

TRANSFER OF  
THE NATURAL RESOURCES  
TO THE  
PRAIRIE PROVINCES

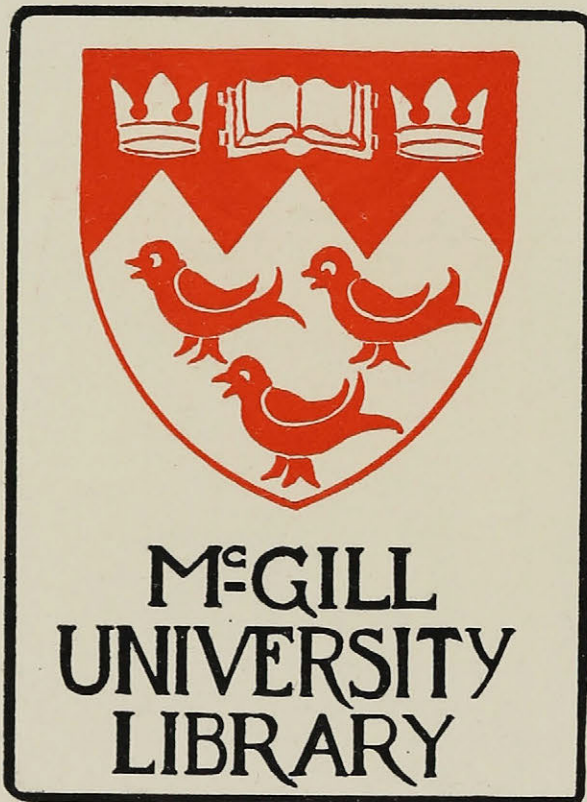
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**"THE TRANSFER OF THE NATURAL RESOURCES**

**to the**

**PRAIRIE PROVINCES"**

**by**

**Lionel L. Rubin**

**Submitted to the Faculty  
of Graduate Studies and  
Research in partial ful-  
fillment of the require-  
ments of the degree of  
Master of Arts.**



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## CHAPTER I

### Introduction

At the time of Confederation the original provinces of Canada were separated from the isolated colony of British Columbia on the Pacific coast by a vast hinterland some two thousand miles in length. This region contained little more than a mere handful of inhabitants and was feebly administered by the Hudson's Bay Company. Clearly, if British North America was to be consolidated from east to west, some visibly effective government whose authority could readily be recognized and enforced was needed in this territory to provide for its settlement and development. Consequently, in the British North America Act of 1867, provision was made for its admission into the Union.<sup>1</sup> This was eventually done by an imperial order in council of 1870 after the Hudson's Bay Company had been indemnified by the government of Canada for the extinction of its proprietary rights in these lands.

Out of this extra-provincial territory which came into the possession of the Dominion of Canada the three Prairie provinces were created. Since, as already stated, one of the purposes of its acquisition by the former was to ensure the rapid growth and development of the West, the problem of the control and ownership over the ungranted or waste lands in the new provinces was of especial importance. In whom should that function be vested, the



Dominion government, or the governments of the separate provinces? The desirability of a uniform system of administration under a strong central government clearly pointed to the former. But even more compelling was the force of American example according to which, in the creation of new states out of the vast western domain acquired by the national government, control over the public lands was invariably retained by the latter.<sup>1</sup>

Hence it was that in 1870, when Manitoba was created, the public lands of that province were placed under the control of the federal government to be, "administered by the Government of Canada for the purposes of the Dominion."<sup>2</sup> In 1872 the federal parliament passed the Dominion Lands Act asserting its control, "for the purposes of the Dominion," not only over the Crown lands of Manitoba but over those of the entire Northwest Territories.<sup>3</sup> Clearly then, it was felt that the public domain of the West was not merely of local, but primarily of national importance. Thus when Alberta and Saskatchewan were created in 1905 the procedure adopted in the case of the public lands of Manitoba was again followed.<sup>4</sup> This policy of the Dominion government constituted a distinct departure from the procedure followed in the cases of all the other provinces. The latter entered the Union with full control over their public lands, or natural resources as they are sometimes called.

1 - B.H.Hibbard, "A History of the Public Land Policies".pp 190-2

2 - Manitoba Acr., 33 Vic.c.3, s.30 ( et passim.

3 - 35 Vic. c.23

4 - 4-5 Ed.VII c.3, 3.21. 4-5 Ed VII c.42, s.21.



The Prairie provinces always resented this ownership and control of their public lands by the Dominion and regarded their position in respect of lands as an anomalous one. Without control over them, they never considered themselves as being in a position of equality with the other provinces of the Dominion. Consequently it was not very long before they began to demand of the federal government that the latter transfer to them the unalienated natural resources within their boundaries.

In support of their claims the Prairie provinces invoked constitutional principles and historical precedents regarding the control of Crown lands. They pointed, for example, to the fact that the beneficial control over the public domain went hand in hand with the grant of responsible government to the separate provinces and colonies and that, with the sole exception of themselves, this was invariably conceded to all self-governing British communities. They further pointed to the fact that without such beneficial control they were being deprived of a substantial source of revenue necessary for the satisfactory discharge of all the functions of government.

On the other hand the Dominion was not willing to accede to the demands of the Prairies. If in the withholding<sup>h</sup> of the public lands constitutional principles or historical precedents were not being strictly followed, it was felt that the exceptional circumstances in the West justified such a departure. In the first place, it was pointed out that the territory out of which the Prairie provinces were created came to Canada by purchase



from the Hudson's Bay Company. Furthermore, unlike the others, the Prairie provinces were not pre-existing entities free to enter Confederation or remain without; they had to accept the terms offered them. Of greatest importance, however, was the fact that the federal government looked to the lands of the West as an outstanding factor in the advancement of national growth and development. To facilitate this growth and development the federal control over the public domain of the West was deemed necessary. Especially for the national plans of immigration, land settlement, and the linking up of East and West by means of railroad communications, all of which transcend the scope of provincial activity, did the Dominion regard its control over the western public domain as indispensable. Hence it was that the federal government asserted its right to the lands of the Prairies, if not on grounds of constitutional principles, at any rate on grounds of national expediency. Concessions were, however, made to the provincial claims of poverty, as a result of the federal retention of the lands, by the granting to them of generous subsidies.

In spite of this, however, the demands of the Prairie provinces for a transfer to them of their natural resources continued unabated until finally all federal opposition was worn away. As a result, in April and May 1930, the transfer was effected. It is certain, indeed, that much of the opposition of the Dominion government was overcome by the importunity of the demands of the Prairie provinces. Their spokesmen seem to have been



inspired by what they felt to be the righteousness of their demands. They looked upon the control of their public lands as a natural birthright sanctified by time-honoured British traditions. On the other hand, it is also undoubtedly true to say that the original firmness of the Dominion government was slowly undermined by the realization by both federal parties of the supreme unwisdom of thwarting the Prairie provinces and antagonizing public sentiment in the West. This fact accounts to a considerable extent for the eventual espousal by both federal parties of the cause of those provinces in the matter of ownership and control of public lands.

In the West the transfer of the natural resources has naturally been acclaimed as the triumph of British constitutional principles and the final consummation of the terms of Confederation with regard to the Prairie provinces.<sup>1</sup> Nevertheless it seems difficult to resist the conclusion that the transfer is a distinctly retrograde step inasmuch as it implies an undesirable decentralization of control over a matter which is still of great importance in a young and growing country like Canada. The function of the central federal control over western public lands has been to consolidate Canada from coast to coast, to establish a railway communication throughout the country, and to settle the western prairies as rapidly as possible by means of a free homestead policy. It seems, indeed, a step backwards to admit of a decentralized and possibly conflicting control by three separate provincial jurisdictions over this vast public domain which in the past has been so ably administered and developed

1 - B.N.A. act 1867 s.109.



by the Dominion government, and which is still indispensable to the successful functioning of a uniform immigration and land settlement policy.

Before attempting to delve more deeply into the subject-matter with which this essay concerns itself, it is convenient to pause for a moment in order to outline the plan that will be followed.

Chapter II deals with the historical basis of the claims of the Prairie provinces to the ownership and control of their public lands. This will be followed in Chapter III by a discussion of the validity of these claims and an attempt to measure their importance. In Chapter IV the actual terms and conditions of the transfer will be outlined and discussed. Finally in Chapter V the implications arising from this transfer of the Dominion public lands to the Prairie provinces will be considered and an attempt to take stock of the consequences involved will be made.



## CHAPTER II

### The Historical Basis of the Provincial Claims.

It has already been intimated that the Prairie provinces based their plea for a reversion of their natural resources on a number of claims. Prominent among such claims were certain constitutional principles regarding the control of the public domain which were formulated during the course of the struggle for responsible government in the older provinces of Canada. According to the principles vindicated during the course of that conflict, the unrestricted control over public lands was thereafter granted, with the exception of the Prairie provinces, to all British communities upon their assumption of the duties of responsible government. It is therefore relevant to the present discussion to examine into these principles in order to see how they were evolved.<sup>1</sup>

The public domain has always been and remains in title "vested in the Crown".<sup>2</sup> The administration of, and the beneficial interest in the public domain, however, proved to be the subject of one of the most important Canadian constitutional conflicts. As a final result of this conflict, both of these functions were ultimately conceded as a necessary part of the grant of responsible government. In the Prairie provinces, however, although the duties of responsible government were undertaken by them, the administration of

1 - This has already been done in Chapt. II of "The Natural Resources Question" (1920) by Chester Martin. The ensuing brief discussion is largely a résumé of that chapter.

2 - Keith, "Responsible Government in the Dominions." vol. 1, p. 146

and beneficial interest in the public lands were not granted but remained with the Dominion government.

From the cession of Canada (1763) until the Constitutional Act of 1791 the administration of the Crown lands was vested in the Governor and Council. The ungranted and waste lands came naturally to be regarded as being granted by the Crown through its representatives and the monies which these grants yielded were regarded as part of the casual and territorial revenues of the Crown. The Constitutional Act itself clearly reiterated, "the King's prerogative touching the granting of waste lands of the Crown within the said provinces."<sup>1</sup> Such powers as this prerogative entailed, though nominally vested in the Governor, "acting with the advice of his executive council" unfortunately, in practice, fell into the hands of the latter which was composed of residents of the province free from any accountability to the Assembly. Such an irresponsible system of administration led to many flagrant abuses both in Upper and Lower Canada and by causing popular resentment served in large measure to intensify the struggle for responsible government in which control over public lands became an outstanding objective.

No important remedy was devised to eliminate the abuses arising from the irresponsible system of public land disposal until the Act of Union of 1841. Up to that time the Crown

1 - 31 Geo. III. c.31, s.42



lands were, "in name the property of the Crown and under the control of an English minister."<sup>1</sup> The Assembly, particularly of Lower Canada, stoutly asserted that the administration of the Crown lands ought to be entrusted to ministers responsible to the Assembly and that revenue arising therefrom ought to be under the, "control of the representatives of the people."<sup>2</sup>

After a bitter struggle these claims were virtually conceded by the Act of Union of 1840 and definitely by the practice of responsible Government which subsequently followed. By the Act of Union it was provided that, "all the territorial and other revenues now at the disposal of the Crown within the Province of Canada" should be surrendered to the consolidated revenue fund of the province in return for a fixed civil list of £ 75,000.<sup>3</sup> In other words, the grant of territorial revenues or the beneficial interest in the public lands was made in return for a civil list, that is, in return for assuming the obligations of self-government. Thus, "the Canadian parliament received complete control of the lands situated in the provinces, and the plan adopted in every case of the grant of responsible government to the Maritime Provinces took the form of a grant of full rights over the land in exchange for a civil list."<sup>4</sup>

1 - Buller's special report to Lord Durham - Lord Durham's Report. ed Lucas 111 p 37-38.

2 - Ninety-two Resolutions of Lower Canadian Assembly. Feb. 21, 1834.

3 - 3-4 Vic. c. 35, s. 54

4 - Keith, "Responsible Government in the Dominions," vol. 11, p. 1047

In Great Britain itself the casual and territorial revenues of the Crown were surrendered to parliament by the Civil List Acts,<sup>1</sup> passed at the beginning of each reign for the life-time of the sovereign. These revenues, however, theoretically included the territorial revenues from the Crown lands of the whole empire. As a result then, in 1852, all monies from the sale of Crown lands in any part of the overseas empire were specifically excepted from the "casual and territorial revenues of the Crown" accruing to the consolidated revenue fund of Great Britain through the Civil List Acts.<sup>2</sup> Thus, by this measure, the demands of the self-governing provinces to full beneficial interest in their public domain were formally conceded.

As far as administration of public lands is concerned, however, full responsibility had not as yet been attained, for by the Act of Union of 1840 it was provided that Canadian bills relating to the granting of waste lands of the Crown should, "be laid before both houses of the parliament of Great Britain and Ireland" before receiving royal assent. By the Union Act Amendment Act of 1854, however, this provision was abolished.<sup>3</sup> By this measure therefore, full control by the provincial legislatures over the Crown lands was achieved, both in the matter of administration and the beneficial interest therein.

1 - 1 Will IV c.25, s.2

2 - 15-16 Vic. c.39

3 - 17-18 Vic. c. 118 s.6



At Confederation in 1867 these provincial powers over the public lands were fully recognized and embodied into section 109 of the B.N.A. Act. Further official recognition of provincial rights in respect of public lands was given by the Colonial Office when it asserted, "that colonists of the Anglo-Saxon race look upon the land revenue as legitimately belonging to the community."<sup>1</sup> These principles, which were formulated during the struggle for responsible government in Canada, were applied in due course in Newfoundland, New Zealand, and the states of Australia, but not to Manitoba which was created in 1870 nor to Alberta and Saskatchewan which were formed in 1905. The ungranted or waste lands of these provinces remained, "vested in the Crown and administered by the Government of Canada, for the purposes of Canada."<sup>2</sup>

Hence it was argued by these three provinces that the practice adopted in dealing with their public lands constituted an unjustified departure from the established constitutional procedure. Aside from the justice or injustice of this procedure it was quite clear to such an authority as A.B.Keith that, "Canada has not adopted the British ideas in dealing with the land in the new provinces."<sup>3</sup> In other words, although these three provinces had assumed all the duties and obligations of self-government they did not receive full rights over the public lands, which latter it was held was an indispensable condition of responsible government.

1 - Correspondence relating to the Surrender of Rupert's Land, 1869. Appendix lll, p.68

2 - Manitoba Act, 33 Vic. c.3. s.30. Sask.Act, 4-5 Ed VII c.42 s.21. Alta. Act, 4-5 Ed VII c.3 s.21.

