and after: Native Society in Transition* (Regina: Canadian Plains Research Center, 1986); Bob Beal and Rod Macleod, *Prairie Fire: The 1885 North-West Rebellion* (Edmonton: Hurtig Publishers, 1984).

² This was highlighted most recently by Daschuk’s monograph, *Clearing the Plains* (2013); See also, Sarah Carter, *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy* (Montreal: McGill-Queen's University Press, 1990).

strengthening colonial order was severely curtailed in the post-1885 period, they continued to push back against state aims to assimilate them into the Canadian body politic.

The 1885 Rebellion, along with the arrival of the North-West Scrip Commission and subsequent withdrawal of hundreds of Metis from treaty, significantly altered the membership lists of many bands in Treaty 6 territory. What the paylists demonstrate is that between 1885 and 1890 annuity totals declined significantly. Two main factors contributed to this decline: the withdrawal of many Metis from treaty to apply for scrip, and the Canadian government's refusal to pay annuities to any person local agents deemed to have been 'rebels' or 'disloyal' to the state during the 1885 Rebellion. Paylists reveal that there was not only movement of people out of treaty, but that there was movement within treaty as well. This Chapter examines both of these phenomena in the context of Indigenous resistance to government repression. These tactics of resistance often resulted in a range of outcomes unanticipated by both colonial administrators and Indigenous peoples. In some instances these outcomes were incredibly tragic. Papaschase, for example, lost his reserve when he, along with his family members and many others withdrew from treaty to take scrip. However, new communities also formed during this turbulent period. The Enoch Band, for example, came together from former members of various other bands, including Papaschase. Meanwhile other bands experienced internal conflict that resulted in band separations, as the case of Alexis and Ironhead demonstrates. In the case of 'rebels,' fear of government reprisals and the enforcement of non-payment of annuities, led to the fracturing of families and communities when people fled south. The paylists also reveal, however, the continued movement of individuals between bands and reserves at a time when the government was trying to clamp down on freedom of movement. This movement, and opting for freedom, which leaving treaty represented for some, might seem like small victories, or even defeats, but

in the shadow of the widespread repression and marginalization of the late 1880s, they are still significant. These moments of resistance reveal not only the complex choices Indigenous peoples faced in response to colonial forces, but also expose the tensions within the established colonial order on the Canadian prairies in the post-1885 era.

7.2 The Arrival of the 1885 North-West Scrip Commission

In the months leading up to the outbreak of violence at Duck Lake in the spring of 1885, the Canadian government attempted to thwart Riel's efforts by relenting to Metis demands for scrip in the North-West Territories.³ This sudden change in policy direction by the Canadian government was revealing: the government was afraid of violent resistance. By this point, however, the ill-considered policies combined with budget retrenchment created an atmosphere of such distrust and tension between the Metis and the government that it is likely that no amount of backtracking could, by March 1885, reverse the course of events to follow. After the military defeat at Batoche on 27 March 1885, in large part due to the ability of Government to move troops quickly on the new rail infrastructure, Metis and First Nations attempts to subvert and challenge Government policy met with less success. Certainly, for many Metis, the act of withdrawing from treaty can be viewed as an attempt to better their own lives in the face of increasingly repressive government policies in the aftermath of the Rebellion.

Metis Scrip was not extended into the North-West Territories until nine years after Treaty 6 was signed, and only when the Canadian state was under threat of violent resistance in 1885.⁴

³ Portions of this chapter on the creation of the Metis status category and its extension into the North-West Territories have either appeared in, or are extensions of, my earlier work: Melanie Niemi-Bohun, 'Gendered Strategies of Treaty and Scrip: The Edmonton and District Stragglers, 1876-1886,' MA, University of Northern British Columbia, 2003 and "Colonial Categories and Familial Responses to Treaty and Metis Scrip Policy: The 'Edmonton and District Stragglers,' 1876-1886" in *CHR* 2009.

⁴ Heather Devine briefly discussed the entrance of Metis into treaty in *The People who own Themselves*, 143-144. In Chapter 2, I discussed the background to the creation of 'Metis' as a status category in 1870. To briefly recap, a provision in the 1870 *Manitoba Act* granted 1.4 million acres to be distributed among Metis children. In exchange

In other words, prior to 1885, there was no legal ‘Metis’ status option available to individuals of mixed ancestry in the North-West Territories.⁵ Metis families in treaty were also completely disillusioned by failed treaty promises for assistance, whether it was rations, healthcare, or farming implements. When the option of scrip became available, many Metis families opted to withdraw from treaty for what was likely perceived as a significant economic benefit. The extension of scrip may have benefited some families, but there were also tragic outcomes, such as the dissolution of Papaschase’s Band.

Many Metis outside of Manitoba, including Gabriel Dumont, were angry that they were excluded from the Metis land provisions of the 1870 *Manitoba Act* and used petitions to attempt to persuade the Canadian government to extend the rights the Manitoba Metis had to the North-West Territories.⁶ The petitioners lobbied that

...their rights to a participation in the issue of half-breed or old settler scrip are as valid and binding as those of the half-breed and old settlers of Manitoba, and are expected by them to be regarded as scrupulously as in that Province; and with a view to the adjustment of the same your petitioner would humbly request that a census of said half-breed and old settlers be taken as early date as may be conveniently determined upon, with a view to apportioning to those of them, who have not already

for the land, individuals, the Government believed, extinguished and signed away their Indigenous land title. In 1874, the land grant was extended to include ‘Half-breed Heads of Families’ and distributed as ‘scrip’ for \$160. Scrip was redeemable in Dominion lands. This issue is addressed in detail in Niemi, ‘Gendered Strategies of Treaty and Scrip,’ 46-67. The Canadian government was generally reluctant to extend scrip into the NWT because the program had proven administratively problematic in Manitoba.

⁵ As discussed in earlier chapters, Indigenous peoples, including Metis, were not singularly motivated to sign or enter Treaties for economic reasons. However, given the dire conditions faced by communities in the West in the years leading up to, and after, the signing of Treaty 6, the possibility of some underlying economic motivation for taking treaty requires some exploration. Prominent examples of literature on the symbolic meanings of Treaties includes Walter Hildebrandt, Dorothy First Rider, and Sarah Carter, *The True Spirit and Original Intent of Treaty 7*, McGill-Queen’s Native and Northern Series (Montreal and Kingston: McGill-Queen’s University Press, 1996); Harold LeRat, *Treaty Promises, Indian Reality: Life on a Reserve* (Saskatoon: Purich, 2005); Neal McLeod, *Cree Narrative Memory: From Treaties to Contemporary Times* (Saskatoon: Purich, 2007); and Richard Price, ed., *The Spirit of Alberta Indian Treaties* (Montreal: Institute for Research on Public Policy, 1980).

⁶ See ‘Petition of the settlers and residents at Prince Albert Settlement to the Governor-General,’ and ‘Gabriel Dumont and others to the Lt.-Gov. of the NWT, 1 February 1878, in Canada, *Sessional Papers*, 1885, no. 116, 29-31.

been included in the census of Manitoba, their just allotments of land and scrip.⁷ The government eventually responded with the 1879 *Dominion Lands Act*. This *Act* provided the statutory means by which Metis claims could be settled for residents in the North-West Territories.⁸ Whatever this program would consist of, however, the government was adamant not to repeat the problematic process of issuing “Half-breed scrip” as it had in Manitoba. When fears of violence escalated after the return of Riel to Canada in 1884, the Canadian state reversed its position. Speaking in the House of Commons in July 1885, Macdonald said the following:

Now, Mr Speaker, we, at the last moment, made concessions, and we did for the sake of peace. The Government knew...that we were not acting in the interests of the half-breed in granting them scrip....But, Sir, an agitation arose, and the Hon. Gentleman has rung the changes on Riel being brought into that country....I do not hesitate to say that I did it with the greatest reluctance...and I said ‘Well, for God’s sake let them have the scrip; they will either drink it or waste it or sell it; but let us have peace.’⁹

While Macdonald’s statement was demeaning and rife with racist tones, it is also evidence that there was a keen sense of urgency to quell discontent in the North-West as quickly as possible. This sense of urgency characterized the development of treaty withdrawal policies and scrip policies, and the resulting administrative confusion, between 1885 and 1890.

Creating a timeline of developments for treaty withdrawal policies in Treaty 6 is no easy task. Just as colonial administrators struggled to comprehend the interconnectedness of First Nations and Metis communities as these peoples came into treaty, government agents also

⁷ For this and other petitions see “Papers and Correspondence in connection with Half-breed Claims and other matters relating to the North-West Territories,” in Canada, *Sessional Papers*, Vol. 13, 3rd Session of the 5th Parliament, 48 Victoria 1885 (no. 116), 29-36, 41-44, 69-70; Ens, *A Quantitative Portrait*, 233.

⁸ Canada Statutes, *An Act to amend and consolidate the several Acts respecting the Public Lands of the Dominion*, 15 May 1879, 42 Vic., Cap. 31, s. 125(e). This *Act* provided the Government the means to “satisfy any claims existing in connection with the extinguishment of the Indian title, preferred by half-breeds resident in the North-West Territories outside of the limits of Manitoba, on the fifteenth day of July, [1870], by granting land to such persons, to such extent and on such terms and conditions, as may be deemed expedient.”

⁹ Canada, *House of Commons Debates*, John A. Macdonald, MP, 6 July 1885, 3117–18. In March 1885, Riel and followers prepared “Revolutionary Bill of Rights” which asserted their ownership of land. On March 18-19 provisional government was established, Riel as president and Gabriel Dumont as military leader. Heather Devine, *People who own Themselves*, 154.

struggled with the same misunderstandings and Indigenous misrecognitions as they tried to leave. The *Indian Act*, in its various incarnations, was not well understood by policy makers. It was also not well understood by local agents (both DIA and DOI) instructed to determine an individual's eligibility to withdraw from treaty. Correspondence between DIA and DOI administrators reveals a complete absence of policy directive, little or no instruction to Indian agents, and a profound misrecognition of the interconnectedness of Indigenous communities.¹⁰ In other words, the policies as they were written were not necessarily the policies as practiced, which created various layers of confusion as colonial agents inconsistently applied policies which allowed individuals to withdraw from treaty between 1885 and 1890.

Shortly after the Government assented to the 1879 *Dominion Lands Act*, the 1876 *Indian Act* was amended to permit Metis to withdraw from treaty without going through the process of enfranchisement. In 1879 the following was added to section 3.3 e of the *Act*:

...any half-breed who may have been admitted into a treaty shall be allowed to withdraw therefrom on refunding all annuity money received by him or her under the said treaty, or suffering a corresponding reduction in the quantity of any land, or scrip, which such half-breed as such be entitled to receive from the Government.¹¹

When three North-West half-breed Scrip Commissioners arrived in the west in early March 1885 to enumerate Metis who had not received a land grant or scrip in Manitoba, they were taken

¹⁰ Glen Coulthard, 'Subjects of Empire: Indigenous Peoples and the 'Politics of Recognition' in Canada' (2007). He argues that colonial states 'misrecognized' Indigenous societies and that there is a need for both an analysis of this Indigenous misrecognition and a transformative praxis. That is to say, "...those struggling against colonialism must 'turn away' from the colonial state and society and find in their own transformative praxis the source of their liberation...I think that today this process will and must continue to involve some form of critical individual and collective self-recognition on the part of Indigenous societies...."456, 439-460. In my view, by better understanding the processes through which various Indigenous groups came to be 'misrecognized' by the Canadian state, we can work at devolving those categories and the historical complexities they contain.

¹¹ Canada Statutes, *An Act to Amend "The Indian Act, 1876."* 42 Vic., Cap. 34, 1879. This act was further amended in 1884 to remove the provision that required people to pay back annuities. See Section 4, of 47 Victoria, cap. 27, *An Act further to amend The Indian Act, 1880.*

aback, as were most Indian agents, by the number of Metis who wanted to leave treaty.¹² There were no clearly thought out withdrawal policies in place; thus, policy was created in response to the particular instances as they arose, and often with less than satisfactory results.¹³

When violence erupted at Duck Lake on 27 March 1885, the commissioners expressed concerns that their limited powers to deal with Metis claims would not be sufficient to calm discontent. W. P. R. Street was granted permission settle Metis claims immediately, but treaty withdrawal issues quickly surfaced.¹⁴ Initially, under the orders from 30 March 1885, anyone who was in receipt of treaty annuities was ineligible for scrip. As such, commissioners initially rejected a number of Metis applicants who were currently in treaty. Street telegraphed the Deputy Minister of the Interior, A. M. Burgess, and subsequently received instruction to immediately accept these claims, if these individuals had received discharge from treaty.¹⁵

Considering the withdrawal of people from treaty from a gendered perspective reveals additional insights. Colonial policies regulating Indigenous women's rights to band membership were legislated in the 1876 *Indian Act*, and were at the center of most of the administrative confusion about treaty withdrawal eligibility. As a result, Metis women in treaty posed unique

¹² Three commissioners were sent to the NWT: A. E. Forget, a clerk of the North-West Council, W. P. R. Street, a lawyer from Ontario, and Roger Goulet, a surveyor from St. Boniface. See W. P. R. Street, "The Commission of 1885 to the North-West Territories," *Canadian Historical Review*, ed. H. H. Langton, 25, no. 1 (March 1944). The commission was created through an Order-in-Council on 26 January 1885.

¹³ Eligibility for withdrawal was based on a pseudo-biological understanding of race and an individual's location of residency as of 1870 (must reside in the NWT as of July 15, 1870). Administrators viewed 'race' as biological/scientific fact and thus, for the purposes of scrip, viewed the status of 'Half-breed' as a "mixed-race" individual. Any sense of community, or belonging to, or being claimed by, a Metis community was irrelevant to colonial agents granted powers to decide whether or not someone was Metis. See Chris Andersen, *The Metis: Race, Recognition, and the Struggle for Indigenous Peoplehood* (Vancouver: UBC Press, 2014), 11.

¹⁴ W. P. R. Street, "The Commission of 1885 to the North-West Territories" in *Canadian Historical Review* 25, No. 1 (March 1944), 45.

¹⁵ LAC, RG15, vol. 574, file 175917, W.P.R. Street to A. M. Burgess, Deputy Minister of the Interior, Calgary, 20 May 1885; A. M. Burgess to W. P. R. Street, 16 June 1885. This became an OIC (Order-in-Council) 2 July 1885. Street also requested guidance on whether or not claims of Metis who fought against the government during the Rebellion ought to receive scrip. The Deputy Minister responded that these claims should not be recognized, but family members of the rebels would be accepted on their own merit. Street to Minister of the Interior, 23 May 1885.

concerns for both scrip commissioners and Indian agents. As discussed in earlier Chapters, the *Indian Act* stated that a woman was not eligible to receive treaty annuities, or live on a reserve, if she was married to a non-treaty man. Moreover, her children would also lose Indian status. It was common practice in Treaty 6; however, for Indian agents to ignore that section of the *Act* and continue to pay annuities to Metis women married to non-treaty men, as well as their children.

However, when these Indigenous women applied to leave treaty to take scrip, points of weakness in the colonial order were revealed, and occasionally instances of policy revisions were made in response. Some Metis women married to Status Indian men, for example, challenged both the *Indian Act* and scrip policies when they withdrew from treaty and applied for scrip but continued to live on a reserve with their families. According to the *Indian Act*, these women should not have been permitted reserve residence because they were not, under the *Indian Act*, ‘Status Indians.’ Indian agents were instructed that “a half-breed woman married to an Indian cannot withdraw, nor could she withdraw in supposing her husband was a treaty half-breed and remained in treaty.”¹⁶

There were also cases of Metis women in treaty who did not live on a reserve, as was the case with most women who received their annuities on ‘Straggler’ paylists. Frustrated by the lack of instructions forthcoming from the DOI, Street accepted scrip applications from Metis women previously in treaty and forwarded them to Ottawa with specific questions regarding eligibility.¹⁷ The Deputy Minister of the Department of the Interior A. M. Burgess requested an

¹⁶ LAC, RG15, vol. 574, file. 175917, Hayter Reed to Magnus Begg, 23 June 1886.

¹⁷ One of these applications was from Marguerite Robasca, who was initially paid annuities with Papaschase, and then after 1880, as an ‘Edmonton Straggler.’ See Niemi, ‘Gendered Strategies of Treaty and Scrip,’ 76.

investigation of the *Indian Act* to clarify the issue.¹⁸ A lawyer for the DOI, John Hall, cited the 1880 Act and noted that Metis could withdraw and apply for scrip. However, not realizing that the *Indian Act* had been amended in 1884, Hall stipulated that Metis who withdrew were required to pay back all annuities collected while in treaty.¹⁹ Due to this misunderstanding, initial instructions to Commissioners stated that:

Half-breeds who have taken Indian treaty, but who commuted their treaty payments by accepting the 10 years purchase of the same, provided for by the Indian Act, you are to deduct the said commutation payments from the amount of the scrip to which they would have been entitled had they simply been half-breed who withdrew from the Indian Treaty without commuting their treaty payments and issue scrip to them for the balance.²⁰

Amendments to the *Indian Act*, however, had been made in 1884 to encourage people whom the government did not consider “Indian” to leave treaty more easily. As early as 1878, the Minister of the Interior, Indian Superintendent David Laird expressed that it was “desirable that Métis be allowed to leave treaty if they return gratuities and annuities paid to them or perhaps should be allowed to do so without penalty.”²¹ And in 1880 Wadsworth expressed concern to Dewdney about the DIA’s punitive treaty withdrawal policy:

...many half-breed men, who are now taking treaty would like to withdraw were they able to pay back the money they have already received; as they are not likely ever to get this much ahead, I think it would be better to do so without exacting the return of money, than to continue paying them and their families year after year; a saving would be made of a large amount annually to the Government.²²

Framed in terms of economics, these changes to the *Indian Act* were made in 1884. In the

¹⁸ LAC, RG15, vol. 574, file. 175917, A. M. Burgess to Mr. Hall, 18 May 1885.

¹⁹ LAC, RG15, vol. 574, file 175917, A.M. Burgess to Mr. John R. Hall, 18 May 1885 and Mr. John R. Hall to W. P. R. Street, 19 May 1885; vol. 171, file HB64, David Laird to Minister of the Interior, 15 November 1878; vol. 501, file 140682, G. Duck to A.M. Burgess, 26 May 1886, and A.M. Burgess to Roger Goulet, 11 June 1886.

²⁰ LAC, RG15, vol.501, file 140682, G. Duck to A.M. Burgess, 26 May 1886 and A.M. Burgess to Roger Goulet, 11 June 1886.

²¹ LAC, RG15, vol. 171, file HB64, David Liard to Minister of the Interior, 15 November 1878.

