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# Royal Commission on Financial Arrangements Between the Dominion and the Maritime Provinces

## COMMISSIONERS

The Right Honourable Sir Thomas White, K.C.M.G., P.C., Chairman  
The Honourable Chief Justice John A. Mathieson  
Edward Walter Nesbitt, Esq.

## Brief of the Dominion of Canada

C. G. Heward, K.C.

F. S. Rugg, K.C.

*Counsel for the Dominion of Canada*

OTTAWA  
J. O. PATENAUDE  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
1935

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IN THE MATTER OF:

THE ROYAL COMMISSION ON FINANCIAL ARRANGEMENTS  
BETWEEN THE DOMINION AND THE MARITIME PROVINCES;  
(herein, for brevity, sometimes referred to as the "present Commission").

**BRIEF OF THE DOMINION OF CANADA**

To

THE RIGHT HONOURABLE SIR THOMAS WHITE, K.C.M.G., P.C.,  
THE HONOURABLE CHIEF JUSTICE JOHN ALEXANDER MATHIESON, AND  
EDWARD WALTER NESBITT, ESQUIRE;

The Royal Commission on financial arrangements between the  
Dominion and the Maritime Provinces.

The undersigned have the honour to make the following submissions on behalf  
of the Dominion of Canada:

**INTRODUCTION**

It is impossible to emphasize too strongly the importance of the matters referred to the present Commission. A study of the questions involved makes it apparent that they entail consequences of vital moment to the Dominion and to all the provinces. The demands of the three Maritime Provinces, if accorded, would result in very large annual expenditures by the Dominion, but they have bearings, and implications which are even more important than the question of dollars and cents and the decision of this tribunal thereon will have far reaching effect in many directions.

The importance of the questions, the wide constitutional, historical and legislative fields which they involve, and the great mass of material bearing upon the subject, make difficult the task of condensing the submissions which the Dominion desires to present for the consideration of the present Commission. Every effort has been directed, however, toward keeping this brief within appropriate limits of size.

The legislation, both Imperial and Dominion, relating to subsidies is to be found in numerous statutes dating from the year of Confederation. It has therefore been deemed advisable for the purposes of convenient reference to set out in Division III of the present brief a condensed synopsis of such legislation.

The provinces have put forward certain claims based on various special grounds, such as their claims relating to the natural resources of the Prairie Provinces, the debt allowances and similar matters. These special claims are dealt with first in the present brief (Divisions VI. to IX. inclusive).

All the Maritime Provinces have proffered claims for subsidies based on their alleged fiscal need. These claims are dealt with in Division X.

Division XI. deals with certain important general considerations bearing on the question of subsidies from a national point of view.

Division XII. contains a summary of the Dominion's contentions.

With the brief are submitted three Appendices;—No. I, containing the exhibits produced by the Dominion; No. II, containing certain maps to which reference is made, and No. III, consisting of memoranda comprising amplifications of and additional information relating to certain of the submissions contained in the brief.

## DIVISION I

### THE SCOPE OF THE REFERENCE TO THE COMMISSION

#### (1) REFERENCE LIMITED TO FINANCIAL ARRANGEMENTS, OR SUBSIDIES

Reference limited to financial arrangements or subsidies.

The functions and jurisdiction of the present Commission are limited to those provided for in the Order in Council of the 14th September, 1934 (P.C. 2231) creating the present Commission, namely:

“To take into consideration and deal with the recommendation of the said Duncan Commission that there be a revision of the financial arrangements between the Dominion Government and the Maritime Provinces.”

(Appendix I, Exhibit No. 1.)

It will be noted that the Order in Council was passed in response to a letter of January 16th, 1934, addressed to the Prime Minister of Canada by the Premiers of the three Maritime Provinces, which requested the setting up of a commission

“to take under consideration and deal with the recommendation of the Duncan Commission that there be a revision of the financial arrangements between the Dominion Government and the Maritime Provinces”.

(Appendix I, Exhibit No. 1.)

The Duncan Commission referred to in the above mentioned Order in Council and letter was the Royal Commission on maritime claims which was created by Order in Council of the 7th April, 1926 (P.C. 505) and Dominion Letters Patent of the same date. It consisted of Sir Andrew (Rae) Duncan, Knight, His Honour, W. B. Wallace, Judge of the County Court, District No. 1, Province of Nova Scotia, and Professor Cyrus Macmillan, M.A., Ph.D., McGill University, of whom the first named was Chairman. It is generally referred to as the “Duncan Commission” and its report as the “Duncan Report”.

Its Report was issued on September 23rd, 1926. A copy of that Report, together with copies of the Order in Council and Letters Patent above mentioned, and a copy of a letter of April 17th, 1926, from the Prime Minister of Canada to the said Commission and a copy of a covering letter from the Commission to the Secretary of State of Canada, of September 23rd, 1926, are filed as an Exhibit.

(Appendix I, Exhibit No. 2.)

It is clear from the arrangement and terms of the Duncan Report that the term “financial arrangements between the Dominion Government and the Maritime Provinces” used in the Order in Council creating the present Commission and the letter from the Premiers of the Maritime Provinces requesting its creation, refers to the subsidies or money grants which since Confederation have been and are being paid to those provinces by the Dominion of Canada.

(Appendix I, Exhibit No. 1.)

(Appendix I, Exhibit No. 2, pages 11 to 19.)

Accordingly, the reference to the present Commission is limited to considering and dealing with the recommendations of the Duncan Report that there be a revision of the subsidies or money grants paid by the Dominion of Canada to the Maritime Provinces.

Attention is called to this point at the outset, as in their submissions to the present Commission the Maritime Provinces have included material which contains submissions on matters outside the scope of the present reference, such as transportation problems and freight rate structure in Nova Scotia, transcontinental railways and trade through Canadian ports, harbour commissions, fisheries, transportation for Prince Edward Island and harbour facilities in Prince Edward Island. In correspondence between the representatives of Prince Edward Island and Nova Scotia and counsel for the Dominion, the representatives of those two provinces have eliminated certain parts of the material submitted which deal with these extraneous matters. Counsel for the Dominion corresponded also with the Attorney General of New Brunswick with a view to eliminating parts of that province's brief which deal with subjects outside the scope of the present reference, but that province has not agreed to eliminate those parts of its brief. Copies of the above mentioned correspondence have been filed with the present Commission.

The Dominion has already submitted in writing to the present Commission and hereby reiterates that those parts of the submissions contained in the brief of the Province of New Brunswick which are dealt with therein under the headings "Railway Freight Rates", "Harbour Commissions", "Fisheries", "Immigration", "Statistics upon Inter-Provincial Trade", "Trade Development", and "Geological Survey", are clearly outside the scope of the present reference and are irrelevant to the matters in issue before the present Commission.

Present  
Commission  
without  
jurisdiction  
to deal with  
customs  
tariff.

The briefs and materials submitted by the various Maritime Provinces, particularly that submitted by the province of Nova Scotia, attempt to deal with the question of the Dominion Customs Tariff and its incidence and effect upon those provinces.

The Dominion emphatically submits that this question cannot properly be brought before the present Commission inasmuch as it is quite outside its jurisdiction.

It will be noted that the Duncan Commission, whose recommendations are now under consideration, declined to deal with the question of the tariff as it considered itself precluded from doing so. Appendix I, Exhibit No. 2, p. 31.) The proper forum for consideration of this broad question of national policy is Parliament itself, which has constituted an Advisory Board on Tariffs and Taxation to advise thereon. The present Commission is constituted to deal with certain relations between the Dominion and three only of the provinces. It is obvious, therefore, that it is not the intention of the Governor in Council that this Commission should deal with this question of national policy which affects the Dominion as a whole.

The Dominion of Canada accordingly requests that the present Commission declare at the outset that it has no jurisdiction and is unwilling to deal with the question of the Customs Tariff of Canada and its incidence and effect upon any of the provinces.



(2) PRESENT COMMISSION NOT BOUND BY THE RECOMMENDATIONS OF THE  
DUNCAN COMMISSION

Present  
Commission  
not bound  
by the  
recommen-  
dations of  
the Duncan  
Commission.

The present Commission is not bound by the recommendations of the Duncan Report dealing with financial arrangements between the Dominion and the Maritime Provinces, and under the terms of the Order in Council constituting the present Commission it is required to investigate whether, and if so, to what extent those recommendations are well founded.

It is submitted, therefore, that the present Commission is empowered and obliged to examine into and take evidence of all facts and conditions relating to such financial arrangements, whether or not such facts and conditions were enquired into or brought to the knowledge of the Duncan Commission. This, it is submitted, is clearly the proper construction of the Order in Council of the 14th September, 1934, constituting the present Commission. As pointed out above, that Order in Council sets up the present Commission "to take into consideration and deal with the recommendations of the Duncan Commission", and it is to be noted that the following paragraph of the Order in Council states that "for the purpose of making such enquiry and examination and formulating such recommendations a Royal Commission be constituted..." (Appendix I, Exhibit No. 1.) The recommendations of the Duncan Commission in regard to financial arrangements, except their recommendations as to interim lump sum increases in the subsidies, are of a general rather than a specific nature, and the reasons for these recommendations are also of a general nature, or, if not, are based on premises which it can be demonstrated arise from a misconception of the facts or of constitutional principles.

Proceedings  
before  
Duncan  
Commission  
were "ex  
parte", as  
far as  
Dominion  
concerned.

While the Dominion Government placed at the disposal of the Duncan Commission the resources of its various departments, that Government was not represented before such Commission and no submissions were made on its behalf to that Commission. On the other hand, extensive detailed submissions and arguments were made to the Duncan Commission by each of the three Maritime Provinces and numerous submissions and memorials were made by private individuals, companies and others in the Maritime Provinces. Accordingly, in so far as the Dominion of Canada is concerned, the proceedings before the Duncan Commission were of an "ex parte" nature.

Contention  
of P.E.I.  
that Duncan  
Report  
adopted  
in its en-  
tirety by  
Parliament  
incorrect.

The province of Prince Edward Island in its brief presented to the present Commission contends that the Duncan Report was adopted and approved by the Parliament of Canada in its entirety and without exception. This submission, it is submitted, is not correct. The Parliament of Canada did in fact adopt certain of the recommendations of the Duncan Report by specific legislation covering the subject matters dealt with in such recommendations. Examples of adoption of this kind of certain recommendations are the revisions made by Parliament in maritime freight rates and the subsidies granted to the coal industry in that province, but the Dominion Parliament has never adopted the Report as a whole. This is clear from the submissions of the Maritime Provinces themselves. For example, the brief submitted by the province of New Brunswick contains reference to a number of subjects, such as railway freight rates, harbour commissions, fisheries, immigration, statistics upon interprovincial trade, trade development and geological survey, in respect of which that province claims that the recommendations of the Duncan Commission have not been adopted by the Dominion, or adopted to an insufficient extent.

Payment of interim subsidies authorized annually only.

In particular, in regard to financial arrangements between the Dominion and the Maritime Provinces, the Dominion Parliament has not adopted or approved the recommendations of the Duncan Report except to the extent that in each year, in the annual appropriations, it has made provision for the payment for that year of the additional subsidy recommended by the Duncan Commission to be paid to the respective Maritime Provinces as an interim payment. It is clear from the nature of the legislation providing for these payments, namely, their inclusion in the annual Supply Bill, that these payments were made without prejudice to the position of either the Dominion of Canada or the recipient provinces. In this connection the Prime Minister of the Dominion on the 18th March, 1927, in discussing the report of the Duncan Commission said,—

“ . . . . it is not possible, in advance of the deliberations of the conference (the Dominion-Provincial Conference then proposed to be called and held later in 1927) and of the detailed determination and assessment which the report recognizes is necessary, to accept the view which for no detailed grounds are advanced, that certain sums set forth in the report should be regarded as “the minimum addition that the three maritime provinces should have in any such revision”. The final revision can only be made in accordance with the merits of the case”.

(Appendix I, Exhibit 3A.)

The grant has been made only from year to year since its inception and on July 2nd, 1931, the Prime Minister of the Dominion, when speaking in the House on the subject of the interim subsidies then being voted, said:—

“ I need hardly say that this is a continuance of the sum which was paid immediately after the Report was made and which was accepted not as a fulfilment, but as a payment pending what might be called an accounting between the Dominion and the Provinces.”

(Appendix I, Exhibit No. 3B.)

Changes in conditions since issue of Duncan Report.

Over ~~three~~<sup>eight</sup> years have elapsed since the Duncan Report was issued and changes of great importance have taken place in the interval. Conditions which existed then and may have been in the minds of the Duncan Commission may no longer exist, or may be so altered as to throw an entirely different light upon the relations between the Dominion and the three provinces concerned.

Not practical to deal with recommendations of Duncan Report without examination of all data relating to financial arrangements.

Accordingly, it is submitted that not only is the present Commission not bound by the recommendations of the Duncan Report, but it would not be feasible for it to carry out its task of dealing with the question of a revision of the financial arrangements in question unless it goes behind the recommendations of the Duncan Report with a view to ascertaining if those recommendations are now well founded, and if so, to what extent. The present Commission, after consideration of the historical data bearing on such financial arrangements in the light of conditions as they exist to-day, may well come to the conclusion that the revision should be a downward revision in so far as subsidies are concerned, rather than an upward revision as claimed by the Maritime Provinces.

## DIVISION II

### GENERAL SUBMISSION OF THE DOMINION OF CANADA IN REGARD TO THE FINANCIAL ARRANGEMENTS

Subsidies to Maritimes should be reduced, or in any event not increased.

The Dominion submits that the Maritime Provinces are not entitled on legal or equitable grounds to greater annual subsidies or money grants from the Dominion than those now being paid, and that those now being paid are at least adequate to satisfy the just entitlement of those provinces, and should either be reduced or in any event not increased.

## DIVISION III

### BRIEF HISTORY OF THE SUBSIDIES AND SUMMARY OF THE LEGISLATION RELATING THERETO

#### (1) ESTABLISHMENT OF THE ORIGINAL FOUR PROVINCES AND ORGANIZATION OR ADMISSION OF THE OTHER FIVE PROVINCES AND OF THE TERRITORIES.

1867.  
Union of Ont., Que., N.S., and N.B.

1867, July 1—By the Imperial Statute “The British North America Act, 1867”, the “Dominion of Canada” established and divided into four provinces,—Ontario, Quebec, Nova Scotia and New Brunswick.

1870.  
Admission of N.W.T. and Ruperts Land.

1870, July 15—The North-West Territories and Ruperts Land admitted to the Dominion by Imperial Order in Council.

1870.  
Manitoba organized.

1870, July 15—The province of Manitoba formed out of the North-West Territories and Ruperts Land, by the Dominion Statute, “The Manitoba Act, 1870”.

1871.  
B.C. admitted.

1871, July 20—The province of British Columbia admitted to the Dominion by Imperial Order in Council.

1873.  
P.E.I. admitted.

1873, July 1—The province of Prince Edward Island admitted to the Dominion by Imperial Order in Council.

1880.  
All British possessions in N.A. except Nfld. annexed.

1880, September 1—All British possessions in North America, except Newfoundland, annexed to the Dominion by Imperial Order in Council. (Appendix I, Exhibit No. 4.)

1898.  
Yukon organized.

1898, Yukon Territory organized by Dominion Statute and declared to no longer form part of the North-West Territories.

1905.  
Alberta organized.

1905, September 1—The province of Alberta organized out of the North-West Territories by Dominion Statute, “The Alberta Act”.

1905.  
Saskatchewan organized.

1905, September 1—The province of Saskatchewan organized out of the North-West Territories by Dominion Statute, “The Saskatchewan Act”.

## (2) CLASSIFICATION OF SUBSIDIES.

Classification of subsidies.

The subsidies paid since Confederation by the Dominion Government to the Government of the various provinces may be conveniently divided into four classes as follows:—

- (i) Allowances for Government and Legislature.
- (ii) Allowances per head of population.
- (iii) Special grants.
- (iv) Interest on Debt Allowances.

## (3) ALLOWANCES FOR GOVERNMENT AND LEGISLATURE (HEREINAFTER SOMETIMES REFERRED TO AS "G &amp; L ALLOWANCES").

(a) *B.N.A. Act, 1867.*

1867.  
Original  
G & L  
All'ces  
under  
B.N.A.  
Act, 1867.

Under the British North America Act, 1867, s. 118, the following sums were provided to be paid yearly by Canada to the several provinces for the support of their Governments and Legislatures:—

Ontario.. . . . .	\$ 80,000 00
Quebec.. . . . .	70,000 00
Nova Scotia.. . . . .	60,000 00
New Brunswick.. . . . .	50,000 00
	\$260,000 00

1870.  
G & L  
All'ce for  
Man.

(b) *G & L Allowance for Manitoba, 1870.*

The Dominion Act, 33 Vict., Ch. 3, s. 25, provided for payment of the sum of \$30,000.00 to be paid yearly to Manitoba, by Canada, for the support of its Government and Legislature.

1871.  
G & L  
All'ce for  
B.C.

(c) *G & L Allowance for British Columbia, 1871.*

The Imperial Order in Council of 16th May, 1871, admitting British Columbia into the Union, provided for the payment by Canada, to British Columbia, for the support of its Government and Legislature, of an annual subsidy of \$35,000.00.

1873.  
G & L  
All'ce for  
P.E.I.

(d) *G & L Allowance for Prince Edward Island, 1873.*

The Imperial Order in Council of 26th June, 1873, provided for the payment by Canada, to Prince Edward Island, for the support of its Government and Legislature, of \$30,000.00 per annum.

1882.  
Temporary  
increase  
of G & L  
All'ce for  
Man.  
1885.  
Increased  
G & L  
All'ce for  
Man. made  
permanent.

(e) *Increased G & L Allowance for Manitoba, 1882.*

The Dominion Statute, 45 Vict., Ch. 6, 1882, increased the allowance to be paid by Canada, to Manitoba, for the support of its Government and Legislature, from \$30,000.00 to \$50,000.00 per annum, such increase to continue for the ten years next after 1881. This limitation of ten years was subsequently removed by the Dominion Statute 48 and 49 Vict., Ch. 50, s. 5, 1885.

1905.  
G & L  
All'ce for  
Alta.

(f) *G & L Allowance for Alberta, 1905.*

The Dominion Statute, 4 and 5 Edw. VII, Ch. 3, 1905 (The Alberta Act) by s. 18, provided that an annual subsidy be allowed to the province of Alberta, by the Government of Canada, for the support of the Government and Legislature of \$50,000.00.

*(g) G & L Allowance for Saskatchewan, 1905.*1905.  
G & L  
All'ces for  
Sask.

The Dominion Statute, 4 and 5 Edw. VII, Ch. 42, 1905 (The Saskatchewan Act) by s. 18, provided that an annual subsidy be allowed to the province of Saskatchewan, by the Government of Canada, of \$50,000,00.

*(h) New basis of G & L Allowances under The British North America Act, 1907.*1907.  
New basis  
of G & L  
All'ces for  
all Prov-  
inces.

The subsidies or allowances for the support of Governments and Legislatures of the various provinces were continued until the 1st of July, 1907, on the basis outlined in the foregoing paragraphs of this section (3).

In that year, by the Imperial Statute, 7 Edw. VII, Ch. 11, (The British North America Act, 1907) which took effect July 1, 1907, the subsidies for the support of the Provincial Governments and Legislatures were readjusted and were placed on the basis of population as follows:—

Amount Payable	On Population of
\$100,000.. . . . .	Under 150,000
150,000.. . . . .	150,000 to 200,000
180,000.. . . . .	200,000 to 400,000
190,000.. . . . .	400,000 to 800,000
220,000.. . . . .	800,000 to 1,500,000
240,000.. . . . .	Over 1,500,000

The Statute providing for such readjustment enacted that the populations be ascertained, in the case of the provinces of Manitoba, Saskatchewan and Alberta respectively, by the last quinquennial census, and in the case of the other provinces, by the last decennial census. The special provisions for ascertaining the populations of the Prairie Provinces were made because the populations of these provinces were increasing more rapidly than those of the other provinces. This principle had been originally adopted in respect of the increased per capita grant to Manitoba in 1885, which is dealt with in section (4) (e) of this Division.

*(i) Tabulation.*Tabulation  
of G & L  
Allowances.

The following tabulation shows the annual amounts originally granted for the Government and Legislature of each province under the Statutes or Orders in Council incorporating the provinces into the Union, and, in the case of Manitoba, the Act of 1882 amending the provisions in this regard, and also the annual amounts now paid under the provisions of The British North America Act, 1907:—

	Act of Union	Act 45 Vict., Ch. 6, 1882	B.N.A. Act 1907
Ontario.. . . . .1867	\$80,000		\$240,000
Quebec. . . . .1867	70,000		240,000
Nova Scotia.. . . .1867	60,000		190,000
New Brunswick.. . .1867	50,000		190,000
Manitoba.. . . . .1870	30,000	\$50,000	190,000
British Columbia.. . .1871	35,000		190,000
Prince Edward Island..1873	30,000		100,000
Saskatchewan. . . . .1905	50,000		220,000
Alberta.. . . . .1905	50,000		190,000

## (4) ALLOWANCES PER HEAD OF POPULATION

(HEREINAFTER SOMETIMES REFERRED TO AS "PER CAPITA ALLOWANCES".)

(a) *The British North America Act, 1867.*1867.  
Original  
per capita  
all'ces under  
B.N.A.  
Act, 1867.

The Imperial Statute, The British North America Act, 1867, s. 18, provided for the payment of an annual grant in aid of each province of eighty cents per head of the population, as ascertained by the census of 1861, and, in the case of Nova Scotia and New Brunswick, by each subsequent decennial census until the population of these two provinces amounted to 400,000.

(b) *Per capita allowance for Manitoba, 1870.*1870.  
Per capita  
all'ce for  
Man.

The Dominion Statute, 33 Vict., Ch. 3, s. 25, (The Manitoba Act, 1870) provided for a grant of eighty cents per head of an estimated population of 17,000 persons, this grant to be increased in proportion to the population as established by each decennial census until the population reached 400,000.

(c) *Per capita allowance for British Columbia, 1871.*1871.  
Per capita  
all'ce for  
B.C.

The Imperial Order in Council of the 16th May, 1871, provided for an annual grant to British Columbia of eighty cents per head of an estimated population of 60,000 persons, such grant to be augmented in proportion to the increase of the population shown by each decennial census until the population reached 400,000.

(d) *Per capita allowance for Prince Edward Island, 1873.*1873.  
Per capita  
all'ce for  
P.E.I.

The Imperial Order in Council of 26th June, 1873, provided for an annual grant of eighty cents per head of its population as shown by the census of 1871, namely, 94,021 persons, such grant to be augmented in proportion to the increase of the population as shown by each decennial census until the population reached 400,000.

(e) *Increased per capita allowances for Manitoba, 1882-1885.*1882.  
Temporary  
increase of  
per capita  
all'ce for  
Man.

By the Dominion Statute, 45 Vict., Ch. 5, 1882, the allowance per head of population of Manitoba established in 1871 was increased to an allowance of the same amount per head, namely, eighty cents, on an estimated population of 150,000, such increased allowance to continue for ten years next after 1881. By the Dominion Statute, 48 and 49, Vic., Ch. 50, 1885, it was provided that the per capita allowance provided for Manitoba in 1882 should be subject to increase on the basis of increase in population as shown by each quinquennial census, and each estimate made at equal intervals until the population reached 400,000, and the limit of ten years provided for by the Act of 1882 was removed.

1885.  
Increased  
per capita  
all'ce for  
Man. made  
permanent.(f) *Per capita allowance for Alberta, 1905.*1905.  
Per capita  
all'ce for  
Alta.

The Dominion Statute, 4 and 5 Edw., VII, Ch. 3, 1905, "The Alberta Act" provided for a grant to Alberta of eighty cents per head on the estimated population of 250,000 persons, subject to increase on the basis of the population ascertained at each quinquennial census, and of the estimated population at equal intervals until the population reached 800,000.

(g) *Per capita allowance for Saskatchewan, 1905.*

1905.  
Per capita  
allow'ce for  
Sask.

By the Dominion Statute, 4 and 5 Edw. VII, Ch. 42, 1905, "The Saskatchewan Act", the same provisions were made for Saskatchewan as regards per capita allowance, as were made for Alberta by "The Alberta Act" of 1905.

(h) *New basis of per capita allowances for all Provinces under The British North America Act, 1907.*

1907.  
New basis  
of per capita  
allow'ces for all  
provinces.

By the Imperial Statute, The British North America Act, 1907, which took effect July 1, 1907, it was provided that the per capita allowances should apply to all the provinces of Canada at the rate of eighty cents per head of population up to 2,500,000, and at the rate of sixty cents per head of population in excess of that number, the population to be ascertained in the case of the province of Manitoba, Saskatchewan and Alberta respectively, by quinquennial census or statutory estimate of the population made at intervals between quinquennial censuses, and in the case of the other provinces, by the general decennial census.

This Act also provided that in the case of British Columbia and Prince Edward Island the amount payable by way of per capita allowance should never be less than the amount payable on July 1, 1907, and that if a decrease in population of the province occurs, the amount payable by the way of per capita allowance shall remain as it was, notwithstanding such decrease in population.

(i) *Tabulation of amounts paid per head of population of the various Provinces:—*

Tabulation  
of per capita  
allowances.

The following figures represent the amounts paid annually based on each decennial census in order to facilitate comparison, although in the case of the three Prairie Provinces increased allowances are effective, when warranted, from the date of each quinquennial census or statutory estimate:—

ANNUAL ALLOWANCES PER HEAD OF POPULATION

PAID THE VARIOUS PROVINCES AS DETERMINED BY THE DECENNIAL CENSUSES FROM 1861 TO 1931 SHOWING ALSO THE EFFECT OF THE READJUSTMENT AS ALLOWED BY THE B.N.A. ACT, 1907

	Census of 1861	Census of 1871	Census of 1881	Census of 1891	Census of 1901	B.N.A. Act 1907	Census of 1911	Census of 1921	Census of 1931
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Ontario.....	1,116,873	1,116,873	1,116,873	1,116,873	1,116,873	1,746,358	2,013,965	2,260,197	2,559,010
Quebec.....	889,253	889,253	889,253	889,253	889,253	1,319,119	1,602,170	1,888,959	2,224,553
Nova Scotia.....	264,686	310,240	320,000	320,000	320,000	367,659	393,870	419,070	410,277
New Brunswick.....	201,637	228,475	256,986	257,010	264,896	264,896	281,511	310,301	326,575
Manitoba (first two periods assumed).....		13,600	120,000	122,004	204,169	292,550	364,695	485,789	560,111
British Columbia (first two periods estimated).....		48,000	48,000	78,538	142,926	142,926	313,984	419,665	555,410
Prince Edward Island.....		75,217	87,142	87,263	87,262	87,262	87,262	87,262	87,262
Saskatchewan (from Sept. 1, 1905 to July 1, 1907 on estimated population).....					200,000	206,210	390,314	606,008	737,428
Alberta (from Sept. 1, 1905 to July 1, 1907 on estimated population).....					200,000	200,000	300,347	470,763	585,284
Total.....	2,472,449	2,681,658	2,838,254	2,870,941	3,425,379	4,626,980	5,748,118	6,948,014	8,045,910

While the British North America Act, 1867, provided for the increase of the amount of the per capita allowance as the population increased, it made no mention of any decrease in case of the population declining. As a consequence Prince Edward Island has been paid on the 1891 census of 109,078, although the population has shown a decrease at each decennial census since that date.



## (5) SPECIAL GRANTS

In the case of all the provinces *with the exception of Ontario and Quebec*, certain special grants have been made, as under:—

## NOVA SCOTIA—SPECIAL GRANTS

1869.  
Spec. grant  
to N.S. for  
ten years.

Under the provisions of the Dominion Act, 32-33 Vict., Ch. 2, 1869, the province received an annual allowance of \$82,698, payable for a period of ten years from July 1, 1867.

1927-1934.  
Interim  
spec. grant  
to N.S.  
following  
Duncan  
Report.

Commencing with 1927, Nova Scotia has been paid an additional grant of \$875,000 per annum pursuant to the recommendations of the Duncan Commission, this amount being included in the "Supply Act" of each year.

## NEW BRUNSWICK—SPECIAL GRANTS

1867.  
Spec. grant  
to N.B. for  
ten years.

Under the provisions of section 119 of the British North America Act, 1867, the province received an allowance of \$63,000 per annum for ten years after Confederation, subject, so long as the debt of the province remained under \$7,000,000, to a deduction of an amount equal to five per cent on the amount of the deficiency.

1873.  
Spec. Grant  
to N.B. for  
repeal of  
lumber  
export  
duties.

A further grant of \$150,000 per annum was allowed by the Dominion Act, 36 Vict., Ch. 41, 1873, in consideration of the repeal of the lumber export duties which had been expressly reserved to the province by section 124 of The British North America Act, 1867.

1927-34.  
Interim  
spec. grant  
to N.B.  
following  
Duncan  
Report.

Commencing with 1927, New Brunswick has been paid an additional grant of \$600,000 per annum pursuant to the recommendations of the Duncan Commission, this amount being included in the "Supply Act" of each year.

## MANITOBA—SPECIAL GRANTS

1876.  
Spec. Grant  
to Man. for  
5½ years.

By the Dominion Act, 39 Vict., Ch. 3, 1876, a temporary allowance of \$26,746.96 was granted from July 1, 1876, to December 31, 1881, in order to increase the revenue of the province derived from the Dominion to the amount of \$90,000. This grant was increased to \$42,400 by the Dominion Act, 42 Vict., Ch. 2, 1879, to raise the revenue derivable from the Dominion to \$105,653.04 for the period from July 1, 1879, to December 31, 1881.

1879.  
Increase in  
spec. grant  
to Man. for  
2½ years.

A special grant of \$45,000 per annum was granted from January 1, 1882, by the Dominion Act, 45 Vict., Ch. 5, as indemnity for want of public lands and was increased to \$100,000 from July 1, 1885, by the Dominion Act, 48 Vict., Ch. 50.

1882.  
Spec. Grant  
to Man. in  
lieu of  
public  
lands.

1885.  
Increase in  
spec. grant  
to Man. in  
lieu of  
public  
lands.

Under the provisions of the Dominion Statute, 2 Geo. V, Ch. 32 (The Manitoba Boundaries Extension Act of 1912) the grant, in lieu of public lands, was increased to \$562,500 as from July 1, 1908, subject to certain deductions on account of the retransfer of swamp lands and by reason of an allotment of land as an endowment to the University of Manitoba. These deductions ceased in 1931, having been taken into consideration by the Turgeon Commission in arriving at the amount to be paid by the Dominion Government as a readjustment of subsidy in lieu of public lands from 1870 to 1908, as provided for in the Manitoba Natural Resources Act, 1930 (20-21 Geo. V, Ch. 29). This amount was \$4,584,212.49.

1912.  
Increase in  
spec. grant  
to Man. in  
lieu of  
public  
lands.

This grant was made on the basis of population and is payable as under:—

Amount payable per annum	On population of
\$ 562,500 . . . . .	400,000 to 800,000
750,000 . . . . .	800,000 to 1,200,000
1,125,000 . . . . .	Over 1,200,000

1912.  
Spec. Grant  
to Man. for  
public  
buildings.

Under the Dominion Statute the Manitoba Boundaries Extension Act of 1912, there was a further payment in each of the fiscal years 1912-13 and 1913-14 of \$100,861.78 to provide for the construction of necessary public buildings. This was to bring the amount payable to Manitoba for construction of public buildings up to that paid to Alberta and Saskatchewan for a like purpose.

1930-31.  
Spec. lump  
sum pay-  
ment to  
Man.  
following  
Turgeon  
report, read-  
justing sub-  
sidy in lieu  
of public  
lands.

In the fiscal year 1930-31 payment of \$4,584,212.49 was made to the province as a readjustment of subsidy in lieu of public lands from 1870 to 1908, as provided for in the Manitoba Natural Resources Act, 1930, and the report of the Turgeon Commission thereunder, together with interest thereon from July 1, 1929, to July 15, 1930, inclusive, at five per cent and totalling \$238,630.23.

#### BRITISH COLUMBIA—SPECIAL GRANTS

1871.  
Spec. Grant  
to B.C. in  
lieu of  
C.P.R.  
lands.

Under the terms of the Imperial Order in Council of May 16, 1871, governing the entry of the province into the Union, the sum of \$100,000 per annum was granted as compensation for land conveyed by the province to the Dominion in aid of the construction of the Canadian Pacific Railway.

1907.  
Spec. Grant  
to B.C. for  
ten years.

A further amount of \$100,000 per annum was granted by The British North America Act, 1907, for a period of ten years from July 1, 1907.

#### PRINCE EDWARD ISLAND—SPECIAL GRANTS

1873.  
Spec. Grant  
to P.E.I. for  
want of  
Crown  
lands.

By Imperial Order in Council of June 26, 1873, a grant of \$45,000 per annum was made to the province of Prince Edward Island in view of the fact that it held no lands from the Crown, subject to a deduction equal to five per cent per annum on any sum not exceeding \$800,000 which the Dominion might advance to the province for the purchase of lands then held by large proprietors.

