THE FORMATION OF MANITOBA IN 1870

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Manitoba became Canada's fifth province in in 1870 by defying the intentions of Canada and the United Kingdom for Rupert's Land and the North-Western Territory. Manitoba's original provincehood was the outcome of political negotiation but vulnerable to Canadian disdain for the very constitutional principles it agreed to in 1870. This essay will examine the factors that led to Manitoba's formation in 1870. These can be seen through the three political entities that negotiated the end of Imperial rule, the start of Canadian authority and the fragile provincehood that was defined.

THE UNITED KINGDOM

The United Kingdom (UK) was the ruling authority over vast territories described in the mid-19th century as "Rupert's Land and the North-Western Territory". British imperial authority was not expressed through direct state power. After 1821, the British government imposed plural institutions in place of the HBC's older sole authority. A series of "bilateral relationships" included the fur traders of the Hudson's Bay Company (HBC), merchants and traders from "Canada", as well as Church of England and Roman Catholic missions. The new institutions included representative government, a civil court, and British and Canadian missions. The Council of Assiniboia (1835 to 1869) was HBC-dominated but an active local government representing the peoples (or at least the adult males) of Red River. The General Quarterly Court (1835 to 1872) was supervised by the colonial Province of Canada. Church of England missions from the UK and Roman Catholic missions from Quebec began in the 1820s and became entrenched in the Métis Nation and First Nations of Red River and the North-West separate from British or Canadian governmental control.

In 1857, the UK Parliament created a "Select Committee" to engage in a formal review of the HBC's charter. The Select Committee elicited testimony from many Red River, Canadian and British observers, including HBC officers who were outtalked by most other witnesses. The inquiry heard a great deal of concern about the fur trade economy's prospects, about the crimped opportunities for agricultural settlement, about social and legal conditions in the Red River area, and over the possibility that United States expansion might take a northern turn.

The UK government determined that as of 1859, there would be a ten-year transition to ending HBC territorial control. The UK made it clear it would hand off direct responsibility for the administration of the Indigenous peoples, the fur trade and settler communities along with 8 million km^2. of territory. Since the union of the British North American colonies was already proposed, the future of Rupert's Land and the North-Western Territory lay with that new entity.

Canadian and Imperial historians have for the most part criticized British governments for a lackadaisical administrative style. Yet after 1859, the UK successfully pressed the British North American colonies to complete the Confederation agreement they had talked over but were reluctant to close and to take over the North-West. The 1867 Constitution Act contained a clause, section 146, that made provision for acquiring the remaining British territories in North America and the creation of new provinces. The one task the UK failed to address was preparing the many peoples of the North-West for the impending takeover.

THE RED RIVER SETTLEMENT

The second block involved in Manitoba's emergence was the Settlement (as it was sometimes called) of 12,000 people in the immediate area of the forks of the Red, Assiniboine and Seine Rivers. Composed of HBC employees, independent traders, agricultural settlers, and Anglican and Catholic missionaries, the ethno-cultural majority populations were English and French Métis that coalesced in the region. A key facet of the HBC era was that it linked the Settlement with a continental and trans-Atlantic network of trade and many ties to the outside worlds of British North America and Britain. By the time Britain and Canada began the final stage of the transfer, Red River had built up practices of political and legal rights, of religious and educational activities, and of family ties that were the opposite of the isolation, passivity, and torpor that is so often assumed or implied about the Settlement.

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CANADA

The third participant in the formation of Manitoba was the Canadian government. Canadians had been

excited by territorial expansion since the 1850s but had done little but gloat over the potential of a massive land grab. The British government organized negotiations between the HBC and Canada in 1868-69 that led to an agreement to purchase HBC title and a transfer of responsibility. The UK agreed to finance the Canadian purchase for 300,000 Pounds Sterling, and pushed the two parties to allow the HBC to claim 1/20th of arable lands in the "fertile belt" of prairie and parkland. By mid-1869 the outlines of an agreement were in place. But the British government did not closely monitor either the last months of HBC rule or Canada's takeover.

