

“...a fair show and a square deal”¹: New Brunswick and the Renegotiation of Canadian Federalism, 1938-1951

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Abstract

At the 1935 Dominion-Provincial Conference, New Brunswick was a stalwart defender of provincial rights, but by the 1940s it was among the first provinces to cede Ottawa certain tax fields in exchange for a fixed payment, thereby contributing to the centralization of power in federal hands. This article documents the evolution of New Brunswick's constitutional position during the late 1930s and 1940s. It shows that although financial exigencies helped shape the province's constitutional stance, the structure of the 1940's tax rental agreements also contributed to New Brunswick Premier John McNair's willingness to centralize tax authority in Ottawa. The agreements' temporary nature meant that upon their expiry New Brunswick would retain the right to the tax fields.

« ... un tour de force et une opération honnête » : le Nouveau-Brunswick et la renégociation du fédéralisme canadien de 1938 à 1951

Résumé

À la conférence fédérale-provinciale de 1935, le Nouveau-Brunswick a défendu vigoureusement les droits provinciaux. Or, dans les années 1940, le Nouveau-Brunswick était l'une des premières provinces à céder à Ottawa certains domaines fiscaux en échange d'un paiement fixe, contribuant ainsi à la centralisation du pouvoir à Ottawa. Cet article atteste l'évolution de la situation constitutionnelle du Nouveau-Brunswick vers la fin des années 1930 et 1940. De plus, il énonce que, même si des exigences financières ont renforcé la situation constitutionnelle de la province, la structure des accords de 1940 sur la location de domaines fiscaux a aussi contribué à ce que le premier ministre du Nouveau-Brunswick, John McNair, veuille centraliser l'administration fiscale à Ottawa. La nature provisoire de l'entente prévoyait par ailleurs qu'à son échéance, le Nouveau-Brunswick garderait le droit des domaines fiscaux.

The widespread deprivations of the Great Depression prompted Canada's federal government to examine the financial implications of Confederation and investigate the restructuring of the Canadian federal system during the 1940s. To this end, both the 1940 *Report of the Royal Commission on Dominion-Provincial Relations* (Rowell-Sirois Commission) and the 1945 *Green Book on Reconstruction* proposed broadly based social welfare programs and public works initiatives to benefit the provinces. These were to be funded by a complete reworking of federal-provincial fiscal relations whereby the provinces would cede to Ottawa sole authority to levy certain taxes. In essence, these two documents represent the beginnings of the Canadian welfare state and led to the protracted constitutional negotiations that occupied much of federal and provincial politicians' time during the 1940s.

A study of the negotiations surrounding the Rowell-Sirois Report and the Green Book offers a unique opportunity to examine provincial interpretations of Canadian federalism as both initiatives provided a forum for the provinces to express positions on dominion-provincial relations. With the exception of T. Stephen Henderson's work on Nova Scotia, however, regional scholars have not offered a sustained examination of the evolution of provincial views of federalism during the critical decade of the 1940s as the foundation of the modern expansionist welfare state was laid.² This article details New Brunswick's view of Canadian federalism in the 1940s; it argues that financial exigencies clearly shaped the province's position. Much like Nova Scotia, New Brunswick consistently argued for recognition of fiscal need as a principle of federal-provincial fiscal relations and maintained that the provinces that had benefited most in Confederation

should help those that had benefited least.³ Although both provinces had similar goals in their federal negotiations with Ottawa, New Brunswick's tenuous financial position made it more vulnerable than Nova Scotia. Consequently, New Brunswick strongly advocated for the centralization of tax power in Ottawa in return for a secure source of revenue.⁴ Indeed, New Brunswick's willingness in the 1940s to cede provincial tax fields to the federal government in return for a guaranteed payment seemed a radical departure from the province's stance on constitutional issues during the previous decade, when the province was seen as a stalwart defender of provincial rights.

Historical studies of both the Rowell-Sirois Commission and the Green Book Proposals have tended to overlook their implications on federalism, and have instead concentrated on the conflicts in personalities that arose during the negotiations or the impact of professional organizations and labour on the proceedings.⁵ For their part, political scientists who have studied federal-provincial relations have ignored much of the twentieth century to focus on either the late-nineteenth century, when a series of Privy Council decisions gradually decentralized the powers of the state, or the post-1980 period, when questions relating to Quebec's place in the federation and the possibilities of secession gained prominence.⁶ Only with the relatively recent renaissance of political history have studies of federalism come back into vogue (such that they have), with historians such as Barry Ferguson and Robert Wardaugh offering a perceptive analysis of the Rowell-Sirois Commission's attempt to alter Canadian federalism by recommending the reconfiguration of the federal and provincial governments' responsibilities.⁷

The 1940s discussions on federalism were firmly rooted in the unfortunate circumstances of the previous two decades. During the 1920s, Maritimers of all stripes came together in the Maritime Rights Movement to lobby the federal government for policies that would allow the region to more fully participate in the nation's economic growth. Although the resulting 1926 Royal Commission on Maritime Claims, commonly called the Duncan Commission after its chair Andrew Duncan, called for fiscal need subsidies to better allow the Maritime governments to provide essential services, this recommendation was never acted upon.⁸ Meanwhile, the 1930s saw nine years of drought on the Prairies, coupled with the occasional grasshopper plague, ruin harvests and turn wheat fields to dust.⁹ Many farmers were driven onto relief rolls, which further strained the already cash-strapped Prairie governments. By November 1937, 407,600 of Saskatchewan's 928,000 people were on relief, and the Prairies were soon almost totally dependent upon federal aid in the form of loans to meet their relief costs.¹⁰

Things were little better in 1930s New Brunswick, where the lean years of the 1920s that prompted the Maritime Rights agitation precluded the loans that buoyed the west. As a result, economic conditions in the province were bleak, especially along the impoverished North Shore, where health and educational services were inadequate and problems in the lumber and fishing industries swelled the relief rolls until the municipalities could no longer handle the burden. So dire was the situation across Canada that the federal government initiated a series of one-third matching grants, whereby the federal, provincial, and municipal governments were each to bear one-third of the cost of administering relief. This system was only as strong as its weakest link, and more affluent municipalities in central Canada could more fully participate in the scheme than those in the cash-strapped peripheral provinces. This meant that, paradoxically, people in those areas most immune to the Depression could receive the most relief, while those in areas most in need of help were entitled to lesser payments.¹¹

New Brunswick was particularly limited by the matching grants system, and on occasion Fredericton and Ottawa assisted the municipalities to a greater extent than the system mandated. For example, the provincial and federal governments eventually assumed 80 percent of the financial burden for relief in Northumberland County.¹² Still, such collaboration between Fredericton and Ottawa proved the exception as New Brunswick was notoriously reluctant to match, much less increase, the relief contributions of its municipalities. Between 1929 and 1933, New Brunswick's debt charges in relation to provincial revenues almost doubled from 28 percent of provincial revenues to 55 percent.¹³ With debt payments consuming such a large part of the province's finances, New Brunswick was unwilling to participate in other federal-provincial shared-cost initiatives. When public outcry finally prompted the New Brunswick government to enter into joint-relief programmes with Ottawa, it did so at a level far below the national average. To compound matters, the federal government slashed relief payments to the provinces by 25 percent between April and June 1936, with the end result being that by October 1936 the average monthly relief payment in New Brunswick was \$1.67, the lowest in Canada.¹⁴

The matching grant system proved no more than a stop-gap measure, and by mid-decade the Prairies could no longer cope; in 1936 Alberta defaulted on one of its loans, and both Manitoba and Saskatchewan were in danger of doing

the same. It was becoming clear that the provinces had fiscal responsibilities, such as unemployment relief, education, and social services, which they could no longer afford given their weakened economies and inadequate tax bases. Therefore, “either new revenue sources must be allotted to them or their constitutional responsibilities and government burdens must be replaced.”¹⁵ With this as its goal the Rowell-Sirois Commission was struck to uncover, in Prime Minister Mackenzie King’s words, “what should be done to secure a more equitable and practical division of the burden [of relief] to enable all governments to function more effectively. . . [and] more independently. . . within the spheres of their respective jurisdictions.”¹⁶ Commissioners were drawn from each of Canada’s five regions: Ontario’s Newton Rowell, Quebec’s Joseph Sirois, the Prairies’ J.W. Dafoe, British Columbia’s Henry Angus, and the Maritimes’ R.A. Mackay.¹⁷

Despite the inclusion of Nova Scotian Mackay, New Brunswick Liberal Premier A.A. Dysart was upset that no New Brunswicker was named to the Commission. Commission Chairman Rowell tried to soothe Dysart on this score by pointing out that S.A. Saunders, who had been appointed to write an *Economic History of the Maritime Provinces* for the Commission, had been born in Saint John.¹⁸ Dysart may have been using New Brunswick’s lack of a commissioner as a bargaining chip, for he seemed more concerned that New Brunswick present its submission to the Commission after those of Ontario and Quebec so that the central provinces could not refute his claims. Although Rowell tried to assuage Dysart’s fears, stating that all provinces would have the chance to respond to the individual submissions, he eventually agreed that New Brunswick’s would be the last submission heard by the Commission.¹⁹