1887.  
Spec. Grant  
to P.E.I.

By the Dominion Act, 50-51 Vict., Ch. 8, 1887, an additional grant of \$20,000 per annum was made to Prince Edward Island.

1901.  
Spec. Grant  
to P.E.I. in  
respect of  
steam com-  
munication.

By the Dominion Act, 1 Edw. VII, Ch. 3, 1901, a further allowance was made to Prince Edward Island of \$30,000 per annum, which was in full settlement of claims on account of alleged non-fulfilment of the terms of Union between the Dominion and that province in respect to the maintenance of efficient steam communication between the Island and the mainland.

1912.  
Spec. Grant  
to P.E.I.

Under the provisions of the Dominion Statute, The Prince Edward Island Subsidy Act, 1912, 2 Geo. V. Ch. 42, a further payment of \$100,000 per annum was authorized.

The total allowances under the foregoing heads now stand at \$195,000 per annum, subject to a deduction of \$39,120.10 as interest at five per cent per annum on the land account as above.

1927-34.  
Interim  
spec. grant  
to P.E.I.  
following  
Duncan  
Report.

Commencing with 1927, Prince Edward Island has been paid an additional grant of \$125,000 per annum pursuant to the recommendations of the Duncan Commission, this amount being included in the "Supply Act" of each year.

## ALBERTA AND SASKATCHEWAN—SPECIAL GRANTS

1905.  
Spec. Grants  
to Alta. and  
Sask. in lieu  
of public  
lands.

The Dominion Statutes, The Alberta Act, 4 and 5 Edw. VII, Ch. 3, 1905, and The Saskatchewan Act, 4 and 5 Edw. VII, Ch. 42, 1905, provide that each of these provinces be paid as compensation in lieu of public lands as a source of revenue, a sum based on its population as from time to time ascertained by its quinquennial census, the amounts payable annually to be as follows:—

Amount payable per annum	On population of
\$ 375,000..	250,000 to 400,000
562,500..	400,000 to 800,000
750,000..	800,000 to 1,200,000
1,125,000..	Over 1,200,000

1905.  
Spec. tem-  
porary  
grants to  
Alta. and  
Sask. for  
construction  
of public  
buildings.

The same statutes provided that as additional compensation, there be paid to each of these provinces for a period of five years from September 1, 1905, \$93,750 per annum to provide for the construction of necessary public buildings.

TOTAL AMOUNTS NOW BEING PAID ANNUALLY TO EACH PROVINCE AS  
SPECIAL GRANTS

Amounts now being paid annually to the various provinces as special grants (including the amounts paid pursuant to the recommendations of the Duncan Commission) are as follows:

	Amounts per annum
Ontario..	nil
Quebec..	nil
Nova Scotia..	\$ 875,000
New Brunswick..	750,000
Manitoba..	562,500
British Columbia..	100,000
Prince Edward Island (less interest on land account)..	320,000
Saskatchewan..	750,000
Alberta..	562,500

Tabulation  
of spec.  
grants now  
being paid.

Total amounts paid to the respective provinces as Special Grants, from July, 1867, to close of the fiscal year ended March 31, 1934, including the amounts paid pursuant to the recommendations of the Duncan Commission.

	Special Grants paid
Tabulation of spec. grants paid since 1867.	Alberta . . . . . \$ 15,093,750 00
	British Columbia . . . . . 7,300,000 00
	Manitoba . . . . . 19,894,232 76
	New Brunswick . . . . . 13,980,000 00
	Nova Scotia . . . . . 6,951,980 00
	Ontario . . . . . nil
	Prince Edward Island . . . . . 5,539,304 44
	Quebec . . . . . nil
	Saskatchewan . . . . . 17,031,250 00
	Total . . . . . \$ 85,790,517 20

#### (6) INTEREST ON DEBT ALLOWANCES

1867.  
All prov'l  
debts  
assumed by  
Dominion.

(a) By the British North America Act, 1867, s. 111, the Dominion assumed all the debts and liabilities of the provinces existing at the Union.

1867.  
Debt all'ces  
for each  
Prov.

(b) By sections 112, 114, 115 and 116 it was provided that Ontario and Quebec jointly, Nova Scotia and New Brunswick, should be respectively liable to Canada for the amount (if any) by which their respective debts exceeded certain stated amounts and should be charged with interest at the rate of five per cent per annum in such excess. Nova Scotia and New Brunswick were entitled to be paid, by the Dominion, interest at five per cent per annum on the amounts on which their respective debt allowances exceeded their actual debt. No similar provision was made for Ontario or Quebec, but the obvious reason for this is that it was well known that the debts of those provinces would exceed their debt allowances. These debt allowances, and the amount thereof per capita of population of the respective provinces (as per the census of 1861) were as follows:—

	Debt allow- ances	Per capita rate
Ontario and Quebec jointly . . . . .	\$62,500,000	\$24 92
Nova Scotia . . . . .	8,000,000	24 18
New Brunswick . . . . .	7,000,000	27 77

1869.  
Increased  
debt all'ce  
for N.S.

(c) In 1869, by the Dominion Act 32-33 Vic., Ch. 2, the allowance for debt of Nova Scotia was increased to \$9,186,756 as from July 1, 1867, evidently to place it on the same basis of indebtedness per head of population as that allowed to New Brunswick, namely, \$27.77. (This amount should have been \$9,188,758, and in 1885 an amount of \$5,420.39 was credited to make good this error and certain other small clerical errors as enumerated in Annex A to Statute 48-49 Viet., Ch. 41.) Ontario and Quebec did not receive any equivalent in the foregoing readjustment of 1869.

1874.  
Further  
addition to  
debt all'ces  
for N.S.

(d) By the Dominion Act, 37 Vict., Ch. 3, of 1874, a further addition of \$199,490 was allowed to Nova Scotia, representing the increase based on \$9,186,756, as if this sum had been mentioned in The British North America Act, 1867, instead of \$8,000,000.

1870.  
Debt all'ce  
for Man.

(e) Manitoba entered the Union in 1870 with a debt allowance of \$472,090, which on an estimated population of 17,000 was equivalent to \$27.77 per head.

1871.  
Debt all'ce  
for B.C.

(f) British Columbia entered the Union in 1871 with a debt allowance of \$1,666,200, which on an estimated population of 60,000 was also equivalent to \$27.77 per head.

Debt all'ce  
per capita  
of four  
original  
provinces.

(g) From the foregoing it will be seen that up to this point the basis on which the provinces entered the Union was that of \$27.77 per head of population, except in the case of Ontario and Quebec which remained at the original amount of \$24.92.

1873.  
Increase in  
debt all'ces  
for all six  
provinces.

(h) By the Dominion Act, 36 Vict., Ch. 30, 1873, the debt allowance of Ontario and Quebec jointly was increased by \$10,506,088.84. This represented the amount by which the actual debts of those two provinces exceeded the allowance of \$62,500,000 given at the time of Confederation.

Under this same Act the other provinces were increased in like proportion as under:—

Nova Scotia.. . . . .	\$1,544,270
New Brunswick.. . . . .	1,176,680
Manitoba.. . . . .	79,356
British Columbia.. . . . .	280,084

Resultant  
per capita  
debt all'ces  
of six  
provinces.

(i) This adjustment brought the per capita rate of Ontario and Quebec up to \$29.11 and that of the other provinces up to \$32.43.

1873.  
Spec. debt  
all'ce for  
P.E.I.

(j) Prince Edward Island entered the Union on July 1, 1873, and by the Imperial Order in Council of June 26, 1873, was allowed a debt equal to \$50.00 per head of their population as shown by the census of 1871, or \$4,701,050.

The reasons given by the Order in Council for this per capita rate, which was so much higher than that applicable to the other provinces, were the large expenditure authorized by the Parliament of the Dominion for the construction of railways and canals in other parts of the Dominion, the possibility of a readjustment of the financial arrangements between the Dominion and the several provinces already embraced in the Dominion, and the isolated and exceptional conditions of Prince Edward Island.

1884.  
Retroactive  
readjust-  
ment of all  
debt all'ces.

(k) Under the provisions of the Dominion Act, 47 Vict., Ch. 4, 1884, the allowances granted in 1873 by 36 Vict., Ch. 30 (see paragraph (h) above of this section (6) ) were allowed as from July 1, 1867, and the total amount of the half-yearly payments which would have been made in that case on account of such increase from July 1, 1867, to January 1, 1873, with interest thereon at 5 per cent was deemed capital owing the provinces, bearing interest at 5 per cent, which interest was payable to them as part of their subsidies from July 1, 1884. These increases were not properly allowances for debt, although growing out of these allowances. Ontario and Quebec, having been charged interest on the excess of their actual debt over their allowed debt between 1867 and 1873, it was decided to recoup them for these charges. The amounts stated in the Act of 1884 for Ontario

and Quebec represent these charges with interest down to the date of the passing of the Act, and the other provinces received proportionate increases as set out below:—

Ontario . . . . .	\$2,848,289 52
Quebec . . . . .	2,549,213 61
Nova Scotia . . . . .	793,368 71
New Brunswick . . . . .	604,519 35
Manitoba . . . . .	110,825 07
British Columbia . . . . .	83,107 88
Prince Edward Island . . . . .	182,973 78

1885.  
Increase in  
debt all'ce  
for Man.

(l) By the Dominion Act, 48-49 Vict., Ch. 50, 1885, the debt allowance of Manitoba was, from July 1, 1885, calculated on a population of 125,000 and was charged with advances which had been or were to be made to the province. This Act based the allowance on the per capita rate of the Act under which Manitoba entered the Union (\$27.77) without taking into consideration the increase of 1873. By 49 Vict., Ch. 8, 1886, this was corrected. The debt allowance so authorized amounted to \$4,054,757.35, and the deductions therefrom left a net debt allowance of \$3,311,914.77 on July 1, 1888.

1898.  
Further  
increase in  
debt all'ce  
for Man.

(m) In 1898 by the Dominion Act, 61 Vict., Ch. 4, \$267,026.43, representing the cost of the erection of the Parliament Buildings and Government House at Winnipeg, was credited to the Manitoba debt account and \$231,575.47 as interest on this account was paid to the province.

1905.  
Debt all'ces  
for Sask.  
and Alta.

(n) Saskatchewan and Alberta were organized and incorporated in the Union in 1905, and as they were not in debt they were deemed entitled to receive five per cent on a debt allowance each of \$8,107,500, which, on an estimated population of 250,000 was equivalent to \$32.43 per head, the per capita basis established in 1873 for all the provinces except Ontario and Quebec in which it was on the basis of \$29.11 per head. (See (h) and (i) above of this section (6).)

1912.  
Further  
increase in  
debt all'ce  
of Man.

(o) Under the provisions of the Dominion Statute, the Manitoba Boundaries Extension Act, 2 Geo. V, Ch. 32, 1912, the province of Manitoba received, in lieu of former debt allowances, an amount of \$8,107,500, less advances previously made of \$475,816.15, which reduced the capital sum to \$7,631,683.35. The original sum of \$8,107,500 is equivalent to a per capita rate of \$32.43 on an assumed population of 250,000 and placed Manitoba on the same per capita basis as Alberta and Saskatchewan.

Withdrawal  
by certain  
provinces  
of capital  
amounts of  
debt all'ce.

(p) Under certain Dominion Statutes, commencing with 37 Vict., Ch. 17, s. 2, and 48-49 Vict., Ch. 4, s. 1, and now consolidated in Revised Statutes of Canada, 1927, Ch. 192, s. 11, the Dominion with the sanction of the Legislature of any province, may pay to that province amounts on account of the capital of its debt allowance and any amounts so paid are deducted from that province's debt allowance. Certain of the province have obtained such payments from time to time.

Tabulation  
of amounts  
added to  
debt all'ces  
and  
balances  
at credit of  
provinces.

(q) A recapitulation of the amounts which have from time to time been added to the debt allowances of the various provinces is set out below; also a summary of the balances at the credit of the debt account of each province (after deduction of amounts paid by the Dominion to the province on account of capital) on which the Dominion is paying interest at five per cent per annum. These balances represent the amounts by which the actual debts of the provinces assumed by the Dominion fall short of the allowed debts as adjusted from time to time after deductions from the latter of payments made on account of capital.

RECAPITULATION OF AMOUNTS ADDED FROM TIME TO TIME TO THE DEBT ALLOWANCES OF THE VARIOUS PROVINCES

	Allowed at Union	Added by Act of 1873	Added by Act of 1884	Added by Acts of 1885	Allowed by Act of 1905	Added by Act of 1912	Total allowance for debt including Act of 1884	Total per capita allowance not including Act of 1884	Per capita rate based on census of—	Balance of Debt Allowance Mar. 31, 1934, on which interest at 5% is paid the Provinces
Ontario and Quebec jointly....	\$62,500,000	\$10,506,088	\$5,397,503	\$.....	\$.....	\$.....	\$ 78,403,591	\$ 29 11	1861	\$ 5,397,503
Nova Scotia—										
1867.....	8,000,000	1,344,780	793,368	.....	.....	.....	11,529,814	32 43	1861	1,055,421
1869.....	1,186,756									
1874.....	199,490									
New Brunswick.....	7,000,000	1,176,680	604,519	.....	.....	.....	8,781,199	32 43	1861	529,299
Manitoba.....	472,090	79,357	110,825	3,392,485	.....	4,052,743	8,107,500	32 43	*Assumed	7,631,684
British Columbia.....	1,666,200	280,084	83,107	.....	.....	.....	2,029,391	32 43	Estimate of	
Prince Edward Island.....	4,701,050	.....	182,973	.....	.....	.....	4,884,023	50 00	60,000	583,021
Saskatchewan.....	.....	.....	.....	.....	8,107,500	.....	8,107,500	32 43	*Assumed	775,792
Alberta.....	.....	.....	.....	.....	8,107,500	.....	8,107,500	32 43	*Assumed	8,107,500

\*In the case of Manitoba, Saskatchewan and Alberta, the per capita allowance for debt of \$32.43 is based on an assumed population of 250,000.

Summary of subsidies now paid each year to the provinces.

(7) TABLE SHOWING TOTAL AMOUNT OF SUBSIDIES NOW PAID EACH YEAR TO THE PROVINCES

SUMMARY OF SUBSIDIES PAID DURING THE FISCAL YEAR 1933-34, INCLUDING THE INTERIM SUBSIDIES PAID TO THE MARITIME PROVINCES PURSUANT TO THE RECOMMENDATIONS OF THE DUNCAN COMMISSION

Province	Allowances for Government		Allowances per head of Population		Special Grants		Interest on Debt Allowances		Total		Per capita payments based on Population of 1931
	\$	cts.	\$	cts.	\$	cts.	\$	cts.	\$	cts.	
Ontario.....	240,000	00	2,559,009	80			142,414	48	2,941,424	28	.86
Quebec.....	240,000	00	2,224,553	00			127,460	68	2,592,013	68	.90
Nova Scotia.....	190,000	00	410,276	80	875,000	00	52,770	92	1,528,047	72	2.98
New Brunswick.....	190,000	00	326,575	20	750,000	00	26,464	96	1,293,040	16	3.17
Manitoba.....	190,000	00	571,255	60	562,500	00	381,584	18	1,705,339	78	2.44
British Columbia.....	190,000	00	555,410	40	100,000	00	29,151	06	874,561	46	1.26
Prince Edward Island.....	100,000	00	87,262	40	*280,879	90	38,789	58	506,931	88	5.76
Saskatchewan.....	220,000	00	753,514	00	750,000	00	405,375	00	2,128,889	00	2.31
Alberta.....	190,000	00	599,442	00	562,500	00	405,375	00	1,757,317	00	2.40
	1,750,000	00	8,087,299	20	3,880,879	90	1,609,385	86	15,327,564	96	

\* Allowance of \$320,000—Less \$39,120.10 interest on Land Account.



Summary of  
subsidies  
from Con-  
federation  
to 1934.

(8) TABLE SHOWING TOTAL AMOUNT OF SUBSIDIES PAID FROM CONFEDERATION TO MARCH 31, 1934

SUBSIDY ALLOWANCES FROM JULY 1867, TO CLOSE OF THE FISCAL YEAR ENDED MARCH 31, 1934, INCLUDING THE INTERIM SUBSIDIES PAID TO THE MARITIME PROVINCES PURSUANT TO THE RECOMMENDATIONS OF THE DUNCAN COMMISSION

Province	Allowances for Government		Allowances per head of Population		Special Grants		Interest on Debt Allowances		Total	
	\$	cts.	\$	cts.	\$	cts.	\$	cts.	\$	cts.
Alberta.....	5,156,666	67	11,945,642	67	15,093,750	00	11,755,875	00	43,951,934	34
British Columbia.....	6,130,000	00	12,177,367	20	7,300,000	00	1,846,300	62	27,453,667	82
Manitoba.....	6,735,000	00	16,748,585	20	19,894,232	76	13,350,619	65	56,728,437	61
New Brunswick.....	6,890,000	00	17,778,076	00	13,980,000	00	1,397,635	00	40,045,711	00
Nova Scotia.....	7,530,000	00	23,312,009	60	6,951,980	00	3,182,710	71	40,976,700	31
Ontario.....	9,680,000	00	102,078,987	79	.....	.....	4,886,104	14	116,645,091	93
Prince Edward Island.....	3,720,000	00	5,225,441	60	5,539,304	44	2,564,055	81	17,048,801	85
Quebec.....	9,280,000	00	82,431,532	60	.....	.....	5,196,792	21	96,908,324	81
Saskatchewan.....	5,496,666	67	15,303,613	60	17,031,250	00	11,755,875	00	49,587,405	27
	60,618,333	34	287,001,256	26	85,790,517	20	55,935,968	14	489,346,074	94

**DIVISION IV**

**THE CLAIMS OF THE MARITIME PROVINCES FROM A LEGAL  
POINT OF VIEW**

Provinces  
have no  
legal rights  
to further  
subsidies.

It is submitted that the Maritime provinces have no legal claims to subsidies or grants from the Dominion of Canada other than those expressly provided for in the Imperial Statutes and Orders in Council, or in the Dominion Statutes relating to the subsidies or money grants to be paid by the Dominion to the various provinces. The terms of these enactments are clear and unambiguous in regard to such payments, and the various provinces are receiving all the payments to which they are entitled thereunder. No province would have any right of action at law to obtain greater or other payments than those expressly provided for in such Statutes and Orders in Council.

It is a well established principle of the construction and interpretation of Statutes and other enactments, having the force of law, that where the words used therein are plain and admit of no more than one interpretation, then extraneous evidence is not admissible to show that the legislator intended something different from that which the words used plainly indicate. Reference is made to this principle by reason of the fact that on numerous occasions the Maritime Provinces have referred to discussions and debates, both prior to and after confederation, as supporting the provinces' contentions that they were entitled to treatment other than that indicated in the terms of the Statutes and Orders in Council. Such references and articles are inadmissible from a legal point of view.

**DIVISION V**

**CLAIMS OF THE MARITIME PROVINCES FOR FURTHER FINANCIAL  
ASSISTANCE FROM THE DOMINION ON ALLEGED MORAL  
OR EQUITABLE GROUNDS**

**(1) LEGAL GROUNDS NOT PRESSED, BUT MORAL GROUNDS URGED**

Alleged  
legal  
grounds not  
pressed.

The Maritime Provinces in their various submissions in the past to the Dominion of Canada, or to Commissions constituted in connection with claims put forward by those provinces, and also in their submissions to the present Commission, while suggesting that in certain matters they have claims based on legal or quasi legal grounds, have not pressed these arguments.

On the other hand, those provinces, both in the past and in their submissions to the present Commission, have strongly urged that they are entitled on grounds of a moral or equitable nature to further financial assistance by way of subsidies from the Dominion.

Documents submitted by Maritime Provinces. (2) DOCUMENTS SUBMITTED BY MARITIME PROVINCES TO PRESENT COMMISSION  
 (a) *Prince Edward Island Documents.*

The documents submitted up to date by the province of Prince Edward Island to the present Commission consist of the following:—

P.E.I. documents. i. a printed brief entitled:—

“ BRIEF

for the

PROVINCE OF PRINCE EDWARD ISLAND

For readjustment of financial arrangements with the  
 Dominion Government and full implementation  
 of the Report of the Royal Commission  
 on Maritime claims  
 August, 1934 ”

included in which are schedules containing exhibits (herein sometimes referred to as the “ P.E.I. brief ”);

ii. a letter from the Attorney General of Prince Edward Island to the Secretary of the Commission dated November 10th, 1934, in which the Attorney General states:—

“ It has been intimated to me by the Premier of the Province of Nova Scotia that, in addition to other materials, he intends to file the case presented by Nova Scotia to the Duncan Commission in 1926. In addition to the matters contained in the brief which I am forwarding to you, this province joins in the case as embodied in the brief presented by the Province of Nova Scotia to the Duncan Commission in 1926, and adopts the facts and arguments therein contained as part of its case.”

(The Nova Scotia case to which the Attorney General refers is herein sometimes referred to as the “ 1926 N.S. submission ”.)

Parts of the brief referred to under i. above deal with subjects which are outside the scope of the reference to the present Commission and it has been established by correspondence between counsel for the Dominion and the Attorney General for Prince Edward Island that pages 1 to 17 inclusive, together with all the schedules of the printed brief are submitted to the present Commission.

Contentions limited to certain parts of brief and materials submitted.

With regard to the printed Submission of Nova Scotia made to the Duncan Commission in 1926, which is referred to in the letter of the Attorney General of Prince Edward Island mentioned above, it has been established by correspondence between counsel for the Dominion and the Attorney General for Prince Edward Island that the latter refers to the following parts of that brief, namely, pages 1 to 13 inclusive, pages 27 to 45 inclusive and pages 106 to 113 inclusive.

*(b) New Brunswick documents.*

The documents submitted up to date by the province of New Brunswick to the present Commission consist of the following:

N.B.  
documents.

## i. a printed brief entitled:—

## “SPECIAL BRIEF FOR NEW BRUNSWICK

For readjustment of financial arrangements with Dominion Government,  
and further implementation of the recommendations of the  
Royal Commission on Maritime claims.”

(including the schedules), which was submitted to His Majesty’s Privy Council for Canada by the province of New Brunswick;

## ii. a printed supplementary brief entitled:—

## “SUPPLEMENTARY BRIEF

Submitted to the Royal Commission on financial arrangements between  
the Dominion of Canada and its Maritime Provinces,

1934

Addenda and Corrigenda”

## iii. certain exhibits filed by the province of New Brunswick.

(The brief and supplementary brief referred to in i and ii above are herein sometimes referred to as the “N.B. brief”.)

Certain  
subjects  
contained  
in N.B.  
brief out-  
side scope  
of present  
reference.

Certain parts of the printed special brief of the province of New Brunswick referred to above deal with subjects which it is submitted are outside the scope of the reference to the present Commission, namely, the parts bearing the following titles which appear on the following pages of that brief:—

Railway freight rates, page 24.

Harbour commissions, page 25.

Fisheries, page 25.

Immigration, page 25.

Statistics upon interprovincial trade, page 26.

Trade development, page 26.

Geological survey, page 26.

Correspondence took place between counsel for the Dominion and the Attorney General of New Brunswick with a view to obtaining a declaration from the latter that the province of New Brunswick did not intend to place before the present Commission the contentions contained in those parts, but the province of New Brunswick declined to give such a declaration. The correspondence in question has been filed with the Commission.

The Dominion of Canada again submits that those parts of the N.B. brief are outside the scope of the reference to the present Commission and are irrelevant thereto.

*(c) Nova Scotia documents.*

The documents submitted up to date by the province of Nova Scotia to the present Commission consist of the following:

A typewritten brief entitled:—

“DETAILED SUBMISSION OF THE CLAIMS OF THE GOVERNMENT  
OF NOVA SCOTIA FOR THE FULL IMPLEMENTATION OF THE  
RECOMMENDATIONS MADE BY THE ROYAL COMMISSION ON  
MARITIME CLAIMS, 1926”

N.S. documents. (herein sometimes referred to as the “N.S. brief”), together with certain exhibits filed in support of that brief, including:—

- i. a printed report of the Provincial Economic Enquiry Commission (herein sometimes referred to as the “Jones Report”);
- ii. the printed Submission to the Duncan Commission made by Nova Scotia in 1926, interleaved and revised to date (herein sometimes referred to as the “1926 Revised N.S. Submission”); and
- iii. the printed Submission of the province of Nova Scotia on Dominion-Provincial Relations and the Fiscal Disabilities of Nova Scotia within the Canadian Federation made to the Jones Commission (herein sometimes referred to as the “Submission to the Jones Commission”).

The Jones Report, the 1926 Revised N.S. Submission and the Submission to the Jones Commission deal with numerous matters which are not within the scope of the reference to the present Commission, and by correspondence between counsel for the Dominion and the Premier of Nova Scotia it has been established that the following parts of these documents are relied upon by the province of Nova Scotia:—

N.S. Contentions limited to materials submitted.

- i. The Jones Commission Report, pages 69 to 78, pages 86 and 87, pages 202 to 208 and pages 217 to 219;
- ii. The revised 1926 Submission, pages 58 to 113;
- iii. The Submission to the Jones Commission, pages 22 to 33 and pages 158 to 199;

all the foregoing page numbers being inclusive.

A memorandum has already been filed with the Secretary of the present Commission showing the limitations made by each province in regard to the material filed by it and is accompanied by copies of the correspondence in which such limitations are made.

Certain of the grounds urged in support of the claims for further financial assistance from the Dominion are urged by all or more than one of the Maritime Provinces, although in certain cases the remedies asked for by the various provinces are on different bases. In some cases, grounds urged by one or two of the provinces are not urged by the others.

It is proposed, therefore, to deal with the various claims made by the three Maritime Provinces according to the nature of those claims, rather than to deal separately with the various claims put forward by the respective provinces, as this method will avoid unnecessary repetition in cases where the grounds urged by more than one province are the same.

It will be noted from the briefs submitted by the Maritime Provinces that certain of their claims are based on alleged specific grounds such as the claim for compensation in respect of accessions of territory to the provinces of Ontario and Quebec, and that other claims are based on alleged general grounds such as the fiscal need of the province making the claim.

## DIVISION VI

### CLAIMS OF THE MARITIME PROVINCES RELATING TO THE NATURAL RESOURCES OF THE PRAIRIE PROVINCES

#### (1) SUMMARY OF HISTORY OF NATURAL RESOURCES

Admission of N.W.T. and Rupert's Land. In 1870 the North West Territories and Rupert's Land were admitted to the Dominion by Imperial Order in Council (an agreement having been made with the Hudson's Bay Company for the surrender to the Crown of the Company's lands, rights and privileges). The consideration for such surrender was £300,000, which was paid by the Dominion of Canada.

Surrender by H.B. Co., of lands, &c.

Organization of Manitoba.

Concurrently with that admission, the province of Manitoba (consisting then of a very small area) was established in virtue of the Dominion Statute, The Manitoba Act, 1870.

Crown lands in Man. reserved to Dominion.

By section 30 of The Manitoba Act, 1870, the ungranted Crown lands in that province were placed under the administration and control of the Dominion of Canada "for the purposes of the Dominion". On each occasion on which the boundaries of Manitoba were extended, the control and beneficial use of the Crown lands within the extended territory were reserved to the Government of Canada.

1905. Organization of Alta. and Sask. Crown lands in Alta. and Sask. reserved to Dom.

When the provinces of Alberta and Saskatchewan were established in 1905, by the Alberta Act and the Saskatchewan Act respectively, their natural resources, as in the case of Manitoba, were reserved to the Dominion to be administered for the purposes of Canada.

Subsidies to Man., Alta., and Sask., in lieu of public lands.

As the prairie provinces thus had no public lands, provisions were made for annual subsidies or allowances to be paid to each by the Dominion in lieu of such natural resources.

1912. Subsidies to Man. in lieu of lands put on same basis as Alta. and Sask.

The subsidy to Manitoba (which was originally granted in 1882 and increased in 1885) was finally increased in 1912 so that Manitoba was then placed on an equal footing, as from 1908, with Alberta and Saskatchewan as regards subsidies in lieu of lands, these two provinces having been granted subsidies in this respect at the time of their organization in 1905.

The details of such subsidies are given in Division III, Section (5), dealing with "Special Grants".

For many years prior to 1930 the three Prairie Provinces made insistent demands to the Dominion of Canada that they be given control of the natural resources within their territorial boundaries and be placed in this respect on the same footing as the other provinces of Canada.

1928.  
Agreement  
between  
Dom. and  
Man. as to  
basis of  
settlement  
of natural  
resources  
question.

In July, 1928, the Government of Canada and the Government of Manitoba concluded an agreement which is comprised in the Order in Council P.C. 1258 of August 1st, 1928 (Appendix I, Exhibit No. 5, pages 5 and 6) as to the method and basis of settlement of the question of the administration and control of the natural resources of Manitoba, 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.

“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.

“6. Pending this transfer, the policy of the Government of Canada in the administration of the natural resources of Manitoba to be in accord with the wishes of the Government of the Province.”

Appoint-  
ment of  
Turgeon  
Commis-  
sion.  
Report of  
Turgeon  
Commis-  
sion.

As a result of that agreement a Commission, under the Chairmanship of the Hon. W. F. A. Turgeon was appointed on August 1st, 1928. (Appendix I, Exhibit No. 5, pp. 3 to 6.)

That Commission, after hearing the representatives of both the Dominion and Manitoba, issued its report (herein sometimes referred to as the “Turgeon Report”) on the 30th May, 1929. By that report the Commission awarded to Manitoba a lump sum cash payment of \$4,584,212.49 and provided for continuance of annual subsidies equal to the former subsidies in lieu of lands and on the same basis as the subsidies payable to the provinces of Alberta and Saskatchewan.

(Appendix I, Exhibit No. 5, p. 43.)

1929.  
Agreement  
between  
Dom. and  
Man. pur-  
suant to  
Turgeon  
award.

Pursuant to the award of the Turgeon Commission an agreement was entered into on the 14th December, 1929, between the Dominion and Manitoba which provided for the transfer to the province of the unalienated natural resources within its boundaries and for the payment to the province of the annual subsidies and the lump sum cash payment provided for in the Turgeon Report. This agreement is annexed as a Schedule to the Dominion Statute, “The Manitoba Natural Resources Act of 1930” (20-21 Geo. V, Ch. 29).

Approval  
and con-  
firmation  
of agree-  
ment with  
Man. by  
Dom. parlia-  
ment, Man.  
legislature  
and  
Imperial  
parliament.

The agreement was approved by the Dominion Parliament by the Statute 20-21 Geo. V, Ch. 29, and by the Manitoba Legislature by Chap. 30 of the Statutes of 1930, and was confirmed by the Imperial Statute, “The British North America Act, 1930”.

1929-1930.  
Agreements  
with Alta.  
and Sask.

After the issue of the Turgeon Report and on the same date as the making of the agreement between the Dominion and Manitoba (14th December, 1929), the Dominion entered into an agreement with Alberta in regard to its natural resources and shortly thereafter (20th March, 1930) the Dominion entered into an agreement with Saskatchewan in regard to its natural resources. These agreements provided for the transfer to Alberta and Saskatchewan of the natural resources within their territorial boundaries and for the payment to these provinces of annual subsidies on the same basis as had been provided for in the Manitoba agreement, thus treating these provinces in the same manner as had been provided for in the Turgeon Report in respect of Manitoba, and in the agreement with Manitoba pursuant thereto. (The agreements between the Dominion and Alberta and Saskatchewan are comprised as Schedules to the " Alberta Natural Resources Act " and the " Saskatchewan Natural Resources Act " respectively of 1930, 20-21 Geo. V, Ch. 3 and 41).

Commis-  
sions  
for Alta.  
and Sask.  
provided  
for.

As a result of the agreements with Alberta and Saskatchewan two Commissions have been appointed to enquire and report whether any, and if any, what consideration, in addition to the annual subsidies provided to be paid to these provinces, should be paid to each province, in order that it might 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 the time of their organization (1st September, 1905).

Reports of  
Alta. and  
Sask. Com-  
missions  
not yet  
issued.

The Commissions have completed their hearings, but their reports have not yet been made.

#### (2) CLAIMS OF THE MARITIME PROVINCES BASED ON AN ALLEGED " PROPRIETARY INTEREST " IN LANDS OF THE DOMINION.

Alleged  
"proprietary  
interest"  
of earlier  
provinces  
in lands of  
Dom.

Prince Edward Island and Nova Scotia in their submissions have made contentions to the effect that they together with the other provinces of Canada have a proprietary interest in the public lands and other natural resources which are or were comprised in the North West Territories and Rupert's Land, and that accordingly when any of these natural resources are transferred to the administration and control of a particular province (whether already existing or newly organized) each of the other provinces is entitled to compensation proportionate to its alleged interest in the lands and other natural resources so transferred. (See P.E.I. brief, p. 11, N.S. brief, pp. 239, 240, Sec. 3 (a), (b) and (c), p. 286 and p. 295.)

