Creating
“Semi-Widows” and
“Supernumerary Wives”

PROHIBITING POLYGAMY
IN PRAIRIE CANADA’S
ABORIGINAL COMMUNITIES
Prohibiting polygamy among the Aboriginal people of Western Canada was not an isolated or unique development, and this study points to the concerns Canadian colonizers shared with the broader colonizing world about the “intimacies of empire.” Polygamy was similarly condemned in other colonial settings as a system that exploited and degraded women, but the nature, timing, purpose, and outcomes of programs of intervention varied widely. It was the missionaries in Western Canada who made the first efforts to discourage polygamy, but they were very divided on this “complicated and knotty problem,” and their divisions reflected intense debates about polygamy in international missionary circles, particularly those of the Anglican Church, during the nineteenth century.
Anglican missionaries of the Church Missionary Society (cms) were instructed not to baptize any man who had more than one wife, but the wives, perceived as victims, could be baptized. This policy, embodied in Henry Venn’s memorandum of 1856, was “that while the wives of a polygamist, if believed to be true converts, might be received to baptism, since they were usually the involuntary victims of the custom, no man could be admitted who retained more than one wife.” Although the policy was confirmed at the Lambeth Conference of 1888, it was not without considerable discussion of perplexing conundrums that might arise. While the bishops at the conference unanimously agreed that any baptized Christian taking more than one wife would be excommunicated, there was debate about other issues, with some arguing for greater liberty and tolerance, while others were strongly opposed to any concessions. The Bishop of Exeter put forth the following questions:

But suppose a Heathen chief converted who has three wives already, all lawful wives according to the custom of the country. And suppose “the first in order of time is old and childless, the second the mother of all his children, the third the last married and best beloved.” If he is to put away two of the three before baptism, which is he to keep? And what is the condition of the two put away? Are they to be counted as married or single? Can they marry other men? And what of the children?

John William Colenso, the Anglican bishop of Natal, South Africa, shocked his contemporaries in the 1850s by publicly questioning the wisdom of the policies of his church on polygamy. Colenso believed that polygamous marriages were “uncivilized” and in no way desirable or commendable, but he “could not accept that it was compatible with the Christian message to demand that a man put away his wives and children before joining the Christian Church.” Colenso felt that the price of conversion to Christianity could never be the dissolution of families and the destitution of wives and children. He argued, “those who broke up families in the name of Christian abhorrence of polygamy denied the true message of Christianity.” Colenso sanctioned the baptism of
polygamists without requiring them to divorce their second or subsequent wives. His position was somewhat consistent with the position of the Canadian dia; marriages according to Indigenous law were legal marriages, although he went further, arguing that polygamous marriages were also lawful marriages.

In asking a man to “put away his wives,” Colenso wrote, “we are doing a positive ‘wrong’ perhaps to the man himself, but certainly to the woman, whom he is compelled to divorce. We do wrong to the man’s own moral principle—his sense of right and justice—his feelings as a husband and a man. He knows he is under a solemn obligation, ratified by the laws and customs of his people, to those whom he has taken for wives. He knows that they have lived and laboured for him, it may be, for years—have borne him children—have shared the joys and sorrows of family life.” Colenso also asked who would marry the discarded wives, who “have already grown old in his service?” To ask men to put away their wives was to sanction divorce, and the discarded wives would be caused to commit adultery if they remarried. He would not be responsible for recommending this act, not even if a wife could be persuaded to leave her husband as “they are lawfully married.” Rather, he felt “bound to tell him [a husband] that it is his DUTY to keep her, and to cherish her as his wife, until ‘death parts them.’” Colenso also asked on what principle the wives were to be put away and also who was to have custody of the children. He cited a case of a woman whose husband and child were taken from her. “Our blessed religion already stinks in the nostrils of these people,” Colenso observed. “And these things are done in the name of Christianity?”

Others in the missionary world sharply disagreed, arguing that the souls of polygamists were “stained with adultery.” As one anonymous missionary critic of Colenso responded, slavery, the burning of widows, and many other “horrid deeds and many other acts of outrage, on humanity, on right, on justice, are ratified by native laws and customs.” He further argued that even first marriages in polygamous societies were not marriages as there was no fixed, permanent, and binding obligation until death, and “the word of God restricts marriage to the union of two—the twain shall be one flesh.” Young women, he argued, were often forced
to marry old polygamists instead of young single men because polygamists could pay the highest price for wives. He knew of a young woman who preferred to burn herself to death rather than be married to an old polygamist.\textsuperscript{14}

Colenso was not alone in his doubts about the wisdom of casting off wives and children. Stationed on the Blood Reserve in 1887, Anglican missionary Samuel Trivett confided his doubts about the strict policy in his correspondence to his superiors. He wrote that while he had recently refused to baptize two men who had polygamous marriages, “I must confess that I have often thought it would be wrong for these Indians to put away their wives. They are old and have no homes.” Trivett noted that in former days this was the custom, and “they didn’t think it was wrong or give a thought to the matter.” However, Trivett was concerned that any leniency might encourage young men to feel that they should be permitted more than one wife.\textsuperscript{15} His Methodist missionary colleague, also on the Blood Reserve, may have shared some of these doubts. As John Maclean wrote in one of his books, the practice of polygamy ensured that there were no “old maids” in the community.\textsuperscript{16}

Missionaries in Western Canada were not in agreement about how to proceed when dissolving polygamous marriages. Which wife should be retained? How should the “semi-widows” or “abandoned” wives and children be provided for? Methodist missionary E.R. Young regretted the fate of the abandoned ones, but claimed in his memoirs that he felt obliged to enforce the Methodist approach that the first wife must take precedence over a later one, even if the first was childless and the later wife had a larger family.\textsuperscript{17} John Semmens, however, another Methodist, felt that while the rule favoured the claim of the senior wife, there were “many instances...in which the right is waived voluntarily in favour of the younger women.”\textsuperscript{18} In his view the husband should care for the younger children, permitting the abandoned wives to earn a living on their own. The Hudson’s Bay Company (\textit{hbc}), he noted, felt charitable toward these “semi-widows,” allowing them job opportunities where others were refused. The children of a first wife, Semmens wrote, would grow up able to support their mother. In his memoirs of missionary life, Anglican John Hines, who worked among the Plains Cree of south-
central Saskatchewan, wrote that he followed no definite rule in deciding which wife should be retained. However, those with the greatest number of small children had the strongest claim. Hines found that it was generally the eldest wife who left the marriage, oftentimes moving to the homes of grown-up daughters.

Canon H.W. Gibbon Stocken, also of the Anglican Church Missionary Society, was missionary to the Tsuu T’ina (Sarcee) near Calgary, and he described how a prominent man asked just before his baptism if it would be alright if he “put away” the younger of his two wives. The missionary said, “Yes.” Stocken also approved of the ex-husband making provision for his “discarded wife,” setting her up in a shack where she could live, make moccasins, and cook meals for the young men who looked after his horses and cattle. Later, after the death of his first wife, the ex-husband asked the missionary if he could take back his former wife and marry her by Christian rites. Stocken agreed that this was the proper thing to do.

There were critics of missionary efforts to abolish polygamy. Fur traders and travellers of the generations before the era of intensive settlement tended to disapprove, expressing concerns in particular about the fate of “supernumerary” wives. Edwin Thompson Denig, an American fur trader, wrote three important manuscripts concerning the people of the Upper Missouri. Denig had two wives himself, one older and one younger. As an acquaintance at Fort Union wrote, “for the sake of his [Denig’s] feeling toward her [his first wife] and of keeping her here as companion for his younger wife...he will not cast her off. Furthermore, he has a son and a daughter by her.” Like other fur traders, some polygamous, Denig retired in 1856 with his younger wife to the Red River Settlement in 1856. In his manuscript on the Assiniboine, Denig was sharply critical of missionary initiatives: “The first thing a missionary does is to abuse the Indian for having a plurality of wives. Would the good missionary be so charitable as to clothe, feed, and shelter the supernumerary woman; should all the Indians follow his advice and have but one wife? Will the Indian consent to separate his children from their mothers, or to turn both adrift to please the whim of any man? The
advice is uncharitable, unjust, and can only be excused on the plea of ignorance of their customs and feeling.”

