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ASSOCIATION OF METIS AND NON-STATUS INDIANS OF SASKATCHEWAN

A DISCUSSION PAPER

GOVERNMENT POLICY RESPECTING NATIVE PEOPLE:  
ITS DEVELOPMENT AND PURPOSE

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## ASSOCIATION OF METIS AND NON-STATUS INDIANS OF SASKATCHEWAN

### GOVERNMENT POLICY RESPECTING NATIVE PEOPLE: ITS DEVELOPMENT AND PURPOSE

#### I Introduction

To understand how the Government of Canada has traditionally dealt with the native peoples of what is now Canadian territory, we must first examine the development of European colonial policies. Prior to the 14th and 15th centuries, overland trade routes existed between Asia and Europe. The developing European merchant (capitalist class) found this trade very profitable. With the advent of large sailing ships, this trade proved even more profitable. It also became possible to extend the trade to new areas such as Africa. The policies of England, France and Spain in particular were designed to support and facilitate this trade. Settlements for excess population was not a serious consideration at that time. The only persons who immigrated to the land areas where trade was being carried on were the management class of the trading companies (East India Co., Company of New France, etc.), the traders themselves, and in some areas a gentlemen class of farmers who would be responsible to develop and manage the plantations around which much of the trade developed. They brought with them some professionals such as teachers, doctors, accountants, etc..

For purposes of ensuring the stability and security of the trade, European kings would claim sovereignty to these so-called newly discovered land areas. This declaration achieved several purposes. One, since it was recognized by other colonial European nations, there would be a monopoly for the discovering state and for the company or companies chartered to carry on the trade. Second, it enabled the occupying colonial powers to pass laws and establish institutions to protect the trade and to

protect its own nationals. These laws were exercised by peaceable means if possible but since indigenous people often resisted these intrusions, by force if necessary. Most colonial nations had garrisons of troops in the land areas they were occupying to ensure that they could enforce their laws.

The indigenous people were always looked on as being inferior to the Europeans and therefore objects who could be exploited!<sup>1</sup> They were therefore exploited sometimes as slaves and sometimes as free men in a variety of labouring jobs. They might be slave workers on plantations, poorly paid freighters, labourers working loading and unloading ships, as guides, etc.. Whether the indigeneous people were maintained as slaves or freemen depended to a large extent upon the type of work they were doing and which method was less expensive for the employer.

The idea that the colonial nations could claim sovereignty to newly discovered land areas was first challenged by a Spanish professor of theology, Fransiskus de Vittoria.<sup>2</sup> He stated that these ideas of sovereignty could only be applied to newly discovered land areas which were not inhabited. If the area was inhabited, then the indigeneous population were the true owners<sup>3</sup> and must not be denied their property rights. It is important to note that Vittoria did not deal with the concept of nationhood rights or the rights of the people to their own government and culture. Nor did he deal with the question of whether or how native lands could legitimately be acquired from them.

## II How Did Colonial Powers Apply This Concept

In 1537 the Pope issued the Papal Bull *Sublimis Deus*, which stated in part "Indians are truly men .... they may and should; freely and legitimately, enjoy their liberty and the possession of their property; nor should they be in any way

enslaved; should the contrary happen, it shall be null and of no effect." <sup>4</sup>

By this time Columbus had discovered the Americas. It will be recalled that European traders were looking for a shorter and cheaper shipping route to the Far East. Columbus, believing the world was round, believed that route lay to the West. His discovery of America was quite accidental. Nevertheless, it wasn't long before the Europeans recognized the trading potential of this new land area and in particular the value of its natural resources.

Spain reflected the Papal Bull in its laws for the West Indies but nevertheless departed notoriously from the laws designed to practice Indian rights in its dealings, the dealing of its corporations, and the dealings of its citizens with the native peoples. <sup>5</sup>

The French took a more forthright position with the indigenous people. It continued to follow the old rule of claiming sovereignty to land it conquered and it recognized no rights of the native people. For example, the charter of the Company of New France contained the following clause:

"to establish, extend and make known the name, power and authority of His Majesty, and to the latter to subject, subdue and make obey all the peoples of the said lands." <sup>6</sup> Once having subdued the native people, the second part of the French policy was to assimilate. The above clause goes on to say "have them instructed, provoke, and move them to the knowledge and service of God and by the light of the Catholic faith and religion, apostolic and Roman, there to establish in the exercise and profession of it ..." <sup>7</sup>

The policy of the British was the most influential in shaping colonial policy generally because they claimed sovereignty over such large territories and carried on trade and settlement in so many areas of the world. Earlier British colonial policies

were primarily geared to trade. Settlement, over and above that described above, was not encouraged. The first British settlements were transportation colonies (settlements of convicts) and religious settlements made up of religious and political dissenters who were no longer welcome in England. Even when granting charters to settle to religious groups, England wanted to be certain that it maintained good relationships with the native people for purposes of securing the trade.

The English had found that it was expedient to maintain friendly relationships with the native people. First, it ensured that trading would continue. Second, it would ensure the availability of a native labour force. Third, it would reduce the required military garrisons to protect the trade and the few settlers or nationals. This would ensure maximum profits for the trading companies and minimum costs to the government to administer the new colonies.

Therefore, when the Massachusetts Bay Company received a charter to trade and settle in 1629, the charter stated:

"Above all we pray you to be careful that there be none in our precincts permitted to do injury in the least kind to the heathen people, .... if any of the savages pretend right of inheritance to all or any part of the lands granted in our patent we pray you endeavor to purchase their title ...." <sup>8</sup>

The British policy of maximizing trade therefore required policies which maintained good relationships with the natives, which acquired land in a way which would provide legal and perfect title. The policy also kept the native people separate and in a state of relative poverty if the traders, merchants and land owners were to have access to a cheap labour supply.

### III European Colonial Policies in Canada

France was the first colonial power to establish itself in what is now Canada. The French king Louis XIII granted a charter to the Company of New France to carry on trade and settlement in certain areas which are now Canada. These included the Maritime area, the St. Lawrence River Valley and the lower Great Lakes area. The charter also gave the Company the right to claim for France and to carry on trade in any new territories it discovered and explored to the area to the north and northwest of the St. Lawrence, Great Lakes Basin.