Theory  
unsound.

It is submitted that this theory is fallacious and is based on a misconception of Canadian constitutional principles.

Dom. and  
provinces  
separate  
entities.

Under the Canadian constitution the Dominion of Canada and the various provinces are separate and distinct entities or organisms, each endowed with its own legislative, executive and other powers and each supreme within the limits of its own jurisdiction. Each of such entities has complete control of its so-called assets, that is to say, of the assets vested in the Crown which are subjected to the control and beneficial use of that entity.

The public lands and other so-called lands, which are sometimes referred to " as belonging to the Dominion ", are vested in the Crown and are administered and controlled on behalf of the Crown by the Government of the Dominion.



Similarly, the public lands and other so-called assets, which are sometimes referred to as "belonging to a province", are vested in the Crown and are administered and controlled on behalf of the Crown by the government of that province.

This principle is well established by decisions of the courts. (See reference re Saskatchewan Natural Resources, 1931, S.C.R., p. 263.)

At pages 275 and 276, Newcombe J. says:—

Supreme  
Court  
reference  
on natural  
resources  
Sask., 1931.

"There is only one Crown, and the lands belonging to the Crown are and remain vested in it, notwithstanding that the administration of them and the exercise of their beneficial use may, from time to time, as competently authorized, be regulated upon the advice of different Ministers charged with the appropriate service. I will quote the words of Lord Davey in *Ontario Mining Company v. Seybold* (1903, Appeal Cases 73, at page 79), where his Lordship, referring to Lord Watson's judgment in the *St. Catherines Milling* case (1888, 14 Appeal Cases, p. 46), said that:—

"In delivering the judgment of the Board, Lord Watson observed that in construing the enactments of the British North America Act, 1887, "it must always be kept in view that wherever public land with its incidents is described as 'the property of' or as 'belonging to' the Dominion or a province, these expressions merely import that the right to its beneficial use or its proceeds has been appropriated to the Dominion or the province, as the case may be, and is subject to the control of its legislature, the land itself being vested in the Crown." Their Lordships think that it should be added that the right of disposing of the land can only be exercised by the Crown under the advice of the Ministers of the Dominion or province, as the case may be, to which the beneficial use of the land or its proceeds has been appropriated, and by an instrument under the seal of the Dominion or the province."

Crown  
assets con-  
trolled by  
Dom. Govt.  
for purposes  
of Dom. as  
a whole.

Moreover, it is a well established principle of the Canadian constitution that the Crown assets which are entrusted to the administration and control of the Dominion Government are to be administered and controlled for the purposes of the Dominion as a whole and not as trustee for or under any liability to account to the provinces generally, or any particular group of provinces, whether those which originally entered the union or any other group. This well established constitutional principle has been approved as recently as 1932 by the Judicial Committee of the Privy Council in the reference re the Natural Resources of Saskatchewan, (Appeal Cases, 1932, p. 28). Lord Atkin, in rendering judgment, said:—(p. 38)

P.C. judgt.  
on natural  
resources of  
Sask., 1922.

"But even assuming that the propositions in question were established, their Lordships have no doubt whatever that the effect of the surrender of the charter rights and the relevant legislation was on the admission of the area in question (North West Territories and Rupert's Land) into the Dominion to give the Dominion full control of the land to be administered for the purposes of the Dominion as a whole, and not merely for the inhabitants of the area."

"Partner-  
ship"  
theory of  
Confedera-  
tion  
unsound.

The Maritime Provinces in their briefs frequently endeavour to support their "proprietary" claims by declaring that the four original provinces were "partners" in Confederation. This is a false analogy. Confederation was not a partnership. As a result of Confederation certain powers and assets formerly vested in the provinces were vested in the Dominion while others remained with the provinces. In addition, provision was made for vesting in the Dominion certain powers and assets which had at no time belonged to any of the provinces. As shown above, it has been clearly established by the courts that among the powers vested in the Dominion was that of administering and disposing of its natural resources and

the other assets subject to its control for the purposes of the Dominion as a whole, without regard to the interests of particular provinces or other groups. It is wrong to say that the western domain was acquired by the four original provinces. It was acquired by the Dominion. The "people" of those provinces certainly contributed revenues required for the acquisition and settlement of the West, but they did so as citizens of the Dominion and not as citizens of a province. The provincial governments as such made no contribution.

It should be noted in passing that the "partnership" theory would logically exclude Prince Edward Island and British Columbia from presenting a claim under this head, since those two provinces were not in Confederation when the western domain was acquired by the Dominion. This, in itself, indicates the weakness of the "partnership" or "proprietary" theory. The theory indeed seems to regard the acquisition of the West as a gigantic land speculation for the benefit of four participants instead of as a national enterprise undertaken for national development and national purposes. It seems further to require the assumption that the Prairie Provinces entered Confederation on a basis inferior to the older provinces as regards Dominion assets, while certainly nothing of the sort was intended.

Reference  
to land  
endowment  
for certain  
colleges  
in U.S.

A practice adopted by the United States with respect to its public domain has been cited by the Maritime Provinces. Out of a total alienated acreage of 1,212,000,000 acres, approximately 157,000,000 acres have been disposed of by the Federal Government of the United States for educational purposes. This, however, was not done on the "proprietary" theory, but because the federal government desired to subsidize specific activities, namely, agricultural, technical and other education. In lieu of a money grant it alienated part of a federal asset for a national purpose in the same way that it gave land subsidies for many other national purposes, such as assistance to railway construction, bonuses to soldiers, etc. The fact that the Dominion in the particular noted above did not follow the example of the United States may perhaps indicate that it did not regard assistance to agricultural and technical education by the method of land grants as warranted, but it hardly warrants the conclusion drawn by the Maritime Provinces that because of this deviation from United States practice the Maritime Provinces should get increased subsidies. In this connection it should be remembered that the Dominion has assisted agricultural and technical education by means of money grants.

It should be borne in mind that the situation in the United States in regard to the public domain is quite different from that prevailing under the Dominion constitution. In the United States certain of the original states were obliged, by pressure from others of those original states, to renounce claims which they had to wide expanses of territory stretching westward, and these lands and all other lands acquired by purchase or otherwise by the United States were vested in the federal government. On the establishment of new states, none of such new states acquired the control or beneficial use of the public lands within their boundaries. These lands continued to be vested in the federal government.

Precedent of the United States is not necessarily a useful guide for Canada. The Maritime Provinces have drawn attention to a single aspect of the land policy of the United States with which they appear to agree, but there are doubtless many other aspects of which they would disapprove.

No principle of compensating benefit for use of Dom. assets in any particular locality.

The theory advanced by the Maritime Provinces that the Dominion when it makes use of its assets in one or several provinces should compensate the remaining provinces by subsidies or in some other way is fallacious and is not in keeping with sound constitutional principles. The sound constitutional principle is that the Dominion should make use of its assets in a manner tending to serve the interests of the nation as a whole, no matter in what particular locality such use is made. It could hardly be argued that if, for the purposes of the Dominion as a whole, the Dominion Government expends money in harbour or other improvements in some locality in one of the provinces, each of the remaining provinces is consequently entitled to a subsidy or money grant. How then can it be successfully contended that if for the purposes of the Dominion as a whole, the Dominion creates and organizes a new province, and either at the outset or later permits that province to have the control and beneficial use of the lands and other resources located within its boundaries, then the remaining provinces of Canada would be entitled to compensating subsidies? It is hardly likely that if the Prairie Provinces had been given the beneficial use of their natural resources at the time of their establishment as provinces, any serious claim would have been put forward by any of the other provinces of Canada in respect of these natural resources. It is even less plausible to raise a claim by reason of the fact that part of these natural resources were transferred to the Prairie Provinces many years after their organization.

### (3) CLAIMS OF THE MARITIME PROVINCES IN RESPECT OF SUBSIDIES PAID TO THE PRAIRIE PROVINCES IN LIEU OF LANDS

General contentions of Maritime Provinces.

All three of the Maritime Provinces in their submissions to the present Commission have made contentions based on the argument that as the Prairie Provinces have now had transferred to them the natural resources within their boundaries and have also had continued the subsidies payable to them in lieu of lands, the Maritime Provinces should receive some compensating subsidies.

Remedies claimed.

The remedies claimed by the three Maritime Provinces are however not the same. (Prince Edward Island brief, pages 10 to 13, New Brunswick brief, pages 8 to 13, New Brunswick Supplementary brief, pages 8 and 9, Nova Scotia brief, pages 239 and 240, pages 286 to 295 and page 303.)

Remedy claimed by P.E.I.

The province of Prince Edward Island does not claim any specific amounts of subsidies or other payments under this heading, but asks for a corresponding money grant, equalizing as nearly as possible "the full proportion" received by the other provinces (Prince Edward Island brief, page 12).

Remedy claimed by N.B.

The province of New Brunswick likewise asks for no specific amounts of money but states that if treated equally with the Prairie Provinces with respect to natural resources the Maritime Provinces should be granted the same allowances as now received by the Prairie Provinces and that these should be retroactive to the year 1930 (New Brunswick brief, page 9 and page 13).

Remedy  
claimed  
by N.S.

The province of Nova Scotia (in one part of its brief, pages 294 and 295) claims, in effect, as follows:—

A credit as from	
1867—1880-81 14 years at \$375,000.....	\$ 5,250,000 00
1881-82—1934-35 54 years at \$562,500.....	30,375,000 00
	<hr/>
	\$35,625,000 00

To equalize amounts paid other provinces a credit should be established for Nova Scotia of \$35,625,000, on which interest at 5 per cent should be paid annually hereafter, namely .....	\$ 1,781,250 00
Together with annual subsidy of.....	562,500 00
	<hr/>

It will be noted that the total annual subsidy claimed is..	\$ 2,343,750 00
Were this sum of \$375,000 compounded semi-annually at 5 per cent for the 14 years, it would amount to \$7,473,712.64	
Were this sum of \$562,500 compounded semi-annually at 5 per cent for 54 years, it would amount to \$62,863,310.50	
Total.....	\$70,337,023.14
Annual interest were such a credit established on basis of retroactive payment given Manitoba would be \$3,516,851.10	

And the increased annual subsidy would be \$562,500.00.

On the compound interest basis set out above, the annual subsidy to Nova Scotia in respect of lands of the Prairie Provinces would be \$3,516,851.10—plus \$562,500, or a total of \$4,079,351.10.

While Nova Scotia puts forward this large claim on pages 294 and 295 of its brief, it will be noted that in the summary on page 303 it does not repeat this claim, but repeats the claim for an annual subsidy in respect of the lands of the Prairie Provinces of \$2,343,750.

It will be noted that Nova Scotia and New Brunswick claim the same subsidies as were paid to each of the Prairie Provinces in respect of their lands, retroactive to 1870 but adjusted to the basis of population from time to time of Nova Scotia and New Brunswick. Even if the Maritime Provinces had any claim for compensation by reason of the subsidies paid to the Prairie Provinces, this basis of claim is clearly fallacious as it takes no account whatever of the extent or values of the natural resources which were withheld from the Prairie Provinces by the Dominion from the time of their organization until 1930.

It is submitted on behalf of the Dominion that the claims of the Maritime Provinces based on the fact that land subsidies are still payable to the Prairie Provinces are unfounded and should not be accepted by this Commission. The reasons for this submission of the Dominion are the following:—

Claims of  
Maritimes  
in respect  
of land  
subsidies  
unfounded.

The establishment of each of the three Prairie Provinces by the Parliament of the Dominion in territories forming part of the Dominion, was effected with the authority or confirmation of The British North America Act, 1871. Under the authority of that Act the Parliament of Canada for reasons deemed to be of national importance, withheld from those provinces the control and beneficial use of the natural resources within their boundaries.

(Appendix I, Exhibits Nos. 6 and 6A.)

Later, it was deemed just and reasonable by the Parliament of Canada to transfer to the administration and control of the Prairie Provinces so much of such natural resources as had not been disposed of by the Dominion. Such action was generally approved by all parties in Parliament. (Appendix I, Exhibit No. 6B.)

Equality  
with other  
provinces  
basis of  
arrange-  
ments with  
Prairie  
Provinces  
regarding  
natural  
resources.

In connection with such transfer the principle adopted was that each of the Prairie Provinces 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 the date of its entrance into Confederation. This is abundantly clear from the following documents:—

- (a) The agreement with Manitoba, which is recited in the Order in Council (P.C. 1258) (Appendix I, Exhibit No. 5, p. 5), Section 1 of which reads 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.”

- (b) The agreement of the 14th December, 1929, between the Dominion and Manitoba (which was approved by The Manitoba Natural Resources Act of Canada), the third paragraph of the preamble of which reads in part as follows:—

“And whereas by an Order in Council adopted upon a report from the Right Honourable W. L. Mackenzie King, Prime Minister of Canada, and approved by His Excellency the Governor General on the first day of August, 1928, it was provided, pursuant to an agreement in that behalf entered into with representatives of the Government of the Province that the Province would 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, . . . .”

- (c) The agreement of the 14th December, 1929, between the Dominion and Alberta (which was approved by The Alberta Natural Resources Act of the Dominion), the second paragraph of the preamble of which reads as follows:—

“And Whereas it is desirable that the Province should 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 1905;”

- (d) The agreement of the 20th March, 1930, between the Dominion and Saskatchewan (which was approved by The Saskatchewan Natural Resources Act of the Dominion), the second paragraph of the preamble of which reads as follows:—

“And whereas the Government of Canada desires that the Province should 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 entry into Confederation in 1905; . . . .”

It will be noted that in each of these agreements the principle of equality with the other provinces of Confederation in respect to natural resources is reiterated.

Turgeon Commission directed to find basis of equality.

As pointed out above in section (1) of this Division VI, the Turgeon Commission was constituted to enquire and report as to what financial readjustments should be made between the Dominion and Manitoba to effect this end (Appendix I, Exhibit No. 5) namely, the placing of Manitoba 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.

Turgeon Report.

The Turgeon Commission, after full investigation of the question (in which investigation the Dominion and Manitoba were represented by their respective counsel) issued its report that the proper financial readjustments to effect the desired end were continuation of subsidies on a certain basis and payment of a lump sum to Manitoba of \$4,584,212.49. This report was accepted and agreed to by the Dominion and the province and confirmed by the Imperial Parliament.

Continuation of subsidies to Alta. and Sask. accepted as part of basis of equality.

As to Alberta and Saskatchewan, it will be noted that it was accepted by the Dominion and those two provinces that part of the financial readjustment necessary to effect the desired end of equality with the other provinces was a continuation of the subsidies in lieu of lands.\* It is obvious that the reason for such acceptance was the fact that the Turgeon Commission had adopted this principle as part of the financial readjustment necessary in regard to Manitoba. The two Commissions now in existence dealing respectively with the financial readjustments with Alberta and Saskatchewan are concerned only with such further financial readjustments, if any, as may be necessary to place each of these provinces in a position of equality with the other provinces with respect to its natural resources as from its entry into Confederation.

The reports of these Commissions have not yet been issued, but the decisions that they may render as to further payments, if any, to which these provinces are entitled, must under the terms of the references to those Commissions be based on the above mentioned principle of equality.

Award of Turgeon Commission and acceptance of principle of continuation of subsidies not open to attack.

The Maritime Provinces, therefore, in complaining of the fact that the subsidies to the Prairie Provinces in lieu of lands have been continued, attack a judgment rendered by a Commission specifically appointed to establish the desired equality, and attack likewise one of the methods adopted by that Commission to achieve this object, which method was accepted and applied by the Parliament of Canada, the Legislatures of the three provinces concerned and the Imperial Parliament, not only in regard to the province of Manitoba in respect of which the decision was made, but also in regard to the two other Prairie Provinces. The Maritime Provinces are therefore asking the present Commission to review and upset the decisions of that tribunal.

Part only of natural resources restored to prairie provinces.

It is not proposed on behalf of the Dominion to repeat and analyze the reasons given by the Turgeon Commission in its decision, these being fully set out in the report of that Commission (Appendix I, Exhibit No. 5), but it should be pointed out here that the Maritime Provinces in their attacks upon the course adopted of continuing the subsidies in lieu of lands to the Prairie Provinces have apparently lost sight of the fact that during the sixty years which elapsed between the establishment of Manitoba and 1930, and the twenty-five years which elapsed between the establishment of Alberta and Saskatchewan and 1930, the Dominion of Canada had alienated vast tracts of land and other natural resources within the territorial limits of the Prairie Provinces, (Appendix I, Exhibit No. 7), and had also received

\* (Alberta Natural Resources Act and Saskatchewan Natural Resources Act.)

royalties from mines and minerals and set aside large tracts as national parks. All that was transferred to the Prairie Provinces was what remained after deduction of such alienations and reservations, and it was expressly provided in the agreements with the Prairie Provinces that all payments theretofore made to the Dominion should be retained by it. (Agreement between Dominion and Manitoba of the 14th December, 1929, Section 1, Agreement between Dominion and Alberta of the 14th December, 1929, Section 1, and Agreement between the Dominion and Saskatchewan of the 20th March, 1930, Section 1.)

Consequently, it is not accurate to refer to the transactions as "the return to the Prairie Provinces of their natural resources". It was a return to them of only part of such resources.

Contentions of Mar. Prov. re fiscal loss to Dom. from natural resources of Prairie Provinces.

In support of their contention in regard to the natural resources of the Prairie Provinces, the Maritime Provinces refer to the fact that the Dominion of Canada's administration of those natural resources resulted in a net loss to the Dominion (N.B. brief, p. 11, N.S., 1926, revised submission, p. 112 and p. 112 of the N.S., 1926, submission filed by P.E.I.) This fact is pointed to by the Maritime Provinces in support of two arguments, first, that the Prairie Provinces were developed "largely at the expense of the original provinces", and secondly, that justification was lacking for the payment to the Prairie Provinces of subsidies in lieu of lands. The first argument is based on the unsound theory of "proprietary interest" and its corollary of treating Dominion expenditures as if they were expenditures by the provinces, and as the fallacy of this theory has already been demonstrated it is not necessary to treat of it further. The second argument loses sight entirely of the fact that the financial return received by the Dominion from western lands was not the major consideration. The western lands were used as an instrument for the development and expansion of the Dominion as a whole. In furtherance of this policy large areas were given away and not sold, for example, under the homestead policy, free grants of land aggregating millions of acres were given to settlers, and other large tracts of land were given as subsidies for the development of national railways. There are numerous other instances of free alienation of western lands in development of the national policy in this regard, but the grants to settlers and to railways are the most striking examples of this policy, and account for by far the greater part of the free alienations. The amounts of land alienated by free grants are shown in Appendix I, Exhibit No. 7.

Further claims from Prairie Provinces if Turgeon award departed from.

Even if the present Commission should consider that it is entitled to review the decision arrived at by the Turgeon Commission and the principle of continuation of the subsidies adopted by Parliament in regard to all three Prairie Provinces as a result of that decision, and even if upon such review it should come to the conclusion that the Prairie Provinces had been treated too liberally, the remedy for such a situation would not be a grant of additional subsidies to each of the other provinces of Canada. An attempt to apply such a remedy would naturally result in a claim from the Prairie Provinces that the basis of equality expressly established in respect of their natural resources had been upset and a successful prosecution of such claim by the Prairie Provinces would result in further claims by the other provinces of Canada, and so on *ad infinitum*.

Connection  
between  
natural  
resources  
and Duncan  
Report.

The Maritime Provinces, however, put forward the argument that the action taken by the Dominion in returning the natural resources to the Prairie Provinces and continuing the payment of land subsidies, entitles the Maritime Provinces to an award beyond that recommended by the Duncan Commission. Thus, the Nova Scotia brief (p. 293) declares that:—

“Whatever may be said as to the claim for proprietary right, there can be no question now that, the Dominion having given up to these western provinces their lands and also having continued to them the subsidy in lieu of lands, the Province of Nova Scotia with other provinces has a distinct claim for adjustment.”

The New Brunswick brief similarly declares (p. 12) that:—

“This province thinks it quite proper that the prairie provinces should have control of their natural resources but feels that continuance of the subsidies in lieu of lands is not justified unless some compensation is given to the Maritime Provinces.”

Not only is such argument inadmissible for the reasons given in the next preceding paragraph, but also it overlooks the fact that the action of the Dominion with respect to the natural resources was connected with, and to a considerable extent arose out of, the Duncan Report. When the then Prime Minister of Canada discussed the Duncan Report in the House of Commons, he stated that the recommendation of interim subsidies could not be accepted until it had been considered by a Dominion-Provincial conference. His words were:—

“To gain recognition by the rest of Canada as to the fairness and equity of any revision or readjustment of the financial arrangements as between the Dominion and the maritime provinces, it would appear that the proposed revision or readjustment should be made a subject of consideration in the first instance by a conference at which all of the provinces of Canada as well as the Dominion would be represented.”

His opinion was that:

“It would not make for a harmonious and lasting settlement of the financial issue, a settlement based on due regard for the needs and interests of all the provinces and of the Dominion itself, to attempt to set a final figure now, before the views of the other provinces and the position of the Dominion have been set forth, and a settlement reached which public opinion will be prepared to accept.” (Appendix I, Exhibit No. 7A.)

This conference was held November 3rd-10th, 1927, and at the next session of Parliament the speech from the Throne (January 26, 1928) declared that as a result of the conference both the interim money grants to the Maritime Provinces and negotiations with the Prairie Provinces for return of their natural resources would be continued:—

“As a result of the Dominion-Provincial conference, my advisers have decided, pending a complete revision of the financial arrangements as contemplated by the Duncan report, to recommend the continuance to the maritime provinces of the money grants made at the last session. In the light of the discussions at the conference, my ministers are continuing negotiations with the prairie provinces for the return of their natural resources and are giving consideration to the restoration to the province of British Columbia of the lands of the railway belt and the Peace River Block.” (Appendix I, Exhibit No. 7B.)

The then Prime Minister a few days later (January 31, 1928) told the House of Commons that the provincial delegates from the Western Provinces, and from Ontario and Quebec, had been at one with the federal government with respect to



continuance of the interim payments to the Maritime Provinces; and on the other hand, that the delegates from the Maritime Provinces, and from Ontario and Quebec, had felt that the federal government might take a generous attitude toward the Western Provinces, and in particular that it might consider returning the natural resources as well as continuing payment of the subsidies in lieu of land.

(Mr. Mackenzie King):—

“We were pleased to find that without exception the premiers of the provinces of Quebec, Ontario, and of the western provinces, the premiers of all the provinces, were at one with the federal administration in having adopted the course which we did adopt in voting the grants which were made last session to the maritime provinces, and in saying that so far as their provinces were concerned they were only too happy that the maritimes should continue to be treated in like manner until at least the accounting which is asked for by the Duncan report had been completed.” . . . . Similarly in regard to the western provinces, we found, on the part of our friends from the maritimes, the premiers from Nova Scotia, New Brunswick and Prince Edward Island, and also on the part of the premiers of Quebec and Ontario, a distinct willingness to have the federal government, in the matter of dealing with the prairie provinces, take what may be described as a generous attitude in so far as that was consistent with financial considerations of which the federal government has to take account. They seemed to feel that the government might well consider what, in arranging for the transfer of their resources to the prairie provinces, has been one of the main difficulties up to the present time, namely, the advisability of continuing, along with the return of the lands, the subsidies which up to the present time, had been paid in lieu of the lands. The moment that attitude on the part of the other provinces became apparent to the administration, we found we were in a position to negotiate with the prairie provinces on a basis much more satisfactory than had existed before we had received that general expression of view on the part of the other provinces of Canada.” (Appendix I, Exhibit No. 7C.)

Thereafter, negotiations with the Western Provinces about their natural resources were carried on, and more than two years later the then Prime Minister, in discussing the bill respecting the transfer of the natural resources of Alberta (parallel bills for Saskatchewan and Manitoba had been presented to Parliament), explicitly connected settlements of the natural resources question with the award of the Duncan Commission. His statement was as follows:—

“The Maritime claims investigation took place in 1926, and the Dominion-provincial conference was held in 1927. It is necessary to refer to that conference because in my opinion it was an essential step towards the ultimate solution of this question. When the conference met there was before its members the record of what had been done by the government with respect to the appointment of the royal commission on maritime claims and its recommendation as to action which should be taken by the government as to voting additional subsidies to the maritime provinces. Before that conference there was also the position of the western provinces in the matter of their claim to the return of their resources. The western provinces had asserted that the time had come not merely when they should be given back their resources but that they should be permitted to receive as well the subsidies which at the outset had been given in lieu of resources. The situations of both the maritime and the western provinces were as a consequence considered at that conference, and the attitude towards the western provinces taken by those representing the maritime provinces and the provinces of Ontario and Quebec was that the Dominion government in dealing with these western provinces should do so in a generous and liberal manner. *That was the treatment accorded western Canada by the eastern part of Canada in return for the attitude the western provinces through its representatives in this parliament had taken in regard to the maritime situation.* There was cordial reciprocation. As a consequence the government felt that it was free

to reopen negotiations with the western provinces on a basis more liberal than it had theretofore found possible to adopt. When the next conference was held with the western provinces the government kept in mind the attitude of the Dominion-provincial conference and to a considerable degree governed itself accordingly." (Appendix I, Exhibit No. 7D.)

It is, therefore, an error for the Maritime Provinces to argue that the natural resources settlements entitle them to awards beyond those growing out of the Duncan Report. The sequence was the reverse, and if the Maritime Provinces are given larger subsidies because of the natural resources settlements, the Prairie Provinces may ask for larger subsidies as a result of such an award.

#### (4) CONTENTIONS OF THE MARITIME PROVINCES IN REGARD TO SCHOOL LANDS IN THE PRAIRIE PROVINCES

Contentions of Mar. Prov. in regard to school lands in Prairie Provinces.

While none of the Maritime Provinces in their submissions to the present Commission have made claims for any specific amount of subsidy from the Dominion Government based on the policy of the Dominion in regard to school lands in the Prairie Provinces and the North West Territories, all of the Maritime Provinces in their briefs (P.E.I. brief, pages 10-12, N.B. brief, page 12) have called attention to the question of school lands and have claimed to be entitled to consideration in the matter of subsidies in view of the treatment accorded the Prairie Provinces in respect of school lands and the benefits of education in the Prairie Provinces resulting therefrom.

The province of Nova Scotia in its submission to His Majesty's Privy Council for Canada of August last claimed "a credit as against the Dominion equivalent on a per capita calculation to that extended to Manitoba, Alberta and Saskatchewan on account of school lands". The submission to the Privy Council is recited in full, including the above mentioned claim, in the opening part of the brief of the province of Nova Scotia (N.S. brief, page 239) but in its summary of claims that province does not include any specific amount in respect of this matter, doubtless because such a claim would be inconsistent with or overlap the claim made for a subsidy under the heading "Land Claims" (N.S. brief, page 303).

Resumé of history of "school lands".

The history of "school lands" in the Prairie Provinces and the North West Territories is briefly as follows:—

1872. Reservation of lands in Man. and N.W.T. for endowment of education.

By the Dominion Lands Act of 1872 and its amendments, it was provided that Sections 11 and 29 in each surveyed township throughout the Dominion—lands should be set apart as an endowment for the purposes of education—and be designated "school lands," and that all moneys from time to time realized from the sale of such school lands should be invested in Dominion securities to form a school fund, and the interest arising from such fund, after deducting the cost of management, should be paid annually to the government of the province or territory within which such lands are situate towards the support of public schools therein.

1905. "School land" policy applied to Alta. and Sask.

At the outset the interest on the school fund was used for the benefit of schools in Manitoba (as regards the interest on the funds arising from sales of school lands within the limits of that province) and for schools in the North West Territories (as regards the interest on school funds arising from sales of school lands in those territories). When the provinces of Alberta and Saskatchewan were established, they became entitled to the benefits of the school funds arising and to arise from sales of crown lands within their respective territorial limits.

1930.  
Transfer of  
school land  
funds to  
Prairie  
Provinces.

In 1930 when the natural resources of the Prairie Provinces were transferred to them, the Dominion transferred to each province the money or securities constituting that portion of the school funds which were derived from the disposition of any school lands within that province, or within those parts of the territories then included within the boundaries of the province, and it was provided that the school lands fund so transferred, and such of the school lands as passed to the administration of each province, should be set aside and should continue to be administered by that province in accordance *mutatis mutandis* with the provisions of the Dominion Lands Act for the support of schools organized and carried on therein in accordance with the laws of the province.

Claims of  
Maritime  
Provinces  
in respect  
of "school  
lands" un-  
founded.

It is submitted that the Maritime Provinces can have no valid claims for subsidies or money grants from the Dominion by reason of the policies adopted by the Dominion in respect of school lands. In so far as an attempt is made by the Maritime Provinces to base such a claim on an alleged proprietary interest, it is submitted that the claim is without foundation for the reasons set out in section (2) of this Division VI, in which it is demonstrated that the Maritime Provinces as provinces have no proprietary interest in any of the assets reserved to the administration and control of the Dominion. The same reasoning applies equally to the claim for an alleged proprietary interest in the school lands.

The Maritime Provinces further claim that the Prairie Provinces, as a result of the school lands policy, have available to them for the purposes of education more revenues than are available to the Maritime Provinces for the same purposes, but the comparison is hardly proper under the circumstances. The fund for the endowment of education in the Prairie Provinces consisted of the proceeds of a class of assets which in all the other provinces of Canada were reserved to the provinces themselves. The Dominion of Canada in establishing the three new provinces and handing over to their respective governments the functions of administering the affairs of these new and unorganized provinces withheld from their administration and beneficial use their natural resources, in spite of the fact that each of the other provinces of Canada which had similar natural resources within its boundaries had on its entry into the Union retained such assets and the beneficial use thereof.

At the same time, however, the Dominion set apart for the purposes of education in these provinces a small portion of this class of assets. In short, the Dominion upon the establishment of the Prairie Provinces set aside for the purposes of education in those provinces a small part of what normally would have been the provinces' own assets.

If the Dominion upon the establishment of the Prairie Provinces, instead of withholding their natural resources, had permitted the Prairie Provinces to have the control and beneficial use of those assets, and the Prairie Provinces had adopted a similar policy in regard to setting aside lands as an endowment to education, the Maritime Provinces could have had no claim for consideration by reason of the fact that such a policy had conferred greater benefits upon education in the Prairie Provinces than had resulted from the policies adopted in the Maritime Provinces.

It should be borne in mind that as the Maritime Provinces had the control of their own natural resources and other provincial assets, they, if they had seen fit, could have set aside an appropriate part of these assets as an endowment for

education. In other words, they could have taken the steps in regard to their own assets which the Dominion took in regard to the assets which in normal circumstances would have been assets of the Prairie Provinces.

The requirements and difficulties of education in the Prairie Provinces, in a comparatively unorganized and extensive territory with a vast increasing population and a large percentage of inhabitants who were and are either foreign born or of foreign derivation, are obviously greater than in the older settled provinces which came into Confederation with established governments, and established educational systems and whose populations have not increased as rapidly as those of the Prairie Provinces.

It is therefore submitted that the Maritime Provinces can have no grounds to ask for special consideration by way of subsidies by reason of the fact that the administration by the Dominion of a certain part of the assets, which would normally have been reserved for the beneficial use of the Prairie Provinces, has resulted favourably to the latter provinces.

(5) SPECIAL CLAIM OF PRINCE EDWARD ISLAND AS "THE ONLY LANDLESS PROVINCE".

This special claim of the province of Prince Edward Island is set out on pages 13 to 17 of its printed brief. The Duncan Commission considered this claim and commented as follows:—

"The claim is, of course, a very belated one, but it is advanced, as we understand it, on very broad equitable grounds rather than upon strict contract. We think it must be looked at in the general financial revision or readjustment which we are suggesting for the Maritime Provinces."

It will be noted that the Duncan Commission does not seem to have been impressed by this claim and made no recommendation other than that it should be looked at. The Dominion submits that a careful examination of this claim establishes that it is not admissible.

1873.  
Claim  
settled and  
discharged.

The claim is one which was settled and discharged at the time of the entry of Prince Edward Island into the Union in 1873. At that time Prince Edward Island put forward a claim based on its lack of public lands, such lack resulting from the fact that in 1767 the Imperial Government by an Order in Council of the 26th August of that year, had granted most of the unconceded lands of the Island to individual proprietors. (Appendix I, Exhibit No. 8.) It will be noted that this claim is based on a condition existing prior to the entry of Prince Edward Island into the Union and which in fact had existed for upwards of one hundred years prior to that time. None of the original four provinces upon entry into the Union had received any consideration for alienations of its public lands or other natural resources prior to its entry. Prince Edward Island, however, throughout the years leading up to its entry into Confederation had made claims for special consideration arising out of the fact that its public lands had been previously disposed of. Prolonged negotiations ensued upon this subject, and as a result of these negotiations Prince Edward Island was given exceptional treatment in this regard in that it was made a grant of \$45,000.00 per annum, less interest at five per cent per annum upon any sum not exceeding \$800,000.00 which the Dominion Government might advance to the Prince Edward Island Government for the purchase of lands held by large proprietors. This provision appears in the schedule to the Imperial Order in Council of the 26th June, 1873, admitting Prince Edward Island to the Union and reads as follows:—

Special con-  
sideration  
to P.E.I. in  
regard to  
lands on  
entering  
Union.