In his account of his travels through Hudson’s Bay Company territory in 1859 and 1860, the Earl of Southesk criticized missionary work at Fort Edmonton, writing that “It seems to me (and to my informants also) that the clergy of every sect make a great mistake in obliging converted Indians who have several wives to put away all but one. A Blackfoot chief lately spoke good sense on this subject. ‘Tell the priest... that if he wishes to do anything with my people he must no longer order them to put away their wives. I have eight, all of whom I love, and who all have children by me—which am I to keep and which put away?’”

In Southesk’s view it was cruel to deprive so many women and children of their “protectors.” He noted that there was no “absolute commandment” against polygamy, and that it was “allowed to the Jews and in certain cases even commanded.” He approved of the approach of Stanley Livingstone, who, “in dealing with the African savages, allowed them full liberty with regard to their supernumerary wives, merely recommending separation if practicable, and forbidding polygamy in future.”

DIA officials took few concerted steps to abolish polygamous marriages until the early 1890s, and even then no action was taken against those who had entered into treaty in plural marriages. The most prominent men, those who negotiated the treaties, were among those with plural wives. Annuity pay lists indicate that there were households with two, three, or four adult women in the household. The DIA hoped that the practice would disappear under the influence of missionaries and under the new conditions of reserve life. This was the policy outlined in 1885 by John A. Macdonald as Superintendent General of Indian Affairs, quoted in part in the last chapter. He was concerned that any intervention in domestic life would cause “serious trouble” and that any legislation would be attended with difficulties and complications: “For instance, the settlement of the question of priority of right when several women claimed the same man as husband would be most difficult; and then another question, most difficult of solution, would arise, in regard to the legal rights of the children, issue of such marriages...Moreover,
the inculcation in the minds of Indians of principles that will lead them, from conscientious convictions, to abandon voluntarily the habit of polygamy, as well as other heathenish practices, is, I submit, the work of those who charge themselves with the responsibility of imparting instruction to them in the tenets of Christianity.” In an 1885 debate on Indian enfranchisement in the House of Commons, that took place during the North-West resistance, the opposition seized on this passage in the annual report to raise alarm that the Prime Minister was going to give the vote to “heathen polygamists” by submitting to the House a clause “the effect of which is, within the wall of this great national temple of justice and righteousness, to ask this Christian Parliament to put a clause on the Statute Book of Canada that exalts heathen polygamy, with its practices, above Christian religion, with its virtues.” No such clause, however, was submitted.

Officials did take steps to discourage any new polygamous marriages. An 1882 departmental circular established a policy that was intended to achieve this goal. Indian Superintendent J.F. Graham wrote, “there is no valid reason for perpetuating polygamy by encouraging its continuance in admitting any further accessions to the number already existing, and I...instruct you not to recognize any additional transgressions by allowing more husbands to draw annuities for more than their legal wives.” In 1882 the category “polygamy” was added to the tabular statements that accompanied the published annual reports of the Department of Indian Affairs. Indian agents were to fill in “No. having two Wives,” and “No. having three Wives,” alongside other information such as “No. of Hand Rakes,” “No. of Axes” and “No. of Grooving Picks.” The circular reflects the belief that polygamy was being used as means of drawing more money at treaty time. The acquisition of additional wives (and children) was perceived as a ploy to acquire money, and there was concern that the method of payment (to male heads of households for his family members) encouraged polygamy. As a Toronto Globe and Mail reporter wrote in 1881, a chief informed him that he had two wives so that he could show more children and collect more money.
system of paying the Indians that it discourages Christianity by offering a premium on the pagan practice of polygamy."

In 1894 the wife of an Anglican missionary provided a Montreal meeting of the Anglican Women’s Auxiliary with details of what she regarded as “abuse” of the system which “demanded legislative action; but which is of a very delicate and difficult nature.” Polygamy is the rule rather than the exception,” she stated, “and when a man tires of one of his wives he either sells her or sends her away. As there are so many wives, so of course there are many children.” She cited the example of “one sharp old brave who drew at one time $60 for his numerous wives and children, and when reminded that he had repudiated some of these, and that they were no longer living with him, he smiled at the idea of that fact being permitted to diminish his possible profits.”

The new reserve regime may have encouraged men to claim more wives than they actually had. It also created conditions that led to parents promising or betrothing their children in marriage at an early age, sometimes to men with wives already, in order to keep them out of residential and industrial schools. J.S. Tims of the St. John’s mission on the Siksika Reserve, about whom more shall be said later in this chapter, wrote in 1894 that he was having “extreme difficulty in obtaining girls from the fact that they are allowed to marry from 10 years of age upwards and to become the second or third wife of grown up and middle aged Indians, a custom which I think it is time the Department should take steps to discourage.” That same year agent D.L. Clink of the Hobbema Agency reported that young girls between the ages of ten and thirteen were being “given to men for wives,” although he stated that he was generally able to part them with the help of missionaries. In the margins of the report a dia bureaucrat wrote, “would suggest enforcing new school regulations,” meaning the 1894 amendments of the Indian Act on compulsory attendance.

Beyond the 1882 circular letter, no formal or concerted steps were taken to prohibit polygamy until the early 1890s. A similar pattern prevailed with regard to the Métis. In allocating the 1.4 million acres promised to the Métis under the 1870 Manitoba Act, “illegitimate” children (from
“pagan,” bigamous, or polygamous marriages, or born to single women), were allowed to participate. (In 1873 the federal government declared that only Métis children, not adults, would benefit from the land grant.) The official instructions articulated in 1875 were that “In view of the exceptional condition of the country previous to the 15th day of July 1870 the illegitimate child of a half-breed head of a family shall be allowed to participate.” The policy changed, however, with the post-1885 Métis scrip commissions when it became the practice of the Department of the Interior to not recognize the claims of the heirs of “illegitimate Half Breed children,” and to recognize “pagan” marriages only if people had one spouse. In 1889 a Department of the Interior official wrote that he had many applications from the descendants of fathers who had two or more wives and who had lived with more than one wife when children were born. Complex questions emerged such as “does the fact of a man’s cohabiting with two women simultaneously, or with another woman during the lifetime of the first woman he cohabited with, render his issue by either or both of the women illegitimate?” Scrip Commissioner Roger Goulet (himself a Métis) thought that “cohabitation by a man with a second or third woman renders his issue by all of them illegitimate.” Examples of those who were turned down included the claim of the heirs of N’Pastchuk Bacon, as his father was married to two sisters. Bacon’s father married the second sister after the first left him, and the mother of N’Pastchuk was the second wife, but the claim was denied. Matters could become quite convoluted. Jacob Chatelaine applied in 1889 for scrip as the sole heir to his two children Marie and Pierre Chatelaine. He had two wives from 1864 to 1874, but claimed that the two children were born before he had two wives and was married only to their mother Apiteheiskouis. Scrip Commissioner Goulet turned down the application because those two children died when he had his two wives, and “he could not very well be heir at law of his said children as he was then not legally married to neither of his two wives, having destroyed the legality of his marriage to his first wife, mother of the above children by marrying his second wife.” In 1889 the claim at Prince Albert of Christy Bell Beardy as sole heir to her two daughters, Julia and Anglique Arcand, was also denied as she had an earlier marriage, and her
first husband Masseuas was alive when she remarried. Furthermore, the father of the children, Abraham Arcand, had “thrown away” Christy Bell Beardy and had remarried. Goulet wrote, “I do not see how these claims could be allowed as both parents of Julia & Anglique Arcand got married a second time while the first husband of mother and wife of father was still living and besides Christy Bell the applicant got married a third time and perhaps a fourth time before the death of Abraham Arcand whose date of death I could not ascertain.”