²² Report of Wadsworth, (Edmonton), Dominion of Canada, *Annual Report of the Department of Indian Affairs* for the Year Ended 31st December, 1880, 87.

meantime, unaware of the 1884 changes, scrip commissioners continued to deduct annuities for a number of months. Once the error was acknowledged, a list of applications with treaty annuities incorrectly deducted was compiled and additional scrip certificates for the amounts owing were sent out immediately.²³

Concerns of fraud from the DIA also frustrated the scrip commissioner's efforts grant scrip to a large number of people who received annuities as 'stragglers.' Commissioner Goulet twice requested permission from the DIA to allow 'stragglers' to withdraw, but was denied by Deputy Minister of the Interior A. M. Burgess on advice from Hayter Reed.²⁴ Reed expressed concern that 'stragglers' from other districts would request a discharge, be granted scrip, and then return to other districts and continue to fraudulently collect annuities.²⁵ Inspector Wadsworth's concerns were different. He requested clarification from Indian Commissioner Dewdney on how to deal with the flood of withdrawal applications from Metis who led the "same mode of life as the Indians."²⁶ With no instructions, Wadsworth withheld all discharge requests, which caused a considerable discontent. Eventually local Indian agents, usually advised by local clergy, were granted discretion to determine whether or not a person was 'Metis-enough' to withdraw from treaty.

Cross-referencing annuity paylists with the DIA document, 'List of Halfbreeds Who Have Withdrawn from Treaty, June 1st, 1888,' I was able to trace, with certainty, 640 Metis who

²³ Roger Goulet, "Report Respecting Claims by Half-breeds," 12 January 1887.

²⁴ LAC, RG15, vol. 501, file 140682. Roger Goulet to A. M. Burgess, 25 May 1886; Roger Goulet to A. M. Burgess, Calgary, June 19, 1886; vol. 488, file. 138133, Hayter Reed (Assistant Indian Commissioner of the NWT) to Superintendent General of Indian Affairs, 26 July 1886.

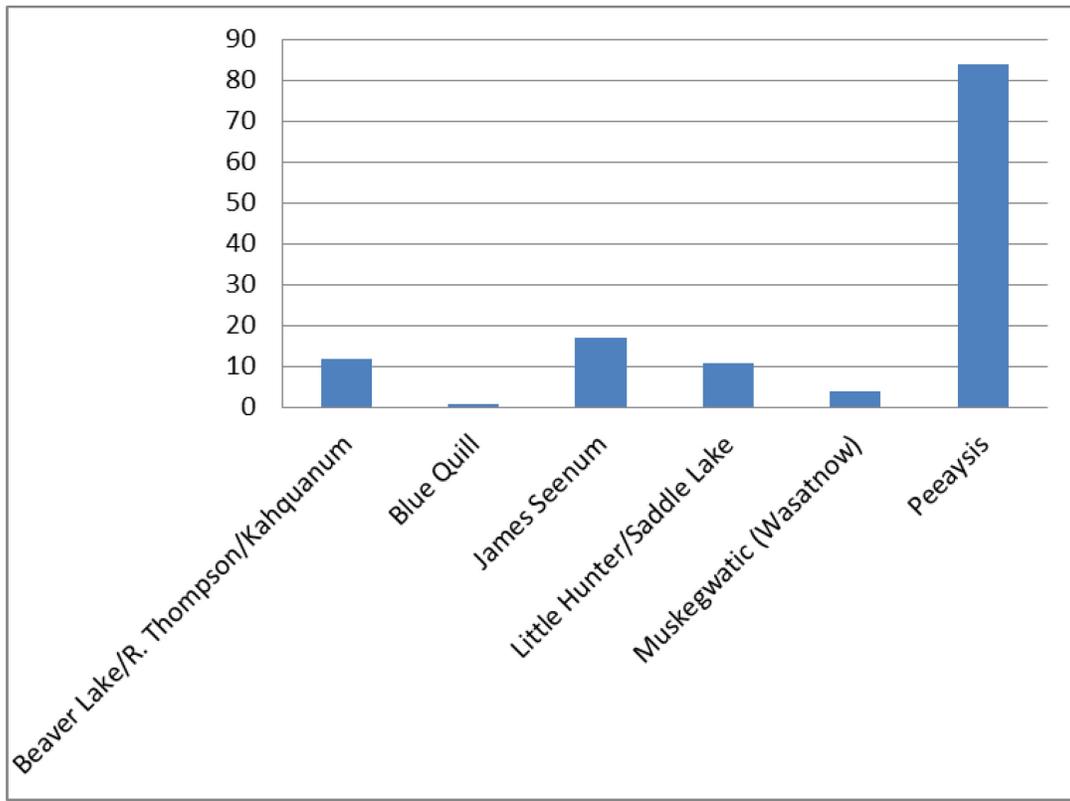
²⁵ LAC, RG15, vol. 488, file 138133, Assistant Indian Commissioner Hayter Reed to Superintendent General of Indian Affairs, 28 August 1886.

²⁶ LAC, RG15, vol. 488, file 138133, Quoted in Telegram of Roger Goulet to A. M. Burgess, 12 July 1886.

withdrew from Treaty 6 between 1885 and 1888.²⁷ Withdrawal numbers for the Battleford District reveal very few Metis families leaving treaty. Large portions of the Battleford District populations had just returned from the plains prior to the outbreak of violence in 1885. While there were a few Metis families from the borderlands who came northward in that period, paylists show that many continued on to the Edmonton District. Within the Treaty 6 area, the largest number of treaty withdrawals took place in the Saddle Lake/Victoria and Edmonton/Peace Hills Districts. Chart 7.1 below shows all the noted instances of treaty withdrawals in the Saddle Lake/Victoria District of Treaty 6. This chart reveals a relatively large number of withdrawals made from the Peeaysis band. This band almost entirely withdrew from treaty and applied for Metis scrip. The other bands in this district show only a very small number of treaty withdrawals, which speaks to the very small of number of Metis families who wanted to change their administrative status from “Indian” to “Half-breed.”

²⁷ Glenbow Archives, Hobbema Indian Agency Series, M4433, ‘List of Halfbreeds Who Have Withdrawn from Treaty, June 1st, 1885 and 1888,’ This document can also be viewed at <http://www.albertaonrecord.ca/iw-glen-845/digitalobject/browse> [Last accessed 16 June 2015].

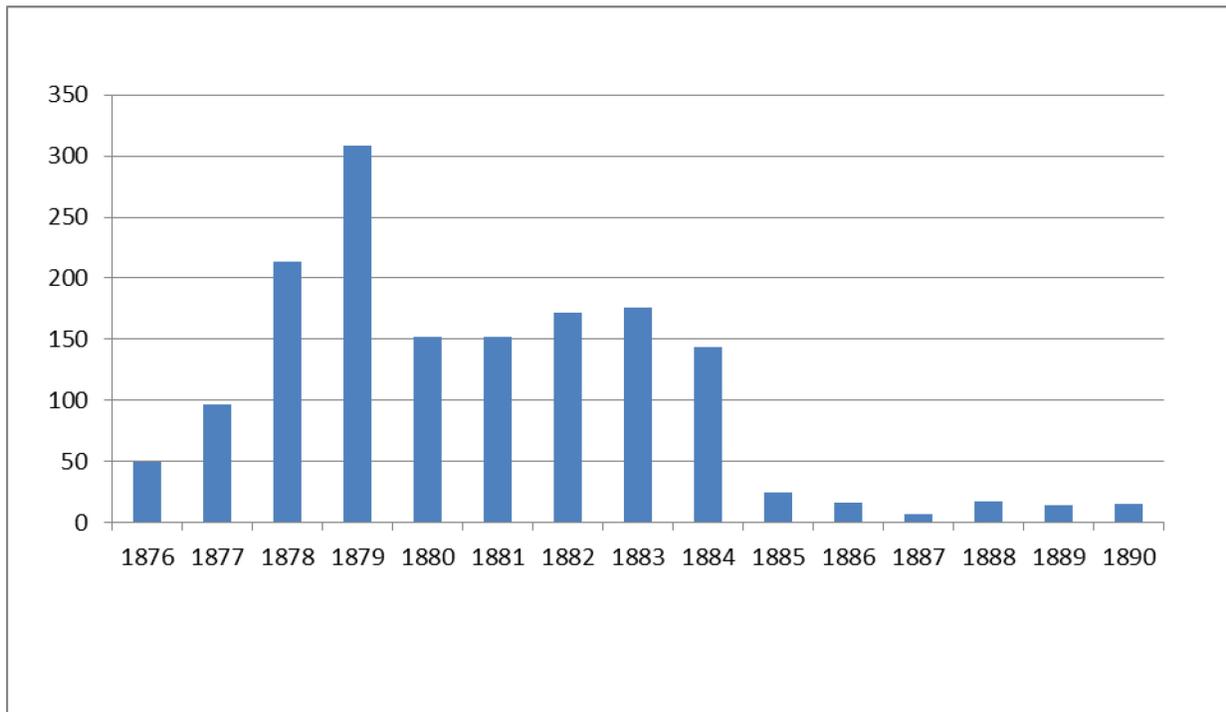
Figure 7.1 Saddle Lake/Victoria District Metis Treaty Withdrawals 1885-1888



7.3 Familial Tactics of the Peeaysis Band: Band Formation to Band Dissolution

In 1876, eight French Metis families from the Lac la Biche region entered Treaty 6 at Fort Pitt, under the leadership of Francois Desjarlais aka Peeaysis. In the subsequent years many more families followed their lead. So much so, that between 1876 and 1879 Peeaysis band membership increased from fifty to 308 people (see Chart 7.2); in other words, a population increase of 516%. One year later the membership numbers dropped substantially and then leveled off until another significant drop in 1885, when most members withdrew from treaty with the arrival of the scrip commission.

Figure 7.2 Peeaysis Paylist Annuity Totals, 1876-1890



Any explanation of the population dynamics of this band must start with an analysis of gender dynamics. In 1876, the distribution of men to women in the Peeaysis Band was relatively even. However in 1877 the number of women doubled that of men. As a general rule, male to female ratios are usually relatively even, unless there are external factors affecting the population. As noted in the Peeaysis Paylist Annuity Totals Graph above (Chart 7.2), the number of people who collected annuities almost doubled between 1876 and 1877. This in itself is not unusual. Almost all bands that entered treaty in 1876 increased their numbers in the years following treaty signing. However, the gender imbalance of the Peeaysis band is very unusual and resembles 'Straggler' paylists. In 1877 most of the increase in band size was due to the addition of female individuals, some with children, some without, but most were married. For example, Mrs. Jerome Cardinal entered treaty with Peeaysis on her own in 1877, and then her husband and children entered the following year. The entire family withdrew in 1885 and

received scrip. In the cases of Mrs. John Cardinal, Mrs. Isabelle Collins, and many others, they entered treaty but their husbands did not. And again, they withdrew from treaty in 1885 and received scrip. Chart 7.3 below reveals the disparity in numbers between males and females in the Peeaysis Band.

Figure 7.3 Breakdown of Peeaysis Paylist Annuity Totals, 1876-1890

Year	Population	Men	Women	Dependants
1876	50	8	9	33
1877	97	15	30	52
1878	213	37	59	117
1879	308	48	68	192
1880	152	22	39	91
1881	152	16	42	93
1882	172	16	44	113
1883	176	17	44	115
1884	144	15	37	92
1885	24	1	8	15
1886	10	0	5	5
1887	7	0	3	4
1888	17	1	5	11
1889	14	1	4	9
1890	15	1	4	10

However, not all treaty withdrawals took place with the arrival of the 1885-86 scrip commissions. Evidence from the paysheets shows that as far back as 1880, some members of the Peeaysis Band wanted to withdraw. In 1880 two families, and in 1881 another five families, withdrew. This desire to withdraw demonstrates the frustration with the government as it failed to deliver its treaty promises. In his 1881 Annual Report for the Edmonton District, Indian Agent Ansdell Macrae provided a revealing comment on both the make-up of the Peeaysis Band and the desire of some families to leave treaty: “This band is composed almost entirely of French half-breeds, many of whom would be glad to leave treaty, but are unable to refund the amount of

annuities received.”²⁸

It is important to note, however, that not all members of the community wanted to leave treaty. Other members of the Peeaysis band wished to remain in treaty but form their own separate community. As a result, the Beaver Lake Band was formed out of former Peeaysis members, who then moved onto a reserve with Rolling Thompson. According to Agent Macrae, they took farming implements with them.²⁹ Again in 1884, the Indian Agent for the Edmonton Agency, William Anderson, remarked that many Peeaysis members were eager to leave treaty:

Peegasis [sic], whose band is made up of French halfbreeds, very seldom remains with them, sometimes absenting himself from the band for nearly a year at a time. Many of these half-breeds wish to withdraw from the Treaty, if they would be allowed to do so without repaying the annuity money they have received.³⁰

It is unclear whether or not the husbands of women in treaty also wanted treaty and were denied, or chose not to enter. It stands to reason that bands with significant gender imbalances are indicative of Metis communities or ‘bands’ who entered treaty but very likely did not view themselves as “Indians.” Rather, they were hunters, trappers, traders, and freighters who, while maintaining significant familial ties to their Cree identities, did not necessarily view treaty status as applicable or desirable for their community. With no other options such as scrip available in the 1870s, they chose to enter treaty. However, in 1885 Metis scrip became available, and that year Patrick Pruden penned a petition cover letter signed by fifty-seven Metis families requesting that they be permitted to withdraw from treaty to take scrip. It is important to note, however, that even prior to this petition a number of Metis had already withdrawn.

The dynamics and process described above point to an administrative process at time of

²⁸ J. Ansdell Macrae, [Sub-Indian Agent], Edmonton, Annual Report of Department of Indian Affairs, year ended December 31st 1881, xxi.

²⁹ Ibid.

³⁰ William Anderson, Indian Agent, Edmonton, 26 August 1884, Annual Report of Department of Indian Affairs, year ended December 31st 1884, 136.

treaty signing that did not take into account the complex realities of Metis communities in western Canada. This being said, it would be hard to imagine any kind of treaty-making process that could have taken all the complexities of Metis identity into account. Indeed, the Peeaysis band history perfectly illustrates the problems of “Metis” in treaty, the confusion of status categories, and the confusing and ad-hoc way in which Indian policy was applied to hybrid communities. That policy implementation inevitably involved both the Departments of the Interior and Indian Affairs only complicated matters.³¹

Most members of the Peeaysis Band withdrew from treaty on 27 November 1885.³² A note in the 1886 “Chart of numbers and Whereabouts” stated that: “This Band has almost entirely withdrawn from Treaty.”³³ Agent Macrae went on to comment that

Nearly, if not all, the Indians seceded two years ago have been residents at Beaver Lake, under Rolling Thompson. Most of the people were settled in houses before the treaty, and have not yet gone to their intended reserve. They are scattered over a space of some twenty miles, rendering supervision of work difficult.³⁴

This is an excellent example of a community which entered treaty, not because they were “Indian” but because there appeared to be an economic benefit of being in treaty. When the government failed to deliver on these economic benefits, people saw little advantage in being in treaty but couldn’t afford to pay back the annuities. John Mitchell described the last of the remaining members of the Peeaysis Band in 1889:

³¹ Other instances of inter-departmental conflict and confusion were addressed in Theodore (Ted) Binnema and Melanie Niemi, “‘Let the Line Be Drawn Now’: Wilderness, Conservation, and the Exclusion of Aboriginal People from Banff National Park in Canada,” 11, No. 4 (October 2006):724-750.

³² The numbers of people who collected annuities with the Peeaysis Band doubled again in the period from 1877 to 1878. In these years, however, most of the new people added to the payroll were families that included a man, a woman and children. Even then, there are 46% more women than men (59 women, 37 men, 117 children).

³³ ‘Number of Indians in the North-West Territories and their Whereabouts, in October, 1889’ in Annual Report of Department of Indian Affairs, year ended December 31st 1886, 254.

³⁴ J. Ansdell Macrae, [Sub-Indian Agent], Annual Report of Department of Indian Affairs, year ended December 31st 1881, xxi. Indian Agent William Anderson also mentions that most of the Beaver Lake Band members are former members of the Peeaysis Band. Approximately twenty families left Peeaysis and were paid as the Beaver Lake Band. William Anderson, Indian Agent, Edmonton, 5 May 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, xxii.

This band, now comprising a membership of only seventeen persons, reside at Lac la Biche, in the halfbreed settlement of that name. Prior to 1886 this band numbered one hundred and sixty persons, but in that year the number was reduced to that above stated by the discharge from treaty of the remaining members of the band. Of the present members, twelve are halfbreeds, who will shortly be discharged from treaty. As this band have no reserve, and do but little farming, they receive no assistance from the Government, and are dependent upon hunting and fishing for their living, and thus far they have not suffered any great degree of hardship.³⁵

Indian agent John Ross of the Saddle Lake Agency described Peeaysis or Lac la Biche Band as consisting of only “a few families drawing treaty, and they do very little of anything.”³⁶ They would only agree to withdraw if the Scrip Commissioners did not deduct the treaty annuities they collected previously.

Frustrated with the Canadian government, the Peeaysis Band joined forces with the Metis in the 1885 Rebellion. Since members of the Peeaysis Band were considered rebels, the government refused to pay them annuities. After the Rebellion many people, including Chief Peeaysis, fled south across the border, which is also reflected in the annuity paylists. Many people fled for fear of persecution, while others left in the years following to be with family members. Peeaysis filed for scrip at Calgary and later moved east to Battleford, and according to Heather Devine’s research, he passed away in 1899.³⁷ The Peeaysis community is an example of Metis families who entered treaty to get a reserve and the economic benefits that treaty status conferred, and then, disillusioned by the Government’s broken promises and the military defeat in the Rebellion of 1885, withdrew from treaty to acquire the monetary benefits of the scrip that was now available.