“That as the Government of Prince Edward Island holds no lands from the Crown, and consequently enjoys no revenue from that source for the construction and maintenance of local works, the Dominion Government shall pay by half-yearly instalments, in advance, to the Government of Prince Edward Island, forty-five thousand dollars per annum, less interest at five per centum per annum, upon any sum not exceeding eight hundred thousand dollars which the Dominion Government may advance to the Prince Edward Island Government for the purchase of lands now held by large proprietors.”

It will be seen, therefore, that Prince Edward Island's claim for special consideration in regard to its lack of public lands was made the subject of a special agreement between that colony and the Dominion and was fully satisfied and discharged at the time of the province's entry into the Union. Agreements of this nature formally and expressly entered into should not be disregarded or disturbed.

Prince Edward Island availed itself of its right to obtain advances for the purchase of lands and practically the whole of the sum of \$800,000 was advanced to it, namely, \$782,402. Consequently, the subsidy of \$45,000 per annum was reduced by an amount equal to five per cent upon the amount advanced by the Dominion for the purchase of lands. The province therefore cannot complain of the diminution of the subsidy of \$45,000. It has received the capital of which this diminution represents the interest, the whole in accordance with the agreement arrived at in this regard at the outset. With that capital it purchased the lands of the large proprietors and resold them to the tenants. In other words, it reacquired a large part of its public lands and disposed of them. In this respect the province of Prince Edward Island is in the same position in regard to public lands disposed of by it as is any other province in respect of public lands which it has alienated.

Comparison between P.E.I. and Prairie Provinces in respect of lands not admissible.

The comparison suggested by Prince Edward Island in its brief, between its position and that of the Prairie Provinces in regard to natural resources, is fallacious. The lack by Prince Edward Island of public lands is due to acts of the Imperial Government or of the province itself prior to Confederation, or to the alienations made after Confederation by the province itself after it had recovered part of the lands alienated. On the other hand, the Prairie Provinces were deprived of their natural resources at the time of their entry into Confederation by the act of the Dominion itself. The Prairie Provinces accordingly had reasonable grounds to look to the Dominion for compensation for a condition resulting from the Dominion's own acts. The province of Prince Edward Island at the outset claimed compensation for a condition resulting from causes arising long prior to the existence of the Dominion or of that province as a province, and received exceptional treatment in this regard, and its claim was fully satisfied and discharged. It should be borne in mind in this regard also, that Prince Edward Island since its entry into the Union has received two additional special grants of subsidies, namely, that in 1887 of \$20,000 per annum and that in 1912 of \$100,000 per annum.

1887 and 1912. Additional special grants to P.E.I.

Comparative table, p. 15 P.E.I. brief, not admissible.

The comparison suggested on page 15 of the Prince Edward Island brief between the subsidies received by Prince Edward Island in regard to public lands and those received by Manitoba is based on incorrect premises, firstly, because as stated above the situation of these two provinces in regard to their public lands is not comparable, Manitoba having been deprived of its natural resources by the act of the Dominion while Prince Edward Island entered the Union without public lands and was assisted financially by the Dominion to recover those parts held by absentee proprietors, and secondly, because no consideration is given to the great difference in acreage of the lands concerned in each province.

Even, however, if such comparison between these two provinces in this regard were appropriate, the tabulation in question would not properly represent the situation, particularly in the following respects:—

(a) From the year 1876 onward, this table shows as subsidies received in respect of lands by Prince Edward Island in each period, the amount received after deduction of the interest for that period on the capital advanced up to that time by the Dominion for the purchase of lands. In other words, it does not take into account the amounts of capital drawn down by Prince Edward Island from the credit of \$800,000 made available by the Dominion;

The amounts credited to Manitoba are the items mentioned in (b), (c), (d) below and are improperly credited because they are not subsidies in lieu of lands.

(b) The item of \$3,169,856.66 charged to Manitoba as of the year 1885 includes \$2,769,856.66, which consists of the proceeds of sales by Manitoba from that part of its own swamp lands which were restored to it by the Dominion between 1885 and 1912 and, \$300,000, the estimated value of that part of Manitoba's own lands transferred to Manitoba as an endowment for a university;

(c) The item "school lands to 1929" \$6,543,351.13, apparently represents interest on the fund created from the proceeds of sales of the school lands which normally would have been subject to the control and beneficial use of Manitoba;

(d) The item "Cash payment in 1930, \$4,584,212.49" represents a valuation placed by the Turgeon Commission on part of the net loss to Manitoba resulting from the fact that its natural resources had been withheld by the Dominion.

No loss to  
P.E.I. on  
land  
account.

In its brief Prince Edward Island claims to have suffered a loss of about \$200,000 on its land account (P.E.I. brief p. 20). Its schedule N as amended purports to show this loss as \$233,361, but it fails to credit as receipts the sum of \$782,402 received from the Dominion.

If the last mentioned amount is taken into account the net loss is turned into a profit of \$549,041. (Appendix I, Exhibit No. 9.)

Prince Edward Island obtained its land by purchase and thus ate into its credit of \$800,000, granted by the Dominion for that purpose. Consequently, it received an asset in the form of land and if it got meagre financial results therefrom, that should not be a basis for a further claim against the Dominion. This may have been due to a variety of causes, including faulty administration.

## DIVISION VII

CONTENTIONS OF MARITIME PROVINCES FOUNDED ON ALLEGED  
ACCESSIONS OF TERRITORY TO ONTARIO AND QUEBEC

## (1) THE CONTENTIONS OF THE MARITIME PROVINCES

(a) *Nova Scotia's contentions*N.S. con-  
tentions.

Nova Scotia's contentions in regard to this matter are to be found on pages 295 to 298 inclusive, and page 304 of its brief. It is the only one of the Maritime Provinces which makes a specific claim in this regard, and it will be noted that on pages 298 and 304 of its brief it makes a specific claim for an annual subsidy of \$1,422,061.95 to Nova Scotia in respect of alleged accessions of territory to Ontario and Quebec. On page 298 it also suggests that it is entitled to compensation on a retroactive basis as from 1912, its contention being that on this basis it would be entitled to compound the amount of the above subsidy semi-annually at five per cent for twenty-three years, which would amount to \$60,120,539.96. An annual subsidy based on this compounded figure would be \$3,006,027 per annum.

(b) *New Brunswick's contentions*N.B. con-  
tentions.

New Brunswick's contentions in regard to alleged accessions of territory to Ontario and Quebec are to be found on pages 13 and 14 of its printed brief and page 9 of its printed supplementary brief. New Brunswick makes no specific claim, but makes a general claim to "participate in the benefits accruing from Canada's land values" and that the land grants to Ontario and Quebec "should be taken into consideration when readjusting the financial arrangements between it and the Dominion."

(c) *Prince Edward's Island's contentions*P.E.I. con-  
tentions.

Prince Edward Island's contentions in regard to alleged accessions of territory to Ontario and Quebec are to be found on pages 10, 11, 12 and 13 of its printed brief. Prince Edward Island makes no specific claim in regard to the accessions to Ontario and Quebec, but states that it objects to these accessions being made "without regard to the rights of the Maritimes and without making corresponding provision for the Maritimes", and asks for a money grant equalizing as nearly as possible the full proportion received by the other provinces by means of such accessions.

(d) *Contentions of Maritimes based on alleged proprietary interest in accessions to Ontario and Quebec*Alleged  
"proprietary  
interest" of  
Maritimes in  
Ontario and  
Quebec.

It will be noted from the contentions put forward by each of the provinces that these are based, either expressly or impliedly, on an alleged "proprietary interest" of the Maritime Provinces in the additional territories granted to Ontario and Quebec. The Dominion, in dealing with the claims of the Maritime Provinces relating to the natural resources of the Prairie Provinces has given the reasons why the theory of "proprietary interest" is inadmissible (Division VI, section (2) of this brief). Those reasons apply with equal force to the contentions based on that theory in regard to the alleged accessions of territory to Ontario and Quebec, and it is not necessary to repeat them at this point.

Boundary determinations—1889 Ont. and 1898 Que. N.S. contentions regarding 1889 and 1898 statutes. 1889 and 1898 stats. determine existing boundaries. The (Canada) Ontario Boundary Act, 1889.

(e) *The boundary determinations of 1889 Ontario and 1898 Quebec.*

The province of Nova Scotia in its brief treats as boundary extensions the effects of the Imperial Statute of 1889 (52-53 Vict., Ch. 28) "The (Canada) Ontario Boundary Act, 1889", and the effects of the Dominion Statute of 1898 relating to the boundaries of Quebec.

Such contentions are not correct. The effect of those two Statutes is to determine or define certain boundaries of the two provinces which up to that time had been in dispute or in doubt. Accordingly, the effect of the Acts was to declare what the boundaries of these two provinces were and had been since Confederation.

This proposition is abundantly clear from the terms of the Imperial Statute of 1889 relating to Ontario. Section 2 of that Act reads:—

"It is hereby declared that the westerly, northerly and easterly boundaries of the Province of Ontario are those described in the address set forth in the schedule to this Act."

The Act, in so far as it relates to the boundaries between Manitoba and Ontario, was passed as a result of an award of arbitrators of the 3rd August, 1878 (Appendix I, Exhibit No. 10) and of a judgment of the Judicial Committee of the Privy Council of the 22nd July, 1884, embodied in an Imperial Order in Council of the 11th August, 1884. (Appendix I, Exhibit No. 11.) In so far as concerns the boundaries between Ontario and Quebec, the Statute shows that those are identical with those fixed by the Proclamation of November, 1791. (Appendix I, Exhibit No. 12.) It is quite clear, therefore, from the terms of the Imperial Statute itself, that the effect of that Statute was to determine and declare boundaries which had hitherto been in dispute or in doubt. It will be noted that the northern boundary of the province of Ontario as determined by the Imperial Statute of 1889 coincides with the Albany River and the English River. (Appendix II, Map No. 1.)

1898. Quebec Boundary Act.

The phrasing of the Dominion Act of 1898 (61 Vict., Ch. 43) itself, relating to boundaries of the province of Quebec, is not as clear in this respect as that of the Imperial Statute relating to Ontario, in as much as the preamble of the 1898 Statute refers to the provisions of The British North America Act of 1871, by which Parliament may, with the consent of the Legislature of any province, diminish or otherwise alter the limits of such province. It will be observed, however, that the enacting portion of the Statute of 1898 is declaratory in its terms. The first clause of section 1 reads as follows:—

"1. The northwestern, northern and northeastern boundaries of the Province of Quebec are hereby declared to be the following:— . . . ."

It is clear from the history of the question of those boundaries that the enactment of the Statute was a result of disputes or doubts which had existed prior to that time and which dated far back into the period of the French regime and to the disputes between France and the Hudson's Bay Company as to the location of the ill-defined boundaries between their respective domains.

1886. Report of Select Committee on Quebec boundary.

A Select Committee appointed by the Legislative Assembly of the province of Quebec "to consider the question of the northern and northwestern limits of the Province of Quebec and the necessary measures to be taken in order that those limits do include the territories to which it is entitled, by establishing and defining such rights" issued a report dated the 14th June, 1886, which is to be found in the Journal of the Legislative Assembly, Quebec, 1886, Volume XX, App. No. 4. A copy of that report is filed as an exhibit herewith (Appendix I, Exhibit No. 13).



The report of the Select Committee contains a resumé of the various Statutes, Proclamations and other documents having a bearing on the question and gives the considerations which led to the conclusions adopted by the Committee. The Committee arrived at the conclusion that the northern boundary of the province extended near Hudson's Bay to the 52nd degree of latitude. The 52nd degree of latitude is at a very short distance to the south of the East Main River, and the Committee recommended that by settling the boundary as running along the East Main River the difficulties which arise from an astronomical line might be obviated. It will be observed from the Statute of 1898 that this is the course which was adopted, in as much as the northern boundary is declared by that Statute to run along the East Main River (Appendix II, Map No. 1). It is suggested that the probable reason for the reference in the Statute of 1898 to The British North America Act of 1871 is the fact that the boundaries declared by that Statute included a small extent of land (namely, the stretch between the 52nd parallel and the East Main River), which was outside the territory to which Quebec claimed indisputable title. It is submitted therefore that with the exception of this small strip there was no accession of territory to the province of Quebec as a result of the Statute of 1898. Certain data which shows that Quebec was not increased in area by the Statute of 1898 is contained in a memorandum prepared by F. S. Nash of the Topographical Survey of Canada dated October 15th, 1934 (Appendix I, Exhibit No. 14).

N.B. admissions in regard to 1889 and 1898 stats. P.E.I.'s contentions.

The province of New Brunswick in its brief (p. 13) concedes that the Statutes of 1889 and 1898 above referred to were the results of boundary disputes.

The province of Prince Edward Island's printed brief, submitted to the present Commission, does not refer specifically to the Statutes of 1889 and 1898 in regard to the boundaries of Ontario and Quebec respectively, but that province, as stated above, adopts the facts and arguments set out in certain portions of the 1926 Nova Scotia submission (N.S. 1926 submission, pages 112 and 113), which parts include the contentions that the Statutes of 1889 and 1898 effect accessions of territory. These contentions have already been considered in dealing with Nova Scotia's contentions in this regard in that province's brief to the present Commission and it is not necessary to deal with them again.

## (2) ACCESSIONS OF TERRITORY TO ONTARIO AND QUEBEC IN 1912.

1912. Accessions of territory to Ontario and Quebec. 1912. The Ont. Boundaries Extension Act and The Que. Boundaries Extension Act.

The Dominion Statutes, The Ontario Boundaries Extension Act, 2 Geo. V, Ch. 40 (1912) and The Quebec Boundaries Extension Act, 2 Geo. V, Ch. 45 (1912) did extend the territories of Ontario and Quebec. It will be noted in this connection that the phrasing of these two Statutes is quite different from that of the Statutes of 1889 and 1898 referred to above. Section 2 of The Ontario Boundaries Extension Act (1912) provides that the limits of the province of Ontario "are hereby increased so that the boundaries thereof shall include, in addition to the present territory of the said Province, the territory bounded and described as follows:— . . .". The opening phrase of section 2 of The Quebec Boundaries Extension Act (1912) is in similar terms.

The territory which The Quebec Boundaries Extension Act (1912) purported to add to Quebec was however decreased to a considerable extent by the decision of the Judicial Committee of the Privy Council in the Labrador Boundary case in 1927.

No claims  
admissible  
if terri-  
tories had  
been formed  
into new  
provinces.

It is difficult to follow the contentions of the Maritime Provinces in support of their claims to additional subsidies as a result of these accessions of territory. If instead of placing these territories under the administration and control of Ontario and Quebec respectively the Dominion had determined to form one or more new provinces and had been able to persuade any group or groups of citizens to undertake the government of such new provinces, it is difficult to see how any other province of Canada could have successfully prosecuted claims for additional subsidies arising out of such circumstances. Consequently, it is equally difficult to accept claims of this nature based on the fact that these territories have been placed under the administration and control of two of the existing provinces.

No fiscal  
gain to Ont.  
and Que.  
from new  
Ontario.

It might be implied from the contentions of the Maritime Provinces in regard to these new territories that their accessions to the provinces of Ontario and Quebec respectively had resulted in substantial fiscal benefits to those two provinces. Such, however, is not the case, as the expenditures of Ontario applicable to its new territory during the period since its acquisition have far exceeded the revenues derived therefrom, and the average annual surplus of revenue over expenditure in respect of the new territory added to Quebec have been insignificant.

The expenditures made by the province of Ontario since 1912 in the added territory (which is known as the Patricia portion of the district of Kenora) amount to \$1,530,461.87, whereas the revenues obtained since that year amount to only \$413,754.66. The above expenditures do not include \$711,643.08, expenditures on two generating plants on the English River, on the extreme southerly edge of the added territory. Nor do they include the gross revenues of \$251,027.92 from such hydro-electric development out of which, however, must be deducted operating costs, depreciation, overhead expenses and other charges against gross revenues. (Appendix I, Exhibit No. 15.)

The expenditures and revenues of the province of Quebec since 1912 in respect of New Quebec (that is, the territory added to that province in 1912), including expenditures for the territory of Ashuanipi, which was that part of New Quebec awarded to Newfoundland by the decision of the Privy Council, are as follows:—

Expenditures, District of Ungava . . . . .	\$ 84,253 12
Expenditures, Territory of Ashuanipi, prior to decision of Judicial Committee of Privy Council awarding this territory to Newfoundland . . . . .	145,610 00
	<hr/>
	\$229,863 12
	<hr/>
Revenues, as per Schedule D of Exhibit No. 16 . . . . .	\$ 47,140 00
Revenues from furs, as per Exhibit No. 16 . . . . .	329,338 00
	<hr/>
	\$376,478 00
	<hr/>
Excess of Revenues over Expenditures . . . . .	\$146,614 88
	<hr/>

(Appendix I, Exhibit No. 16.)

It will be seen, therefore, that the average net annual revenues to the province of Quebec in respect of this territory for the twenty-two years elapsing since 1912 amount to \$6,644.31.

N.S. and N.B. contentions in respect of great value of 1912 additions.

Nova Scotia and New Brunswick have alleged that these territories are of great actual and potential value, and Nova Scotia has attempted to place a minimum value of \$1.00 per acre thereon (N.S. brief pages 295 to 298, N.B. brief p. 13). All such estimates, however, are highly conjectural, as very little is known of the resources of these two territories. The greater part of each territory is unexplored except along the principal rivers located therein.

Population.

The population of the two territories as reported by the Dominion Bureau of Statistics is small. The total population of the Patricia district in 1931 was 3,973, made up as follows:—

Indians . . . . .	3,303
Others . . . . .	670
	3,973
Total . . . . .	3,973

The total population of the New Quebec district in 1931 was 2,177, made up as follows:—

Indians and Eskimos . . . . .	2,084
Others . . . . .	93
	2,177
Total . . . . .	2,177

(Appendix I, Exhibit No. 17.)

Neither district is served by any railway and the only access from the sea would be through Hudson's Bay and James Bay during the limited periods in which they are available for navigation.

The whole of New Quebec is north of the actual northern limit of commercial forest and part of that territory is treeless. (Appendix II, Map No. 7.)

Forests.

The greater part of the district of Patricia is north of the northern limit of commercial forest. (Appendix II, Map No. 7.)

A report received from the Director of Forestry of the Department of the Interior shows that there has been nothing to indicate, in the information so far obtained in regard to the Patricia district, that forest industry on an extensive scale can be expected in that district, and that generally for New Quebec it may be said that the timber content is very low and that there are no reasons whatsoever for believing that large scale forest industries will ever find footing in the country. (Appendix I, Exhibit No. 18.) (Appendix II, Map No. 8.)

Agriculture.

The whole of the district of New Quebec is north of the climatic limit for growing wheat and the greater part of that district is north of the climatic limit for growing potatoes and vegetables (Appendix II, Map No. 7.)

Approximately one-half of the district of Patricia is north of the climatic limit for growing wheat, but all of that district is south of the climatic limit for growing potatoes, roots and vegetables. It will be noted that these are climatic limits and therefore do not make reference to the other requisites for such types of agriculture, notably the condition of the soil. H. N. Awrey, Treaty Payment Officer of the Department of Indian Affairs, who makes annual trips into this territory as an official of that department, states that from his observations he

Furs. has come to the conclusion that the district of Patricia as an agricultural centre will never prove a success. His reasons for this conclusion are given in a letter written by him on the subject on December 6th, 1934 (Appendix I, Exhibit No. 19, and Appendix II, Map No. 9). It will be noted also that Mr. Awrey does not consider the district of Patricia a great fishing or fur bearing centre, and the small revenue shown by the Department of Game and Fisheries of the province of Ontario for the past fifteen years confirm this conclusion (Appendix I, Exhibit 15).

Water powers. The Dominion Water Power and Hydrometric Bureau reports the existence of a certain number of undeveloped water powers in the district of New Quebec and the district of Patricia, but only two water powers have been developed, namely, the Ear Falls, and the Rat Rapids stations belonging to the Hydro-Electric Power Commission of Ontario, both of which are on the English River, that is on the south border of the Patricia district. (Appendix I, Exhibit No. 20, and Appendix II, Map No. 10.) It will be noted from this exhibit that the estimates of power on practically all the rivers in these two districts are tentative only, in view of the remoteness of the territory from ready means of transportation and the scanty nature of the investigations which it has been feasible to make.

Minerals. In the Patricia district, mineral deposits, including gold, have been found, but so far the only mine producing on a commercial basis, is the Howie Gold Mine at Red Lake, although a report submitted by Dr. D. L. Tanton of the Department of Mines of Canada, shows that some gold was produced in 1934 from three other mines and that it is probable that some of the gold prospects will develop into producing mines. (Appendix I, Exhibit No. 21.)

In New Quebec there are no mines, but the territory has not been sufficiently explored to permit estimating its mineral resources. (Appendix I, Exhibit No. 22).

It will be seen, therefore, that very little is known as to the resources of the Patricia district and New Quebec, and that what is known so far does not indicate any substantial commercial or fiscal value. It is repeated however that the question of the actual or potential values of these territories has no bearing upon the matter of financial arrangements between the Dominion Government and the Governments of any of the provinces. The data given above as to what is known of the natural resources of these territories is submitted for the purpose of showing that the contentions in that regard made by certain of the Maritime Provinces are conjectural and unfounded on the facts.

It is clear for the numerous reasons contained in this Division VII that the Maritime Provinces are not entitled to found any claim for increased subsidies by reason of the accessions of territory to Ontario and Quebec.

DIVISION VIII  
DEBT ALLOWANCES

The claims as presented by Prince Edward Island, Nova Scotia and New Brunswick differ as to the principle invoked and the basis upon which they are made.

(A) PRINCE EDWARD ISLAND CLAIM

Prince  
Edward  
Island  
claim.

P.E.I. Brief of November, 1934 (pp. 10 and 11 of the original brief); pp. 150, 151, and 152 of the Record; p. 8 of the printed copy and schedule H pages 189-90-91 of the Record; p. 24 of the printed copy.

The province alleges that its debt at the time of its entry into Confederation, in respect of railways, was \$3,250,000, which was charged to the province against its debt allowance; that the Dominion, after the year 1882, constructed branch lines for the Western Provinces, designed to serve the provinces primarily, therefore, Prince Edward Island should receive credit for this \$3,250,000 and be paid the interest annually, namely \$162,500, with retroactive adjustments as from the year 1882, viz. \$8,450,000 less credits for \$20,000 per annum, or \$7,490,000.

If this claim is a valid one, and is also applicable to the other Maritime Provinces, the amount involved would be:—

*Nova Scotia—*

If based on \$9,000,000 claimed under Joint Submission Aug. 1/34, p. 48 of the Record, at 5 per cent.	\$450,000	
Payments since 1882—52 years. . . . .		\$23,400,000

*New Brunswick—*

If based on \$5,000,000 claimed under N.B. printed Brief p. 19, at 5 per cent. . . . .	250,000	
Payments since 1882—52 years. . . . .		13,000,000

*Prince Edward Island—*

Schedule H—5 per cent on \$3,250,000. . . . .	162,500	
Payments since 1882—52 years less credits. . . . .		7,490,000
	\$862,500	\$43,890,000

Total Cash Payments. . . . .	\$43,890,000
Total Annual Payments. . . . .	862,500

Prince Edward Island entered Confederation July 1st, 1873, with a debt allowance of \$4,701,050 which, based on its population by the census of 1871 (94,021), was \$50 per head.

The debt allowance of the other provinces based on the census of 1861, after giving effect to the increase of 36 Vict., Ch. 30, S. 1 (1873) was respectively:—

<i>Population</i>		
Ontario and Quebec. . . . .	\$73,006,088 (2,507,657)—	\$29.11 per head
Nova Scotia. . . . .	10,536,956 ( 330,857)—	32.43 " "
New Brunswick. . . . .	8,176,680 ( 252,047)—	32.43 " "

For Prince Edward Island the census of 1871 was used. If we use the same census for all of the other provinces their allowances were:—

<i>Population</i>	
Ontario and Quebec . . . . .	\$73,006,088 (2,812,367)—\$26.00 per head
Nova Scotia . . . . .	10,536,956 ( 387,800)— 27.20 " "
New Brunswick . . . . .	8,176,680 ( 285,594)— 32.20 " "

If the allowance had been made to Prince Edward Island on the census of 1861, as was used for the other provinces mentioned, its allowance per head of its then population (80,552) would have been \$58.36 per head.

#### PRINCE EDWARD ISLAND RAILWAY

Prince  
Edward  
Island  
Railway.

The construction of this line was proceeding at the time of the entry of the province into Confederation. The cost was estimated by the Executive Council January 2, 1873, at \$3,250,000. At the time of Confederation there was outstanding a total of \$1,324,606.54 in debentures of the province issued for railway construction and land damage. (Journals P.E.I. 1874, Appendix "K," pp. 1, 2, 3, 21, 22, 23; Table A; Report of Special Committee p. 114.)

The Dominion proceeded at once with the completion of the road and from July 1, 1873, to December 31, expended \$609,140.67 which was charged to the debt account of Prince Edward Island as was also so charged the amount of the debentures.

The road was first opened for traffic on the 12th May, 1875.

The total investment prior to Confederation is given in the Dominion accounts as \$3,114,735.11. (Statement, Appendix No. 1, Exhibit No. 58.)

This total of \$3,114,735.11 includes the province debentures and the expenditures of the Dominion subsequent to Confederation charged to debt account of the province. Further expenditures for land damages appear to have been charged to the debt account to the extent of \$38,904.98, in 1878 and 1882. The total cost of the road expended by or charged to Prince Edward Island would appear to have been \$3,153,640.09 as compared with an estimate of \$3,250,000.

Dom.  
Expendi-  
ture.

The total capital expenditure for this railway, including that charged to the province, has been to December 31, 1932—\$15,557,751.96, and the Dominion has therefore expended \$12,404,111.87 over and above the amount charged to the province.

This does not include expenditures by the Dominion with reference to ferry, hotels and equipment (on mileage basis) of \$5,418,194.12 mentioned in the Statement—(Appendix No. 1, Exhibit No. 58.)

From the first the working expenses of the Prince Edward Island Railway have invariably been far in excess of the revenue received. The total operating deficit, or the excess of working expenses over revenue, has amounted to June 30, 1919, to a total sum of \$5,248,067. (Statement, Appendix No. 1, Exhibit No. 58.)

Since June 30, 1919, the revenues and operating expenses have not been kept distinct from those of the Canadian National Railways as a whole.

Policy of  
subsidies  
not  
applicable.

It is submitted, with reference to the claim of Prince Edward Island, that the policy of the Dominion of granting subsidies for the construction of railways was not applicable to that province, as there were no private companies constructing lines of railway in its territory.

The Dominion did carry out extensions, as required, to the railway system at its own cost instead of by means of subsidies.

The mileage of approximately one hundred and ninety-eight miles, under contract when that province entered Confederation, has been increased to two hundred and eighty-six miles of single track in 1933. (Statistics of Steam Railways of Canada, 1933.)

Other details as to the expenditures of the Dominion on car ferry and terminals appear in Annual Report, Railways and Canals, 1932-33, p. 48.

It is submitted that, taking into consideration the population and extent of territory to be served, the expenditure on railway facilities in Prince Edward Island by the Dominion since 1882 compares favourably with the expenditure in the West by the Dominion, where a larger territory had to be opened up and developed.

Harbours  
and Rivers  
Maritimes.

It must be remembered also that in the Western Provinces the Dominion was not called upon to make extensive outlays on Harbours and Rivers in connection with which it has expended in the Maritime Provinces from Confederation to the year 1932-33, \$24,625,690.23 for Dredging and \$41,225,197.15 for Construction and Repairs, or a total of \$65,850,887.38. (Appendix No. 1, Exhibit No. 59.) Of this total outlay on Harbours and Rivers, \$5,110,658.45 was in Prince Edward Island; \$25,465,547.82 was in Nova Scotia, and \$35,274,681.11 was in New Brunswick.

This expenditure of \$65,850,887.38 was 24.7 per cent of the total \$255,414,108.42 for all Canada. It must be remembered that in 1871 the Maritime Provinces contained 20.82 per cent of the total population and in 1931 only 9.72 per cent. Further the Dominion has expended on railway operation in the Maritime Provinces, since July 1, 1927, \$15,296,999.38 under the Maritime Freights Act, and \$32,905,783.78 in deficits on Eastern lines, the greater part of which was for Maritime account. (Appendix No. 1, Exhibit Nos. 60 and 61.)

Harbour  
Commissioners.

In addition to the above amounts, the Dominion has advanced to the Halifax Harbour Commissioners \$8,722,674, and to the Saint John Harbour Commissioners \$16,812,955, or a total of \$25,535,629, upon which no interest has been paid.

It is not urged by Prince Edward Island that a comparison be made between the amount expended by the Dominion, on railways and similar works in its province, as compared to the expenditures of the Dominion by the granting of subsidies in the Western Provinces. Such a comparison would call for an intricate computation involving considerations of population, territory, trade and other facts with reference to each province, as well as the revenue accruing, directly or indirectly, from the respective lines or branches created or extended.

Whatever might be the result of such a computation or comparison, it is submitted that the granting of subsidies by the Dominion to the railways in the Western Provinces is not a valid reason or cause for granting to any of the Maritime Provinces the amounts expended by them on railways with compound interest.

The question of compensation to the Maritime Provinces for the taking over of their railways with reference to debt allowances will be further discussed under the claim of New Brunswick.

In any event the principle alleged and sought to be established by Prince Edward Island is hardly applicable to the other Maritime Provinces, for the reason that subsidies were granted, in addition to capital outlays made on railways, after Confederation, in both of the provinces of New Brunswick and Nova Scotia.

. . . . .

## (B) NOVA SCOTIA CLAIM

Nova Scotia  
claim.

(Page 105 of the Submission of 1926 (g); page 39, 39A, of the November Brief—pages 285, 286 of the Record.)

Nova Scotia asserts that no assets were turned over to the Dominion by the Western Provinces while the Dominion took the railways and public works of Nova Scotia and, therefore, Nova Scotia should receive the same credit on debt allowance as was granted to the Western Provinces, with interest for thirty years.

The annual allowance claimed (\$405,575) based on capital of \$8,107,500 is the amount allowed in 1905 to Alberta under 4-5 Edward VII. Ch. 3, S. 19, and to Saskatchewan under 4-5 Edward VII, Ch. 42, S. 19. Manitoba was placed on the same basis in 1912 by 2 Geo. V, Ch. 32. This allowance was at the rate of \$32.43 per head on a stated population of two hundred and fifty thousand.

Further interest is claimed on a capitalization of \$12,161,250 if on a basis of simple interest, or on a capitalization of \$27,563,727.39 if interest is compounded semi-annually—both calculations being based on thirty years' accruals of \$405,575.

The annual allowance, and interest on the accumulated capital amount, in the one case is \$1,014,437.50, and, in the other, \$1,783,561.40 per annum.

Similar treatment to the other two Maritime Provinces would entail, at simple interest, a total capital of \$36,483,750 with annual total payments of \$3,043,312.50, and, compound interest, \$82,691,182.17 with annual interest payments of \$5,350,684.20.

. . . . .

It is submitted with reference to this pretension of Nova Scotia that it is contrary to the principles underlying the grants of debt allowance from the time of the Quebec Conference on, as will be further discussed in the New Brunswick claim, and that, if Nova Scotia was entitled to any additional credit on debt allowance (by reason of assets, it could be only based on the value of the assets which were handed over by it at the time of Confederation, which will also be discussed with reference to the New Brunswick claims.

. . . . .

## (C) NEW BRUNSWICK CLAIM

New  
Brunswick  
claim.

“The Maritimes submit that the debt allowances given them at the time of Confederation were, for the most part, given by compensation for or purchase price of assets which were transferred to the Dominion. When, however, the Prairie Provinces were created they also were given debt allowances although they had neither assets nor debts.” (page 14).

“New Brunswick therefore submits that it should be given credit, dating back to July 1st, 1870, when the Province of Manitoba was created, of \$5,000,000, bearing interest at 5 per cent compounded semi-annually “on the ground that” at a conservative estimate the Assets of this Province which were handed over to the Dominion must have cost \$5,000,000.” (page 19).

A computation of this claim shows that to July 1st, 1934, on the basis suggested, it amounts to a capital sum of \$117,930,129.

It would appear that, if this claim of New Brunswick is valid, Nova Scotia and Prince Edward Island would also be entitled to similar treatment.



If similar treatment were accorded Nova Scotia with reference to alleged value of assets alleged in the Joint Submission of August, 1934—Appendix A (page 48 of the Record) viz. \$9,000,000, the sum involved would be for Nova Scotia \$212,274,233.