It was at precisely at the same time that the dia decided that measures had to be taken to abolish polygamy among First Nations. Why did the dia decide then that more active intervention was necessary? In other colonial settings programs of intervention were motivated by economic factors and the desire for the labour of Indigenous people. In Natal for example, colonial authorities argued that married men could not be compelled to work while they were permitted to live idly at home with their wives doing all the work for them. Thus polygamy was understood to deprive the settler colony of African male labour, undermining the economic progress of the region. It was reasoned then that such men would have to seek wage labour if they could no longer accumulate many wives.

In the US West, punishing polygamists was a means of undermining the authority of many of the leading Native American men. The Court of Indian Offences, established in 1883, took aim at polygamy through punishments including the deprivation of rations, the imposition of fines, and sentencing offenders to hard labour. Judges were to be selected from among the leading men of the reservations, but polygamists were barred from serving as judges. As historian John D. Pulsipher has written, the Court of Indian Offences was designed to strike at the heart of the power of Native American male leaders: “As with Mormons, polygamists in Native groups were usually the leading men of their tribes. By barring polygamists from judicial service—monogamy being the only qualification for serving on the bench—and actively prosecuting anyone who tried to take multiple wives, the Bureau could hope to subvert the existing tribal power structures and replace them with structures which were properly subsumed under federal authority.”
In some localities, including Canada, colonial administrators were reluctant to take any steps to limit or prohibit polygamy. Administrators in Southern Rhodesia did not want to erode the powerbase of African leaders when Native policy depended on maintaining their authority. There polygamy was also seen to have some positive attributes. As the resident commissioner explained in 1904, “No native woman is without a protector...if you did away with polygamy altogether and struck a blow at the root of the native system you would introduce the evils that we feel; you would introduce pauperism and you would introduce prostitution, which their social system has enabled them to avoid up to this time.” In an example of British concerns surfacing in a colonial setting, administrators were convinced there was a “surplus” women problem, a demographic imbalance that had given rise to polygamy in Southern Africa. As in North America the theory prevailed that “tribal wars” accounted for the necessity of polygamy. Polygamy provided all women protection and ensured the continuation of patriarchal control.

In Western Canada there was little demand for the labour of Aboriginal males, so this concern can be ruled out as a factor motivating the suppression of polygamy. However, economic concerns may have played a role. From the address given to a Montreal chapter of the Anglican Women’s Auxiliary, it is clear that by the 1890s there was pressure for legislative action to end polygamy, not necessarily for reasons of morality, but because of the alleged expense at annuity time. There was also Rev. Tims’ concern about the difficulty in obtaining girls for the schools. But the more pressing reason was the arrival of the Mormons in Western Canada; they settled next to a community where polygamy was relatively common, yet they were told that polygamy was not tolerated in Canada. There were those who were acutely aware that Canadian officials were not on strong ground declaring that polygamy was not tolerated in this country. Catholic Bishop Vital Grandin of St. Albert travelled to Ottawa in the summer of 1890 to make representations to the government “regarding the probable bad moral effect which the presence of the Mormons will necessarily have on the Blood Indians whose reserve is close to the Mormon colony.” Grandin pointed out that his church had been labouring to convert the Bloods from polygamy, and he feared
for this work if “the Mormons are to be allowed to teach contrary doctrine by both precept and example close by.” Catholic missionaries regarded the Mormon settlement as a “terrible obstacle” to their work among the Treaty 7 people. One Catholic missionary wrote, “What a pernicious influence is exercised on the infidels through these people, supposedly Christians.”

The founder of Cardston (known to the Blackfoot as “Many Wives”), Charles Ora Card, chose land near the Blood Reserve for economic reasons, but also because the Mormons had plans for missionary work among their neighbours. In the Book of Mormon it was prophesised that “large numbers of Indians will embrace Mormonism, unite religiously with believing ‘Gentile’ Mormons, lose their dark complexion over the course of generations, perhaps through intermarriage, and play pivotal roles in events leading up to the millennial return of Jesus Christ anticipated by many Christians.” Mormon missionaries told Aboriginal people that the Book of Mormon was an ancient history of their ancestors, which showed that God had promised, “he would not forget them [Native Americans], and [that] through their acceptance of the Gospel [God] would restore all his blessings unto them.”

This talk of a restoration of power attracted some, but there was limited interest among the Blackfoot of Montana and Alberta. John Jackson “Jack” Galbreath, a Métis whose mother was Blackfoot and who was a nephew of the celebrated Mountain Chief, was a rancher on the Montana Blackfeet Reservation, and he was introduced to the faith by his wife Susan Hudson, a Mormon from Utah who settled with her parents in southern Alberta. Galbreath divided his time between his ranch and a home in Cardston, and he also worked as a Mormon missionary among his people. Indian agents in the United States located on reservations near Mormon settlements claimed that Native Americans were converting to the Mormon faith, “not because they have any profound religious convictions, but because the polygamy of the Mormons suits their tastes.” In the 1870s, before concerted anti-Mormon polygamy campaigns began, US Indian agents reported that Mormon polygamy was an obstacle to their efforts to abolish polygamy. An agent on the Nevada Western Shoshoni Agency reported that one polygamist challenged him by (allegedly) asking, “What for you talk
Indians have no two or three wives, when all same your Big Chief at Washington let Mormon man have plenty squaws to heap work all time?" In Canada there was concern that the Mormons would encourage the Treaty 7 groups to continue to practise polygamy, and there was likely also concern to the opposite effect, that the Mormons would learn that polygamy was in fact permitted in Canada.

Given the public attention to the issue of polygamy, the widespread anxiety about the disintegration of the nuclear family, the proximity of the Mormons to a reserve community where polygamy was practised, the fact that new polygamous marriages were being contracted, and armed with the 1890 legislation that specifically prohibited polygamy, the time had come for the DIA to act. Since 1885 there was also more coercion and less conciliation in the approach of the DIA. By the 1890s the chiefs were not treated with the tolerance they enjoyed in the more immediate aftermath of the treaties. Instead there were threats, often successful, to “depose” chiefs (for alleged incompetence, immorality, and/or intemperance) if they questioned or opposed state policies. In the initial post-treaty era officials were wary of deposing chiefs who had negotiated treaties, as it was feared this could indicate an abrogation of the treaties. A final factor to be considered is that in the early 1890s in Western Canada, the land on fertile Indian reserves was being subdivided at great expense into forty-acre lots that were to be the small-scale farms and homes of nuclear families. This was a plan inspired in part by the US Dawes Severalty Act as well as the Dominion Lands Act, but it was not precisely the same as either form of legislation. It was similar, however, in that the ideal that served as a rationale for the scheme was self-sufficient independent families in which the male was the breadwinner and the farm wife his helpmate. Although the plan did not materialize on many reserves, the early 1890s was the time when Deputy Superintendent General of Indian Affairs Hayter Reed rigorously pursued the idea. Large extended families of several wives, grandmothers, and many children could simply not survive on these miniature farms. In the US West the allotment scheme became a means of finally abolishing polygamy, as they were not assigned to polygamous families.
Yet measures aimed at eradicating polygamy in Canada remained reluctant and hesitant. In 1892 Indian Commissioner Hayter Reed asked his Ottawa superior for an opinion from the Department of Justice on questions that could guide a possible criminal prosecution “to suppress polygamy among our Indians,” as cases still continued to occur, “and the question arises whether some more stringent measures than heretofore resorted to should not now be adopted.”52 Not receiving a reply, Reed wrote in a similar vein the next year, saying that “pernicious practices” were “far from showing sign of the gradual eradication which was expected,” and he asked for an opinion on questions including: “Is an Indian liable to criminal prosecution, if, in accordance with the customs of his Band, he lives with more than one wife?”53

Reed did not receive an answer to his question, but nonetheless steps were taken to warn transgressors that they could be prosecuted, and the NWMP conveyed these warnings. Inspector J.V. Begin reported from Norway House detachment in 1892 that he had learned of an Oxford House man who had six wives, and he had sent him word that “his conduct was illegal and that the first police visit might bring him trouble if he continued his illegal practice.”54 Begin was later informed by the HBC officer in charge of Oxford House that the threat had worked, as the man “had separated from all but one, evidently fearing the consequences, thus showing the moral effect of the presence of the police, even at a distance.”