While the Peeaysis band may have withdrawn from treaty in large numbers, it was the

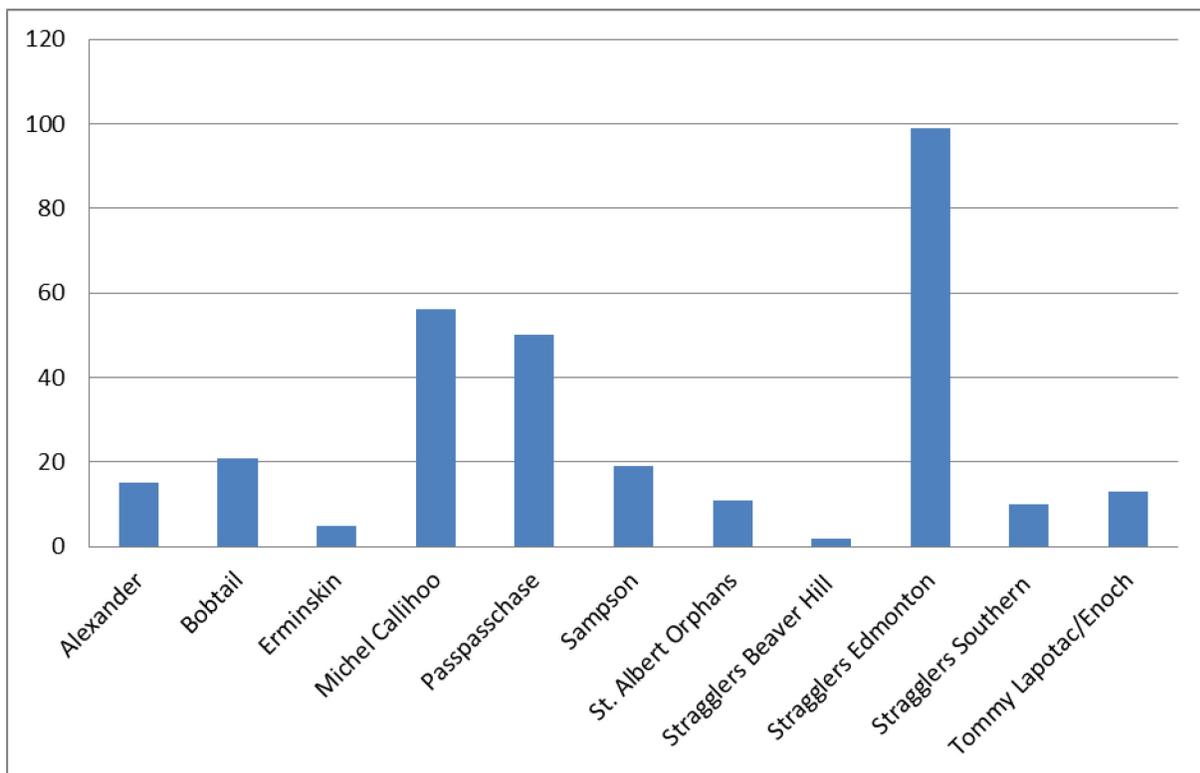
³⁵ John A. Mitchell, Indian Agent, Saddle Lake, 30 June 1889, Annual Report of Department of Indian Affairs, year ended December 31st 1889, 75.

³⁶ John Ross, Indian Agent, Saddle Lake, 30 June 1890, Annual Report of Department of Indian Affairs, year ended December 31st 1890, 53.

³⁷ Heather Devine, *The People Who Own Themselves*, 177-178.

only band in the Saddle Lake/Victoria District to experience such significant decline as to result in band dissolution. As Chart 7.4 below reveals, however, The Edmonton/Peace Hills District did experience a significant decline in numbers due to treaty withdrawals for the purposes of obtaining scrip. The large Metis population in this district was largely due to the large number of freemen and fur trade families who established communities at Edmonton, St. Albert, and Lac St. Ann. The Edmonton Straggler payroll, which mainly consisted of Metis women married to non-treaty men disappeared completely. And within a couple years, the Bobtail and Papaschase paylists also disappeared when most members withdrew from treaty to take scrip. The remaining members of these bands then transferred into other bands where they had familial ties.

Figure 7.4 Edmonton/Peace Hills District Metis Treaty Withdrawals 1885-1888



7.4 The Dissolution of the Papaschase Band

The dissolution of the Papaschase Band has been the subject of litigation and historical controversy.³⁸ My intention here is not to get into specific legal claims over the dissolution of this band, but rather to show how the Metis scrip program resulted in the tragic disappearance of some bands, and their reserves, in Treaty 6. Disillusioned by broken Treaty promises and hunger, the availability of scrip for those who could prove their “half-breed” status according to a government definition and the perceived economic benefits of scrip would have been difficult to refuse. That being said, while many Metis actively lobbied for the extension of scrip, and many Metis actively requested their withdrawal from treaty, the outcomes of leaving treaty were tragic for many, including Chief Papaschase.

In the years prior to both the arrival of the scrip commissions in the North-West and the 1885 Rebellion, many ‘white’ settlers, including *Edmonton Bulletin* owner and operator Frank Oliver, lobbied the Government to move or get rid of the Papaschase Reserve so that valuable lands could be used by the more ‘deserving whites.’ Government officials, however, did not accede to the demands of land hungry speculators in the pre-1885 period. Ken Tyler argued that Wadsworth transferred some names of Papaschase band members onto the new ‘Edmonton and

³⁸ An amended statement of claim for Rose Lameman, Francis Saulteaux, Nora Alook, Samuel Waskewitch, and Elsie Gladue on their own behalf and on behalf of all descendants of The Papaschase Indian Band No. 136 and Attorney General of Canada, Action No. 0103-03088, dated 13 August 2003. The initial claim was filed February 2001. The Alberta Court of Appeal ruled against the claim in December, 2006. The case then went to the Supreme Court: *Canada (Attorney General) v. Lameman*, dated 4 March 2008. The Supreme Court decision supported the initial rejection of the Chamber Judge, stating that: “We are of the view that, assuming that the claims disclosed triable issues and that standing could be established, the claims are barred by operation of the *Limitation of Actions Act*. There is “no genuine issue” for trial. Were the action allowed to proceed to trial, it would surely fail on this ground. Accordingly, we agree with the chambers judge that it must be struck out, except for the claim for an accounting of the proceeds of sale, which is a continuing claim and not caught by the *Limitation of Actions Act*.” This decision can be viewed online: <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/4623/index.do> [Accessed 30 June 2015].

District Stragglers' payroll in 1880 in order limit the size of Papaschase's reserve.³⁹ However, I was unable to find evidence to support that claim. It is plausible that Wadsworth transferred the names of some Papaschase members on the 'Straggler' list because they did not want to settle on the reserve land. Either way, Wadsworth's decision meant that Papaschase's reserve, when it was surveyed by George Simpson in 1880, was not based on Wadsworth's 1879 annuity list totals of 241, but on the 1880 total of 189.⁴⁰ Papaschase was furious with this low number and tensions between him and Wadsworth were high over the course of the next few years. Wadsworth was very critical of Papaschase and in his view, the band was not making enough 'progress' on the reserve: "These Indians are making but little progress in farming, and excepting at the time of annuity payments the band is hard to find."⁴¹ In 1884, Wadsworth made another similar comment: "These Indians are much as usual; a few of them attempt farming, and they all come very regularly to the Indian office, monthly or oftener, for flour and bacon."⁴² Much to the delight of Indian agents in the Edmonton District, Papaschase did not join with Riel when the fighting broke out in 1885. Indeed, his 'loyalty' smoothed over relations with colonial agents during and after the Rebellion. In his 1885 Report, William Anderson from the Edmonton District remarked that Papaschase, the 'Chief of the Two Hills Band' used his influence to discourage participation in the Rebellion."⁴³

Evidence shows that after the Rebellion Chief Papaschase wanted to leave treaty but was

³⁹ Ken Tyler, 'A Tax-Eating Proposition: The History of the Passpasschase Indian Reserve' (MA thesis, University of Alberta, 1979); Niemi-Bohun, *Colonial Categories*, 77; Clint Evans, 'Report on the Origins and the Dissolution of the Papaschase Band' prepared for Justice Canada, Edmonton, Regional Office, 27 January 2004: 54-70.

⁴⁰ LAC, RG10, Vol 3728, File 25705, Surveyor George Simpson to the Supt. Gen. of Indian Affairs, 1 December 1880.

⁴¹ T. P. Wadsworth, Inspector of Indian Agencies and Superintendent of Indian Farms, Edmonton, 9 October 1883, *Annual Report for the Department of Indian Affairs*, for the year ended December 31st 1883, 126.

⁴² T. P. Wadsworth, Inspector of Indian Agencies and Superintendent of Indian Farms, Edmonton, 25 October 1884, *Annual Report for the Department of Indian Affairs*, for the year ended December 31st 1884, 145.

⁴³ William Anderson, Indian Agent, Edmonton, 26 August 1885, *Annual Report for the Department of Indian Affairs*, for the year ended December 31st 1885, 71.

delayed by Wadsworth's denial of a treaty discharge. Angry about Wadsworth's interference, Papaschase asked Richard Hardisty, the Chief Factor at Fort Edmonton, to advocate on his behalf with the Government.⁴⁴ He also personally telegraphed Prime Minister John A. Macdonald asking "why cant [sic] we get same as Peace Hills half breeds taking treaty we want Scrip[.]"⁴⁵ Papaschase was eventually granted his treaty discharge and applied for scrip at Edmonton on 31 July 1886.⁴⁶ His brothers and a few other members of his band followed suit. The remaining eighty-two members of the Papaschase band were transferred to the Enoch Band in 1887.⁴⁷

Descendants of the Papaschase band have argued that colonial administrators, pressured by *Edmonton Bulletin* owner Frank Oliver, disbanded Papaschase when the opportunity arose with the withdrawals from treaty to take scrip.⁴⁸ While I was unable to find documented evidence to support that claim, what is irrefutable, is that Papaschase's withdrawal from treaty in 1886 set in motion the complete dissolution of the Band and the eventual sub-division of the reserve lands. Unfortunately, Papaschase's desire to leave treaty and take scrip played into the hands of speculators and local businessmen, like Frank Oliver, who for years fiercely lobbied for the Government to get rid of the Papaschase reserve.

Thomas White, Superintendent General of Indian Affairs in 1887, commented on the withdrawal of Papaschase's band from treaty, and the anticipated sale of their reserve land:

Pass-pass-chase's Reserve, near Edmonton most of the band owning the last named reserve have withdrawn from treaty and accepted half-breed scrip, and the residue

⁴⁴ LAC, RG10 Vol. 3595, File 1239, part 12, Telegram from HBC Chief Factory Richard Hardisty to Indian Commissioner Dewdney, 9 July 1886.

⁴⁵ LAC, RG10 Vol. 3724, File 24303-2, A telegram from John Quinns to Sir John A. Macdonald, c/o Gov [illegible] Dewdney, 15 July 1886. Also quoted in Evans, 'Papaschase,' 60.

⁴⁶ LAC, RG15, Vol. 1349, Scrip application of John Quinns Gladu (Chief Paspaschess), Edmonton, 31 July 1886.

⁴⁷ RG10 Vol. 9420, Treaty 6 Annuity Paylists, 'Papaschase'; Treaty 6 Annuity Paylists, 'Enoch'.

⁴⁸ An amended statement of claim for Rose Lameman, Francis Saulteaux, Nora Alook, Samuel Waskewitch, And Elsie Gladue on their own behalf and on behalf of all descendants of The Papaschase Indian Band No. 136 And Attorney General Of Canada, Action No. 0103-03088, dated 13 August 2003. A history of the Papaschase Band as told by descendants can also be found at <http://www.papaschase.ca/history.html> [Accessed 20 June 2015].

have removed to the reserve of Enoch, on Stony Plain. The Pass-pass-chase Reserve will, it is anticipated, be surrendered by the band, and the land will then be sold and the proceeds invested for their benefit.⁴⁹

According to Agent Anderson, only a few men and a number of women (widows) remained on the reserve. Those who remained, "...have asked to be transferred to Enoch's Reserve on Stony Plain where they can be better looked after, and I hope that before long they will be settled there."⁵⁰ Indian Commissioner Dewdney commented in detail of the plans for the recently vacated Papaschase reserve:

The reserve thus vacant will be surrendered by the Indians, and as it has already been subdivided, no time will, I trust, be lost in putting it into the market. The proceeds will be funded for the benefit of the retiring band, and of those who give them a share of their reserve. This arrangement will not only be of advantage to the Indians concerned, but will prove a boon to the settlers in the neighborhood of Edmonton, who will be glad to find these additional farming lands thrown into the market.⁵¹

The Papaschase Reserve was eventually surrendered in 1888 by acting Indian agent William de Balinhard. De Balinard explained to Reed that there was "...only one Indian man of Pahpastayos Band now on Stoney Plain Agency and one out hunting this with three or four who have joined the Peace Hills Agency are all that remain of the Band."⁵² It is questionable how much effort de Balinhard put into trying to convene as many people as possible to discuss the surrender of the reserve land. Descendants of Papaschase argue that Agent de Balinhard

failed to exercise due diligence and care in the conduct of the surrender by, *inter alia*, neglecting to prepare a proper voters list setting out the names of all eligible voters of the Papaschase Band prior to calling a vote to consider the proposed surrender of IR 136....On November 15, 1887, Agent de Balinhard misrepresented that he was unable to obtain a surrender of IR 136 because there were only two adult males of the Papaschase Band on the Enoch Reserve and one was away on a hunt. However,

⁴⁹ Thomas White, Superintendent General of Indian Affairs, Ottawa, 3 January 1888, *Annual Report of Department of Indian Affairs*, year ended December 31st 1887, liv.

⁵⁰ William Anderson, Indian Agent, Edmonton, [no date], *Annual Report of Department of Indian Affairs*, year ended December 31st 1887, 104.

⁵¹ Edgar Dewdney, Indian Commissioner, Regina, 23 December 1887, *Annual Report of Department of Indian Affairs*, year ended December 31st 1887, 192.

⁵² LAC RG10, Vol. 3582. File 1023 ½, Indian Agent de Balinhard to Commissioner Reed, 15 November 1888.

in August, 1887, Agent de Balinhard paid treaty annuities to at least 10 men from the Papaschase Band who were with the Enoch Band but he made no attempt to convene a surrender meeting at that time. Further, Agent de Balinhard knew or ought to have known that there were other men from the Papaschase Band who were living with the Alexander and Sampson Bands, located approximately 50 miles south of Edmonton...⁵³

Regardless, de Balinard went ahead and secured the surrender with only three signatures. In 1894 the two remaining signatures, James Stoney and Antoine, transferred into the Enoch Band.⁵⁴ From that point on, Enoch members shared in the proceeds from the sale of the reserve lands. The process of the dissolution of the Papaschase Band was completed.⁵⁵

Papaschase had, in the meantime, sold his scrip, and was apparently living poorly in the Beaver Hills.⁵⁶ According to the account of James Brady, whose family had close relations with Papaschase, Papaschase was brought to St. Paul des Metis in 1901 by Brady's grandfather, Lawrence Garneau:

My grandfather and related families moved him to the old St. Paul Halfbreed Reserve in 1901. Three years later, and nearly twenty years after the rebellion, my grandfather heard that Papasschayo was old and in straitened circumstances, So he journeyed to the foothills and brought the chief back to St. Paul des Metis. The Cree band of earlier days had broken up; it now existed only in the memories of the old timers.

...A comfortable cabin was built for Papasschayo across a small lake near our trading post, and here Papasschayo lived with his two wives. An Indian youth also lived with him, a neophyte who was learning the practice of Indian medicine and

⁵³ An amended statement of claim for Rose Lameman, Francis Saulteaux, Nora Alook, Samuel Waskewitch, and Elsie Gladue on their own behalf and on behalf of all descendants of The Papaschase Indian Band No. 136 and Attorney General Of Canada, Action No. 0103-03088, dated 13 August 2003, 13.

⁵⁴ LAC RG10, Vol. 3582, file 1023 ½, Agreement between the owners of Enoch's Indian Reserve and the owners of the Pass-pass-chase Indian Reserve, 24 January 1894. Copy also found in Vol. 3786, File 42010-2B. Also quoted in Evans, Papaschase, 68.

⁵⁵ LAC RG10, Vol. 3582, file 1023 ½, Agreement between the owners of Enoch's Indian Reserve and the owners of the Pass-pass-chase Indian Reserve, 24 January 1894. Copy also found in Vol. 3786, File 42010-2B. Also quoted in Evans, Papaschase, 68.

⁵⁶ LAC RG10, Vol. 3582, file 1023 ½, Assistant Indian Commissioner to Deputy Superintendent General, 30 August 1889. The final arrangement to arrange for the proceeds from the reserve land sales to be distributed was made in 1894. On the whereabouts of Papaschase see Glenbow Archives, Series 3 M-125-19, James Brady Fonds, "The Wisdom of Papasschayo a Cree Medicine Man."

occult arts. The summer seasons were spent in the old style prairie tepees.⁵⁷

While the North-West Scrip Commission resulted in positive socio-economic outcomes for some Metis families, like the Garneau's, for many others, including Papaschase, the outcomes were adverse. After selling their scrip to speculators, many Metis families, faced with the loss of a land base, competition with growing European settlement in an era that economically and socially privileged whiteness, fell into poverty. This appears to have been the case with Papaschase. While the argument can certainly be made that he expressed careful thought in his decision to withdraw from treaty, the outcomes were likely not as he had envisioned. He lost his community, his influence, and the community lost their land.⁵⁸

7.5 The Making of the Enoch Band

Associated with the demise of the Papaschase Band is the growth of the Enoch Band. The formation of the Enoch Band, as it became known in 1883, is complex and not well understood from an administrative perspective. For example, Linda Goyette and Cara Jakeway Roemmich characterize the Enoch band as having been brought “into treaty” by Tommy Lapotac prior to his death.⁵⁹ However, a closer look at the paylists for Tommy Lapotac reveal that the people of his band moved between and were paid with various leaders, and many as “Stragglers” with no leader, prior the formation of the cohesive Enoch community as we understand it today. In other words, people were already *in* treaty, but they were not settled with a particular band. The Enoch band came together as a result of various turbulent circumstances intersecting in the Edmonton District. These included the troubled relationship between Inspector Wadsworth and Papaschase, the dissolution of the Papaschase Band, the large numbers of fur trade and freemen Metis

⁵⁷ Glenbow Archives, Series 3 M-125-19, James Brady Fonds, “The Wisdom of Papasschayo a Cree Medicine Man.”

⁵⁸ Another tragic example of band dissolution is the case of Bobtail.

⁵⁹ Goyette, *In Their Own Words*, 57, 417.

families collecting annuities as ‘stragglers’ in the Edmonton and Peace Hills region, and the declining influence of Chief Bobtail. These forces coalesced in 1880 when the demise of the bison herds necessitated a settled life on reserves in order to collect rations to prevent starvation and destitution. While there is a fair amount of grey literature available on the histories of the Papaschase, Bobtail, Ermineskin and Samson bands written in response to legal claims against the government by descendants, the formation of the Tommy Lapotac/Enoch Band has not received much attention.⁶⁰

Whereas the Peeaysis community was an example of Metis families coming together to form a band for the purposes of treaty, most of the Enoch band members were Metis families with no band affiliation who collected annuities as ‘Stragglers.’⁶¹ In the late 1870s and early 1880s these were the people who collected annuities on various paylists including the ‘Tail Creek Stragglers’ and the ‘Edmonton Stragglers.’ In 1878, Tommy Lapotac, Samson, and Ermineskin were paid as ‘Stragglers’ at Tail Creek. Bobtail entered treaty a year earlier in 1877, and thus his band had their own paylist.⁶² These were peoples from the Beaver Hills, and the region around Buffalo and Pigeon Lakes and many, by 1876, were not identified with any clearly delineated Cree band or chief.

It appears that prior to the creation of the Samson and Ermineskin Bands, both men were

⁶⁰ The term ‘grey literature’ refers to research and reports produced through litigation.