Settlements were established in the Maritimes (Nova Scotia and New Brunswick) and in the St. Lawrence Valley from the Gulf of St. Lawrence up to and beyond Montreal. From these territories the traders and explorers penetrated to the west, south and north. They reached the Rocky Mountains to the west, the Missouri River to the south, and the Hudson's Bay to the North. French policy in the settled area was traditional, conquer the natives, occupy their lands, and civilize and christianize them until they are ready to be granted full citizenship rights.<sup>9</sup> This explains their wars with the Maritime Indians and the Iroquois of the St. Lawrence. This also explains why they made alliances with the Hurons who were the bitter enemies of the Iroquois. As the Company of New France moved west and north to engage in the fur trade, it however, established trading policies not dissimilar from those of the British. They did not disturb the native people in the possession of their lands, they lived with them in peace, and they exploited them as the producers of the furs and as the indigenous labour force (freighters, guides, etc.).<sup>10</sup> There was, however, one major difference in policy from that of the British. They did not keep themselves separate from the Indians as did the British traders. They considered them more their equals and lived with them, taking permanent wives and establishing homes in the area. The assimilation policies were left to be carried out by the Catholic missionaries.

The British also established their presence early in Canada by granting a charter to the Hudsons Bay Company in 1670, giving it exclusive trading rights in the area which drained into the Hudsons Bay. <sup>11</sup> The British government did not attempt to set up a colony in what became known as Rupertsland and the North West Territories. It did not in any way enter actively into the governing of the area. Charles II claimed sovereignty to the area, granted the Hudsons Bay Company a trade monopoly in the area and the right to make and enforce laws to enforce their trade monopoly. <sup>12</sup> In practice the Company made rules governing relationships between whites and between the whites and the Indians, as well as controlling the trade. In other respects the Company did not attempt to interfere with the relationships of the Indians or with their lifestyle or use of the land. The Company did not claim ownership of the land except for that land on which its trading posts were built. <sup>13</sup> The Company only grudgingly allowed and assisted the church in the civilization of the Indians. <sup>14</sup> In return first the King and later Great Britain received one-half of all the profits realized from the trade. <sup>15</sup>

The policy was to maintain the people in their natural state so they could be a labour force to produce the furs. In turn they would be an outlet for some of the products of the British factories. Therefore, individual land ownership was not promoted as this would interfere with the trade, as would attempts to anglocize the Indians and to make farmers out of them.

With the advent of the industrial revolution in Britain, the issue of how to deal with the surplus labour being displaced from the feudal estates presented a serious problem. This, along with the famine which resulted from the little Ice Age in Europe in the 18th century, caused serious internal pressures in Great Britain. The way to deal with these was to encourage large



scale immigration to the colonies. The policy of expediency, appease the Indians and get title to the land by purchasing it, became even more important. However, up until the mid 1750's, the practice was one of private purchase by individuals or corporations. At other times aggressive settlers simply squatted on Indian lands or drove the Indians from the land.

The resulting Indian wars which threatened the settlements led the British government to conclude that efforts must be made to get the colonies to establish a common Indian policy. A conference of the colonies was convened in 1754 to achieve this objective but, when it failed, the British government decided to assume direct responsibility for Indian affairs in the colonies. Britain had recently acquired the Maritimes from France by treaty and it, along with the Atlantic Coast area of the American colonies, were experiencing serious pressures for land from new colonists. As a result, Great Britain passed a proclamation in 1761 which strictly forbade the Governors of colonies from making grants of land from Indian lands. It, as well, forbid settlement on these lands. All applications for land grants in future were to be referred to England. The government in turn would make arrangements for land with the Indians if necessary. <sup>16</sup>

In 1763 the British government passed the Royal Proclamation which formalized these policies re Indian lands which had been followed by the British since 1754. The cornerstone of this policy was:<sup>17</sup>

- a) only the Crown could obtain lands by a process which became known as extinguishment;
- b) the Indians must consent to give up their lands;
- c) there must be public negotiations with the leaders of all groups who had an interest in the land area;

d) agreements must set down specifically what was being ceded, what rights were being retained, and the obligations of the parties to the agreement;

e) the agreements had to be approved by the native councils and the British parliament;

f) cession of land was to be compensated on the basis of fair and equitable principles.

This proclamation was the basis of the dealings with the Indians until the American War of Independence. The American colonies, when they formed the union, then adopted these principles in their dealings with the Indians.

As pressures for excess population in Great Britain to be settled in the colonies or in new land areas grew, an increasing number of settlers came to the Maritimes, to the Eastern Townships in Quebec and to the area around the Great Lakes which later became known as Upper Canada. These settlers felt a loyalty to Great Britain and looked to the Mother Land for government, protection and legal land grants. Britain, therefore, turned its attention to obtaining the areas of Eastern and Central Canada from France by conquest. First, the Maritimes were conquered and then in 1760 New France was ceded as a result of the defeat by the British of the French at Quebec City.<sup>18</sup> The British government proceeded to set up four colonies, two in the Maritimes and two in Central Canada. There was also the growing British colony of British Columbia on the West Coast.

#### IV Policies In Earlier Canada

Because of the dissatisfaction of British colonialists with French land holding systems and with the French institutions, the old province of Quebec (New France) was divided into Upper and Lower Canada. British law and custom was to prevail in Upper Canada and French laws and customs in Lower Canada. To

provide for government in areas of common concern such as defence, trade, commerce, finance, etc., the first Canadian constitutional document of 1791 was passed providing for a joint parliament of the two colonies.