3 - Responsible Government in the Dominions, vol.11 p.1051

From the very beginning the Dominion sought justification for its retention of the public lands of Manitoba in the fact that this province had been created out of territory purchased by Canada from the Hudson's Bay Company. The purchase of Rupert's land by the Dominion, it was felt, naturally and normally justified the federal ownership of the public lands since, "the whole of Manitoba was acquired by the Dominion by purchase from the Hudson's Bay Company and thus became the property of the Dominion."<sup>1</sup> Hence the latter assumed control of the lands as a matter of course and felt no need of accounting for such a step. A similar argument was later used to justify the retention of the public lands in Alberta and Saskatchewan.<sup>2</sup> In spite of this, however, the Prairie provinces were in no way deterred from clamoring for their natural resources. As a matter of fact, it was pointed out that the procedure involved in the transfer to Canada of the lands and territories of the Hudson's Bay Company, indicated that the former acquired Rupert's Land, not by purchase, but by the direct cession from the Crown, notwithstanding the indemnification of the Company by the government of Canada.<sup>3</sup>

The Rupert's Land Act of 1868 provided for the surrender by the Company of all its chartered rights to the Crown, "upon such terms and conditions as shall be agreed upon by and between Her Majesty and the said Governor and Company"<sup>4</sup>

- 1 - Sessional Papers of Canada, 1882 vol.10 No.82a.
- 2 - Speech of Sir Wilfrid Laurier, Debates of House of Commons of Canada, 1905 pp 1432-3.
- 3 - see Chester Martin, "The Natural Resources Question", chapter 111
- 4 - 31-32 Vic. c.105



Now although it was known that the Company insisted on monetary compensation for the surrender of its chartered rights, the Act stipulated that, "no charge shall be imposed by such terms upon the consolidated fund of the United Kingdom". Once the surrender should be effected the Act further provided for the union of these lands with Canada by imperial order in council as under section 146 of the B.N.A. Act of 1867.

Thus since the Hudson's Bay Company insisted on indemnification for the surrender of its rights in Rupert's Land to the Crown, and since no charge was to be made upon the consolidated revenue fund of the United Kingdom by such a transaction, it naturally fell to Canada to indemnify the Company. This she did to the extent of £ 300,000. The Company duly surrendered to the Crown its chartered rights which were accepted by the latter by an order in council of 1870.<sup>1</sup> Rupert's Land and the North-Western Territory came to Canada by a later imperial order in council of the same year.<sup>2</sup>

Hence arises the contention that according to the procedure followed in the transfer, Rupert's Land and the North-Western territories came to Canada, not by purchase, but from the Crown by formal cession. From this the argument readily follows that in the provinces created out of these new lands the Dominion of Canada had no right to withhold the public lands on the grounds of having purchased the entire territory. On the contrary, since

1 - Imperial order in Council, June 22, 1870

2 - Imperial order in council, June 23, 1870.

that territory had been ceded by the Crown it behooved the Dominion to follow British principles by granting the new provinces full rights over the public lands.

Shortly after the transfer of the lands of the Hudson's Bay Company to Canada and the creation of the province of Manitoba in 1870 out of a portion of these lands two new provinces were admitted into the Union, British Columbia in 1871 and Prince Edward Island in 1873. The procedure adopted in both these cases regarding public lands is interesting and from it further arguments were adduced by the Prairie provinces in support of their claims. The case of British Columbia is of peculiar significance inasmuch as here too there was a surrender of lands from the Hudson's Bay Company and a money payment made to it.

Vancouver Island had been granted to the Company in 1849. This land was purchased by the imperial government in 1867 for £ 57,500. The latter, however, made no attempt to indemnify itself by retaining control over the lands so acquired. On the contrary, the administration of and beneficial interest in them was given over to the province. The mainland colony of British Columbia had been created in 1858 and was united with Vancouver Island in 1866 under the name of British Columbia. Upon its entry into Confederation in 1871 that province retained the beneficial control of the public domain.

There is a further interesting point to be noticed regarding the public lands of British Columbia. In Clause 11



of the terms of Union with the Dominion of Canada British Columbia agreed to convey to the former in trust for railway construction, "lands along the line of railway throughout its entire length in British Columbia, not to exceed twenty miles on each side of the said line, as may be appropriated for the same purpose by the Dominion from the public lands in the North-West Territories and the Province of Manitoba." For the railway lands so conveyed the Dominion government agreed to pay the province an annual subsidy of \$100,000.<sup>1</sup> This arrangement regarding railway lands in British Columbia offers an interesting comparison with that subsequently adopted in Manitoba and will be touched upon later.

The retention of its public lands by British Columbia seemed to exaggerate the anomalous position of Manitoba and later of Saskatchewan and Alberta in respect to public lands. If the imperial government which had purchased territory from the Hudson's Bay Company saw fit to grant ownership and control of such lands to British Columbia, why did Canada, claiming to have purchased Rupert's Land from the Company, refrain from doing the same thing for the Prairie provinces?

Prince Edward Island in 1873 offered a completely new set of circumstances in the matter of public lands inasmuch as the entire public domain of the province had been alienated in grants to absentee proprietors in the year 1767. Without any lands, it was

1 - See Order in council of May 16, 1871 admitting B.C. into the Union.

considered that Prince Edward Island was naturally deprived of a very important source of revenue, and although reluctant at first to join the Union eventually the financial position of that province was an outstanding factor in securing its consent.<sup>1</sup> Hence it was that the land question became the chief issue in discussing the conditions of union with Canada. In the terms finally agreed upon in 1873, "as the Government of Prince Edward Island holds no lands from the Crown and consequently enjoys no revenue from that source," Canada was to grant an indemnity of \$45,000 per annum and a loan not exceeding \$800,000 at 5% for the purchase of lands held by the proprietors.<sup>2</sup>

The attitude of the Dominion government in its treatment of Prince Edward Island, therefore, seemed to imply a recognition of the importance attached to the possession by the Provinces of a public domain as a source of revenue. In the case of British Columbia it has been noted that this fact was admitted by a mere application of section 109 of the B.N.A. Act of 1867 and by the generous subsidy granted for the railway lands. In the case of Prince Edward Island, that province was subsidized and granted financial assistance in order to mitigate the peculiar circumstances that existed and to put the province in the same position as if it had crown lands at the time of the Union. All this of course added to the grievances of Manitoba where, not only were the public lands retained by the Dominion, but no monetary consideration was granted in their stead until 1882

1 - Keith, Responsible Government in the Dominions" vol.1 p.509

2 - Order in council admitting P.E.I. into the Union, June 26, 1873

when that province received a subsidy of \$45,000 per annum in lieu of lands,<sup>1</sup> "as is done in Prince Edward Island"<sup>2</sup>

Previous to 1882 the only consideration that Manitoba had received in lieu of lands consisted of monies granted from the School Lands Trust Fund. Under legislation of 1872 and 1879<sup>3</sup> sections numbered 11 and 29 in every surveyed township in Manitoba and the Northwest territories were set aside for purposes of education. These lands were to be sold from time to time by public auction and the money so obtained to be invested in Dominion securities and the interest arising therefrom to be paid to Manitoba and the Territories for the support of schools. In other words, one-eighteenth of the surveyed lands of Manitoba and the Northwest was to be administered for a provincial purpose. Manitoba received as its first payment from this fund in 1879 the sum of \$20,000 and annual payments were made to that province, and after 1905 to Alberta and Saskatchewan.

In spite, however, of the palliative measure of 1882, Manitoba's efforts to secure control over her natural resources, or at least more substantial monetary payment in their stead, continued unrelenting. An added complaint was found in the fact that, though the province was deprived of the valuable land revenues, the influx of immigrants under the Dominion

1 - 45 Vic c.5.

2 - Sessional Papers of Canada, 1882 vol.10, No.82a

3 - Dominion Lands Act, 35 Vic. c.23, 42 Vic. c.31.



immigration policies only aggravated matters by further increasing the drain on provincial revenues. In other words, the Dominion had not only assumed control over the lands but was using them in a way that would only make their absence felt more keenly.<sup>1</sup> After raising this cry of provincial poverty resulting from the federal retention of public lands, Manitoba assiduously importuned the Dominion government for a more adequate remuneration in place of the land revenues denied to that province. The latter could not help but look with envious eyes at the provinces of Ontario, Quebec, and British Columbia, which, when Manitoba had finally obtained a land subsidy of \$45,900, were deriving far more from their natural resources.

British Columbia itself, in fact, was receiving annually \$100,000 for its railway lands alone. These lands, it will be remembered, were conveyed to and administered by the Dominion in trust, "for the purposes of the Dominion." By 1881 the contract between the federal government and the Canadian Pacific syndicate had been assented to and according to its terms the railway company was to receive, among other things, 25,000,000 acres of land in the West.<sup>2</sup> Unlike the procedure followed in British Columbia, however, no compensation was paid to Manitoba for the portion of these lands in that province. This was of course a logical inference from the fact that the Dominion had assumed the control over these lands. Nevertheless, Manitoba felt the force of this contrast and, as a result, in 1881, after pointing out the "total inadequacy of available revenue,"

1 - Sessional Papers of Canada 1883, vol.12 No.108

2 - 44 Vic. c.1.

petitioned the Dominion for an annual sum of \$100,000, as granted to British Columbia, for lands appropriated by the Dominion for the C.P.R., along with the transfer of the remaining ungranted lands.<sup>1</sup> It was in response to this plea that the Dominion grudgingly granted the land subsidy of \$45,000 in 1882.

Not satisfied with this concession, Manitoba again appealed to the Dominion government.<sup>2</sup> The latter therefore made a new arrangement in 1885. The land subsidy was increased to \$100,000 and the swamp lands in the province which, when reclaimed for sale, promised to yield substantial revenues were transferred to the Manitoba government. A grant of 150,000 acres was also made as an endowment for the support of a provincial university.<sup>3</sup> This entire arrangement of 1885 remained intact until 1912 when a complete readjustment was made.

During this interval, in 1905, the provinces of Alberta and Saskatchewan entered the Union without any public lands. These were to be administered, as already noted by, "the Government of Canada for the purposes of Canada." The reasons given for placing them under federal control were substantially the same as those given earlier in the case of Manitoba and will be discussed in the following chapter. The Dominion government while withholding the public lands, admitted that

1 - Journals of the Legislative Assembly of Manitoba 1881, Appendix, p.CXX.

2 - Sessional Papers of Canada, 1883 vol.12 No.108

3 - 48-49 Vic. c.50

it was depriving the provinces of an important source of revenue.<sup>1</sup> This was one of the inferences drawn from the past experience with Manitoba. The federal government, therefore, determined to profit by this experience by providing ample subsidies in lieu of lands, and by making these subsidies elastic in order to meet the conditions of an increasing population resulting from the federal immigration and land settlement policies.

According to the actual arrangements, therefore, provision was made for the payment to each province of an annual sum based upon the population as ascertained by a quinquennial census as follows. -

Until the assumed population of 250,000 reached	
400,000,	\$375,000
Thereafter until the population reached	
800,000,	562, 500
Thereafter until the population reached	
1,200,000	750, 000
And thereafter	1,125, 000

An additional annual sum of \$93,750 in lieu of public lands was also granted for a period of five years in order to provide for the construction of necessary public works.<sup>2</sup>

Although these generous compensatory measures appeared as an admission by the Dominion government that Alberta and Saskatchewan had a beneficial interest in the public lands within their boundaries the former was careful to assert its legal right to retain them.<sup>3</sup> At the same time, from the

1 - Speech of Sir Wilfrid Laurier, Hansard 1905, p.1434

2 - Alberta and Saskatchewan Acts, s.20

3 - Ibid s.21



provincial point of view, at any rate, this was a distinct gain, for the Dominion government plainly recognized that a province could not be expected to undertake full financial responsibility unless it was provided with some sort of income to make up for the loss of land revenues.

The treatment accorded to Alberta and Saskatchewan in 1905 naturally made the arrangement of 1885 with Manitoba appear completely out of date. A readjustment was inevitable and a favorable opportunity for such an event was afforded in 1912 when the boundaries of Manitoba were increased to their present limits to make the area of that province roughly equal to that of Alberta and Saskatchewan.<sup>1</sup> At the same time the province was to be placed in a position of equality with Alberta and Saskatchewan in respect of land subsidies and the new measure was made retroactive as from 1908.<sup>2</sup>

As a result, therefore, the annual land subsidies made payable to Alberta and Saskatchewan in 1905 were applied to Manitoba, which province, having an estimated population of 400,000, was to receive \$562,500 annually. In addition to this a grant of \$267,026 which had been made to Manitoba in 1898 for the construction of public buildings<sup>3</sup> was considered to have been made in lieu of lands and was increased by an amount sufficient to equalize it with the amount granted to Alberta and Saskatchewan for a similar purpose in 1905. Further,

1 - 2 Geo V c. 32.

2 - *ibid.* s. 5

3 - 61 Vic. c. 4

to make the position of the three Prairie provinces in the matter of land subsidies completely uniform, Manitoba returned its unsold swamp lands to the Dominion and was to pay interest on the amount received for those already sold. Interest was also to be paid to the Dominion on the value of the land grant of 150,000 acres made in 1885 for the endowment of a provincial university.<sup>1</sup>

The financial concessions in lieu of lands made to Alberta and Saskatchewan in 1905 and to Manitoba in 1912 indicated that the Dominion government was, however gradually, yielding to the demands of the Prairie provinces. In granting these subsidies the former was tacitly acknowledging the rights of the provinces to the beneficial interest in the public lands within their boundaries. Once given these concessions, it was inevitable that the latter would seek for more until eventually the public lands should be wholly transferred to them.

There is one further important point to be noticed in the legislation of 1912. At the same time that the area of Manitoba was increased, the areas of Quebec and Ontario were likewise enlarged.<sup>2</sup> In all three cases the increase was effected by means of the addition of territory which had been acquired by the Dominion from the Hudson's Bay Company in 1870. In only one case, however, the case of Manitoba, did the Dominion retain control over the ungranted lands. Both Ontario and

1 - 2 Geo. V c.32

2 - 2 Geo. V c.40, c.45

Quebec, on the other hand, assumed complete control of all lands in the territory newly acquired.

