HAYTER REED AND THE NASCENCY OF COMPULSORY SCHOOL ATTENDANCE FOR FIRST NATIONS CHILDREN IN CANADA, 1891–1897

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Abstract

The 1894 Compulsory Attendance Regulation under the Indian Act established a process for First Nations children in Canada to be separated from their parents and entered into a residential school, and the responsibility for this belongs to the then-deputy superintendent general of the "Indian Department" [the deputy minister], Hayter Reed. This instrument was not the true "compulsory attendance" that school operators had previously sought, but was strategically applied by Indian agents throughout Canada until being added to the Indian Act in 1920 and becoming applicable to each First Nations child in Canada. This regulation was intended to satisfy the legal requirements to bear pressure on parents to send or return their children to the existing First Nations schools in the 1890s, but typically focused on those parents that, for different reasons, were opposed to residential schools, such as band Chiefs or local leaders. This paper reveals how various parents, Indian agents, school principals, and Canadian law-enforcement officials treated the regulation during the years after compulsory attendance was first activated.

Keywords: Hayter Reed, First Nation Residential School, T. Mayne Daly, Mackenzie Bowell, Charles Constantine, Lawrence Herchmer

Résumé

Le Règlement de fréquentation scolaire obligatoire de 1894, édicté en vertu de la Loi sur les Indiens, a établi un processus permettant la séparation des enfants des Premières Nations de leurs parents afin de les envoyer dans un pensionnat, responsabilité qui incombe alors au sous-surintendant général du « Département des affaires indiennes », le sous-ministre Hayter Reed. Cet instrument ne représentait pas la véritable « fréquentation obligatoire » que recherchaient auparavant les autorités scolaires, mais il a été appliqué stratégiquement par les agents autochtones à travers le Canada avant d'être intégré à la Loi sur les Indiens en 1920 et de devenir applicable à chaque enfant des Premières Nations au pays. Ce règlement visait à satisfaire aux exigences légales nécessaires à l'exercice de pressions sur les parents afin qu'ils envoient ou renvoient leurs enfants dans les écoles des Premières Nations dans les années 1890, mais portait surtout sur les parents qui, pour différentes raisons, s'opposaient aux pensionnats, tels que les chefs de bande et les leaders locaux. Cet article montre comment de nombreux parents, agents (autochtones?), directeurs d'école et représentants des forces

de l'ordre au Canada ont interprété et appliqué ce règlement durant les années ayant suivi sa mise en vigueur.

Mots clés : Hayter Reed, pensionnats des Premières Nations, T. Mayne Daly, Mackenzie Bowell, Charles Constantine, Lawrence Herchmer

Revisiting the onset of compulsory school attendance laws for First Nations children in Canada means focusing on the role of parents who acted to protect their children. One of the first cases after the enactment of the 1894 Compulsory Attendance Regulation under the Indian Act involved the former Chief of the St. Peter's Band, now called Peguis First Nation, William Prince. The Dominion police officer stationed north of Winnipeg, Manitoba (MB), recalled for a law court how, when retrieving a truant child, the child's parent, Chief Prince, informed the police that "he would not allow me to arrest his boy" to be returned to the St. Boniface Industrial School. Prince felt his son "was ill-treated and did not learn anything," and removed him from the oblate-operated residential school in the summer of 1894. With a warrant issued by the Indian agent, Officer Thomas Peebles attempted to capture the teenage boy at Peguis Reserve and return him to the St. Boniface Industrial School, but instead wrestled with Prince in the February snow. "I could not get ahold of the boy while this struggle was going on," Peebles wrote in his affidavit. Peguis, the aging Chief, could still physically impose himself on the reserve Police officer from strength built up during his years as a fur-trade voyageur and veteran of the 1885 Nile Expedition; he clearly outmatched poor Peebles, who admitted, "I could never take his boy alone" using physical force (Butler, 1889, p. 23).

In his deposition, Peebles wrote that Prince was not aware of the two-month-old compulsory school attendance laws for First Nations People: "The defendant felt there was no right in me arresting his boy. This is by virtue of some new law that they were taking his boy to school. I think he did not seem to know that it was the law." By 1895, Manitoba had passed nominal school attendance laws for the children of the newcomer settlers, but these laws remained non-compulsory and unenforced until the following century (Plant & Donleavy, 2021). Indeed, this officer noted that Prince "seemed to be under the impression there was no legal right to take the boy." Officer Peebles retreated, but captured Prince's son the next day, and had the old Chief arrested and charged with obstructing a police officer in the discharge of his duty. Later, while in Winnipeg police court, newspapers reported on Prince's actions:

> On being asked what he had to say, [the Chief] made an appeal in favor of his rights. He first addressed the magistrate and then the counsel for the prosecution most earnestly, demanding liberty as to what should be done with his children. He concluded by asking for a remand for one week so that he would get counsel to fight for him which request was granted.

A week later Prince pleaded not guilty, which sent the matter to trial before the MB Court of Queen's Bench, where a court of law would scrutinize the compulsory attendance regulation for First Nations children.

Despite the drama surrounding Chief William Prince, the Compulsory Attendance Regulation of 1894 is characterized by modern scholars as an unsuccessful one, and each of the contributing factors

are examined in this paper. This paper will provide evidence showing how disagreement on the policy of compelling school attendance between the Canadian government, the police tasked with enforcing the policy, and the Indigenous parents who were affected caused enough violent outbreaks that a generation of policymakers after Hayter Reed withheld their support for the idea, until 1920. Other connected events which discouraged the wider use of this regulation include confrontations at several reserves and an examination by a law court. The North-West Mounted Police (NWMP) refused to enforce this regulation, and the original Order in Council had to be amended.