When New France fell to the British both the French colonists and the British colonists negotiated some guarantees re land and rights for the Indians in their area. The French made provisions for Indian rights in the articles of capitulation. (This was the agreement whereby the city of Montreal surrendered without a battle) The British colonists made certain promises to the Indians who had remained loyal during the American War of Independence. During this period the Royal Proclamation, however, continued to apply to all Indian lands inside and outside the two colonies over which Great Britain claimed sovereignty. The conduct of Indian affairs within the colonies was left to the colonies and it was common for certain functions to be delegated to local governments.<sup>19</sup>

Subsequent constitutional acts do not appear to have changed this picture except that during the second constitutional period, the central parliament began to pass legislation providing for a common Indian policy and administration in the colonies. The first such act appears to have been passed in 1850 and was designed to protect Indian lands. It was amended in 1851. The act<sup>20</sup> applied only to Lower Canada.

This act defined an Indian as any member of an Indian tribe or any descendent of a member of an Indian tribe. The Act did not distinguish between fullblood and mixed blood descendents. They were all considered Indians. It only dealt with the question of protecting Indian lands. The first Act which could be identified as an Indian Act was passed in 1856. It was titled an Act respecting the civilization and enfranchisement of Indians. It applied to both Upper and Lower Canada and provided in detail for the conduct of Indian affairs.

These early acts, which established the basic patterns followed in all subsequent Indian acts up to the present time, were a unique combination of both the French and British practices and laws. Land rights were protected and the procedures set out in the Royal Proclamation for acquiring land were incorporated in the Acts. (get perfect title) The Acts were based on the assumption that Indians must become civilized and be made into Europeans and then be granted full citizenship rights. When they did this, they would be required to give up their Indian status, become non Indians.<sup>21</sup> (assimilation policy) In early House of Commons debates it was assumed that this would eventually lead to the elimination of the Indian population and the Indian problem. However, this assimilation policy is blended with the more traditional British policy of establishing reserves the Indians where they must reside (Isolation policy). Whereas in other colonies Britain had implemented this policy to keep the races separate and to provide the indigeneous cheap labour force required for trade and commerce, In Canada, the Canadian government argued that this policy was necessary to educate, christianize and protect the Indians until they were civilized enough to be assimilated.<sup>22</sup>

The Indians must be protected because they were like children, not capable of looking after themselves. Therefore, the justification for the Indian Act and the creation of the Indian bureaucracy to manage Indian affairs.

#### V Canadian Policy and Practice After Confederation

Immediately after confederation in 1867, the Canadian government passed an Act to establish a Department of the Secretary of State. That Act, in addition to setting up this new department, was basically an Act to deal with the administration of Indian affairs. It incorporated most of the provisions of the 1856 Indian Act and used exactly the same definition of Indians used

in the previous acts.<sup>23</sup> The government policy at that time was not to distinguish between full blood and mixed blood. Indians, provided they carried on the Indian way of life. If any Indians chose to live in white society or become enfranchized, they were to be considered whites. This Act dealt primarily with the Indians of Eastern Canada who had a long association with the Europeans and many of whom had already been agriculturists when the white man first came to Canada. At the time the Northwest was not yet part of Canada and the government did not have to deal with the considerable differences in economy, life styles, etc. of the Western Indians.

However, the policy of treaty-making with the Indians, the extinguishment of title to Indian lands, the isolation of Indians on reserves, and the management of the Indians had already been established. The two earliest treaties which incorporated this policy were the Robinson Treaty (1850) and the Manitoulin Island Treaty (1862).<sup>24</sup>

As soon as Rupertsland and the Northwest were ceded to Canada by Britain, the Canadian government quickly became involved in treaty-making with Indians in the Northwest. By 1874 treaties one to four had been concluded which covered the territory between the Lakehead and Manitoba, the fertile belt of Manitoba, and much of the fertile belt of Saskatchewan.<sup>25</sup> These treaties were concluded under the provisions of the Secretary of State Act. Although that Act did not distinguish between full blood and mixed blood Indians, the treaty negotiators and in particular, Morris, repeatedly made the point that he could only deal with the Indians and not the halfbreeds. This issue does not appear to have come up in the negotiations of treaties One and Two, but did come up in treaties Three and Four negotiations. An exception was made with the halfbreeds in the Treaty Three area and a separate adhesion was signed with them the following year (1875). It gave them a separate reserve and registered

them as Indians covered under the Act. An exception was not made for the halfbreeds in the Treaty Four area, even though they repeatedly petitioned Morris to be included in the treaty-making. 26 The first modern Indian Act was passed in 1876. It incorporated most of the provisions of the 1868 Act and consolidated certain other earlier acts dealing with Indian lands. This Act first began to limit the definition of Indians excluding all Manitoba halfbreeds, and it only included those halfbreeds in the Northwest who lived with or like the Indians and who wished to join an Indian band.<sup>27</sup> We now see the emergence of two new policies. The first is designed to limit the Federal government's responsibility for Indian people. The second is to establish two classes of Indians, those who were a threat and therefore unacceptable to settlers, and those who were more like the settlers and therefore more acceptable. This latter group could more easily blend into the general population as a surplus supply of cheap labour.

#### VI The Development of Policy in the Northwest Prior to 1869

The early traders and management personnel of the fur trading companies quickly formed liaisons with Indian women. The children of these unions, the mixed blood people, became known as Metis or Halfbreeds.<sup>28</sup> Many of these children were raised by their fathers. Some of them considered themselves as a new group of aboriginal people, neither Indian nor European. This group gradually developed a culture and identification of their own. They had a strong loyalty to the fur trading companies and their lives tended to be very much tied to the fur trade economy.