Apparently, then, the Dominion government could no longer justify its retention on the public lands of the Prairies on the grounds of having purchased them. For while in those provinces the public lands were retained by the federal government, among other reasons, because it had purchased them, in Ontario and Quebec the same rule evidently was not applicable. To the West this of course appeared as a flagrant inconsistency and was accordingly resented. It seemed further to exaggerate their anomalous position in regard to public lands.

It is of interest to notice that by 1912 the federal attitude towards the natural resources question had undergone a significant change. This process had been in operation ever since 1905 when Alberta and Saskatchewan entered the Union. In the federal debates of that year Sir Robert Borden expressed himself in no uncertain terms as to the equal rights of the, "people of the Northwest when they are granted provincial rights .... to the control of their provisional domain."<sup>1</sup> On many subsequent occasions Borden reaffirmed this view,<sup>2</sup> and as leader of the Conservative party his opinions must have carried considerable weight, for before long the return of the Western natural resources became one of its settled policies. With the overthrow of the Liberals in 1911 Borden as prime

1 - Hansard 1905 p.2929

2 - Hansard 1912 p.4269. Hansard 1914 p.1069



minister was at last afforded the opportunity of giving effect to this policy.

From this time forth the claims of the three Prairie provinces no longer consisted solely of a plea for the return of their natural resources. Attention henceforth was also directed towards finding the most satisfactory arrangement for carrying the transfer into effect. This could not be done until a definite basis of settlement was arrived at.

## CHAPTER III

The Validity of the Provincial Claims.

The first and most obvious objection of the Prairie provinces to the ownership and control of their public lands by the Dominion was the anomalous position in Confederation which such a state of affairs conferred upon them. The original provinces at Confederation retained their Crown lands and their rights in this respect were solidly embedded into the Canadian constitution.<sup>1</sup> This procedure was adopted later on in the case of British Columbia, and in Prince Edward Island exceptional measures were undertaken by the Dominion to give that province a public domain. The case of the Prairies in the matter of control of public lands admittedly constituted a distinct departure from this procedure.

But there were so many exceptional circumstances surrounding the entry of the Prairie provinces into the Union that the apparent inconsistency of the Dominion in dealing with their lands as compared with those of the other provinces may be readily explained. As Sir Wilfrid Laurier himself suggested the two cases, "are not at all parallel."<sup>2</sup> The original provinces were free to enter Confederation or remain without. They were at the time of Confederation already existing entities owning and controlling their own lands. The Prairies, on the other hand, were not; they never owned their lands and consequently, "when they came into the Dominion,

1 - B.N.A. Act 1867, s.109

2 - Hansard 1905, p.1432

it cannot be said that they can retain the ownership of their lands as they never had ownership."<sup>1</sup>

The above reasoning may be readily illustrated by a concrete historical example. At the Quebec Conference of 1864 it was expressly provided that in the event of the colony of Newfoundland entering Confederation, its Crown lands, mines and minerals should be surrendered to the federal government. Had Newfoundland entered Confederation under these terms, the position of that colony would have constituted an exception to that of the other provinces as did the case of the Prairies later on. Unlike the latter, however, Newfoundland was free to enter the Union or remain without and hence retain her lands. Similarly British Columbia, being a self-governing province controlling its own public lands, was able to accept or reject the terms of Union offered by Canada. These terms being favourable, British Columbia naturally entered the Union retaining the control over public lands which had already been acquired some years before. It followed naturally from this that the Dominion should reimburse that province for the railway lands granted to the Dominion for the construction of the road agreed on in clause 11 of the terms of Union.

A further exceptional circumstance upon which the Dominion based its claim to the control of the lands of the Prairies was the purchase of this territory from the Hudson's Bay Company. This argument, as was pointed out in the last chapter, was brought forward by the Macdonald ministry in answer to Manitoba



and was later mentioned by Sir Wilfrid Laurier in the case of Alberta and Saskatchewan in 1905. - "Those lands were bought by the Dominion Government and they have remained ever since the property of the Dominion Government."<sup>1</sup>

As against this claim by the Dominion it will be remembered that it was urged in favour of the Prairies that the lands of the Hudson's Bay Company came to Canada by formal cession from the Crown and that the monetary compensation paid, by the Dominion was merely an incidental transaction.

Whatever the actual form of the procedure followed in implementing this transfer from the Hudson's Bay Company, it seems evident that the Dominion did acquire these lands by purchase. Since the British government definitely refused to bear any charges on account of this transfer, and since the Company insisted on a monetary indemnification the only way Canada could possibly have obtained these lands was thus by paying the Company itself. Hence, although in form the lands came to Canada by a cession from the Crown by imperial order in council, actually they were purchased by the Dominion. In spite of this, however, it is by no means to be inferred that simply because of the purchase, Canada, in forming new provinces, was entitled to retain the lands. This indeed was a weak argument and scarcely served to fortify the case for the Dominion in retaining the public lands.

The purchase of Rupert's Land from the Hudson's Bay Company by the Dominion immediately suggests the purchase of Vancouver Island from the same Company by the British government. This,

1 - Ibid

it will be remembered, was effected in 1867 yet, contrary to the policy later adopted by the Dominion in the case of Rupert's Land, the British government did not withhold the public lands or in any way try to reimburse itself for the purchase. It is difficult, however, to see in what way the policy of the British government in this respect proves that the Dominion policy regarding the ownership of the public domain of the Prairies was inconsistent and unjustifiable. The two cases are by no means similar. It is manifestly incongruous to suppose that if the retention of the public lands of the Prairies by the Dominion was unexceptionable that the imperial government should have done the same thing in the case of Vancouver Island. It will be remembered that in 1852, the British government had renounced all beneficial interest in, "the lands of the Crown in any of Her Majesty's colonies or foreign possessions."<sup>1</sup> The changes which had come about in colonial policy by 1867 made the retention of the public lands of Vancouver by the British government impossible.

The case of Canada and the public lands of the Prairies, however, was entirely different. These lands were retained neither out of selfishness nor out of a perverse desire to keep the Prairie provinces in subjection. They were retained because certain functions of government, for the fulfillment of which the Dominion was responsible, made their retention a virtual necessity. This is by far the weightiest argument in favour of the Dominion and beside it the Prairie claims

fall to the ground. Whatever the force of the other arguments, and it is not suggested that very much force attaches to them, the argument just mentioned is a vastly more important and far more compelling one in favour of the Dominion's retention of the Western lands.

Considering the need of a uniform and efficient immigration policy and a sound and effective system of land settlement, the Dominion deemed it indispensable to own and administer the public lands in the Prairies. These considerations in a young and growing country such as Canada were paramount, especially as men looked to the fine agricultural lands of the Prairies as a means of fulfilling their hopes for a rapid influx of settlers into Canada. Only by a strong federal control over these lands could a sound and successful immigration policy be assured.

On the other hand, if these lands were turned over to the provinces it was feared that the provincial policies might differ from and possibly conflict with the efforts of the Dominion to foster immigration. It was feared, for example, that the provinces, under the strain of financial difficulties, might attempt to increase their revenues by interfering with the free homestead system which was proving to be such an inducement to immigrants. Both the Macdonald and the Laurier governments were careful to make this point clear; the former in an order in council of May 30, 1884 in a pointed answer to Manitoba's plea for a transfer of her public lands spoke as follows:-

" .... A transfer would most assuredly seriously embarrass all the costly immigration operations which the Dominion Government is making mainly in behalf of Manitoba and the Territories.

"The great attraction which the Canadian Government now offers, the impressive fact to the minds of men contemplating immigration is that a well-known and recognized government hold unfettered in its own hands the lands which it offers free ..... and if the immigration operations of the Dominion which involve so large a cost are to have continued success and to be of advantage to Manitoba and the Northwest Territories your sub-committee deem it to be of utmost importance that the Dominion Government shall retain and control the lands which it has proclaimed free to all comers ..."

On this point Sir Wilfrid Laurier was no less emphatic. —

"We must continue the policy of retaining the ownership and control of the lands in our own hands, It is conceivable that if these lands were given to the new provinces the policy of either one of them might differ from ours and clash with our efforts to increase immigration. It might possibly render these efforts nugatory. For instance, if either of the new provinces under the strain of financial difficulty were to abolish the free homesteads which have proved so beneficial and so great an inducement to immigration one can readily understand what a great blow that would be to our immigration policy."<sup>1</sup>

1 - Speech on the Alta. and Sask. bills, Hansard 1905 pp 1433-4



In point of fact, it might be argued that these reasons would have justified the control by the Dominion not only of the public lands of the Prairies but of all the other provinces as well. This argument, however, overlooks the fact that the lands of the Prairies were the most suitable for a policy of free homesteading as an inducement to immigration. Hence it was that the Dominion made no particular efforts to secure the public lands of British Columbia or to retain those lands which were part of the territory added to Quebec and Ontario in 1912. These were not the kind of lands over which the Dominion for the purposes of carrying out its policies sought to gain control. But although the reasons offered by the Dominion for the retention of the public lands in the Prairie provinces do not, for the most part, apply to the public lands of the other provinces, it is not to be inferred that the federal control over these lands would not have been desirable. On the contrary, it is submitted that even here, although for other reasons, a uniform and central administration would have been a desirable thing, not only in order to provide a uniform system of development, conservation, and exploitation, but also to spread more equably over the Dominion the unequal financial benefits accruing to the provinces from Crown lands.

The constitutional reasons invoked by the Prairie provinces in support of their plea for a transfer of public

lands no doubt carry some weight. Such claims, as has already been explained, simply pointed out the fact that the settled policy in British countries regarding the administration of and beneficial interest in the public domain was to grant these two functions to all communities upon their assumption of the duties and obligations of responsible government. This of course was not done in Manitoba, Saskatchewan and Alberta and hence constituted a departure from the traditional procedure.

Although it is not intended to dismiss this claim lightly, again we must revert to the argument that the circumstances in the Prairies were so exceptional as to justify a departure from established methods of procedure. Canada was the first experiment in federal government in the British Empire. In this scheme of federation, certain powers were given to the provinces and others to the federal government. Education, for example, being regarded as a provincial concern, the exclusive power to legislate for such matters was given to the provinces.<sup>1</sup> On the other hand, certain other subjects for control were given to the federal government and among these was immigration.<sup>2</sup> To pass effective immigration laws, the Dominion had to have control over suitable public lands. Such lands as were found in the Northwest admirably conformed to these needs. Without these lands, the federal powers to provide adequate immigration legislation would have been rendered more or less nugatory. In the final analysis, if the wider interests

1 - B.N.A. Act 1867 s.93.

2 - Ibid s.95.

of Canada have been served by a federal control over the public lands of the West, even at the expense of certain established principles, then it is perhaps only right that such principles should have remained in abeyance.

The problem of the ownership and control over public lands was one that was common to both the United States, itself a federal government, and to Canada. It is therefore to be expected that in seeking a solution for this problem, Canada should look to the United States rather than follow the traditional British procedure. Hence the well-known declaration of Sir Wilfrid Laurier as to the policy to be adopted by the Dominion in the matter of the ownership of the public lands of the Prairies.

"This is a case in which we can go to the United States for precedents. They are situated very much as we are regarding the ownership of lands and the establishment of new states. Whenever a new state has been created in the American Union, the Federal Government has always retained the ownership and management of the public lands."<sup>1</sup>

In studying the case of Prince Edward Island in the last chapter the peculiar position of that province in the matter of public lands was noted. The entire public domain of Prince Edward Island had been signed away in 1767 and in arranging the terms of Union with that province the Dominion agreed to grant a subsidy of \$45,000 in lieu of land revenue and further to lend that province a sum of money to enable it to buy back its alienated domain.

1 - Hansard 1905 p.1432

This treatment stood out in striking contrast to that accorded to Manitoba and gave that province a just cause for complaint. Perhaps as an attempt to induce a reluctant province to enter the Union these extraordinary terms offered Prince Edward Island may be justified, but on other grounds they stand condemned. In the first place, we find that the Dominion undertook to indemnify the province for alienations over a century old and above all alienations for which the former was in no way responsible. In the second place, in granting these terms, the Dominion tacitly admitted that, considering the land situation in the province, the latter was being deprived of an important source of revenue without which it could not be expected to carry on properly the burdens of government.

Actually, however, it may be questioned as to whether or not this admission was a fair one. How much better off would Prince Edward Island have been financially with full ownership over its public domain? The great revenues from the public lands in the other provinces, as will be more fully explained later, came and still come from forests and timber lands. Agricultural lands such as are found in Prince Edward Island are not as a rule great revenue producers.

If we take, for example, the case of Nova Scotia where there are no important forest resources we find that in 1873 when Prince Edward Island entered the Union, the total revenue from Crown lands was \$32,098 as against an expenditure of



\$20,990. In other words, Nova Scotia's net income from public lands was less than \$12,000 while P.E.I. was allowed almost four times that sum in lieu of lands alienated over a century before! In 1893, well after Prince Edward Island had started to reacquire a public domain, the receipts from that source totalled \$19,021 as against an expenditure of \$2,899. By 1905 the receipts had dwindled to \$2,390 and the expenditures to \$1,005 and by 1928 the corresponding figures were \$117 and \$350.<sup>2</sup>

In the light of these figures it is readily seen that a subsidy of \$45,000 in lieu of lands to the province was far more than that province could have realized from the public lands had it actually owned them. Nevertheless, even though this provision in lieu of lands in Prince Edward Island was more than the Dominion should have undertaken, it seems clear that what was done for that province, however rightly or wrongly, lent force to the claims of Manitoba for some consideration in lieu of lands.

The plea of provincial poverty, resulting from a lack of public lands, instituted by Manitoba, is a very important one since it was eventually recognized by the Dominion government in the case of Manitoba. Later still, with the creation of Alberta and Saskatchewan in 1905 the Dominion sought to avoid similar trouble with the two new provinces by granting substantial subsidies in lieu of lands. In other

1 - Public Accounts of N.S., Journals of the House of Assembly 1873  
 2 - Public Accounts of P.E.I. Journals of Legislative Assembly,  
 1893, 1905, 1928.

words, the Dominion virtually admitted the rights of these provinces to an income from the public domain in order to carry on successfully the functions of government. The words of Sir Wilfrid Laurier in this respect offer a succinct statement of the federal attitude.

"We must all recognize that the provinces in the West, in being deprived of public lands, are deprived of a valuable source of income. And in that way they complain they are put on a footing of inequality as compared with the other provinces of the Dominion. Realizing that fact it is the duty of parliament to make ample, even generous provisions which will compensate the provinces for the retention of the lands by the Federal Government."<sup>1</sup>

And so, generous land subsidies were provided for Alberta and Saskatchewan. These subsidies, it will be remembered, rendered obsolete the arrangements of 1882 and 1885 with Manitoba. Consequently in 1912 a complete revision of these arrangements was effected in order to place the three Prairie provinces on an equal basis.