After meeting with all other provinces, the Commission arrived in Fredericton on 18 May 1938. Over five days of meetings, New Brunswick made a rather curious argument. The province’s brief called for assistance to the poorer provinces based on fiscal need, but at the same time it invoked the compact theory of Confederation as justification for a subsidy. The compact theory as championed by Ontario Premier Oliver Mowat in the nineteenth century maintained that Confederation was the result of a treaty, or compact, among the provinces and therefore could not be altered without provincial consent. Given legal validity by favourable Privy Council decisions, Mowat utilized the compact theory to effect a more decentralized federal union whereby the provinces were granted greater powers than was originally intended.²⁰ New Brunswick’s brief agreed in principle that Confederation was a compact among four autonomous provinces. As A.P. Paterson, New Brunswick’s Minister of Federal and Municipal Relations and the main proponent of the compact theory, argued, although New Brunswick had surrendered certain powers through the BNA Act, it retained the right to retrieve these powers if it felt the federal government had not honoured the terms of Confederation.²¹

Moreover, despite the transiency of the BNA Act implicit in the compact theory, New Brunswick framed much of its argument before the commissioners around a clause in the BNA Act’s preamble that declared that the intent of Confederation was “to conduce to the welfare of the provinces and promote the interests of the empire.”²² For New Brunswick’s compact theory proponents, the supposed intent of Confederation to improve the position of the provinces superseded any claims of provincial rights or, more precisely, was itself an aspect of provincial rights. Since New Brunswick’s financial position had not improved markedly in the years following union, the federal government was guilty of not living up to the terms of Confederation. Thus, New Brunswick argued, Ottawa was constitutionally obliged to provide fiscal need subsidies to assist the poorer provinces—subsidies that would be paid for, in part, from tax revenue collected from the richer provinces.²³ As they told the Commission, if a province “is not able to provide for its people the same privileges which are enjoyed by those in other provinces,” then Dominion assistance is required to ensure “that living conditions be on par with those obtaining elsewhere.” Although New Brunswick did not advocate “a redistribution of all the wealth in Canada,” the province did believe that “the burden [of providing the money for fiscal need grants] should fall upon those provinces which have profited most” in Confederation.²⁴ Unanswered in New Brunswick’s version of the compact theory and the province’s presentation was, if Confederation was a contract among four separate states, why should one state be required to subsidize the level of social services in another? As E.R. Forbes has suggested, New Brunswick’s rationalization of provincial rights before the Commission while simultaneously lobbying for subsidies based upon fiscal need rendered the province an “awkward anomaly.”²⁵

In any event, the importance of the compact theory to the New Brunswick position with the Rowell-Sirois Commission may be overstated. During the 1938 session of the New Brunswick Legislature a schism developed within the New Brunswick Liberal Party over the provincial government’s policy of supporting the compact theory. The catalyst for this split was the 1935 Dominion-Provincial Conference, called at the height of the Depression to discuss unemployment relief. At that meeting, the Liberal government of A.A. Dysart, represented by his trusted lieutenants and cabinet ministers A.P. Paterson and J.B. McNair, vetoed the constitutional amendment necessary to allow Ottawa to

assume sole responsibility for the unemployed—an amendment to which the other eight provinces had agreed—claiming that it impinged on the province’s constitutional responsibilities.²⁶ Led by provincial MLAs W.W.V. Foster and Frank Bridges, the Liberal dissidents believed that the provincial government’s position at this conference, where they used the compact theory to justify not transferring the responsibility of unemployment relief to Ottawa, was unthinkable during such dire economic times. Bridges adroitly summed up their position in the 1939 legislative session when he stated that “[n]othing in the wide world is going to hinder and retard the growth and progress of Canada. . . more than this doctrine [of the compact theory].”²⁷ Although McNair made a spirited defence of the government’s constitutional position in the Legislature, his words apparently fell on deaf ears, for during the provincial election of 1939 the electorate seemed to reject the compact theory, retaining a Liberal government but casting staunch compact theory supporter A.P. Paterson from office.²⁸ When Paterson offered his services to the provincial government in an advisory role free of charge, he was rebuffed. While McNair made another half-hearted defence of the compact theory in 1941, suggesting that the Rowell-Sirois Commission had confused claims for financial assistance to governments with claims for the relief of a province adversely affected by federal policies, it seems likely that had New Brunswick presented its submission to the Commission even one year later there would have been much less mention of the compact theory, for with the rejection of Paterson’s offer of assistance, New Brunswick’s short-lived adherence to the compact theory had essentially come to an end; however, the province’s demand for the recognition of fiscal need would persist.²⁹

New Brunswick’s waning adherence to the compact theory and the doctrine of provincial rights was illustrated when Walter Jones, a distinguished lawyer and Liberal MLA, presented the province’s brief to the Commission. In strong terms he reiterated New Brunswick’s commitment to the principle of fiscal need, while taking Ontario to task for arguing against the concept of equalization:

[I]n one large province the point is taken that. . . certain means of taxation should be left to the province, which had been invaded by the federal government. There is no suggestion, however, that there should be a contribution by the wealthier provinces to the other provinces. In a self contained province with plenty of manufacturing and plenty of resources and plenty of wealth, where they have the taxation facilities, income tax and that sort of thing, they are sufficient unto themselves and they would be quite satisfied and no doubt are quite satisfied that that condition should continue. But as I say, in a Federal system our point is that the strong should help the weak, and I think you cannot carry out the Federal system unless that principle is recognised.³⁰

Jones also stated, in an obvious reference to New Brunswick’s impoverished Acadian North Shore, that “[t]here are certain parts of this province where it is impossible to provide schools, . . . nursing or doctors” and that “there ought to be a reasonable standard of life for every citizen and his family in Canada.”³¹ However, Jones was not clear about where the revenue to provide a reasonable standard of life was to come from. New Brunswick’s written submission to the Rowell-Sirois Commission was grounded in the doctrine of provincial rights and called for the Dominion to vacate the personal income tax field.³² Thus New Brunswick was essentially calling for the federal government to assume greater fiscal responsibilities while shedding its ability to collect revenue. At first Jones defended the province’s written position, although he stated that if the Dominion did collect income tax then it should give some of the revenue back to the provinces.³³ Finally, after being pressed on the subject by Commissioner J.W. Dafoe, Jones said that “I think that we would prefer that they [the federal government] should tax the rich and give us a fair proportion of it,” thereby revealing his province’s willingness to endorse the centralization of fiscal power in Ottawa’s hands in return for a fixed payment.³⁴

Following New Brunswick’s presentation, the Commission spent a year and a half writing its Report. During this time major changes took place throughout the world, the greatest of which was the outbreak of the Second World War. Overshadowed by the events in Europe were changes in New Brunswick, where A.A. Dysart retired from public life in March 1940. Dysart was replaced by his former Attorney-General and “chief lieutenant” J.B. McNair.³⁵ McNair had been a star pupil at the University of New Brunswick, receiving a BA with double honours in 1911, winning the Governor-General’s Medal and the Lieutenant-Governor’s Prize, and being Valedictorian of his class. These achievements earned him a Rhodes Scholarship to Oxford University, where he received a BA in jurisprudence in 1913 and a Bachelor of Civil Law degree in 1914. Following his service in World War One, McNair returned to New Brunswick to practise law in Fredericton until entering politics as a Liberal in 1935. By the time Dysart left office McNair was seen as the former premier’s “logical successor” as he had a background in constitutional law, he had “distinguished himself both as a

scholar and in public life,” and he had performed admirably as the defender of the government’s constitutional position in the previous year’s legislative session.³⁶

Within a few months of McNair’s inauguration, *The Report of the Royal Commission on Dominion Provincial Relations* was tabled in Parliament.³⁷ The Report was an extraordinary document calling for a complete revamping of federal-provincial fiscal relations and heralding the beginning of the modern welfare state with its broader and more interventionist government role. Significantly for New Brunswick, the commissioners recognized that regional disparities existed by acknowledging that some provincial governments had budgetary surpluses while others struggled to provide “those community services which Canadians have come to look on as the minimum which their governments should supply.”³⁸ Key among the Commission’s financial recommendations was the centralization of tax authority. In return for their granting Ottawa sole authority to levy income, corporation, and succession taxes, thereby simplifying the tax structure and doing away with double taxation, the provinces would be relieved of having to provide for the unemployed. Moreover, the commissioners recommended the provinces forego all federal subsidies that they were receiving in return for Ottawa’s assumption of all provincial debts. Meanwhile, a system of National Adjustment Grants, designed to ensure a minimum standard of social services for all Canadians, would be instituted. To arrive at the amount that each province was to receive, the Commission calculated the cost of ensuring a desired minimum standard of services and compared that sum with the province’s revenues. If there was a deficit—that is, if a province’s revenue was less than the required expenditure—then the province would receive a National Adjustment Grant, which made it tantamount to a fiscal need subsidy.³⁹ Six provinces, New Brunswick among them, were to receive National Adjustment Grants, with Ontario, Alberta, and British Columbia being excluded.