Prince Edward Island's claim of \$3,250,000, would amount to \$66,099,008.

The total addition to debt allowance of the three provinces would be \$396,303,370. Interest on this amount at 5 per cent per annum is \$19,805,168.50

It is submitted, however, that the claim is not valid and that it is based on grounds which have never entered into the fixation of debt allowances for the provinces.

#### (D) DEBT ALLOWANCES TO PRAIRIE PROVINCES AND MARITIME CLAIMS

Conclusions. It is submitted that the subsidies to the Prairie Provinces by way of debt allowances had reference to their peculiar needs, and the amount was arrived at by applying the per capita rate as used in the case of other provinces. Treatment of Western Provinces cannot be used as a basis of claim for further debt allowances to the Maritimes.

- (a) The Prairie Provinces were created by the Dominion as new entities without instruments of government.
- (b) These provinces came into Confederation, not only without these instruments of government and public works, but also without the ordinary sources of revenue which were possessed by the older provinces with which to construct and establish such works and services.
- (c) That upon entering Confederation these provinces were faced with all of the expenditures incidental to a province, as well as those necessary for the establishment of the machinery of government in all its various activities, and have been obliged to incur heavy liabilities on their own account to that end.
- (d) That, having regard to the extent of territory and the paucity of its population, the relative cost of creating public works and services as well as the administration and government of the provinces was relatively higher than in smaller provinces with greater population.

The Jones Report (p. 69) agrees with this statement:—

“It is evident moreover that the cost of administration in respect of each of the functions performed by government is relatively heavier in a country with sparse population and a widely distributed population than in a country in which the population is both large and concentrated.”

- (e) That if the Prairie Provinces had been separate organizations before their entry into Confederation they would have had their own revenues and assets, which they would have turned over to the Dominion, but would have also had liabilities to unload upon the Dominion.
- (f) The revenues derived from the territory by Dominion taxation, both before and after the creation of these provinces, was part of the Dominion revenue out of which liabilities assumed for the other provinces were and are paid in capital and interest.

- (g) That the Prairie Provinces burdened the Dominion with no debt at their entry and received the full benefit of the debt allowance principle inaugurated at the Quebec Conference, and ever since followed with reference to debt allowances.
- (h) That the fact that these provinces turned over no assets should not affect their allowances, particularly as the assets turned over to the Dominion by the Maritimes were not productive of revenue which might be applied in payment of the debts assumed by the Dominion on their account.
- (i) That the assets turned over to the Dominion were never the measure of the debt allowances.
- (j) That if assets were to be considered with reference to the treatment of the Maritimes, as compared with the Prairies, in fairness to all, they could only be considered, not on their cost, but on the basis of their actual value, as compared with the liability assumed, and the subsequent loss to the Dominion, in connection therewith, and having reference to the local benefit received therefrom.

Such a computation involving all of above, and other considerations was impossible in 1867 and is even more so now.

- (k) That the provisions made for the Prairie Provinces did not import any new principle into the conception of public debt allowances, as claimed by the Duncan Report, and that the granting of the present claims of the Maritimes would certainly import new principles, never before recognized in such matters, which would upset the entire balance as between the provinces of the Dominion with reference to debt allowances.

#### LIABILITIES NOT ASSETS THE BASIS OF DEBT ALLOWANCES

To understand the principles underlying the whole theory and practice of debt allowances it seems necessary to examine the allowances made at the Quebec Conference of 1864 and in subsequent legislation.

#### *Dominion Assets.*

Dominion  
Assets.

The resolution proposed by Galt, 1864, as to financial arrangements, is found on pages 25 and 26 of Pope's Confederation Documents and is printed in (Appendix No. 1, Exhibit No. 51.)

In its final form, as adopted by the Conference, the resolution appears as paragraphs 54 et seq. of the Quebec Resolutions.

These were followed in the London Resolutions, paragraphs 53 et seq., and in the B.N.A. Act, 1867, sections 107 et seq.

Under the scheme the provinces retained all of the assets which did not fall into the classification as being those to be taken over by the Dominion or created later by it.

The classification of assets to be the property of the Dominion was prompted by, or drawn up with consideration to, the purposes of the Dominion or "General Government" as set forth in paragraph 2 of the Quebec Resolutions:

"In the Federation of the British North American Provinces the system of Government best adapted under existing circumstances to protect the diversified interests of the several Provinces, and secure efficiency, harmony, and permanency in the working of the Union,—would be a General Government charged with matters of common interest to the whole country."

This General Government required for the exercise of its functions, as such, certain instruments or works and property. These were classified according to their nature, and a classification inserted in the Resolutions passed at Quebec and London and in the B.N.A. Act itself.

These works and assets were to be the property of the Dominion whether they were in existence, in whole or in part, at the time of Confederation, or whether they were later constructed by the General Government.

They were to belong to the Dominion whether at the time of Confederation the provinces had constructed them out of revenue or out of borrowed capital, and whether or not such borrowed capital was, at the time of Confederation, wholly or in part outstanding to be assumed by the General Government and charged to debt allowances.

Nature of  
assets deter-  
mining  
factor.

The General Government received the works and property whether or not it assumed any debt, or part of the debt, incurred by the province in their creation. The class of assets was determined wholly and entirely by the nature of the assets themselves, without regard to the nature or extent of the liability assumed. They were such assets as would be useful to a General Government "charged with matters of common interest to the whole country."

#### *Provincial Assets.*

Provincial  
Assets.

These were the residue after deduction of the assets of the "General Government" and consisted of works and property useful for local purposes. There was provision for the province retaining the assets in connection with which it assumed debt. This was due to the position of the province of Canada whose debt was considered to be in excess of what was considered to be fair as regards the other provinces. Canada assumed a considerable extent of her liabilities relating to municipal loan and other funds, and advances for other purposes, and received the connected assets in the form of sinking funds and claims.

(Report of Auditor General *re* Nova Scotia claims 1869—Sessional Papers Can. (1885) No. 34, page 23 et seq.)

The rule was made a general one applicable to all provinces.

#### *Debts—Actual and Prospective.*

Debts.

At the Quebec Conference it was, of course, found that the respective debts and liabilities of the provinces were unequal and some equitable basis had to be found upon which this inequality might be adjusted.

Charging to Canada a portion of its debt, as already referred to, the liabilities, roughly, were:

The liabilities of Nova Scotia, about . . . . .	\$ 5,000,000
The liabilities of New Brunswick . . . . .	5,700,000
The liabilities of Newfoundland . . . . .	1,000,000
The liabilities of Prince Edward Island . . . . .	250,000
The liabilities of Canada . . . . .	68,445,950
	<hr/>
	\$80,395,950

(Appendix No. 1, Exhibit No. 52, p. 1.)

The total debt of \$80,395,950 amounted to approximately \$25 per head of the entire population of the provinces or colonies, and this per capita average was adopted as a measure or "yard-stick" called a "Debt Allowance" for equalizing the greater or lesser extent to which the Dominion became obligated by the assumption of their respective debts and liabilities. Those provinces which did not charge the Dominion with debts and liabilities equal to this measure, received interest on the difference between their actual debt and the debt allowance, at the rate of 5 per cent, and those who encumbered the Dominion with liabilities in excess of that amount were to pay the Dominion interest on the excess of their actual liabilities assumed by the Dominion.

The arrangement with reference to interest was to curb the urge of the provinces to incur liabilities, which at Confederation they could throw upon the Dominion, and the payment of interest on the difference, if any, was to encourage and reward those provinces which did not burden the Dominion to the extent of the per capita allowance, and provided a source of revenue for local purposes to the extent that the provinces respectively were not indebted.

*Provision for creation of Debt to Extent of Debt Allowance.*

Actual debts  
might be  
increased.

It was contemplated that the provinces would not be at a stand-still in the interval between the Quebec Conference and their entry into the Union, and that further debts would be incurred.

Canada had reached its limit but the other provinces had not.

The Galt resolution provided:

"New Brunswick and Nova Scotia shall be at liberty to prosecute the works already authorized by their Legislatures within five years from this date; provided the total amount of their liabilities does not exceed for—

Nova Scotia.....	\$8,000,000
New Brunswick.....	7,000,000

"Newfoundland and Prince Edward Island, not having incurred debts equal to those of the other Provinces, shall be entitled to receive by half-yearly payments in advance from the Confederation the interest at five per cent on the difference between the actual amount of their respective debts at the time of the union, and the average amount of indebtedness per head of the population of Canada, Nova Scotia and New Brunswick."

(Appendix No. 1, Exhibit No. 51.)

The actual debt of Nova Scotia was at that time (Oct., 1864) \$5,290,225.28 and its debt allowance of \$8,000,000 was therefore \$2,709,774.72 in excess of its actual debt.

New Brunswick's actual debt was \$5,700,000 and her debt allowance of \$7,000,000 was therefore \$1,300,000 in excess of its actual debt.

Prince Edward Island's actual debt in October, 1864, was \$250,000 or \$3 per head and provision was made for an additional debt allowance to it of \$22 per head or \$1,800,000 over and above its actual debt.

Newfoundland's actual debt was, in 1864, \$1,000,000 or \$8 per head, and it was to have an additional debt allowance of \$17 per head or \$2,125,000 over and above its actual debt.

Canada's actual debt alone exceeded the debt allowance of the resolution.

The debt allowances of the Quebec Conference were not changed by the London Conference, nor for the provinces entering Confederation in 1867 by the B. N. A. Act.

*Discussion at Quebec Conference.*Quebec  
Conference.

Two rather meagre reports are available as to the discussion on Galt's resolution at the Quebec Conference:

- (1) Notes of A. A. Macdonald in Papers of Sir John A. Macdonald, Public Archives of Canada—"Notes on the Quebec Conference"—page 40 et seq. (Appendix No. 1, Exhibit No. 52).
- (2) Notes of Col. Bernard in Pope's "Confederation Documents"—p. 82 et seq. (Appendix No. 1, Exhibit No. 53).

Macdonald's report of Galt's statement is, in part, "Hon. Mr. Galt said:—

"It is desirable that all the Provinces should enter the Federation with the same liabilities, and secondly that all should be admitted on just principles so that no claim can hereafter be advanced on account of claims now existing."

Col. Bernard's report is, in part:—"Mr. Galt moved a series of financial resolutions." "He said:

"It is very desirable that no question should arise on account of which any Province could complain of injustice. Any Province being less indebted than another, whether through good fortune or good management, should benefit by it. Future liabilities of Confederation must be presumed to be for the benefit of all. We must start, therefore, on a fair basis. . . .

"The first three resolutions cover all the property to be taken by the General Government, and the subsequent resolutions show what changes [charges] shall be adopted by the Confederation.

"I propose five per cent, as the rate of interest. It is impossible for us at this moment to determine the debts and liabilities of the several Provinces. This can only be ascertained when the functions of the Local Legislatures cease in that respect. At that time we can ascertain the amount and debit each Province. . . .

"In the case of New Brunswick we find an actual debt existing and liabilities which between this time and the passing of the Act of Union may become liabilities of the Confederation. Further liabilities might be incurred, and it is therefore essential that a rule should be laid down and that if, supporting the principle of equality, any one Province goes into such expense it must be on its own account. There should be an officer, not a political officer, to audit the affairs of the Provinces."

*Galt at Sherbrooke, November 23rd, 1864.*Galt at  
Sherbrooke.

Galt was called upon, following the Quebec Conference, to justify and explain to his constituents of Sherbrooke County, the scheme of Confederation. This he did by a speech found in the Montreal Gazette, November 26, 1864, and his references to financial terms are printed in Appendix 1, Exhibit No. 54.

He said in part:—

"Now in the scheme of Confederation, it was proposed that there should be a certain fixed rate at which each Province should have the *right of charging its debt against the Confederation*, and for that purpose the debt of Canada was placed at \$62,500,000 which was something like five millions less than the nominal amount of the net debt. The mode in which that reduction was made was this. There were certain liabilities of Canada contracted for local purposes, and certain assets connected with those liabilities. He referred more particularly to the Municipal Loan Fund, and some similar matters which were more local than general. It has not been thought desirable that a transference of those securities should be made to the General Government. It was better that each Province should assume that portion of its debt which was particularly local, and take with it those securities which it held for its redemption. And in that way there was established for the debt of Canada an amount equal per head to the amounts contributed or about to be contributed by the two Provinces of Nova Scotia and New Brunswick."

It must be remembered, in a perusal of Galt's speech, that he was under the necessity of convincing his electors that the proposal was not entirely one of assuming liabilities, and that to a certain extent, at least, there was to be a "quid pro quo" in the way of assets to be received. These assets were not the measure of the debt allowances or liabilities assumed however.

Galt further said:—

Indemnity  
for amount  
of debt not  
incurred.

"To place them (Prince Edward Island and Newfoundland) on a par with Canada, Nova Scotia and New Brunswick, it therefore became necessary to give them an indemnity for the amount of debt which they had not incurred; because, *in assuming their revenues, we called upon them to contribute to the payment of the interest on the debt which we had incurred*, and we could not fairly expect them to do so, unless they were in some measure indemnified for it. And it was found that, in taking this course, we were enabled to get over one great difficulty which had met us, which was that those particular Provinces possessed no local revenues, and that, in charging them with the administration of their local Governments, and taking from them the Revenue from Customs and Excise, we should leave the Governments of Newfoundland and Prince Edward Island without any means whatever of discharging their liabilities. With regard to Newfoundland, he might remark that the people in that colony being, in regard to agriculture, altogether consumers, and not producers, because they were a fishing and maritime population, the amount of dutiable goods they consumed was about double per head what it was here. They would, therefore, in the shape of Customs duties, be contributing to the Confederation a larger proportion than properly belonged to them, and accordingly it was arranged that for the amount of debt, which they had not incurred, up to \$25 per head, they should be allowed interest, for the purpose of meeting their local payments and providing for their local wants."

These are the explanations given at the time by the man who was entrusted with the details relating to financial arrangements and from them we learn:—

General  
principles  
at Quebec.

That the debt allowances were limitations agreed upon by the parties with reference to the burden of debt imposed upon the "General Government" by the provinces and that a number of considerations entered into its adoption:—

- (a) Equalization of amounts assumed on behalf of "General Government" for actual or prospective debts of the provinces.
- (b) Curbing of extravagance and incurring of debt which the "General Government" would be obliged to assume.
- (c) Compensation to provinces who coming into Confederation became, as members of the "General Government," responsible for an amount of debt beyond the amount pro rata with which they respectively encumbered the General Government.
- (d) Compensation to provinces who paid to the "General Government" revenue in the way of Customs and Excise and had not burdened that Government with interest or capital of debts to the same extent as the other provinces.
- (e) The provision of means whereby provinces not in actual debt to the same extent as the others, might proceed to further development.
- (f) The provision of cash subsidies limited by or to the extent that the province did not charge or burden the "General Government."

## (2) ASSETS NOT MEASURE OF DEBT ALLOWANCES

Assets not  
measure of  
debt  
allowances.

The assets turned over to the "General Government" were not the basis or "yard-stick" used to determine the debt allowance. Under the circumstances, and the situation existing in the different provinces, they could not be so used.

Part of the discussion on the relative value of these assets is found in Macdonald's notes, page 41:—

(Appendix No. 1, Exhibit No. 52.)

"Hon. Mr. Tilley stated the objections he held against Mr. Galt's scheme. The Federal Government would take all the public property and proposed nothing in return for this. Our Railway now pays one and a half per cent on the cost of the road or \$60,000 over working expenses, wear and tear. Mr. Galt proposes to take this from us and allow us nothing in return. A large part of Canada's debt arises from interest on its railway debts. I should like to know what the value of your Railway debt would be after paying preference bonds? The Great Western Railway is the only one I look upon as a valuable asset, as it pays the Interest or part of it on its indebtedness. Suppose we construct the line between Nova Scotia and New Brunswick a part of the Intercolonial, will the receipts from it go into the general Revenue and are we to have no benefit from them?"

Hon. Mr. Galt:

"I admit that the question of what future liabilities you incur is one of great importance that we should consider. The whole of the public works are given to the Confederation, etc., etc., etc., etc."

Col. Bernard's notes—p. 83 of Pope's Confederation Documents. (Appendix No. 1, Exhibit No. 53.)

Mr. Tilley:

"This scheme gives Newfoundland and Prince Edward Island everything. Takes over railways which cost us a very large sum of money and gives us nothing in return. The Grand Trunk stock is of no value, yet we find it put down as an asset; and as to Canal tolls, the policy of the Canadian Government is not to look to them. You have fixed the population of New Brunswick as inferior to that of Nova Scotia, which is the case, but it ought not to be immovable but to vary in its increase. The increase of the population will lessen the per capita tax."

Colonel Gray (New Brunswick):—

"Our railway is productive and yields three per cent. It is only the difference between that and five per cent which should be charged."

Mr. Tupper:—

"It is wrong to assume assets to be of equal value when they are not so."

It is at once apparent that the parties did not agree as to the values of the respective assets of each province. Galt's remark indicates that his understanding was that the whole of the public works are given to the Confederation but that he was principally interested in the question of what future liabilities were incurred.

There is no list of the respective assets of the different provinces in 1864. Neither Prince Edward Island nor Newfoundland had any railways.

Nova Scotia's railways, according to the estimate of the Hon. Dr. Tupper, were worth *fifty per cent of cost* and he overestimated their value. Both Tilley and Gray were wrong as to the revenue derived from New Brunswick railways.

The railways of Nova Scotia and New Brunswick were laid out and constructed for the purpose of local development and had that effect. At Confederation the Dominion received from Nova Scotia the line from Halifax to Truro, that from Truro to Pictou and the line Windsor Junction to Windsor, which was to be turned over to the Western Counties but which is presently leased to the Dominion Atlantic. The Dominion purchased from Nova Scotia the "Eastern Extension" (New Glasgow to Mulgrave and Ferry) and constructed the lines Truro to Amherst, and Pictou to Oxford Junction, both sections of the Intercolonial. The Dominion received from New Brunswick the line Saint John to Moncton, Painsec Junction and Point du Chene; purchased the line Painsec Junction East to the Nova Scotia border, and built the line from Moncton West to the Quebec border as sections of the Intercolonial.

Canada owned no railways but had some railway securities and claims which might or might not prove to be of value but it was impossible then to place an exact value on them.

That the works and railways taken over by the Dominion, as to cost or value, could not form the basis of an adjustment between the provinces is clearly indicated in the report of the Minister of Finance, January 24th, 1869, with reference to Nova Scotia's claims of that year (H.A.N.S. 1869, App. No. 1, page 92):—

"The advantage of particular works to the localities as compared with their advantage to the dominion, could hardly be estimated. The geographical situation might enable one province to contribute at a smaller cost, an asset more directly productive in itself, but which might still be dependent for that productiveness on another more costly, and less directly remunerative, constructed by another province.

The question whether one province had not procured these works on better terms by the adoption of a different system than the others, would arise. The prospective productiveness, and whether that productiveness might not depend on the development of the natural resources of the several provinces at their own cost, and various other elements, all equally conjectural, would likewise have to be considered."

#### *Nova Scotia's Debt and Assets.*

N. S. Debts  
and Assets.

With reference to the debt of Nova Scotia as of July 1st, 1867, in connection with railways, we find a report of the Railway Commissioner, October, 1867, Journals, H. A. 1868—Appendix No. 1.

#### *Capital Account—*

(A. 9) As of June 30, 1867, a total of . . . . .	\$4,345,341 12
(A. 11) The Extension from Truro to Pictou. . . . .	1,946,892 54
	\$6,292,233 66
Total Receipts . . . . .	\$155,098 34
Working Expenses . . . . .	132,398 98
	\$22,699 36

But further on in the "Statement of Warrants" we find:

Railway Expenses . . . . .	\$162,894 00
Railway Interest . . . . .	253,740 66

The operating revenue of \$22,699.36 was approximately half of one per cent on the amount taken into Capital Account, and, considered in the light of the total



amount of Railway Expense and Railway Interest, discloses that the railway speculation was not financially a success, even after making allowances for the fact that the Pictou-Truro line was not yet in operation save as to twenty-one miles. (Appendix No. 1, Exhibit No. 62.) From July 1st, 1867, the operation of the Nova Scotia Railway system resulted in substantial losses even on operating account. (Statements—Appendix No. 1, Exhibit No. 63.)

An error seems to have crept into the Brief of Nova Scotia of 1926, Page 63, under "Eastern Railway Extension Claims." It is stated that:—

I.C.R.  
Truro to  
Amherst.

"So far as Nova Scotia was concerned no construction was necessary. The road [Intercolonial] had been built by Nova Scotia to the border of New Brunswick and after Union became part of the assets held by the Dominion."

This is not correct. The Dominion built some 76 miles from Truro to Amherst on the New Brunswick border at a cost of over \$1,600,000. (Flemings' History of the Intercolonial, 1876, p. 226 et seq.)

It is true that Nova Scotia had entered into a contract with an English concern to construct the road for £24,000 sterling per annum for twenty years (H.A.N.S. 1868, Appendix No. 10, pp. 27 and 28) but this was not carried out.

Nova Scotia submission to the Duncan Commission 1926, at page 70 refers to:—

N.S. Special  
Assets.

Railways to Windsor, Truro and Pictou.. . . .	\$6,635,108 86
St. Peter's Canal.. . . .	136,388 30
Province Building (Post Office).. . . .	227,300 00
	<hr/>
	\$6,998,797 16

The total of \$6,635,108.86 given with reference to railways would appear to exceed the amount given in the Province Accounts (\$6,292,233.66) by \$342,875.20.

It is further stated that \$1,110,000 had been expended or was in course of payment on the Windsor and Annapolis Railway. The Windsor and Annapolis was not take over by the Dominion and now forms part of the Dominion Atlantic.

The original contract provided that the contractors were to be paid in 6 per cent provincial bonds in the total sum of £188,600. The contract was let after it became certain that the Imperial Parliament would pass the B.N.A. Act. After Confederation the Dominion paid the contractors, for the account of Nova Scotia, in cash in lieu of bonds, (H.A.N.S. 1871, Appendix No. 2.) charging the payments to Nova Scotia.

The reason for dealing with this expenditure by the province, in aid of a privately owned railway, in a different manner, and on a different basis from similar, or other aid, granted to such railways by other provinces does not appear.

All of the provinces have, from time to time, for the purposes of local development furthered the construction and extension of railways within their borders, whether by way of cash subsidies, land grants, subsidies in bonds or guarantees, and it is submitted that this expenditure on the part of Nova Scotia does not entitle it to any special treatment or credit. The Western Provinces instead of giving cash subsidies, or subsidies in bonds guaranteed extensively the bonds of private companies.

*St. Peter's Canal*St. Peter's  
Canal.

This canal connects Bras d'or Lakes with the Atlantic. In 1853 it was estimated that a canal 22 feet wide, thirteen feet in depth and 2,400 feet long, would cost £17,600. Work was started but was suspended in 1858. According to a report of engineer Laurie (H. A., N.S., 1859, Appendix p. 496), £8,100 had been expended and £52,100 would be required to complete it. Work was suspended in 1864 and then resumed. At Confederation \$156,523.32 had been expended. The canal was taken over and completed by the Dominion at an additional cost of \$489,908.67 to June 30th, 1894. (Report—Railways and Canals—1893-94, Sessional Papers.—Can. No. 10, p. LXIV.)

The expenditure of Nova Scotia in connection with this canal, initiated purely for local purposes, does not appear to call for different consideration or credit than that accorded to the canal expenditure of any other province. The canal in its uncompleted state was of a class of assets turned over to the Dominion under the classification of the Act, and became its property.

*Province Building (Post Office) \$227,300.00.*Province  
Building

Further reference to this item is found on page 62 of the Nova Scotia 1926 Submission.

This building was contracted for in 1863. In October, 1864, at the time of the Quebec Conference, only \$7,300.00 had been expended. On the 1st July, 1867, the Commissioners had expended \$83,111 on the building and the cost of the land brought the expenditure to \$122,695. The building was completed April, 1868, at a further expenditure of \$66,385 making the total cost \$189,080.64 instead of \$227,300.00 as stated (H.A.N.S., 1871—Appendix No. 1, p. 3.)

Out of this the province was awarded \$70,000 and \$10,000 interest under an Arbitration. (Appendix No. 1, Exhibit No. 64, see also Sessional Paper No. 34, Canada 1885—p. 58, et seq.) The amount actually credited was \$84,000 (Pub. Accounts, Can. 1872-73—Part II, p. 248).

*Customs Houses and Post Offices—East and West.*Public  
Buildings  
East and  
West.

In the Nova Scotia Brief of 1926—p. 70—it is suggested that the Maritimes turned over to the Dominion, Customs Houses and Post Offices, and that the Dominion made this expenditure in the West.

It has not been possible to ascertain the exact facts, as no list of buildings turned over to the Dominion by the Maritimes is available. It would not appear, however, that Nova Scotia and New Brunswick turned over to the Dominion very much of value under this heading. Nova Scotia was renting an apartment in Dalhousie College for a Post Office in Halifax. (Can. Sessional Paper No. 3, p. 254—1870). As seen, the Dominion paid \$84,000 to the province *re* Province Building. In New Brunswick two premises were rented for Post Office and Inspector at Saint John, and the Post Offices at Fredericton, St. Andrews, St. Stephen and Newcastle were in rented premises. (p. 310 of Sess. Paper No. 3—1870).

During the years 1871 to 1880 the Dominion expended about \$200,000 on Saint John Custom House, \$262,000 on Saint John Post Office, and substantial amounts for Custom Houses and Post Offices at Fredericton, Chatham, Newcastle and Pictou.

Prince Edward Island received from the Dominion \$69,000 for its new Post Office Building.

*Withdrawals from Debt Account—Nova Scotia.*

With-  
drawals  
from debt  
account.

In the submission to the Duncan Commission by Nova Scotia, at the foot of page 65 and on page 66, it is suggested that Nova Scotia has been prejudiced by loss of interest, due to its withdrawals from debt account for public works and a number of items are cited.

Baring  
Bros.

It has not been found possible to ascertain the nature of the liability to Baring Bros. on which, in 1867, Nova Scotia paid \$291,517.21. The Public Accounts of Nova Scotia for that year show a disbursement of \$286,685.01 for railway interest but this may, or may not, be this amount.

Avon  
Bridge.

*Avon Bridge—1870—\$53,679.34—*This bridge forms part of the Windsor and Annapolis Railway referred to on page 70 of the N.S. Submission 1926.

The Dominion did not receive the asset and the bridge is included in the Dominion Atlantic system as before mentioned.

*Western Counties Railway—1874-78—\$695,351*

Western  
Counties  
Ry.

This Company was incorporated by Nova Scotia to build a line Annapolis to Yarmouth and was subsidized by the province to the extent of \$8,000 per mile. The Dominion had to come to the rescue and built twenty miles to complete the road. The Dominion expenditure on the road to December 31st, 1894, was \$618,655.25. (Report Railways and Canals 1893-94—p. Li—Sessional Paper No. 10 of 1895.) It also forms part of the Dominion Atlantic.

*Springhill and Parrsboro Railway—\$131,650*

Springhill  
and  
Parrsboro.

This is also a private company line, now controlled by Dominion Steel and Coal Company.

*Eastern Extension Railway—\$448,728.35*

Eastern  
Extension.

This amount was charged to Nova Scotia but was afterwards received back from the Dominion. This was a line built to connect New Glasgow and Sydney, with provision of ferry service over the Strait of Canso. Many complications arose in connection with the railway and its construction and financing, but, finally, Nova Scotia bought out the contractors and the Dominion purchased the line from the province. Later, under an arbitration award, the province received from the Dominion \$671,836 amount of subsidies granted the road by the province. This amount was not placed to the credit of Nova Scotia in debt account, but was paid in cash to the province, August 20th, 1901. The total cost to the Dominion, paid to the Province, was \$2,111,521.03.

(Appendix No. 1—Exhibit No. 65.)

*Nictaux and Atlantic Railway—\$80,000.*

Nictaux  
Ry.

The Nova Scotia Nictaux and Atlantic Railway was another privately owned railway, which ultimately was taken over by the Canadian Northern Railway. On page 100 of the Nova Scotia Submission of 1926 it is stated that the province receives interest on its investment in the Halifax and South Western Railway of which the Nictaux road forms a part.

. . . . .

It would appear that Nova Scotia has been repaid, or is receiving interest on, a substantial part of these withdrawals, and, as to the balance, it is in no different

N.S. might have otherwise financed. or worse position than the other provinces which financed local works in this manner. It was open to Nova Scotia to finance by other means, as other provinces have done, in which event interest would still be payable to it on the equivalent of these withdrawals.

. . . . .

*Special Grants to Prairie Provinces for Public Buildings*

Western Public Buildings. These were part of the aid in lieu of lands and were taken into consideration by the Turgeon Commission.

. . . . .

*Railways in New Brunswick*

N.B. assets Railways. The bulk of New Brunswick's railway expenditure on railways taken over by the Dominion was made prior to the Quebec Conference. The Capital Account at the end of the year ending October 31st, 1862, stood at \$4,699,707.86 and on the 30th June, 1867, this had grown only to \$4,761,979.90. (Journals N.B., 1863 and 1868.)

As to revenue it would appear that for the year ending October 31st, 1863, there was an operating revenue of \$40,738.23 and for that ending October 31st, 1864, \$41,427.74 (Journals 1864 and 1865) or less than one per cent on the capital expenditure without taking into consideration the item of interest. The statements of Mr. Tilley and Mr. Gray at the Quebec Conference, as to the return on the investment, are not confirmed by the official accounts. It is true that the statements of operating revenue and expenditure of the New Brunswick Railways from July 1st, 1867, show a profit of limited extent but the interest on the cost, of course, wiped out this profit.

Operation Maritime Railways. Subsequent to Confederation the Dominion was called upon by New Brunswick to make substantial expenditures to relieve the province from several of its unfortunate railway ventures. The combined Revenue and Expenses of the railways of New Brunswick and Nova Scotia appear by Public Accounts, Can. 1873-74, Part III, page 43, for the year ending June 30th, 1874, to have resulted in an operating loss of \$408,119.91.

Working expenses	Revenue accrued
\$1,301,550.08	\$893,430.17

For the year extensions to the extent of \$107,353.80 were made and are not included in the above working expenses. Based on revenue received instead of revenue accrued the deficit was \$470,634.63 (Appendix I, Exhibit No. 63).

P.E.I. Railway. Prince Edward Island Railway, we have seen, never earned its working expenses. It will thus appear that the railways turned over to the Dominion were, even with new rails and rolling stock, from a revenue producing point of view, of little commercial value to the Dominion at the time of their being taken over. Their ownership and operation, as time has passed, has resulted in continuous heavy deficits which the Dominion has been obliged to meet. As has been already noticed, these deficits, 1927 to 1932, on Eastern lines amounted to \$32,905,783.78.

## (3) FURTHER LEGISLATION DEMONSTRATES THAT ASSETS WERE NOT THE BASIS OR MEASURE OF "DEBT ALLOWANCES"

*\* Better Terms Nova Scotia, 1869—Assets not the Basis*

N.S. 1869.

An increase of \$1,186,756 was made to the debt allowance of Nova Scotia by 32-33 Vict. Ch. 2, (1869) and by 37 Vict. Ch. 3 (1874), \$199,490 was added to make it retroactive to 1867.

N.S. claims  
1869.

Nova Scotia claimed that it was entitled to an increase in its debt allowance for, several reasons:—

1. Because the per capita allowance had not been fairly adjusted; the Act allowed Canada \$62,500,000 or \$24.92 per head; New Brunswick \$7,000,000 or \$27.77 per head; and Nova Scotia \$8,000,000 or \$24.17 per head.
2. It also claimed that it contributed a larger share in Customs and Excise as compared with Canada.
3. That the local assets left to it did not produce as much revenue as those left to Ontario and Quebec.
4. It further claimed that the assets turned over by it to the Dominion were the source of the greater part of its debt.

These claims were investigated by Mr. Rose, as Minister of Finance. His Report dated January 24, 1869, and accompanying Memorandum by the Auditor General Langton are to be found in (Appendix No. 1, Exhibits Nos. 55 and 56).

The Auditor General was asked:—

"(1) With what amount of debt would Nova Scotia be entitled to enter the Union supposing the same debt per head of the population as ascertained by the last census was assigned to her as New Brunswick?"

Based on  
N.B. per  
capita Debt  
Allowance.

" Ans. \$9,188,756—Canada Currency."

And this was the basis and amount of the increase by the Statute—Report of Council, January 25, 1869 (Appendix No. 1, Exhibit No. 57).

*Note.*—In bringing down this additional amount of \$1,188,756 an error of \$2,000 occurred, being inserted in the Statute as \$1,186,756. The additional amount of \$2,000 was later paid to Nova Scotia under an appropriation instead of amending the Statute. (48-49 Vict. (Can.) 1885, Ch. 41, Schedule "A," p. 66.)

Referring again to the Memorandum of Mr. Langton, it is clear that the works referred to in question 4 were not the basis of the increase to Nova Scotia.