The question which here calls for immediate consideration is whether Manitoba's pleas of provincial poverty in consequence of being deprived of public land revenue were justified. As a result of these pleas financial concessions were made and in 1905 the validity of these pleas was reaffirmed in the case of Alberta and Saskatchewan. Was Manitoba justified in making these pleas, and was the Dominion right in recognizing them? From a fiscal point of view, how much better off would these provinces have been had they owned their own public lands and

1 - Hansard , 1905 p.1434

the revenue accruing therefrom? The readiness with which the Dominion government admitted that in depriving the Prairie provinces of public lands it was depriving them of important revenues has obscured a number of facts which would seem to prove that such was by no means the case.

It is submitted that the prairie lands are not and could not have been to the provinces of great value for revenue purposes. The prairie lands being agricultural, were not essentially revenue-bearing. The fact that Ontario, Quebec, New Brunswick and British Columbia derived large revenues from their respective public domains does not invalidate this contention. These latter provinces obtained all or at least the greatest part of their land revenues from vast and valuable timber reserves. An examination of the public land revenues of these provinces will amply bear out the truth of this statement.

In 1905 when Alberta and Saskatchewan were provided with generous subsidies in lieu of lands because they were, "deprived of a valuable source of income" the province of Ontario received \$2,188,898 from Crown lands. Against these receipts must be set an expenditure of \$321,731. Of the total Crown lands receipts, \$2,064,633 came from woods and forests and of this figure timber dues alone yielded \$1,480,910.<sup>1</sup> In other words, assuming the expenditures to remain the same,

1 - Public Accounts of Ontario, 1905 in Sessional Papers of Ont.

it appears that without any forest lands Ontario would have actually incurred a loss on account of her Crown lands. It must not be overlooked here that Ontario possessed fine agricultural lands as well as timber lands. Practically all the revenue, however, came from the latter.

Even today Ontario still derives by far the greatest portion of her Crown land revenues from woods and forests . In 1928, for example, the total revenue from Crown lands was \$4,741,229 as against an expenditure of \$2,857,235. Of the total revenue \$3,139,033 came from woods and forests.<sup>1</sup>

The figures for Crown lands revenue for Quebec in 1905 prove exactly what similar figures do in the case of Ontario. In 1905 the Crown domain of Quebec yielded \$1,596,728. At the same time the expenditures on account of these lands amounted to \$228,362. Of the total revenue \$1,380,186 came from woods and forests. This of course again testifies to the importance of timber lands to the Quebec revenues in 1905<sup>2</sup>. The more recent figures are even more convincing. In 1926, for example, the receipts from Crown lands totalled \$6,038,331 as against an expenditure of \$1,389,783. Of the total receipts \$5,218,976 came from woods and forests.<sup>3</sup>

In New Brunswick in 1905 the revenues from Crown lands amounted to \$259,936 while the expenditure for such lands was \$1,134. Of the total revenue, \$215,395 came from timber lands.<sup>4</sup>

1 - Ibid 1928

2 - Public Accounts of Quebec, 1905, Sessional Papers of Que.

3 - Ibid 1926

4 - Public Accounts of N.B. 1905, Journals of House of Assembly, of N.B.

In 1928 the revenue of the Department of Lands and Mines amounted to \$1,296,362 as against an expenditure of \$268,564. Of the total revenue \$860,791 came from stumpage duties on Crown forests.<sup>1</sup>

On the other hand, if we examine the Crown land revenues of Nova Scotia and Prince Edward Island for the year 1905 we are immediately struck by their insignificance. Neither these provinces, it must be noted had important forest resources.

	<u>N.S.</u> <sup>2</sup>	<u>P.E.I.</u> <sup>3</sup>
Crown land receipts, 1905,	\$20,521	\$2,390
" " expenditures "	11,092	1,005

Thus we readily notice that the large revenues from Crown lands in Ontario, Quebec and New Brunswick came in 1905, and as a matter of fact still come from forest and timber lands. Agricultural lands such as are found in the Prairie provinces are not important revenue producers and never really were. It seems rather strange that this was never pointed out by any of the Dominion spokesmen. In the light of the facts revealed above it is difficult to understand why the Dominion government so readily confessed that in withholding the public lands of the Prairies it was depriving them of a, "valuable source of income".

Without their public lands the Prairies claimed that from a fiscal point of view, "they are put on a footing of inequality with the other provinces of the Dominion."

1 - Ibid

2 - Public Accounts of N.S. 1905, Journals of House of Assembly of NS

3 - Public Accounts of P.E.I. 1905, Journals of Legislature Assembly of P.E.I.



The Dominion government admitted this and hence made, "ample, even generous provision" to compensate these provinces for this inequality. But even had the latter been given their public lands, from the time of their creation it is submitted that from a fiscal point of view, at any rate, they would still have remained in a position of inequality with Ontario, Quebec, New Brunswick and British Columbia. This would necessarily have followed from the very nature of their lands. No other province of the Dominion has obtained very large revenues from agricultural lands.

It might, however, be argued that the Prairie provinces could have contrived to hold their public lands for sale and thereby realize substantial sums from them. Such a policy would certainly have halted the growth and development of the West and would have been decidedly to the detriment of the Dominion. But aside from this it is impossible to see how the Prairies could possibly have adopted any other system of land disposal than the free homestead system adopted by the federal government in 1872.<sup>1</sup> So long as there was free land to be obtained in sufficient quantity in the United States, so long as the system of free homesteading was in use there, competition would have forced the Prairie provinces to adopt the same system. An attempt to hold the lands of the West for sale in order to reap large revenues would have proved both harmful and futile. It would certainly have retarded the progress of the West, it would

1 - Dominion Lands Act.

have deflected settlers to the United States and by keeping settlers out, it would have kept land values low. It seems correct to say that the free homestead system would inevitably have been adopted in the Canadian West whether the public lands belonged to the Dominion or to the provinces. This being so, it was certainly far more desirable to have such a system uniformly administered by one strong central government than by three separate and possibly conflicting authorities. A further inference follows from the inevitability of the adoption of the free homestead system. Such a system makes it manifestly impossible to derive large land revenues.

In spite of these facts the Dominion yielded to the pleas of Manitoba for the so-called valuable land revenues of which that province had been "deprived", and in order to prevent similar complaints from Alberta and Saskatchewan, these two provinces were immediately provided with substantial revenues in lieu of lands. The thought that even with the ownership over the lands, the Prairie provinces would not have obtained important land revenues does not seem to have occurred to the Dominion statesmen who studied this question; at any rate, this point was never mentioned by them although it afforded a simple and direct answer to Manitoba's plea of poverty. In the light of the facts revealed regarding the fiscal value of the public lands to the Prairie provinces the case of the latter for the return of the public lands on the grounds of provincial poverty seems indeed rather weak. Furthermore, the subsidies granted

to the Prairie provinces in lieu of lands appear to be far in excess of what those provinces could reasonably have demanded for revenue which they would have obtained from their respective public domains.

The attitude above expressed seems to be an unduly harsh and unsympathetic one as far as the Prairie provinces are concerned. It is not, however, meant to be such. There are a number of facts concerning those provinces of which due consideration has been taken. It is granted, for example, that the Prairies, when they entered Confederation, had never had any previous experience in self-government. They were new provinces with the full burden of autonomy and responsibility suddenly thrust upon their shoulders. Their populations were rapidly increasing, and a resulting host of new social and political problems forced upon them. This state of affairs constituted a severe tax not only upon their experience in self-government but also upon their financial resources. As a result, it was only fair that the Dominion should come to their aid and subsidize them sufficiently in order to enable them properly to cope with the weighty problems facing them. This the Dominion might have done by granting more liberal subsidies for carrying on the government. The Dominion might have, and probably should have recognized the exceptional circumstances facing the West by granting a substantial measure of financial aid. But that this should have been done by granting bountiful subsidies in lieu of lands was, it is suggested, a mistaken policy on the part of the Dominion; for in doing so

the latter not only weakened its own case for the retention of the public lands, but also erroneously recognized that the Prairie provinces had they owned these lands would have reaped large and important revenues from them.

In all fairness it will be conceded that if the claims of the Prairie provinces for a transfer of the public lands could have been based on the fact that not owning these lands they were thus deprived of large revenues, then the Dominion which did own these lands should have reaped rich revenues from them. It is therefore important to know the fiscal significance of these lands to the Dominion government. From this some very pertinent inferences will follow.

In Table A will be found a list of the annual revenues and expenditures on account of the Dominion Public lands from 1872 to 1929. From this list it is readily observed that since 1913 at any rate, the Dominion has not only derived no important net revenues from public lands but has actually incurred considerable losses on that account. If we add the total receipts since 1872 and compare them to the expenditures since that date, it is found that the receipts exceed the expenditures by roughly \$13,000,000. This, however, by no means proves that the Dominion has since 1872 actually derived a net revenue of \$13,000,000 over all expenditures from the public lands of the Prairie provinces, for the expenditures listed in Table A, for the most part, refer to those incurred in the administration of the Dominion lands. They do not include all the expenses of development nor any of the vast outlays connected with the encouragement

of immigration and land settlement. Furthermore, it should be remembered that before 1912 the Dominion public domain included valuable lands in Northern Quebec and Ontario. These lands contained mining resources and forest reserves of great value from which the Dominion obtained very large revenues. It is perhaps more than a coincidence that after 1912 the revenues from public lands fell off noticeably and for the first time in twenty-six years were less than the expenditures. It is further to be remembered that the term Dominion public lands also included the valuable tract in British Columbia which beyond doubt yielded considerable revenues.

Taking all these facts into account, it is safe to assume that the ownership of the public lands of the Prairie provinces has by no means been a remunerative undertaking for the Dominion; on the contrary, it is most probable that considerable losses have been incurred on that account.

In spite of these facts, however, the Dominion government granted substantial subsidies in lieu of lands to the Prairie provinces. In all, down to and including 1928-9 these special grants amounted to \$38,200,940. Of this sum, \$12,375,000 went to Alberta, \$13,406,250 to Saskatchewan and \$12,418,690 to Manitoba.<sup>1</sup> Thus, even if a part of the \$13,000,000 excess of revenue on account of Dominion public lands as revealed in Table A be considered to have come from the public lands of the

1 - Public Accounts of Canada 1928-9 p.157.



three Prairie provinces, it is readily seen how hopelessly offset this sum would be by the \$38,000,000 in land subsidies granted to these three provinces. From this comparison it is not difficult to understand how unduly munificent was the federal land subsidy policy in the Prairie provinces.

Hence, again we find good reason to question the righteousness of the provincial claims to a transfer of the public lands on the grounds of fiscal necessity. Since there was no considerable net revenue to be derived from them but rather large expenditures were to be incurred on their account for purposes of immigration and colonization, and development it was, and in point of fact still is desirable that these lands be owned and administered by the Dominion government.

If, as has been affirmed,<sup>1</sup> the Prairie provinces could not have derived important revenues from the public lands had they owned them, how can the considerable revenues which the Canadian Pacific Railway has derived from its lands in the West be explained away? By June 1916 the total proceeds realized from these lands amounted to \$123,810,124 while the net proceeds amounted to \$68,255,803. The unsold lands at the same time were valued at \$119,250,000<sup>1</sup>. Obviously, then, these lands have proved a very remunerative asset to the Company. Why could they not have been equally remunerative to the provinces?

1 - Report of the Railway Inquiry Commission 1917. Sessional Paper 20g. p.XV. 1917.

According to the terms of the contract entered into by the Dominion government and the Canadian Pacific Syndicate the latter was given, among other things, 25,000,000 acres of land in the West in alternate sections of 640 acres in a belt 24 miles wide on each side of the surveyed railway line. The even-numbered sections were reserved by the Dominion for homesteads.<sup>1</sup> Since, therefore, the adjoining sections belonged to the latter, the Company could wait until the Dominion, following its avowed policy of rapid settlement, had disposed of them by a system of homestead grants. When this land had been sufficiently settled and developed, the Company could then offer for sale its own lands which would naturally command high prices. It was thus in a very favourable position for it automatically benefited by the system of disposal and development on the adjacent sections owned by the Dominion. The latter by the free homestead system attracted an influx of settlers who in their turn increased the value of the lands granted to them by the labour and money expended upon them. Once the Dominion lands adjoining those of the Company had been fairly well settled and developed, those belonging to the latter were automatically increased in value and it was thus in a position to open them for sale and obtain high prices.

As has already been pointed out, it is impossible to see how, in the event of provincial ownership high prices, and hence high revenues, could have been obtained. The provinces

1 - Contract between the C.P.R. and Dominion, reprinted in Innis "A History of the C.P.R." Appendix B.

would have been forced to throw them open ~~for~~ homesteads. It is impossible to conceive of their adopting any other method than that which was finally adopted by the Dominion government. The Canadian Pacific Syndicate, on the other hand, so long as the Dominion or any other party owned the adjoining lands and was willing to undertake the burden of opening and developing them, benefited by an automatic rise in the value of its own lands. In this way it was enabled to derive substantial revenues. Owing to these exceptional circumstances it is impossible to regard what the Company obtained for its lands as in any way an adequate index of what the provinces might have received in the event of ownership.

Taking all the necessary considerations into account it seems impossible to resist the conclusion that the case for the Dominion ownership of public lands in the West was a sound one. The Dominion owned and administered them in a way which was intended to promote the development of the West and the country as a whole. The successful operation of certain Dominion public policies, notably in connection with immigration, made the retention of these western lands necessary, and the advantages of a uniform system of administration and development made it desirable. It was the result of no mere motives of self-interest that the Dominion retained the ownership over them for it is now clearly manifest that the federal expenditures and commitments on their account completely offset any revenues accruing from this source. At the same time the Dominion more than adequately reimbursed

the Prairie provinces for land revenues which in all probability they would never have secured in the event of ownership.

On the other hand it is difficult to see in what way the position of the Western provinces would have been bettered by a transfer to them of the public lands within their boundaries.

## CHAPTER IV

The Terms and Conditions of the Transfer.