The fur trade required a substantial labour force other than the Indians who were the producers of furs. There was a need for guides, freighters, labourers, etc.. Gradually the Metis also became employed as traders and clerks in the fur trade itself. Others became independent hunters, trappers, etc.. Also a small commercial and merchant class gradually developed. The

policy of the fur trading companies was to give the Indians and halfbreeds unimpeded access to the land and resources for the purpose of the trade. The Metis people were used as a skilled and semi-skilled labour force, and allowed to enter lower management positions. All other management positions were filled by the white Europeans. The Metis who were related to and had good connections with the Indians were also used to control the Indians.<sup>29</sup> They were even encouraged to organize crude armies or law enforcement groups under people such as Cuthbert Grant.<sup>30</sup> When the Hudson's Bay Company took over exclusive control of the trade, they fostered class divisions among the halfbreeds. The English halfbreeds were favoured by the Company and often got positions in trading posts, became traders, and were helped to establish themselves as independent merchants. The Metis tended to be the guides, freighters, hunters and trappers.<sup>31</sup>

After the merger of the North West Company and the Hudson's Bay Company, there was a large surplus labour force. Following 1821 this surplus labour force was encouraged to settle into agriculture pursuits. Many did and the population of the Red River increased very quickly until by 1869 the Metis and halfbreeds outnumbered the Selkirk settlers by 10 to 1.<sup>32</sup> Some, however, settled in other areas such as around Edmonton, Prince Albert, St. Laurent, St. Albert, Cypress Hills, etc.. In these settlements they basically pursued the buffalo hunt and trapping and hunting, as a way of life. Some of these settlers augmented these pursuits with small amounts of agriculture.

The policy of the Company was to ensure a good supply of labour for the fur trader, the buffalo hunt, and the trade in manufactured goods from Europe. This kept labour costs cheap and ensured a good profit for the Company. The Company also tried to maintain its monopoly trade position. Agriculture was not particularly encouraged because it was seen as a threat to the fur trade. However, it was tolerated in that it helped

provide a more secure food supply for the trade and, by supplementing the wage income of settlers, helped to keep labour costs low.

The trade monopoly and other policy of the Company were challenged both by the traders and the workers. A free trade movement began as early as 1837. In 1845 the traders and merchants petitioned the Governor of Assiniboia asking for a change in the laws governing trade. When this request was refused by the Governor, the halfbreeds took matters into their own hands and successfully challenged the trade monopoly in 1849 by releasing one of their members convicted of trade violations and defying the court ruling and the local authorities.<sup>33</sup> From that time on, the Hudsons Bay Company did not try to enforce its trade monopoly. Also as a result of this development, the halfbreeds acquired an increasing voice in the Council of Assiniboia. The practice which developed was that more Metis were appointed to the Council and the selections were made on the basis that the appointees were generally acceptable to the people.<sup>34</sup>

The move by Canada to acquire Rupertsland and the Northwest from Britain threatened both the policies of the Hudsons Bay Company and the interests of the local people. The policy of the Canadian government was to acquire the new territory for settlement, to prevent it from being annexed to the U.S.A., to establish a nation loyal to Britain in the northern part of the continent, to build an east-west transportation and communications system, and to exploit the other resources of the areas (timber, coal, minerals, etc.).<sup>35</sup> To accomplish these goals, Canada must get title to the land.

It is not clear how much the people of the Red River knew of Canada's intentions or the extent to which they understood the implication of these policies. Probably Riel, Lepine,



Tache and a few other intellectuals and leaders in the community understood the implications. It does not appear that the people themselves were too concerned until the Government actually began to do surveys of their land holdings using a survey system different from what the people themselves had used when they took up land (river lot vs. Torren's system).<sup>36</sup>

An examination of various memorandum, documents and letters indicates that the government of Canada had given little thought to the rights or position of the Red River inhabitants.<sup>37</sup> The Canadian government had never recognized the claims of the Hudsons Bay Company to the Northwest area.<sup>38</sup> Canada set out the position that the territory really belonged to Canada or at least to Great Britain as a result of the cession of New France. Canada, through her ministers Howe and Cartier, again set out this position rather forcibly in a letter to the British Colonial Office in 1869 when the Hudsons Bay Company challenged the right of the Canadian government to carry on surveys and build roads in the area.<sup>39</sup> The Canadian policy was based on two basic propositions. The first was to get sovereign title to the territory legally by a formal transfer of the territory by Great Britain at the least possible cost to Canada. The second was to exploit the resources of the area for the benefits of Central Canada and its developing manufacturing industry. This required settlement, transportation, communications, resource based industries, etc.. All of this required that Canada get perfect title to the land. To achieve this latter goal the Government would have to deal with the native people. This was to be done only after the territory was acquired. The British government insisted that provisions be included in the transfer agreement binding Canada to deal with the rights of the Indian people in accordance with "the fair and equitable principles which had always governed the British Crown".<sup>40</sup>

When the people of the Red River resisted the attempts of the Canadian government to acquire the territory without their permission, the first consideration was to send a military expedition.<sup>41</sup> The policy which developed, however, was one of expediency. It combined military threats, with attempts to use known friends, the clergy, etc. to influence the people, attempts at bribing the leaders, and finally an agreement to negotiate the entry of the Red River into Confederation with the chosen delegates of the people.<sup>42</sup> McDonald makes it clear in his statements that the Government has no intention of giving up the country. It will negotiate to get its own way and once having acquired the land the Metis were to be controlled with a strong hand until they could be swamped with settlement.<sup>43</sup>

The people of the Red River wanted cultural, linguistic legal law, educational, local self-government and land guarantees. The McDonald government went along with the demands, some in altered form, except the demand that the new province would have control over the public domain. In the negotiations in Ottawa, McDonald refused to give in on this point. He claimed Canada must have control over the land so it could build the railway to the Pacific, and so it could extinguish the Indian title.<sup>44</sup>

✓ This brought the negotiations to an impasse. The delegates eventually agreed to give up this demand if there was compensation. The compensation agreed to was a land reserve of 1.4 million acres for the children of the halfbreed heads of families.<sup>45</sup> McDonald tried to link this to an aboriginal land claim. Ritchott and the delegates rejected this. The understanding that the land reserve was compensation for giving up control over the public domain is verified in the Wickes Taylor Papers.<sup>46</sup> The other point that McDonald tried to establish was that, if the Metis wanted to claim full rights as civilized citizens, then they would have to give up their claim to aboriginal rights. Ritchott also rejected this idea.<sup>47</sup> What Ritchott, the other delegates, and the Metis failed to understand at the time was that without

control over the public domain, many of the cultural, educational, language and civil rights would eventually become meaningless as the Metis were overpowered by white settlers.