It is common for writers and scholars to repeat that compulsory education for First Nations children in Canada was rarely enforced, or else began only in 1920, but the roots of the use of force against First Nations Peoples to relinquish their children to residential schools extend over twenty-five years earlier, to 1894. Sources that can correctly date the origin of this law are generally lengthier works that focus on multiple subjects from larger geographical areas over several decades; most recent is the Truth and Reconciliation Commission of Canada's *Final Report, Volume 1* (2015).Yet, only thumbnail descriptions have been attempted to show how this 1894 regulation was used after its inception, in the era during which the author of this policy, Hayter Reed, was deputy minister. Drawing on the sparse commentary, John Milloy believes the 1894 regulation failed because it "fell far short ... of empowering an Agent" (Milloy, 2017, p. 70) while J. R. Miller, on the other hand, notes the "ineffectualness" of what he refers to as the "limited involuntary" compulsory attendance regulation (Miller, 1996, p. 169). This mechanism for forcefully adding Indigenous children to residential school rolls is generally regarded as ineffective, not widely used, and generally not worthy of mention.

But where this formalized process was used, the target was usually a parent who consistently declined residential school attendance for their children, and was often a local cultural or political leader. The beginning of compulsory school attendance contradicted many natural assumptions about the nature of the relationship between parents and children, and the legislation was a shock to parents who had previously declined to have their children attend schools. These parents believed that their children were connected to them, and that parents were the final arbiter of what happened to their children. With a policy such as compulsory school attendance, much of the secondary literature chooses to treat the Canadian civil servants engaged with enforcing this law rather generically, and seldom articulates the difference between the variety of people in these critical roles—people such as Hayter Reed.

Throughout the 1890s, Indigenous Peoples of Canada were eyewitnesses to the continued free-market overlay on lands they had previously used and occupied, and were encouraged by Canada to adapt from their seasonally nomadic, year-round outdoor-living to a more sedentary and government-regulated exile on dedicated land reserves. Canada's overall policy towards Indigenous Peoples has been characterized as one of the "Bible and plow," such that bands were encouraged to pursue agricultural lifestyles buffeted with instruction by various Christian denominations (Miller, 1996). Where residential schools were concerned, in 1894, the era falls within the "expansion and consolidation" period, one in which the nationwide network of these schools was still young, but would grow and fill out into the more recognizable and malignant post-1920 form (Miller, 1996). The purpose for these schools is described in the 2008 apology by Canadian Prime Minister Stephen Harper for Canada's role in First Nations residential schools:

> Two primary objectives of the Residential Schools system were to remove and isolate children from the influence of their homes, families, traditions and cultures, and to assimilate them into the dominant culture. These objectives were based on

the assumption aboriginal cultures and spiritual beliefs were inferior and unequal.

Through the late nineteenth century, the Canadian government sponsored a network of day schools located on or near reserves. Missionaries from the variety of Christian denominations began to form larger industrial and boarding schools through the late 1880s and purposely situated most of them further away from reserves. During the years when Laurence Vankoughnet and Hayter Reed were deputy ministers, the Canadian government started to prefer the larger industrial and boarding schools over the humble, reserve-located day schools. An important distinction between these schools was that industrial and boarding schools kept most of the students at the facility when instruction ended, while day schools returned children to their parents at the end of the day. Reed, Vankoughnet, and school operators began to discourage the expansion of day schools during the 1890s and began closing the existing reserve day schools to divert the funds into the larger, residential type of schools.

In the early 1890s, school operators found that a certain portion of the First Nations population did not share their desire for acculturalization, so operators began asking for legislation to compel unwilling parents to relinquish children for school attendance. Until this point, school attendees were generally orphaned children, or else belonged to parents who volunteered their children. The words *compulsion* and *to compel* provide a genteel veneer for authorities using force, while through the eyes of First Nations members, compulsory school attendance was just more double-talk from Canadian government officials that spoke of the benefit of education while downplaying the secondary pretext of parents being separated from their children for several years, and the loss of opportunity to pass along cultural knowledge. Reserve Inspector (Insp.) T. P. Wadsworth sees this plainly with the criticism of these colonizing schools by the Plains Cree in 1895, who believed by "allowing their children to an industrial [school] they are losing them forever: that is their present belief, and in consequence they will hang on to them as long as they are able."

Hayter Reed was an early supporter of the First Nation residential school operators, and afterward a strident supporter of compulsory attendance laws that school operators had repeatedly requested. He actively recommended such laws to his superiors through the early 1890s, and believed so wholeheartedly in using force to compel school attendance that he travelled to participate in a large round-up of children at Thunderchild First Nation in 1891, near Battleford, Saskatchewan (SK) (Wasylow, 1972, p. 172). It was mainly Vankoughnet, the deputy minister of the department prior to Reed, who was skeptical because the use of force "might greatly excite the Indians," and he could not see the means, if school attendance were compulsory for First Nations youth, of punishing band members who would disobey the regulation. Imprisonment, for Vankoughnet, was considered to be "an extreme measure which the department would gladly avoid." Other department staff continued to recommend against compulsory school attendance. An 1892 department memo to Minister Edgar Dewdney noted, "It has been found a very bad policy to attempt to force compulsory education upon the indians (*sic*). One of the great sources of trouble to the United States, and from Canada has been free, is compulsion of the indians (*sic*)." Reed, though, as the Regina-based Indian commissioner, countered that compulsory education "has practically been in operation in places already" on the Canadian prairies, and that no "excitement" had resulted.