⁶¹ See Chapter 5. Bobtail was among a number of Chiefs, who travelled to visit Chief Factor Christie at Fort Edmonton in 1871 to request an audience with Adams Archibald, the Lieutenant Governor of Manitoba and the North-West Territories. This suggests that Bobtail had a significant following by the early 1870s. “Messages from the Cree Chiefs of the Plains, Saskatchewan, to His Excellency Governor Archibald, our Great Mother’s representative at Fort Garry, Red River Settlement.” Included in a letter from W.J. Christie, dated 13th April 1871. Published in Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories, including the Negotiations on which they were based, and other information relating thereto* (Toronto: Bedfords, Clarke & co., 1880), 170-171. The Cree Chiefs noted in this document were: Sweet Grass, Ki-he-win (The Eagle), The Little Hunter, and Kis-ki-on (Short Tail).

⁶² Bobtail and Ermineskin were brothers. Their father was Jean Baptiste Piché. Father Scollen who wintered with a large group of Plains Cree in 1869-70, mentions the two Piché brothers: “Alexis also known as Kiskayu or Bobtail (queue coupee) and Jean Baptiste also known as Kassikusiweyaniw or Ermineskin (peau de belette) with their bands.” Scollen, Constantine Michael, notes biographiques, PAA, o.m.i., 71.220/7340, 33- 34.

followers of Maskepetoon, who was baptized by Methodist Rev. Woolsey very near the end of his life.⁶³ Maskepetoon and his small Plains Cree band generally hunted south of Fort Edmonton, but also ventured into what is now southern Saskatchewan and Montana.⁶⁴ Maskepetoon was killed by Blackfoot in 1869, and according to Rev. John McDougall, Samson was his successor in 1869.⁶⁵ Some of this group followed Samson, others followed Ermineskin, and still others stayed at Pigeon Lake and later formed a band under the leadership of Noah Muddy Bull.⁶⁶ Neither Samson nor Ermineskin were listed on the 'Pigeon Lake Indians' payroll in 1877, however both were listed as 'Indians' on the 'Tail Creek Indians' payroll in 1878.⁶⁷ Then one year later, in 1879, each man was recognized by the Canadian government as chiefs of their respective followers and paid annuities: Samson Band with 194 people, and Ermineskin with 187 people.

The fact that neither man was noted as a leader in 1878 speaks to general confusion of Indian agents attempting to sort out the meaning of a 'band' for the purposes of annuity payments. Both Samson and Ermineskin went from having been listed as "Stragglers" in 1878 to having their own band and reserves by 1880. Both bands selected reserves near Bobtail (who was Ermineskin's brother) in the Peace Hills. According to William Fraser, "Samson's known good relations with the whites gave him considerable prestige and his policy of accepting all and any

⁶³ Samson was born around 1833, and was baptized as "Sampson" at the age of 11 by Methodist missionary, Robert Terrill Rundle, on 24 September 1844 at Buffalo Lake. The baptismal record is found in *The Rundle Journals: 1840-1848*, 398-399.

⁶⁴ William Fraser, 'Plains Cree, Assiniboine and Saulteaux, (Plains) Bands, 1874-1878,' Glenbow Archives, M1190, T5, 54.

⁶⁵ John McDougall, *Pathfinding on Plain and Prairie: Stirring Scenes of Life in the Canadian Northwest* (Toronto: William Briggs, 1898), 55-57, 152. As late as 1870, however, McDougall noted that no leader had as yet emerged to take the place of Maskepetoon. John McDougall, *In the Days of the Red River Rebellion* (Edmonton: Western Canada Reprint Series, University of Alberta Press, 1983), 90-91; Glenbow-Alberta Institute Archives (Calgary), Reverend John McDougall papers, file A/M 137B/f.58; *Dictionary of Canadian Biography*, http://www.biographi.ca/en/bio/maskepetoon_9E.html [Last accessed 16 March 2015].

⁶⁶ Glenbow Archives, M1190, T5, William Fraser, 'Plains Cree, Assiniboine and Saulteaux, (Plains) Bands, 1874-1878,' 54.

⁶⁷ RG10, Vol. 9412, Treaty Annuity Paylists, 1877, 320; Treaty Annuity Paylists, 1878, 474-475.

into his band added greatly to his following.”⁶⁸ As Bobtail’s influence declined in the early 1880s, people transferred into the Samson, Ermineskin, and Tommy Lapotac/Enoch bands.

At the same time, Indian Commissioner Dewdney was trying to encourage Tommy Lapotac to gather as many people in the vicinity of Edmonton who wanted to settle on a reserve to form a new band. He noted in 1880 that he had told Lapotac that

should he collect a large number of Indians, at that time living about Edmonton claiming no chief, I would recommend that he be placed in charge of them and given a Reserve. This he did and moved to a piece of land about 8 miles from Edmonton where he had previously established himself and made some cultivation.⁶⁹

Many of the people who Lapotac “collected” were paid treaty annuities as ‘Edmonton Stragglers.’ Furthermore, some of the people paid annuities as Edmonton Stragglers in 1880 were previously listed on the Papaschase paylists between 1877 and 1879.⁷⁰ As the chart below demonstrates, there were also people from various other bands who joined with Tommy Lapotac, and later, his brother Enoch, to form the new band.⁷¹

⁶⁸ Glenbow Archives, M1190, T5, William Fraser, ‘Plains Cree, Assiniboine and Saulteaux, (Plains) Bands, 1874-1878,’ 54.

⁶⁹ RG10, volume 3651, file 8535, no. 3681, Indian Commissioner Dewdney, Regina, to Supt. General of Indian Affairs J. A. Macdonald, Ottawa, 20 August 1883.

⁷⁰ In 1880 Inspector of Indian Agencies T. P. Wadsworth transferred the names of 84 people from the Papaschase payroll onto a new list he constructed called “Stragglers living about Edmonton having no recognized Chief.” The circumstances behind the transfer of those names onto the Edmonton Straggler payroll have created considerable legal debate; however, for the purposes of examining the creation of new bands, the important point to remember is that people with no specific claim to band membership in 1880, according to the Treaty Paylists, were then encouraged to create a new band.

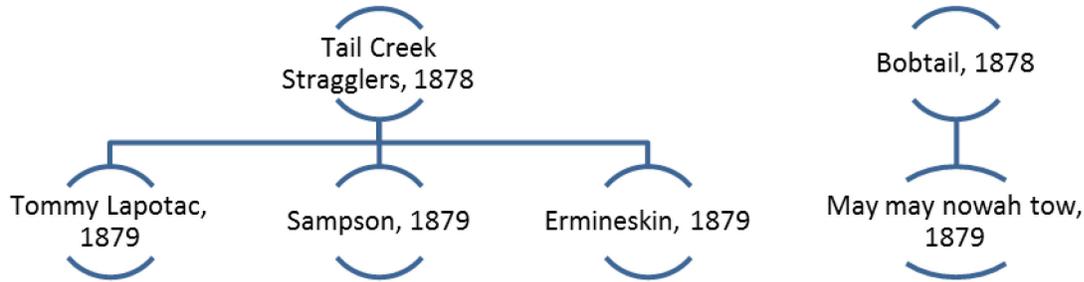
⁷¹ Tommy Lapotac died in 1883 and his brother Enoch was selected by T. P. Wadsworth to take over as Chief, and the band name changed to Enoch. Tommy and Enoch Lapotac were the sons a very prominent Cree Chief in the Fort Edmonton vicinity, Joseph Lapotack, who died in 1861. Rundle Journal Oct 2, 1846. Notes on Joseph Lapotack from Gerhard Ens, used with permission. Joseph Lapotack’s name appears numerous times in the Fort Edmonton Journals. For example, “John Cunningham and party who left this last Tuesday for George Ward’s camp arrived today with heavy loaded sleds. They brought the melancholy news of the death of our greatest and best Chief LAPOTACK. His body was brought here for burial. He fell down suddenly; it is supposed by the Crees that he had been poisoned by some of the Fort Pitt Crees, but upon this hand we can’t give an opinion. . The general opinion here of the old Freeman is that he was not poisoned, but died from the bursting of a blood vessel, as he bled a great deal from the mouth. He was a good man in every way and always did his best for the whites. He was a [illegible] man, Never touched a drop of liquor. His loss to Edmonton House is irreparable. His family are left for the charity of the HBC and right well do his children deserve to be taken care of [Fort Ed. J. February 9th 1861 (65)]; The remains of Cree Chief LAPOTACK were interred today. The funeral was attended by all the Protestants, Rev Mr.

Tommy Lapotac's name first appeared on the Tail Creek Stragglers list in 1878, as did Samson's and Ermineskin's. None of these men, however, were paid as chief or headman. Tail Creek was located south west of Buffalo Lake and became a staging and supply area for Metis traders many of whom were from Lac la Biche and Lac St. Anne.⁷² The economic importance of this location in 1878 explains the presence of so many people and thus an ideal setting for the distribution of annuities prior to the reserve surveys. The Tail Creek payroll captures a snapshot of the fluidity and mobility of people in this period which carried through into the early 1880s. The Tail Creek payroll, however, no longer existed in 1879. As the chart below demonstrates, Wadsworth recorded names on four different lists: 'Stragglers with Tommy La Patock (from Sampson's and Ermineskin's bands)', 'Stragglers with May may nowah tow (from Sampson's and Ermineskin's bands)', 'Sampson' and 'Ermineskin.' While Tommy Lapotac, Samson and Ermineskin were all paid annuities on the Tail Creek list in 1878, May may nowah tow was paid as a Headman with Bobtail. Chart 7.5 below demonstrates the distribution of members of the Tail Creek Stragglers in 1879 and the connection between the Bobtail and May may nowah paylists.

Woolsey reading the burial service. [Fort Ed. J. February 10th 1861 (65d)]." Gerhard Ens, Transcription of Fort Edmonton Journals, unpublished, used with permission of author.

⁷² "In its heyday, from about 1870 to 1878, Tail Creek had a population estimated at between 1500 and 2000. Most of its residents were housed in some 400 log cabins with grass and dirt roofs. Tail Creek was the staging area for half-breed hunters from as far north as Lac La Biche, from Lac Ste. Anne, and from their settlements along the North Saskatchewan River. Tail Creek's reason for being was to provide food, hides for harnesses and saddles, tents, clothing and moccasins for the hunters and their families, and fresh and frozen meat and hides for the Hudson Bay Company's post at Fort Edmonton. When the source of all this—the buffalo—vanished by the 1880s, the settlement was gradually abandoned. Prairie fires in 1898 wiped out all the cabins but one, which was taken to Stettler and preserved as a memorial to a vanished phase of history." H.B. Chenoweth, <http://www.ghosttowns.com/canada/alberta/tailcreek.htm> [Last Accessed 17 March 2015].

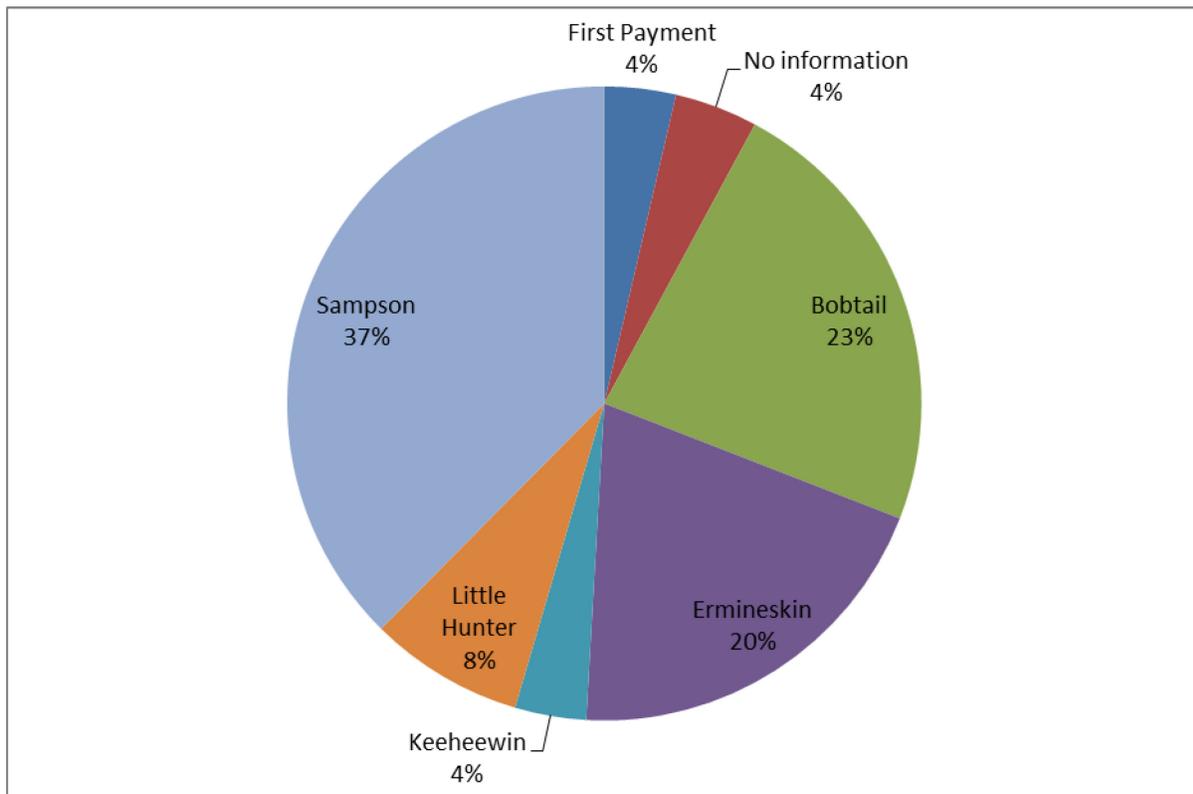
Figure 7.5 Connections between the Tail Creek Paylist and new paylists in the Edmonton District, 1879



Given that the Tail Creek paylists splits into three separate band entities, it is reasonable to speculate that people paid at Tail Creek in 1878 were not part of a cohesive community, but rather families who happened to be in that vicinity at that particular time. It is also reasonable to suggest that all three men, Lapotac, Samson, and Ermineskin, were emerging as leaders in 1878, but did not necessarily yet have a cohesive following.

A close look at the ‘Stragglers paid with Tommy Lapotac’ paylist in 1879 reveals the high degree of fluidity when it came to following a particular leader. There were 165 people paid on this list in 1879, and most of them were noted as having been paid with a different leader the previous year. Even though Lapotac was noted as having a following, he was not paid as a chief or headman. Of interest in respect to Tommy Lapotac - the Indian Agent noted that he was a follower of Samson in 1878. Colonial agents were challenged by their preconceptions about how bands should ‘behave.’ Chart 7.6 below shows the distribution of bands with whom the followers of Tommy Lapotac were previously paid. By a large margin, most of Lapotac’s followers came from the Peace Hills region and had previously collected annuities with Samson, Bobtail, or Ermineskin.

Figure 7.6 Distribution of Previous Annuity Payments for Stragglers Paid with Tommy Lapotac, 1879



Everything changed again in 1880. There was no ‘Tommy Lapotac’ list as there had been in 1879. Instead, Inspector of Indian Agencies, T. P. Wadsworth, created the ‘Edmonton and District Stragglers’ payroll – an all-encompassing payroll intended to capture all treaty people in the Edmonton District who either did not follow a particular leader, or who were not interested in settling on a reserve. This was an administrative reaction to the movement and mixing of people in the Edmonton area. Wadsworth attempted to classify, categorize and sort out who ‘belonged’ with whom. William Anderson, Indian Agent at Edmonton explained that there was also a significant change in policy on how annuity paylists were to be constructed:

It was deemed advisable by the Paymaster in 1880, to divide certain bands into two parts, the band proper, and the stragglers attached to, though not living with it. The amount of land for the reserves was computed for the “band proper,” excluding the other portion, the stragglers, from any benefit of the land, which it was stipulated in

the treaty they should receive.⁷³

Tommy Lapotac and many of the ‘stragglers’ paid with him in 1879 appear on the Edmonton Straggler list in both 1880 and 1881.⁷⁴ Indian Agent Macrae commented in May 1881 that “A large band of stragglers under Tommy le Patac have settled on Stony Plain, about eight miles from this. I have a good man to look after them (Tom Logan,) and there are some good workers amongst them. I am sanguine of their success.”⁷⁵ Thus, even though they still received annuities under the designation of ‘Edmonton Stragglers,’ followers of Tommy Lapotac were starting to farm near present-day Stony Plain.

In 1882, the Edmonton Straggler payroll still existed, but Tommy Lapotac and his followers were given their own payroll. The 1882 ‘Tommy Lapotac’ payroll shows that 199 people were paid annuities. Even though Lapotac had been promised his own reserve and his band was unofficially recognized by the Government in 1880, two years later this had yet to be formalized. Indian Agent William Anderson commented on this matter in his 1882 year-end report:

In accordance with you instructions, I commenced to make the annuity payments on the 20th September, paying on that day the band of Stragglers under Tommy le Potac at Sandy Lake. This band have made great progress having 17 good houses built and 2 stables. Their crops of Barley, Potatoes, Turnip and Garden produce were good and well fenced. They are very anxious to be formed into a band and have their Reserve surveyed which you promised should be done, on their doing well and showing they were deserving of it. I should recommend be done at as early a date as possible.⁷⁶

The following year, however, Tommy Lapotac and his followers were still waiting for the Government to officially acknowledge their band. Official acknowledgement mattered to them

⁷³ William Anderson, Indian Agent, Edmonton, 13 December 1881, *Annual Report of Department of Indian Affairs*, year ended December 31st 1881, 85.

⁷⁴ Noah Muddy Bull, who was paid with Tommy Lapotac in 1879, is paid with his own followers in 1880.

⁷⁵ J. Ansdell Macrae, [Sub-Indian Agent], Edmonton, *Annual Report of Department of Indian Affairs*, year ended December 31st 1881, xx.

⁷⁶ RG10 Vol. 3602, File 1760, No. 5245, William Anderson, Indian Agent, Edmonton, Report to Office of Indian Commissioner, 1 December 1882.

because without it they could not claim to rations, seed, and farming equipment promised to bands settled on reserves. It also mattered because every year more and more new settlers took up land, placing pressures on the lands Tommy Lapotac wished to claim as a reserve. Agent Anderson commented on the importance of having Tommy Lapotac's band recognized by the government and land surveyed as quickly as possible:

Although this Band has progressed at an unprecedented rate in agriculture considering the fact it has had no permanent instruction, and has received so much encouragement to settle upon this location that its recognition as a regular Band has for some time been almost inevitable; owing to its not having yet been considered one it is deprived from the stock promised under Treaty and from the certainty of obtaining the wished Reserve. These disadvantages which arise from its considered unsettled state might now that so much good instruction is [illegible] be advantageously [illegible]....The proposed reserve, as located includes, in my opinion, the best tract of farming land in this district....If it is intended to create a band from this collection of "Stragglers", the immediate survey of this location is desirable, as it has so many attractions for settlers that complications may [illegible] otherwise occur.⁷⁷

Following Anderson's comments, in a letter dated 20 August 1883, Indian Commissioner Dewdney recommended to the Supt. General of Indian Affairs that Tommy Lapotac be granted a reserve and be officially recognized as a band.⁷⁸ On 10 September 1883 Robert Sinclair, the Acting Deputy Supt. General of Indian Affairs, gave official word that the band formed by Tommy Lapotac would be granted a reserve and Lapotac recognized as Chief.⁷⁹ Sinclair noted, however, that there were some restrictions on reserve size given its close proximity to Edmonton:

Say that the Supt. General considers that a reserve should be surveyed for Tommy Le Potac's band at once: that it should be limited in size as, from its proximity to Edmonton, a larger reserve than is actually required for the band would injure that

⁷⁷ RG10, File 8535, William Anderson, Indian Agent, Edmonton, Memorandum, 'The Stock of T Le Potac's Bd, 30 June 1883, and Report dated 16 July 1883.