## VII Indian and Metis Policy After the Union With Canada

As indicated previously, by 1874 Treaties One to Four had been concluded. By 1878 Treaties Five to Seven were concluded. The Government had now extinguished the Indian title to virtually all of the fertile belt.<sup>48</sup> It had achieved its goal of obtaining the land so the railway could be built and so the land could be opened up for settlement. To encourage settlers to come, two additional policies had to be implemented. The first was to establish law and order. This meant better management of the Indians and getting rid of the whiskey traders.<sup>49</sup> The second policy which must be implemented was to get the Indians to take reserves.<sup>50</sup>

The Indians, particularly those in the Western part of the territory, were reluctant to take up reserves. They wanted to continue to follow their more traditional lifestyle and they did not trust the white man to keep his word because of the experience of Indians who had taken reserves. McDonald, however, didn't want Indians hanging around the settlements and therefore he issued instructions to his agents through Governor Dewdney to restrict rations to half rations for women, children, the sick and elderly, and to only give rations to able-bodied men who work for them.<sup>51</sup> Indians were to be promised more substantial rations plus other help provided for in the treaties, only if they selected their reserves.<sup>52</sup> McDonald also rejected Dewdney's suggestion that Indians be employed as labourers on the railway construction.

McDonald seems to have been convinced that the only way to make the West safe for settlement and prevent open conflict was to get the Indians out of the way of settlers and onto

reserves where they could be more easily managed by the Indian Agents and police. Also there was considerable pressure on the Government in the early 1880's to reduce the expenditures on Indian affairs. This could only be done if Indians could be made more self-sufficient. They could only become more self-sufficient if they could be settled and trained to take up agriculture.<sup>53</sup> These policies coincided with a general depression in the country and a drought in Western Canada. Crops were a failure through the early 1880's and 1883 was a particularly bad year with widespread famine and starvation.<sup>54</sup> These policies had some limited success but tended to make the Indian in the West even more militant and dissatisfied. The N.W.M.P. began issuing rations on their own in 1883 (actions for which they were reprimanded) to prevent open warfare and looting.<sup>55</sup> The Indians had several large gatherings during this period to consider their course of action. They petitioned the Government for more rations and help. Instead Dewdney appointed a new and tough Indian superintendent of the Western Region. He refused these requests and increased the pressures on the Indians to settle on reserves.<sup>56</sup> As a result of these policies, both the Indians on reserves as well as those off reserves were dissatisfied with the Government policy. There was a major disturbance among the Indians of the Qu'Appelle reserves in 1884 which did not result in open conflict with the police more by accident than design.<sup>57</sup>

The Indians in the Western part of the territory were only waiting for someone to unite and lead them. They had good contacts with Dumont and later Riel and made it quite clear that they were prepared to follow the Metis in an uprising to change their miserable conditions if necessary.<sup>58</sup>

The government policy towards the Metis was to try not to recognize any claims by the halfbreeds outside Manitoba.

Starting in 1873 the Metis in the Northwest began to send a series of petitions to the Government asking that their claims and rights be recognized. The Government simply chose to ignore these requests.<sup>59</sup> When the Liberal government under MacKenzie came to power in 1874, they advocated a change of government policy to recognize these rights but they took no action to implement such a policy.<sup>60</sup> When the Conservatives were re-elected in 1878, McDonald took over the ministry of the Department of the Interior which now was responsible for the management of Indian affairs. It appears he initially changed his attitude toward the Metis and had the Dominion Land Act amended to provide for an extinguishment of Metis claims in a manner similar to that provided for in the Manitoba Act.<sup>61</sup> He also set plans under way in 1880 to implement this section of the Act but for some reason which is not clear, he did not follow through.<sup>62</sup> By 1884 he had reverted to his old position that the Metis had no special rights. If they wanted to be treated like Indians, they could join an existing Indian band. If they wanted land, they could take a homestead like any other settler.<sup>63</sup> The policy was based on the concept that full citizens who voted had no special aboriginal rights, and the idea that the Metis could be assimilated along with the settlers coming from many other European countries.

Even when Riel and the Farmers Union began to petition for the recognition of certain rights in the Northwest for the Metis, as well as for the other settlers, the Government still did not respond. McDonald instead sent more police to the Northwest and began to develop plans to send an army.<sup>64</sup> There is evidence that MacDonald saw this development as an opportunity to get his lagging railway policy back on the rails. The railway was not complete and it was broke, parliament would vote no more money for it and the public were fed up with the railway expenditures and scandals. In a letter to Governor General Lansdowne dated September 3, 1885, McDonald admitted that the government had exaggerated the rebellion to achieve their own purposes.<sup>65</sup>

McDonald, of course, had to give way to pressure in March of 1885 to implement the land provisions of the Dominion Land Act of 1879. A commission was hurriedly set up and an order in council was passed. Also commissioners were named to deal with scrip applications.<sup>66</sup> This action, however, was too late. McDonald had ordered the N.W.M.P. to arrest the leaders of the provisional government which McDonald considered illegal. Riel on the other hand had demanded that Crozier surrender the forts at Carlton and North Battleford. Rumors were rampant that a large police and military force were on the way. Riel moved to acquire arms, ammunition and supplies from several sources including Mitchel's store at Duck Lake. These events led to the Duck Lake encounter and the decisive victory for the Metis in the Duck Lake battle.<sup>67</sup> The Northwest Rebellion was now under way and there was no going back.