In Chapter II it was noticed that as early as 1905 Sir Robert Borden expressed himself in a way which seemed to favour the plea of the Prairie provinces for a return of their natural resources. By 1912 his attitude on this question left no room whatever for doubt, for by this time his plan was, "to take up at the earliest opportunity the question of the terms upon which the natural resources of all three Prairie provinces shall be handed over to the administration of these provinces."<sup>1</sup> From this time forth the question therefore, was not so much as to whether the natural resources be returned to the provinces but rather the basic terms upon which such a transfer should be effected.

It will be remembered that it was the addition of extensive northern areas to the provinces of Quebec and Ontario in 1912, in which those provinces were allowed the beneficial control of the natural resources, which irritated the Prairie provinces by accentuating their anomalous position in this regard. They therefore redoubled their vigour in pressing their claims upon the Dominion government. As a result of its victorious campaign in 1911 the Conservative party was naturally called upon to carry out the natural resources transfer, of which its leader had declared himself in favour as far back as 1905 and again

1 - Hansard 1912 p.4269



in the campaign of 1911. In 1914, therefore, Sir Robert Borden assured the Prairie provinces that his government would agree to transfer the natural resources to them if they in turn were prepared to relinquish the subsidies which had been provided as an indemnity in lieu of lands.<sup>1</sup> The Prairie provinces, however, refused to accept such a proposal and on this matter continued to remain firm. In the meantime, however, the pressure of war business completely forced this issue into the background where it remained until 1918.

Assuming for the moment that it was advisable that the public lands be transferred to the provinces, it cannot be denied that Borden's proposal was a fair and just one. The Prairie provinces, however rightly or wrongly, had claimed that in withholding the public lands the Dominion was depriving them of valuable revenues. The Dominion government virtually acknowledged this and as compensation for the so-called deprivation granted ample subsidies. These subsidies were more or less of a quid pro quo - an equivalent for the lands. Obviously in fairness the provinces could not have both.

The only way, therefore, of explaining the apparent niggardliness of the Prairie provinces in demanding both lands and the retention of the subsidies in their stead is by suggesting that they fully realized that the ownership of the public lands could not prove a very large source of revenue to them, and that having the lands without the subsidies was no better, fiscally at any rate, than having neither.

1 - Sessional Papers 1922, 142b p.24

This determined stand of the Prairies for lands and subsidies retroactively destroys the force, if any, of their earlier plea to the effect that without their public lands they were being deprived of revenues without which they could not be expected to assume the duties and responsibilities of government.

The Prairie provinces however, sought to justify their uncompromising stand for the continuance of the land subsidies by asserting,-

"that the financial terms already arranged between the provinces and the Dominion as compensation for lands should stand as compensation for lands already alienated for the general benefit of Canada"<sup>1</sup>.

In other words, the Dominion was asked to transfer to the Prairie provinces all the unalienated natural resources and to continue paying the same land subsidies for that portion of the public domain already alienated, "for the general benefit of Canada."

This stand taken by the Prairie provinces is as illogical as it is unreasonable. In the first place, it has already been indicated that the subsidies granted in lieu of the entire public domain in the provinces were far more than they could have received had they owned that domain from the beginning. Now, however, we find the provinces asking that these same subsidies be continued as compensation for alienated

1 - Proposal of Dec. 22, 1913 by the three Prairie premiers, Sifton, Scott and Roblin; quoted in "The Natural Resources Question" by Martin, p. 110.

lands only. In the second place, lands alienated, "for the general benefit of Canada" seem to have been regarded by the Prairies as lands alienated for a purpose in which they did not share and for a purpose which ran counter to the aims and purposes of these provinces. This of course is manifestly not the case. On the contrary, the aims and purposes of the Prairie provinces have been just as faithfully served by land policies designed, "for the general benefit of Canada," as the aims and purposes of any other part of the country. In this particular case, the more so, since the Dominion undertook the expense and all the administrative burden involved in securing suitable settlers and settling them in the Prairies. Lands so alienated though undeniably alienated, "for the general benefit of Canada" must perforce be regarded as having been alienated primarily for the benefit of the Prairie provinces themselves.

There might conceivably have been some grounds for the request that the land subsidies be continued as compensation for lands alienated, had the Dominion greatly increased its revenues as a result of such alienations. This of course was not the case. Consequently had the Prairie provinces followed the same policy of land disposal as that followed by the Dominion government, they too would have made no money from these lands but would actually have incurred losses owing to

expenses of administration and development. Instead of this, however, the Prairie provinces were not only relieved of all such expenses but were actually granted in the form of land subsidies revenues which in all probability they could not have obtained from their lands.

But had the Prairie provinces owned the public lands, would they necessarily have followed the same policy of land disposal as that followed by the Dominion government? Might they not have found some lucrative system of land disposal which would have justified their claim to a retention of the land subsidies on account of alienations made up to that time by the Dominion government? As has already been intimated, it is impossible to see how, considering the nature of their lands, the Prairie provinces could have derived large revenues from them. The homestead system as adopted by the Dominion would inevitably have been adopted by them as well.

But what of the railway grants? Would they have given away large grants of public lands as did the Dominion, for purposes of railway development? According to Table B. we observe that, in all, 31,755,000 acres of western lands have been given away for this purpose. Much of this land was granted before the formation of the provinces of Alberta and Saskatchewan but a good deal was also given away subsequent to 1905. Of the total railway grants made a relatively small portion was granted for branch line construction in each of the

individual provinces. Lands so alienated constitute grants made for a purely provincial purpose and would undoubtedly have been made by the provinces themselves had they owned them. By far the larger part of the railway grants, however, were given as subsidies to non-provincial railways, the Canadian Pacific and the Canadian Northern.<sup>1</sup>

It is naturally impossible to know definitely what the three Prairie provinces would have done by way of making land grants to these transcontinental systems. It does not seem very unreasonable however, to assume that these provinces would have made substantial land grants to encourage such railways, for they actually gave in the form of bond guarantees considerable aid to the Canadian Northern. For this purpose Manitoba committed itself to the extent of \$25,501,865, Saskatchewan to the extent of \$14,762,546 and Alberta to the extent of \$18,950,361.<sup>2</sup> Whatever the Prairies would have done with the lands given by the Dominion government to subsidize non-provincial railways, and it is submitted that they would not have derived large revenues from these lands, it cannot be denied that along with the other provinces of Canada they derived their full share of the benefits resulting from railroad construction. In any case as it turned out later when the Dominion government took over the Canadian Northern Railway and relieved the Prairie provinces of the heavy financial obligations they had assumed in support

1 - Report of the Railway Inquiry Commission. Sessional Papers  
1917 No.20g p.XV

2 - Ibid



of this road, such action on the part of the Dominion certainly should have substantially offset any claims which these provinces had against the Dominion for lands given to the railways.

In spite of all these considerations, the Prairie provinces continued to remain firm in their demands for a transfer of the natural resources together with a continuation of the land subsidies as indemnification for part alienations.

Such a stand taken by the Prairie provinces was objected to not only by the Dominion government itself. Considering the delicate nature of the financial relations between the Dominion and all the provinces of Canada<sup>1</sup>, it was inevitable that some of the latter should also object to the retention by the Prairie provinces of both lands and subsidies. The first protest of this kind came from the Maritime Provinces in 1913.<sup>2</sup> When, however, in 1918, the Prairies again renewed their request for a transfer of lands and a retention of the subsidies,<sup>3</sup> the other provinces, although they had no particular objections to the transfer itself, refused to agree to such an arrangement unless they too should receive additional allowances proportionately commensurate with the subsidy in lieu of lands which the Prairie provinces would be allowed to retain<sup>4</sup>. The former objected, and

1 - See "The Financial Arrangements between the Provinces and the Dominion" (1930) - A.W.Boas.

2 - See letters quoted by Borden, Hansard 1914 p.1069

3 - Sessional Papers of Canada 1922 No.142 b, p.1

4 - See "The National Resources Question" - Chester Martin

with reason, to a settlement which would give the Prairies both the lands and the subsidies in lieu of lands, and which would consequently disturb the delicately adjusted financial arrangements between the provinces and the Dominion government.

In December of 1920 the federal government through its Premier, Mr. Meighan<sup>E</sup> again indicated its willingness to transfer the remainder of the natural resources to the Prairie provinces but asked the latter to agree to an abatement of the subsidies in lieu of lands. Instead, however, of insisting that the Prairies give up the subsidies on the grounds that they had no just claims against the Dominion government for past alienations, the latter very unwisely appealed to the generosity of these provinces by pointing out that the war had enormously increased its public debt as compared with the relatively slight increase in the provincial debts, and that the Dominion was forced to resort to new fields of taxation some of which were open to the provinces as well. On these grounds, therefore the Dominion government sought to avoid a continuation of the land subsidies to the Prairies and a corresponding increase in the grants to the other provinces.<sup>1</sup> It is thus quite clear how unsatisfactory was the attitude of the Dominion government at this particular time.

In reply to this statement of policy, the Premier of Manitoba, Mr. Norris, indicated that his government would not be justified in agreeing to any abatement unless, after a

1 - Letter to Premier of Man. by Mr. Meighan<sup>E</sup>. Sessional Papers 1922 No. 142 b.

careful investigation it could be shown that in respect of alienated lands there would be due to the province a lesser sum than was being paid.<sup>1</sup> Up to this time the Dominion government had, as a result of its policies of western immigration, railways, irrigation and other developmental projects, incurred large expenditures attributable in large but unascertainable measure to the fact that it had retained control over the public lands of the Prairie provinces. The federal authorities felt that a long system of accounting would be of little use as there were so many conflicting considerations which would obscure the main purpose.<sup>2</sup> Manitoba, however, remained firm in its refusal to consent to any abatement in the subsidy in lieu of lands and insisted upon no mere debit and credit statement of the financial records of the federal policies in the lands of the West but on an accounting on a "fiduciary" basis for all past transactions.<sup>3</sup>

During 1922 the King government suggested as a settlement of the natural resources question, that all the transactions of the past be ignored and that a new start be made.<sup>4</sup> In other words, it was felt that an accounting of past transactions would not result in any particular advantage to either side and that the surrender of the subsidy in lieu of lands would presumably remove any possible objections from the Maritime provinces. The attitude of the Dominion government at this particular time on this latter question was at any rate clear

1 - Sessional Papers 1922 No.142 b p 13

2 - Ibid

3 - Ibid pp.21-22

4 - Sessional Papers 1922. 142a. p.3

and emphatic.- "We do not see how the Prairie provinces could seriously expect to receive the lands and at the same time continue to receive the land subsidy!"<sup>1</sup>

Some way, however, had to be found out of the impasse. The federal authorities, therefore, made it known that if a system of accounting by an independent tribunal was acceptable to the Prairie provinces that they would be willing themselves to adopt such a method. This course was favoured by the three provinces involved. Their delegates convened at Ottawa in April of 1922 but no important result followed from this meeting.<sup>2</sup>

There is no need to trace the negotiations which took place in the ensuing few years. Eventually an agreement was concluded between the province of Manitoba and the Dominion government as to the method and basis of settlement of the natural resources question. The terms of this agreement were set out in an order in council of August, 1, 1928 as follows:-

"1. The Province of Manitoba to be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources as from its entrance into Confederation in 1870.

2. The Government of Canada with the concurrence of the Government of Manitoba to appoint a commission of three persons to inquire and report as to what financial readjustments should be made to effect this end.

3. The Commission to be empowered to decide what financial or other considerations are relevant to its inquiry.

4. The findings of the Commission to be submitted to the Parliament of Canada and to the Legislature of Manitoba.

1 - Letters to the western premiers by Mr. King. Sessional Papers 1922. No. 142a. 2- See Canadian Annual Review 1922 p. 574

5. Upon agreement on the financial terms following consideration of the report of the commission, the respective Governments to introduce the necessary legislation to give effect to the financial terms as agreed upon, and to effect the transfer to the province of the unalienated natural resources within its boundaries, subject to any trust existing in respect thereof, and without prejudice to any interest other than that of the Crown in the same."

It is quite clear from the terms of the above order in council that the unalienated Crown lands of the province were to be transferred to the latter as a matter of course. The work of the Commission was therefore concerned with the lands alienated by the Dominion government since 1870. In this connection the Commission was to determine whether the province had received adequate compensation for those lands alienated as a result of the Dominion policies, and if not, to decide upon the financial readjustments necessary to establish equality for Manitoba with respect to public lands as from 1870.

The report of the Royal Commission on the transfer of the natural resources of Manitoba was submitted to the Prime Minister of Canada on May 30, 1929. It was the unanimous opinion of the Commission after an examination of the facts and arguments brought forward, "that the consideration which Manitoba has received in the past, cannot be deemed adequate in a settlement to be made with her on the basis of the Order in Council."<sup>1</sup>

In the balancing of the various claims and counter-claims of the Dominion government and the province of Manitoba the former

1 - Report of the Royal Commission on the Transfer of the National Resources of Manitoba p.30

was first of all declared free from any accountability to the latter for any alienations of territory made before the creation of the province. Similarly it was further agreed that the province was not entitled to compensation for any alienations made in any territory forming part of the province but which was not included in the province at the time such alienation was made. This decision was of importance to the Dominion government in view of the fact that Manitoba has had three different areas since its creation, the original area of 1870, the second area as a result of the extension of boundaries in 1881, and <sup>the</sup> present area formed by the extension of 1912.<sup>1</sup>

It was further decided by the Commission that the province had no claim against the Dominion for any lands alienated for provincial purposes. This of course specifically referred to the school lands and School Lands Trust Fund already referred to in Chapter II. In carrying out the transfer of the natural resources, the province was to receive the unsold school lands and its portion of the School Lands Fund to be administered by the province subject to the conditions outlined in the legislation of 1872 and 1879.<sup>2</sup>

On the two matters of alienations of lands which at the time of such alienations were not a part of the province, and of alienations made for purely provincial purposes, the conclusions of the Commission can meet with no protest. The

1 - Ibid pp.31-33

2 - Ibid p.33



conclusions, however, regarding lands alienated as a result of the Dominion homestead policy may be justly questioned. According to the Commission, "it is wrong to assume, as we have been asked to assume, that if the public lands of Manitoba had been handed over to the administration of the Provincial Government, the Government would have adopted a free homestead system similar to that of the Dominion."<sup>1</sup>

As has already been indicated, it is impossible to see how the province could in the end have done anything but adopt this system of land disposal. It was an inevitability in the West. It is true that in 1870 and later in 1905 the exponents of the Dominion policy retained the public lands of the Prairie provinces because, among other things, it was feared that the latter might interfere with the free homestead system. Nevertheless, they could not have done this for long. In the end they would have been forced to adopt this policy.