The commissioners were careful to emphasize that although their financial recommendations may appear at odds with the BNA Act, there were also some remarkable similarities. In 1867 Ottawa was given the most lucrative taxing power of the day: the customs and excise tax. Likewise, the commissioners recommended that Ottawa be granted what in 1939 was the chief taxing power: personal income, corporation, and succession taxes. In 1867 the Dominion paid the provinces subsidies to assist them in performing their responsibilities. In 1939 the proposed National Adjustment Grants would fill this role.⁴⁰ And although Ottawa would pay the provinces these grants to ensure a national minimum standard of social services, the actual responsibility for administering these services would remain with the provinces. Social services had been delegated to the provinces under the British North America Act, and there was to be no redistribution of jurisdiction.⁴¹ In essence, the commissioners did not believe that they were rewriting the constitution; they were merely updating it while remaining committed to the classical liberal ideology that underscored it.

The publication of the Rowell-Sirois Report necessitated a January 1941 meeting between the federal and provincial governments to discuss its recommendations. On this conference’s second day the premiers of Ontario, Alberta, and British Columbia, perhaps motivated in part by their provinces’ exclusion from the National Adjustment Grant system, refused to sit on any committees discussing the document. Thus no committees were appointed and the conference had for all purposes come to an end. But prior to the conference’s formal dissolution King allowed his Minister of Finance, J.L. Ilesley, to suggest that Ottawa would probably have to “invade provincial tax fields such as succession duties” in order to fund the war effort, while also opting out of assisting the provincial governments in paying the cost of unemployment relief, for which the Dominion paid 40 percent. Moreover, gasoline would likely be rationed, thereby diminishing provincial revenues from both gasoline taxes and automobile licences.⁴²

Prior to the conference’s dissolution, McNair presented New Brunswick’s position. The New Brunswick premier viewed the financial plan recommended by the Commission as “the crux of the report,” yet he refused at that early date “to express a definite opinion thereon.”⁴³ McNair’s reluctance to formally state a position on the Report at the conference stems from a number of factors. A draft version of a speech for the conference in his papers makes clear that McNair was caught off guard by the conference as he did not expect it to be held until war’s end. As a result of this “lack of adequate prior consideration,” he maintained that the conference was solely of an “exploratory” nature and, as a result, did not require the provinces to explicitly endorse or condemn the Report.⁴⁴ Moreover, McNair seemed to be having a minor personal crisis over the proposal. Although he did not say so at the conference, his personal correspondence makes clear that the New Brunswick premier was personally “very favourably disposed towards the Report and . . . considered it of great value.” At the same time, he was opposed to any over-centralization of authority in Ottawa.⁴⁵ Thus McNair was in an uncomfortable position with regard to the Rowell-Sirois Report, as provincial rights were seemingly in conflict with provincial self-interest. McNair believed the Report’s recommendations would benefit his province, but he recognized

that implementing those recommendations would require him to cede certain tax rights granted New Brunswick under the BNA Act, thereby contributing to the very centralization he had so publicly opposed at the 1935 Dominion-Provincial Conference.

To complicate matters, McNair received mixed messages from his advisors about the impact of the Report's recommendations on his province. In a 29 November 1940 memo, Walter Jones stated bluntly that "[t]he recommendations of the Commission seem. . .quite favourable to this province." In this memo Jones stressed the importance of the Commission's recognition of fiscal need, which seemed to him a fair trade-off to the ceding of the right to levy corporation taxes to Ottawa "because of our relatively small corporation taxes."⁴⁶ All told, Jones calculated that New Brunswick would end up with a budgetary surplus of \$2,250,000, or \$5.51 per capita, the highest per capita surplus in Canada. The second memo, included without signature in the McNair papers, was not nearly so optimistic. Basing its calculations on the assumption that Ontario would be unwilling to enter an agreement, thereby depriving Ottawa of that province's lucrative tax revenues, this memo concluded that the net gain to New Brunswick would be a mere \$360,000, leading the author to conclude that under the Rowell-Sirois plan New Brunswick "would do no better even from a financial standpoint. . .than it is doing at present."⁴⁷

This second memo also took a much more critical stance with regard to the impact of the Rowell-Sirois Report on the structure of Canadian federalism, a subject the first memo had ignored. The unknown author recommended to McNair that he keep in mind the power that the constitution grants the province to levy personal income, corporation, and inheritance taxes, and insisted that these taxation rights "should not be lightly thrown away." This urgent defence of the structure of federalism was prompted by two factors. First, the memo makes the important point that "it is impossible to foretell how valuable such powers may be in the future" and that to cede their "potential value" would be fiscally irresponsible. Second, the memo cautioned McNair that relinquishing these tax fields, even for a generous financial subsidy, would result in a loss of provincial prestige. Maintenance of provincial prestige was imperative, as the memo's author anticipated that the coming years would see the further renegotiation of federal and provincial responsibilities. As the author makes clear, "It seems to me that the more authority to be placed in the hands of the Dominion parliament means more prestige to that parliament. If questions arise in the future as to the abolition of appeals to the Privy Council or other suggested changes in the constitution, it would be as well for New Brunswick to maintain its prestige."⁴⁸ The breakdown of the conference meant that McNair did not have to choose between this memo and the more optimistic one penned by Jones.

On 31 March, Ilsley made good on his threat to end Dominion assistance for direct unemployment relief, and in his 29 April budget address he announced the federal government's intent to commandeer certain tax fields to prosecute the war effort. As part of the federal government's proposed Wartime Tax Agreement, the provinces were asked to surrender income and corporation taxes in return for a fixed annual grant and a fiscal need subsidy if needed.⁴⁹ Furthermore, the Dominion agreed not to interfere with the special taxes that the provinces levied on timber limits, oil wells, mining, or other natural resources, and guaranteed that should provincial revenues from gasoline taxes fall below the 1940 level, they would make up the difference.⁵⁰

It is important to recognize that the Wartime Tax Agreement was distinct from the recommendations put forth by the Rowell-Sirois Commission. Although both the Rowell-Sirois recommendations and the Wartime Tax Agreement called for the federal government to assume the sole authority to levy certain tax fields, there the similarities ended. The Rowell-Sirois recommendations were designed to be a permanent re-configuration of Canada's federal structure, complete with the recognition of regional disparities and the need for grants to ensure a minimum standard of social services for all Canadians. The Wartime Tax Agreement, on the other hand, was simply a wartime convenience designed to allocate to the federal government the funds necessary to successfully prosecute the war effort without any commitment to the provision of social services, while leaving the provinces in a secure enough financial position to weather the conflict. As Stephen Henderson has suggested, the Rowell-Sirois Commission viewed the centralization of tax authority as a necessary precursor to a more equitable redistribution of wealth to the peripheral provinces through the National Adjustment Grant system. In this manner, centralization and provincialism were not at odds, and were, in important ways, opposite sides of the same coin.⁵¹ The Wartime Tax Agreement, on the other hand, called for the centralization of tax authority without any corresponding long-term recognition of regional disparities or the vagaries of provincial need. As a result, under the Wartime Tax Agreement centralization occurred at the expense of provincialism.

The proposed Wartime Tax Agreement necessitated a December round of meetings between the Dominion and the provinces.⁵² At this conference the federal government made an important concession to the Maritime Provinces regarding non-statutory subsidies that had been paid to the eastern provinces. The Maritime delegates held that in reality these payments amounted to *de facto* statutory subsidies. Faced with this petition, the federal government adopted a curiously incongruous position. Although they would not pay the subsidies while the Wartime Tax Agreement was in effect, they apparently agreed with the Maritime position:

It has been pointed out and the dominion government agrees that the special grants to the Maritime Provinces awarded as a result of the Duncan and White Commissions represent in fact, an additional subsidy which the Dominion is morally bound to continue. It is for this reason that a special clause is to be inserted in the agreements with the Maritime Provinces that the Dominion recognizes that these grants are in the nature of a subsidy and undertakes to continue paying them upon the termination of the proposed agreement.⁵³

The Dominion also promised to incorporate this in a new statute “so as to avoid any possibility of misunderstanding at a later date.”⁵⁴ To this end Ottawa passed *The Maritime Provinces Additional Subsidies Act (1942)*, which implemented the recommendations of the White Commission by guaranteeing New Brunswick \$900,000, Nova Scotia \$1,300,000, and Prince Edward Island \$275,000 per annum. While this seems to have benefited the Maritime Provinces, it may have simply been a way for Ottawa to try to pull the region on side. Not only were these subsidies not payable while the Wartime Tax Agreement was in effect, they were simply the codification of amounts that the region was already receiving.⁵⁵

In his closing remarks to the conference McNair made clear New Brunswick’s position. Although he felt that the atmosphere at the conference “compared more favourably” with that of the Rowell-Sirois Conference, he regretted that the broader Rowell-Sirois recommendations were off the table, lamenting that “we did not get to the point where we could have discussed what had been presented by a competent as something in the nature of a constructive plan.”⁵⁶ Moreover, McNair was displeased with Ottawa’s use of 1940 as the base year for calculating the rental payments, for the federal government was entering the provincial tax fields when their yields were on the increase and then would return them when the yields were declining.⁵⁷ McNair was also dissatisfied with New Brunswick’s \$300,000 fiscal need subsidy under the Wartime Tax Agreement, for under the Rowell-Sirois recommendations the province would have received “in round figures, ten times the amount indicated.” However, since the threat of the war was of paramount concern he would accept the proposal as it was, and he would “recommend to the legislature, as soon as possible, the adoption of the agreement.”⁵⁸ McNair made good on his promise and, on 27 March 1942, the Legislative Assembly of New Brunswick assented to *An Act To Suspend Temporarily the Imposition of Income Taxes, Corporations Taxes, and Taxes on Securities*.