One of the major reasons for the main resistance developing at St. Laurent related to the concerns of the people in the area about their river lots. They wanted titles to these lots. The title to occupied land for all settlers had been provided for in the Dominion Land Act. However, steps had never been taken to deal with the Metis petitions or to grant the patents to river lot occupants. The situation was further aggravated by the fact that the Government was negotiating a large land purchase with the Prince Albert Colonization Company which took in the townships in which St. Laurent, Batoche and many other Metis farms were located. The Government later removed some of these townships from the transaction and substituted others further east. However, rumors that the people would be evicted from their land persisted, particularly when the Company tried to evict the church and some Metis farmers at St. Louis who were still in the area being sold to the Company. 68

The government's response to pressures from its own officials and to pressures from other groups (church, N.W.T. Council, etc.) was to appoint William Pearce, a government

surveyor to investigate the claims. Pearce could not speak French and therefore had great difficulty communicating with the people. He made no attempt to deal with this problem. He submitted his report to the government in 1884 in which he said only about 20 percent of the claims were valid. He recommended that patents be issued for these. The remaining claims he said were invalid because the occupants had, he claimed, participated in the Manitoba land grant.<sup>69</sup> His report, however, does not indicate how he arrived at his conclusions. This report did not satisfactorily resolve the land question in the St. Laurent-Batoche area and did not result in any patents actually being granted.

The policy of not recognizing any land claims of the Metis had now changed to recognize land claims if necessary but only within the strict qualification terms established for the halfbreeds in Manitoba. Other than the river lots, the method to be used was an issue of scrip. The first O.C. provided for only money scrip. It was amended to also allow for land scrip to be issued when the halfbreeds at the Qu'Appelle Lakes refused to accept money scrip.<sup>70</sup>

#### VIII The Northwest Rebellion

The government's policy as far as the Northwest Rebellion was concerned was simple. There were no negotiations or compromise with either the Metis or the Indians. The rebellion was put down by the use of overwhelming military force.<sup>71</sup> The first action was against the Metis and when they were crushed, forces combined to put down the Indian revolt. The second, principle policy was to absolve the government from all responsibility for the rebellion and blame it on agitators. The agitators who received the main attention from the government were Riel, Jackson, Big Bear and Poundmaker. The third policy was to divide the people of the Northwest who had been united to bring their

combined grievances before the government. <sup>72</sup> This was done by precipitating the open conflict, playing on the British and Protestant loyalties of many of the white settlers, making the settlers fear for their safety by spreading rumors, and generally enlisting the settlers as volunteers to help overcome the rebellion. <sup>73</sup> The fourth aspect of policy was to discredit the main leaders or agitators. Riel is accused of demagoguery, of being unstable, of being only concerned about his own self-interest, of being open to taking bribes, and of being emotionally unstable, insane, etc.. Jackson is made out to be insane, Big Bear is pictured as a cunningly, ruthless and savage Indian who is blood thirsty, and Poundmaker is made out to be an agitator and troublemaker. <sup>74</sup>

The Government was quite determined that the so-called instigators of the Rebellion must be tried. In Riel's case McDonald and his government were determined that Riel must hang. This is shown by McDonald's famous and often quoted comment that "Riel must hang though every dog in Quebec bay in his favor". <sup>75</sup> Jackson was ruled insane by the courts and committed to an insane asylum from which he was able to escape. He fled to the U.S.A. where he stayed in exile for the rest of his life. Both Big Bear and Poundmaker were convicted and given long prison sentences. Other Metis fled to the U.S.A. where they stayed in exile for many years (Dumont) because they feared government reprisals even after the granting of an amnesty. <sup>76</sup> A significant number of other Indian and Metis people who participated in the Rebellion were charged with lesser crimes than Riel and served prison sentences. <sup>77</sup>

The object of the government policy seems to have been to completely crush the native population by repressive action and by intimidation. This show of strength was also effective in eliminating dissatisfaction or at least any thought of resistance in the white community. The Government set up a commission in



1886 to investigate into the causes of the Riel Rebellion. In hearings held at Batoche, public testimony was taken from many of those people who were involved in the Rebellion as soldiers in Dumont's army. It is significant that most claimed to have been forced to participate.<sup>78</sup> Although the Government tried to use this also to place the blame on Riel, and although this myth is repeated by George F. Stanley in his book, The Birth of Western Canada, the weight of evidence indicates that the Rebellion resulted from a popular movement of the people. Riel had widespread support even among the whites. There is no doubt from Stanley's own description that the Indians were prepared to go to war over their grievances. Further, there is little doubt that Riel stayed on to lead the Rebellion only because he was pressured by the people to do so.<sup>79</sup>

#### IX The Aftermath of The Rebellion

Having achieved the goal of forcibly putting down the Rebellion, having united the white population against the native people, and having received the funds to complete his railway, McDonald could now proceed with his former policies. Indians were forced to take reserves, through the use of the ration system and by other subtle police pressures. Scrip would now be distributed to the Metis to eliminate any doubts, regarding the extinguishment of a possible claim to Indian title by the Metis. This would, of course, also placate the Metis people for a time. The scrip distribution was clearly designed to create a heyday for the land speculators who could now create a profitable black market in land, which they could not get access to in any other way.<sup>80</sup>

The Government also adopted a number of additional policies proposed by the Indian official, Hayter Reed, in a memorandum dated July 20, 1885.<sup>81</sup> The memo set out a policy for the future management of the Indians. The memo begins by saying those natives who participated in the Rebellion must be

punished. Those who were loyal should be rewarded. Rewards would be by way of increased rations and more attention to treaty provisions. The punishment was to include taking the Indians' ponies, taking their firearms, forcing them onto the reservations, and instituting a pass system. Punishment also was to include criminal charges and convictions in certain cases. There are a number of other interesting recommendations in the memo designed to repress the Indian people, keep them on reserves and to generally isolate them from the rest of the populace. Some of the recommendations are also aimed at civilizing and acculturizing the Indians as part of the assimilation policy.

Here again we see the curious and contradictory attempt to blend both traditional French and British policy. Whether this was done because the Government believed their policy of isolation would lead to assimilation, or whether it was done for purposes of political expediency with a good understanding that isolation could not lead to assimilation, is not clear. What is clear is that the Government seems to have adopted the perfect formula to ensure the failure of its publicly stated policies.

The policy toward the Metis after the Rebellion was an extension of early government policy. As indicated above, this included the appeasing of the people, the extinguishment of any aboriginal claim and assimilation. Metis were to be full citizens and hence whites. The result of government policy, however, again was to isolate the Metis people in rural ghettos, in northern communities, and in the slums of towns and cities. The goal of assimilation was not accomplished. To the contrary, the Metis became a poor minority considered by the settlers to be neither Indians nor whites, exploited by politicians, employers and white settlers.