The DIA took a preliminary step toward eradicating polygamy in a December 1893 circular letter that asked each of the Indian agents in Western Canada to report on the state of polygamy in their agencies by ascertaining the numbers and recording the names of husbands and wives, and the number of years of marriage. Agents were also asked to fully explain the law on the subject to reserve residents. In preparing the lists, Assistant Commissioner Amedée Forget emphasized “the necessity for the utmost carefulness, in order that injustice may not be inadvertently done to anyone named therein.”55 What Forget may have meant was that there was great potential for misunderstanding in drawing up these lists; not all of the households with more than one adult woman
were necessarily polygamous. Some of the Indian agents were aware that such distinctions were necessary, but that they could not always be made. The Indian agent on the Siksika Reserve reported that “some of the women reckoned as wives are really female relations; it is difficult to prove if they are living with them as wives or not.”\textsuperscript{56} Agent Allan McDonald from the Crooked Lake Agency reported that there were four such cases there, but in two of these the parties were elderly, and he would “look on the man more in the light of a protector than a husband.”\textsuperscript{57} On many agencies no cases were reported, and on others there were very few. Not all agents viewed this as a pressing issue. The Indian agent for the Duck Lake Agency, for example, said that there was one case in his agency, but “I may say that they appear to live happily together and give no trouble, and with regard to other Indians there is no inclination on their part to follow his example and break Department rules.”\textsuperscript{58}

The initial lists of polygamous families were submitted to Ottawa in September 1894, but any action was delayed as bureaucrats there asked that further information be supplied as to the “ages of the Indians shown to have added to the number of their wives since entering into Treaty.”\textsuperscript{59} Knowing the ages was necessary, it was explained, “in order to learn whether the individuals concerned had reached an age prior to Treaty at which expectation might justly have been entertained of contact with civilization affecting a change in their sentiments and practice regarding such matters, and whether any of the comparatively younger men have continued the custom of having a plurality of wives, despite the improving influences brought to bear upon them.”\textsuperscript{60} The results so far gave “satisfaction” that those in Treaty the longest had made progress in the right direction.

The Blackfoot of southern Alberta’s Treaty 7 nations stood out from the others in the persistence, continuation, and popularity of polygamy. There were seventy-six polygamous families on the Kainai Reserve, and forty-nine on the Siksika Reserve.\textsuperscript{61} The list of polygamous marriages entered into since the treaty were twenty-three Kainai, forty-one Siksika, and forty-nine Piikani.\textsuperscript{62} Armed with this evidence, and now occupying the position of deputy superintendent general of Indian affairs, Hayter Reed once again sought the advice of the Department of Justice on the
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question of prosecution. Deputy Minister of Justice and Solicitor of Indian Affairs E.J. Newcombe delivered the following complicated and cautious opinion in January of 1895:

If such an Indian is validly married to one of the women with whom he lives and has gone through a form of marriage with the other or others which would make her or them his wife or wives but for the fact that he was already married, there can be no question that he is guilty of bigamy and liable to the Penalties for that crime. (Criminal Code, Sec. 276). Even if there has been no valid marriage, but the Indian intended by complying with the customs of the band relating to marriage to make both or all the women his wives, or if, even without such intention he has complied in the case of two or more of the women with the requirements of the tribal customs, I am inclined to think that he may be successfully prosecuted under Sec. 278 of the Criminal Code, the maximum Penalty under which is imprisonment for five years, and a fine of five hundred dollars. Newcombe was referring to the 1890 Criminal Code amendment that was intended to address Mormon polygamy.

Resolve to take legal action was strengthened when new cases of polygamous marriages continued in the Kainai Agency despite the fact that the people had been notified in the summer of 1894 that no new plural marriages would be permitted. Indian Agent James Wilson reported that plural marriages were defiantly continuing. Two young men had taken second wives and “upon my ordering them to obey instructions of the Department they refuse.” Wilson had warned them they were liable to be sent to prison, and he was refusing the families rations until they obeyed. Wilson wanted to send them up before a judge and felt that “a little coercion” was necessary now to “put a stop to what is probably one of the greatest hindrances to their advancement.” Threats of legal action and withholding rations worked in two cases, but a man named Plaited Hair refused to give up his second wife. Wilson sought permission to place the second wife in a residential school and Forget agreed.
with this course of action. An 1894 amendment to the Indian Act permitted agents to commit students to the school until they reached the age of eighteen. In Forget’s view, threats of prosecution had been made for years, regard for the “prestige of the law” would be lessened if they did not proceed, and their wards might be emboldened by what would seem to them to be evidence of weakness if no action was taken.

In all of the correspondence concerning the eradication of polygamy, officials expressed almost no concern about the fate of the “semi-widows” that would be the result of a successful policy of prosecution. There is no indication of the kind of discussion of the conundrums that bedevilled the missionaries who asked: which wife would be regarded as legitimate, and which would have to go? Was this legitimising divorce, and were they able to remarry? The records also contain almost no indication of the thoughts or reactions of the wives. Concerns shared with other colonizers about how Indigenous women were treated within their own society, as chattels to be moved about at will, seem hollow when officials were prepared to remove them from their homes and place them in residential schools without any apparent consultation or permission. A central rationale for eradicating polygamy was that women were to be saved from unhappy lives, yet if the initiatives were successful, the “semi-widows” or “supernumerary wives” and children were to be abandoned.

In 1895, Deputy Superintendent General Hayter Reed remained uncertain about the ability to successfully prosecute. He reasoned that while Section 278 of the Criminal Code appeared broad enough to cover the case, it might be necessary to prove that there was some form of contract of marriage, and this was not clear in the case of the marriages of Plaited Hair. The only case tried under the new anti-polygamy law was not encouraging. In 1891 a Montreal man named Labrie became the first to be charged under the law. Labrie was married, but had cohabited with another woman who was also married. Labrie’s lawyer argued that the object of the statute was “to repress Mormonism,” and that there had to be some form of ceremony joining the parties to constitute a conjugal union. The law, Labrie’s lawyer contended, was modelled on the Edmunds Act in the United States, and was “not intended to prevent mere
concubinage, but a union of persons of opposite sex which the parties suppose to be binding on them." Although Labrie was initially found guilty, his conviction was overturned in the Court of Queen’s Bench, as the judge found that “The evidence adduced did not justify a verdict of unlawfully living and cohabiting in conjugal union with a person already married to another person.”

If Reed was advised of this case, he had further reason to proceed with great caution. They had to prove a form of marriage, and they would also have to counter the argument that the law applied specifically to Mormons. It would be dangerous to lose or have to withdraw a case. “As you know,” Reed wrote to Forget, “it would be better not to take action at all than to fail after having taken proceedings. And, moreover, it would be necessary to go very cautiously lest any general feeling should be worked up among the Indians on the subject.” Reed left it up to Forget to decide whether “sufficient evidence could be procured to give us a moral certainty of convicting.” He also recommended that the second wife of Plaited Hair be removed and placed in a residential school.