New Brunswick benefited financially under the Wartime Tax Agreement. This arrangement guaranteed Fredericton an annual payment of \$3,278,574.15, although the province was to give up revenues of \$3,350,067.45 and suffer a net loss of \$71,493.30 under the agreement. Ottawa agreed to make up this net loss as well as pay a yearly fiscal need subsidy of \$300,000. In essence, although New Brunswick’s fiscal need subsidy was stated as \$371,493.30, the province’s net gain over its 1940 revenue was \$300,000.⁵⁹ This agreement effectively stabilized the revenues of New Brunswick for the duration of the war, and the full employment of the wartime boom—and the subsequent decline in relief expenditures—meant that the province’s financial position was improved for the duration of the conflict. Moreover, the temporary nature of the Wartime Tax Agreement made further negotiations between Ottawa and the provinces inevitable.

New Brunswick’s financial position was not the only thing altered during the war; the province also saw an increase in industrialization.⁶⁰ While few war orders were placed within the province, “[t]he general economic prosperity of the nation ... overflowed into [the] region.”⁶¹ An indication of this wartime “economic prosperity” was the rise in manufacturing output in the province by 112 percent during the war. Yet despite this wartime boom, New Brunswick’s competitive position had deteriorated. The Maritime Provinces were not central to Ottawa’s wartime industrialization program and, as a result, emerged from the conflict in a weaker economic position *vis à vis* the central provinces than they had been in before the outbreak of the conflict. This lack of investment was particularly detrimental to New Brunswick, where the prospect of numerous returning veterans, combined with the end of wartime demand, would, it was feared, lead to “the re-emergence of the old economic weaknesses.”⁶² Moreover, McNair knew that New Brunswickers would not tolerate a return to pre-war conditions. As his secretary R.A. Tweedie later recalled, McNair “used to say that people just

won't believe, after the war effort, that we can't stop people from being unemployed and can't provide three square meals for everyone."⁶³

With the end of war in Europe, Ottawa, keen to avert a post-war economic collapse, invited the provinces in 1945 to a conference to discuss how the federal government could assist the provinces in meeting their post-war obligations, a motive that would require a discussion regarding the renegotiation of certain responsibilities of the provinces and Ottawa. The federal government offered specific proposals to achieve these goals. Commonly called the Green Book Proposals, these included a three-tiered plan in the areas of public investment, social services, and such fiscal matters as an extension of the Wartime Tax Agreements.⁶⁴ Yet despite the Green Book's broad proposals regarding the establishment of the welfare state, the bulk of discussion at the conference revolved around financial matters. Rather than use the format proposed by the Rowell-Sirois Commission, whereby a National Adjustment Grant would be allocated to aid the poorer provinces, Ilsley proposed a three-year extension of the Wartime Tax Agreement of 1942, with a \$12 per capita grant, to be adjusted in proportion to changes in population and Gross National Production. Since Ottawa's bureaucratic intelligentsia had accepted Keynesian economic theory and favoured increased state intervention in the economy, the justification for the federal government's continued exclusive occupation of the personal income, corporation, and succession tax fields followed Keynes's recommendation of counter-cyclical budgeting to avert a post-war depression similar to that which followed the First World War.

Ilsley's proposals suited McNair just fine. While still committed to the principle of fiscal need, he was not averse to an extension of the Tax Rental Agreement. Earlier that year, in the Legislative Assembly of New Brunswick, McNair had stated that "[t]he plan of operation which brought about the existing financial arrangements between the Dominion and the Provinces may well prove the pattern of action in the post-war period. It makes possible the negotiation of proper financial terms between the Dominion and the Provinces."⁶⁵ This was not an attitude that McNair came to blindly. In *The Regional Economy of New Brunswick*, a study commissioned by the New Brunswick Committee on Reconstruction, J.R. Petrie, a professor of economics at the University of New Brunswick and the committee's secretary, argued that "income and corporation taxes, and succession duties be transferred to the federal authority. . . [and a] system of federal grants in lieu of these taxes should be worked out," which echoed the recommendations put forth by the Rowell-Sirois Commission for federal control of these tax fields in return for payments to the provinces.⁶⁶ Furthermore, New Brunswick's experience with the Wartime Tax Agreement had already shown McNair the merits of a guaranteed source of provincial revenue and had weakened his commitment to maintaining sole provincial authority to these taxes as a matter of provincial right. But although McNair now agreed in principle with the idea of transferring these tax fields to the federal government, he was not enamoured with the terms and was particularly wary of a subsidy based upon the GNP which could, in the event of an economic downturn feared to be likely at war's end, cut the revenues and rental fees paid to the provinces when they needed these funds the most. Moreover, McNair believed that a common per capita grant was unacceptable as it ignored the concept of fiscal need and existing standards of provincial services. Yet despite these concerns, McNair certainly had reason to be optimistic when he returned to Ottawa that November.

His hopes would be dashed, however, when the Government of Ontario made its counter-proposals. Ontario Premier George Drew opposed vacating the personal income or corporation tax fields, or of giving up his province's right to levy succession duties.⁶⁷ While he veiled his objections in the structure of federalism set out by the British North America Act,⁶⁸ his primary concern was that because of

Ontario's increasing industrial and other production, it is certain that the revenue from personal income and corporation taxes and succession duties will increase more rapidly than the increase in the suggested subsidy payment to the Province based on gross national product per capita as estimated by the Dominion Government.⁶⁹

Drew acknowledged that some of the provinces would not be able to provide adequate services funded solely by the monies collected through their income and corporation taxes. In place of a per capita subsidy, Drew proposed the establishment of what he termed "The National Adjustment Fund," which would be comprised of 10 percent of each province's income garnered from personal income taxation, corporation taxation, and succession duties. This pooled revenue would then be apportioned by a Dominion-Provincial Coordinating Committee to those provinces that were unable to provide a set minimum standard of social services.⁷⁰

Ontario's counter-proposals were not well received by New Brunswick.⁷¹ R.S. Fitzrandolph, New Brunswick's chief financial advisor at the conference, cautioned McNair that the "Ontario proposals. . . [do not] offer a satisfactory substitute or alternative to those of the Dominion" for they did not guarantee a minimum level of assistance to the poorer provinces.⁷² W.B. Trites, New Brunswick's Deputy Provincial Secretary-Treasurer, agreed, advising McNair that Ontario's proposals "would cause a great many difficulties and. . . would not be advantageous to the provinces."⁷³ McNair took Trites' advice to heart, and when he presented New Brunswick's submission to the conference, he made no mention of Ontario's counter-proposals, instead stressing the inadequacy of a per capita subsidy to meet the province's needs. New Brunswick, McNair argued, required a fiscal need subsidy "to permit local and provincial services to be raised to the average standard prevailing throughout Canada without raising internal taxation beyond the general level in all provinces."⁷⁴ Still, the premier was "prepared to accept the Dominion proposals in broad principle" while still calling for the inclusion of a "plan to provide for the more needy provinces supplementary grants based on their financial circumstances."⁷⁵

Over the next week the conference deteriorated as neither Ontario nor Ottawa would budge from their positions. The deadlock angered McNair; while Ontario could afford to refuse an extension of the Wartime Tax Agreement—its large population and disproportionate share of industry meant Ontario could raise enough money to support its needs through its own personal income and corporation taxes—New Brunswick could not. On 2 May McNair addressed the conference in strongly nationalist terms:

I am not here to ask consideration for the people I represent because they live in New Brunswick. I base my case for them on higher ground, on the fact that they live in Canada and as Canadians are entitled to a fair show and a square deal at the hands of their fellow Canadians—nothing more, nothing less.⁷⁶

McNair's linking of centralization and nationalism had little effect, and the conference adjourned *sine die*.

With the conference's failure, the Dominion followed its familiar template and set aside the social welfare aspects of the Green Book and began to negotiate tax agreements with the provinces on an *ad hoc* basis. This was something Ottawa was well prepared for, having discussed the possibility of negotiating with individual provinces solely regarding the tax agreements as early as 20 June 1945.⁷⁷ Although McNair perceived the necessity of these Tax Rental Agreements, he reminded the federal government that they were "only one aspect or part of that programme" advanced by Dominion at the conference:

Of equal importance, particularly as affecting the people in the smaller Provinces, were the public investment and resources development proposals and the social security and health plans which formed integral parts of the Dominion's original program.⁷⁸

While this agreement would stabilize the province's finances, without the allocations for public investment, social security, and health grants, the level of services in New Brunswick would still fall short of the Canadian average.