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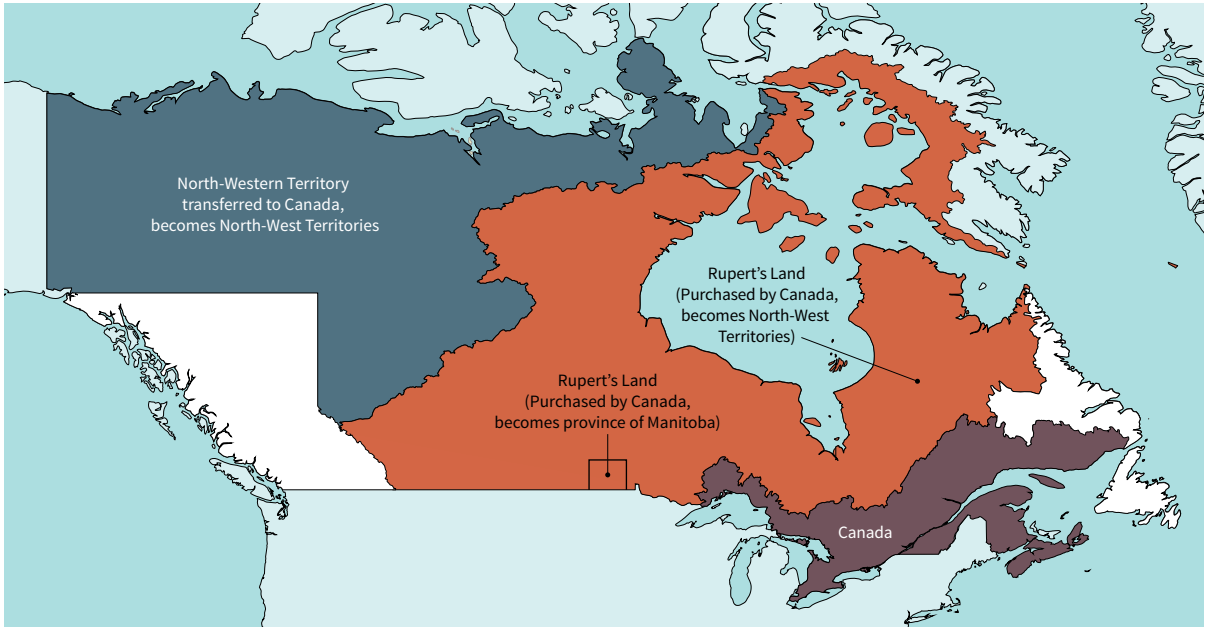
In 1868 and 1869, Canadian politicians, promoters and journalists, particularly "expansionists" from Ontario, contemplated the territorial gains. In May of 1869 Parliament debated the terms of temporary governance and government leaders boasted of their astuteness and the country's good fortune in taking half a continent with the sweep of a pen. A legislative framework was set for the "temporary" rule of the area, surveyors were dispatched to stake lands for future settlers throughout Red River, and a Lieutenant-Governor was "designated" but not installed to prepare the Settlement for a Canadian onslaught. The Canadian government failed to concern itself with the conditions and disposition of the 12,000 people of Red River or inform them of Canadian intentions and goals. Although the Canadians were aware of the challenges in administering the populations of Indigenous nations and the Red River Settlement, they seemed naïve about the entire project.

Canada's takeover was supervised by William McDougall, who was a vociferous exponent of Canadian expansion, a Macdonald government cabinet minister in Public Works and a participant in the HBC-UK negotiations of 1869. His actions consistently worried Red River's population. As a cabinet minister, he had sent the survey crews whose illegal works had alarmed local farmers over their security of land tenure. As putative but not legally-installed Lieutenant-Governor, McDougall travelled through the northern United States to the very borders of the North-West. One cabinet colleague, Minister of the Interior Joseph Howe, had dashed into Red River on an unofficial mission in September of 1869. There he consulted even-handedly with the population and – tellingly – brought back copies of the Council of Assiniboia records so Canada would know for the first time what had been legislated in the Settlement. Howe, a Nova Scotia critic of the 1867 union of British North America, crossed paths with McDougall in Minnesota and warned him to proceed with caution and tact. But Howe exerted no influence over the headstrong McDougall.

RED RIVER'S PROVISIONAL GOVERNMENT

Canada provoked Red River into action in the Fall of 1869. When the Council of Assiniboia collapsed at the prospect of the HBC retreat, the long-established Métis nation formed a new council, the *Comité National des Métis de la Riviere Rouge*. It

MAP OF RUPERT'S LAND AND THE NORTH-WESTERN TERRITORY IN 1870



forbade McDougall from entering the Settlement prior to talks. Led by its most charismatic personality, Louis Riel, the Comité provoked a final spasm of activity by the Council of Assiniboia which simultaneously condemned the Riel group and warned McDougall against entering British territory. Once the government in Ottawa became aware of the resistance, it backed away from the final purchase of the HBC lands and postponed its proclamation of possession. The Prime Minister, John A. Macdonald, and the Minister of the Interior, Joseph Howe, ordered McDougall to stay in the Dakota Territory. Communications were slow but not impossible and the messages eventually got through, though too late to stop immediate conflict.

The *Comité* invited English and French language communities to participate in a new "Council of Twenty-Four" which met during November of 1869 to formulate the goals of the Settlement in negotiating Canada's takeover. They did this by drafting a "List of Rights" of one page. These "rights" including an elected legislature, local courts to secure civil rights and land tenure, effective public revenues, equal recognition of French and English, and representation in the federal Parliament.

Without Canada's approval, McDougall attempted to assert his authority. On 1 December, he issued a proclamation accompanied by the threat of a military assault against the local administration. He

relied upon a bellicose group of "Canadians" already anticipating the plunder Canada's takeover would enable. His actions led the Council to declare itself a Provisional Government. As of December 9, 1869, and in the absence of British, HBC or Canadian authority over the area, none of which existed at that point, Red River had an effective government. From that date until July of 1870, several forms of the Provisional Government were in operation. Riel was the pre-eminent figure in these governments, but there was representation from all groups in the Settlement, including the adjacent Saulteaux nation. Many other capable people ensured the administration was not Riel's alone. Throughout the spirited debates and serious efforts to reflect the community's interests and political options, the abiding focus of Red River political life was union with Canada.