The debt of Nova Scotia, October, 1864. . . . . \$4,846,145 00

Since October, 1864, the outlay was:

(a) Truro and Pictou Railway. . . . .	\$2,247,834 29	
(b) Province Building. . . . .	220,000 00	
(This was estimate, real cost was \$189,080.64)		
(c) St. Peter's Canal. . . . .	124,447 70	
(d) Halifax & Truro Railway. . . . .	82,007 95	
	2,674,289 94	
Total. . . . .		\$7,520,434 94

Assets  
N.B. & N.S.  
not  
compared.

If the debt allowance increase was to be based on these works there would have been no increase, for the total is less than the \$8,000,000 allowance already had. Moreover the debt allowance was made equal to that of New Brunswick at \$27.77 per head. If based on assets transferred to the Dominion, there would have been necessarily a comparison of the relative assets turned over respectively by those two provinces. No such comparison was made in 1869, but New Brunswick, within two years, in seeking better terms, did attempt a comparison. It claimed that from 1867 to 1871 the New Brunswick railways had a surplus of \$222,644.27, or an average of \$55,661.07 per annum, "representing a capital of \$927,684.50" while the Nova Scotia railways had an accumulated surplus of only \$2,223.39 with an average of \$555.85 per annum "representing capital of \$9,264.17." (Sessional Paper 34—1885—Can., pp. 158-60. Interest on cost was not taken into account.

It is apparent that the increase in debt allowance coupled with the allowance of \$82,698 was to settle any pretensions put forth in the Nova Scotia claims so far as the Dominion was concerned. (32-33 Vict., Ch. 2, 1869. Can.)

*Manitoba enters Confederation—1870.*

Manitoba  
1870.

The Act (Can.) 33 Vict., 3, para. 24, provided:—

"Inasmuch as the Province is not in debt, the said Province shall be entitled to be paid, and to receive from the Government of Canada, by half yearly payments in advance, interest at the rate of five per centum per annum on the sum of four hundred and seventy-two thousand and ninety dollars."

The population of the territory involved was estimated to be seventeen thousand souls, and, the same "yardstick" as used with reference to New Brunswick and Nova Scotia (as increased 1869) of \$27.77 per head was used to create the debt allowance.

*Sir John A. Macdonald*—Debates, May 2nd, 1870, p. 1292

"With respect to pecuniary clauses of the Bill it is provided that as Manitoba has fortunately no debts, it shall be entitled to be paid by, and receive from, Canada, by half yearly payments, a sum which is to be ascertained in the same way as the sum settled was on Newfoundland last session—that is, fixing the whole of the population at 15,000 [later 17,000], and at that rate comparing the difference between that population and the population of Nova Scotia and New Brunswick, any body can ascertain the amount payable to them per head, namely \$27.77."

*Sir Geo. E. Cartier*—pp. 1293-9

Dom.  
revenue not  
from 15,000  
whites only.

"As to the objection that there was too large a subsidy, he said the new Province was entitled to be placed on the same footing as any other. If the people had waited till they were 50,000 or 75,000 instead of being entitled to \$21,000 a year from the Government, they would have been entitled to double or perhaps treble that amount. . . The population was now only 15,000 but the consumption was not for them alone, *but for 200,000 Indians who consumed an immense quantity of dutiable articles.*"

*Sir John A. Macdonald*—May 4th, 1870—p. 1354

"The 22nd clause implied that the Province should be entitled to come in and receive interest at the rate of five per cent per annum on the sum of \$472,000, being at the same rate as was allowed Nova Scotia, New Brunswick and Newfoundland."

Manitoba had no debt, and, consequently called upon the Dominion to assume none on its behalf. It received the full benefit of the debt allowance until it incurred debts for public works chargeable to it. None the less it was to contribute by the payment of indirect taxation towards the total debt of the Dominion, including that cast upon Confederation, as to capital and interest, by the Maritimes, and such contribution was not alone by 17,000 whites in the new province, but, also by the Indians referred to by Sir Geo. E. Cartier.

Further reference will be made to Manitoba's position in a discussion of that of Alberta and Saskatchewan.

*British Columbia enters Confederation—1871*

B.C. 1871.

Under Imperial Order in Council, May 16, 1871, British Columbia was admitted into the Dominion. It was provided:—

“British Columbia not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive, by half yearly payments, in advance from the General Government, interest at the rate of five per cent per annum on the difference between the actual amount of its indebtedness at the date of the Union, and the indebtedness per head of the population of Nova Scotia and New Brunswick (\$27.77), the population of British Columbia being taken at \$60,000.”

The capital sum which this represented being \$1,666,200. British Columbia, being an organized Colony, entered the Union with local assets and instruments of Government to a greater or lesser extent, and with works useful to the Dominion, as a General Government, although not as extensive as those of the Central or Eastern Provinces.

No credit was claimed or given it for any works which fell within the classification of Dominion Assets.

The debt allowance was fixed at the same rate per capita as that then existing with reference to New Brunswick and Nova Scotia on a definite and fixed population.

It had then to proceed with the further development of its local services at its own expense, under the exceptional difficulties under which it laboured with reference to the extent and nature of its territory. In proceeding to carry these out, it did so at the expense of its debt allowance credit in part.

By the end of the financial year of 1875 it had remaining of the debt allowance, plus an addition of \$280,084 made in 1873, a balance of \$501,871.24. (Pub. Accts. Can. 1876—Part IV, p. 1, No. 9.)

The debt allowance of British Columbia was clearly not based upon assets or expenditure already made for public works.

*Prince Edward Island—1873*

P.E.I.,  
1873.

As stated, Prince Edward Island entered Confederation with a debt allowance of \$4,701,050 or \$50 per head. Its actual debt on July 1, 1873, was \$2,079,166.10, being \$2,116,477.20 less Treasury Notes called in to the extent of \$37,311.10. This gave the province a surplus as to debt allowance of \$2,621,883.90. (Appendix No. 1, Exhibit No. 66.)

Of the actual indebtedness on June 30, 1873, debentures to the extent of \$1,324,606.54 represented railway construction and land damage. (Journals P.E.I. 1874, Appendix K, pp. 1, 2, 3, 21, 22, 23—Table A, also report of Special Committee, p. 114.)

Its larger per capita debt allowance of \$50 was granted to the province, as stated in the Statute, because of its isolated position, and the fact that it would contribute, through Dominion taxation, towards large capital expenditures, from which it would not derive a benefit proportionate to the other provinces.

Its debt allowance was not based on the value or cost of the provincial railway. We have seen that the railway was a liability from the start, and the Province was saved by Confederation from the avalanche of operating deficits and capital expenditure suffered by the Dominion in connection with the line after Confederation.

*Increases in Debt Allowances—Not based on Assets. (1873—36 Vict., Can. Ch. 30.)  
Four Provinces.*

Increases  
not based  
on assets.  
1873.

Ontario  
and Quebec.

The preamble to the Act sets forth—that Canada became liable for the debts and liabilities of each province, existing at the time of its becoming part of the Dominion, subject to the payment or reception of interest as the case might be—that the debt of the province of Canada had now been found to be \$10,506,088.84 in excess of the \$62,500,000 allowed at Confederation, and had been charged interest thereon—that it was expedient to relieve the provinces of Ontario and Quebec from that charge and to consider the fixed amount increased by said amount, *and to compensate the other provinces for this addition to the general debt of Canada*, and it was enacted:—

“1. In the accounts between the several Provinces of Canada and the Dominion, the amounts payable to and chargeable against the said Provinces respectively, in so far as they depend on the amount of debt with which each Province entered the Union, shall be calculated and allowed as if the sum fixed by the one hundred and twelfth section of “*The British North America Act, 1867*,” were, increased from sixty-two million five hundred thousand dollars, to the sum of seventy-three million, six thousand and eighty-eight dollars and eighty-four cents, and as if the amounts as aforesaid, as respects the Provinces of Nova Scotia, and New Brunswick, by “*The British North America Act, 1867*,” and as respects the Provinces of British Columbia and Manitoba by the terms and conditions on which they were admitted into the Dominion, were increased in the same proportion.”

The increases to the other provinces were:—

Other  
Provinces.

Nova Scotia . . . . .	\$ 1,344,780
(Increased 1874) . . . . .	199,490
	—————\$ 1,544,270
New Brunswick . . . . .	1,176,680
Manitoba . . . . .	79,356
British Columbia . . . . .	280,084

Certainly no assets entered into the granting of these increases to these other provinces but they were granted because Ontario and Quebec were allowed to throw upon the Dominion a greater per capita debt and the other provinces were compensated.

This increase brought the per capita rate, based on the population with which they entered Confederation, to Ontario and Quebec \$29.11, and that of the other provinces to \$32.43.

Increases  
1874.

The increases of 1874 (37 Vict. Ch. 3) and of 1884 (47 Vict. Ch. 4) were merely adjustments on a retroactive basis of amounts previously granted. The Act of 1884 refers to the amounts granted as “part of their respective subsidies.”



To avoid doubt the amount of the increase of the yearly subsidy and the capital on which it is payable to the several provinces respectively "under this Act shall be as follows":—

	Yearly increase	Capital
To Ontario and Quebec jointly..	\$269,875 16	\$5,397,503 13
Nova Scotia.. . . . .	39,668 44	793,368 71
New Brunswick.. . . . .	30,225 97	604,519 35
Manitoba.. . . . .	5,541 25	110,825 07
British Columbia.. . . . .	4,155 39	83,107 88
Prince Edward Island.. . . . .	9,148 68	182,973 78

No question of assets was raised.

*Manitoba—1885 and 1886—Increase.*

Manitoba  
increase  
1885-86.

These Statutes merely placed Manitoba on a per capita basis of \$32.43 on a population of 125,000. Manitoba's boundaries had been extended in 1881 (44 Vict. Ch. 14 and O.C. July 1, 1881). The population in that year was actually 62,260 but the rapid increase taking place was taken into consideration. As a matter of fact in 1891 it had grown to 152,506. No question of assets was involved but other claims were under settlement by the same Act—the Preamble states—"For the final settlement of the claims made by the province of Manitoba on the Dominion."

*Alberta and Saskatchewan—created Provinces in 1905.*

Alberta  
and Sask.  
1905.  
4-5 Edw.  
VII.

The preambles state:—

"And whereas it is expedient to establish as a province the territory hereinafter described, and to make provision for the government thereof...." The terms of Section 19 of Ch. 3 with reference to Alberta are identical with those of Section 19 of Ch. 42 as to Saskatchewan:—

"Inasmuch as the said province is not in debt, it shall be entitled to be paid and to receive from the Government of Canada, by half yearly payments in advance, an annual sum of four hundred and five thousand three hundred and seventy-five dollars, being the equivalent of interest at the rate of five per cent per annum on the sum of eight million one hundred and seven thousand five hundred dollars."

It will be noted that this allowance is entirely a cash subsidy. No withdrawals for expenditure on local works have been permitted and the provinces therefore receive five per cent on the entire amount.

The capital, although not so stated, is \$32.43 per capita on 250,000 population. It was so understood in the debates in the House. This was an estimate but is probably not far from the actual population. In 1901 the population of Alberta was 73,022 and in 1911 it was 374,295; in 1901 that of Saskatchewan was 91,279 and 492,432 in 1911.

*Manitoba—1912—Extension of Boundaries and Increased Subsidy*

Manitoba  
1912  
Boundaries  
Extended.

By the Act 2 Geo. V, Ch. 32, the limits of the province were very largely extended.

A resolution had passed the House, July 13, 1908, with reference to the extensions of the boundaries of Manitoba, Ontario, and Quebec. In proposing the resolution Sir Wilfrid Laurier explained that this northern territory could not be formed into a separate province or provinces owing to its unsettled condition, and that its

natural resources were limited, and that it was more practical to annex it to the provinces of Manitoba, Ontario, and Quebec, and pointing out that provision was made in the B.N.A. Act of 1871, not only for creating new provinces but for extending the limits of those now existing. The resolutions further pointed out that:—

“It is just and equitable to recognize the increased cost of civil government which such extension of territory will occasion to the province, and in view of the premises, to make to the said province an increased allowance by money payment, the amount of which should be the subject of negotiation between the government of Canada and the government of Manitoba.”

These negotiations ensued, and the terms agreed upon are referred to in a letter from Mr. Borden to Premier Roblin—November 20, 1911—quoted in speech of Mr. Borden, February 27, 1912 (Debates 1912, Vol. II, p. 3836.)

“The basis adopts the principle of equality of terms as between Manitoba and the other Prairie Provinces.”

The preamble of the Act reaffirms this:—

Preamble  
1912 Act.

“And whereas it is desirable that the financial terms applicable to the said province, as altered by the increase of territory aforesaid, should be on a basis of substantial equality with the financial terms enjoyed by each of the provinces of Saskatchewan and Alberta . . . , inasmuch as *the area of these respective provinces* is approximately equal to that of the province of Manitoba as by this Act increased, and inasmuch as each of the said three provinces at the time of its establishment as a province was without public debt.”

Area.

The area of Manitoba originally was 8,913,920 acres: by the extension of 1881 it became 47,188,480 acres and this Act added over 100,000,000 acres to the province.

As to debt allowance, Sec. 4 granted to Manitoba an annual sum, being the equivalent of interest on \$8,107,500, as was granted Alberta and Saskatchewan, less, however, that on \$475,816.15 which had been advanced to the province by the Dominion for provincial purposes.

#### (E) COMPARISON OF DEBT ALLOWANCES ON BASIS OF 1931 POPULATION

Comparison  
1931.  
Census.

No alteration with reference to the debt allowances of the Maritimes, Alberta, and Saskatchewan, has been made since 1905.

If it is claimed that the allowance of 1905 to these two Prairie Provinces was unduly favourable and the Maritimes were then on terms of “inequality” such “inequality” has disappeared with the passing of time.

The following table gives (1) the total debt allowances of the Maritime Provinces, and of Saskatchewan and Alberta, (2) the capital amount of the Maritime provincial railway debt as at the date of Confederation (on railways taken over by the Dominion at Confederation) as estimated by the Duncan Commission (Report, p. 17), and (3) the “net” debt allowance, (i.e. the differences between the figures of columns (1) and (2)).

	(1) Total Debt Allowance	(2) Railway Debt at Confederation	(3) “Net” Debt Allowance
Nova Scotia . . . . .	\$11,530,000	\$6,000,000	\$5,530,000
New Brunswick . . . . .	8,781,000	5,000,000	3,781,000
Prince Edward Island . . . . .	4,884,000	3,000,000	1,884,000
Saskatchewan . . . . .	8,107,500	—	8,107,500
Alberta . . . . .	8,107,500	—	8,107,500

If the figures in column (3) are reduced to a per capita basis on population in 1931, the results are:—

Prince Edward Island.. . . . .	\$22.40
New Brunswick.. . . . .	10.80
Nova Scotia.. . . . .	9.27
Saskatchewan.. . . . .	8.80
Alberta.. . . . .	11.10

The scaling up of the debt allowances of the Maritimes, as compared with Saskatchewan and Alberta, would create a new "inequality".

## DIVISION IX

### CONTENTIONS OF NOVA SCOTIA IN REGARD TO THE ST. LAWRENCE WATERWAYS DEVELOPMENT

N.S. contentions in regard to St. Lawrence Waterway Development.

In its submission to the present Commission the Province of Nova Scotia raises a novel contention under the heading "St. Lawrence Waterways Development" (N.S. brief, pp. 298 to 301) in which it argues that the Dominion of Canada should not have entered into the agreement of July 11th, 1932, with the province of Ontario (Appendix I, Exhibit No. 23) without consultation with the other provinces. Nova Scotia's contentions are in effect that the agreement in question transferred to Ontario the proprietary interest in all water power to be developed in the canalization under the St. Lawrence waterways project, and that without a definite decision from the highest judicial tribunal, which would determine finally the proprietary interest in such water powers, the alienation of such water powers by the Dominion is a fact which ought to be taken into consideration in any reassessment of the subsidies payable to the Maritime Provinces.

It is submitted that this contention is based on a complete misconception and misconstruction both of the constitutional principles involved and of the agreement in question.

It is obvious that Nova Scotia's contentions in this regard are based on an alleged "proprietary interest," which theory, for the reasons already stated herein, is inadmissible. Even if the proposition were accepted that the water powers in question were the property of the Dominion, they would not have become so through any purchase for which moneys of the Dominion as a whole had been expended, but would have been acquired from Ontario, their original owner, without compensation, and it could hardly be contended under such circumstances that the province of Nova Scotia as a province had any interest therein, either direct or indirect.

It is also clear from an examination of the agreement in question (Appendix I, Exhibit No. 23) that this contract was bilateral, the undertakings and commitments of each party being given in consideration for undertakings and commitments of the other party. For example, part of the cost of construction of the project is provided to be paid by the Dominion and part by the province of Ontario.

The agreement in question was a recognition by the Dominion of an admitted interest in the water powers in question of the province of Ontario, and it is obvious that this recognition was a result of certain of the findings of the Supreme Court of Canada in the reference mentioned in the Nova Scotia brief (Reference re Waters and Water-Powers, 1929, Supreme Court Reports, p. 200), as well as well established principles of constitutional law. The Supreme Court did not find it feasible to give answers to some of the numerous questions submitted in the reference, but it did answer many of them and did enunciate or re-enunciate certain clear constitutional principles which involved a recognition of an interest on the part of Ontario in the water powers existing in that part of the St. Lawrence within its boundaries of which the bed or banks were owned by the province. Among the principles enunciated by the Supreme Court of Canada were those stated by the Chief Justice (p. 218) as follows:—

“ . . . . But although the Dominion may, by legislation enacted in exercise of its exclusive powers relating to railways and canals, authorize the construction through the property of a province of a railway or canal, to which its jurisdiction extends, this does not involve the right to appropriate the whole beneficial interest of the site of the work (including the minerals, for example), for the purpose of making it available as an asset or source of revenue for the benefit of the Dominion or of the Dominion's grantees, where that site is vested in His Majesty and is, by the B.N.A. Act, subject to the administration and control of the Provincial legislature.

Apart from the fact that such legislation would not be legislation exclusively competent to the Dominion, it would transcend the ambit of Dominion authority touching railways or canals, which was not intended to enable the Dominion to take possession of sources of revenue assigned to the provinces, and by assuming the administration of them, to appropriate to itself a field of jurisdiction belonging exclusively to the provinces. Similar considerations apply to the exploitation and disposition of water-powers appropriated by the Dominion in exercise of its legislative authority in relation to canals. Assuming such an appropriation by the Dominion to be competent without payment of compensation, the Dominion could not constitutionally assume the administration or control of water-powers so acquired for purposes not connected with the canal . . . . ”

It should also be borne in mind that the agreement in question has not yet come into effect, inasmuch as it has not been approved by Parliament or by the Legislature of Ontario. Further, in view of the fact that the Treaty between Canada and the United States relating to the subject has not been ratified by either country within three years of the signing of the agreement in question, the agreement by its terms is subject to cancellation by either of the parties thereto.

In short, therefore, the contentions of Nova Scotia are inadmissible because they are founded on an alleged proprietary interest which does not exist, because they are based on a misunderstanding of the proposed arrangement between the Dominion and Ontario, because in any event the circumstances alleged by Nova Scotia would not entitle it to additional subsidies from the Dominion, and finally because they are premature.

## DIVISION X

THE APPEALS OF THE MARITIME PROVINCES BASED ON ALLEGED  
FISCAL NEED AND LACK OF PROSPERITY

Appeals of  
Mar. Prov.  
based on  
alleged  
fiscal need  
and lack of  
prosperity.

## (1) THE BRIEFS OF THE MARITIME PROVINCES

All of the Maritime Provinces put forward appeals for additional subsidies based on their alleged fiscal need and lack of prosperity.

Basis of  
claim of  
N.S.

In the case of Nova Scotia, the fiscal need is the primary ground relied on by that province in its request for additional subsidies. The other grounds alleged, such as inequality of treatment in respect of subsidies in lieu of lands, accessions of territory to Ontario and Quebec and debt allowances, are put forward as alternative or subsidiary considerations. This, it will be observed, is a substantial shifting by Nova Scotia of the grounds relied on by it in 1926 before the Duncan Commission and in August, 1934, before the Privy Council for Canada.

Basis of  
claim of  
N.B.

The Province of New Brunswick bases its request on grounds of alleged need, and in this connection enunciates the astonishing theory:—

“that it is a function of the Dominion Government to maintain as nearly as possible, equality of prosperity between the provinces, at least in so far as that prosperity depends upon the Dominion Government activities and expenditures.”

Basis of  
P.E.I.'s  
claim.

Prince Edward Island by implication urges its alleged lack of prosperity as a ground for further money allowances from the Dominion.

Both Nova Scotia and New Brunswick in dealing with the question of fiscal need and lack of prosperity deal with the corollary subjects of expanding functions of provincial governments and the impairment of provincial revenues.

(2) FISCAL NEED AND UNEQUAL PROSPERITY NOT ADMISSIBLE AS GROUNDS FOR  
ADDITIONAL SUBSIDIES

Fiscal need  
and unequal  
prosperity  
not admis-  
sible as  
grounds for  
addn'l subs.

The proposition that fiscal need of any province is a basis for the granting by the Dominion of subsidies, to the government of that province and the proposition, necessarily closely connected therewith, that it is a function of the Dominion Government to maintain as nearly as possible, equality of prosperity between the provinces, at least in so far as that prosperity depends upon Dominion Government activities and expenditures, are inadmissible and should not be accepted by this Commission, for a number of reasons, the more important of which may be summarized as follows:

(a) These propositions are contrary to the constitutional principles of Confederation;

(b) From the point of view of scientific government they are unsound and highly undesirable;

(c) The objectives contemplated by these propositions are impossible of fulfilment, even in a broad general way;

(d) The present Commission could not properly consider these propositions as regards only three of the provinces, as even if these propositions were admissible it would be necessary to deal with them as regards all the provinces and not only as regards certain of them.

## (3) UNCONSTITUTIONALITY OF THE PROPOSITIONS

Unconstitutionality of the propositions.

1867. Equality of treatment based on population.

The adoption of the above mentioned propositions that fiscal need entitles a province to additional subsidies and that the maintenance of equality of prosperity between the provinces is a function of the Dominion Government, would result in the abandonment of a constitutional principle. It is clear from the terms of the B.N.A. Act, 1867, and of the B.N.A. Act, 1907, that the general principle adopted by the legislators in respect of subsidies was equality of treatment based on population. This interpretation is in fact supported by the findings of the Jones Commission, whose report is filed as an exhibit by Nova Scotia. On page 70 of that report the Jones Commission states:

“... So far as one can deduce principles from the compromise arrangements of 1867, it would appear that the one clear principle of the settlement was that the Provinces should receive equal financial assistance from the Dominion, as determined by their respective populations. ...”

and on the same page it states:

“This original weakness of the Confederation financial settlement was aggravated by changes incorporated in the general subsidy revision of 1907.”

These statements are made, of course, in criticism of the principles adopted by the constitution, but it must be borne in mind that these are constitutional principles and could not be upset without amendment of the constitution, even if a workable substitute could be found or it were, for other reasons, desirable to upset them.

If further evidence than that cited above be required to show that it was clearly the intention of the Fathers of Confederation that the subsidies system should not be expanded, it may be found in Sir Alexander Galt's speech at Sherbrooke (Appendix I, Exhibit No. 54).

1907. Principle of equality affirmed and extended.

It is abundantly clear that the readjustment of the general subsidies made in 1907 was intended to affirm and extend this principle of equality of treatment on the basis of population and to remedy certain features which amounted to departures from that principle. For instance, in the arrangements made by the B.N.A. Act, 1867, in regard to general subsidies, the allowances for government and legislature to each of the four provinces were fixed sums, and similarly fixed sums were provided for Manitoba, British Columbia, Prince Edward Island, Alberta and Saskatchewan when they were admitted to the Union. The per capita allowances provided for in 1867 did not take into account prospective increases in population of Ontario and Quebec, and provided for increases in population of Nova Scotia and New Brunswick only up to 400,000 inhabitants each. The subsequent legislation dealing with Manitoba, British Columbia and Prince Edward Island provided for increases in population only up to 400,000 of population each, and those for Alberta and Saskatchewan only up to 800,000 inhabitants each. The 1907 readjustment made by the B.N.A. Act of that year removed these inequalities, both as to allowances for government and legislature and per capita allowances, and based both classes of allowances on the population existing from time to time, thus providing for increases in population and, above all, providing for equality of treatment based on population. It is clear, therefore, that the accepted principle of the constitution in regard to subsidies generally, is such equality of treatment, and that any departure therefrom would upset a basic principle of Confederation.

The contention, therefore, by Nova Scotia (N.S. brief, p. 243) that fiscal need was the primary consideration in governing the amount of subsidies fixed on at

Confederation and also in the readjustment of 1907, is the exact contrary of what was the case, and is in fact contradicted by their own exhibit quoted above.

Duncan  
Commis-  
sion's re-  
commenda-  
tions based  
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need should  
be rejected.

It will be observed that the Duncan Report admits that the Duncan Commission took into consideration the alleged fiscal need and depressed condition of the Maritime Provinces (Appendix I, Exhibit No. 2, para. 3, p. 14, p. 15 and p. 16) and that it gave these features special consideration in recommending interim increases to those provinces (Appendix I, Exhibit No. 2, p. 19). It should be pointed out that in recommending that these factors should be taken into consideration in a revision of the subsidies, the Duncan Commission was impliedly suggesting, whether wittingly or unwittingly, a departure from an accepted principle of Confederation. Accordingly, its recommendations, in so far as they were based on such considerations, should be rejected.

Nova Scotia in its brief (pp. 243 and 245) cites certain special revisions of subsidies occurring after 1867 as being based on fiscal need. The first example cited is the revision of 1869 by which Nova Scotia received an annual allowance of \$82,698, payable for a period of ten years. This special subsidy, however, was a partial return to the principle of equality of treatment based on population, in that the purpose of this revision was to place Nova Scotia on an equal per capita basis in this respect with New Brunswick. New Brunswick, by Section 119 of the B.N.A. Act, 1867, had received a special allowance for a period of ten years of \$63,000 per annum, subject to certain deductions. The grant of this special subsidy to New Brunswick was clearly an exception made by the constitution itself to the general principle of equality of treatment. The reasons given for this special allowance by the Quebec Resolutions (No. 65) and the London Resolutions (No. 63) were that the position of New Brunswick was "such as to entail large immediate charges upon her local revenues."

It will be observed that these subsidies to New Brunswick and Nova Scotia were temporary only. When they expired at the end of ten years, both Nova Scotia and New Brunswick attempted to have them continued, urging that the conditions which existed at the granting of these special subsidies still persisted.

Those demands were refused by the Dominion. The then Minister of Finance, the Hon. R. J. Cartwright, stated in memoranda to the Cabinet of the 12th February, 1877, dealing with these applications, as follows:—

"In view of the enormous engagements to which the Dominion of Canada is now committed, and in view of the inexpediency of disturbing the present financial arrangements of the Several Provinces, the undersigned feels it his duty to recommend in the strongest manner possible that no addition be made to the fixed annual charges now existing, by a continuance of the Sum asked for."

The Dominion Government concurred in this recommendation and refused the requests.

The agitation for the continuation of these special grants continued, and on October 29, 1880, the Deputy Minister of Finance, in dealing with a further request from Nova Scotia for a readjustment of the provincial subsidy, prepared a memorandum which contains the following:—

"Before criticizing the allegations contained in the letters, or making any comments thereon, I beg to point out that throughout the whole of the documents submitted, whether in the original communications from the Provincial Secretary or whether in the separate addresses from both branches of the Legislature, or whether in the subsequent correspondence, is this inadmissible

argument that because the Province is financially embarrassed the Dominion must come forward and rescue it from its unfortunate position.

"Whilst I deeply regret that Nova Scotia should be in its present state I think it but right that this argument should not be entertained; to allow it to stand unnoticed would be, on the part of the Dominion Government, to tacitly consent to its being correct, and if such an idea becomes general it would materially help to destroy economical tendencies in Provincial Legislatures, and might be fraught with dangerous consequences to the Dominion; . . ."

The Cabinet, on the 24th March, 1881, concurred in that memorandum and an Order in Council was enacted accordingly.

(Appendix I, Exhibits Nos. 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35.)

The foregoing data is submitted at some length as indicating clearly the repugnance felt by the Dominion Government to any departure from the principle of equality of treatment and its refusal to accept fiscal need as a basis for the granting of subsidies.

Nova Scotia does not refer in its brief to the revision made in 1869 of the subsidy based on debt allowance, but attention is called here to that revision as it too constituted an attempt to achieve equality of treatment on the basis of population, in that it brought Nova Scotia's debt allowance up to the same per capita basis as that of New Brunswick.

The next instance cited by Nova Scotia is that of four separate increases made to Manitoba. It is not necessary to deal with these increases, because, as Nova Scotia admits in its brief, the avowed basis adopted was that of uniformity of treatment in respect of population, in all the instances cited, except the special subsidy in lieu of lands, which was, of course, a subsidy granted for a specific purpose, to replace an asset which normally would have belonged to the province.

Nova Scotia also cites the special treatment accorded to New Brunswick in 1873, when it was granted an additional subsidy of \$150,000. That subsidy, however, was granted to replace a right reserved to New Brunswick by the constitution (B.N.A. Act, 1867, s. 124) which had been surrendered by that province, namely, the right to continue its export duties on lumber.

Reference is also made by Nova Scotia to alleged special treatment accorded to Prince Edward Island, but it will be noted that in each case special treatment was given on grounds other than fiscal need. The \$20,000 subsidy granted in 1887 was granted in view of large expenditures made by the Dominion in other provinces for railway construction. The \$30,000 subsidy granted in 1901 was granted in full satisfaction of claims made by Prince Edward Island that the obligations of the Dominion under the B.N.A. Act, to maintain continuous communication with the mainland had not been fulfilled. The grant of \$100,000 made in 1912 was because of the small size and peculiar position of Prince Edward Island, the then Minister of Finance, Sir Thomas White, stating that it was made on the grounds of fairness and justice as between the Dominion and the smallest of the provinces and *should be taken into consideration in any later adjustment of subsidy.* (Appendix 1, Exhibit No. 49.)

The demands of the various provinces from time to time for additional subsidies, it is true, were frequently inspired by the fiscal needs of those provinces, but the Dominion steadfastly refused to recognize fiscal need as a basis for subsidies and, as Nova Scotia admits in its brief, (p. 244) repeatedly affirmed that, even if



proven, it did not entitle the provinces to increases in subsidies. It is evident that the Dominion has been fully alive throughout to the danger of an insidious doctrine of this kind.

It is clear that in 1867 it was intended that the compromise arrangements made in regard to subsidies should not be expanded. The various revisions of the subsidies since that time, as a result of repeated appeals by various provinces, other than Ontario and Quebec, do not constitute a tacit admission that this principle was unsound, but are a manifestation of the way in which a vicious system once started can expand. Although until the year 1917 the provinces had the entire field of direct taxation open to them, they preferred to appeal to the Dominion Government, and it is fair to assume that the various subsidy increases that were made, held back the provinces from going into fields of taxation which they could have entered. The general revision of subsidies made in 1907 was conceived and devised principally as a means of checking the growth of this vicious system, it certainly was not an endorsement of it.

The fact that Canada is a confederation and that by its constitution the functions of government are divided between the Dominion on the one hand and the respective provinces on the other, each being sovereign and independent within its own sphere, makes it quite clear that the makers of that constitution did not propose to adopt the unscientific theory that the Dominion Government should be required to provide by means of money grants for the fiscal needs of any of the autonomotus states within the confederation ; in other words, to make up by means of grants the deficits of the various provinces; nor the equally unsound theory that the Dominion Government should be required to preserve equality of prosperity among the provinces.

#### (4) UNSOUNDNESS AND UNDESIRABILITY OF THE PROPOSITIONS FROM THE POINT OF VIEW OF SCIENTIFIC GOVERNMENT

It is obvious that one of the reasons why the framers of the original constitution and its amendments based the subsidy provisions on principles other than the fiscal needs of the various provinces, and made no attempt to achieve the utopian objective of maintenance of equality of prosperity between the various provinces was that they realized that to do so would be contrary to sound principles of political science and the proper theory of government.

In Division XI are discussed numerous defects of the subsidy system in general. Many of these defects would exist in an even greater degree and have even more disastrous results if fiscal need were accepted as a basis for the granting of subsidies.