⁷⁸ RG10, Volume 3651, File 8535, no. 3681, Indian Commissioner Dewdney, Regina, to Supt. General of Indian Affairs J. A. Macdonald, Ottawa, 20 August 1883.

⁷⁹ RG10, Volume 3651, File 8535, no. 3681, Memorandum from Rob Sinclair, Acting Deputy Supt. General of Indian Affairs, to Mr. McNiel, 10 September 1883.

part of the country.⁸⁰

While the post-1885 era saw the dissolution of the Papaschase band and the surrender of their reserve, the Enoch Band emerged and grew out of various Indigenous families joining together to form a new band. Even though the Enoch Band did not have a cohesive past, it emerged as a strong cohesive community with a commanding economic and cultural presence near Edmonton.⁸¹

7.6 Denied for Disloyalty: The Punishment of 'Rebel' Bands

After the Canadian state militarily defeated First Nations and Metis people in the west, the DIA was determined to punish anyone the ministry deemed 'disloyal' to the Crown. Repressive policies that existed prior to the outbreak of violence were, afterwards, enforced with increasing rigour. One means of punishment was to withhold annuities from those considered by the state to be 'rebels.' As a result, the annuity totals on paylists declined significantly in some bands. This section provides a brief overview the policies on withholding of annuities, and how people responded to this practice.

Dewdney referred to the practice of withholding annuities as one of "Policy of Reward and Punishment."⁸² Extensive lists were made to distinguish between 'rebels' and those 'loyal' to the Crown. Indian agents were instructed not to pay anyone who supported the 'rebels,' or who was considered 'disloyal.' In some cases, entire communities were denied their annuities. In other cases, the agents attempted to sort out the 'loyal' from the 'rebels' on the paylists. These attempts were, not surprisingly, fraught with problems. One example from the paylists shows a

⁸⁰ RG10, volume 3651, file 8535, no. 3681, Memorandum from Rob Sinclair, Acting Deputy Supt. General of Indian Affairs, to Mr. McNiel, 10 September 1883.

⁸¹ For examples, see the Enoch Economic Development Website: <http://www.enochedev.ca/home/>

⁸² Edgar Dewdney, Indian Commissioner, Regina, 17 November 1886, Annual Report of Department of Indian Affairs, year ended December 31st 1886, 106.

woman who was noted as loyal one year and then as a rebel two years later.⁸³ Some of the paylists from 1885 and 1886 are designated specifically for ‘rebel’ Indians from a particular band. In other cases, entire bands are noted as ‘rebel’ Indians.

Assistant Commissioner Hayter Reed’s intention was to deny annuities to those who directly participated in the rebellion, while giving annuity ‘amnesty’ to those who supported the rebellion but did not directly participate. In practice, however, this policy was inconsistent. Prior to the first payment of annuities after the 1885 Rebellion was quelled, Hayter Reed instructed Indian agents to create lists of people who participated.⁸⁴ Although local Indian agents maintained some discretion in this period over who received annuities, agents held very differing views of the degree of participation of so-called ‘rebels.’ The paylists in the years following the 1885 Rebellion contain a great deal of information on some of the individuals who participated. For example, Ermineskin band member Keesayneepowe was “refused payment owing to misconduct during the Rebellion with his father” and Wahpoos (Rabbit) was “refused payment owing to misconduct, stealing horses during the Rebellion”⁸⁵ Nahwahtookspew (Joseph Ward) from Ermineskin’s band was initially not paid in 1885 “owing to misconduct during the Rebellion” but was subsequently paid by Hayter Reed “as his offence was very slight.” Agent for Peace Hills, Samuel B. Lucas, noted in 1886 that no annuity payments were made to any rebels involved with raiding.⁸⁶ In some cases men and women within the same family were permitted or refused annuities on their own merits. For example, in the James Seenum Band, Moosewah’s

⁸³ In 1886 Bella Stevens was noted as “Loyal”, then in 1888, she was noted as a “Rebel.” RG10 Treaty Annuity Paylists, Battleford Stragglers, no. 300, 1886-1888.

⁸⁴ LAC, RG10, Vol. 1570, Indian Agent’s Letterbook – Saddle Lake Agency, 1885, J. A. Mitchell, Victoria to Asst. Indian Commissioner, Regina, 20 July 1885; Heather Devine briefly address the identification of ‘rebels.’ See Heather Devine, *The People who own Themselves*, 176-177.

⁸⁵ RG10, Vol. 9410, Treaty Annuity Paylists, 1885, Ermineskin.

⁸⁶ Samuel B. Lucas, Indian Agent, Peace Hills, 12 August 1886, Annual Report of Department of Indian Affairs, year ended December 31st 1886, 133.

husband was considered a rebel and denied annuity payments, but she was permitted to receive hers since she “refused to join the rebels [sic] party and remained on reserve.”⁸⁷

In his 1886 Annual Report, Superintendent General of Indian Affairs, John A. Macdonald described the government’s various justifications for withholding annuity payments from people who participated in the Rebellion the previous year: first, to pay for damages to property the government considered its own; second, to show that participants in the Rebellion were the “losers in a pecuniary sense”; and third, to demonstrate that if people rebel against the government again they must do it at their own cost.⁸⁸ However, not to sound overly draconian, Macdonald assured his audience that people shall not suffer and they have been given “immediate necessities”:

Many of the Indians who proved their loyalty during the troubles of 1885 by their acts and good conduct, received with Your Excellency's sanction substantial recognition of the same in gifts of cattle, sheep, implements, and in a few instances of money. The effect of thus recognizing the loyalty of these Indians has been most beneficial to the Indians generally, and gratifying to the recipients of the rewards.”⁸⁹

Essentially, Macdonald attempted to construct a narrative of generosity towards those who, for various reasons, did not participate in the Rebellion. This construct, however, was a means through which the Government could interfere with band governance – a way to reward communities who were outwardly showing adaptive tactics. In the meantime, others were punished through the refusal of rations, annuities, and other support. In reality, all Indigenous peoples suffered from the repressive policies that followed the Rebellion – their sufferings, however, varied depending on how much punishment a particular agent decided to inflict on a community.

⁸⁷ RG10, Vol. 9410, Treaty Annuity Paylists, 1885, James Seenum.

⁸⁸ J. A. Macdonald, Superintendent General of Indian Affairs, Ottawa, 1 January 1887, Annual Report of Department of Indian Affairs, year ended December 31st 1886, ix.

⁸⁹ J. A. Macdonald, Superintendent General of Indian Affairs, Ottawa, 1 January 1887, *Annual Report of Department of Indian Affairs*, year ended December 31st 1886, ix.

Many people considered ‘rebels’ by the Canadian state initially fled to the borderlands for fear of Government reprisals and arrest. For example, the ten bands who had reserves at Onion Lake, Frog Lake, Stony Lake, Long Lake and Cold Lake saw a decrease of 814 people made up of those who withdrew from treaty and rebels who “fled to the United States.”⁹⁰ In 1886, the Annual Report for the DIA listed the amount of annuities that “were withheld from rebel Indians in part payment of value of property destroyed during the outbreak in the spring of 1885.”⁹¹ The chart below shows the range of annuities withheld for each district. Edmonton, for example, had only \$20 withheld, which speaks to the fact that most people in this District did not participate in the 1885 Rebellion. However, in stark contrast, the District of Battleford had \$8825 withheld. This District experienced a very high degree of participation in the 1885 Rebellion.

Figure 7.7 Total Annuities Withheld in 1886

Location	Amount Withheld
Battleford	\$8,825
Fort Pitt	\$6,785
Victoria	\$1,340
Edmonton	\$20
Peace Hills	\$926
Prince Albert	\$3,626
Total	\$21,522

Indian Agent John Mitchell mentioned that the Beaver Lake Band, “Has a membership of one hundred and forty-two persons, of whom forty-eight are in receipt of their annuities, the remainder having had their money withheld annually since 1884 on account of their participation

⁹⁰ J. A. Macdonald, Superintendent General of Indian Affairs, Ottawa, 1 January 1887, *Annual Report of Department of Indian Affairs*, year ended December 31st 1886, xlix.

⁹¹ ‘Annuities under Treaty, Treaty No. 6,’ in Part II, Annual Report of Department of Indian Affairs for the year ended December 31st 1886, 148.

in the rebellion of 1885.”⁹² In 1888 Dewdney, as Superintendent General of Indian Affairs instructed Hayter Reed to permit annuity payments to some ‘rebels’:

I have to inform you that, in compliance with your instructions, the interrupted payment of annuities has been this year resumed, to the extent of paying from 10 to 15 per cent of their number; with a promise that the number will be increased next year if others shall then be found to have proved themselves worthy. Those who have thus been restored to the forfeited favor of the Government have been carefully selected, as being the most deserving, by those who are in a position to constantly and closely observe their conduct.⁹³

Thus, people considered ‘rebels’ by the Government started to receive annuities based on Indian agents’ appraisal of their ‘good behaviour’ and “industry.” For example, Kakesikowpetokao from Sweet Grass reserve received his annuities for showing “good industry” in 1888, meanwhile most others considered rebels still received nothing and thus fled south and had not returned. There were, however, several of re-admittances in the year 1888 in the so-called “rebel” bands. For example, Kahquanum and Sahpahtahwahkwinum, both members of the Kahquanum Band, were “rebel[s] re-admitted into treaty on account of good conduct since Rebellion.”⁹⁴ In the Peace Hills Agency, Samuel Lucas commented that “The Bear’s Hills bands were greatly pleased at the rebel Indians being paid this year.”⁹⁵ In 1889 Commissioner Reed commented on the results of restoring annuities:

The policy adopted last year, of resuming payment of annuities to such of those who had forfeited them as had been conspicuous for their endeavour to recover their character, had the desired effect. The stimulus thus given to others to regain the favor and confidence of the Government has worked so beneficially that it is anticipated but few will be found unworthy, this year, of the reward given at the last payments to

⁹² John A. Mitchell, Indian Agent, Saddle Lake, 30 June 1889, Annual Report of Department of Indian Affairs, year ended December 31st 1889, 75.

⁹³ Hayter Reed, Indian Commissioner, Regina, 31 October 1888, Annual Report of Department of Indian Affairs, year ended December 31st 1888, 124.

⁹⁴ RG10, Vol. 9421, Treaty Annuity Paylists, Treaty 6, 1888.

⁹⁵ S. B. Lucas, Indian Agent, Peace Hills, 12 September 1889, Annual Report of Department of Indian Affairs, year ended December 31st 1889, 76.

a selected number.⁹⁶

Indian agent George Mann commented that:

The Indians are beginning at last to recognize the generous manner in which they are being treated by the Government, in receiving liberal supplies of clothing and rations; they also appreciate very much the resumption of treaty payments which had been stopped since the rebellion. There were a few hunting Indians who did not take treaty last year, having been absent at payment time and unaware that payments were resumed.⁹⁷

The government's decision to withhold annuities as a strategy to punish those considered disloyal, and then reward those who showed "good behavior", demonstrates a paternalistic and targeted approach to limiting resistance in the Treaty 6 area. This strategy was aimed at pitting communities against each other – creating haves and have nots as a way of securing control of the people's daily lives.

By 1888, Indian agents started to remove names of people from paylists if they left after the rebellion and had not yet returned from the south. This policy change is reflected both in the paysheets and in the DIA Annual Tabular Reports: "The absentees south of the line will be dropped off the pay-sheets, next year, if they have not returned."⁹⁸ People who were designated 'rebels' by the Canadian state responded in various ways to increased subjugation after the rebellion. Some people responded by leaving treaty territory completely, others stayed with their families and communities and eventually received annuities again in 1888.

⁹⁶ Hayter Reed, Indian Commissioner, Regina, 31 October 1889, Annual Report of Department of Indian Affairs, year ended December 31st 1889, 160.

⁹⁷ Geo. G. Mann, Indian Agent, Onion Lake, 30 June 1890, Annual Report of Department of Indian Affairs, year ended December 31st 1890, 51.

⁹⁸ 'Number of Indians in the North-West Territories and their Whereabouts, in October, 1889' in Annual Report of Department of Indian Affairs, year ended December 31st 1889, 236.

7.7 Band Transfers in the Post-1885 Period

In the years leading up to the 1885 Rebellion there was a great deal of movement both into and out of bands in Treaty 6. This was particularly evident as people returned from the borderlands between 1881 and 1883. In the post-1885 period the government tried to suppress movement between bands. To do so, the DIA attempted to formalize control over band governance, including membership or annuity lists. While repression in the post-1885 period limited the ability of Indigenous communities and individuals to push-back against ill-conceived policies concerning food distribution and annuity payments, paylists reveal that there was still a good deal of movement between bands during the period of 1886 -1890. Band transfers were, until 1888, not formalized in policy.⁹⁹ Rather, decisions were largely left to the discretion of the local Indian agent. Even with the Canadian state's overt efforts to suppress movement as a means of control and surveillance, evidence from the paylists shows that some families and individuals were able to circumvent the government's efforts and band transfers still occurred.¹⁰⁰

After legislation regarding band transfers was formalized in policy, Indian agents lost some of the discretion they held previously to permit or deny changes in membership.¹⁰¹ While this new legislation was used by Hayter Reed as an opportunity to establish formal policies around changing bands, he proposed that local Agents still maintain some level of discretion and

⁹⁹ According to Gerhard Ens, the amendment to the *Indian Act* in 1887 with regard to band transfers was likely made in response to membership questions in Central Canada. Ens, Bobtail Report; also see *House of Commons Debates*, First Session 6th Parliament, 50-51 Vic., June 22, 1887, 1228. In 1895 band transfers were addressed in the *Indian Act*. Section 140, Chap. 35, *An Act further to amend the Indian Act*, Assented to 22 July 1895. Both Gerhard Ens and Sarah Carter briefly addressed the informalities of band transfers prior to 1890 in their respective reports. Sarah Carter, "The Historical Background to the 1909 Surrender of Indian Reserve No. 139," Expert Report for the Montana Band, December 28, 2001, 21-22.

¹⁰⁰ Sec. 1, Chap 33, *An Act to Amend the Indian Act* assented to 23 June 1887.

¹⁰¹ LAC, RG10, vol. 3807, file 52583-2, Supt. General of Indian Affairs to Indian Commissioner Hayter Reed, 23 November 1888. Sec. 1, Chap 33, "An Act to Amend the Indian Act," assented to 23 June 1887.

flexibility:

I would respectfully suggest that, if, as stated, the power does not already exist, the Indian Act be amended, so as to authorize such transfers, whenever deemed necessary. As you are personally aware, it has been our endeavour, in the past, to prevent, as much as possible, the removal either permanent or temporary of Indians from one reserve to another; but there were occasionally cases where a judicious discretion had to be exercised; and unless the practice be continued, considerable hardship to individual Indians will ensue, without speaking of the unnecessary annoyance to the Agents. . . . As regards male-members the breaking up of some of the reserves of the north, after the late rebellion, and the consequent scattering of the Indians among other reserves, will necessarily, for some time to come, give rise to applications by Indians, to join other bands than those with which they formerly lived.¹⁰²

An analysis of movement between bands during the period of 1885-1890 reveals that Indigenous peoples continued to challenge official government policy after the 1885 Rebellion. Continued mobility in this period is revealed in the following charts, which shows the number of people ‘transferring out’ of and ‘transferring into’ different bands and locations. Examining payroll data for each year between 1885 and 1890 provides a comparative ‘snapshots’ of the movement and locations recorded on paylists by Indian agents. In an effort to show connectivity between bands, I have provided a footnote for each Band explaining, in general terms, the bands from which people were transferring.

Generally speaking, the band transfers and locations recorded on paylists show that most movement took place between neighboring communities within the same district. From my perspective, this shows that most movement was based on familial ties (marriage, death, or desire to be with other family). However, there is certainly some movement that appears to fall outside of familial based decision-making, particularly during and immediately following the 1885 Rebellion. Movement was likely more political in nature, when families left one band for

¹⁰² LAC, RG10, vol. 3807, file 52583-2, Indian Commissioner Hayter Reed to Supt. General of Indian Affairs, 21 January 1889.

another based on their views and/or actions during the rebellion. In still other cases, religious affiliation may have played a role in the decision to split from or leave a band. In some cases transfers from one band to another were essentially government induced band amalgamations – that is, bands were placed together on a single reserve and names were thus transferred onto a single paysheet.¹⁰³ Those bands that had a significant number of transfers are explained more fully. More detailed charts for each district, with explanations, can be found in Appendix 2.

7.7.a Edmonton/Peace Hills District Band Transfers

The evidence of transfers both into and out of bands in the Edmonton/Peace Hills district, as noted previously, shows a great deal of connection within the district – most of the movement noted on paylists between 1885 and 1890 is between bands within this region. The Samson band paylists demonstrate connections to almost every other band in the district. In 1885 there is a lot of movement both into and out of Samson’s Band. Those coming in were noted as stragglers from Edmonton, the Beaver Hills and the South. Those who left went to Ermineskin and Muddy Bull. In 1887, most people transferred in from Bobtail, with two families from Muddy Bull and one family each from Ermineskin and Sweet Grass (a rare movement in from the Prince Albert/Carlton District). In 1888 three families transfer in from Ermineskin, two from Muddy Bull, and one each from Morley (Stoney/Nakoda, Treaty 7), Papaschase and Muskegwtic. In 1889, four families transfer in from Sharphead’s band (which was devastated by measles in 1886 and formally disbanded in 1897), two from Enoch and one from Alexander’s band.

7.7.b Band Separations: Alexis and Ironhead

The Alexis Band entered Treaty in 1877 and was considered the most northern

¹⁰³ For example, the Blue Quill, Thomas Hunter, and James Seenum bands eventually amalgamated and became the Saddle Lake band. This is discussed further below.

Stoney/Nakoda community.¹⁰⁴ In 1890 Indian Agent Charles De Cazes described the Alexis band as “formed of Stonys and a few Cree Indians.”¹⁰⁵ Their reserve was surveyed in 1880 at Lac St. Anne, but there was a division within the community and only half the band settled at that location. The remainder of the band, following a man named Peter Ironhead, opted to settle at nearby Wabamun [White Whale] Lake. This movement was noted in the paylists, but not until 1886. Ironhead’s followers were still paid under the “Alexis” band designation until that year. Paylists reveal the ‘transfers’ of people from Alexis into Ironhead: fifty-seven individuals were noted to have left Alexis, and sixty-one people were noted to have entered Ironhead.