However, McNair was under pressure to reach an agreement by 1 November, the date that New Brunswick's Wartime Tax Agreement expired and the beginning of the province's fiscal year. This was the earliest beginning to a provincial fiscal year in Canada, which placed the New Brunswick premier under added pressure to finalize negotiations with Ottawa and ensure his province a guaranteed source of revenue. Although fiscal need was not recognized in the agreement, the Dominion's proposals were attractive to McNair because they guaranteed greater provincial income than if the province retained control of its personal income, corporation, and succession tax fields. Thus, on 31 October 1946, New Brunswick was the first province to enter a Tax Rental Agreement with Ottawa.⁷⁹

It should be noted that the Tax Rental Agreements proposed by the federal government did not necessarily conflict with McNair's commitment to provincial rights. Both the federal and provincial governments had the constitutional right to impose these taxes. All that the provinces were agreeing to was to refrain from collecting these taxes for a fixed period of time—thereby granting Ottawa exclusive access to these tax fields—in return for a fixed payment. As Nova Scotia Premier Angus L. Macdonald would later remark, the 1947 Tax Rental Agreement was "solely a financial agreement and is temporary in nature."⁸⁰ Such a temporary agreement did not necessitate a constitutional amendment; it only required the passage of an act agreeing to the terms in each province's legislature. Thus, while taxing capacity was centralized for a brief period of time under the Wartime Tax Agreement and the 1947 Tax Rental

Agreement, the constitutional right to these tax fields would revert to the provinces (and Ottawa) when the agreements expired. McNair made clear that New Brunswick's quick acceptance of the 1947 proposals stemmed, "in no small measure. . . [from] the fact that acceptance of such plans involves no constitutional change."⁸¹ What is more, McNair hoped that by signing on to the 1947 tax plan, the broader proposals encompassed by the Green Book would once again be on the table. As the New Brunswick premier told *The Maritime Advocate and Busy East*, he supported Ottawa's plan with the "expectation that the Dominion would consider all the [social welfare] matters that had been under discussion."⁸²

New Brunswick's early entry into an arrangement with Ottawa would cause McNair some political difficulty in mid-December, when it was revealed that British Columbia had received a substantially better financial deal. In its deal with Ottawa, New Brunswick had been offered a choice: \$15 per capita based on either the 1941 or 1942 census, to increase proportionately with population and GNP, or 150 percent of what it would have collected under the Wartime Tax Agreement. McNair opted for the per capita option. British Columbia's arrangement appeared essentially the same, save for one minor clause that would have major repercussions. For New Brunswick, only the per capita payment would rise relative to population and GNP increases; the 150 percent option was a static payment. For British Columbia, both choices would be influenced by population and GNP growth. Therefore, by choosing the 150 percent option, British Columbia had a guaranteed minimum payment of \$21 per capita that would increase proportionate to the GNP. Accordingly, were the GNP to increase by 10 percent, New Brunswick would receive \$15 per capita plus 10 percent (\$1.50), for a total payment of \$16.50 per capita. British Columbia, on the other hand, would receive \$21 per capita plus 10 percent (\$2.10), for a total payment of \$23.10. Thus, under this arrangement, British Columbia "must permanently and progressively receive a higher price for its taxes than any other province."⁸³ Since the New Brunswick legislature had not yet ratified the Tax Rental Agreement, McNair put the legislation on hold and suspended relations with Ottawa until "counterbalancing adjustments" to New Brunswick's deal were put in place. This tactic proved successful, and by January 1947 McNair announced that New Brunswick had finalized a new agreement with the federal government that saw the province's financial take jump from an estimated \$7.5 million to over \$9.5 million, with a guaranteed minimum payment of \$8,773,420.⁸⁴ However, the fact that New Brunswick had to suspend relations with Ottawa in order to effect a better deal reveals the lack of inter-provincial cooperation in the negotiation of the 1947 Tax Rental Agreements.

Following the signing of the 1947 Tax Rental Agreement, J.B. McNair did not give up hope of the recognition of fiscal need or the implementation of a broader social welfare and public works plan. When Mackenzie King stepped down after almost 30 years in office, McNair used the 1948 convention that chose Louis St. Laurent to be King's successor as a national forum for his views. "[T]he maintenance of our national income at a high level," McNair told the assembled delegates, was "dependent on the production of goods and services, . . . construction and other works projects, and . . . social security measures." Characteristic of a premier whose province was undertaking a massive road building and infrastructure development scheme, McNair believed that Canada's future prosperity was contingent upon increased state intervention and argued that "a full scale public works program. . . is essential to the nation's well being." He also used the convention as a platform to once again champion the principle of fiscal need by complaining that "economic injustices still exist" between the provinces, necessitating future federal initiatives that would ensure that "those sections less fortunately endowed by nature or geography should not become the poorer because of those policies."⁸⁵

McNair would get the chance to make his case to Prime Minister St. Laurent at the December 1950 Dominion-Provincial Conference.⁸⁶ Owing to fears that the ongoing conflict in Korea might escalate into a third world war, the 1950 conference was a relatively brief, straightforward, and orderly affair with two main objectives. First, it was to negotiate an extension of the 1947 Tax Rental Agreements. Second, it was to discuss the possibility of implementing universal old age pensions. However, Ottawa had learned from its mistakes at past conferences and ensured in 1950 that the social security proposals and the tax rental proposals were not interconnected. Outright refusal of one would not negate the adoption of the other. Furthermore, the adoption of the universal old age pension was almost a forgone conclusion as all provinces favoured it to some extent, and the conference quickly reached agreement on the issue.⁸⁷

Almost as congenial were the discussions surrounding the proposed extension of the 1947 Tax Rental Agreement. By now those provinces that had accepted Tax Rental Agreements were, with the exception of Nova Scotia, quite willing to enter into another.⁸⁸ For them this conference was nothing more than a formality and a chance to perhaps effect a more profitable financial agreement with Ottawa. As McNair informed St. Laurent in August 1950, "a major concern for us is our responsibility to the people of New Brunswick and our ability to provide them with the services within provincial jurisdiction which are their due."⁸⁹ These services could readily be provided, McNair suggested, through an extension of

the existing Tax Rental Agreements, although the New Brunswick premier suggested that “the formulae in which the existing agreements are based might be revised to provide more fully for the needs of all the provinces.”⁹⁰ Again McNair brought up the principle of fiscal need subsidies for the poorer provinces, but by this point it seems as though the New Brunswick premier was tilting against windmills. Ottawa had come to the meeting with a specific agenda, and the provision of fiscal need subsidies was not on the itinerary. Indeed, the exclusion of fiscal need in the 1951 tax proposals had no bearing on McNair’s decision; New Brunswick, along with Prince Edward Island, was the first to accept the Dominion’s offer.⁹¹ Eventually, all provinces except Quebec signed on to the 1951 Tax Rental Agreement.⁹²

Political scientist Reginald Whitaker observed that in New Brunswick “there has never been any important friction between the federal and provincial wings of the Liberal party.”⁹³ A review of New Brunswick’s position on the renegotiation of federalism in the 1940s supports this conclusion; despite McNair’s last-second suspension of federal-provincial relations over British Columbia’s 1947 Tax Rental Agreement, he consistently played the role of the “good Liberal” throughout his tenure, and he generally supported Ottawa’s initiatives. Although McNair carried the torch for the principle of fiscal need during the constitutional discussions of the 1940s, as the decade went on he seemed increasingly eager to cede his province’s tax rights to Ottawa in exchange for a secure source of provincial revenue. Indeed, it would not be until McNair had been replaced as premier by Conservative Hugh John Flemming that New Brunswick would become more of a thorn in the federal government’s side. This tactic seemed more profitable, for Flemming helped lead the successful campaign for equalization payments, and their explicit recognition of regional disparities, during the 1950s.⁹⁴

During the constitutional negotiations of the 1940s New Brunswick Premier John McNair’s belief that the BNA Act encouraged the redistribution of wealth from richer to poorer provinces led him to invoke the compact theory of Confederation to lobby, somewhat inconsistently, for federal recognition of fiscal need and increased federal assistance to disadvantaged provinces. The inherent incongruity of this position, the outbreak of a war that placed provincial rights in conflict with national self-interest, and New Brunswick’s consistently unenviable financial position weakened McNair’s commitment to the compact theory, and as the years went on it seemed to have increasingly become a ploy to try to effect a more equitable fiscal arrangement for his province. Yet McNair’s position can only be appreciated when one considers the financial pressures his province was under during the 1940s; his fight for recognition of fiscal need is emblematic of the severe monetary constraints facing his province, and his quick entry into and endorsement of the Tax Rental Agreements stemmed from New Brunswick’s unenviable financial position. The province, which in 1935 had been Canada’s strongest defender of provincial rights, had been wracked by the economic and social strains of the Great Depression and only marginally integrated into Ottawa’s wartime industrialization program. As a result, during the 1940s the province found itself unable to fund an adequate level of social services and programs—programs the wartime boom had led New Brunswickers to expect—through its personal income taxes, corporation taxes, and succession duties.

Moreover, McNair’s personal view of the purpose of Confederation contributed to his decision to cede tax powers to Ottawa during the 1940s. While the New Brunswick premier had been a disciple of provincial rights ideology during the 1930s, he also tenaciously clung to the idea that Canada’s federal system was intended to improve the welfare of the provinces and, as a result, he firmly believed that federalism mandated that the stronger provinces should help the weaker provinces. The 1940s Tax Rental Agreements seemed a perfect solution to New Brunswick’s troubles. In signing on, the province received a secure source of revenue in exchange for its income and succession taxes, yet it retained the right to these tax fields upon the agreement’s expiry. Thus, when Ottawa offered New Brunswick substantially more for these tax fields than the province collected from them, McNair was quick to agree, and he soon came to appreciate this guaranteed source of provincial income. In so doing, one of the champions of provincial rights during the 1930s became a willing participant in the centralization of tax power in Ottawa’s hands a decade later.