The quest by school operators for compulsory school attendance was re-awakened by the introduction of a new funding model for schools in 1893, developed by Vankoughnet and Dewdney,

making schools financially affected by parents who removed their children or by the steady stream of escaped boarding and industrial school inmates. Many industrial and boarding schools prior to 1893 did not operate at capacity, and would now be penalized financially for empty spaces. The new emphasis for industrial and boarding schools under per-capita funding emerged, one in which "numbers enrolled now were more important financially than students graduated," according to J. R. Miller (Miller, 1996, p. 128). The new funding model helps to explain the consistent agitation by school operators for compulsory education. Milloy notes how it was a daily reality that operators "had to face the financial difficulties caused by the failure to initiate compulsory attendance regulation" (Milloy, 2017, p. 70). The Canadian government likely first agreed to the additional step of compulsory school attendance partially to help ameliorate these funding shortfalls, to create a mechanism through which children could be harvested indiscriminately for schools to keep residential school funding at maximum levels.

The appointment of a new minister, T. Mayne Daly, was critical for Hayter Reed to becoming deputy minister. Reed had previously held colonizing roles, such as being an Indian agent in Battleford, then as the Indian commissioner based in Regina, before finally coming to Ottawa as the deputy minister. Reed and Daly were likely previously acquainted, with the pair being similar in age and education, and their *Family Compact* credentials arrived at through their respective guardians, Daly Sr. and William Henry Draper. On matters of education, Daly believed First Nations Peoples overall to be "untutored savages," and that the duty of the Canadian federal government was to bring them up, "as far as possible to the standard of their white neighbours." Daly held assimilationist views, he believed it necessary to train the young to be "useful citizens" and considered residential schools essential to that goal. After being a politician and federal minister, T. Mayne Daly turned into a pioneering judge in MB, was appointed in 1909 to establish a new, separate juvenile justice system, and is today recalled positively for his service in the social work field. Daly had also published on Canadian legal protocol, such as *Canadian Criminal Procedure* (1911), and *The Magistrate's Manual (*1911). Daly's career resumé is heavily focused on youth in different forms of detention, so his connection to the sponsoring of Reed to invent a process that authorized the enforcement of compulsory school attendance appears to be in accordance with his tendencies to organize or establish legal systems for youth. The gulf in the personal views on education between ministers Dewdney and Daly is reflected in their personal experiences, since both Daly and Reed benefited from their education in elite boarding schools, while another historian has uncovered that Dewdney had misrepresented his own educational background (Cooney, 2009). Reed behaved in ways appealing to a minister who believes in the benefits of education, making himself desirable as a deputy minister; indeed, Reed seemed earnest in believing that "there is no feature of Indian work more important or deserving of more earnest attention at the hands of the department than education."

Hayter Reed's time as deputy minister is viewed by Brian Titley to be "brief and unremarkable," relative to others holding this position afterwards (Titley, 1993, p. 115). Despite his brief tenure, historians have documented Reed's knack for either inventing or championing policies with the effect of crippling First Nations' solvency and empowerment, such as the subdivision of reserve lands, promotion of peasant farming practices, the reserve pass system, and now compulsory school attendance (Carter, 1990; Baron, 1988; Nestor, 1998; Titley, 1993). Ultimately, if unstated motives are sought for why Reed championed westernized education for First Nations children and permitted force to be used against skeptical parents, events in his early life and the role of education in his own incredible social mobility may account for his behaviour.

Reed spent his early years in L'Orignal, a modest francophone village in the lower Ottawa Valley in Ontario (ON). His father, George D. Reed, is rather blandly introduced by most secondary historical sources as the registrar and land agent for Prescott County. Such poorly researched biographies serve to conceal his earlier life as a Markham-area shopkeeper and Orange Lodge master who helped defeat the Upper Canada rebellion of 1837 (Reid & Stagg, 1980, p. 145). As he aged, Reed Sr. succumbed to mental illness and was committed to the Provincial Insane Asylum in Toronto in March 1856, where he died nine months later.

After his father entered institutional care, the teenage Hayter Reed was separated from his remaining family and village and taken to Toronto to attend boarding schools because of his connection to the distinguished juror, legislator, and Conservative Party co-founder William Henry Draper (Beer, 1988). Reed attended Upper Canada College later that fall, which was the residential school for privileged Protestant children. Two years later, Reed attended the short-lived Model Grammar School, which was an elite and experimental school that Egerton Ryerson created for the children of the *Family Compact,* where teenagers trained directly to become teachers. In this light, what Hayter Reed instituted for First Nations children in Canada mimics his own alienating experience as a youth; of being plucked from his village and family as a young person to experience a culture-changing boarding school education beyond what he would otherwise receive, in a faraway place through sponsorship by an established benefactor.