Casting about for options and precedent in May of 1896, Reed wrote to the commissioner of Indian Affairs in Washington, D.C., inquiring about what he understood to be an important legal decision given in the United States regarding the case of a Native American tried for polygamy. The answer he received would not have been encouraging. Reed was informed that there was no such judicial decision, that in the summer of 1895 prosecutions were begun in South Dakota against a prominent Lakota Chief named American Horse and some others, but that these prosecutions were stopped by orders of the Department of Justice. The approach of the US Court of Indian Offences to abolishing polygamy, described earlier in this chapter, produced few results. The Dawes Severalty Act of 1887 divided reservation land into individual plots and distributed them to each Native American man, woman, and child, except for plural wives who were not entitled to allotments. This policy was regarded as a means of fostering monogamous unions, and of discouraging alternative marital arrangements. But the policy was clearly not working by the summer of 1895 when American Horse was charged with polygamy under the Edmunds Act. Historian Robert Utley described
American Horse as “a man of great dignity and oratorical distinction, [who] had visited the Great Father and travelled with Buffalo Bill,” and as one of the “progressive” leaders at Pine Ridge who believed it was necessary to co-operate with the new regime. 76 Utley clearly overlooked the refusal of American Horse to co-operate with the new regime if it meant giving up his wives.

According to The Rapid City Daily Journal, it was proposed to “make an example” of American Horse, who had four wives, “and if possible break up the practice of polygamy among the Indians.” 77 American Horse was released on bail pending trial. Several days later some other leading men were brought into custody on the same charge. It was reported that the proceedings against the men were based on a recent federal court decision in which it was held that an Indian could have only one valid wife, and that the “surplus” could testify against their husband. 78 It was further reported that the arrests were causing much dissatisfaction at Pine Ridge as they were regarded as “an unwarranted innovation upon their ancient rights and customs and a violation of their treaty with the government which...expressly states that their tribal and domestic relations shall not be interfered with.” Residents of the Pine Ridge Agency had decided to “resist to the last extremity these innovations upon their rights, and trouble is feared if the proceedings are not stopped.” The Indian agent at Pine Ridge asked that steps be taken to stop the proceedings, claiming that all the other chiefs had “several wives for forty years and no one has dreamed of interfering before.” 79 A stop was soon put to the proceedings. The attorney general indicated that the Edmunds Act had no possible application to Indians living in tribal relations. It was also pointed out that such interference could cause serious trouble. 80 As mentioned in chapter four, legal recognition was given to Aboriginal marriage law in the United States even in cases of polygamy. As was said in the 1889 case Kobogum v. Jackson Iron Co., polygamy “is a recognized and valid institution among many nations, and in no way universally unlawful. We must either hold that there can be no valid Indian marriage, or we must hold that all marriages are valid which by Indian usage are so regarded...We cannot interfere with the validity of such marriages without subjecting them to rules of law which never bound them.” 81
It is unclear if Hayter Reed ever learned any more details about these unsuccessful efforts in South Dakota, but if he had they would have added to a list of concerns about the potential for resistance and turmoil, as well as the possibility of losing the case and losing face. The Edmunds Act was thought to have no application to US Aboriginal nations, and a similar argument could be made in Canada, as the anti-polygamy legislation specifically mentioned Mormons. In criminal court a case must be proven beyond the shadow of a doubt, and there were many potential shadows of doubt. For a conviction it would be necessary to show that there was a form of contract, recognized as binding by all parties. No offence was committed between the parties where there was no form of contract as in the Labrie case. In the 1889 case of Regina vs. Nan-e-quis-a-ka, a man who had two wives was charged with assault. The court dismissed the first wife who was found to be a wife-in-law and therefore neither compellable nor competent to testify against her husband. The second wife, however, was admitted as a witness as she was not regarded as a legally valid wife. The case could be interpreted to mean that a man could have only one wife. This case also upheld the validity of Aboriginal customary marriage, when such a marriage was monogamous. The court found that “marriage between Indians and by mutual consent and according to Indian custom since 15 July 1870 is a valid marriage, providing neither party had a husband or wife as the case may be, living at the time.”

DIA administrators became ever more determined to take stringent measures as new cases of polygamy arose. It was also reported that young girls were being promised in marriage as a means of preventing them from being sent to residential schools. Before proceeding with the uncertain criminal prosecution, further consideration was given to the tactic of placing girls in residential schools under the compulsory education clauses of the Indian Act. In 1895 Forget was wondering whether this might be more successful, causing “less friction than by proceeding to prosecute for bigamy under the Criminal Code.” The linking of the residential school program with the campaign to abolish polygamy further inflamed protests on the reserve communities of southern Alberta. The resentment and anger over the residential and boarding schools was particularly high in the mid-1890s as there were many deaths of pupils.
from tuberculosis. In 1894 Rev. T.H. Bourne of the St. Cyprian’s mission on the Piikani Reserve reported that there were five deaths in the residential school there, and many more students were ill.  

On the Siksika Reserve early in 1895, zealous Indian Agent Magnus Begg decided to pursue the repression of polygamy according to his own interpretation of the law and instructions from his superiors. His actions generated controversy, and were protested by both his superiors and the people under his supervision. He reported new cases of polygamy in his agency—two girls that Begg thought were no more than twelve were promised to men who already had wives. At a meeting held on the North Reserve in February, Begg declared that no man could marry a girl under the age of eighteen. He also stated that no man could marry a young woman graduate of an industrial or boarding school unless he had built a house with two rooms and had cows and a stable. Begg further said that all children were to remain in schools unless their discharge was sanctioned by the Department, and that all school-age children were to be sent to residential schools, as day schools were to be done away with as much as possible. According to Begg’s account of this meeting, White Pup, spokesman for the chiefs, said that Begg “might expect blood” if the regulation concerning the age of marriage for girls was carried out. Begg told them they were “talking foolish” about shedding blood, and insisted that all instructions must be carried out. Begg was severely reprimanded for his statements at that meeting. Forget said that the agent had misinformed people, as a girl was marriageable at the age of twelve. Begg was told to correct this false impression, as nothing would be gained by deceiving them.

Agent Begg did little to defuse the situation. At his next meeting held in March he informed the chiefs and headmen that if the betrothed girls were not sent to a school it would be necessary to take them by force, or to arrest the men who married them. The chiefs replied that they were willing to have new regulations apply to the girls already in the schools,

> In 1895 on the Siksika Reserve Indian Agent Magnus Begg’s zealous efforts to suppress polygamy created a tense situation. White Pup was chosen spokesman for the chiefs who protested Begg’s manoeuvres. (Top [White Pup] GAA NA 1773-25; Bottom [Magnus Begg] GAA NA-3867-1)
Creating, Challenging, Imposing, and Defending the Marriage "Fortress"
but that these should not be applied to other girls of the community. Begg suspected that their tactic was to promise all the young girls in marriage so that “there would be none for the schools.” He sought Forget’s permission to take the girls to the school with the assistance of the police, and warned that arrests might cause trouble as “all the older Indians are strongly against any interference in the matter.” Once again Begg was reprimanded for his actions, for not obtaining the permission of the parents of the girls to place them in school, and for threatening the chiefs about the use of force and arrests.\footnote{91} Forget advised that having committed himself to such a course, Begg ought to proceed to enforce the compulsory school regulations in the two cases mentioned, “If the prestige of the Department and its Agent is to be maintained.” Begg was to act prudently, cautiously, and with great tact, exhausting every peaceful means before considering a resort to any other. The agent soon reported that the two cases had been hastily resolved as one of the fathers took his daughter home, and the other girl was betrothed to a man with no other wife.\footnote{92}