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Endnotes

¹ Statement by John McNair at Dominion-Provincial Conference (1945), *Dominion and Provincial Submissions and Plenary Conference Discussions* (Ottawa: King's Printer, 1946), 421.

² See T. Stephen Henderson, "'A New Federal Vision': Nova Scotia and the Rowell-Sirois Report, 1938-1948," *Framing Canadian Federalism*, ed. Penny Bryden and Dimitry Anastakis (Toronto: University of Toronto Press, 2009), 51-74; and T. Stephen Henderson, *Angus L. Macdonald: A Provincial Liberal* (Toronto: University of Toronto Press, 2008). Although E.R. Forbes and D.A. Muise's *The Atlantic Provinces in Confederation* addresses issues of federalism, they are not the main focus of the work. Moreover, the structure of the Forbes and Muise survey—where different authors write chapters on decades in the Maritimes—renders its coverage of constitutional issues inconsistent. For example, the chapter on the 1930s has an excellent summary of New Brunswick's focus on provincial rights during the constitutional negotiations of that decade, while the chapter on the 1940s tends to focus more on the regional—not the provincial—response to the renegotiation of federalism, and as a result New Brunswick's position is not nearly so well served. See for example E.R. Forbes, "The 1930s: Depression and Retrenchment," *The Atlantic Provinces in Confederation*, ed. E.R. Forbes and D.A. Muise (Toronto: University of Toronto Press, 1994), 272-305; and Carman Miller, "The 1940s: War and Rehabilitation," *The Atlantic Provinces in Confederation*, 306-348. I would like to thank the anonymous reviewers for their helpful comments and advice on this article.

³ For more on Macdonald's championing of fiscal need see Henderson, *Angus L. Macdonald*, 80-82.

⁴ For example, when J.B. McNair became premier in 1940, Montreal bankers were threatening to foreclose on New Brunswick. This situation was essentially unchanged when McNair left office in 1952. See Miller, "The 1940s: War and Rehabilitation," 326.

⁵ Work on the Rowell-Sirois Commission includes Donald Smiley, "The Rowell-Sirois Report, Provincial Autonomy, and Postwar Canadian Federalism," *Canadian Journal of Economics and Political Science* 28, no.1 (1962): 54-69; Richard M.H. Alway, "Hepburn, King, and the Rowell-Sirois Commission," *Canadian Historical Review* 48, no.2 (1967): 113-141; and David Fransen, "Unscrewing the Unscrutable: The Rowell-Sirois Commission, the Ottawa Bureaucracy, and Public Finance Reform, 1935-1941," Ph.D. Diss., University of Toronto, 1984. The Green Book has been examined in Marc J. Gotlieb, "George Drew and the Dominion-Provincial Conference on Reconstruction of 1945-1946," *Canadian Historical Review* 66, no.1 (1985): 27-47; John English, "Dominion-Provincial Relations and Reconstruction Planning, 1943-1946," *Proceedings of Canadian Committee for the History of the Second World War* (Saint-Jean, Quebec, 1977); Alvin Finkel, "Paradise Postponed: A Re-examination of the Green Book Proposals of 1945," *Journal of the Canadian Historical Association*, New Series 4 (1993): 120-142; and Penny Bryden, "Pawn or King-Maker: The Maritimes, Ontario, and the Politics of Federalism," Paper presented at Atlantic Canada Studies Conference, University of Prince Edward Island, 16 May 1998. For treatments of New Brunswick's role in the Conference see R.A. Young, "'...and the people will sink into despair': Reconstruction in New Brunswick, 1942-1952," *Canadian Historical Review* 69, no.2 (1988): 145; and Jennifer Francisco, "New Brunswick Finances, 1917-1952," MA Thesis, University of New Brunswick, 1993, 95-104.

⁶ This trend is well displayed by the work of political scientist R.A. Young. Earlier in his career Young analysed Maritime-federal relations during the 1940s and 1950s. See for example Young, "... and the people will sink into despair," and R.A. Young, "Planning For Power: The New Brunswick Electric Power Commission in the 1950s," *Acadiensis* 12, no.1 (1982): 73-99. Young's more recent work has focused on the prospect and potential implications of

Quebec's secession. See R.A. Young, "Jean Chrétien's Québec Legacy: Coasting then Stickhandling Hard," *Review of Constitutional Studies* 9, no. 1-2 (2004): 31-52; R.A. Young, "'Maybe Yes, Maybe No': The Rest of Canada and a Quebec 'Oui'," *Canada: The State of the Federation 1995*, ed. Douglas Brown and Jonathan Rose (Kingston: Institute of Intergovernmental Relations, Queen's University, 1995), 47-64; R.A. Young, "How do Peaceful Secessions Happen?" *Canadian Journal of Political Science* 27 (1994): 773-792; and R.A. Young, "The Political Economy of Secession: The Case of Quebec," *Constitutional Political Economy* 5, no. 2 (1994): 221-245. Other regional political scientists have made brief mention of the 1940s renegotiation of federalism. For example, James Bickerton has addressed both the Rowell-Sirois Commission and the 1945-6 Dominion-Provincial Conference. However, as Nova Scotia is the focus of his analysis, Bickerton gives New Brunswick short shrift, suggesting that the province "acquiesced to the temptation" of increased federal payments in 1947 without detailing the pressures that compelled the province to enter into a Tax Rental Agreement with Ottawa. See James Bickerton, *Nova Scotia, Ottawa and the Politics of Regional Development* (Toronto: University of Toronto Press, 1990), 121. For a perceptive critique of the contribution of political scientists to political history see Barry Ferguson and Robert Wardhaugh, "'Impossible Conditions of Inequality': John Dafoe, the Rowell-Sirois Commission, and the Interpretation of Canadian Federalism," *Canadian Historical Review* 84, no.4 (2003): 552-3.

⁷ In addition to Ferguson and Wardhaugh's "'Impossible Conditions of Inequality,'" examples of this renaissance in political history include, but are by no means limited to: Robert Wardhaugh, *Mackenzie King and the Prairie West* (Toronto: University of Toronto Press, 2000); Matthew Hayday, *Bilingual Today, United Tomorrow: Official Languages in Education and Canadian Federalism* (Montreal & Kingston: McGill-Queen's University Press, 2005); and the essays in Raymond Blake ed., *Examining the Legacy: The Era of Prime Minister Brian Mulroney* (Montreal: McGill-Queen's University Press, 2007); and Penny Bryden and Dimitry Anastakis eds., *Framing Canadian Federalism* (Toronto: University of Toronto Press, 2009).

⁸ E.R. Forbes, *The Maritime Rights Movement, 1919-1927: A Study in Canadian Regionalism* (Montreal and Kingston: McGill-Queen's University Press, 1979), 160. In this monograph Forbes has persuasively argued that the Duncan Commission "devised a program for Maritime economic rehabilitation, only to have the federal government turn it into a program for political pacification." Forbes, *The Maritime Rights Movement, 1919-1927*, vii.

⁹ In fact, 1937 was the worst year in the history of the western wheat economy, with only one-sixth the normal yield. See H. Blair Neatby, "The Liberal Way: Fiscal and Monetary Policy in the 1930s," *The Depression in Canada*, ed. Michiel Horn (Toronto: Copp Clark Pitman Ltd., 1988), 259; and John Herd Thompson with Allen Seager, *Canada 1922-1939: Decades of Discord* (Toronto: McClelland & Stewart Ltd., 1985), 299.

¹⁰ Fransen, "Unscrewing the Unscrutable," 132.

¹¹ For a thorough discussion of the Maritime Provinces and the matching grant relief system see E.R. Forbes, "Cutting the Pie into Smaller Pieces: Matching Grants and Relief in the Maritime Provinces during the 1930s," *Challenging the Regional Stereotype: Essays on the 20th Century Maritimes*, ed. E.R. Forbes (Fredericton: Acadiensis Press, 1989), 34-55. The amount of each relief allocation depended on the decisions of the municipal governments. This meant that some affluent jurisdictions could choose to make lower relief payments than some poorer municipalities.

¹² E.R. Forbes, "Cutting the Pie into Smaller Pieces," 159. A detailed fiscal analysis of North Shore counties during the Depression is found in Jennifer Francisco, "New Brunswick Finances," 75-77.

¹³ Forbes, "Cutting the Pie into Smaller Pieces," 153-159.

¹⁴ Ibid., 149, ff 4.

¹⁵ As cited in James Struthers, *No Fault of Their Own: Unemployment and the Canadian Welfare State, 1914-1941* (Toronto: University of Toronto Press, 1983), 115.

¹⁶ W.L.M. King Diary, 16 February 1937, MG 26, Library and Archives Canada (LAC).

¹⁷ Sirois replaced original Quebec Commissioner Thibodeau Rinfret, who resigned in poor health in 1937.