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The Canadian government recognized the Provisional Government in two ways. First, it refused to complete the HBC purchase and then rebuked and recalled McDougall. Second, Canada sent delegations in January of 1870 to conduct talks and arrange for negotiations between Red River and Canada. These efforts and the continuing talks about the Settlement's aims within the Provisional Government led to the selection of three delegates to negotiate the colony's entry into confederation. Three later versions of the "List of Rights" were debated and approved. Each included claims for provincial status, clear definitions of language and religious rights in the legislature, courts and in education, and firm claims for control of public lands and security of land tenure. The final version guided the delegates from Red River.

NEGOTIATING PROVINCEHOOD AND THE MANITOBA ACT

Red River's delegates arrived in Ottawa in mid-April of 1870. John Black was a respected legal officer in the former General Quarterly Court, a member of the Council of Assiniboia and later the Provisional Government. The capable Roman Catholic priest, Father Joseph-Noël Ritchot, was a trusted advisor to Riel and his Métis circle. Alfred Scott, was a local "merchant" (i.e. barman) and minor member of the Provisional Government. Upon their arrival in Ontario, they were harassed by ultra-Protestant supporters of Thomas Scott, a member of the "Canadian Party" which attempted to overthrow the Provisional Government and who was shot after summary conviction. Ritchot and Alfred Scott were briefly held in the Ottawa jail. The trio settled into several days of intense negotiations with federal cabinet ministers headed by George-Etienne Cartier, Macdonald's most powerful ally and pre-eminent figure in Quebec politics. The Red River delegates were able to win most of their demands, and the desperate Canadian government pushed into Parliament a new agreement for the incorporation of Red River into Canada. Under the title of the "Manitoba Act" it was passed in mid-May of 1870 and proclaimed law on 15 July, the day after the sale of the HBC lands went through. Its importance was underlined when Canada submitted the

legislation to the UK. In 1871 the Manitoba Act was approved as an Act of the United Kingdom – and entrenched as a Section of the Constitution Act.

Manitoba was granted provincehood and representation in Parliament, recognition of French and English as languages of the legislature and courts, recognition of denominational (Catholic and Protestant) schools, and a generous federal grant to support governance of the new province. The great exception lay in the control of public lands including natural resources, which were vested with the Federal government. This reservation of control would become a feature of Prairie Provincehood, a serious issue of contention when Alberta and Saskatchewan were formed in 1905 and long a debility of Prairie public finance and control over natural resources. As a sop to Red River, 1.4 million acres of land (1/6 the land area of the original province defined in 1870) was set aside as a "reserve" for the Métis children of Métis settlers. Finally, the Manitoba Act pledged that Ottawa would quickly negotiate "treaties" with the Indigenous peoples of the former Hudson's Bay territories.

THE AFTERMATH

The Act of 1870 resolved the immediate issue of Canada's takeover of Rupert's Land and the North-Western Territory but it left others unresolved. From the outset, Manitoba was beleaguered. The initial source of trouble was the "expeditionary force" sent by Canada in mid-1870. A combined force of 1,200, including British regulars and Canadian militias, marched into Red River in armed military formation in late August of 1870. It did not await the duly-appointed Canadian Lieutenant-Governor, Adams Archibald. The occupying force intimidated Red River, caused mayhem and loss of life, and cast a shadow over the take-over. The British soldiers soon left, but the Canadian Militiamen remained and resentments were long lasting.

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A second and continuing problem was the legal amnesty for the actions undertaken by the Provisional Government. Many in Manitoba and in Quebec thought an amnesty was guaranteed with Manitoba's provincehood. But the Canadian and British governments hedged on the issue for years. The killing of Thomas Scott remained a rallying cry for Louis Riel's foes in Ontario and it meant that Riel and his Métis allies were barred from secure lives let alone active participation in planning the new province.

In the 1870s, the new Lieutenant-Governor, Adams Archibald, implemented the measures to ensure adherence to the Manitoba Act. This began with the formation of a provincial legislature, cabinet government, a public service and law courts, all including francophone language and legal rights. But the administration of the Métis reserve lands, which was a federal responsibility, was a fiasco. A sense of deliberate malfeasance and a policy of dispossession vitiated the Métis population

during the 1870s and ever since. Over the subsequent three decades, other measures were taken to limit and then deny French language and political representation rights as well as Roman Catholic educational rights. The result was the annulment of the original constitutional guarantees of the Manitoba Act. This legacy of federal control over public lands and resources and the later majoritarian gutting of the province's constitutional foundations revealed Manitoba's subordination to Ottawa and to a burgeoning Anglo-Protestant settler population. Both the new majority and the federal government broke up the constitutional and legal foundations so capably negotiated in 1870. A century and a half of political, social and legal strife and conflict has ensued.

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