To legitimize the quest for compulsory school attendance for Indigenous children, Minister Daly, "at the request of Mr. Reed," urged the Department of Justice in 1893 to assemble the legislative amendment to the Indian Act to claim the right to compel school attendance, policy which his predecessor Dewdney had not pursued. Bill 116, An Act further to amend the Indian Act, moved through the Canadian House of Commons in spring 1894, but members of Parliament did not mince words about how they felt about the amendments: "By this Bill the Superintendent General [Daly] is clothed with power that makes him a dictator; it makes him practically a tyrant over the Indians (*sic*), and he may be the worst kind of a tyrant," said one Opposition MP. Then Prime Minister Mackenzie Bowell personally outlined the idea behind compulsory attendance during the following Senate debate:

> As it is not considered that all Indians of Canada are in a position to admit of such regulation as are contemplated by these sections being generally applied it is thought better to provide for their being made under Order in Council as occasion demands, rather than by an act of Parliament.

Bowell's characterization partially explains why historians such as Miller and Milloy view the compulsory attendance regulation as a failure. Also, the 1894 laws are a regulation rather than appearing directly in the text of the Indian Act, as later Deputy Minister Duncan Campbell Scott managed to have them do in 1920. Prime Minister Bowell stated that it was never intended that compulsory education be "generally applied," but "as occasion demands," so these stated shortcomings of the 1894 regulation noted by historians are actually structural ones, so department staff could not use the regulation arbitrarily. The second page of the regulation reminds readers how these rules "are to be put in force only after being authorized by the Department of Indian Affairs," so government staff alone could judge when, in Bowell's words, "occasion demands" or not.

When the Commons debate reached Section 11 of this Indian Act amendment, where Canada claimed the right to enforce school attendance for Indigenous children, the opposition Liberals posed critical

questions about compulsory school attendance:

> Charlton, "Is it necessary often to use compulsory measures to get Indian children to attend these schools?"

The response from the Minister was:

> Minister Daly, "Very much so; and we have never had the authority before."

Daly was correct about lacking authority in the past for returning truant children to schools. The Department of Justice staff told Daly in 1892 how the written authorization that First Nations parents purportedly grant to school operators through the application forms for children to enter school "is not sufficient to warrant the forcible arrest of a truant child." In fact, Department of Justice staff believed that "no form of application or agreement which the parent might sign or enter into, would in the absence of legislation ... be sufficient to clothe the school authorities with the power of arrest." Despite these warnings, the department still maintained throughout these years that the entrance forms substituted the authorization of parents with the principal, so that the principal could authorize police to arrest children deserting school, but should children reach their home, the authority ended.

With the Indian Act amendments in place, Reed personally began writing the compulsory attendance regulation. Reed told Daly that "the lines of the Ontario compulsory education law have been followed as closely as the peculiar circumstances of the Indians would admit." Reed here is not exaggerating: much of the draft and final regulation text matches verbatim with the 1891 ON legislation *An Act Respecting Truancy and Compulsory School Attendance* (McMurrich & Roberts, 1894, p. 241-252). From the remaining draft copy still held by archives collections, it appears Reed used the ON act as a template and manually added and subtracted items which suited the Department's goals. The final four sections of Reed's regulation outline that First Nations parents are to be "compelled" and how this is to be done:

> An Indian Agent or Justice of the Peace ... may issue a warrant authorizing the person named therein to search for and take such child and place it in an industrial or boarding school, in which there may be a vacancy for such child, and a child so placed in an industrial school or boarding school may be retained until the age of eighteen years is reached.

This section holds a special exemption for the Northwest Territories (modern-day SK, Alberta [AB], Nunavut, and ~~today's~~ Northwest Territories) which permitted that "an Indian child may be committed by an Indian Agent or Justice of the Peace, as foresaid, without notice." This intentional lack of consultation with parents in the Canadian prairies is the most obvious regional variation, which led to greater incidences of violence and tense stand-offs than elsewhere in Canada, such as the first attempt to use the regulation, at Standing Buffalo First Nation.

At the very first opportunity, Joseph Hugonnard, the principal of the Qu'Appelle Industrial School, sought a warrant from a judge, for the return of a child at Standing Buffalo First Nation. Père Hugonnard, as a school operator, was a supporter of the new regulation, and couldn't wait to use it against one of the area Chiefs, who was also a parent. With that warrant, Hugonnard led NWMP Constable John Thornton to Standing Buffalo reserve, near Fort Qu'Appelle, SK, on December 18, 1894, to retrieve a

truant child, Dominick Standing Buffalo, who was sick with consumption. Weeks earlier, Chief Adelard Standing Buffalo (*Standing Buffalo the Younger*) rode to the Qu'Appelle Industrial School and removed his sick teenage son from oblate care (Laviolette, 1991, p. 240).

There was one problem preventing them from returning the child to school, according to Hugonnard: "Standing Buffalo refused most determinedly to let his son go and used threatening language." Cst. Thornton elaborated the tense confrontation that unfolded, and Chief Standing Buffalo told the pair "that he would sooner die than let his son go as he was sick," and that either Standing Buffalo or the Mountie had to die for the child to go back to the Industrial School. Hugonnard was skeptical of the Chief's threat, and urged action, but ~~Cst.~~ Thornton declined and retreated. "I did not know what force I dare use in this matter and what position I should occupy," He reported , "if I shot Standing Buffalo."

Cst. Thornton's report on events at Standing Buffalo First Nation filtered through different Mounties for days afterward until the senior officer in the region, Insp. Charles Constantine, travelled to Standing Buffalo First Nation on January 7, 1895, to ask about the warrant for Dominick Standing Buffalo. Upon arriving, Constantine found Chief Standing Buffalo engaged elsewhere, and the boy ill in bed being nursed by an older sibling. After surveying the situation, he concluded that he did not "believe the boy could be legally moved." Constantine declined to enforce the law, believing "it would have been an inhuman act to have taken the boy away."