¹⁸ S.A. Saunders was born in Nauwigewauk, New Brunswick, about twenty miles outside of Saint John. See T.W. Acheson's "Introduction" to S.A. Saunders, *The Economic History of the Maritime Provinces* (Fredericton: Acadiensis Press, 1984), 5.

¹⁹ Fransen, "Unscrewing the Unscrutable," 99.

²⁰ See Christopher Armstrong, *The Politics of Federalism: Ontario's Relations with the Federal Government, 1867-1942* (Toronto: University of Toronto Press, 1981), 13-14, 31-32. For a sustained analysis of the compact theory see Paul Romney, "Provincial Equality, Special Status and the Compact Theory of Canadian Confederation," *Canadian Journal of Political Science* 32, no. 1 (1999): 21-39. Romney makes no mention of New Brunswick's version of the compact theory in this article.

²¹ Kenneth H. Leblanc, "A.P. Paterson and New Brunswick's Response to Constitutional Change, 1935-1939," MA Thesis, University of New Brunswick, 1989, 13-14.

²² *Synoptic Report of the Proceedings of the Legislative Assembly of New Brunswick, 1938* (New Brunswick: King's Printer, 1938), 138.

²³ This has led scholars Donald Fransen and Jennifer Francisco to charitably label New Brunswick's version of the compact theory as "inconsistent." See Fransen, "Unscrewing the Unscrutable," 252-262 and Jennifer Francisco, "New Brunswick Finances," 91.

²⁴ *Submission of the Government of New Brunswick to the Royal Commission on Dominion-Provincial Relations, 1938*, (New Brunswick: King's Printer, 1938), 11.

²⁵ E.R. Forbes, "The 1930s: Depression and Retrenchment," 303.

²⁶ This position occasioned strong support from the staunchly Liberal *Maritime Advocate and Busy East*. In a February 1936 editorial C.C. Avard praised New Brunswick's stance and suggested that it is a "shame ... that New Brunswick must fight alone." C.C. Avard, "New Brunswick Fights Pluckily, But She Fights Alone," *The Maritime Advocate and Busy East* 26, no.7 (1935): 3. For more on the constitutional issue at the 1935 Dominion-Provincial Conference see Forbes, "The 1930s: Depression and Retrenchment," 301-305; and Leblanc.

²⁷ *Synoptic Report of the Proceedings of the Legislative Assembly of New Brunswick, 1939*, 51. See also Forbes, "The 1930s: Depression and Retrenchment," 302.

²⁸ In his speech to the New Brunswick legislature McNair maintained that "[t]his Legislature holds its present powers because New Brunswick is an autonomous self-governing province of Great Britain, sovereign within the sphere defined

for her in the B.N.A. Act and independent of the Canadian Parliament.” To have agreed to grant Ottawa sole responsibility for unemployment relief in 1935 without implementing a process for constitutional amendment or consulting with the New Brunswick legislature would have, McNair contended, rendered the province “a mere territorial division of the Dominion and hold her powers by way of gift from the Parliament of Canada. To acknowledge the supremacy of the latter would be to confess our own subserviency and subordination.” See *Synoptic Report of the proceedings of the Legislative Assembly of New Brunswick*, 1939, 221. R.A. Tweedie later recalled that McNair believed that had New Brunswick agreed to the constitutional amendment it would have led to “a greater centralization of control at Ottawa over the affairs of our people.” See R.A. Tweedie, *On With the Dance* (Fredericton: New Ireland Press, 1986), 40.

²⁹ Memorandum for the Honourable J.B. McNair, Premier, Fredericton, 26 December 1940, unsigned, J.B. McNair Papers, Provincial Archives of New Brunswick (PANB) RS 414 C5b. Moreover, following the outbreak of the war in Europe it was increasingly difficult to argue for provincial rights when national self interest was at stake. For a discussion of the fall of Paterson and the compact theory see Leblanc, 29-48.

³⁰ Royal Commission on Dominion-Provincial Relations, Report of Hearings (Ottawa: King’s Printer, 1940), 8532-33. This was an idea similar to, but not nearly so well-developed or articulated as the Federal Grants Commission proposed by Nova Scotia Premier Angus L. Macdonald in his meeting with the Commission. For more on Nova Scotia’s Federal Grants Commission proposal see T. Stephen Henderson, *Angus L. Macdonald*, 82.

³¹ Royal Commission on Dominion-Provincial Relations, Report of Hearings (Ottawa: King’s Printer, 1940), 8561.

³² *Submission of the Government of New Brunswick to the Royal Commission on Dominion-Provincial Relations*, (Fredericton: King’s Printer, 1938), 28-29.

³³ Royal Commission on Dominion-Provincial Relations, Report of Hearings (Ottawa: King’s Printer, 1940), 8606.

³⁴ *Ibid.*, 8607.

³⁵ “New Brunswick’s Premier,” *The Liberal Advocate* 5, no.7 (1941): 5.

³⁶ *Ibid.*, 4.

³⁷ Fransen, “Unscrewing the Unscrutable,” 374-5.

³⁸ *Report of the Royal Commission on Dominion-Provincial Relations* (Ottawa: King’s Printer, 1940), Book II, 79.

³⁹ *Ibid.*, 125-130, 269-275.

⁴⁰ *Ibid.*, 273-274.

⁴¹ *Ibid.*, 31-35, 276.

⁴² *Proceedings of Dominion-Provincial Conference, 1941* (Ottawa: King’s Printer, 1941), 75.

⁴³ Ibid., 19. See also B.M. Hill to W.L.M. King, 26 December 1940, W.L.M. King Papers, LAC, MG 26 J1 Vol. 289 File 244281-2, where Hill states that McNair considered “the financial recommendations as between the Dominion and the Provinces ... [are] the most important at present time and will require the entire time given for the Conference to come to a decision.”

⁴⁴ Draft of speech, n.d., J.B. McNair Papers, PANB RS 414 C5b 2.

⁴⁵ B.M. Hill to W.L.M. King, 26 December 1940, W.L.M. King Papers LAC MG 26 J1 Vol. 289 File 244281-2.

⁴⁶ J. Walter Jones, Memorandum to J.B. McNair, 29 November 1940, J.B. McNair Papers, PANB RS 414 C6c 10. Although New Brunswick had not made use of the personal income tax, some of the province’s municipalities had. These were the municipalities that Jones claims should be reimbursed.

⁴⁷ Memorandum for the Honourable J.B. McNair, Premier, Fredericton, 26 December 1940, unsigned, J.B. McNair Papers PANB RS 414 C5b.

⁴⁸ Ibid.

⁴⁹ Each province could choose between the revenues actually received from the ceded tax sources during the fiscal year ending closest to 31 December 1940 or the cost of the net debt service, less succession duties received, for that same fiscal year.

⁵⁰ R.M. Burns, *The Acceptable Mean; The Tax Rental Agreements, 1941-1962* (Toronto: Canadian Tax Foundation, 1980), 26.

⁵¹ T. Stephen Henderson has cautioned against drawing a direct line between the Rowell-Sirois Recommendations and the equalization system. See Henderson, “A New Federal Vision,” 51-52.

⁵² As this was not “a formal inter-provincial conference in the ordinary sense,” the minutes were not published. Memo Re: Mr. Pouliot’s Question Concerning Dominion Provincial Conference, n.d., LAC, RG 19, Vol 2702.

⁵³ “Meeting of Provincial Treasurers with Dominion Government,” 18-19 December 1941, Ottawa, 30-34, LAC, RG 19, Vol. 2702, n. pag.

⁵⁴ Ibid.

⁵⁵ James Francis, H. G. Lawson, J. Edward Hughes, Kenneth G. Morden, W. E. Bentley, Fabre Surveyer, J. P. Runciman and H. G. Paddester, “North America,” *Journal of Comparative Legislation and International Law* 26, no.1 (1944): 22.

⁵⁶ “Meeting of Provincial Treasurers with Dominion Government,” 18-19 December 1941, Ottawa, 30-34, LAC, RG 19, Vol. 2702, n. pag.

⁵⁷ Ken Jones has correctly criticised the 1942 Wartime Tax Agreement for “[freezing] the regional imbalance at its 1940 level.” The 1942 agreement, Jones argues, “inevitably allowed that the largest payments would go to the provinces where the tax fields had been [of] most value.” See Ken Jones, “Response to Regional Disparity in the Maritime Provinces, 1926-1942: A Study in Canadian Intergovernmental Relations,” MA Thesis, University of New Brunswick, 1980, 175.

⁵⁸ Meeting of the Provincial Treasurers with Dominion Government, 18-19 December 1941, Ottawa, 7 LAC RG 19 Vol. 2702, n. pag.

⁵⁹ New Brunswick's payment was based on the cost of the province's net debt service, less succession duties received, in the fiscal year ending closest to 31 December 1940 and a fiscal need subsidy. Meeting of the Provincial Treasurers with Dominion Government, 18-19 December 1940, Ottawa, LAC RG 19 Vol. 2702, n. pag.

⁶⁰ For a discussion of Maritime industrialization during World War Two see E.R. Forbes, "Consolidating Disparity: The Maritimes and the Industrialization of Canada during the Second World War," *Challenging the Regional Stereotype*, ed. E.R. Forbes, 172-199.