The Commission frankly admitted that it was undoubtedly in the interests of the province to see its population increase, but on the other hand, "a Provincial Government would not have lost sight of its financial welfare in the pursuit of its desire to see the Province grow ..... A judicious land settlement policy conceived

1 - Ibid p.35

wholly in the interest of the Province would have produced considerable revenue."<sup>1</sup> Here again it is difficult to agree with the findings of the Commission. How the province could have found a policy of rapid land settlement which would at the same time have yielded substantial revenues, it is impossible to determine. It has already been pointed out that even at best agricultural lands such as are found in the Prairie provinces do not yield great revenues.

In summing up the liability of the Dominion government for homestead lands, the Commission decided that the Dominion be not taxed with an amount equal to the actual value of these lands for such a charge would be manifestly too great. "Justice can only be done by reducing it in a degree commensurate to the sacrifice which we think the Provincial Government might reasonably have been expected to make to assure the growth of population of the Province."<sup>2</sup> It is suggested here that in order to assure such growth the province would have been forced to dispose of its lands in a way which would not only have yielded no revenues, but which would have constituted a charge on its treasury. It is therefore submitted that the province had no just claim against the Dominion government for homestead lands.

In the case of lands alienated to subsidize railway construction, the Commission distinguished between two kinds

1 - Ibid pp 35-36

2 - Ibid p. 36

of grants, those made to national or non-provincial railways, and those made to branch lines wholly within the province. In the latter case the grants were deemed to have been made for a purely provincial purpose, "that is, a purpose towards which the Provincial Government would have contributed of its lands if it had owned them,"<sup>1</sup> and hence the Dominion Government was not held accountable for them. In the case of land grants made for the construction of non-provincial railways, however, it was the opinion of the Commission that the Dominion must be held fully accountable for such alienations since according to past precedents, "it has always been understood that federal undertakings are carried on at federal expense."<sup>2</sup>

Whatever force attaches to this rule, it seems clear that if the Commission could absolve the federal government from accountability for lands granted to subsidize branch line construction on the grounds that this was, "a purpose towards which the Provincial Government would have contributed of its lands if it had owned them," it should likewise have freed the Dominion from accountability for lands granted to non-provincial railways, for it is just as likely that, in the event of provincial ownership, Manitoba would have made generous land grants to such railways. This seems a fair assumption from the fact that the government of that province actually involved itself to the extent of over \$25,000,000 in guarantees to the

1 - Ibid p.36

2 - Ibid p.36

Canadian Northern Railway. Even, however, if it is going too far to assume that Manitoba would have granted lands to non-provincial railways, surely the fact that the Dominion Government relieved the province of these serious commitments when it took over the Canadian Northern system in 1917,<sup>1</sup> should have stood in substantial mitigation of the claims the province could have held against the Dominion for lands given to the non-provincial railways. The Commission does not appear to have considered this fact.

In fixing the liability of the Dominion Government to the province, the Commission proposed a plan of annual subsidies which based upon the area and the population of the province from time to time as from 1870. The subsidies were to be considered as what, according to the Commission, the Dominion government should have paid the province for the lands of which the latter had been deprived from 1870 to July 1st., 1908, before which date it received either no subsidy in lieu of lands or a smaller subsidy than it should have received. In fixing the amount of such subsidies the Commission purported to be giving due weight to the claims of the Dominion by placing a light appraisal on the loss to the province of the homestead lands, in allowing the Dominion the benefit of lands used to subsidize branch line construction, by holding to its credit the sums paid to the province in aid

of the construction of public buildings, and by recommending for future years very generous subsidies,<sup>1</sup>

The Commission claimed to be giving effect to these considerations in favor of the Dominion by fixing a moderate figure for subsidies payable in respect of past years and by disallowing all claims of interest upon arrears. At the same time, as against the sum due for back subsidies, the Dominion was given credit for subsidies paid under earlier arrangements as well as the value of the swamp lands and the university lands granted in 1885.<sup>2</sup>

Upon this basis, then, the difference between the total sum of the subsidies recommended by the Commission as payable from 1870 and the sum of all credits due to the Dominion government since that time was calculated at \$4,584,212.49. This sum was to be handed over to the province along with the unalienated lands. At the same time the old subsidy arrangement of 1912 was to be continued as part of the financial settlement.<sup>3</sup>

Enough has already been said to indicate that the province had no just claim against the Dominion for past alienations of its public lands. It has been seen that the public domain of the Prairies did not and could not have yielded very much in the form of revenues, that the Dominion made no money from these lands although it granted the provinces bountiful land subsidies,

1 - Report of the Royal Commission on the Transfer of the Natural Resources of Manitoba, p.42.

2 - Ibid p.43

3 - Ibid p.43

that the cost of administration and development was great, and that in any case the method adopted by the Dominion government for its disposition would in all probability have likewise been adopted by the provinces. In spite of all these considerations, the Commission, as already noted, decided that Manitoba had just and valid claims against the Dominion government for past alienations of public lands, and in settlement of these claims the province was to receive a lump sum of \$4,548,212.49 together with a continuation of the land subsidies: \$562,500 annually until the population should reach 800,000, thereafter \$750,000 until it should reach 1,200,000, and thereafter \$1,125,000.

Considering on the whole the financial settlement recommended by the Commission it is difficult to avoid the conclusion that if full justice was to be done to both of the parties involved, all that the Commission should reasonably have done within its terms of reference, was to advise a return of the remaining unalienated lands. The compensation granted for past arrears was quite unjustifiable.

It must, however, be admitted that it is very probable that the discontinuation of the land subsidies as granted under the legislation of 1912 would have constituted a fiscal hardship for the province. The more so because the return of the unalienated natural resources admittedly meant an added bill of expense in costs of administration. But while this admission can be freely made it is submitted that since the province in



justice had no claims against the Dominion government for past alienations of natural resources, the Commission was therefore wrong in recommending as compensation to the province a continuation of the land subsidies. Whatever the validity of the claims of the province to a continuation of these subsidies on other grounds, it is merely suggested here that they should not have been continued as part of the financial settlement of the natural resources question.

The Report of the Royal Commission on the transfer of the natural resources of Manitoba was submitted May 30, 1929 and was duly accepted by the governments of the Dominion and of Manitoba. By December 14, 1929 an agreement based upon the recommendations of this report was drawn up and signed by the parties concerned. This agreement was embodied into an act which was passed by the Parliament of Canada May 30, 1930.<sup>1</sup> Shortly after the report of the above-named Commission had been accepted, the Prime Minister of Canada, on June 26, 1929 issued a public statement to the effect that the Dominion government was prepared, "to accord to Alberta and Saskatchewan, in settlement of the natural resources question, treatment similar to that granted to Manitoba with respect to the continuance of Dominion subsidies."<sup>2</sup> This statement of policy, it will be noticed, stands out in striking contrast to an earlier statement made by the Prime Minister in 1922 to the effect that the Prairie provinces, "could not seriously expect to receive the

1 - 20-21 Geo.V c.29

2 - Sessional Papers of Canada 108A p.3, 151A p.3, 1930.

lands and at the same time continue to receive the land subsidy." It is thus evident that the Dominion government had completely abandoned its former stand on this question and had yielded to the somewhat immoderate demands of the Prairie provinces.

Immediately following upon the Prime Minister's statement of June 6, 1929 negotiations with Alberta and Saskatchewan were resumed. On December 14, the same day as the agreement with Manitoba was drawn up, an agreement with Alberta was concluded and eventually embodied into an act of parliament passed May 30, 1930.<sup>1</sup> The agreement with Alberta, being based upon the afore-mentioned statement, naturally provided for a return of the unalienated resources, and as financial settlement for past alienations the Dominion government was to continue paying the land subsidies as in the case of Manitoba.<sup>2</sup> Together with this, a commission of three was named to inquire into and report what, if any further consideration besides the continuation of the land subsidies should be paid to the province in order to place it in a position of equality with the others with respect to the administration and control of natural resources as from its entry into Confederation in 1905.<sup>3</sup>

The negotiations with the province of Saskatchewan were unduly prolonged because of the fact that that province through its spokesman and Premier, Dr. Anderson, insisted not only on a

1 - 20-21 Geo.V c.3

2 - Ibid paragraph 20.

3 - Ibid paragraph 22.

compensation for all alienations since 1905 but also on an accounting for all alienations between 1870 and 1905 within the area which later became the province of Saskatchewan.<sup>1</sup> It is impossible to believe that the province could in all seriousness have put forward such an astounding claim. Nevertheless it remained adamant and the Dominion government was obliged to give effect to this unreasonable request by providing for the submission to the Supreme Court of Canada of questions regarding the rights of Canada and the province before 1905 to the lands lying within the boundaries of the province and to any alienations in that territory made before 1905.

The agreement between Saskatchewan and the Dominion government was finally consummated March 20, 1930 and embodied into an act of the Canadian parliament which was passed May 30, 1930.<sup>2</sup> According to its terms the unalienated natural resources were to be returned as in the cases of Manitoba and Alberta. As part of the financial settlement the subsidies were to be continued.<sup>3</sup> Furthermore provision was made for the submission of the necessary questions to the Supreme Court in order to determine whether or not the Dominion was liable for alienations made prior to 1905.<sup>4</sup> As in the case of Alberta provision was made for the appointment of a commission to determine what, if any, further compensation should be paid to the province as from 1905 or any earlier date

- 1 - Sessional Papers of Canada 1930 151A
- 2 - 20-21 Geo.V c.41
- 3 - Ibid paragraph 21
- 4 - Ibid paragraph 23

as determined by the answers to the questions submitted to the Supreme Court.<sup>1</sup>

What has already been said about the compensation of Manitoba for past alienations of public lands by the Dominion applies with equal force to the provinces of Alberta and Saskatchewan. The subsidies should never have been continued as part of the settlement for past alienations of lands since none of these provinces had just claims in this respect. It must here be borne in mind that the continuation of the subsidies stands condemned only as a measure in the financial settlement of the natural resources transfer. It is not denied, that there might have been other cogent reasons for their continuation. These considerations, however, are irrelevant here. Furthermore, the provision for the appointment of a commission to determine what other compensation, besides the continuation of the subsidies, should be paid to Alberta and Saskatchewan was absolutely uncalled for. These two provinces from the date of their creation received very generous annual grants in lieu of lands. They were now not only to retain the unalienated lands but also the land subsidies as well. It is impossible to understand what further compensation could possibly be awarded to them as a result of the deliberations of such a commission. The willingness of the Dominion government to include such a provision in the agreements with Alberta and Saskatchewan can only be interpreted as an unwarranted concession to the unjustifiable claims of the provinces. The further insistence of Saskatchewan

1 - Ibid paragraph 24

upon an accounting for alienations made before the creation of that province is so unreasonable as to appear almost absurd.<sup>1</sup>

On the whole it is submitted that the settlement accompanying the transfer on the natural resources was an unsatisfactory one. The Dominion government is to be reproached with the fact that it yielded too readily before the unjust demands of the Prairie provinces. The latter stood out for a transfer of the unalienated resources, for a retention of the subsidies granted in their stead, and any other financial considerations they could exact as compensation for past alienations, whereas from any just and reasonable point of view nothing was owing to them for any past transactions. All those considerations which lead to such a conclusion, however, were either swept aside or completely ignored, for by the final settlement the most extreme demands of the Prairie provinces were gratified.

The foregoing has been a general resumé of the terms and conditions of the transfer of the natural resources as contained in the agreements embodied into acts of parliament.<sup>2</sup> There are, however, several further points connected with the transfer which may now be briefly outlined.

1 - Note: The Supreme Court in answer to the questions submitted to it has ruled that the Dominion government is in no way accountable for any alienations of land within the boundaries of Saskatchewan prior to the creation of that province in 1905.

2 - 20-21 Geo V c.29, c.3, c.41

What has so far been referred to as a transfer of the natural resources, technically means that, "the interest of the Crown in all Crown lands, mines and minerals and royalties derived therefrom within the province and all sums due or payable for such lands, mines or minerals or royalties shall belong to the Province subject to any trusts existing in respect thereof and to any interest other than that of the Crown in the same, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof."<sup>1</sup> The apparent all-inclusiveness of these provisions, however, is modified in one or two respects.

In the case of the school lands and school lands fund which were transferred to each of the provinces it was provided that the lands and the fund be administered by the provinces but in accordance with the provisions of the Dominion Lands Act for the support of schools in the province.<sup>2</sup> A further limitation upon the provinces was imposed in the case of lands included in Indian reserves. Such lands continue to be administered by the government of Canada and the provinces are required to set aside from time to time as requested by the Superintendent General of Indian Affairs certain areas needed by Canada to fulfil its obligations under treaties with the Indians.<sup>3</sup>

1 - Ibid paragraphs 1

2 - Ibid paragraphs 6 and 7

3 - Ibid paragraphs 11, 10, 10.

Provision was also made for the continuance of specified national parks under the administration of the government of the Dominion with the ownership of and beneficial interest in such lands vested in the latter. When any national parks are no longer required for park purposes they will revert to the respective provinces. In the meantime the exclusive legislative jurisdiction over such areas belongs to Canada.<sup>1</sup> In the case of Alberta a further provision was included for the passing of certain legislation by the parliament of Canada excluding from the parks certain areas, "of substantial commercial value" to be given to the province.<sup>2</sup>

For the rest, the agreements, confirming the transfer of the natural resources deal with certain routine matters which may be ignored here. It should be noticed that the coming into force of the agreements as embodied into acts of the Canadian parliament was made contingent upon the passing of imperial statutes confirming them.<sup>3</sup>

1 - Ibid paragraphs 15 and 16, 14 and 15, 14 and 15

2 - 20-21 Geo V c.3 paragraph 16,

3 - 20-21 Geo V c.29 par. 25, c.3 par.25, c.41 par.28



## CHAPTER V

### Implications of the Transfer

The transfer of the public lands and natural resources to the Prairie provinces is such a recent event in Canada that it is naturally impossible to judge accurately its full significance. Nevertheless, it is possible, even now, to foresee certain consequences which must inevitably follow as the result of such an action. A full consideration of these consequences cannot but confirm the conviction that the transfer of these lands to the provinces has been a decidedly retrograde measure.

It is impossible to see in what way the position of any or all the Prairie provinces has been improved as a result of having displaced the Dominion government as owner of the public lands. The provinces have no particular need for these lands especially since the ownership over them is in no way indispensable for the carrying out of any of the provincial functions of government. In the case of the Dominion however, the contrary holds true. Certain functions of government for which the latter is and should be responsible, make the ownership over lands such as are found in the West, a virtual necessity.