Readers familiar with Yukon gold rush history will recognize Mountie Insp. Constantine as the standard-bearer of law and order efforts in the Yukon Territory, but here his skepticism prompted him to decline to enforce the new regulation. Besides his moral objections, Constantine pointed out an obvious flaw in the school attendance regulation: "I cannot find anything in the regulations making them act retroactive" for truants who were already in boarding or industrial schools. The inspector pointed to Section 12, which states the regulation applies to children "placed under these regulation (*sic*)," and not to all children, which is a peculiar omission for a law which purports to return First Nations children back to school. According to the draft copies, this passage was one of the few that Hayter Reed didn't plagiarize from the ON legislation. Department of Justice staff agreed with Insp. Constantine, and the original Order in Council was amended on April 1, 1895, to strike out the text "placed under these regulations." Before concluding, Insp. Constantine wrote to his supervisor that he believed school operators were "very joyous over the new regulation, saying they can compel the police to bring back all deserters without any trouble to them."

Meanwhile, NWMP Commissioner Lawrence Herchmer, who supported Insp. Constantine wholeheartedly, used the occasion to roundly criticize the compulsory attendance regulation. According to historian Don Smith, Herchmer was a former Indian agent with both First Nations members and missionaries in his immediate family tree (Smith, 1980). He lectured the Regina-based Indian Commissioner Amédée Forget on how the "parents' wishes should be considered in such a case" as the one concerning Chief Standing Buffalo, and that he "cannot allow any constable in my command to take action in the matter" where sick children are concerned. Herchmer gave some unsolicited advice:

> "I think every endeavour should be used to avoid irritating any Indian by harshly enforcing any provision of the regulations for the compulsory education of indian (*sic*) children where arrest is called for."

Herchmer believed that the regulation "might possibly lead to some serious breach of the peace," and suggested that arrests should only be made "without causing friction or trouble amongst the Indians." He wanted to "claim the right to decline to have the warrant executed until [he had] received instructions from the hon. Minister," referring to the President of the Privy Council, who was commonly the prime minister himself, Sir Mackenzie Bowell.

The Mountie leaders' mistrust of the compulsory attendance regulation, which they felt could cause a serious breach of the peace, is another reason why the 1894 regulation never lived up to its intent. NWMP scholars, such as Rod MacLeod, have already outlined how the police force through this period typically played a mediating role in how government policy was applied in the areas under their jurisdiction (MacLeod, 1974). Two months passed until the prime minister heard Herchmer's concerns—an ambiguous period during which Mounties were not clear about how to proceed. Just as Hayter Reed controlled the way the regulation was applied through his Indian agents, Commissioner Herchmer sought to control how the regulation was enforced by the NWMP. The Privy Council ordered specific guidelines against such ardent enforcement:

> The Indians should be encouraged to conform to the regulations of the Indian Department for the care and education of their children, and the police should render every possible assistance in that direction. In any case where a breach of the peace, or serious conflict with the Indians would be endangered by the strict enforcement of the regulations, the commissioner has my authority to exercise his own discretion, immediately reporting all the circumstances to me.

The Mountie commissioner eventually received this power to decline enforcement in dangerous situations, but with a caveat: Prime Minister Mackenzie Bowell obligated the Mounties to help the endeavours of Indian agents—an obligation that remained in effect for many decades into the future. Historian Marcel-Eugène LeBeuf believes a majority of the NWMP's (and later RCMP's) dealings with these old residential schools consisted of searching for and returning truants upon request. Dr. LeBeuf also considers the views of the First Nations parent, how through enforcing truancy, police were "used as a threat against their parents to get them to go to school" (LeBeuf, 2011, p. 6).

Hayter Reed seemed unprepared for Commissioner Herchmer's ruling, and confided to Forget they would have to be guarded in how the school attendance regulation would be enforced. "It looks very much as if they [Mounties] were not at all desirous in aiding us in any great extent," Reed said. The pair had spent much of summer 1894 plotting to use the regulation at the earliest opportunity against Cree leaders in modern-day AB, such as Chiefs William [Pakan] Seenum and Michel Callihoo, and together began listing the names of parents who had removed children from Battleford and Elkhorn Industrial Schools.

Meanwhile, returning to Peguis (St. Peter's Reserve), the Dominion Police had no moral dilemma enforcing the attendance regulation upon parents there. Upon Hayter Reed's authorization in February 1895, Indian Agent Alexander Muckle ordered the local police officer to seize children who had been removed from the St. Boniface Industrial School by their parents. Peebles had already returned a pair of children to the industrial school before he brawled with William Prince on February 12, 1895, while attempting to return Prince's truant son. As stated earlier, the scene had generated a court date for Prince.

The *Saskatchewan Herald* identified the significance of William Prince's situation, and dedicated editorial space to fret over the possibility that Prince would somehow be exonerated by the MB Court of Queen's Bench. "If it should be decided that pupils may be induced or choose to leave the schools when they please, their usefulness as civilizing institutions will be greatly weakened" wrote editor P. G. Laurie, on March 8, 1895. He further notes that "this question has been made the subject of much discussion and the cause of a great deal of trouble to the officials of the school here." This editorial caught Reed's attention in Ottawa, and he ordered MB Indian Superintendent Ebenezer McColl to intervene. Reed told McColl that he did not wish for Prince to be incarcerated, but for his department "simply to have its right to bring back runaways recognized." McColl was instructed "to see the legal adviser of the government in Winnipeg, Mr. Atkins, and request that he look after the case when it comes up on behalf of the department." Reed suggested an apology from Prince would be enough for the matter to be dropped.