There are two explanations for the division: economics and religion. In 1880 Surveyor George Simpson speculated that some people chose to leave Alexis and follow Ironhead to Wabamun Lake “because the land and fishing is considered by some to be better.”¹⁰⁶ While there may have been an element of truth to Simpson’s explanation, it is likely that differing religious affiliation played a more significant part in the decision of many people to follow Ironhead. Chief Alexis was closely tied to the Roman Catholic Mission at Lac St. Anne, and according to anthropologist R. Anderson’s research, would not allow Protestants on the Alexis Reserve.¹⁰⁷ Ironhead was Protestant, and those with similar religious identity went with him to settle at Wabamun, and were later joined by Protestants who left the Alexander reserve for similar

¹⁰⁴ According to the work of anthropologist R. Anderson, this group of Stoney/Nakoda “may have followed a westward migration route along the forested edge of the northern Plains...[to a region that] was within reach and perhaps regularly exploited by largely pedestrian Stoney by about 1795 or even earlier;... they may have entered this area prior to getting horses...[and] the Grand River Assiniboine first distinguished in 1775 may be the immediate predecessors of the modern Alexis and Paul’s bands; ...they may also be the Swampy Ground Stoney or Assiniboine.” R.R. Anderson, ‘Alberta Stoney (Assiniboine) Origins and a Case for Reappraisal’ in *Ethnohistory*, 17-18 (1970-1), 54.

¹⁰⁵ Charles De Cazes, Indian Agent, Edmonton, 3 September 1890, *Annual Report of Department of Indian Affairs*, year ended December 31st 1890, 56.

¹⁰⁶ George A. Simpson, Indian Reserve Survey, Battleford, 1 December 1880, *Annual Report of Department of Indian Affairs*, year ended December 31st 1880, 110.

¹⁰⁷ R.R. Anderson, ‘Alberta Stoney,’ 55-58.

reasons.¹⁰⁸ The DIA repeatedly attempted to reunite the two groups, but met with little success.¹⁰⁹ In 1892, the government granted Ironhead's band a reserve at Wabamun Lake.¹¹⁰

This band may be called the hunting band of this agency; they are in the woods nearly all the seasonable part of the year and with their fishing in the autumn they do a great deal towards their own support, but leading such a wandering life, their progress in agriculture is small. A prairie fire visited this reserve while most of the hunters were away and destroyed their stables and houses, and all their contents, and many of the widows were rendered very destitute, not having a vestige of anything left, but owing to the supplies sent in at once by the Department they have been tolerably well provided with necessary clothing and tents. A detachment of this band at White Whale Lake, generally known as Ironhead's Band, suffered very much from the fire, but all have been at work since and have in many instances replaced the buildings burnt and continue to work at them. All the Indians of this band work well while on the reserve and have put up a good supply of hay for their cattle, of which they have quite a nice herd and are proud. The hunting in the foot-hills and mountains is getting worse every year; and owing to the fires in the woods I am afraid they will not be able to live this year without help, and during the winter they will have to be entirely supported by the Government. In conclusion, I may say that I have every reason to be satisfied with the progress of all the Indians in this agency and of the desire for improvement evinced.¹¹¹

Thus, in the case of Alexis and Ironhead, the large number of transfers reflects economic and religious divisions within a community that resulted in a formal split and assignment of separate reserve spaces for each group.

7.7.c Saddle Lake/Victoria District Band Transfers: A Case of Band Amalgamations

Whereas the Alexis and Ironhead paylists revealed tactics of band separation in opposition to government strategy, paylists of the James Seenum, Blue Quill and Thomas Hunter bands in the Saddle Lake/Victoria District show evidence of band amalgamation. The paylists also show that even after bands amalgamated they sometimes maintained

¹⁰⁸ Ibid.,55-58.

¹⁰⁹ Ruby Bird, *Schooling in Paul Band: 1893-1923*, 26.

¹¹⁰ Ibid.; Canada, *Sessional Papers* (No. 14), *Annual Reports of the Department of Indian Affairs*, 1892, 207.

¹¹¹ Canada, *Sessional Papers*, Indian Agent William De Balinhard, Edmonton Agency, *Annual Reports of the Department of Indian Affairs*, 1889, Part 1, 79.

distinct identities: separate, yet connected, to each other. Paylists do not necessarily reveal individual ‘identities’ per se, yet they do reveal tactics used by bands, such as James Seenum, to push back against disagreeable government policies. However, the leaders of smaller bands were sometimes coerced into agreeing to an amalgamation, as was the case with Chief Blue Quill in 1890. Thus the effectiveness of a chief was measured in part by a band leader’s influence with colonial administrators.

There was considerable movement both in and out of the bands in the Saddle Lake/Victoria District, and James Seenum’s band in particular. Most of the movement between 1885 and 1890 is local, and involved the Thomas Hunter and Blue Quill bands, but there were also a few families that transferred both in and out of Edmonton area bands, primarily Enoch. Between 1885 and 1890, at least six families left Seenum’s band to join Enoch, four left to join Blue Quill, and nine transferred to Thomas Hunter. Fewer people transferred in, however, than left during this period. Those who transferred into Seenum’s band were primarily from Blue Quill and Thomas Hunter, although, there were a few people who came from Beaver Lake, Enoch, Peeaysis and Keeheewin. In terms of band transfers, the amount of mobility between the Blue Quill, Thomas Hunter, and James Seenum bands, and the eventual amalgamation of these communities indicated a great deal of family connections.

James Seenum was considered a very prominent and influential chief. The Agent at Edmonton, William Anderson, remarked in 1881 that “many new people are joining the [Seenum] band.”¹¹² Anderson also claimed that the Seenum Band was very successful in terms of agriculture, which may indicate why people chose to join his band in the pre-1885 period, but this does not explain why many left in the post-1885 period. While Indian agents continued to

¹¹² William Anderson, Indian Agent, Edmonton, 13 December 1881, Annual Report of Department of Indian Affairs, year ended December 31st 1881, 84.

believe that Seenum had influence after the rebellion, the number of people who left his band suggests otherwise. Agent John Ross, the new agent for Saddle Lake in 1890, described Chief Seenum as “the only head chief in this [Saddle Lake] agency, [who] resides with this band and has great influence amongst them.”¹¹³ From the DIA’s perspective, Seenum was a contradiction: on the one hand, he remained steadfastly ‘loyal’ to the government during the Rebellion, while on the other hand, he constantly protested and resisted government policies that he disliked.

Even though Seenum remained ‘loyal,’ some of his followers were noted as ‘rebels’ by government agents.¹¹⁴ This might explain some of the movement out of his band in the post-1885 period. The Annual Report for the year ending 1885 stated that Thomas Hunter had two people in gaol and six in the States (out of ninety-seven people); Blue Quill had “five on plains” (out of fifty-nine people); Seenum had “20 rebels at Moose Lake, keeping out of the way” out of 340 people; Peeaysis had ten people absent out of 176, with the “Chief in hiding, fearing justice”; and the Beaver Lake band had seven people of 160 members at Edmonton “awaiting trial.”¹¹⁵ Thus, even though Seenum had remained ‘loyal,’ others in this District had not, and Seenum’s influence amongst his people may have declined as a result of his conservative political stance in 1885. It is possible that some of those rebels, and perhaps their family members, transferred into other bands; however, the evidence is not clear on this matter.

While the question of Seenum’s influence amongst his followers and other chiefs in the District remains a question, his loyalty did give him influence in the eyes of government administrators. For a number of years Seenum adamantly resisted the government’s calculation

¹¹³ John Ross, Acting Indian Agent, Saddle Lake, 30 June 1890, Annual Report of Department of Indian Affairs, year ended December 31st 1890, 52.

¹¹⁴ Victoria Agency, ‘Number of Indians in the North-West Territories, and their Whereabouts in October, 1885,’ in the Annual Report of Department of Indian Affairs, year ended December 31st 1885, 221.

¹¹⁵ Ibid.

for reserve size, and refused to agree to the results of the reserve survey. For example, in 1884 Dewdney described Chief Seenum's discontent with the government's calculation for reserve size:

The Ant, *alias* "Seenum from Saddle Lake, also came to see me, bringing with him one or two of his prominent Indians, and Mr. Erasmus, as interpreter. His visit was in regard to a misunderstanding between himself and the Government, as to what extent of reserve was promised him at the time the treaty, was made. A very large area, far larger than that agreed upon by all the other chiefs was claimed by him. Mr. Morris, and the other Commissioner who made the treaty, deny that any such arrangement was made; while Seenum and many of his friends contend as strongly that it was. I have made particular enquiry into this claim, and can find nothing to justify the chief's contention. The misunderstanding might have arisen through a bad Interpreter, and this the chief admits. I was unable to come to a final settlement with him while here, but he promised, on his return, to call his Indians together, and tell them the result of his interview, and in the autumn, when I expected to be in his vicinity, to tell me what determination they had come to.¹¹⁶

In 1886, the disagreement was still unsettled. When Surveyor John Nelson met with Chief Seenum, there was a disagreement over the size of the reserve based on the number of people who were said to belong to the Band:

When I told Pekan the number of Indians upon which the computation of the area of his reserve would be based he replied that he was of the opinion that a greater number had been paid under him. I assured him if such were the case that the matter would be rectified, as Mr. Mitchell would carefully examine the paysheets.¹¹⁷

As mentioned in Chapter 6, government agents wanted to amalgamate some bands in the Saddle Lake District onto one reserve. According to Nelson's Report in 1886, Chief Pekan, Little Hunter and Blue Quill would come together onto one reserve:

On the following day a council was held respecting the surveys of reserves for the bands of Chief Pekan, Little Hunter (now Thos. Hunter) and Blue Quill. It was partly decided that these reserves would be laid out in one block, under Pekan, unless Blue Quill held out against it. Manitookin, who represented Pekan and his band, as already mentioned, promised to be on the ground during the progress of the survey and point

¹¹⁶ Edgar Dewdney, Indian Commissioner, Regina, 25 November 1884, Annual Report of Department of Indian Affairs, year ended December 31st 1884, 160.

¹¹⁷ John. C. Nelson, In Charge of Indian Reserve Surveys, Regina, 24 December 1886, Annual Report for the Department of Indian Affairs, for the year ended December 31st 1886, 179.

out the land they wished to have for a reserve. . . . Sometime after this council was held, Blue Quill came from Egg Lake south of Victoria, where he and his band were settled and informed me that he had finally agreed with Mr. Mitchell to move to Saddle Lake and come under Pekan. Blue Quill at the end made some suggestions to Manitookin relative to the survey which received due consideration.¹¹⁸

In his annual report, Indian Agent for Victoria, John A. Mitchell commented on the work to complete Seenum's reserve and to move Blue Quill to the same location:

The work of massing the Indians of the southern portion of the district on one or more reserves in the immediate vicinity of Farm No. 16 has been fairly successful, arrangements having been made by the Assistant Indian Commissioner with Chief Pacan [sic] for a survey of a large portion of that chief's reserve at that point. And an arrangement has also been made with Blue Quill, Headman of the Egg Lake band, for the removal of that band to the same locality during the spring of 1887.¹¹⁹

On the matter of the Paylists, Nelson remarked that:

At the council Pekan was informed that the pay-sheets had been carefully looked over by Mr. Mitchell-in fact we had the pay sheets on the ground-and that the greatest number of souls in the band at anyone payment had been taken in reckoning the area of the reserve as now surveyed. Pekan said he had confidence in us, and that his headmen had reported all that had been done at Whitefish Lake and Saddle Lake, and that he and his whole band were perfectly satisfied.¹²⁰

In the end, Chief James Seenum's tactic of continually pushing for an increased size of reserve, at the very least, created a situation in which Nelson would take into account the largest membership number since entering treaty, a measure that was not applied consistently. Movement between bands in this District is in part due to the different bargaining power that chiefs held in the post-Rebellion period. Smaller bands were coerced into joining with Seenum. In 1890, Agent Mitchell bribed Chief Blue Quill to move to the Saddle Lake reserve by promising his 30 acres of broken land, six cows, and compensation

¹¹⁸ Ibid., 180.

¹¹⁹ The reserves for Thomas Hunter, Seenum, Bear's Ears were completed in the fall of 1886. John. A. Mitchell, Victoria Agency, 27 July 1886, Annual Report of Department of Indian Affairs, year ended December 31st 1886, 130. John. A. Mitchell, Saddle Lake Agency, 30 June 1887, Annual Report of Department of Indian Affairs, year ended December 31st 1887, 95.

¹²⁰ John. C. Nelson, In Charge of Indian Reserve Surveys, Regina, 24 December 1886, Annual Report for the Department of Indian Affairs, for the year ended December 31st 1886, 180.

for a house that would be left at the former location.¹²¹

The paylists from the Saddle Lake/Victoria district show that members of the Blue Quill located at Egg Lake, and Thomas Hunter band (formerly Little Hunter) located at Saddle Lake were closely associated with James Seenum's (aka Pakan's) band at Whitefish Lake.¹²² All of these bands, along with Wasatnow Band (Chief Bear Ears) were pressured to amalgamate by Government officials during the late 1880s and 1890s. All the bands eventually capitulated to the amalgamation in 1900, and were thereafter designated as the 'Saddle Lake Band.' Yet, even though these four communities were considered a single band according to the *Indian Act*, members of each original community continued to receive annuity payments under their original band designation, speaking to the strong sense of community identity of which Indian Agents were generally oblivious.¹²³ For example, in his 1890 Annual Report, Acting Agent John Ross (who replaced Mitchell in May of that year) stated that Blue Quill's Band "occupy the far end of the reserve on which the agency stands, and are to all intents and purposes the same as Band 125 (Saddle Lake Band) in all but name. The number of the band is small, but all its members are good and hard workers."¹²⁴ However, these communities, as evidenced by the paylists, did maintain distinct identities, separate, yet connected to each other. While paylists are certainly problematic for use as a means to 'measure' identity, as demonstrated by the "stragglers"

¹²¹ *Pimohteskanaw (the Path)*, Blue Quills First Nations College, 30th Anniversary Edition, 3.

¹²² Ibid. See also Saddle Lake First Nations Website: http://www.saddlelake.ca/noflash/?page_id=223 [Last accessed 29 July 2015].

¹²³ The paylists were formally amalgamated by the DIA in 1953. Saddle Lake First Nations Website: http://www.saddlelake.ca/noflash/?page_id=223 [Last accessed 29 July 2015]. There are now six reserves that make up Blue Quill's First Nation: Beaver Lake and Heart Lake (at Lac la Biche), Cold Lake, Frog Lake, Kehewin, and Saddle Lake. See Aboriginal Affairs and Northern Development Canada website: http://pse5-esd5.ainc-inac.gc.ca/FNP/Main/Search/RVDdetail.aspx?RESERVE_NUMBER=09138&lang=eng [Last accessed 29 July 2015].

¹²⁴ John Ross, Acting Indian Agent, Saddle Lake, 30 June 1890, Annual Report of Department of Indian Affairs, year ended December 31st 1890, 52.

in Treaty, they can reveal a mechanisms that could be used by communities, and their leaders, as a tactic to push back against disagreeable government policies.

7.8 Southward Movement Noted on Paylists

During and following the rebellion, many people who fought against the Canadian state left Treaty 6 territory completely. In the fall of 1885, Assistant Commissioner Lt. Crozier commented that many people from Battleford District left their reserves and went south to “join the Blackfeet who get better rations than they do and do no work and that if the Government discontinues to feed the Blackfeet, they, the Blackfeet, will break out in the spring and they, the Crees, will help them.”¹²⁵ He added that there were “about thirty people who did not surrender at these places all summer. Several head of horses stolen from settlers are now among these Indians some of whom are armed with Henry [?] rifles.”¹²⁶ Thus many people continued to use mobility as a tactic during this increasingly repressive period following the Rebellion.

The Indian agents noted the southward movement of ‘rebels,’ and in some cases their family members, on the paylists. The instances of this movement are captured in Chart 7.7 below. The Little Pine Band experienced the most movement south, with a large group leaving in 1889. Poundmaker also experienced a relatively large number of people leaving that year. For the most part, however, the majority of movement south occurred in 1886 following military defeat.

¹²⁵ RG10, Vol. 3726, File 24515, Assistant Commissioner Lt. Crozier, Battleford, to Commissioner NWM Police, Regina, 24 October 1885.

¹²⁶ Ibid.

Figure 7.8 Instances of Movement South: Battleford Paylists, 1885-1889

Battleford	1885	1886	1887	1888	1889
Bear's Head	4		9		
Lean Man			1		
Little Pine	5	20	2	3	56
Lucky Man		29			4
Moosomin/Yellow Sky			3		
Mosquito (Stony)		3		2	
Nipahases		8			
Poundmaker		10	2		20
Red Pheasant		2			
Seekaskootch				3	
Stragglers Battleford		5			
Stragglers Little Poplar		8			
Sweet Grass	22	49	13	6	
Thunderchild	5				2

Occasionally the notations from Indian Agents provided a more specific location than simply south. For example, in some instances it was noted that an individual or family were at “Cypress Hills,” “Montana,” “in the US,” or “across the line.” While the southward movement of people in the immediate aftermath of the military defeat of those who joined Riel and his cause is relatively well-known, the evidence from paylists shows a succession of migrations until 1889. More research is needed to determine exactly why people left in the years following the initial ‘rebel’ migration to the south. However, notations from Indian Agents on paylists suggest most of the later migrants were family members of those that had left earlier. Since the government withheld the annuities of anyone considered a ‘rebel’, those left behind may have simply become fed-up with the restrictive and vindictive policies. For some people, leaving to find relatives in the south may have seemed preferable to staying under the thumb of the local agent.

7.9 Conclusion

The most disruptive policy affecting band membership in the Treaty 6 territory during the last thirty years of the nineteenth century was the extension of Metis Scrip into the North-West Territories in 1885. However, there were other policy measures, generally applied inconsistently, that also affected membership. For example, in the early years of treaty administration the government usually accepted new bands in treaty, no matter the size. However, once reserve lands were surveyed the Government instructed Indian Agents to limit new bands, encouraging them to join existing bands instead. When new bands formed, however, it was often at the expense of another.

Whereas in the period from 1876 to 1884, Treaty 6 communities responded to colonial incursions in ways that often exposed the weakness of the colonial order, those weaknesses were less easily exploited following the arrival of government troops by rail. In the post-Rebellion era Indigenous responses to ill-conceived policies were severely restricted. And local colonial administrators had less and less discretion in the implementation of policy.