#### X More Recent Government Policy

Up to the second World War, the Federal government continued the management of Indian affairs in accordance with

the above policies. Attempts were also made to limit the cost of Indian affairs to the Federal government by making the Indians self-sufficient. It was the policy to teach Indians to be agriculturists and to support themselves in the isolation of their reserves. Farm instructors were appointed and industrial schools were established. Although it was recognized as early as 1879 that these policies were not producing the desired results, few changes in the policies were made in spite of the reports and recommendations of Flood Davin in 1879 - 1880 to upgrade the educational system.<sup>82</sup> The Government, however, did pursue an active policy of getting surrenders of land from Indian bands in various ways. Sometimes this was done under the Indian Act and sometimes through legislation.<sup>83</sup> It appears that as long as the Indians were a surplus labour force not required in either the agriculture or non agriculture sectors of the economy, the policy was to keep them isolated. This state of affairs existed until the second World War when a farm labour shortage developed. This farm labour shortage has persisted up to the present time. Indians, therefore, were in demand as seasonal and casual labourers.

At the end of the War, government policy began to change to allow and encourage Indians to move off of reserves. First, a special Senate-Parliamentary Committee on Indian affairs was established. In 1951 the first major revision was made to the Indian Act. This Act eliminated many of the restrictions of previous years, including the pass system. It also provided for major changes in the education system in an attempt to upgrade the education for Indians to that available to whites.<sup>84</sup> These changes took care of the short term needs of agriculture. However, no significant number of Indians moved into the urban areas or into the urban labour force. Further changes were made in the Indian Act in 1959. The Indians were given the franchise and the restrictions on the use of liquor both on and off reserves was normalized.<sup>85</sup> This made moving from the reserve more

attractive. You could now do this and enjoy most of the same citizenship rights as the whites without giving up your Indian status. In the 1960's when Saskatchewan had a labour shortage, further inducements were offered. These included mobility grants, urban centre education (upgrading) and housing grants. The policy now is to encourage all surplus Indian labour on reserves to move to non reserve or urban areas where work is supposedly available.

Although assimilation is not talked about, it is nevertheless still the policy. Once Indians are off reserves for a year, they become a provincial responsibility. This coupled with the Federal government's white paper on Indian affairs in 1969, which proposed to transfer responsibility for Indian affairs to the Province, supports this view. Not only are present policies assimilative but they are designed to gradually limit Federal government responsibility for Indians.

In the case of the Metis, the Federal government policy has always been not to recognize any special rights. Halfbreeds are regular citizens and a provincial responsibility. They were largely ignored by the Federal and Provincial governments until the 1930's. The Federal government, however, did recognize them as having hunting and fishing rights.<sup>86</sup> The Natural Resources Commission under Senator Prince was of the view that the term Indian in the natural resources transfer was meant to include halfbreeds. The Deputy Minister of Justice in 1933 said that in his view the argument for non-status Indians to have hunting and fishing rights was more compelling than for the status Indians to have such rights.

In general, however, the Metis were also kept in a state of isolation and poverty and formed a seasonal and casual labour force. In the 1930's when their situation became desperate, the Province funded a research study on Metis aboriginal claims.

The study was carried out for the Metis Society by Noonan and Hodges. They produced a report which was presented to the Provincial government in 1944.<sup>87</sup> The Province submitted it to the Federal government that same year and attempted to open negotiations on the issue. The Federal government did not respond. When the Government changed in 1944, the issue was dropped and never pursued by either the C.C.F. government or by the Metis people themselves.

After the War, the Government followed a policy of encouraging the Metis to migrate to urban areas where employment was available. Mobility grants were provided, urban based upgrading was available, some special programs (N.R.I.M., Special Arda) were instituted. However, in general there was much less help and encouragement offered to the Metis than to the status Indians. Also both levels of government have repeated their position that they at this time do not recognize the Metis as having special Indian rights. The Province has gone even further and said that even if such rights should be shown to exist, the Province has no responsibility.

## XI Summary

In summary, it can be stated that the policies of governments in Canada toward native people have not changed since the earliest days. Assimilation and the limiting of government responsibility are the cornerstones of the policy. Isolation as a policy, has only changed gradually as there was and continues to be a demand for native people as cheap labour and seasonal and casual labour. The change in the isolation policies has, however, tended to reinforce and further develop the assimilation policies.

## FOOTNOTES

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3. Ibid.
4. Cited in Cohen "The Spanish Origins of Indian Rights in the Law of the United States". Supra, footnote 7, at page 12.
5. Ibid - See Supra, footnote 11, page page 11.
6. J. H. Kennedy, Jesuit and Savage in New France (Yale University Press, New Haven, 1950).
7. Ibid.
8. Chronicles of the First Planters of the Colony of Massachusetts Bay, 1623-1639 (A Young Ed., Charles C. Little and James Brown Boston: 1846) Page 159.
9. See Native Rights in Canada, Op. Cit - Chapter 11 at page 75 and following.
10. Ibid.
11. See Native Rights in Canada, Chapter 15.
12. See Charter of the Hudsons Bay Company.
13. Memorial and Petitions presented to Colonial Office by Inhabitants of the Red River, at page 59-63.
14. Ibid.
15. Op. Cit Hudsons Bay Company charter.