On March 14, 1895, Prince stood before the Court of Queen's Bench and was found guilty on the charge of "Obstruction of a Peace Officer." The judge here presumably examined the compulsory attendance regulation but offered no comment on it, a silence which, in Reed's view, vindicated the federal government's right to force education on First Nations children in Canada through compulsion. After the verdict, the Crown Council flatly said they did not want a conviction against Prince and entered a stay of proceedings, and the charges were dissolved. The Crown Council explained that when Prince stopped Peebles from seizing his son, he "did not understand the regulations of the Indian Department with regard to the boy attending school." Winnipeg newspapers noted that since "Prince had promised to observe the law hereafter they did not wish to proceed further with the matter."

West of the Rocky Mountains, according to James Redford, British Columbia's (BC's) residential schools "proved unable to secure regular attendance or appreciably alter the cultural patterns of their pupils" (Redford, 1979). As elsewhere in Canada, most boarding and industrial schools in BC suffered from a steady stream of children running away from the host facilities through the early 1890s. One such school was the oblate-operated Kuper Island Industrial School, located on an island off the west coast of the Cowichan Valley, on Vancouver Island. Parents of children there tended to remove their children in July during fishing season, or remove their daughters intermittently to help with their respective families. School inmates also timed their escapes to coincide with the annual winter dances.

Prior to the compulsory attendance regulation, School Principal George Donckele joined other school operators to clamour for such laws. He had previously asked "that some effort be made to have the delinquent pupils severely dealt with, so as to check others who are at the point of following the bad example." and suggested sending "a policeman after them, and having them returned to the school, handcuffed if possible." A study of his letterbooks held by BC Archives shows that Donckele was certainly a disciplinarian; one who promoted that police action be directed against children. Meanwhile, BC Indian Commissioner Arthur Vowell was generally hesitant to use police to return children to school. In June 1895, Reed gave his "consent to your recommendation to withhold the enforcement of the new regulation for the present." For almost two years, Vowell asked BC's Indian agents to insist that parents uphold the conditions of the signed agreement in the school entrance forms, wherever parents signed them. Of course, schools such as Kuper Island were not unique in the number of orphans who comprised these first cohorts of children. James Redford counted just under 50% of all Kuper Island Industrial School students before 1906 were orphans. Thus, when the federal attendance regulation was first enforced in BC's Cowichan Valley, many times the focus of 'compulsion' was fixed onto children themselves in the absence of parents or guardians.

The regulation was first used at Kuper Island in September 1896. The acting principal wrote then that a child "has been taken to the Fraser River by his mother against my will" and asked Cowichan Indian Agent William Henry Lomas to "find him and induce him to return, or to force his mother to bring him back." Agent Lomas had a pair of local constables scour the regional fishing camps and arrested two children. Lomas later wrote in his journal of how he had the children arrested for truancy. "Visited them 9 pm – in gaol," he writes in his journal**,** and the pair were returned to school the following day.

By February 1897, Agent Lomas received blanket instructions from Vowell to use the regulation on truant children, but to "use your own discretion on the subject and not keep constantly writing to this office for instructions when you have already received them." From this point forward, the Cowichan agency used the regulation freely, because of absence of conflict or ambiguity between the agent, school principal and police officer. Using his own discretion, Agent William Henry Lomas becomes the most active user of the regulation during this nascency period of anywhere in Canada. Afterwards, journal entries such as "Father Donckele to say 4 boys had run away. Issued 4 warrants and sent Csts. Tom and Jack to find and arrest," became more frequent for the Cowichan Indian agent. Even at the opening of a school term at Somenos, Indian Agent Lomas brought along "Constable Tom to attend to truants." Parents of truants were also occasionally 'compelled': Agent Lomas writes in his journal about serving notice to one parent on February 13, 1897, then three days later, "Boy Gustave persuaded to return to school without trouble" by parents. Meanwhile, Principal Donckele describes an incident in which he personally tried using the regulation, but without a police officer, but evidently failed. Donckele describes how he attempted to overcome one parent's opposition by reading the regulations to the mother; "She only laughed at the idea and went off with the boy!"

But for orphaned children, such as many of those at the Cowichan agency on Kuper Island, stories of Indigenous pupils being arrested and confined because they lacked living parents is a fact in this era of residential schools. In modern-day Thunder Bay, ON, for example, the Indian agent there eagerly awaited this regulation for months to use against truant children who refused to attend the nearby Fort William Day School. Indian Agent J. P. Donnelly initially believed the new school attendance regulation allowed that "all children playing truant would be sent to gaol for ten days," and said so publicly. Reed explained in writing that this was clearly not true, and that "under the Regulation no power is given to Agents to imprison children." Reed informed Agent Donnelly that "parents may be punished for neglecting to send their children to school but not children." Much of the known use of the compulsory attendance regulation focuses on arresting children just as much as arresting parents.