Tensions were high on the Siksika Reserve by the summer of 1895. J.W. Tims of the St. John’s mission reported in June, “I am sure that the slightest provocation now would start them on the warpath.” On April 3, Francis Skynner, the ration issuer on the reserve and an ex-corporal in the \textit{nwmp} was shot by a man named Scraping Hide, whose nine-year-old son had just died. Although several stories existed to explain why his son died, historian Hugh Dempsey has concluded that the correct version was that the boy had contracted tuberculosis in school and died after being released.\footnote{93} Following the shooting, Scraping Hide went to the cemetery where his son was buried and waited for the police to attack him. For two days he stayed by the grave and refused to surrender until he was shot and killed by a member of the \textit{nwmp}. It was a “tragic, senseless killing,” Dempsey wrote. A month after this event, a girl named Mable Cree died at the Anglican boarding school. Missionary Tims had blocked the efforts of the family to remove her.\footnote{94} Six other of the seventeen students there were seriously ill with tuberculosis. Much anger and resentment was directed toward Tims, who had implemented compulsory attendance. Tims fled the reserve, reporting in June of 1895 that “owing to Government regulations re detention of pupils, there has been
a bad feeling. The Indians were much excited and talked of shooting me, on whom, as Principal, they laid the blame of the girl’s death. They also threatened that unless I was removed there would be bloodshed.”95 Tims also reported that the parents of pupils out on leave refused to allow their children to return, and would not permit the police to make arrests of the absentees. Tims and Begg had clearly aggravated the situation at the Siksika Reserve for years. In tendering his resignation Tims noted that Begg “might expect blood”—“thye [sic] bear special animus against me.”96 Tims himself blamed dia officials for “the way these Indians have been handled.” “They are defying the law and running things their own way on the Reserve,” Tims concluded, and he recommended that “a force of 200 or more men [be] located on the border of the reserve as a check to their present behaviour.” Tims was reassigned, although promoted, becoming director of missions for southern Alberta. In a missionary publication that noted Tims’ departure from the Siksika mission, it was explained that the Blackfoot parents were angry at the new government regulations about the detention of their children, and “having got it into their heads Rev. Tims is the originator of them, made things… unpleasant for him.”97

The 1897 Charcoal case provided further evidence of defiance on the southern Alberta reserves, and it also drew the public’s attention to the persistence of diverse marriages including polygamy. Charcoal was a Kainai man who confessed to the murders of another Kainai man, Medicine Pipe Stem, and Sergeant W.B. Wilde of the nwmp. In the trial evidence emerged that Charcoal found one of his wives, Pretty Wolverine, in an act of infidelity. He shot her seducer in retaliation. Charcoal was first married to a woman who had left him in 1890 before marrying Pretty Wolverine in 1891.98 In 1896 a second wife, Sleeping Woman, was added to the household. Pretty Wolverine was called to the stand but Judge Scott told her that if she really was Charcoal’s wife she did not have to give evidence. She swore she was his wife, “and that he was her fifth husband.”99 It was reported in the Macleod Gazette that Pretty Wolverine was “examined as to her several matrimonial adventures, and an amusing dialogue took place between counsel and witness. In the course of this examination it transpired that Charcoal was the fifth lucky man to draw this matrimonial
the importance of being monogamous
prize. Of the other four, one was dead, and as remarked by Mr. Costigan, there was only one occasion on which the lady had got in on the ground floor, all the other husbands having had wives varying in number, from one to four at the time they married her. The Crown finally came to the conclusion that, while Mrs. Charcoal had evidently been very much married, she was evidently tied up securely enough to No. 5, and she was excused from giving evidence.”

Witness R.N. Wilson, who at that time was acting as interpreter for Indian Agent James Wilson, provided a lengthy description of marriage customs, including that “the agreement is to live together permanently, not during pleasure.” Agent Wilson, perhaps in an effort to deflect criticism from the DIA, testified that Charcoal had only one wife and that “it used to be the custom among the Indians to have as many wives as they liked, but now under the regulations of the department, only one was allowed.”

DIA officials were worried about the determination of the Blackfoot to resist interference in their domestic relations. Chief Red Crow of the Kainai continued to live with his four wives despite the fact that in 1896 he was baptized into the Roman Catholic Church, and was married in a Catholic ceremony to his youngest wife Singing Before. Father Emile Legal performed both the baptism and the marriage. This was a distinct departure from the firm rule of the priests not to perform a marriage ceremony of a polygamous husband until he had cast aside his other wives. Agent James Wilson was astonished at this departure, writing that “the Rev. Father Legal put Red Crow and one of his wives through a form of marriage, but as he has three other wives living with him, each of whom has been his wife for a longer period than the married (?) one, I fail to see what good this ceremony has done. The Indians on the other hand say it has been done so that his wife may claim all the old man’s property to the exclusion of others.” According to historian Hugh Dempsey, these speculations were true. Red Crow was wealthy in cattle and horses, and

< Top: The wedding of Reverend J.W. Tims and Violet Wood, 1890, Siksika Reserve, Alberta. The bride, from England, had arrived in the West only weeks earlier, as the travelling companion of the woman beside her on the right, Frances Kirby, who collected Aboriginal artifacts. Reverend Tims contributed to the mid-1890s tensions on the Siksika Reserve over interference in domestic affairs and compulsory attendance at the Anglican boarding school. (gaa:na–1645–1) Bottom: Wedding group at the Anglican mission on the Siksika Reserve, ca. 1900. Jim Abikoki and family. (gaa:nc–5–8)
this marriage ensured that his baptized Catholic son Frank, a student in an industrial school, would gain the inheritance.\textsuperscript{104}

As evidence of new cases of polygamy accumulated in 1898, Indian Commissioner Forget wrote James Smart, the new deputy superintendent of Indian Affairs, requesting “a definite and unqualified authorization to take measures of repression. Department’s sanction of proceedings in such cases having hitherto been so qualified as to practically nullify same.”\textsuperscript{105} J.D. McLean, acting secretary, replied that the department was willing to leave the matter in his hands. Newcombe’s 1895 opinion was quoted, and Forget was told that if he felt it was in the best interests of the Indians, and of public morality, he could take the necessary measures.\textsuperscript{106} Forget was determined to take action as he was convinced that “unless severe measures are taken it will be many years before the evil is eradicated.”\textsuperscript{107} In 1898 Indian Agent James Wilson reported that not-withstanding all his efforts on the Blood Reserve, six or seven young men had taken second wives, and he felt others would follow this example.\textsuperscript{108}

In the Treaty 4 district, Cree Chief Star Blanket was reported in the fall of 1898 to have taken another wife.\textsuperscript{109} The File Hills Indian agent informed the chief that more was expected of him as he had only recently been reinstated as chief. According to the agent, Star Blanket said, “He would rather give up the Chiefship [sic] than give the woman up.”\textsuperscript{110} After several months Star Blanket complied with dia policy to some extent by giving up his first wife, who appealed to the department for assistance, as she was in a state of destitution.\textsuperscript{111} Star Blanket was regarded as “difficult” to handle, as he was opposed to policies on schools. It was recommended that he be deposed.

Forget decided to focus on the Kainai Reserve after first giving the parties reasonable notice that they would be prosecuted unless they abandoned polygamy. He hoped that with firmness and the “hearty co-operation” of the police, that the law would be enforced. Forget instructed Agent Wilson in August of 1898 to collect and submit information regarding all the new cases of polygamy to Crown Prosecutor C.F. Conybeare of Lethbridge.\textsuperscript{112} If Conybeare thought that criminal proceedings could be brought against any of these men, the agent was to call a meeting of the chiefs, bring the young men before them, and
explain the law on the subject. In August 1898, Forget instructed Wilson to emphasize that the DI A had no desire to be harsh with them, “and that while it would see with pleasure the old men abandoning the practice, yet no prosecution is intended regarding them as they commenced the practice before they knew of the existence of the law.” As for the others, the greatest leniency was to be extended, as the desire was to prevent wrongdoing and not to punish. The parties were to be informed that they had one month to abandon polygamy or criminal proceedings would begin.