No one knew what the outcomes would be. While the Canadian government had an overall 'civilizing' strategy, there was little thought into how policies could, or would, be implemented. The very process through which communities were administratively recognized/misrecognized by government agents, demonstrates the Canadian government's overall mismanagement of its own colonizing mission. When viewed in light of the intense repression and marginalization of Indigenous communities after 1885, Indigenous tactics were, and are, significant. Even within this more repressive era there were still instances of Indigenous resistance that challenged the Canadian state's power structures in western Canada, at least on the edges. This resistance reveals the strength of Indigenous communities in the face of

considerable repression and subjugation. While the state eliminated much of the effective resistance after 1885, it could not eliminate all resistance. Acknowledging the ways in which people tactically resist oppressive colonial forces is important to understand the legacy of resistance and resilience to the present day. The colonial order may have been established by 1890, but it was still contested by those it was meant to contain. When understood within the framework of an emerging and contested colonial order, the complex tensions between the structural forces of colonialism and Indigenous people's tactical responses are brought to the centre of the analysis rather than left on the margins.

Conclusion

The emergence of a colonial order on the Canadian prairies was contested, dynamic, and complex. The negotiation and administration of Treaty 6, in what is today Saskatchewan and Alberta, was the result of Indigenous leaders and communities interacting with officers of the Canadian state in a dialogical process that reshaped Indian policies in the west in the two decades before 1890. My analysis of this process is intended to open a new window that will afford scholars the opportunity to explore a more nuanced understanding of both how and why Indigenous peoples came to be administratively defined in various forms of legislation. This analysis also permits a shift in focus from simply how policy is constructed to explore the tensions between attempts at policy implementation by colonial officials and attempts at resistance by Indigenous communities – a space of constant struggle and negotiation.

In order to make this argument I have found it necessary to provide some context to Canadian Indian policy before 1870, the Manitoba Act and the numbered treaties in the west prior to Treaty 6 (1870-75). These chapters set the stage for my analysis of Treaty 6 by showing how the Canadian state conceptualized its relations with both First Nations and the Metis. The making of ‘Indian’ and ‘Metis’ status categories in the period from 1815 and 1870 enormously complicated treaty making and Indian policy in the newly acquired North West Territories. It is necessary to explain this context here as most interpretations brush over how these status categories were introduced and implemented on the prairies and in Treaty 6. I argue in Chapter one that the legislative making of ‘Indian’ status, developed within a particular historical, intellectual, and geographical context, and was then applied haphazardly in the north west. This analysis also shows that prior to 1870 colonial administrators had little conception of, nor gave much thought to, the idea of a separate ‘Metis’ status. Thus, when a Metis status was introduced

in the Manitoba Act of 1870 it created serious implications for the negotiation of the numbered treaties. Indigenous peoples, both First Nations and Metis, now had to choose between these racialized categories during and after treaty negotiations, and government responded in an ad hoc way to the resulting administrative confusion, producing unintended/unforeseen consequences for Indigenous familial and community identities. These conditions and choices constituted the administrative context in which Indigenous peoples in Treaty 6 interacted with government officials.

The process of treaty implementation across the prairies in the years immediately following the Canadian state's creation of a Metis status category was complex and fraught with administrative problems. The Canadian government's construction of the Metis status category in the Manitoba Act resulted in a bureaucratic obsession with classification systems that idealized racial, ethnic, and gendered orderings. These idealized categories of human classification were enthusiastically applied by bureaucrats to determine treaty and land grant eligibility. Indigenous communities were forced to constantly challenge the administration of these unrealistic classifications. There were important instances when Indigenous tactics did, at the very least, mitigate the overall colonizing strategies of the government and expose the porous realities of policy implementation.

Thus colonial governance strategies for the administration of Indigenous populations in western Canada intersected with Indigenous tactics in the face of the overwhelming economic transitions and other pressures of settler colonialism, and this resulted in unexpected outcomes. These points of intersection, or moments of encounter, are also significant points of Indigenous resistance. The daily actions of Indigenous peoples in Treaty 6, as revealed through fine-grained analysis of annuity paysheets, realigns the colonial narrative. Paylist data, contextualized by

other historical sources, reveal the various ways in which Indigenous peoples used both mobility and manipulation of status categories as forms of tactical resistance to the implementation of government administrative strategies. This study provides new insights into not only how government policy and administrative strategies were developed to implement a colonial order on the prairies, but also the ways in which Indigenous communities interacted with those policies.

The contestation of the colonial order reveals disparity of powers, limited options and unintended outcomes. But this is not a simple narrative about an overwhelming colonial oppression or about Indigenous agency. Rather, I move beyond the concept of agency to parse out the relationship between disparities of power and maneuverability to show purposeful actions within a limiting system. The making of ‘Indian’ and Metis’ status categories complicated the government’s attempt to colonize the west by inadvertently providing Indigenous peoples an alternative means through which they could negotiate their identities in relation to their local political and economic realities. The historical record shows that Indigenous communities were fluid and not easily classified by nineteenth-century administrative sensibilities. During the implementation phase of Treaty 6, Metis families used various tactics and purposeful action to enter treaty – many joined other existing Indian bands, some formed their own bands, while others remained outside band membership and were captured in the historical record as ‘stragglers.’ Government attempts to implement a stable administrative system in Treaty 6 was challenged by the families who, with the disappearance of the bison, needed to travel extensively into the southern borderlands region in search of food. People demanded their annuities even if located outside of Treaty 6 territory. Fearful of discontent, government administrators acquiesced. The government’s lack of consideration for the logistical realities of providing the

aid promised in the treaty exacerbated an already disastrous situation.

As the bison hunt became increasingly futile and American authorities exerted pressure for the removal of ‘Canadian Indians’ from the borderlands, the Canadian government used coercive strategies to push Indigenous peoples northward. Families were promised food rations if they left the borderlands, and were denied assistance if they stayed. Then, at the very time thousands of starving families were trying to settle on reserves at the behest of the government, the Treasury demanded that the Department of Indian Affairs cut its budget – in other words, decrease food rations and aid. This disastrous policy implementation created levels of unrest and discontent that were pointed out by colonial agents on the ground, but whose warnings went unheeded by high level government officials. When Riel’s messengers showed up in 1885 to recruit supporters, many Indigenous peoples thought they “might as well die fighting as by starvation” and thus were more than willing to violently resist the colonial order.¹

Paylist data reveals various unexpected outcomes resulting from government policy changes between 1876 and 1890. In 1876 people were scattered across the plains and parkland areas, most in small bands, some in large bands, some in small family units, and others as individuals. The completion of rail infrastructure into Manitoba and the arrival of Canadian military troops in 1885 strengthened the government position in this conflict, but not before giving in to Metis demands for scrip in the North-West Territories. Once the option for scrip was available, thousands of Metis withdrew from treaty. While many Metis families made the logical decision to leave treaty given the inadequacy of government support, the results were often dire and unexpected, as was the case with the dispersal of Papaschase’s band, and the dissolution of his reserve. For those without an option to leave or who chose to remain in treaty, lateral

¹ LAC, Sir John A. Macdonald Papers, Volume 107, File 42807, Private, Indian Office Battleford, Indian Agent J. Rae to Supt. Intendant of Indian Affairs J. A. Macdonald, Letter dated 5 July 1884.

movement between bands resulted in the reforming of some communities, as was the case in Enoch. Some small bands were coerced into amalgamation with larger bands, as happened with Blue Quill.

In the post-1885 period the government shut down the ‘straggler’ paylists, leaving people with fewer options – either to withdraw from treaty or settle on a reserve. There were no more options to move around and still collect annuities. In other words, treaty eligibility became more rigid. The impact of the Rebellion was heavy on some bands like Big Bear, Bobtail and Papaschase. Between 1886 and 1889, people who were considered ‘rebels’ were denied aid and annuities. Many left Treaty 6 territory altogether out of frustration for continued persecution and punishment. But people in bands still continued to challenge the colonial order through mobility. Even though the pass system was on the books, paylists continue to show band transfers and movement.

My use of treaty annuity paylists in this study should encourage scholars to reconsider some of the processes of, and responses to, colonialism. The emergence of the colonial order was unequal, disorganized, confusing, convoluted, and contradictory. Through micro-level analysis of payroll data, I provide new perspectives and interpretations to an already much studied field. We see the various ways in which Indigenous peoples negotiated their status in relation to political and economic realities, including the gendered ways in which men and women used the ‘straggler’ category: men out of treaty, women in treaty. The straggler category also shows a unique tactical use of status: a means through which some people, by refusing to join a band proper, could maintain a sense of freedom to later choose their residency and status identity. We see processes of band formations both during the 1876 Treaty 6 signing, as was the case with Peeayis, and the formation of new ones later on as other bands were dissolved by the Canadian

government, such as with the Enoch band. These Indigenous forms of tactics – band formations, ‘straggling,’ changing bands – point to dialogical, albeit unevenly weighted, negotiation between groups. The playlists exposed both the processes and outcomes of band dissolutions, separations, amalgamations, and other anomalies, that when viewed through micro-analysis have so much more to tell us about this transformative period in Indigenous-state relations. From the playlists it is also evident that there is much more to learn about the familial connections between bands, rates and locations of band transfers, and shifting community identities in relation to band amalgamations. This study reveals incredible potential for further research on Indigenous identity, mobility and maneuverability, particularly in the post-1885 period, which has generally been viewed only in terms of subjugation.

This dissertation has highlighted the complexities and contradictions inherent in the emergence of a colonial order in western Canada. Playlist data, it is argued, can also reveal numerous sites of encounter in the negotiation of identities, and instances of Indigenous resistance. While the effectiveness of tactics lessened after 1885, Indigenous maneuverability and mobility continued to challenge the administration of the Canadian colonial order, which points to the strength of Indigenous actors in the face of considerable repression and subjugation.

My main conclusion, that the emergence of a colonial order on the Canadian prairies was contested and complicated, is evidenced by a careful analysis of playlist data that reveals the actions of Indigenous individuals, families, and bands. These playlists provide a means to adjust the scale – to see the emergence of the colonial order through micro interactions, rather than through the lens of the macro forces of colonizer and colonized. It is hoped that this type of fine-grained analysis at the individual level can illuminate how individuals and families dealt with and resisted the structural forces of colonialism.

Yet, my application of this new methodology has only just scratched the surface. There is still much scholarly work to be done on the intersections between treaty annuity administration and new meanings of community or band membership, and how these meanings were informed by and intertwined with the realities of late nineteenth century-colonialism. My micro-analysis of paylists reveals more potential for future research than I could have possibly imagined at its start. Exposing the means through which people tactically resisted oppressive colonial forces and actions, I believe, reveals a legacy of resistance and resilience that deserves to be acknowledged and underlined. As Certeau suggests, the strategies of the powerful may outweigh the tactics of the marginalized, but this does not lessen the significance of their existence.² Evidence of Indigenous tactical resistance revealed through microanalysis of payroll data highlights a significant contestation of the colonial order on the Canadian prairies.

² My analysis of the “tactics” of indigenous peoples and the “strategies” of the colonial state is informed by arguments and ideas of Michel de Certeau. See his *The Practice of Everyday Life* (Berkeley: University of California Press, 1984).

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Appendix 1.0: Paylist Database Description and Methodology

Treaty annuity paylists were created by Department of Indian Affairs to track monies paid out to treaty Indians. Paylists were first used in Upper Canada after the War of 1812. They evolved through the nineteenth century, at first tracking only the head of family and payment amount. By 1880, more columns were added to track additional data including number of men and women and sex and number children and other relatives receiving annuities. One of the more interesting features of the paylist is the ‘Remarks’ column, wherein the Indian Agent was to explain any increase or decrease in the amount of annuities paid and any other information deemed relevant at the time. Use of the ‘Remarks’ column, however, was inconsistent and the information considered important at the time differed depending on the individual Indian agent recording the data. Yet, the information recorded in the ‘Remarks’ column, along with the demographic information, provide us with valuable historical data, and if handled carefully and systematically, allows for an analysis of movement and changes in band affiliation.

The government used paylists to track this movement and prevent an individual or family from being counted twice and thus receive payment twice. Paylists demonstrate that while some communities that entered treaty between 1876 and 1879 stayed relatively cohesive, others did not. Thus the group or band that a family initially entered treaty with is not necessarily the band that they belonged to over the long term. In addition, some band merged together or split apart, others were disbanded completely and a few were not really ‘bands’ at all – the St. Albert Orphans and various ‘Straggler’ groups were given a ‘band’ designation but were not cohesive familial groups.

Objectives:

In order to systematically manage and analyze large amount of demographic and familial information recorded by Indian agents on treaty annuity paysheets in Treaty 6 it was necessary to create a Paylist Database. My main objective was to trace individual and familial movement between bands and to construct general descriptions of each band in Treaty 6.

Paylist Description:

Information recorded by Indian Agents on the paylist documents includes names, number of individuals per family, amount of treaty monies paid, location of payments, and also provided 'Remarks' on particulars of each family. Remarks usually pertained to a change in the number of family members paid (i.e. birth, death, etc.), but also stated when someone was transferred, married, away hunting, withdrew from treaty, and many other particulars that might have been deemed important to the administration of treaty monies at the time.

Challenges:

1. **Indian Agents:** The information noted on paylists by Indian agents is inconsistent from band to band and from year to year. Some Indian agents were very careful and detailed in their notations, others were less so. This means that, depending on the individual agent, there may be more or less information on individual annuitants from one year to the next.

Names: The notation of Indigenous names often varied from year to year depending of the Indian agent. Names sometimes switched from European names to Indigenous phonetic spellings and vice versa. In order to minimize as many errors as possible I established a systematic process and set of rules to identify difficult cases. Because band numbers remained relatively consistent, it was usually possible to determine an individual's identity simply by tracking their band number from a previous or subsequent year. If, however, the band numbers

for a given year were inconsistent with the previous year, or non-existent, then I would use the number of family members to help determine if the individual might be the same person (keeping in mind that numbers could change from year to year from births and deaths). While this method did not identify who the person was with certainty, it did help rule others out. For example, if the family of ‘John Smith’ was paid for four family members one year and then a ‘John’ was paid for 9 the next year, with 8 noted as paid in the previous year column, then I could at least rule ‘John’ out as being the same person as ‘John Smith’. Thus using a process of deductive reasoning, I was able to make a reasonable assumption as to a person’s name from year to year.

- a. If the Indian agent noted the name change, then I assumed he/she was the same person.
 - b. If Indian Agent did not note the name change, but the band number remained the same, then I assumed he/she was the same person.
 - i. If there was no band number, but the number of family members was the same or similar and phonetic spelling of name was similar, I assumed he/she was the same person.
 - ii. If there was no band number, and the number of family members was dissimilar, I started a new entry under new name, and assumed he/she was not the same person.
 - c. If name could not be traced, a note is made in the Variable Miscellaneous Information
2. **Band Numbers:** Band numbers were not assigned to individual payees consistently until 1884. If a band number changed, the new number is entered and the previous number is entered as a variable to track the changes from year to year.
 3. **Paylist Form Changes:** The paylist forms used by Indian Agents changed through the years until 1886. For example, for the first few years of Treaty 6 annuity payments, the paylist forms did not include variables to distinguish between male or female children. After 1886 the paylist forms are consistent. To deal with this issue, the Paylist Data Base has a variable to mark the number of children with the sex unknown.

4. **Illegibility:** Some paylists are difficult to read due to either poor penmanship of the Indian agent or damage to the original document. Information that was illegible was marked as such in the miscellaneous variable.

Paylist Database Variable Descriptions

There are forty-two variables in this database.

Variable A: Indigenous Name/Phonetic Approximation

- Enter Payees' Indigenous name as recorded by Indian Agent
 - If Indigenous name not provided, leave blank
 - Spelling/Name Changes: Keep first spelling, add alternative spelling to under Variable E "Additional Names"

Variable B: Surname/Married Surname/English or French Translation

- Enter Payees' Surname/Married Surname/English or French Translation as recorded by Indian Agent
 - If not provided, leave blank
 - Spelling/Name Changes: Keep first spelling, add alternative spelling to under Variable E "Additional Names"

Variable C: Maiden Surname

- Enter Payees' Maiden Surname as recorded by Indian Agent
 - If not provided, leave blank
 - Applies only to married females

Variable D: Given Name/Title

- Enter Payees' Given Name/Title (eg. Mr/Mrs/Jr/Sr) as recorded by Indian Agent
- Multiple children with no parents: Enter first child's names as recorded by Indian Agent. Enter additional names in Variable E.

Variable E: Additional Names

- Enter additional names and name spellings associated with this Payee

Variables A-E: *Note on name changes to due male Payee (head of household) death

- Male Deceased: if male Payee (head household) is noted as deceased and his widow continues to collect monies under his assigned Band Number, change the title in Variable D from "Mr" to "Mrs". Indicate death in Variable AA "Adult Male Death"
 - If widow is reassigned to a new band number, follow the above method, but under new band number.
 - If widow remarries she will be usually be paid with under new husband's band number. Make sure it is commented in the Remarks column or miscellaneous if not remarked by Indian Agent.

Variable F: Sex

- Male: if Payee is indicated as male by the Indian Agent
- Female: if Payee is indicated as female by the Indian Agent
- Leave blank if sex of Payee is uncertain

Variable G: Band Designation

- Use consistent band name for every year, even if spelling changes or band name is changed. If name is changed, then enter a comment, but leave the same as previous years.