Soon, missionary complaints began about non-cooperative Indian agents that didn't ardently enforce compulsory school attendance. J. R. Miller notes that Vancouver Island Presbyterian missionaries complained that compulsory attendance provisions were "practically very little use" because "the agent does not insist on the indians (*sic*) sending their children to the boarding school" (Miller, 1996, p. 169). Anglican leadership too complained about the lack of enforcement: "The policy of the department—that of insisting on the education of all children—is the proper one. But one thing remains, and that is to put the policy into force." The Bishop of Rupert's Land likewise complained to a later minister that the agents were generally no help in his recruiting process. These cases aren't exhaustive, as much of the secondary historical literature outlines the dissatisfaction of the 1890s era school operators with the hesitancy of Indian agents to enforce compulsory attendance. Complaints by school operators did have a basis, because whether or not the compulsory attendance regulation was used was typically a matter between the department authorities, such as Arthur Vowell in BC, Amédée Forget in the Prairies, and Ebenezer

McColl in MB, and their respective agents. Either the Indian agent or the department officials usually proposed using the regulation, but both needed to agree. Thus, part of the ineffectiveness of the 1894 regulation must focus on the decisions of Canadian Indian agents. Some used the regulation heavily, while others did not.

The agent at the Manitouwaning Superintendency, for example, located on Lake Huron's northern shore, didn't prioritize returning children at all costs. Much of Superintendent (Supt.) Benjamin Walker Ross's time was spent administering the Spanish River Lumber Company's clearing of forests on and around the reserves adjacent to the Spanish River, so there was one significant reason not to overtly antagonize local band members. In August 1895, Anglican missionaries herded young David Sissenah and the orphaned Shobekezhik brothers into Shingwauk Home, in Sault Ste. Marie, ON. Two days after, the trio escaped and traveled 220 km back to reserves near Massey, ON. The next month, young David's father, John Sissenah, was elected as one of the pair of Chiefs of modern-day Sagamok Anishnabek First Nation (Division 2), displacing longtime Chief Louis Espagnol from the position until 1901. During the annual treaty annuity payments, Supt. Ross told each of the Chiefs in his agency individually that "the department would compel them to send their children to school if they did not do so voluntarily." Through the fall of 1896, Sissenah faced several half-hearted warnings from Supt. Ross to help return his son back to school. Ross may not have pressed the matter of the three truants because he believed that Chief Sissenah was sincere and "anxious that they should return back to Shingwauk Home."

Pressure continued to mount on Chief Sissenah. Hayter Reed wrote directly to the Chief in January 1896 that he was "reluctant to put the regulation into force and send a constable to compel them to return," and he asked that the children be returned. Chief Sissenah held a council with his band the following month, and reported to Supt. Ross that his band "at first agreed, but afterwards opposed him: that he has been endeavouring to bring about the return of the boys but unsuccessfully." Sagamok elders were skeptical about projects to relinquish children to attend faraway schools like Shingwauk Home, placing Sissenah in the difficult position of offering excuses to Supt. Ross, representing his band competently while simultaneously being warned about police action. Through the remainder of the spring, Shingwauk Home Principal George Lay King and Hayter Reed plotted how the compulsory attendance regulation should be used against Chief Sissenah, with Principal King offering to "expedite matters if you will enforce the law in respect to such absentees."

Supt. Ross ended such talk and informed the principal that he was placing "the matter in abeyance until such time as I again visit that reserve, when I shall act in the matter." Supt. Ross spotted the children at Sagamok later that summer but didn't attempt to take the children back. "I should like, however, to have no call to use compulsory measures as it would be much better otherwise," Ross told Hayter Reed. The agent eventually persuaded a former inmate at Shingwauk Home to capture young Sissenah on October 19, 1896, and together the two escorted Chief Sissenah's son back to Shingwauk Home the following day. For Supt. Benjamin Ross, returning runaway children to industrial schools in the 1890s involved discussion, time, and assistance from other Anishnawbek rather than warrants, police, and arrests.

Through this nascency period between 1894 and 1897, the compulsory attendance regulation was used, and threatened to be used, throughout western ON and modern-day SK. For example, the attempted use of the regulation preceded the arrest of a young Cree named Almighty Voice (Williams, 2014). The Truth and Reconciliation Commission of Canada's *Final Report* (2015, p. 252-253) outlines the efforts

against Cree Chiefs White Bear and Starblanket related to school attendance for children. Central and southern AB was also a hotspot for compulsory school attendance, as J. R. Miller demonstrates in his depiction of the tense violence at Siksika First Nation, which was set off by forced school attendance (Miller, 1996, p. 130). Agents used the regulation throughout central and southern AB, the Lower Fraser Valley, and mid-Vancouver Island regions in BC, and throughout the Winnipeg region in MB. The regulation use was sparse in Quebec and unrecorded through the Canadian maritime provinces, though the scholarship of Dr. Martha Walls points out how this regulation was more actively used throughout the Maritimes in the 20th century (Walls, 2010). Between 1894 and 1897, there was an undocumented pattern of violence throughout Canada west of ON related to forced school attendance, but a final tally showing the full extent of how this regulation was used is yet to come.

The regulation was activated in late 1894, but the immediate effect is difficult to gauge from the range of statistical figures from the Canadian government for 1895. Table 1 shows that First Nations school attendance rates in Canada consistently ranged between 55%–64% of children enrolled through most of the 1890s, which is close to the attendance rate of 61% suggested for Canadian children by 1900 (Oreopoulos, 2006). The average school attendance for all three forms of First Nations schools during the 1890s [day, boarding, and industrial] increased from 25% to 41% of the total number of First Nations children in Canada. Clearly, the 1890s were an era during which many school facilities opened or expanded. The effect of the compulsive attendance regulation can only be loosely generalized in Tables 1 and 2, since the regulation focused on returning school runaways (measured by average attendance) and seeking new students (measured by children enrolled).