The Kainai, however, were determined to resist. Their resolve was possibly steeled by the fact that Red Crow had been permitted to marry one of his wives in a Catholic ceremony while retaining the other three. By November of 1898, Agent Wilson could report no changes despite numerous meetings on the subject. Wilson tried another tactic during annuity payments by refusing to pay the wives. Wilson explained to Forget that the Indian Act “gave power to refuse payment to women who deserted their families and lived immorally with another man, and that as these women knew what they were doing they were equally guilty with the men.” Wilson told Red Crow that the pay-list books would be kept open for ten days, and that during that time the chief was to hold a meeting with the women to persuade them to give up their marriages. A meeting was held, but it was reported that Red Crow’s position was that the new rules about marriage should apply only to the graduates of the schools. Wilson declared that the young people were bound to obey and that Red Crow should insist that they obey. The chief refused to do this. Once again the young men were given one month to withdraw from the position they had taken. Agent Wilson reported, however, that the tactic of holding back annuities worked with a number of the wives, but three still refused to comply or to give up their marriages. Wilson sought permission to continue to withhold annuities. In his view these women were “living immorally” as they had “undoubtedly” left their families to reside with men who were already married. Two of the women were widows with children when they remarried. Forget permitted Wilson to withhold the annuities of the women who “still persist to live immorally.”
By December 1898, Agent Wilson was determined that legal proceedings should be taken to “enforce the law as those young men still refuse to obey.” In consultation with Conybeare it was decided to proceed against Bear’s Shin Bone, the most recent of the men to enter into a polygamous marriage, and a scout for the NWMP. Bear’s Shin Bone was brought before Judge C. Rouleau at Fort Macleod on March 10, 1899, on a charge of practising polygamy with two women, an offence under Section 278 of the Criminal Code, which was originally designed to address Mormon polygamy. His wives were “Free Cutter Woman” and “Killed Herself,” and there is no evidence that either testified during the trial. To do so would have raised the question of whether they were compellable or competent to testify against their husband, as in the case of Charcoal’s wife Pretty Wolverine. If, as in Regina vs. Nan-e-quis-a-ka, the second wife was not found to be a valid wife, the case for the prosecution for polygamy could be weakened. Conybeare had to prove that there was a form of contract between the parties that they all regarded as binding upon them. M. McKenzie argued for the defence that this section of the statute was never intended to apply to Indians. But the court held that the law “applied to Indians as well as whites,” that the marriage customs of the Kainai came within the provisions of the statute, and were a form of contract, recognized as valid by the case of Regina vs. Nan-e-quis-a-ka. Both marriages had to be recognized as valid contracts in order to invalidate the second marriage. This anomaly was recognized in the local newspaper’s coverage of the case, in which it was noted, “Bare-Shin-Bone [sic], the Blood Indian charged with polygamy, was convicted and allowed to go on suspended sentence, being instructed to annul his latest marriage (?) and cleave to his first spouse and none other.”

Bear’s Shin Bone was allowed out on suspended sentence on the understanding that he give up his second wife, and that if he did not he would be brought up at any time for sentencing. The DIA regarded this as a test case, with the goal being not to punish but to make the prisoner and the others obey the law. The DIA agreed to pay for the defence barrister, even though the Kainai had raised a sum of money for that purpose. Wilson also sought and received permission to pay arrears for the 1898 annuities withheld from the women who refused to give up
their marriages. Wilson further sought permission to have the children listed as legitimate, allowing them to draw rations and annuities. These measures would, in Wilson’s view, “help to allay the feeling of soreness which one or two of them feel at having to give up their second wives.” Permission was granted; newly-appointed Indian Commissioner David Laird was advised from Ottawa that the offspring of these marriages would be considered legitimate and not only rationed but placed on the pay list. DIA accountant Duncan Campbell Scott endorsed these measures, writing in a memorandum that:

The right of the women themselves to payment of annuity is not impugned by the relation referred to, and if we were to consider the offspring of such unions illegitimate it would hardly be possible to advance just grounds for our decision, as a great number of adult Indians and children throughout Manitoba and the North West are the fruit of such marriages. The effect of leniency in these cases will assist in furthering an easy transition to civilized ways of matrimony.

The 1890s campaign aimed at prohibiting polygamy that culminated in the Bear’s Shin Bone case did not immediately result in the desired goal. The 1901 census for the Blood Reserve indicated over thirty polygamous families (and there might have been more as many adult women were listed as “boarders” in households). Not all of these were marriages contracted before or at the time of Treaty 7, as some involved younger men and women, and Indian agents continued to report polygamous marriages. In 1904 the agent reported from the Siksika Reserve that “I learned that three members of the band were dissatisfied with one wife each and had taken another. I immediately directed the rations of these families to be withheld until such time as they saw fit to obey the rules in this respect. One family missed one ration and then decided that it was better policy to abide by the rules. The other two families held out for several rations, and then succumbed and put away wife number two.” The missionaries similarly continued in their campaign to abolish polygamy. The Anglican register of marriages on the Siksika
Reserve indicates that plural wives, generally identified as the younger wives, were being “surrendered” and remarried. In 1904, for example, the “younger of the two wives of Lone Bull—surrendered” was married, as was “one of two wives of Turning Robes, surrendered.”

In 1900 the attention of the DIA shifted to concern about “child marriages” among the Siksika, allegedly polygamous in some cases. These reports were sensationalized but soon challenged and dismissed. In several localities throughout the British Empire, but particularly in Bengal, the British passed age-of-consent legislation. Scholars have argued that this legislation was motivated not by a concern for child brides and the status of women, but as a means of “demonstrating the inferiority of Indian, particularly Bengali, masculinity” in order to “justify their unwillingness to share political power and administrative control.”

It is possible that there was an element of this at work in southern Alberta, as the will of the DIA had not entirely prevailed in their dispute with Blackfoot leaders over interference in their domestic lives. The incident also demonstrates the inability of authorities once again to prosecute and convict. Echoing aspects of the 1886 “immorality” controversy, in 1900 alarming news was conveyed by Siksika Reserve Indian Agent J.A. Markle that “the Indians of this band have been in the habit of bartering their female children to Indians of all ages, to become the wives of the purchaser,” and he cited the example of a man who had recently “traded his daughter under 8 years of age to an Indian for about 20 ponies.” Indian Commissioner Laird could find nothing in the Criminal Code forbidding such marriages, if the consent of the parents was obtained, but he referred the matter to the Department of Justice, asking if the father could be prosecuted under any other law in Canada. The reply from Law Clerk Reginald Rimmer was that there was no law under which a parent or husband could be successfully prosecuted. The only section of the code that might have bearing was that a man could be “liable to imprisonment for life and to be whipped who carnally knows any girl under fourteen years not being his wife.” If these were indeed wives, then the section of the code in question did not apply. It might be possible to argue, Rimmer thought, that any marriage of a girl under the age of twelve was null and void. In such cases the words “not being his
wife” could afford no protection to the accused. Consummation would have to be proven for a successful prosecution. Rimmer concluded, “until this is shown it seems to be open to doubt whether such child marriages as are spoken of by Agent Markle are of any more revolting nature than those which take place amongst other nations, where a child is given by the parent but the marriage is not consummated until after she attains the age of puberty. I may point out that it is open to the child to avoid the marriage on attaining the age of twelve years.”