The subsidy arrangements resulted from compromises arrived at in efforts to induce the four original provinces and Prince Edward Island and British Columbia to enter the Union. To the limited extent to which subsidies were adopted in the constitution they represented a departure from the sound political theory that a government entrusted with the expenditures of the moneys should be made responsible for the levying of the taxes to provide the necessary revenues by taxation. This principle is particularly vital in a democracy. If the framers of the constitution had accepted the principle of fiscal need as a basis for subsidies, or the maintenance of equal prosperity among the provinces by means of subsidies, it would have been a complete abandonment of this sound rule of good govern-

Unsoundness and undesirability of propositions from point of view of scientific government.

ment. The Fathers of Confederation, however, did not fall into any such trap and deliberately avoided any such proposition. Section 2 of the London Resolutions of 1866 reads as follows:—

“2. In the Confederation of the British North American provinces the system of government best adapted under existing circumstances to protect the diversified interests of the several provinces and secure efficiency, harmony and permanency in the working of the Union is a General Government charged with matters of common interest to the whole country and Local Governments for each of the the Canadas, and for the provinces of Nova Scotia and New Brunswick, charged with the control of local matters in their respective sections, provision being made for the admission into Confederation on equitable terms of Newfoundland, Prince Edward Island, the North-west Territory, and British Columbia.”

and Section 2 of the Quebec Resolutions is practically identical.

The second paragraph of the preamble of the B.N.A. Act, 1867, reads as follows:—

“And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:”

It will be seen from the foregoing that the framers of the constitution recognized that “the interests of the several provinces” were “diversified interests”, and were of the opinion that the Union would “conduce to the Welfare of the Provinces”; and it is obvious that they did not aspire to a maintenance of equal prosperity among the provinces; and still more obvious that they did not consider it a function of the Dominion Government to attempt the task of such maintenance.

The basing of subsidies on fiscal need is also unsound from the point of view of political science in that such a proposition would obviously be an incentive to extravagant spending on the part of the recipient governments. The acceptance of the theory of fiscal need or maintenance of equal prosperity as a reason for subsidies would also result in gross differences between the amounts paid to the various provinces for such reasons, with the inevitable result of provoking jealousy and ill-feeling between the various provinces.

The propositions are particularly unsound from the point of view of political science as applied to the Canadian Confederation because they ignore the fact that the Dominion Government is responsible for and concerned with matters of national importance only, as distinct from provincial or local matters which are the concern of the provincial governments and of the municipal authorities to whom provincial powers are delegated.

Finally the propositions are unsound from the point of view of political science as they take no account of the capacity of the disbursing government to pay, nor of the fact that that disbursing government is not responsible for the existence of the fiscal need or lack of prosperity on which the propositions are postulated, nor of the fact that that disbursing government must of necessity have its own functions to fulfil and its own expenditures to meet.

In concluding the discussion of the objections to the doctrine of fiscal need it is appropriate to quote from the submissions made by the province of Nova Scotia to the Jones Commission the following extract which constitutes an admission of the fallacy of that doctrine:—(pages 187 and 188)

“Doubtless it will be impossible to eliminate completely the payment of special subsidies to particular provinces in order to meet urgent and unforeseen fiscal needs. Certainly it will be necessary to keep differences of taxable capacity in view in the general revision of subsidies which must be undertaken

N.S. itself admits unsoundness of the fiscal need doctrine.

in the near future. It is submitted, nevertheless, that there are grave objections to the adoption of this policy as a complete and final solution of the major problem involved in the present financial relations between the Dominion and the provinces. These objections may be indicated briefly:—

“(1) Differences in taxable capacity are not susceptible of exact measurement. They are relative rather than absolute and may be of a temporary character. The fact that broad differences exist can be demonstrated without difficulty. But it is not possible to represent these differences in taxable capacity in such terms as would permit of their being neutralized in respect of the provinces of low taxable capacity by the payment of a fixed scale of higher subsidies. Any settlement of this character would be tentative and unstable. If adopted it should form part of a more general re-arrangement of financial relations and should be made subject to periodic revision.

“(2) The payment of a much higher scale of subsidies to some provinces than to others would expose the provinces receiving a substantially larger measure of assistance from the Dominion Treasury to the charge that they were being ‘kept’ or ‘pensioned’ or ‘supported’ at the expense of the remaining portion of the Dominion. Attention would be focussed on the obvious fact of inequality in the subsidies paid to some of the provinces rather than upon the justification of this unequal scale when viewed in the light of differences in taxable capacity. Such an accusation, however, unjust, could not fail to affect the morale of the inhabitants of the provinces receiving special assistance. Inevitably it would lead to invidious comparisons and recrimination. Instead of promoting harmony it would produce friction.

“(3) Past experience with subsidies has proved that unless they are designated for specific purposes they are likely to lead to extravagant spending, a not unnatural result when there is a disjunction between the taxing and the spending authority. The pressure for economy is reduced to a minimum when a large proportion of provincial revenue is obtained not from taxation but from general subsidies for which the spending authority is not directly accountable to the taxpayers. If special subsidies payable to certain provinces are to form part of a more general settlement of financial relations between the Dominion and the provinces they might be accompanied by measures of budgetary control undertaken by the provinces receiving them as a condition of their payment.”

#### (5) IMPOSSIBILITY OF FULFILMENT OF THESE PROPOSITIONS.

Even if the propositions in regard to fiscal need and equality of prosperity were not contrary to constitutional principles and to sound theory of scientific government, they should be rejected because of the impossibility of their fulfilment. All the Maritime Provinces in dealing in their submissions with fiscal need, touch, either expressly or impliedly upon two corollaries of fiscal need, namely, the expanding functions of government and the alleged insufficiency of provincial revenues to meet such functions. In order to establish the existence of a fiscal need it would be essential to prove not only that the functions sought to be exercised were necessary, but that they are economically carried out, and also that the province has exhausted the sources of revenue available to it. The Maritime Provinces make repeated reference to the expansion of functions of government, but it is a matter of common knowledge and in fact is evident from their submissions that opinions differ considerably from time to time and among different communities as to the necessity for such expansions and as to their direction and extent. The control of such expansion and the exercise of such functions is admittedly in the hands of the provincial governments. Consequently there would be no means of ascertaining what amount of general subsidies would be necessary, nor of ensuring that amounts paid by general subsidies to be disbursed by a province, free from the control of the Dominion, would be properly disbursed.

Impossibility of fulfilment of propositions.

No method of ascertaining amounts of subsidies required nor of controlling their use.

No means of ascertaining the wealth or taxable capacity of a province.

An even more difficult factor which renders it manifestly impracticable to base general subsidies on fiscal need is the impossibility of establishing the actual wealth of any particular province and its tax-paying capacity. The various Maritime Provinces have attempted to measure these two factors by a variety of yardsticks, such as total and per capita wealth, comparison of provincial expenditure with the amount of individual income assessed for income tax, gross value of production on a per capita basis, and the net value of production on a per capita basis. It has been pointed out, however, by the Dominion Bureau of Statistics that there is in practice no such thing as a perfect test of the relative tax-paying power of various communities. The statistics furnished by the Maritime Provinces are not a safe or useful test of the tax-paying power of the provinces concerned. There is filed herewith a memorandum prepared by the Dominion Bureau of Statistics entitled "*Tests of the Tax-paying Power of the Various Provinces*" (Appendix III, Memorandum No. 1) which was prepared with reference to the New Brunswick submissions, but which is applicable with equal force to the submissions of each of the other provinces. This memorandum shows the impossibility of arriving at a satisfactory test of such tax-paying power and the dangers of relying on any of the tests sought to be applied by the Maritime Provinces in their submissions. The following extract from that memorandum indicates that there are so many unknown quantities which bear on the statistics on which the tests suggested by the provinces are based, that those tests are of no value:—

"There is in practice no such thing as a perfect test of the relative tax-paying power of various communities. Theoretically, indeed, if we knew exactly the total income of each and all the citizens of each of the provinces of Canada, including not only all income received in money but also the money value of all income received in kind, such as the fresh fish caught by the fishermen, the farm produce consumed on the farm where it is produced or sold to neighbours or in the markets of nearby towns, and the garden stuff grown or the chickens and eggs raised by the urban artisan in his spare time, we should have a total against which we might place the spending of the different provincial governments, and determine what percentage the latter bore to the former. Even then, however, we ought to go farther and consider the relative services rendered to the citizens of the different provinces in return for governmental expenditures before we could decide whether the burden of taxation was really heavier in one province than in another. In other words, we should consider the services which people receive as well as what they have to pay in return for those services. The people of one province may pay in provincial taxation a larger percentage of their income than those of another, but may also get much more in services in exchange for what they pay. If so, they are not really more heavily burdened than the people of the community who pay less in taxes but get less in services in exchange for those taxes. Or the same reasoning may apply to a single province at different periods in its existence. Thus the citizens of most if not all of the provinces of Canada are to-day paying a larger percentage of their incomes in provincial taxation than before the War, but are also receiving in exchange a great deal more in services rendered to them by their government.

In Canada, we do not know accurately the aggregate incomes of the citizens of the various provinces, and it is doubtful if we ever shall know it quite accurately. And we are less likely to know it accurately if much of it is received in kind, since the producer who consumes his own products, even though he may charge them to himself and give a correct total to the census-taker, will charge them to himself only at producer's price, although they are of equal avail toward the maintenance of human life whether they are consumed by the producer and his family or by an urban worker a thousand miles away, who purchases them at ordinary retail prices.

Again, comparisons of revenues and expenditures between different provinces are liable to be vitiated by the fact that in some provinces the municipalities, which are themselves the creatures of the provincial governments, perform functions which in other provinces are performed by the provincial governments directly, or collect taxes which in other provinces are collected by the provincial governments directly or make expenditures for services which in other provinces are maintained directly by the provincial governments. Thus the citizens of Ontario pay an income tax to their municipality while those of Manitoba and British Columbia pay an income tax to their provincial government. Again, the bulk of the expenditure on education falls in Prince Edward Island upon the provincial government, but in Ontario upon the local taxpayer. Finally, in some provinces there are very few municipalities to act as tax gatherers of local taxes, while in Ontario there are nearly one thousand municipalities collecting taxes. Since all municipalities derive their powers from the provincial governments and since these powers vary so widely, it seems that any fair comparison as between the provinces should take account as far as possible of municipal as well as of provincial expenditures."

Tests sought to be applied by Maritimes unsafe.

The Maritime Provinces in their briefs seek to apply the following tests of tax-paying power to support their allegations of fiscal need:

- (a) Total and per capita wealth;
- (b) Comparison of provincial expenditure with the amount of individual income assessed for income tax;
- (c) The gross value of production;
- (d) The net value of production.

More satisfactory test suggested by Dom. Bureau of Stats. shows that governmental expenditures of Maritimes not seriously out of line with other provinces.

The Dominion Bureau of Statistics in its memorandum shows that each of these suggested tests is unsatisfactory by reason of essential defects, and it points out that a more satisfactory test than any of these is to be found in the retail spendings of a population for commodities and services. In this connection it states:—

"Finally, the total of the retail spendings of a population for commodities and services would appear to be the best single available test of what that population is able to pay for its provincial and local government."

It gives a table showing the

"Total Ordinary Expenditures of Provincial and Municipal Governments in Canada, Compared with Total Retail Spending of the People, Used as Indicative of Comparative Taxpaying Power, by Provinces, 1930-31."

In conclusion, the Bureau of Statistics states (Appendix III, Memorandum No. 1):—

"On the whole, then, it does not appear that the payments of the people of Nova Scotia for their provincial and municipal services are markedly higher in proportion to what they pay for their retail purchases of commodities and services than is the case in the other English-speaking provinces of Canada. In view of the limited number of municipalities in New Brunswick and Prince Edward Island, it is probable that the same applies to these provinces also. Thus, so far as the available statistics go, it does not appear that in 1930 the spendings of the people of the Maritime Provinces for provincial and municipal governmental purposes were seriously out of line with their private spendings for commodities and services as compared with the other English-speaking provinces of Canada."

Wide periodic fluctuations of fiscal need in various provinces.

Another factor which contributes to the impossibility of basing general subsidies on fiscal need and maintenance of equality of prosperity is that both these conditions are obviously subject to wide periodic fluctuations in the various provinces. It would obviously be necessary to revise such general subsidies at frequent intervals, which would provide constantly recurrent occasions for bickering, hard

feeling and dissatisfaction. Moreover, equitable treatment as between the Dominion and the provinces would necessitate that the subsidies should be revised downwards, where necessary, as well as upwards, which would provoke even greater although unjustified resentment.

The idea, therefore, that the Dominion should pay general subsidies to the various provinces on the basis of fiscal need or in the hope of maintaining equality of prosperity between the provinces is quite utopian. It is inevitable that certain of the provinces will have greater fiscal need and be less prosperous than others. The idea above referred to contemplates that a poor province would be free to spend as much as a rich and would mean simply that the poorer provinces should receive more because they are poor—an equalitarian theory with respect to government expenditure, which is not admissible. The principle that a government should cut its expenditures according to its revenues, while not always adhered to by governments, cannot be disregarded. If there are certain vital functions of government which a province through poverty cannot provide, then it may be that if that function is one which seriously affects the national well-being, the Dominion Government might deem it advisable to aid the province in that respect, but it is obvious that this aid should not take the form of a general subsidy to the province to be spent as it likes. A more effective way of rendering assistance would be to make a grant in aid to be spent in carrying out that function, or for the Dominion itself to take over the function. A general subsidy would not ensure that the function would be taken care of by the provincial government, whereas it would have a tendency to entrench the province in a position which would enable it to block appropriate changes in the constitution required in order to enable the Dominion to take over the function.

(6) CLAIMS BASED ON FISCAL NEED EVEN IF ADMISSIBLE SHOULD BE DEALT WITH AS REGARDS ALL THE PROVINCES.

The present Commission could not properly consider claims based on fiscal need with regard to three only of the provinces. Even if claims of this kind were admissible it would be necessary to deal with them in respect of all the provinces and not as regards certain only of them. In order to provide for a logical and uniform application of the fiscal need theory, it would be necessary to discover and apply a uniform definition and yardstick of fiscal need, which could not be accomplished unless the situations of all the provinces were considered.

Moreover if the course were adopted of dealing with the fiscal needs of some only of the provinces, the Dominion would never be able to ascertain where its potential liabilities to the provinces as a whole would end.

(7) FISCAL NEED AS AN ALLEGED RESULT OF DOMINION POLICIES

The Maritime Provinces, while urging general fiscal need in support of their request for general subsidies, tacitly admit the principle that the Dominion is under no obligation to recognize and adjust the varying fiscal needs of the provinces, by stating that the argument in support of that principle can only be sustained on the assumption that the varying degrees of economic progress in the provinces have not been affected by the operation of the fiscal policies of the Dominion (N.S. brief, p. 252). They therefore proceed in an attempt to show that the Maritime Provinces have suffered as a result of the Dominion's fiscal policies. Their arguments in this

Fiscal need as an alleged result of Dom. policies.

connection, for the most part, narrow down to the effect of the tariff policy of the Dominion upon the Maritime Provinces, although some reference is also made to alleged invasion by the Dominion of the provinces' field of taxation.

In its brief, Nova Scotia refers to the subject of the incidence of the tariff, on not less than twenty-five occasions and New Brunswick makes a special point of this in its Supplementary Brief (p. 9).

As the Dominion has pointed out at the outset in this brief, the question of the effect of the tariff policy of the Dominion upon the Maritime Provinces is not one with which this Commission is called upon or entitled to deal. It is not necessary to repeat here the reasons already given for such contention, but it is desired to make it clear on behalf of the Dominion that all its arguments are made under express reserve of that contention. Even if it were true that the tariff policy of the Dominion had affected adversely the economic progress of the Maritime Provinces, it is obvious that grants of subsidies by the Dominion to the governments of those provinces would not be an appropriate remedy. The submission of the province of Nova Scotia to the Jones Commission states that this would be a treatment of the symptom rather than the disease. The analogy can be carried even further by stating that the granting of subsidies to the government of a province by reason of alleged adverse effects of the Dominion tariff or any other national policy upon the prosperity of that province, would be treating the nurse for a symptom of the patient's disease, instead of attempting to eliminate the causes of that disease. Moreover, as the province of Nova Scotia has pointed out in its submission to the Jones Commission, and as the Jones Commission itself has pointed out in its report (p. 218), an attempt to remedy an alleged adverse effect of the tariff on the Maritime Provinces by means of subsidies would have the result of the Maritime Provinces paying their own compensation.

Reference is also made by certain of the Maritime Provinces to the alleged "invasion" by the Dominion of the provincial field of taxation. It is hardly necessary to point out that under Sections 91 and 92 of the B.N.A. Act, 1867, the authority of the Parliament of Canada includes the raising of money by any mode or system of taxation, while the Legislature of each province may impose direct taxation within the province. The only form of direct taxation to which the Dominion Government has resorted is income tax, which was imposed for the first time in 1917. Up to that time, as has already been pointed out, the provinces had the entire field of direct taxation open to them. They did not, however, (with the exception of Prince Edward Island, which in 1894 imposed a low income tax) make use of income tax as a source of revenue, apparently preferring to appeal to the Dominion Government for subsidies. The Dominion did not invade the field of direct taxation until they were obliged to do so by the exigencies of the last war. However, the fact that they have done so, does not preclude the provinces from imposing income tax. Indeed, several of the provinces have already done so, either directly or by authorizing municipalities within the province to impose such a tax. In the United States a large majority of the individual states have resorted to income tax in spite of the heavy income taxes imposed by the Federal Government.

Claims of  
Maritimes  
that alleged  
disabilities  
due to  
Confeder-  
ation.

The only two specific instances alleged by the Maritime Provinces as effects of the Dominion fiscal policy on the fiscal needs of the provinces are the alleged effect of the tariff and the alleged invasion of the field of direct taxation, but in the documents submitted by the Maritime Provinces to the Duncan Commission

and to the present Commission, allegations have been made that the alleged disabilities of the Maritime Provinces are attributable mainly to Confederation. This, it is submitted, is not the case, and the Duncan Commission expressly refused to accept this contention.

The Maritime Provinces in their briefs seek to show that at the time of their respective entries into the Union they were in a satisfactory state of economic and fiscal prosperity and, in fact, Prince Edward Island's brief (p. 6) states that the Maritime Provinces were prosperous, vigorous and self-sufficient. This, to say the least, is an exaggeration, and particularly so in the case of Prince Edward Island. At the time of its entry into Confederation in 1873, that province was in a serious fiscal position. As a result of extensive railway construction into which it had entered, the liabilities of the Island amounted to \$41 per capita. In the autumn of 1872, at the very beginning of its railway construction enterprise, its finances showed signs of serious strain. It was unable to negotiate loans and the best terms that could be obtained were for a four months' loan, due in 1873, of about \$26,000 at the high rate of seven and one-half per cent per annum. A brief description of its fiscal situation is to be found in an article by Professor J. A. Maxwell of Clark University, Worcester, Mass., entitled "Prince Edward Island and Confederation" (Appendix III, Memorandum No. 2).

The fiscal position of New Brunswick also was far from satisfactory, so much so that, as has been already stated, it was necessary to make provision in the B.N.A. Act (Section 119) for a special grant to it of \$63,000 per annum for ten years. The Quebec Resolutions (No. 65) and the London Resolutions (No. 63) show that the reasons for this special grant were that the position of New Brunswick was such as to entail large immediate charges upon her local revenues.

Nova Scotia had deteriorated appreciably after 1863 because of rapid accumulation of debt to finance railway construction. In 1866 all three provinces were on the brink of serious fiscal and economic difficulties as a result of conditions not connected with their entry into Confederation.

A memorandum showing briefly the reasons for stating that Nova Scotia and New Brunswick were facing fiscal difficulties is submitted herewith (Appendix III, Memorandum No. 3), and attention is called to certain extracts from a memorandum of John Langton, the Auditor General of the Dominion, to the Minister of Finance in 1868 or 1869 (Appendix I, Exhibit No. 41).

That there have been many circumstances in no way connected with the Union or the policies adopted by the national government since Confederation which may have adversely affected the Maritime Provinces is a fact to which too little attention has been drawn.

Among such circumstances are—the decline of shipping, shipbuilding and related industries as a result of the replacement of wooden and sailing ships by iron and steel and steam vessels, of the termination of the American Civil War and of the opening of the Suez Canal;—the effect upon lumbering, of cheaper railroad transportation costs and the cessation of the Civil War boom;—the decline of the coal mining industry in Nova Scotia resulting from the repeal of reciprocity and the development of coal mining in the United States and the lowering of coal transportation rates;—and the loss of agricultural markets owing to the development of agriculture in the western United States and western Canada.



Comparison  
with New-  
foundland.

It is submitted that the Maritime Provinces would be thoroughly dissatisfied if their progress since Confederation had been as small as that of Newfoundland and if their present condition paralleled the existing condition of that colony. The slow progress and present condition of Newfoundland, with its vast natural resources and industries in some respects similar to those of the Maritime Provinces, cannot of course be attributed to Confederation.

Comparison  
of increases  
in popula-  
tion of Mar.  
Provs. with  
Maine, New  
Hampshire  
and  
Vermont.

The comparison of increases in population of the Maritime Provinces from 1871 to 1931 and of Maine, New Hampshire and Vermont from 1879 to 1930 shows that the Maritime Provinces have increased by 31·5 per cent, while the three New England states increased by only 26 per cent. Both increases were relatively small, but the Maritimes' was greater than that of the three states, and while it would not be proper to draw definite conclusions from these figures alone, it is plausible to suggest that the relatively slow increase in population in both areas was attributable mainly to economic and technological changes outside the sphere of government policy and incapable of being remedied by government action.

While the post-War period was one of great difficulty for the Maritime Provinces as well as the rest of Canada, and, in fact, the world in general, the Maritimes had a fair measure of prosperity during the late '20's, and they stood up well during the last depression as compared with other economic areas in Canada as a whole. A more extensive discussion of the causes affecting the fiscal and economic situations of the Maritime Provinces since Confederation, containing data in support thereof, is submitted herewith (Appendix III, Memorandum No. 4).

Alleged  
frugality  
of expendi-  
tures of the  
govts. of  
Mar. Provs.

#### (8) ALLEGED FRUGALITY OF EXPENDITURES OF THE GOVERNMENTS OF THE MARITIME PROVINCES.

The Maritime Provinces in support of their plea for general subsidies based on fiscal need have argued that their governmental expenditures are "frugal" and have relied strongly on the opinion of the Duncan Commission that this was the case in 1926. However, a survey of the fiscal position of the Maritime Provinces in recent years hardly justifies their protestations.

Increases in  
expendi-  
tures of  
Maritimes  
1919 to 1925  
and 1925 to  
1931.

The post-war years with respect to the Maritime Provinces can be divided into two periods,—first, 1919-1925, second, 1925-1931. The year 1931 is the last for which comparable statistics are available. In both of these periods the per capita ordinary expenditure of the Maritime Provinces (with the exception of Prince Edward Island in the earlier period) has expanded more rapidly than that of the provincial governments as a whole.

#### *Per Capita Ordinary Expenditure 1919-1925*

	1919	1925	1919	1925
Prince Edward Island . .	\$5 64	\$ 8 67	100	154
Nova Scotia . . . . .	6 47	11 59	100	179
New Brunswick . . . . .	5 85	10 46	100	179
All provinces . . . . .	9 25	14 70	100	159

In the earlier period, if 1919 is made the base year, per capita expenditure of all the provinces had increased by 59 per cent in 1925, while that of Nova Scotia and New Brunswick had increased by 79 per cent and that of Prince Edward Island by 54 per cent.

In the latter period, the year 1925 is a suitable base because it was the year just preceding the report of the Duncan Commission. The following table shows that the rate of growth of the per capital ordinary expenditure of the Maritime Provinces was distinctly greater than that of the provinces as a whole:—

	1925	1931	1925	1931	
Prince Edward Island ..	\$ 8 67	\$16 51	100	191	} Average 150
Nova Scotia.. . . . .	11 59	15 98	100	138	
New Brunswick.. . . .	10 46	16 56	100	158	
All provinces.. . . . .	14 70	18 41	100	125	

Thus, since 1925 the *ordinary* expenditures of the Maritime Provinces have increased by leaps and bounds, the average per capita increase for the three provinces being 50 per cent between 1925 and 1931, while that of all the provinces was only 25 per cent. In 1931 the *ordinary* expenditures of Prince Edward Island (both in total amount and per capita) were the largest in its history. The same thing is true of Nova Scotia in respect of the year 1933, and of New Brunswick in respect of the year 1930. (Appendix I, Exhibit No. 36.) The increases in their *ordinary* expenditures to such maximum figures, were permitted in spite of the severe general depression then prevailing.

It may thus be that the judgment of the Duncan Commission that the expenditure of the Maritime Provinces in 1925 was "frugal" would not be repeated in regard to the expenditures which have been permitted since then. And what would the Duncan Commission, which declared that expenditure on roads and bridges had been "heavy" (Appendix I, Exhibit No. 2, p. 15) say to an *ordinary* expenditure on highways in Nova Scotia (excluding interest on highway debt) which in 1931 was greater by 60 per cent than in 1925 (\$2,096,900 compared with \$1,315,300), and to an additional capital expenditure on highways of \$11,606,100 in the six years 1925-31?

Similarly what would have been the Duncan Commission's opinion as to the highway expenditures of New Brunswick. In 1926 its capital expenditures on highways were \$1,785,882.12. These were increased to nearly two millions in 1927, to over three and one-half millions in 1928, to over five millions in 1929, to over six and one-half millions in 1930 and to over \$3,400,000 in 1931.

The capital expenditures of Prince Edward Island on highways in 1926 amounted to \$60,845.17. In 1927 they were over \$100,000, in 1928 over a quarter of a million, in 1930 over \$220,000 and in 1931 over \$140,000. (Appendix I, Exhibit No. 41A.)

A further comparison of the two years 1925 and 1931 may be made. In the former, the per capita ordinary expenditure of the Maritime Provinces was appreciably below that of the provinces as a whole, in the latter year, this divergence has been greatly narrowed. The following table shows by how much less the per capita ordinary expenditure of the Maritime Provinces was than the per capita ordinary expenditure of all the provinces:—

	1925	1931
	less by	less by
Prince Edward Island.. . . . .	\$6 03	\$1 90
Nova Scotia.. . . . .	3 11	2 43
New Brunswick.. . . . .	4 24	1 85

During the period 1925-31 capital expenditure of the Maritime Provinces was increasing at an even more rapid rate than ordinary expenditure. Although satisfactory figures of capital expenditure are not available, their increase is reflected in the growth of interest payments. These payments increased by over 62 per cent from 1925 to 1931. Of a total increase in ordinary expenditure of the Maritime provincial governments, 1925 to 1931, amounting to \$5,581,800, approximately \$1,752,400, nearly one-third, was represented by the growth in interest payments. Thus, while part of the growth of expenditure in these years went to provide new services for the people, or to expand old services, part was used to carry an increased burden of debt.

Growth of expenditures and debt may result from improvident financing or administration.

The Maritime Provinces represent that this growth in debt is in itself an indication of their fiscal need. To some extent this may be so. But it is also possible that in part it indicates improvident financing or administration. Attention may be called to one branch of expenditure as an example, namely, highways. Much of the debt was contracted in building highways, and the bonds issued had a life of twenty to thirty years. The highways do not last that length of time. Most of them have to be reconstructed within a much shorter period. The present programme of hard surface roads in Nova Scotia means that at least a portion of the capital expenditure of the past has been for purposes from which the people of the province will get no return. But the bond issues for such purposes remain outstanding and the provincial government will have to meet yearly interest charges on them. If the programme of hard surface highways is to be financed by borrowing, this will mean that to build a certain mileage of provincial highways duplicate bond issues will have been made. It is, of course, true that most governments have made similar mistakes in performing the rapidly changing task of highway construction. But it is also true that one way by which such mistakes are brought home is by allowing the government which made them to provide the remedy. To shift the burden upon the shoulders of the Dominion serves only to encourage repetition.

Per capita basis not an accurate method of comparing provinces' expenditures.

The per capita ordinary expenditures of the governments of the Maritime Provinces are still somewhat below the average for all the provinces, but it should be noted that a per capita basis is only a rough and ready method of comparing the expenditures. The Maritime Provinces in their briefs indicate certain respects in which this comparison is unfair to them—the general overhead of government is likely to be relatively higher in a small province than in a large—the age distribution of population of the Maritime Provinces is unfavourable. But in other respects the Maritime Provinces have advantages. They are geographically compact compared to the other provinces, and this tends to make the burden of such an important governmental service as highway construction and maintenance lighter than in the case of provinces which have a larger area and a greater population.

The foregoing comments furnish a striking illustration of the soundness of the principles to which reference has already been made, that a government should be charged with the burden of raising the moneys that it spends and that one government should not be called upon to raise moneys for another government to spend.

Purchasing power of the dollar.

The Duncan Commission, when it allowed itself to fall into the error of basing its recommendations of subsidies on fiscal need, referred to “the fall which had taken place in the purchasing power of money” since 1907, (Appendix I, Exhibit No. 2, p. 14) and it apparently felt that this fact justified an increase in subsidy.

The purchasing power of the dollar was lower in 1926 than in 1907 by 38 per cent, but since 1926 the trend has been reversed and in 1933 the purchasing power of the dollar was only 8 per cent below that of 1907.

The following table shows the comparative purchasing power of the dollar (in terms of commodities) in the following years, the year 1907 being used as the base:

1907 . . . . .	100
1926 . . . . .	62
1933 . . . . .	92
1934 (Oct.) . . . . .	86

(Appendix I, Exhibits Nos. 37 and 38.)

The Duncan Commission having in mind (improperly, it is submitted) fiscal need and the purchasing power of the dollar, fixed the amount of the interim subsidies at approximately the amounts of the respective deficits of the Maritime Provinces. Accordingly, the increase in the purchasing power of the dollar since 1926 and the improvement since that time in their economic position as compared with the other provinces should logically result in a *decrease* in the amounts of the interim subsidies recommended by the Duncan Commission.

(9) ERRORS OF NOVA SCOTIA IN CALCULATING ITS ALLEGED FISCAL NEED AND SUBSIDIES BASED THEREON

Errors of Nova Scotia in calculating its alleged fiscal need and subsidies based thereon.

The futility of the proposition that fiscal need of a province is an acceptable basis for the granting of annual subsidies to that province is shown by the computations in the Nova Scotia brief of its alleged fiscal need, present and future, and by the exaggerated size of the annual subsidy, namely \$5,236,120.58 which it asks for on that basis.

Wrong computation of past deficits.

In the Nova Scotia brief (pages 270, 271 and 303) the deficits of Nova Scotia for the past nine years are declared to total \$9,044,800, an average of \$1,005,000 a year. This figure is obtained by totalling revenue deficits (and surplus), 1926 to 1933, and adding thereto an estimated deficit for 1934, the sinking fund instalments 1926-1934, treasury bills amounting to \$1,000,000 borrowed 1926-27, and unemployment relief expenditures for the past four years. The following table summarizes Nova Scotia's compilations:—

Revenue deficits	
1925-6.. . . . .	\$ 582,500
1926-7.. . . . .	49,100
1927-8.. . . . .	609,400
1928-9.. . . . .	101,900 (surplus)
<hr/>	
1929-30. . . . .	218,900
1930-1.. . . . .	90,000
1931-2.. . . . .	242,700 (surplus)
<hr/>	
1932-3.. . . . .	1,214,900
1933-4.. . . . .	986,200
<hr/>	
	\$ 3,406,400
Sinking funds.. . . . .	2,693,800
Treasury bills 1926-27.. . . . .	1,000,000
Unemployment relief expenditure for four years.. . . . .	1,944,600
<hr/>	
Total.. . . . .	\$ 9,044,800
<hr/>	

The provincial governments argue that these figures show fiscal need and that they give the basis for estimating a portion—approximately one-third—of the additional subsidies which should be paid to it by the Dominion, the remaining two-thirds consisting of estimated deficits during the next seven years, based on a so-called “ideal budget” for 1941.

There are certain less important inaccuracies which it is not proposed to deal with here but the following major criticisms of these computations must be pointed out:—

Since the argument is designed to show what adjustment is necessary in addition to that recommended by the Duncan Commission, only the period during which the interim subsidies of \$875,000 has been paid should be included. This means that the fiscal year 1925-26 should not be included. Obviously, payment of the interim subsidy in that year would have given the provincial government a surplus instead of a deficit. Again, the period includes too many abnormal years of depression to give a fair estimate of the needs of the provincial government in a normal period. Sixty-five per cent of the revenue deficits for the nine years have been accumulated in the last two years 1933-34. All provincial governments have suffered severely from the depression, all have had heavy deficits for the combined fiscal years ending in 1932 and 1933. (Appendix I, Exhibit No. 39.) All, however, are entitled to expect an improvement in their fiscal position under more normal conditions.

If the period 1926-32 (six years) is used, the accumulated revenue deficit of Nova Scotia for that six years' period is reduced to \$622,800, an average annual revenue deficit of \$103,800 compared with an average annual revenue deficit of \$378,500 for the period 1925-34, which Nova Scotia has used in its computations.

It is also unjustifiable to include unemployment relief expenditures for the past four years. Expenditures of this kind have not been treated as ordinary expenditures by any province nor the Dominion. All the provinces have charged

1925-6  
should be  
excluded.

Unemploy-  
ment relief  
expendi-  
tures should  
be excluded.

them to capital account, and the Dominion Government has treated its expenditures of this class as extraordinary. Thus, Nova Scotia ought not to regard the \$1,944,600 spent on unemployment relief in the past four years as normal expenditure which should be used in estimating its normal future deficits.