It has already been pointed out in Chapter III that for this reason, if for no other, the Dominion had a sound case for the retention of the Western public lands. It has always been felt, and with reason, that the successful functioning of a national immigration and land settlement policy could best be assured by a strong central control of the western public lands. On this point, as already noted, the government of Sir John A. Macdonald was outspokenly clear. In answer to one of the requests of Manitoba for a transfer of the public lands the following statement was made: -

"If the immigration operations of the Dominion which involve so large a cost are to have continued success .... your sub-committee deem it advisable that the Dominion government shall retain and control the lands which it has proclaimed free to all settlers."<sup>1</sup>

This reason is as valid today as it was half a century ago. No one can reasonably doubt the advisability of a single and uniform immigration policy administered and enforced by the Dominion government. Such a policy, however, necessitates the ownership and unfettered use of suitable lands by the latter.

What, then, is to be the fate of the immigration policy of Canada now that the transfer of lands to the

1 - Order in council, May 30, 1884.

Prairie provinces has been effected? From what has already been intimated the answer to this question would seem to be obvious. The Dominion government for all practical purposes will virtually cease to have an immigration policy. Control over this matter naturally reverts to the provinces which now own the necessary lands to make such control effective. It is quite true that the Dominion government still retains the power to lay down the necessary qualifications for entrance into Canada. Once entered, however, the fate of the immigrant lies with the various provinces which may accept or reject him at will. Each province can pursue its own separate policy in this respect and the danger of conflicting regulations is only too apparent.

Such a danger can only be avoided upon the basis of some uniform and central idea or principle mutually agreed upon between the Dominion government and the provinces and enforced by a single authority, the former. Such as a matter of fact was the plan upon which immigration proceeded as between the Dominion and the older provinces which always had control over their own lands. In spite of this, however, since these provinces had such control they were by no means compelled to co-operate with the federal government in settling immigrants upon their lands. At times, in fact, they even chafed under the control of the Dominion government, and it is well known that there has been a conscious attempt on the part of some of the older provinces, notably Ontario and New Brunswick

to take the work of immigration and settlement more and more into their own hands. Since these provinces owned their own lands there was in reality nothing to deter them, and, in fact, they have virtually succeeded in doing so.

But the most suitable lands for purposes of immigration and settlement were those owned by the Dominion government in the West. So long as the latter owned these lands it was not particularly concerned about the tendency of some of the eastern provinces to adopt immigration policies of their own. The Dominion government could still enforce its own policy in respect to these lands, and while control was retained over them, there was for all practical purposes a uniform Dominion immigration policy.

Now, however, such is no longer the case. The recent transfer of lands from the Dominion to the provinces implies a transfer of the power to provide effective immigration legislation as well. This is of particular significance in the case of the Prairies just now, for it is well known that these provinces have decided opinions of their own as to the immigration policy to be adopted. In the past they have been upon occasions openly critical of federal measures and methods and, according to recent reports in the press, there is serious talk in certain sections of abolishing the system of free land grants.

It thus seems clear that instead of a single and uniform immigration policy for Canada there is a distinct danger now,

as a result of the transfer of public lands to the Prairie provinces, that there may be in the future a number of conflicting policies, possibly as many as there are provinces. Such an eventuality is clearly within the realm of probability in view of the fact that the Dominion government is now, for purposes of immigration and settlement, a landless entity.

The first definite indication of the decentralization of authority over immigration policy in view of the transfer of the public lands to the Western provinces has already openly manifested itself. On March 19, 1930 the immigration policy of Canada came up for discussion in the Federal House. Having in mind the coming transfer of lands, the Hon. Mr. Charles Stewart, the acting minister of immigration made the following very significant statements:-

"..... We are asking them (the provinces) to assume the responsibility for saying how much and what kind of immigration they are desirous of having and can absorb in any given year. We will not pass into Canada, people destined to any province unless it is the desire of that province to receive them ..."<sup>1</sup>

"We are not thinking of continuing any assistance except that we have not yet arrived at a definite decision as to whether we should discontinue assistance to juveniles or not ... We wish to make a clear distinction between the responsibility of the federal government and that of the provincial governments.. We propose for the future not to admit to Canada any individual who has not been passed upon and a request made for his admission by the provincial authorities."<sup>2</sup>

1 - Hansard 1930 p 764.

2 - Ibid

Such statements as these constitute a clear confession of the fact that with the transfer of the lands to the Western provinces, the power of the Dominion government to control and enforce a workable immigration policy has vanished and that that function now belongs to the provinces. This, it is submitted, is one of the implications arising from such a transfer and it is to be deplored. However satisfactory or unsatisfactory the federal immigration policies in the past may have been, at least they were uniformly formulated and enforced. This it seems is no longer to be the case. The work of immigration and settlement has been carried on up till now by the Department of Immigration and Colonization under the control of a responsible minister.<sup>1</sup> This department together with its Lands Settlement Branch has ably administered the Dominion's immigration policies. It is not as yet definitely known what its fate is to be, but its functions will necessarily be curtailed and much of the work which it has been doing will now have to be parcelled out to smaller but similar provincial organizations.

In discussing the implications arising from the transfer of the lands and resources to the Prairie provinces the question of the administration and development of these lands and resources is a very pertinent one. So long as the natural resources were owned by the Dominion, a uniform and thorough

system of administration, development and exploitation was ensured. Now, however, as a result of the transfer this important work will naturally be divided among the several provinces which will have to set up separate administrative departments of their own for this purpose. As will presently appear this is a decidedly backward step.

In the past the work of administering the natural resources has been carried on by the Department of the Interior which was organized in 1873<sup>1</sup> and which continued this important task up to the time of the transfer. Since the date of its creation this department has built up an admirable administrative organization for the efficient management of the public domain - "an estate so extensive and diverse in character as to present every conceivable problem in property management"<sup>2</sup>. With over half a century of sound experience behind it and with the financial facilities provided by the Dominion treasury, the Department of the Interior has been able to render invaluable service in the administration, development and conservation of the natural resources. Its Forestry branch, for example, has not only cared for the federal forest reserves but has also given general assistance throughout the Dominion to forest research and conservation. The Water Power and Reclamation Branch has taken up the work of irrigation and the carrying out of a systematic study of the water resources of all parts of the country. Similarly, the National Parks Branch, the National

1 - 36 Vic c.4

2 - Report of the Dept. of Interior, 1924-5 p.7.



Resources Intelligence Branch and the Surveys Bureau have all capably performed the duties coming within their respective spheres. In short, the Department of the Interior, has built up a group of specialized technical organizations for the most efficient administration and management of each separate form of resource or property. It is important to notice that much of that work so carried on has been just as directly concerned with national as with purely federal needs.<sup>1</sup>

With the transfer of the natural resources to the Prairie provinces, practically all of this work, for which the Department of the Interior has made itself responsible, must now be taken over by the separate provinces. This is an inevitable consequence of the transfer and it is difficult to see how any good can come of it. Henceforth each of these provinces will have to evolve administrative organizations of its own, and it seems certain that each of these provincial bodies will not prove the equivalent of the Department of the Interior. Being separate and distinct, they will lack the uniformity of effort and purpose of the latter as well as the continuity of experience and the consummate skill which it has acquired in dealing with the particular problems of the public lands. Moreover, they will not have for the purpose of developing their resources that liberal financial assistance of the federal treasury, which in the past has been at the disposal of the Department of the Interior. Further, unlike the latter, they will concern

1 - See any recent report of the Dept. of Interior

themselves with local and provincial, and not national problems.

In the light of these considerations it is reasonable to question the wisdom of transferring the natural resources from the Dominion to the Western provinces. These resources, it is submitted, can best be given the supervision and development they deserve under the control of the Dominion government. In this respect, at any rate, the past record of the Department of the Interior leaves little to be desired. It was considerations such as these no doubt which prompted the Hon. Mr. C.H. Cahan to say:-

".... I wonder whether, if I could return at a later date to this terrestrial sphere, I would find that that development had increased as it should by coming under the disposition and control of the several provincial governments because, to my way of looking at it, they are undertaking vast duties and responsibilities towards the people of their several provinces and towards the people of the whole country, which can be carried out to full fruition only by large appropriations from the federal treasury."<sup>1</sup>

It is not as yet definitely known what the Dominion government proposes to do with the Department of the Interior. The duties now remaining to it are principally those connected with Indian Affairs, the Northwest Territories and the National Parks. According to the reports which have seeped into the press, the department as at present constituted will be replaced by a new one which will take over the remaining functions of the former.

So far as the actual administration of the western natural resources is concerned, the advantages of unified Dominion control seem obvious. Considering the past record of administration by the Dominion government it is fatuous to assume, as has been done, that owing to proximity to, and familiarity with the problems affecting the natural resources, that the individual provinces are better qualified to own and administer them. It is submitted that the contrary is the case.

The implications of the transfer, already discussed would certainly seem to point to this conclusion. In the case of the water power resources which are naturally included in the transfer there is a further relevant implication to consider.

It is well known that all of the three Prairie provinces have available water power supplies.<sup>1</sup> Owing to the importance of such supplies for purposes of hydro-electric development, many consider it desirable to conserve this valuable natural resource for the public benefit under some system of public ownership instead of allowing it to pass into the hands of private corporations. It is not intended here to raise anew the old discussion as to the respective advantages of one system of ownership over the other. It is merely suggested that the importance of cheap and abundant supplies of such a commodity as electric power points, in the opinion of the author, to the desirability of public ownership and development of water power resources.

1 - Canada Year Book 1930, p.363

Assuming this to be so, the question of the transfer of the water powers to the provinces takes on a new significance, for under the control of the latter, as opposed to control by the Dominion government, public ownership and development of water powers is less likely to come about. The possibility of their being alienated to private corporations is much more striking in the case of provincial control than it would be under a strong federal government. Without casting any undue aspersions, it seems a fair enough assumption that provincial governments are far more susceptible to the pressure of special and private interests and consequently with the ownership over water powers vested in them, rather than in the Dominion government the likelihood of public ownership is so much more remote. In the case of the United States, for example, "we have seen the electric monopoly pick out state governments, We have seen it crack its whip over state assemblies. We have seen it with stupid arrogance corrupt elections ..."<sup>1</sup>

In Canada, on the other hand, although the past record of provincial governments in this respect has not been so notoriously bad the same danger of yielding to the blandishments of private interests is none the less evident. It is true no doubt that federal governments themselves have not always been above reproach in this respect but in the case of the latter the danger is not nearly so great. Consequently it is suggested that the advent of public ownership of water powers and water

1 - "The Power Monopoly" - Gifford Pinchot; quoted by J.S. Woods-  
worthy, Hansard 1929  
p 441.

power developments can most readily be assured under the control of the federal rather than that of the separate provincial governments. Assuming, then, that public ownership in this case is a good thing, it is possible to regard the transfer of the water powers to the provinces as an undesirable step.

Another very important set of implications arising from the transfer of the public lands to the Western provinces must now be considered. They are quite distinct from any of those already mentioned, being more particularly concerned with the effects of such an event upon the other provinces.

In the last chapter mention was made of the fact that in arranging the terms of transfer with the Prairies the other provinces of the Dominion insisted that in the event of a continuation of the land subsidies, they too would be entitled to a proportionately similar increase in grants from the Dominion government. According to the actual terms of the transfer it will be recalled that the subsidies were continued, but as part of the monetary compensation for past alienations. Whether or not the other provinces will be satisfied that this reason for continuing the subsidies is a valid one and hence extinguishes their claims to proportionately similar increases is not yet known. In any case, there is nothing to prevent them from pressing their demands in this respect if they so desire.

In the case of the Maritime provinces, the transfer

of the lands to the Prairies brings to a head an important question which the former have been pressing for settlement for some time now. The Maritime Provinces have maintained that the extra-provincial lands that came into possession of the Dominion government, and out of which the Prairie provinces were formed, were acquired by purchase, developed and given value almost exclusively at the expense of the older provinces of Confederation. In spite of this, however, this extra-provincial territory containing valuable natural resources has been steadily allotted to other provinces of the Dominion thereby enlarging their wealth and increasing their revenues; but the Maritime provinces which have an undoubted proprietary interest in this domain have received no part of it whatever, nor any financial consideration in respect to its partition.<sup>1</sup> Although the latter have in the past declared themselves to be, if not in favor of, certainly not opposed to the transfer of the public lands to the Prairie provinces, they have also, however, been careful to point out the fact that they too have claims to a proprietary interest in these lands. When in 1912 the boundaries of Quebec, Ontario and Manitoba were extended they had already impressed this point of view upon the Dominion government as the following significant statement of the then prime minister Sir Robert Borden, clearly indicates.

1 - See the Maritime claims presented to the Duncan Commission 1926. See especially Nova Scotia "A Submission of its claims with respect to Maritime Disabilities within Confederation." pp 105-7

"When this question comes to be considered (i.e. the return of the natural resources to the Prairie provinces) some regard will have to be given to the claims of some other provinces in Canada and especially to the three Maritime provinces, whose boundaries have not been increased, whose boundaries cannot very well be increased on account of their natural situation. That is a matter that will have to be taken up in connection with the handing over of their natural resources to the three Prairie provinces. I would like my honourable friends from the Maritimes to understand that this is a matter which has not escaped the attention of the Government."<sup>1</sup>

In 1926 the Maritime provinces lost no opportunity in submitting their claims in this respect to the Royal Commission inquiring into the disabilities of these provinces within Confederation. At this time their claims to compensation for their proprietary interest federal lands were specifically set forth as follows:-<sup>2</sup>

1. A credit against the Dominion government equivalent on a per capita basis of calculation to that extended to Manitoba, Saskatchewan and Alberta on account of school lands.
2. A credit against the Dominion government of such an amount as will fairly represent the proprietary interest of the Maritime provinces in the public lands of Manitoba, Saskatchewan and Alberta if and when the said lands are transferred to these provinces.
3. A credit against the Dominion government as compensation to each of the Maritime provinces for non-participation in the federal lands transferred to Quebec and Ontario under the legislation of 1888, 1898 and 1912.<sup>3</sup>

1 - Hansard 1912 p.3896

2 - See Brief Submitted to the Duncan Commission by N.S. 1926 pp 112-113

3 - See Table C.