16. Op. Cit - Native Rights in Canada, See Chapter Four.
17. Ibid. See Appendix II and Chapter Four.
18. Ibid. See Chapter II.
19. Ibid. See Chapters 12 and 13.
20. See 1850. 13 & 14, Victoriae Chapter 42.
21. See Revised Standard Statutes of Canada, 1956 and 1959.
22. See 1868 House of Commons Debates
23. See R.S.S. of Canada - An Act to organize the Department of The Secretary of State. Victoria 31, Chapter 42.
24. See Alexander Morris - The Treaty of Canada with the Indians, Belfords, Clarke & Co. Publishers, Toronto, Chapters 2 and 3.
25. Ibid. Chapters 4 and 5.
26. Ibid. See Chapters 3 and 5.
27. See R.S.S. of Canada, 39 Victoria, Chapter 18. An Act to amend and consolidate the laws respecting Indians.
28. See The History of the Metis People - by Auguste Tremauden. English Translation Available from A.M.N.S.I.S., Chapter 1.
29. Ibid.
30. See Cuthbert Grant of Grantown.
31. Op. Cit - History of The Metis - See Chapters 2 and 3.
32. See George F. Stanley, The Birth of Western Canada, Chapter 2.

33. Op. Cit - See Tremauden, Chapter 3 and George F. Stanley, Chapter III.
34. Ibid.
35. See House of Commons Debates on the transfer of Rupertsland and the Northwest, 1867 to 1870.
36. Op. Cit - See Tremauden and Stanley, Chapters 5 and 4 respectively.
37. See exchange of papers, documents, draft agreements, etc. in 1869 Sessional Papers. Rupertsland Transfer agreement, etc..
38. See Cauchon memorandum - Appendix B to Submission of Canada to The Select Committee on the Hudsons Bay Company, 1857.
39. See letter from Howe and McDougall to Sir F. Rodgers, January 16, 1869, Sessional Papers, 1869, Paper H 2, page 11.
40. See Rupertsland Transfer agreement and O.C. 9 and appendices which form schedules to Section 146 of the B.N.A. Act.
41. See McDonald Papers in A.M.N.S.I.S. Library, Volume 48. Letters from McDonald to Cameron (November 23, 1869), McDonald to McDougall (November 27/69), McDonald to McDougall (December 12/69) McDonald to Rose (February 23/70).
42. Ibid.
43. Ibid.
44. See W. L. Morton, Manitoba, the Birth Of A Province, Volume I, Manitoba Record Society Publications, Chapter 6, The Journal of Rev. N. J. Ritchot.
45. Ibid.
46. See Wickes Taylor Papers - Manitoba Record Society



47. Op. Cit - L. L. Morton - Ritchott's Journal.
48. Op. Cit - See Alexander Morris - Chapters 8, 9 and 10.
49. Op. Cit - See George F. Stanley - Birth Of Western Canada, Chapter 9.
50. Ibid - See Chapters 10 and 11.
51. Ibid. Also see Dewdney papers and Sessional Papers, Letter from MacDonald to Dewdney dated October 16, 17/83.
52. Ibid. Also letters from Dewdney to MacDonald - 1884 - A.M.N.S.I.S. Library, Volume 1B.
53. Op. Cit - George F. Stanley, Chapters 10 and 11.
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55. See R.C.M.P. correspondence 1883. Volume A.M.N.S.I.S. Library.
56. Op. Cit - See Dewdney Papers, Volume 1B.
57. Op. Cit - See George F. Stanley, Chapters 12 & 13.
58. Ibid.
59. See Discussion Paper. The Metis Nation After 1870 - Outside Manitoba. A.M.N.S.I.S. Library.
60. See House of Commons Debates 1886 - Volume IX G - A.M.N.S.I.S. Library.
61. See R.S.S. of Canada - 1879 - 42 Victoria, Chapter 31.
62. Op. Cit - George F. Stanley, Chapter 17.
63. See House of Commons Debates 1884 - Volume IX A, A.M.N.S.I.S. Library.

64. Op. Cit - See George F. Stanley, Chapter 14, and Tremauden, Chapter 11.
65. See Louis Riel: Just Must Be Done - Page 76, Publication by A.M.N.S.I.S..
66. Op. Cit - See George F. Stanley, Chapters 14 and 15. Also see 1885 Sessional Papers Volume 1A, and 1885 House of Commons Debates IX e - A.M.N.S.I.S. Library.
67. Ibid. Also Op. Cit Tremauden, Chapter 11. and 12.
68. Op. Cit - Tremauden, Chapter 11.
69. See Pearce Report contained in the 1884 Sessional Papers. Volume 6, 8b. See Volume 1B - A.M.N.S.I.S. Library.
70. Op. Cit - See Tremauden, Chapter 11.
71. Op. Cit - See George F. Stanley - Chapter 15.
72. Ibid - See Chapters 12 - 14.
73. Ibid - Also see The Reil Rebellion Paper 1, Volume 45 - A.M.N.S.I.S. Library.
74. See Trial proceeding of Northwest Rebellion 1886 Sessional Papers 52 and the trial transcript of Riel's trial.
75. Opt. Cit - Louis Riel: Justice Must Be Done, at page 59.
76. Op. Cit.
77. Op. Cit - Sessional Papers 1886.
78. See Testimony before Commission - Volume 21, A. Dewdney Paper, A.M.N.S.I.S. Library - Paper 21, A.
79. Opit. Cit. See Tremauden Chapter 12.

80. See Speech of J.A. Gregory to Saskatchewan Legislative Assembly 1939, Volume 17 - A.M.N.S.I.S. Library.

81. Op. Cit - See Dewdney Papers, Volume 21A - Paper 8. Reed to Dewdney - A.M.N.S.I.S. Library.

82. See Flood Davin report in Volume 17 - 11e, 1879.

83. The government used the Indian Act to get surrenders of reserves, Ocean Man and Striped Blanket, in Southeast Saskatchewan. In the case of St. Peters Reserve in Manitoba legislation was used. Legislation was also used to get substantial blocks of Indian reserves abutting railway lines, such as in the Broadview area.

84. See 1951 Indian Act. R.S.S. of Canada.

85. See 1959 Indian Act. Amendments R.S.S. of Canada.

86. See report of Manitoba and Saskatchewan Natural Resources Commission report, 1905. Also see legal opinion of Deputy Minister of Justice in letter dated August 30, 1933, Available from A.M.N.S.I.S. Resource Library.

87. See Noonan and Hodges Report, Volume 18 - A.M.N.S.I.S. Library.