The issue emerged again in 1903 when Assistant Indian Commissioner J.A. McKenna visited the Siksika, and both the agent there and Catholic missionary Father Riou drew his attention to the “sale of young girls to male members of the band.” McKenna knew of Rimmer’s advice, that if these were indeed wives no steps could be taken to prosecute, and stated that he was “convinced that there is nothing in the disposal of these girls which could be considered to constitute a form of marriage.” The agent and missionary had assured him that “carnal knowledge” was had as a result of these “sales,” and that this could be proven to gain a conviction. McKenna recommended action be taken. Once again the matter was referred to the Department of Justice, and this time a different strategy was adopted. Calgary lawyer James Short, the Department of Justice agent in that city, was asked to investigate the matter and confer with the Indian agent with a view to prosecuting if sufficient evidence could be procured. Short was instructed to lay information against any Blackfoot found marrying a girl under the age of fourteen. In the meantime, Rimmer reviewed the issue. He stressed once again that if charges were brought against a man it would have to be shown that the girl was not his wife, and he believed it would be very difficult to obtain a conviction on the grounds that the girl was not a wife. He stated, although obliquely, that the DI A policy to recognize the validity of Aboriginal marriage worked directly against obtaining a conviction. How could it be proved that a girl was not a wife when the DI A had insisted since 1887 that Aboriginal marriage was valid? The question of the validity of the marriage would arise at the outset of any case and the first witness called would be the girl herself, who “will probably say she is his wife.” Rimmer noted that while the “law relating to marriages by Indian custom is in a
very unsatisfactory state it may be said that to some extent...[they]... have received judicial recognition.” To argue that marriage according to Aboriginal law was not valid defied the approach taken by the diA since 1887. But Rimmer was personally inclined toward the opinion in the case of Bethell vs. Hildyard that it was “essential to a valid marriage that the union be that of one man with one woman for life to the exclusion of all others.” He did not think that marriages according to “Indian custom” complied with these requirements, hinting that a conviction could be obtained but that women were on the diA pay lists as wives. He concluded, “I therefore think it does not lie with this Department to obtain the conviction of an Indian for carnally knowing a girl under 14 years if his union with her is not polygamous but such as the Department has heretofore recognized.” Once again the view was expressed that failure to obtain a conviction would be very damaging: “the effect on the Indians would be worse than no action.” Prosecution could only be successful if they found that a man, already married, had connection with a girl under the age of fourteen. Rimmer further noted that missionaries advocated early marriage, citing the advice of Bishop Ridley, who advocated early marriages “amongst the Indians as a safe-guard against greater evils likely to occur while they remain single.”

James Short’s report undermined and concluded efforts to address “child marriage,” as he found no evidence. Indeed, Short challenged McKenna’s sensational allegations. In his August 1903 report, the Calgary lawyer stated that he had interviewed Agent Markle, and as a result had decided it would be unwise to lay any charges, as the agent stated that “there have been no bigamous marriages with young girls since he came to the reserve.” Short reported that the young wives on the reserve were all fourteen years of age or older. Markle had informed him that there were several “bigamous” marriages before he was assigned to the reserve, that no action was taken against them, and that “the Indians would justly complain if action were brought now, particularly as they have been accustomed to plural marriages from time immemorial.” Markle further told Short that in 1902 there were three cases in which men took second wives, but the women were all adults. He cut off their rations and within a month all had put away their second wives. There was one case in
which a man married a Tsuu T’ina girl who was about nine years old, but Markle reported that the marriage had been dissolved by mutual consent. (In this case Aboriginal divorce was clearly encouraged and accepted as valid.) Short found no other such cases in the settlement.

Upon receiving a copy of Short’s report, Rimmer concluded that he could not advise any prosecution. He was asked to give his opinion as to whether cases could be dealt with under the polygamy law (Section 278) of the Criminal Code, and he responded that this “is a matter involving grave consideration of policy,” and that “moral suasion will be the most effective means of checking these plural marriages.”

The efforts to eradicate the “evils” of polygamy were part of a transnational agenda pursued by missionaries and colonial authorities. In missionary circles throughout the British imperial world there were intense debates about how this eradication ought to be accomplished, dogged by difficult questions such as which wives should be discarded, who should decide which wives should be discarded, would this be condoning divorce, and what of the fate of the “semi-widows.” Fur traders, some of whom had their own plural wives, and travellers to Western Canada were among the vocal and sharp critics of missionary efforts to abolish polygamy. Few steps were taken by the DIÁ until the early 1890s because it was feared that intervention in domestic life would cause serious trouble, particularly with leading men who had been the treaty negotiators. A similar approach was taken to Métis marriages. For the purpose of assigning Métis scrip the children of “pagan,” bigamous, or polygamous marriages were regarded as legitimate until the mid-1880s, when the policy was changed and only “legitimate” children were granted scrip.

A determination to abolish polygamy arose with the arrival of the Mormons in southern Alberta in the late 1880s. There was concern about the moral effect of the Mormons on their Aboriginal neighbours, among whom they intended to initiate missionary work, and there was also the fear that the Mormons would find evidence that polygamy in fact was accepted in Western Canada. But DIÁ measures remained hesitant and reluctant. Transgressors were warned that prosecution was imminent and the NWMP was called in to help convey these warnings. A
preliminary step was a census of polygamous households which revealed that the practice was still thriving in parts of the west, particularly southern Alberta. Elsewhere many Indian agents found it an aggravating and potentially damaging exercise, noting that the practice was not harming anyone, that some of the men were more like protectors than husbands, and that it was difficult to prove whether the women of a household were truly wives or not.

Despite warnings that transgressors would be prosecuted, new cases emerged from southern Alberta of young people entering into plural marriages. Officials of the DIA now tried withholding rations and placing second wives in residential schools using the new compulsory attendance legislation. Further advice and information was gathered on the wisdom of prosecution, and the advice was not encouraging. In 1895 the deputy minister of justice was “inclined to think” a man with more than one wife could be prosecuted under the new legislation designed to address Mormon polygamy. It had to be proven, however, that there was a form of contract as no offence was committed if there was no contract. There was also the fear of serious protests if such measures were taken. A volatile situation grew on the Siksika Reserve in the mid-1890s with resentment focused on zealous agent Magnus Begg and the inept Anglican missionary J.W. Tims. The attention of the public was drawn to the persistence of polygamy through the sensational trial of Charcoal, a Kainai man found guilty of killing another Kainai man and a NWMP officer. It was revealed during Charcoal’s trial that he had two wives, and that a cause of his rampage was suspicion that one of his wives was having an affair.

By the late 1890s officials of the DIA appeared to have no control over their “wards” and their domestic affairs, despite their tactics of threats of prosecution, withholding rations and annuities. The time had come to act and in 1899 a Kainai man named Bear’s Shin Bone was found guilty of polygamy under the legislation devised to address Mormon polygamy. But this did not have the immediate desired effect authorities had hoped for, as polygamy was not abandoned. The attention of the DIA then shifted to “child” marriages, and alarm was raised once again about the “bartering” of young brides. Legal action, however, was not possible if
these women were indeed wives, and it had been the policy of the DIA to recognize the legality of marriage according to Aboriginal law. An investigation into the allegations by Calgary lawyer James Short found no evidence of child marriage.

Concerted efforts to abolish polygamy and “child” marriage in Aboriginal communities became less pronounced after 1903, but the goal of imposing the monogamous model of marriage and associated cultural assumptions about proper gender roles did not end. DIA officials, acting with missionaries (although often at odds with them), and sometimes with the NWMP, continued this work well into the twentieth century. Yet the state intervened to both refashion and to preserve aspects of the Aboriginal laws pertaining to marriage. Desired changes were not easily or thoroughly imposed. As we will see in the next chapter, efforts to impose the monogamous model were dramatically disruptive, but far from entirely successful.