Variable H: Band Number

- Change band number to correspond with the payroll for given year.
 - Note the previous band number in Variable AP: Previous Band Number

Variable I: Year Paid

- Enter year as noted on Paylist

Variable J: Location of Annuity Payment

- Enter location provided on payroll
- Leave field blank if information not provided

Variable K: Male Payee

- Enter number of men paid
 - Will usually be head of household
 - If a man's name on paysheet, but he did not receive payment, do not enter a variable in this field
 - Note: Occasionally there will be more than one man, usually in the case of a male payee's male relative (father, brother, etc.) also receiving payment

Variable L: Female Payee

- Enter number of women paid
- Will sometimes be more than one woman (polygamy, mother, grandmother)
- If woman's name on paysheet, but a man paid and not a woman, enter the way it is on the paysheet, but note the discrepancy in Variable AH: Miscellaneous Information

Variables M and N: Male or Female Child

- Enter the number of male or female children paid in appropriate field.
- If sex of child not provided, enter the number of children in Variable O: Other Children
- If a child is noted as other than direct offspring, (ex. as grandchildren, nieces or nephews) note the relationship in Variable AH: Miscellaneous Information
- If a child is noted as adopted or orphaned, note in Variable Z: Orphaned or Adopted Child

Variable O: Other Children

- Enter the number of children who are not identified as male or female
- If a child is noted as other than direct offspring, note the relationship in Variable AH: Miscellaneous Information

- If a child is noted as other than direct offspring, (ex. as grandchildren, nieces or nephews) note the relationship in Variable AH: Miscellaneous Information

Variable P: Other Person

- Enter the number of other individuals who receive payment
- If the relationship to the Head of Household is provided, note it in Variable AH: Miscellaneous Information

Variable Q: Total Number of People Paid Annuities

- Enter the Total Number of People Paid Annuities

Variable R: Previous Year Total Number of People Paid Annuities

- Enter the Previous Year Total Number of People Paid Annuities

Variable S: First Treaty Annuity Payment

- Enter “Y” in the field if it is the first time the Payee has received a Treaty annuity
- Otherwise leave the field blank

Variable T: Treaty Withdrawal

- Enter “W” if a Payee withdraws from Treaty
- Otherwise leave the field blank

Variable U: Year of Treaty Withdrawal

- Enter the year of the Treaty Withdrawal
- Otherwise leave the field blank

Variable V: Transfer Out of Band Designation

- Enter “TO” if a Payee changed membership to another band designation
- Otherwise leave the field blank

Variable W: Transfer Into a different Band Designation

- Enter “TI” if a Payee changed membership to another band designation
- Otherwise leave the field blank

Variable X: Paid with Other Band: No Change in Band Membership

- Enter “PO” if the payee is paid an annuity at a different location from the band, but does not change band membership
- Otherwise leave the field blank

Variable Y: Treaty Annuity Arrears

- Enter the years for which Treaty Annuity Arrears are paid
- Separate each year by a comma
- Otherwise leave field blank

Variable Z: Orphan or Adopted Child

- Enter “O” if child is noted as an orphan
- Enter “A” if child is noted as adopted
- Otherwise leave field blank

Variables AA, AB, AC, AD: Death of Male; Female; Male Child; Female Child

- Enter the number of deaths in the appropriate variable
- Otherwise leave field blank

Variables AE and AF: Birth of Male Child or Female Child

- Enter the number of births in the appropriate variable
- Otherwise leave field blank

Variable AG: Remarks of Indian Agent

- Note any remarks made on the paysheet
- Otherwise leave field blank

Variable AH: Miscellaneous Information

- Enter any other relevant or interesting information
- Otherwise leave field blank

Variable AI: Other Band Designation (1)

- If relevant, enter a payee's previous band designation
- Otherwise leave field blank

Variable AJ: Other Band Number (1)

- If relevant, enter a payee's previous band number
- Otherwise leave field blank

Variable AK: Last year paid with Other Band (1)

- If relevant, enter a payee's previous band number
- Otherwise leave field blank

Variable AL: Other Band Designation (2)

- If relevant, enter a payee's previous band designation
- Otherwise leave field blank

Variable AM: Other Band Number (2)

- If relevant, enter a payee's previous band number
- Otherwise leave field blank

Variable AN: Last year paid with Other Band (2)

- If relevant, enter a payee's previous band number
- Otherwise leave field blank

Variable AO: Previous Band Number in Continuous Band Designation

- Enter previous band number if the Indian Agent changes the payee's band number, but stays in the same band
- Otherwise leave field blank

Variable AP: Last Year Paid under Previous Band Number

- Enter last year paid under the previous band number if the Indian Agent changed the payee's band number, but stays in the same band
- Otherwise leave field blank

Appendix 2.0: Treaty 6 Band Transfer Charts, 1885-1890

Movement Noted Into and Out of Bands on Paylists, 1885-1890

Transfer Out (TO) and Transfer In (TI) Noted on Paylists, 1885-1890												
Edmonton/Peace Hills District	1885		1886		1887		1888		1889		1890	
	TO	TI										
Alexander ¹	0	0	3	11	0	1	5	9	1	6	1	3
Alexis ²	0	4	57	0	0	0	0	2	0	1	13	3
Pigeon Lk Cheepoos/Sharphead ³	0	2	0	0	1	7	0	2	12	2	1	0
Bobtail ⁴	15	7	1	0	0	0	0	0	0	0	0	0
Ironhead ⁵	0	0	2	61	1	0	2	0	1	0	0	13
Ermineskin ⁶	20	0	2	0	0	20	12	9	7	1	1	2
Noah Muddy Bull ⁷	7	12	3	0	20	0	5	1	0	4	1	0
Samson ⁸	24	33	1	7	1	39	1	32	1	24	3	4
Tommy Lapotac/Enoch ⁹	17	3	0	17	0	90	7	1	7	1	8	0

¹ In 1886, people transferred in from Alexis, Enoch, Morley (Treaty 7), Muskegwtatic, and Kahquanum. In 1888, people came from Enoch, Papaschase, and Keeheewin.

² The people that left Alexis Band in 1886 transferred into Ironhead's new band that split from the main group and settled at Wabamun Lake west of Edmonton. This is discussed in more detail below on pages 38-40.

³ Three families transferred into Samson in 1889.

⁴ The Bobtail band is dissolved. See above pages 19-27.

⁵ See footnote 104 (above).

⁶ In 1885 one family is transferred to Bobtail's payroll, while the others are transferred to Samson's Band. In 1887, people from the Muddy Bull and Enoch bands, and members from the dissolved bands of Papaschase and Bobtail, transfer into Ermineskin. In 1888, a couple families move into Samson's band, and one family into Sharphead's band.

⁷ In 1887, three families transferred into Ermineskin's Band and one family transferred into Samson.

⁸ See page 38 below.

⁹ Movement into the Enoch band is discussed in greater detail in regards to the dissolution of the Papaschase band (pages 15-19) and in Chapter 8.

Transfer Out (TO) and Transfer In (TI) Noted on Paylists, 1885-1890												
Saddle Lake/Victoria District	1885		1886		1887		1888		1889		1890	
	TO	TI										
Beaver Lake/Kahquanum ¹⁰	0	0	0	0	0	0	2	3	21	0	0	0
James Seenum (WFL) ¹¹	7	4	23	6	1	4	17	0	7	8	0	0
Thomas Hunter (SL) ¹²	7	4	0	3	0	0	5	15	2	13	0	0
Muskegwatic (Wasatnow) ¹³	3	0	7	0	0	0	12	1	0	2	1	0
Stragglers/Antoine/Heart Lake/Chip ¹⁴	0	4	0	2	0	0	0	0	1	0	23	0

¹⁰ Most of the families that left Beaver Lake in 1889 transferred into James Seenum's Band, also in the Saddle Lake/Victoria District; one family transferred into Alexander's Band in the Edmonton District.

¹¹ See discussion below (pages 40-42). The paylists for 1885 show that one family moved to Seenum's band from Blue Quill, and three families left and joined Enoch, while another went to Thomas Hunter. The paylists for 1886 show that one family transferred to Seenum's band from Enoch, and another family came from Beaver Lake. Meanwhile people who transferred out of Seenum's band went to Blue Quill, Enoch, Thomas Hunter and Morley (Stoney/Nakoda in Treaty 7). In 1887, people from Blue Quill, Beaver Lake and Peeaysis transferred into Seenum's band, while only one person transferred out, and she went to Bear's Hill. In 1888, five families left Seenum – one transferred to Blue Quill's band and four families went to Thomas Hunter's band. In 1889, three families transferred to Seenum from Beaver Lake, and two families came from Keeheewin. Meanwhile one family from Seenum left and joined Enoch, two went to Thomas Hunter and one family went to Lac la Biche (name of band unknown).

¹² See discussion below (pages 41-42). Thomas Hunter (leader of band previously known as Little Hunter). In 1885 one family left and transferred into Bear's Head Band, and one family transferred in from James Seenum's band at Whitefish Lake. In 1886 one family came in from Blue Quill and one left to join Muskegwatic's band. In 1887, one family transferred in from Beaver Lake; in 1888 two families each came in from Blue Quill and James Seenum, meanwhile one family went south to Montana (and eventually back to Edmonton in 1890) and one family transferred out to Keeheewin. In 1889, three families transferred in from James Seenum and three left to Beaver Lake.

¹³ Muskegwatic Band had strong connections to Blue Quill and Thomas Hunter, but the paylists also show that a number of families left this band for the Edmonton District. In 1885, one family left and transferred to Blue Quill; in 1886, three families moved to Alexander's Band, one went to Papaschase, one to Enoch, while one transferred to Blue Quill. In 1888, another family came in from Blue Quill. Meanwhile, five families left to the Edmonton District (no band names provided), one went to Samson (Edmonton District), one family went to Thomas Hunter at Saddle Lake, and another to Blue Quill. In 1889, two families left for Bear's Hill and one person transferred in, who had previously been paid as a St; Albert Orphan. And finally in 1890, one family transferred out and went to Enoch.

¹⁴ The people of Antoine/Heart Lake transfer to Onion Lake Reserve in 1890.

Transfer Out (TO) and Transfer In (TI) Noted on Paylists, 1885-1890												
Prince Albert/Carlton District	1885		1886		1887		1888		1889		1890	
	TO	TI										
Beardy ¹⁵	0	6	0	0	0	0	5	20	9	7	6	16
Chekastapasin ¹⁶	0	0	1	3	3	0	10	0	7	0	0	0
James Smith ¹⁷	0	25	0	12	9	6	11	12	5	2	8	0
John Smith ¹⁸	0	22	1	2	2	0	6	2	4	0	0	0
Mistawasis ¹⁹	3	17	3	0	0	10	1	10	6	9	17	8
One Arrow ²⁰	0	3	0	0	0	0	4	5	9	26	0	2
Okemasis/Saswaypew ²¹	1	2	0	0	0	6	0	0	12	5	2	0
Petaquay/Keetoway/Muskeg ²²	3	0	1	6	5	3	19	0	4	0	8	2
William Charles ²³	0	0	0	0	0	0	0	11	0	0	0	1

¹⁵ Beardy's band experienced an influx of people in 1888. Two families transferred in from Okemasis, one family came from Samson, while one person came in from One Arrow.

¹⁶ Most people who transferred out went to Cumberland. One family went to James Smith.

¹⁷ The twenty-five people who transferred into this band in 1885 came from Beardy, Chekastapaysin and Petequakey. In 1886, one family transferred in from Beardy (had been paid with Big Bear prior), and three came from Chekastapaysin. Between 1887 and 1890, most of the movement in and out is between this band and Chekastapaysin and Cumberland bands.

¹⁸ In 1885 most of the transfers into this band are from 'straggler' lists at Battleford and Carlton, along with a family each from Mistawasis and Petequakey. In 1886 people were previously paid as Battleford Stragglers and with Mistawasis. One family left John Smith and transferred into Mistawasis. In 1887, one family came in from Chekastapaysin, while two families transferred out to James Smith's band. In 1888, one family each came from Cumberland and Mistawasis, while one family left to James Smith and another to St. Peter's reserve in Manitoba. In 1889, it is noted on the paylists that one family went south and was at Fort Macleod, two families transferred into Mistawasis.

¹⁹ In 1885, people were previously paid as stragglers at Battleford and Carlton, and were from John Smith and Moosomin. In 1886 one family left Mistawasis and was paid on the Battleford straggler payroll. In 1887, three families transferred in from Attackakoop, one from Petequakey, and one from Pasquah's band (Metis families from Qu'Appelle area in Treaty 4). In 1888, families transferred in from Attackakoop, John Smith, Petequakey, and one family left Mistawasis and transferred into Petequakey. In 1889, one family came from Okemasis, and three came from Petequakey. In 1890, four families left and joined Attackakoop, two left and joined Petequakey, one went to Okemasis, and William Twatt. One family transferred inform Green Lake, two came from John Smith and one came from Pasquah in Treaty 4.

²⁰ In 1889, twenty-six people transferred into One Arrow's band. They were previously paid with the Beardy, Chekastapaysin and Okemasis Bands.

²¹ In 1889 four families left Okemasis and transferred into Beardy's Band, three into One Arrow's band, and five families were noted as having gone to the United States.

²² Most of the families who left this band in 1888 transferred into Mistawasis Band, while a couple families were noted as gone South to the United States.

²³ The William Charles (also known as Montreal Lake) Band, Lac La Ronge and Peter Ballantyne Bands signed an adhesion to Treaty 6 on 11 February 1889.

Transfer Out (TO) and Transfer In (TI) Noted on Paylists, 1885-1890												
Battleford District	1885		1886		1887		1888		1889		1890	
	TO	TI										
Attackakoop ²⁴	1	15	0	0	7	0	3	2	6	6	1	19
Stragglers Battleford ²⁵	9	0	43	0	0	7	0	0	0	0	0	0
Bear's Head ²⁶	0	0	16	4	0	1	0	0	3	0	0	0
Keeheewin ²⁷	0	0	19	0	0	0	0	2	9	4	13	1
Kinnosayo ²⁸	0	0	0	0	0	0	0	2	0	0	0	22
Lean Man ²⁹	0	0	0	0	0	0	0	0	11	0	0	1
Little Pine ³⁰	0	0	24	47	2	7	7	20	45	1	5	4
Lucky Man ³¹	0	0	7	0	5	0	0	1	0	0	0	0
Mahkayo Wemissticooseehawasis ³²	0	0	0	0	0	0	24	0	6	2	2	2
Moosomin/Yellow Sky ³³	6	15	3	21	5	6	1	0	3	0	2	0
Mosquito (Stony) ³⁴	0	0	0	11	1	1	1	3	0	5	1	0
Nipahases ³⁵	6	0	21	3	1	4	13	1	0	0	0	0

²⁴ In 1885, three families were previously paid on the Carlton Stragglers paylists, and one family was from Mistawasis. In 1889, four families transferred in from Mistawasis, one from Okemasis and one from Petequaquey.

²⁵ The Battleford Stragglers scattered to various locations in 1886: Bear's Hill, Bear's Head Band, Duck Lake, Montreal Lake, Lac la Biche, Moosomin Band, Nipahase Band, Mistawasis Band, Manitoba, Carlton, and to the south.

²⁶ In 1886 members of Bear's Head Band transferred to Mosquito's Band.

²⁷ In 1886, members transferred to Seekaskootch Band and Kahquanum/Beaver Lake Band. The people who left in 1890 went to Kahquanum/Beaver Lake Band.

²⁸ People who transferred into this band in 1890 came from Heart Lake.

²⁹ In 1889, some Lean Man families transferred into Mosquito's Band.

³⁰ In 1886, two families are noted gone south, three transferred to Sweet Grass, and one each to Thunderchild, Mistawasis. Meanwhile, four families transferred in from Fort Pitt Stragglers, two families from Piapot (Treaty 4), one each from Big Bear, Poundmaker, Seekaskootch, Sweet Grass, and Thunderchild. In 1887, two families left: one to Lucky Man and the other to Poundmaker. Two families transferred in: one from Fort Pitt Stragglers and the other from Red Pheasant. In 1888 three families transferred into Poundmaker, one went to Muskeg Lake and one went to Qu'Appelle (Treaty 4). Three families transferred in from Fort Pitt Stragglers, four families came in from the south, and one came from Paymootayahsoo. In 1889, eight families were noted as gone south, two went to Thunderchild, two went to Blackfoot Crossing, one family went to Fort Pitt, one family went to Medicine hat, one went to Qu'Appelle, and one to the Sacree Reserve, two were noted as in the United States, and one family went to Piapot (Treaty 4). One family transferred inform Poundmaker, and another came in from the south. In 1890 three families transferred to Lucky Man band, one each to Big Bear, Onion Lake Reserve, and Sweet Grass. Meanwhile one family transferred in from Beardy and one from Poundmaker.

³¹ Families in 1886 and 1887 left and joined Thunderchild and Little Pine.

³² In 1888, twenty-four people transferred out and joined Seekaskootch's band.

³³ In 1885, two families transferred in from Big Bear's Band, two were previously paid as Battleford stragglers, one family each from Bobtail, Mistawasis, and two from Qu'Appelle (Treaty 4). Three families left and joined Thunderchild. In 1886, two families came from Big Bear, two from Fort Pitt, one from Battleford Stragglers, and one from South Stragglers payroll. One family left for Thunderchild and another for Red Pheasant. In 1887, three families came from Jack Fish Lake, two came from Mistawasis and one from Turtle Lake. One family left for the Peace Hills, one went to Qu'Appelle, one to Thunderchild Band, and two families were noted as gone to the US.

³⁴ Most people who joined Mosquito came from Bear's Head and Lean Man bands.

³⁵ Members of Nipahases transfer into Thunderchild's Band in 1886.

Transfer Out (TO) and Transfer In (TI) Noted on Paylists, 1885-1890												
Battleford District con't	1885		1886		1887		1888		1889		1890	
	TO	TI										
Ooneepowhayo /Tusktakeeskwise ³⁶	0	0	0	5	0	0	0	0	14	6	2	3
Paymootayahsoo ³⁷	0	0	0	0	0	1	0	0	14	0	0	0
Poundmaker ³⁸	2	0	12	28	15	6	2	5	22	2	5	1
Seekaskootch ³⁹	0	0	1	11	0	1	8	33	25	5	1	1
Sweet Grass ⁴⁰	5	0	19	25	2	7	3	0	10	8	4	2
Thunderchild ⁴¹	33	9	12	36	8	1	5	15	5	24	4	2

³⁶ People who left this band in 1889 went to Battleford, Blackfoot Crossing, Edmonton and the Puskeeaheewin Band.

³⁷ Four families who left this band in 1889 joined Little Pine, one joined Mahkayo.

³⁸ In 1886, people transferred into Poundmaker from Carlton, Little Pine Band, Little Poplar Stragglers, Paymootayahsoo, Piapot (Treaty 4), Red Pheasant, and Seekaskootch. People who transferred out went to Big Bear, Little Pine, Qu'Appelle (Treaty 4), Buffalo Lake, and one family was noted to have gone south. In 1887 two families joined, one from Fort Pitt and another from Lucky Man. Those who left went to Fort Pitt, Mistawasis, St. Albert, and one noted as gone south. In 1888, people transferred to Montreal Lake and one went south. Two families transferred in from Little Pine. In 1889 people who left Poundmaker scattered to a number of different areas and bands including, Blackfoot Crossing, Cypress Hills, Fort Pitt, Little Pine Red Pheasant, Mistawasis, south and into the United States. One family transferred in from Bear's Hills and one from Little Pine. In 1890 people transferred out to Sweet Grass and Thunderchild, and transferred in from Red Pheasant and Sweet Grass.

³⁹ Seven families transferred in from Mahkayo's Band, one from Puskaheewin and one from Sweet Grass in 1888.

⁴⁰ In 1885, at least seven families were noted on the paylists as gone south. In terms of transfers, in 1886 people left Sweet Grass and joined Little Pine, Nipahases, Poundmaker, Sampson, and Thunderchild. Others were noted as having gone to Battleford and Fort Pitt. In 1889, four families transfer in who were previously paid as Battleford Stragglers; meanwhile families left and joined Thunderchild and one joined Moosomin.

⁴¹ The 1885 paylists show that at least six families left and joined with Big Bear and one family went to Poundmaker. Meanwhile, three families each came from Moosomin and Nipahases. In 1886, three families transferred from Big Bear to Thunderchild, and one family each from Keeheewin, Moosomin, Nipahases, Sweet Grass and Red Pheasant. Those who left in 1886 went to Sweet Grass, Red Pheasant, Little Pine and Poundmaker. A few families were noted as gone south. In 1888 and 1889, most people transferred in from Nipahasis, while a couple people moved in each from Little Pine and Sweet Grass.