⁶¹ J.R. Petrie, *The Regional Economy of New Brunswick*, Study Prepared for the New Brunswick Committee on Reconstruction, (Fredericton: New Brunswick Committee on Reconstruction, 1944), 410.

⁶² Young, "'...and the people will sink into despair'," 134.

⁶³ Quotation attributed to R.A. Tweedie, Fredericton, 22 June 1976, in R.A. Young, "'... and the people will sink into despair'," 135.

⁶⁴ McNair viewed the social welfare aspects in a favourable light, for they would benefit his province. For example, the federal government's commitment in the Green Book to providing New Brunswick with up to \$13,600,900 in grants to assist in the provision of health care appealed to the leader of a province that had only spent \$212,000 on health services in 1944, the lowest per capita expenditure in Canada. Similarly, Ottawa's proposed old-age pension plan would see more New Brunswickers covered, with lower provincial expenditures. See Dominion-Provincial Conference (1945), *Proposals of the Government of Canada*, 26, and Dominion-Provincial Conference on Reconstruction (1945), *Health, Welfare and Labour Reference Book* (Ottawa: King's Printer, 1945), 14, 38.

⁶⁵ *Synoptic Report of the Proceedings of the Legislative Assembly of the Province of New Brunswick*, 1945, 273.

⁶⁶ Petrie, *The Regional Economy of New Brunswick*, 234. For other examples of Petrie proposing an extension of the Tax Rental Agreement see also 231, 442-4, 471. See also B.S. Keirstead, *The Economic Effects of the War on the Maritime Provinces of Canada* (Halifax: Dalhousie Institute of Public Affairs, 1943), 222, where Keirstead advocates "a concentration in the hands of the Dominion of complete monetary and fiscal authority."

⁶⁷ George Drew, speech given on 21 July 1944, cited in *Hansard*, 1944, 6649.

⁶⁸ Drew argued that the vacating of these tax fields would violate Section 92 of the British North America Act, under which "the Provincial Governments were given the rights to impose direct taxes for the purpose of carrying on the legislative and administrative responsibilities conferred upon them." See Submission of the Government of Ontario to the Dominion-Provincial Conference (1945), *Dominion and Provincial Submissions and Plenary Conference Discussions*, 226.

⁶⁹ *Ibid.*, 237.

⁷⁰ *Ibid.*, 242-3. The Dominion-Provincial Economic Board and The Dominion-Provincial Co-ordinating Committee were earlier aspects of Ontario's proposals. They were to be comprised of various Dominion and Provincial representatives and

were intended to ease relations between the federal and provincial governments. For a full description of their responsibilities see Submission of the Government of Ontario to the Dominion-Provincial Conference (1945), *Dominion and Provincial Submissions and Plenary Conference Discussions*, 239-40.

⁷¹ Penny Bryden claims that Ontario Minister of Finance Leslie Frost convinced McNair “of the utility of using the Ontario proposals as a basis of discussion.” However, there is little corroborating evidence to support this statement at the Provincial Archives of New Brunswick. See Bryden, “Pawn or King-Maker,” 9.

⁷² See R.S. Fitzrandolph to J.B. McNair, 14 January 1946, J.B. McNair Papers, PANB RS 414 C5c, and Province of New Brunswick Brief Report on Conference of Economic Committee, R.S. Fitzrandolph, 21 January 1946, J.B. McNair Papers, PANB RS 414 C5c.

⁷³ W.B. Trites to J.B. McNair, 21 January 1946, J.B. McNair Papers, PANB RS 414 C5c.

⁷⁴ Submission of the Government of New Brunswick on Certain Proposals of the Dominion (1945), *Dominion and Provincial Submissions and Plenary Conference Discussions*, 313.

⁷⁵ Dominion-Provincial Conference (1945), *Dominion and Provincial Submissions and Plenary Conference Discussions*, 421.

⁷⁶ *Ibid.*, 561-2.

⁷⁷ Cabinet Committee on Dominion-Provincial Relations, 20 June 1945, LAC RG 47 Vol. 80.

⁷⁸ Attachment to a letter from J.B. McNair to H.F.G. Bridges, 30 September 1946, J.B. McNair Papers, PANB RS 414 C1 A.

⁷⁹ In contrast, Nova Scotia would hold out for fourteen more months.

⁸⁰ As quoted in an editorial in *The Maritime Advocate and Busy East* 38, no.1 (1947): 28.

⁸¹ Submission of the Government of New Brunswick on Certain Proposals of the Dominion (1945), *Dominion and Provincial Submissions and Plenary Conference Discussions*, 313. In an earlier statement at the Dominion-Provincial Conference McNair expressed his view that “widely speaking, our needs are financial and that our social and economic problems can be solved within the present framework of the constitution. Statement of the Premier of New Brunswick, *Dominion and Provincial Submissions and Plenary Conference Discussions*, 27.

⁸² As quoted in an editorial in *The Maritime Advocate and Busy East* 36, no.10-11 (1946): 3. That same editorial condemned Nova Scotia’s Macdonald for his stance at the 1945-46 Dominion-Provincial Conference.

⁸³ *Saint John Telegraph-Journal*, 11 January 1947.

⁸⁴ *Saint John Telegraph-Journal*, 22 January 1947. New Brunswick’s deal was based on a \$12.75 per capita subsidy based on the 1942 population of the province, plus 50 percent of the revenue the province received from personal income and corporation taxes in the 1940-1 fiscal year and all statutory subsidies that were payable in 1947.

⁸⁵ Speech by J.B. McNair to the Liberal National Convention, 1948, J.B. McNair Papers, PANB RS 414.

⁸⁶ This would be the final Dominion-Provincial Conference at which McNair would lead New Brunswick, as he was defeated by Conservative Hugh John Flemming in the 1952 provincial election.

⁸⁷ Penny Bryden, *Planners and Politicians: Liberal Politics and Social Policy, 1957-1968* (Montreal and Kingston: McGill-Queen's University Press, 1998), 5-6.

⁸⁸ While he had long supported the principle of fiscal need, Nova Scotia Premier Angus L. Macdonald did not believe that subsidies were the answer to his province's woes. Unlike the premiers of Ontario and Quebec, he was not in the financial position to reject Ottawa's overtures. See *Proceedings of the Conference of Federal and Provincial Governments*, 4-7 December 1950 (Ottawa: Queen's Printer, 1953), 28-29.

⁸⁹ J. B. McNair to Louis St. Laurent, 7 August 1950, J.R. Smallwood Papers, Centre for Newfoundland Studies Archives, Queen Elizabeth II Library, Memorial University of Newfoundland, Collection 285 File 3.10.034.

⁹⁰ *Proceedings of the Conference of Federal and Provincial Governments*, 4-7 December 1950 (Ottawa: Queen's Printer, 1953), 30.

⁹¹ R.M. Burns, *The Acceptable Mean; The Tax Rental Agreements, 1941-1962* (Toronto: Canadian Tax Foundation, 1980), 104. The Dominion's 1950 tax rental proposal was rather simple. It was the same as the 1947 proposals but with 1948 as the base year for Gross National Product and population figures instead of 1942. This took advantage of the post-war growth in both GNP and population, thereby raising each province's guaranteed minimum payment. For New Brunswick this would have the effect of raising the guaranteed minimum payment by over 50 percent, from \$8,733,000 to \$12,758,000. As it turned out, New Brunswick's payment for 1952-53 would be even greater: \$14,502,000. *Proceedings of the Conference of Federal and Provincial Governments*, 4-7 December 1950, Appendix VIII (Ottawa: Queen's Printer, 1953), 145.

⁹² At this conference McNair lobbied for a constitutional amendment that would allow the provinces to levy a sales tax. At the time of the meeting, five provinces had implemented a "consumer's tax," which was a sales tax in all but name. McNair argued that with a constitutional amendment all provinces would then have the authority to levy indirect taxes, such as a sales tax, which would improve provincial revenues and allow the provinces to better meet the responsibilities connected with the expanding welfare state. In a somewhat ironic turn, New Brunswick's imposition of the consumer's tax was in part what led to the defeat of McNair's Liberals to Hugh John Flemming's Conservatives in the 1952 provincial election. See *Proceedings of the Conference of Federal and Provincial Governments*, 4-7 December 1950 (Ottawa: Queen's Printer, 1953), 30.

⁹³ Reginald Whitaker, *The Government Party: Organizing and Financing the Liberal Party of Canada, 1930-1958* (Toronto: University of Toronto Press, 1977), 389.

⁹⁴ As D.O. Sewell and D.W. Slater have observed, "the stated objectives of the equalization program ... are virtually identical to those stated by the Rowell-Sirois Commission." D.O. Sewell and D.W. Slater, "The Case for Equalization," *Policy Options* 3.3 (May/June 1982) 17. For more on Hugh John Flemming's role in the fight for equalization see Margaret Conrad, "The Atlantic Revolution of the 1950s," *Beyond Anger and Longing*, ed. Berkeley Flemming (Fredericton: Acadiensis Press, 1988), 55-96; and James L. Kenny, "Politics and Persistence: Hugh John Flemming and the 'Atlantic Revolution,' 1952-1960," MA Thesis, University of New Brunswick, 1988.