Inclusion  
of sinking  
fund  
payments  
debatable.

In its brief Nova Scotia also adds sinking fund instalments to its revenue deficits. As a long run policy, this is doubtless proper, but provincial governments have not generally followed such a policy. Many have only very small sinking funds against their debt, although certain of them have from time to time made provision out of annual revenue for partial retirement of capital indebtedness. (The actual accumulated sinking funds of Ontario were less than one and one-half per cent of bonded debt in 1933; those of Nova Scotia were approximately seven per cent.) Again, many provinces have suspended provision for sinking funds, or for retirement of bonds from revenues during the depression, or have provided for them by borrowing. (Ontario is an example of the former, British Columbia of the latter policy.) In short, the deficits of all provincial governments would be greatly swelled if adequate sinking funds were charged against current revenues and it is not appropriate for Nova Scotia to seek to place the cost of an optional policy upon the Dominion.

Treasury  
bills should  
be excluded.

The addition of \$1,000,000 of treasury bills, borrowed to finance current operations 1926-27 is not proper. If this amount had been included in the ordinary revenues of that year it would have reduced the deficit. But this does not appear to have been the case and therefore it should not be included in the provincial calculation of deficits.

Estimates  
of future  
deficits  
conjectural.

Nova Scotia then proceeds to swell its requirements in respect of annual subsidies as based on fiscal need by estimating the "additional yearly amount designed to meet growing expenditures for purposes indicated in the ideal budget for 1941," and arrives at an annual amount under this heading of \$3,356,142.85. By adding this figure to its wrongly estimated average annual deficit for the period 1926-34 it arrives at a total amount which it asks as an annual subsidy from the Dominion of \$5,236,120.58 (N.S. brief, p. 303). No light, however, is thrown by Nova Scotia on the method which it has adopted in arriving at this figure of \$3,356,142.85. It is, however, quite apparent that the estimates of annual deficits projected to 1941 must be entirely conjectural. No budgets are projected for the intervening years between 1934 and 1941, and the whole of the "ideal budget" for 1941 is unexplained and not justified in any detail. One of the most glaring defects in the so-called "ideal budget" for 1941, which it must be remembered was prepared in 1930 or 1931, is that it assumes that the fastest rate of increase in the whole history of provincial expenditure of Nova Scotia would continue for another decade, while with respect to revenue it assumes a rate of increase of only about half of what the increase in revenue had been in the previous decade. A memorandum dealing with the so-called "ideal budget" for 1941 is submitted herewith (Appendix III, Memorandum No. 5).

It will be noted that the additional subsidy of \$5,236,120.58 per annum claimed by Nova Scotia is being an amount equal to the *whole* of its estimated average annual deficit, computed on the faulty basis above referred to. However, Nova Scotia has practically admitted (N.S. brief, p. 252) that a province can have no claim against the Dominion based on fiscal need except to the extent that such

fiscal need is brought about by the operation of the fiscal policies of the Dominion, particularly its tariff policy.

No attempt to indicate share of deficits alleged to be attributable to Dom. fiscal policies.

In order that the point may not be lost sight of, the Dominion repeats its contention that the present Commission is not entitled to consider the customs tariff or its incidence on any province. Under reserve of that contention, it has been pointed out that there are many factors which may have affected adversely the economic position of the Maritime Provinces. Even assuming that the fiscal policies of the Dominion had indirectly brought about in some measure the annual deficits referred to in the Nova Scotia brief, which is not admitted, it surely would not be argued that they had been responsible for the whole of such deficits. It would be impossible, of course, to ascertain even approximately the proportion of the deficits for which any single factor could be held responsible, but it surely would not be claimed that the fiscal policy of the Dominion was responsible for more than say twenty-five per cent of such deficits. It must also be obvious that fiscal need, even if admitted as a basis for subsidies, should be computed on the basis of ascertained fiscal need and not on a conjectural prospective fiscal need. Accordingly, no consideration whatever should be given to the figure of \$3,356,142.85 estimated by Nova Scotia as its yearly additional fiscal need for the future. Therefore, even if there be added to the annual revenue deficits for the period 1926-32 of \$103,800 the average annual sinking funds for those years of \$284,700, the result would be an average revenue and sinking fund deficit for that period of \$388,500, and twenty-five per cent of that would amount to \$97,125, which is a very different story from the subsidy claimed by Nova Scotia on the basis of fiscal need, namely, \$5,236,120.58.

#### (10) CONDITIONAL SUBSIDIES OR GRANTS IN AID BY THE DOMINION

Conditional subsidies or grants in aid by the Dom.

Reference is made by the province of Nova Scotia (N.S. brief, pages 257 to 263) to conditional subsidies or grants in aid made by the Dominion to the provinces for specific purposes, and an attempt is made to argue that because the Dominion has given such grants in aid or conditional subsidies it must accept the proposition that fiscal need is a proper basis for the granting of permanent general subsidies. It is obvious, however, that no such conclusion can be drawn.

Distinctions between conditional subsidies or grants in aid and general subsidies.

There are many important distinctions in principle between conditional subsidies or grants in aid for specific purposes and general subsidies, including the following: The general subsidies are of a permanent nature, are paid to the provincial governments to be disbursed as they see fit, are not destined for any particular purpose and are not subject to any supervision by or accounting to the Dominion. Conditional subsidies or grants in aid to provincial governments, on the other hand, have been made either as emergency measures resulting from crises of national importance, such as emergency unemployment or farm relief, or to enable the performance of certain specific functions which are deemed to be of national importance, for example, old age pensions, certain highway construction and aids to technical and agricultural education. They are not permanent in their nature, they cannot be spent by the recipient provinces as the latter deem fit, they are often conditional upon expenditures by the provinces themselves and are subject to appropriate supervision and accounting.

The province of Nova Scotia argues (N.S. brief, pages 260 and 261) that in giving aid to the Western Provinces in the matter of unemployment and farm relief and in supporting their credit, the Dominion tacitly recognized its responsibility for

enabling the provinces to fulfil not only extraordinary but ordinary functions of government. This argument though ingenious is far fetched and inadmissible, and is not in accordance with the position adopted in that regard by the Dominion Government. The Prime Minister of Canada, on March 9th, 1933, wrote to the Premier of the province of Alberta a letter (Appendix I, Exhibit No. 40) in which he stated:

“... Our information at the present time does not disclose that, even with the assistance so far rendered, you have placed yourself in a position to meet your future obligations without further help. It must be stated as well that no convincing evidence has been adduced to show that every possible effort is being made by the Legislature and Government of your Province to adjust your affairs and work into a position of self-reliance.”

The letter then insisted either that the government balance its budget or arrive at a position where the maximum deficit would be well under \$1,000,000, or in the alternative that the province be supervised by a controller on behalf of the Dominion Government. Similar letters were sent to all the western Premiers.

These pronouncements conclusively disprove the theory that the assistance granted to the Western Provinces in the recent crises was a tacit recognition by the Dominion of its responsibility for the performance of the ordinary functions of the provincial governments and establish that the contrary was the case.

## DIVISION XI

### IMPORTANT GENERAL CONTENTIONS

There are many considerations affecting the question of subsidies and the financial relations between the Dominion and its provinces which are not dealt with by the Maritime Provinces in their briefs, but which have a decisive bearing upon the matters in issue. It is proposed to deal with certain of these considerations in this Division.

Defects of  
subsidy  
system in  
general.

#### (1) THE MARITIME PROVINCES HAVE RECEIVED AND ARE RECEIVING MORE GENEROUS TREATMENT IN THE MATTER OF SUBSIDIES THAN THE OTHER PROVINCES

A study of the comparative statistics shows that the Maritime Provinces, in the matter of subsidies have received and are receiving more favourable treatment than the other provinces. The following figures demonstrate this clearly.

If there be excluded the subsidies paid in lieu of lands to the Prairie Provinces and British Columbia and the lump sum payment to Manitoba awarded by the Turgeon Commission (those subsidies and payment being compensation for assets normally provincial which were withheld by the Dominion) a comparison between the percentage received by each province of the total subsidies paid from the date of the Union until 1933-34 and the percentage of average population shows that each of the Maritime Provinces has received more in proportion to its share of the average population than has any other province except Manitoba. In the case of Manitoba the ratio is approximately the same as that of Nova Scotia and New Brunswick. Prince Edward Island, however, has received a much larger share in proportion to its population than any other province.



The figures are as follows:—

Provinces	Percentage of Average Population	Percentage of Total Subsidies since Union
Ontario.. . . . .	35.0	26.79
Quebec.. . . . .	27.0	22.25
Nova Scotia.. . . . .	6.9	9.41
New Brunswick.. . . . .	5.1	9.20
Manitoba.. . . . .	4.7	9.47
British Columbia.. . . . .	4.0	4.86
Prince Edward Island.. . . . .	1.4	3.91
Saskatchewan.. . . . .	9.0	7.48
Alberta.. . . . .	6.9	6.63
	100.0	100.0

(Appendix I, Exhibit No. 44.)

Again, the amount of subsidies paid per capita of population to each province for the year 1933-34 (excluding subsidies paid to the Prairie Provinces and British Columbia in lieu of lands) was higher for each of the Maritime Provinces than for any other province. Prince Edward Island received \$4.65 per head, New Brunswick \$3.17 and Nova Scotia \$2.98. The next highest was Manitoba with \$1.60 per head and the lowest was Ontario with \$0.86 per head.

The figures are as follows:—

Provinces	Per capita payments 1933-34
Ontario.. . . . .	\$ .86
Quebec.. . . . .	.90
Nova Scotia.. . . . .	2.98
New Brunswick.. . . . .	<b>3.17</b>
Manitoba.. . . . .	1.60
British Columbia.. . . . .	1.12
Prince Edward Island.. . . . .	4.65
Saskatchewan.. . . . .	1.46
Alberta.. . . . .	1.59
	1.28

(Appendix I, Exhibit No. 45.)

Even if there be included the subsidies paid to the Prairie Provinces and British Columbia in lieu of lands, the per capita payments of subsidies in 1933-34 were higher for each of the Maritime Provinces than for any other province. Prince Edward Island received \$4.65 per head, New Brunswick \$3.17 and Nova Scotia \$2.98. The next highest was Manitoba with \$2.39 while the lowest was Ontario with \$0.86 per head.

The figures are as follows:—

Provinces	Per capita payments 1933-34
Ontario . . . . .	\$ .86
Quebec . . . . .	.90
Nova Scotia . . . . .	2.98
New Brunswick . . . . .	3.17
Manitoba . . . . .	2.39
British Columbia . . . . .	1.26
Prince Edward Island . . . . .	4.65
Saskatchewan . . . . .	2.26
Alberta . . . . .	2.34
	\$ 1.47

(Appendix I, Exhibit No. 46.)

Again in the year 1933 the percentage that the subsidies paid to each of the Maritime Provinces bore to the revenue from taxation of that province was higher than in the case of any of the other provinces, whether the subsidies paid to the Prairie Provinces and British Columbia in lieu of lands be included or excluded.

(Appendix I, Exhibits 47 and 48.)

## (2) DEFECTS OF THE SUBSIDY SYSTEM IN GENERAL

Certain of the objections to the subsidy system were dealt with in briefly refuting the provinces' contentions that fiscal need should be a basis for subsidies. The defect which perhaps has created the strongest impression, both among those concerned in the government of the nation and other observers, is the departure from the principle that those who have the duty of expending the revenue of a country should also be saddled with the responsibility of levying and providing it. Mr. Alexander Mackenzie in 1877, in a letter dealing with the request by Nova Scotia for continuance of its temporary subsidy said:—

“To go any further in the direction you indicate would simply make the Dominion Government the collectors of revenue for the Province.”

(Appendix I, Exhibit No. 25.)

Sir Wilfrid Laurier, in 1905, endorsed this principle clearly when he said:—

“It is a sound principle of finance, and a still sounder principle of government, that those who have the duty of expending the revenue of a country should also be saddled with the responsibility of levying and providing it. . . .”

(Appendix I, Exhibit No. 42.)

and in the same year he stated:—

“The principle that he has laid down that those who have the spending of the revenue should also have the responsibility of collecting it, is so obvious and true that it is a matter of surprise to those who look through the debates of 1865 and the Act of confederation should have consented to depart from a principle so true and obvious. Why then did they depart from it? Simply because it would have been impossible to get any one of the provinces to enter confederation unless it was given a subsidy to meet its own expenses.”

(Appendix I, Exhibit No. 43A.)

Sir Mackenzie Bowell, speaking in Parliament in 1907, clearly approved of the principle and pointed out certain consequences of the departure therefrom, namely, provincial extravagance and encouragement to make "raids" upon the Dominion treasury. He said:—

"When the first better terms measure was introduced in the House of Commons, a great many years ago, I voted against it, as I voted against all raids upon the Dominion treasury on the part of the provinces. These raids arise from the extravagance of the different provinces. If there was a vote taken to-night, I should do as I did before—vote against this increase. . . ."

and later, in the same speech, he stated:—

"Just as soon as another raid can be made with any prospect of success through political influence to secure another increase of subsidy, we will have it all over again. I may not live to see it, but many of the younger men here will. The whole thing is wrong in principle, and if it were possible to prevent such an address being passed I should vote against any demand of the kind either now or in the future."

(Appendix I, Exhibit No. 43.)

Sir George Foster and Mr. Mackenzie King also approved the same principle.

Sir George Foster said (in "Canada—an Encyclopaedia of the Country," Castell Hopkins, Vol. 5, p. 310):—

"The tendency, therefore, is constantly to press upon the Federal Government for adjustments and additional allowances. The separation of the spending from the providing power tends to induce recklessness in the former and to increase the fierceness of the demand for more. On more than one occasion the demand for better terms and increased subventions has succeeded at Ottawa, and the exigencies of party render such appeals less easy of resistance than they otherwise would be. To spend extravagantly in the provinces, and for largely party reasons, with the distant hope that eventually the Dominion Government can be persuaded or forced to come to the rescue, is not an unknown contingency in the history of our party politics, and this contingency constitutes an element of menace to the stability of the Confederation itself. Let us hope that the solid business sense of all the Provinces will set itself firmly to resist and ultimately to overcome this tendency, in the interests alike of good government and permanent political conditions."

Mr. Mackenzie King stated:—

"May I direct attention to this further fact which bears immediately upon the grants from the federal treasury to the provinces. I believe that everyone who has given any attention to public finance will agree that it is a thoroughly vicious system to have one body raise taxes and another body expend the money thus secured. In other words, give to the provinces these grants from the federal treasury, without their being obliged to raise the money themselves by taxation, and you will not get, with respect to expenditure, that careful supervision which would be exercised if the provinces themselves were obliged to raise the money in the first instance. . . ."

(Appendix I, Exhibit No. 43B.)

In an article prepared by the Members of the Department of Political and Economic Science and of the Course of Commerce at Queen's University, appears the following appropriate passage:

"The fiscal dangers in the existing arrangements are equally obvious. The provinces which receive a large proportion of their revenue from the Dominion treasury are encouraged in extravagance, and are tempted to make

new demands on the Dominion rather than reduce expenditures or resort to the unpopular expedient of more direct taxation. Under normal conditions the unpopularity of taxation operates as a salutary check on expenditures. Where additional subsidies may be obtained from the Dominion by a well-organized agitation the efficacy of this check is reduced to a minimum."

(Queen's Quarterly, Vol. XL, Nov., 1933, p. 588.)

The existence of the subsidy system inevitably leads to recurrent importunities by the provinces for increases in the subsidy allowances. The advantages of putting a stop to such importunities by refusing to expand the subsidy system cannot be measured solely in terms of money. Agitation for increased subsidies has been a fertile source of inter-provincial bickering and hard-feeling between the provinces and the Dominion. A definite and permanent cessation of such increases would thus benefit all concerned and promote a better and broader national feeling.

It is of vital national importance that there should be no extension of the unsound practice of separating the functions of spending and raising, with its corollaries of extravagance on the part of the spender, and recurrent importunities for additions to the subsidies. Additions to the subsidies to any province, if made at all, should be made only upon its being conclusively established that such province is undeniably entitled for reasons of national importance to receive such addition.

Mainten-  
ance of  
equili-  
brium.

### (3) MAINTENANCE OF EQUILIBRIUM OF THE PROVINCES

As has been pointed out in dealing with the question of alleged fiscal need as a basis for subsidies, a most important principle, both from the point of view of the constitution and of scientific government of a federation, is the maintenance of equilibrium between the respective provinces. Such maintenance is, of course, a most difficult and delicate task, but from both points of view mentioned above, it is highly important and desirable. The figures quoted in section (1) of this Division XI show that the Maritime Provinces have received more than their just per capita share. Two remedies for such inequality are possible, first, to increase the shares of the other provinces, or, second, to reduce those of the Maritime Provinces. It is not possible for the present Commission to adopt the first alternative, as it is called upon to deal only with the financial arrangements between the Dominion and the Maritime Provinces. Therefore, the only alternative open to it is a reduction of the subsidies now granted to the Maritime Provinces. As the subsidies recommended by the Duncan Report are interim only, there is nothing to prevent the cessation or reduction of those special subsidies and it is submitted that the present Commission should recommend such a step with a view to restoring as nearly as may be the proper equilibrium.

Expansion  
of func-  
tions of  
govern-  
ment.

### (4) EXPANSION OF FUNCTIONS OF GOVERNMENT

In the provincial submissions evidence is presented of the increase in the functions of provincial governments and, therefore, in expenditures, since 1867. The conclusion is drawn that the framers of Confederation, if they had foreseen this expansion, would have made more liberal provision of subsidies. Thus in "The Submission to the Jones Commission" it is declared that:

"If those who designed the original financial settlement between the Dominion and the provinces in 1867, had been able to envisage the rapid

expansion, during the next half century, of services placed by the constitution under provincial jurisdiction, and more particularly the growing burden of highway construction, resulting from motor traffic, together with expanding commitments for education and social services, it is certain that the financial arrangements would have been far more generous to the provinces, or in the alternative, would have provided for a greater elasticity of provincial revenues to meet these expanding obligations of government. With these considerations in mind, it is not too much to say that the financial arrangements between the Dominion and the provinces in 1867 assumed the continuance of a situation, which in fact, ceased to exist within a few decades after the passing of the British North America Act." (pp. 170, 171).

This statement is much too sharply put and, it is submitted, misconstrues the intentions of the framers of the constitution. Doubtless the rapid expansion both of provincial and Dominion expenditure was not foreseen. But there is much evidence to show that, in any case, the device of larger subsidies would not have been accepted. The rigidity of the subsidy arrangements was not an oversight. It was explicitly discussed and deliberately adopted. (See Confederation Documents, p. 83; Canadian Historical Review 1920, p. 41; Debates on Confederation, p. 20), and even if the future growth and expenditure was not foreseen, the fact was recognized that with an increase of population some growth would take place. Despite the certainty of this growth, Galt declared that the amount of the subsidies "should be definitely settled now and not doubled when the population of any province doubles."

(Appendix I, Exhibit No. 54.)

The other "alternative" mentioned in the statement above, a "greater elasticity of provincial revenues," was not overlooked by the framers of Confederation. The provinces were free to employ the device of direct taxation. For nearly fifty years after 1867, that is, until 1917, the Dominion drew its revenue from very limited sources, notably the tariff. It was forced to enter the field of direct taxation, a field which the provinces had not chosen to utilize, by the exigencies of the last war.

The argument of the Maritime Provinces comprised in the above quoted statement would, in any case, have weight only if it could be shown that the expansion of the functions and expenditures of the provincial governments has been greater than that of the Dominion. If the Dominion, as well as the provinces, has had to assume new tasks and provide for expenditures on an enlarged basis, then an increase of provincial subsidies is not called for.

It is hardly necessary to dwell upon the fact that the functions of government of the Dominion have expanded to an enormous extent since Confederation. Notable examples of such expansion are the great expansion of the policy of government ownership of railways with its heavy drain on the treasury, the heavy burden imposed by the conduct of the Great War and the resultant tremendous expansion of the pension system; the increasing aid given to the provinces in numerous fields such as old age pensions, highway construction, technical education, agricultural education; the great expansion of the canal system; the supervision of many forms of economic activity; the conduct of trade and commerce and the important and costly emergency functions which the Dominion has been called upon to perform as a result of the world economic crisis.

If we examine the per capita provincial and Dominion ordinary expenditure for a "few decades" after Confederation, it appears that until after 1901, i.e., for three decades after 1871, the rate of growth was very similar:

*Relative Numbers Showing the Growth of Per Capita Ordinary Expenditure after 1871*

	1871	1881	1891	1901	1911	1921	1931
Dominion.. . . . .	100	139	178	206	287	990	886
Provincial.. . . . .	100	141	180	196	395	870	1372

If 1881 (when all provinces except Alberta and Saskatchewan had been admitted) is made the base, the results are:

	1881	1891	1901	1911	1921	1931
Dominion.. . . . .	100	127.5	148	206	710	636
Provincial.. . . . .	100	127.5	139	280	617	971

In 1901 the per capita expenditure of the Dominion on consolidated fund account was greater by 106 per cent than in 1871, while per capita ordinary provincial expenditure was greater by 96 per cent. In the decade after 1901, provincial expenditure grew faster than Dominion, but during the next decade, 1911-1921, the opposite was true. Finally, in the decade 1921-1931, provincial expenditure grew at a more rapid pace than Dominion.

It will thus be seen on a survey of the whole period after 1871, that generalizations about the relative rates of increase of provincial as compared with Dominion expenditure are hard to draw. Up to 1901 Dominion expenditure grew slightly faster than provincial; since 1901 provincial expenditure has gained over Dominion in two of the decades out of three. In short, generalizations by the Maritime Provinces about the more rapid expansion of provincial expenditure are founded in the main upon the experience of the past decade, and it is hardly safe to assume that this condition will continue. Speculation is hazardous, but it is possible that we are on the eve of an expansion in the functions of the Dominion and that the burden of expenditure for social services, old age pensions, unemployment insurance, health insurance, etc., may fall upon it rather than upon the provincial governments.

So far, this analysis has taken account only of ordinary expenditure. Obviously this is inadequate, because in recent years a large portion of governmental expenditure has been on capital or extraordinary account and has been met out of borrowing. Unfortunately, it is difficult to take account of this fact. Figures of gross provincial debt are available, but a comparison of these figures with figures of gross debt of the Dominion would be improper, because a much larger portion of provincial than of Dominion debt has been contracted for purposes which yield revenue.

The best basis of comparison, considering the limited data, would seem to be net interest payments, that is, interest payments after receipts on account of interest have been deducted. The earliest year for which such figures can be obtained for the provincial governments is 1916, and it should be noted that a comparison based upon that year may be somewhat unfair to the Dominion, since some portion of its war debt had then been incurred. (Its gross debt nearly doubled from 1913 to 1916.) But no other course seems possible and the following table gives net payments of interest per capita in 1916, 1921 and in 1931:

	1916	1921	1931
Dominion . . . . .	\$2 26	\$13 05	\$10 68
Provincial. . . . .	73	1 78	3 05
.			
Dominion. . . . .	100	577	472·5
Provincial. . . . .	100	244	418

It will be seen that Dominion net interest payments per capita rose rapidly to 1921, due to war borrowing, and that since 1921, due to debt retirement and to refunding at lower rates, payments have declined. On the other hand, provincial net interest payments per capita continued to grow after 1921, but over the whole period 1916 to 1931 the increase was far greater for the Dominion than for the provinces.

Here again no forecast can be made, but surely it is reasonable to maintain that since the Dominion has still a heavy burden of war-time debt, and since it must be prepared to face future emergencies as they arise, impairment of its revenues in order to strengthen the revenues of the provinces is not justifiable.

Even if it were necessary or advisable for the Dominion to assist the provinces by reason of the expansions in the functions of government which have taken place since Confederation, it is submitted that the payment of subsidies for this purpose would be an unwise method of attempting to give such assistance. The reasons for this submission have already been fully discussed in this brief, and it is not necessary to repeat them at this point.

The Jones Commission itself points out (Jones Report p. 75) a less objectionable method, namely, that the services which the provinces are now called upon to perform should be transferred to the Dominion. It is possible that this may be an appropriate solution of the problem, but it is obvious that the granting of subsidies is not.

Burden on  
the Domin-  
ion treasury.

#### (5) THE BURDEN ON THE DOMINION TREASURY

One most important consideration which has been apparently lost sight of or ignored in the submissions of the Maritime Provinces is that of the heavy burden which the Dominion treasury itself has to bear. The enormous demands made by the Maritime Provinces for subsidies (for instance, the demand of Nova Scotia for an additional subsidy of \$5,236,120.58 per annum) seem to take it for granted that the Dominion has inexhaustible funds at its command, and to ignore the fact that it like any other governmental organism must rely upon taxation to meet its expenditures. The impression is conveyed that the Dominion is considered—to use the apt phrase of Alexander Mackenzie—as a “collector of revenue” for the provinces, and a fairy god-mother with boundless resources who can and should find funds for the government of any province, which either through its own fault or for other reasons finds itself in need. There is a certain analogy between the period of which Mr. Mackenzie spoke and the present time, in that in 1878, the finances of the Dominion were depressed because of commitments which were heavy for that time. At the present time the Dominion is again suffering from a world wide depression. Its financial commitments, including those arising out of its railways, the war and war pensions and those resulting from the necessity for maintaining its own credit and from the steps which it has taken to support the credit of certain of the provinces, are enormous. In all times of dif-

faculty, the Dominion is not only called upon to finance its own requirements and maintain its own credit, but is asked to support the credit of and assist the various provinces. It is, therefore, imperative that its permanent recurrent fixed charges should not be increased unless such increase be inevitable. At the present time it is paying each year to the provincial governments in subsidies \$15,327,564.96. Experience has shown that a permanent subsidy, once granted has never been decreased or withdrawn. It becomes a permanent additional charge upon the Dominion exchequer. It is highly important not only that nothing should be done which would impair the ability of the Dominion to maintain a sound fiscal position and to meet the requirements of emergencies as they occur, and that no further drain should be placed upon the Dominion treasury by way of subsidies, but also that the interim or temporary subsidies recommended by the Duncan Report should be terminated or in any event reduced.

## DIVISION XII

### SUMMARY

Failure of  
Maritimes  
to establish  
claims.  
No legal  
claims.

(1) The Maritime Provinces have failed to establish their claims for increase in the annual subsidies to their respective governments.

(2) They are not entitled from a legal point of view to an increase and in fact make no serious claim on legal grounds.

Moral or  
equitable  
claims.

(3) Their claims based on alleged equitable or moral grounds have been shown to be inadmissible.

Claims for  
alleged  
inequality of  
treatment.

(4) Their claims based on alleged inequality of treatment in various matters have been shown to be unfounded for the following principal reasons:—

Natural  
resources.

The claims in respect of the natural resources of the Prairie Provinces being founded on the theory of proprietary interest are untenable as that theory is fallacious.

Subsidies  
in lieu of  
lands.

Their contentions in regard to the continuation of the subsidies in lieu of land to the Prairie Provinces are unsound because that continuation was the result of an award of a tribunal and of the decision of Parliament placing the Prairie Provinces on a basis of equality with the other provinces of Canada in respect of their natural resources. Moreover, the steps taken in regard to the natural resources and of the subsidies in lieu thereof, were connected with and to a considerable extent arose out of the Duncan Report.

School  
lands.

The contentions of the Maritime Provinces regarding school lands of the Prairie Provinces are based on the same theory of proprietary interest and accordingly fail and in any event would fail because the Maritime Provinces could have no grounds to ask for additional subsidies by reason of the fact that the Dominion's administration of certain assets, which normally would have belonged to the Prairie Provinces, proved advantageous to those provinces.



The claim of Prince Edward Island as the "only landless province" cannot be accepted.

P.E.I.'s claim as "only landless province".

- (a) Because the attempted comparison between the Prairie Provinces and Prince Edward Island is faulty, Prince Edward Island having come into the Union without lands as a result of acts of its own governing authorities or their predecessors, while the Prairie Provinces were deprived of their natural resources by the act of the Dominion itself;
- (b) Because in any event the complaint of Prince Edward Island in respect of its lack of lands was given special and exceptional consideration upon its entry into the Union, and was satisfied and discharged. As a result of such special treatment Prince Edward Island not only obtained a subsidy in lieu of land but also a capital grant which it invested in land realizing a substantial profit from the transaction.

Accessions to Ontario and Quebec.

The contentions of the Maritime Provinces in regard to alleged accessions of territory to Ontario and Quebec must fail

- (a) Because they are based on the fallacious theory of proprietary interest;
- (b) Because certain alleged accessions of territory were not accessions but settlement of boundary disputes;
- (c) Because the territories added to Ontario and Quebec in 1912 have resulted in a fiscal loss to Ontario and in practically no fiscal advantage to Quebec, and the territories in question have not as yet proved to be of actual value, and their potential value, if any, is unknown.

Debt allowances.

The claims of the Maritime Provinces based on alleged inequality of treatment in respect of debt allowances as compared with the Prairie Provinces cannot be accepted

- (a) Because the view to which the Duncan Commission seems to have inclined that in granting debt allowances to the Prairie Provinces a new principle was imported is not correct. The debt allowances granted to the various provinces at Confederation had no reference to the assets transferred to the Dominion by the constituent provinces;
- (b) Because in any event the assets turned over to the Dominion by the Maritime Provinces did not have the value alleged by those provinces but were for the most part a cause of fiscal loss to the Dominion;
- (c) Because even if the alleged value given to those assets by the Maritime Provinces be deducted from their debt allowance, the per capita debt allowance of the Prairie Provinces <sup>and the Maritime Provinces</sup> based on the present population (1931 census) are practically the same with the exception of Prince Edward Island whose per capita allowance is more than double that of any of the other four. Any change in this respect would create an inequality in favour of the Maritime Provinces, and
- (d) Because even if a new principle had been imported into debt allowances in respect of the Prairie Provinces, this would have been justified by the fact that they burdened the Dominion with no debt and were new unorganized provinces brought into being by the Dominion and entrusted

with the onerous task of organizing and developing machinery of government in extensive territories with sparse and scattered populations and without ordinary sources of revenue available to the other provinces.

St. Lawrence Waterways. The contentions of Nova Scotia in regard to the St. Lawrence Waterways Treaty are unfounded

- (a) Because they are based on the fallacious theory of proprietary interest;
- (b) Because they resulted from a misunderstanding of the proposed agreement between the Dominion and Ontario,
- (c) Because the circumstances alleged by Nova Scotia would not entitle it to additional subsidies, and
- (d) Because they are premature.

Alleged fiscal need. (5) The appeals of the Maritime Provinces based on alleged fiscal need and lack of prosperity are inadmissible as ~~grounds~~ <sup>grounds</sup> for additional subsidies

- (a) Because the acceptance of such propositions would upset a basic constitutional principle, a fact which was apparently overlooked by the Duncan Commission in taking fiscal need into consideration in its recommendations as to subsidies;
- (b) Because of their unsoundness and undesirability from the point of view of scientific government, and
- (c) Because of their impossibility of fulfilment.

The alleged effect of the tariff upon fiscal need cannot be discussed by this Commission. Even if it could be considered it would be impossible of valuation and subsidies would not be a proper remedy. Fiscal need arises from a variety of causes including faulty administration on the part of the province. The expenditures of the Maritime Provinces since 1926 have not been frugal. The purchasing power of the dollar, which was taken into consideration by the Duncan Commission in recommending interim subsidies, has risen since 1926. Consequently, the interim subsidies should be reduced.

Important general considerations. (6) Aside from the failure of the Maritime Provinces to substantiate the alleged grounds for their claims, there are the following important general considerations which establish that the subsidies now paid to the Maritime Provinces should be reduced or in any event not increased

Maritimes receiving more than their share. (a) The Maritime Provinces are more favourably treated in respect of subsidies than the other provinces of Canada and their subsidies should therefore be reduced;

Subsidies unscientific and undesirable. (b) The subsidy system is unscientific and from many other points of view undesirable and it is important that it should not be expanded;

Maintenance of equilibrium. (c) Maintenance of the delicate equilibrium between the provinces in the matter of subsidies is of vital importance. The Maritime Provinces are receiving more than their just proportion and accordingly their subsidies should be reduced;

Expansion  
of functions  
of govern-  
ment.

(d) The expansion of functions of government was not intended by the framers of the constitution to give rise to increases in the subsidies, and in any event, the expansion of the functions of the Dominion has been greater than that of the provincial functions;

Burdens on  
Dominion  
Treasury.

(e) Regard must be had to the increasing burdens on the Dominion Treasury and to the necessity of doing nothing which will impair the fiscal ability of the Dominion to meet crises of national importance or which will create further drains on the Dominion Treasury.

Conclusion.

(7) The Dominion therefore submits that the subsidies now granted to the Maritime Provinces should be reduced or in any event should not be increased. As the subsidies recommended by the Duncan Report are interim or temporary only, such reduction is feasible and appropriate.

The whole respectfully submitted.

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