Upon this matter, the Commission of inquiry did not feel itself bound to make a full investigation of the claims submitted or to come to any final conclusion about them. It did, however, point out that such claims constituted a, "subject-matter upon which - quite apart from any question as to whether an argument could be reasonably sustained on proprietary right - consideration should be given to the Maritime provinces."<sup>1</sup>

On February 18, 1929, while the terms of the transfer were still being discussed with the Prairie provinces, a motion was introduced into the Federal House to the effect that the natural resources should be transferred to them and <sup>that</sup> they be compensated for past losses of lands and resources alienated, " and the claims of any other provinces in connection with this subject should be investigated with a view to satisfactory and equitable adjustment."<sup>2</sup> This motion was adopted by the House.

Behind all these successive statements lurks a tacit admission of the fact that as a result of the transfer some of the other provinces will have reasonable claims to some consideration in virtue of the fact that they have shared in the cost of development but not in the partition of the federal lands. So long as the latter were owned by the Dominion, "and administered by Canada for the purposes of the Dominion", these provinces naturally had no such claims. But as they were gradually transferred to Ontario in 1888 and 1912, to Quebec in 1898 and 1912 and finally to the three Prairie provinces in 1930,

1 - Report of the Royal Commission on the Maritime claims 1927 p.18.  
2 - Hansard 1929 p.190

the Maritimes, at any rate, claimed and still claim, in view of their alleged proprietary right to these lands, to be entitled to some compensation which, according to all indications, they are likely to receive.

This, then is an important implication arising from the recent transfer and it is worth serious consideration. No attempt is here made to estimate the validity of the claims of the Maritimes to a proprietary interest in the lands transferred to the Prairies. Suffice it to say that they have submitted them and it now remains for the Dominion government to consider and settle them, "with a view to satisfactory and equitable adjustment."

It thus is clear that the return of the natural resources to the Prairie provinces has involved not only a consideration of the claims of these provinces but also of some or all of the others as well. The former have already been granted a continuation of their land subsidies as part of the final settlement of the transfer. In view of this retention of both lands and subsidies by these provinces, the other provinces, as already indicated, may quite conceivably demand an increase in federal grants proportionately equal to these subsidies. In any case, according to the motion of February 18, 1929 passed by the federal House of Commons they are at least entitled to have any of their claims in this respect investigated. If further, as is probable, the Maritimes will be compensated for their special claims there is nothing to prevent the other provinces from demanding special consideration since they too may also assert that they have borne

part of the financial burden of developing the lands of the West. Hence it appears that the transfer of the natural resources to the Prairies has by no means closed the natural resources question, but that the final settlement of that question as far as the claims of the other provinces are concerned may not yet come about for some time.

There is thus a decided likelihood that as a result of the transfer, the federal grants to some, if not all, of the other provinces may be increased. Anything that will tend to intensify the dependence of the several provinces upon the Dominion government for fiscal support is most undesirable. The defects of the Canadian system of granting subsidies to the provinces are patent and have long been condemned as unsatisfactory by students of public finance. The transfer of the lands from the Dominion to the Prairie provinces and the settlement accompanying it have led to developments which threaten to accentuate this problem. In the first place, it has definitely thrown out of gear the delicately adjusted financial arrangements between the provinces and the Dominion, and a new equilibrium will have to be restored, most likely by an upward revision of the federal grants to the provinces. In the second place, it has given rise to special claims on the part of the Maritimes and possibly some of the other provinces as well. If, as is expected, the Maritime claims will be met by an increase in federal grants, this can only

mean a further drain upon the federal treasury which at the present time happens to be hard-pressed for revenues.

On the whole, it is submitted that the Dominion public lands in the West should not have been transferred to the Prairie provinces. The latter are in no visible need of them and it is difficult to see that there is anything they can do with them that could not have been done, and done more capably, by the Dominion government. The ownership over these lands by the latter is by no means incompatible with the idea of full provincial autonomy within the limits outlined by the Canadian constitution. While such ownership existed, the Prairie provinces were in no way hampered from carrying on their normal functions of government. At the same time, although relieved of the burden of administering and developing these lands, they were granted more than generous compensation in the form of land subsidies. It is not quite clear how, as a result of the transfer, their position in Confederation has been in any way bettered.

In the case of the Dominion government on the other hand, there was and remains a genuine need for such lands. The successful functioning of a uniform immigration and land settlement policy makes their ownership by Dominion government a virtual necessity. The effects of the transfer upon the federal immigration policy have already been noted and need little further comment. The encroachment of the separate provinces upon distinctly federal grounds is by no means a

desirable tendency. Furthermore, the advantages of a uniform and central system of administration over the lands and their resources as opposed to administration by separate and very likely non-cooperating provincial bodies is an important consideration in favor of Dominion ownership. In this respect, the possible benefits arising from the transfer of the lands and resources to the provinces are not readily apparent. Finally, the financial settlement accompanying the transfer, involving as it does the old question of subsidy rearrangements between the other provinces and the Dominion government is another aspect of the transfer a consideration of which may serve in part to justify the opinion already expressed regarding the soundness of that measure. In this connection, too, there are the special claims put forward by some of the other provinces for compensation in respect of their proprietary interest in the transferred lands.

All of these consequences of the transfer, however direct or indirect they may be, seem inevitably to confirm the conviction that the Dominion public lands in the West should not have been transferred to the Prairie provinces but rather should have remained under the control of the Dominion to be, "administered by the Government of Canada for the purposes of Canada,"

## APPENDIX

Table A

Statement of the Receipts and Expenditures on account of Dominion Public Lands 1872-1929, taken from the Public Accounts of Canada 1872-1929.

<u>Receipts</u>	<u>Year</u>	<u>Expenditures</u>
26,239	1872-3	\$235,356
29,980	1873-4	282,696
27,641	1874-5	185,218
8,545	1875-6	212,841
3,799	1876-7	90,521
19,424	1877-8	87,628
23,828	1878-9	91,773
120,479	1879-1880	147,802
131,124	1880-1	67,745
	1881-2	81,899
	1882-3	115,746
	1883-4	166,898
	1884-5	178,727
	1885-6	194,965
191,781	1886-7	195,725
217,083	1887-8	184,548
237,820	1888-9	188,759
220,141	1889-1890	173,574
264,592	1890-1	158,483
322,796	1891-2	132,807
285,596	1892-3	136,179
210,096	1893-4	133,305
167,869	1894-5	129,727
166,256	1895-6	119,908
172,513	1896-7	111,415
975,792	1897-8	91,296
1,532,590	1898-9	92,913
1,388,023	1899-1900	104,979
1,517,319	1900-1	133,416
1,227,976	1901-2	158,843
1,695,591	1902-3	186,355
1,443,022	1903-4	247,282
1,292,301	1904-5	276,982
1,668,162	1905-6	433,135
1,443,632	1906-7(9 mo.)	385,073
1,883,619	1907-8	562,711
2,153,254	1908-9	548,607
2,885,999	1909-1910	599,613

## APPENDIX

(2)

<u>Receipts</u>	<u>Year</u>	<u>Expenditures</u>
\$ 3,108,735	1910-1	\$ 1,804,250
3,775,856	1911-2	2,277,099
3,402,026	1912-3	2,462,623
3,036,030	1913-4	3,286,480
2,859,714	1914-5	3,701,179
2,299,550	1915-6	3,418,297
4,055,662	1916-7	2,866,712
4,443,758	1917-8	2,552,393
3,539,927	1918-9	2,247,996
4,622,591	1919-1920	4,751,780
3,955,325	1920-1	3,956,027
2,799,450	1921-2	4,226,069
2,347,715	1922-3	4,278,836
2,281,703	1923-4	3,694,768
2,390,374	1924-5	3,403,326
2,803,513	1925-6	3,638,536
3,327,273	1926-7	4,251,662
3,688,594	1927-8	4,082,752
4,070,339	1928-9	4,986,961
 \$86,763,017	 Total	 \$ 73,512,106



TABLE A (Cont)

Detailed Statement of Dominion Land Receipts  
1928-9

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Canadian National Parks	\$ 234,538	
Coal lands	421,759	
Export tax on gold	16,366	
Forestry branch, sale of trees	16,927	
Fur sales	28,338	
General sales	85,905	
Grazing lands, rentals etc.	187,116	
Hay permits	9,195	
Homestead fees	161,890	
Improvements	65,461	
Irrigation sales	13,055	
Map sales etc.	30,053	
Mining fees	238,279	
Petroleum	391,855	
Preemption sales	657,211	
Purchased homestead sales	29,489	
Rent of water power	67,224	
Rentals of land	27,502	
Quarrying leases	11,430	
Timber dues	1,395,725	
Trappers and traders licenses	22,715	
Suspense account	1,969	
Miscellaneous	<u>38,215</u>	
		4,152,279
	Deduct refunds	<u>81,939</u>
	Total	\$ 4,070,339

TABLE A (cont.)

**Detailed Statement of Dominion Lands Receipts  
1904-5**

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Homestead fees	\$ 304,806
General sale of lands	154,128
Improvements	21,571
Map sales etc.	4,879
Timber dues	266,951
Grazing lands	36,145
Coal lands	768
Hay permits	2,435
Mining fees	94,001
Hydraulic leases	6,957
Dredging leases	7,115
Export tax on gold	206,755
Free miners certificates	46,022
Rent of water power	49
Royalty on water sold	65
Free certificates for export of gold	452
Patent and interchange fees	1,205
Survey fees	122,768
Irrigation fees	303
Extra assay charges	1,480
Rocky Mts. Park of Canada	14,044
Rental of lands	18,694
Dominion land surveyors examination fees	906
Miscellaneous	<u>1,976</u>
	1,314,485
Deduct refunds	<u>22,184</u>
Total	\$ 1,292,301

TABLE A (cont)

Detailed Statement of Dominion Lands Receipts  
1887-8

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Homesteads	\$	23,681	
Preemptions		4,830	
Improvements		1,918	
General sales of lands		52,238	
Map sales, office fees		1,660	
Inspection fees		8,085	
Cancellation fees		3,683	
Fees for change of entries		310	
Surveyors examination fees		240	
Timber dues		94,964	
Stone quarries		5,922	
Mining fees, hay permits etc.		4	
Miscellaneous		2,269	
Rocky Mts. National Park		<u>20,591</u>	
			223,360
	Deduct refunds		<u>6,277</u>
	Total		\$ 217,083

TABLE A (Cont)

Detailed Statement of Expenditures on account of Dominion  
Lands. 1904 - 5

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Salaries, outside service	\$147,795
Contingencies, outside service	49,008
Salaries of extra clerks at head office and advertising	39,229
Board of Examiners, Dominion Land Surveyors	979
Protection of Timber Lands in Manitoba and North-West Territories and tree culture in North-west Territories	39,969

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Total

\$ 276,982

TABLE A (Cont)

**Detailed Statement of Expenditures on account of  
Dominion Lands 1928 - 9**

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Salaries of Dominion Lands outside service	\$624,411
Dominion Lands, contingencies	206,440
Fees of Board of Examiners, Dominion Land Surveyors	2,000
Protection of Timber	1,476,829
Grant to Canadian Forestry Association	4,000
Surveys investigation and administration of water and power resources, etc.	471,640
Professional assistance to departmental officers re International Boundary Waterway Question	14,418
Lake of Woods, Control Board	7,130
Canadian National Parks, etc.	1,344,089
Administration of Migratory Birds Convention Act	54,436
Costs of Litigation, legal expenses	9,970
Ordinance Lands, salaries and expenses	26,867
Salaries and Expenses re Seed, Grain, Relief collections	47,154
Construction of Dam at outlet of Lac Seul	357,908
Supervisory Mining Engineer's Office	10,552
Publication of Maps, etc.	233,120
Other Expenditures	91,990
<b>Total</b>	<b>\$ 4,986,961</b>

TABLE B

Disposition of the Surveyed Dominion Lands in the Prairie Provinces up to  
Jan. 1, 1929 (from the Annual Report of the Dept. of Interior  
1929 p.26)

	<u>Manitoba</u> acres	<u>Sask.</u> acres	<u>Alta.</u> acres	<u>Total</u> acres
Area under homestead .....	8,375,000	29,620,840	20,065,460	58,061,300
Area under preemptions, purchased .....				
homestead, sales, half-breed scrip,				
bounty grants, special grants, etc. ....	5,845,500	6,758,574	3,574,740	16,178,804
Area granted to railway companies .....	3,553,833	15,169,775	13,031,731	31,755,339
Area granted to Hudson's Bay Co. ....	1,273,500	3,351,160	2,402,780	7,027,440
Area of school land endowment .....	1,737,800	3,944,400	3,760,500	9,342,700
Area sold subject to reclamation by				
drainage .....	41,066	41,441	39,057	121,564
Area sold under irrigation system .....		44,712	274,359	319,071
Area under timber berths (leased) .....	1,405,824	551,744	1,036,137	2,993,705
Area under grazing leases .....	76,105	3,464,512	3,235,927	6,776,544
Area of forest reserves and parks .....	2,488,500	6,553,000	17,072,100	26,113,600
Area reserved for forestry, park and				
pulpwood purposes (inside surveyed tract) ...	2,453,000	1,637,000	798,000	4,888,000
Area of road allowances .....	977,302	1,468,830	1,288,882	3,735,014
Area of parish and river lots .....	529,087	84,589	121,221	734,897
Area of Indian reserves .....	482,229	1,193,451	1,342,417	3,018,097
Area of Indian reserves surrendered .....	77,072	369,481	328,917	775,470
Area of water-covered lands (inside				
surveyed tract) .....	4,260,280	1,899,590	2,296,648	8,456,518
Area undisposed of (surveyed) .....	<u>3,900,000</u>	<u>3,000,000</u>	<u>14,872,000</u>	<u>21,772,000</u>
Totals .....	37,376,098	79,153,099	85,640,866	202,070,063

TABLE C

Area of the Provinces and extent of the various increases.

Total area of Canada	2,386,985,395 acres	
Total area of four original provinces (1867)	300,461,105	"
Total area of B.C. and P.E.I. (1871-3)	229,145,191	"
Original area of Manitoba (1870)	47,188,298	"
Total area of Alberta (1905)	163,382,400	"
Total area of Sask. (1905)	161,088,000	"
Area of Manitoba extension (1912)	114,091,702	"
Area of Ontario extension (1888)	22,000,000	"
Area of Quebec extension (1898)	101,323,000	"
Area of Ontario extension (1912)	93,696,000	"
Area of Quebec extension (1912)	227,375,000	"
Area of Yukon	132,528,000	"
Total organized territory	1,592,279,697	"
Remaining unorganized federal territory	794,705,698	"



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