Table 1

Total Child Enrollment, First Nations Day, Boarding, and Industrial Schools, 1892–1898

Year (June–June)	ON		QC		BC		MB		NWT		Rest	Total	
1892–93	2310		556		786		1488		2284		275	7699	
1893–94	2341		634		843		1454		2322		542	8136	
		Δ		**Δ**		**Δ**		**Δ**		**Δ**			**Δ**
1894–95	2425	+84	619	-15	1029	+186	1612	+158	2273	-49	391	8349	+213
1895–96	2854	+429	777	+158	1337	+308	1858	+246	2213	-60	675	9714	+1365
1896–97	2831	-23	689	-88	1352	+15	1732	-126	2286	+73	738	9628	-86

1897–98	2670	-161	748	+59	1550	+148	1932	+200	2199	-87	787	9886	+258

Table Source: Canada, Parliament, Sessional Papers, "Dominion of Canada Annual Report of the Department of Indian Affairs", 1892–1989. Note: The 1895 enrollment figures have been recalculated.

Table 2

Total Average Attendance, First Nations Day, Boarding, and Industrial Schools, 1892–1898

Year (June–June)	ON		QC		BC		MB		NWT		Rest	Total	
1892–93	1427		374		471		780		1366		95	4513	
1893–94	1732		359		544		837		1451		296	5219	
		Δ		**Δ**		**Δ**		**Δ**		**Δ**			**Δ**
1894–95	1397	-335	333	-26	578	+34	841	+4	1465	+14	359	4973	-246
1895–96	1510	+113	361	+28	728	+150	904	+62	1504	+39	369	5376	+403
1896–97	1529	+19	317	-44	789	+61	886	-18	1501	-3	335	5357	-19
1897–98	1441	-88	342	+25	954	+165	984	+98	1686	+185	352	5759	+402

Table Source: Canada, Parliament, Sessional Papers, "Dominion of Canada Annual Report of the Department of Indian Affairs", 1891–1900. Note: The 1894, 1895, and 1898 average school attendance figures have been recalculated.

Miller (1996) believes the use of the regulation was "limited" because the documented cases of the compulsory attendance regulation being used are much too small for it to have seriously affected the

aggregate number of children attending schools through the 1890s. Two years after the regulation was put in place, Hayter Reed characterized the use of the new laws as being limited to "a few instances of truancy" from First Nations residential schools, with "few" representing dozens of cases at most.

What cannot be counted is how many children were dislodged through such threats against parents, a tactic Reed promoted. On the other hand, some Canadian decision-makers doubted the need and propriety of compulsory school attendance, and were worried about stoking a violent protest, a hesitation which helped avoid a potentially wider use of the regulation. Each violent outbreak seemed to weaken the authorities' desire to use the regulation, which suggests that overtly assertive First Nations bands helped to curb the enthusiasm for compulsion amongst Canadian decision-makers during the nascency period and beyond. The discretion of some of the Canadian Indian agents must be credited for avoiding confrontations, such as at the Manitouwaning Agency in Ontario. Many known applications of this odious regulation, although intended for parents, was also sometimes used against young children, such as at the Cowichan Agency on Vancouver Island. Deputy Minister Hayter Reed was among the first to clamour for compulsory school attendance; later he created the regulation and then ardently promoted its use in Canada. But since he was nearly alone amongst government leaders in supporting this idea, the use of the regulation before 1920 declined after Reed was removed from his position in 1897.

Overall, the compulsory attendance regulation confronted leaders such as Julius Standing Buffalo, William Prince, John Sissinah, and other standard-bearers in the 1890s who exercised their discretion as parents against officials of residential schools. The characterization of a "limited involuntary" compulsory attendance regulation by J. R. Miller appears accurate, as the intent of a stand-alone regulation was not to "be generally applied" but used "as occasion demands," in the words of the prime minister of that day (Miller, 1996, p. 169). The Canadian federal government boldly claimed the privilege to compel school attendance, a privilege which was as controversial during its nascency period as in the present day. The idea that the compulsory attendance regulation was too much, or had come too early, lived in the minds of federal bureaucrats, as well as of nearly all decision-makers at the Indian Department before 1920. They generally held views on compulsory school attendance more similar to Laurence Vankoughnet than Hayter Reed.

After T. Mayne Daly resigned as minister in 1896, historian D. J. Hall believes that "there was no serious attempt either to reform the school system or to enforce attendance regulations" by the new minister after Daly, Clifford Sifton (Hall, 1977). The new deputy minister, James Smart, ensured that during his tenure "the Department's policy is as long as possible to refrain from compulsory measures, and try the effect of moral suasion and an appeal to self-interest." The successor to Amédée Forget, David Laird, felt compulsory school attendance to be "inadvisable" and "unnecessary," that compulsion "should be used sparingly," and recommended that Indian agents use "personal influence and explain the advantages to be derived from attendance at school." Even Duncan Campbell Scott, earlier in his career, "opposed compulsion on the basis that it could not be enforced," before changing his mind and sponsoring the Indian Act amendments in 1920, which enshrined the regulation into the act. The compulsory attendance regulation had only a few supporters and was only occasionally used in Canada between 1897 and 1920, most administrators lacking that zest for compulsion that the regulation's author, Hayter Reed, cheerfully displayed.

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