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Métis Perspectives

ABORIGINAL POLICIES OF THE GOVERNMENT of Canada reflect the mistaken view that there are only two major groups of Aboriginal peoples in Canada, First Nations and Inuit.¹ The Métis are distinct Aboriginal peoples, neither First Nations nor Inuit. Although their early ancestors included First Nations people and (in the case of the Labrador Métis) Inuit, they have been independent peoples for generations. (See Volume 1, Chapter 6 for a brief introduction to Métis history.)

1. The Other Aboriginal Peoples

In 1982, the constitution of Canada was amended to state that Canada's Aboriginal peoples include the Métis. Métis people did not need to be told that: they have always known who they are. They have always known, too, that Canada would be a different place today if they had not played a major role in its development. Modern Canada is the product of a historical partnership between Aboriginal and non-Aboriginal people, and Métis people were integral to that partnership.

Intermarriage between First Nations and Inuit women and European fur traders and fishermen produced children, but the birth of new Aboriginal cultures took longer. At first, the children of mixed unions were brought up in the traditions of their mothers or (less often) their fathers. Gradually, however, distinct Métis cultures emerged, combining European and First Nations or Inuit heritages in unique ways. Economics played a major role in this process. The special qualities and skills of the Métis population made them indispensable members of Aboriginal/non-Aboriginal economic partnerships, and that association contributed to the shaping of their cultures. Using their knowledge of European and Aboriginal languages, their family connections and their wilderness skills, they helped to extend non-Aboriginal contacts deep into the North American interior. As interpreters, diplomats, guides, couriers, freighters, traders and suppliers, the early Métis people contributed massively to European penetration of North America.

The French referred to the fur trade Métis as *coureurs de bois* (forest runners) and *bois brulés* (burnt-wood people) in recognition of their wilderness occupations and their dark complexions. The Labrador Métis (whose culture had early roots) were originally called 'livyers' or 'settlers', those who remained in the fishing settlements year-round rather than returning periodically to Europe or Newfoundland. The Cree people expressed the Métis character in the term *Otepayemsuak*, meaning the 'independent ones'.

1.1 Nation-to-Nation Relations

As we have stated throughout this report, the only satisfactory resolution of contentious Aboriginal issues can be one that is negotiated between the representatives of appropriate Aboriginal and non-Aboriginal governments. No remedial steps, however benevolently intended, should be taken without prior approval of Aboriginal people. The independence of Métis peoples dictates that the nation-to-nation approach is as appropriate in dealing with them as it is for First Nations and Inuit.

Recommendation

The Commission recommends that

4.5.1

Political negotiation on a nation-to-nation or analogous basis be the primary method of resolving Métis issues.

Aboriginal collectivities claiming to be nations of Métis people should be recognized under the same recognition policy and using the same criteria as applied to all Aboriginal peoples (see Volume 2, Chapter 3). To justify this conclusion it is necessary to demonstrate that Métis nations are distinct from First Nations and Inuit. Applying the policy will require the identification of mature Métis nations and a procedure for dealing with Métis communities that have not yet attained the status of nation. An understanding of the nature of Métis identity is essential to these determinations. We address each of these matters in succeeding sections.

1.2 Métis Identity

Identity, whether of an individual or a people, is always a sensitive and complex matter. A person can be identified simultaneously as Métis, Aboriginal, Albertan, Canadian and female, among other identities. For some, being Métis is a vital part of who they are; for others, it is less significant. Being Métis, moreover, can mean different things in different contexts: one context may speak to an individual's inner sense of personal identity; another may refer to membership in a particular Métis community; a third may signal entitlement to Métis rights as recognized by section 35 of the Constitution Act, 1982. Throughout the following discussion of Métis identity, the meaning of the term is governed largely by the context in which it is used.

The determination of Métis identity (and indeed Aboriginal identity) is not merely a question of genetics. A Métis person certainly has both Aboriginal and non-Aboriginal ancestry, but ancestral links may also be non-genetic. They sometimes involve marriages or adoptions, family links that are as deeply cherished as blood connections.

Ancestry is only one component of Métis identity. Cultural factors are significant; a people exists because of a common culture. When someone thinks of themselves as Métis, it is because they identify with the culture of a Métis people; and when a Métis

people accepts someone as a member, it is because that person is considered to share in its culture. A comment to the Commission from Delbert Majer makes the point:

I'll say I'm Métis or other young people that I know that are Métis have been confronted with the same question: 'Oh, I didn't think you were Métis. You don't look it.' You know, it's not a biological issue. It's a cultural, historical issue and it's a way of life issue; and it's not what you look like on the outside, it's how you carry yourself around on the inside that is important, both in your mind and your soul and your heart.

Delbert Majer
Saskatchewan Metis Addictions Council
Regina, Saskatchewan, 10 May 1993

When the subject of Aboriginal identity is discussed, reference is sometimes made to rational connections and objective criteria, such as place of residence, languages spoken, family links and community involvement. These are matters of evidence. They are guides to helping people decide whether someone who claims association has a genuine connection with the people. No one objective factor can ever be conclusive by itself; even when weighted for value, objective measures cannot be applied mechanically. In the end it comes down to two key elements — ancestry and culture — and their acceptance by both the individual and the people.

It is primarily culture that sets the Métis apart from other Aboriginal peoples. Many Canadians have mixed Aboriginal/non-Aboriginal ancestry, but that does not make them Métis or even Aboriginal. Some of them identify themselves as First Nations persons or Inuit, some as Métis and some as non-Aboriginal. What distinguishes Métis people from everyone else is that they associate themselves with a culture that is distinctly Métis.

Historically, Métis cultures grew out of ways of life dictated by the resource industry roles of the early Métis. For those who served the fur trade, the birth of the unique Métis language, Michif, was a consequence of using both French and Indian languages. The need to travel inspired mobile art forms: song, dance, fiddle music, decorative clothing. The periodic return to fixed trading bases, the seasonal nature of the buffalo hunt and discriminatory attitudes all shaped settlement patterns. For Métis people of the east, seasonal hunting and gathering expeditions combined with influences that stemmed from a fishing economy. In all cases, the cultures developed organically, their characteristics determined by the social and economic circumstances that germinated and nourished them.

Those shaping circumstances have changed over time, as have aspects of collective Métis cultures and individual lifestyles. The changes have been minimal for some and dramatic for others. A few have experienced a complete loss of Métis identity; others have rediscovered ancestral Métis connections. Some maintain their forebears' day-to-day participation in hunting, fishing, trapping and gathering while others engage in these traditional pursuits only on a recreational basis. Métis cultures themselves have changed: barbecues are often used instead of campfires, and jigs are sometimes played on electric keyboards. Despite the evolving nature of resource use and the diversity of modern Métis

lifestyles, the celebration of original Métis cultures remain central to all who retain their Métis identity.

Individual identity is a matter of personal choice. One can identify with any people or nation, whether or not there is an objective reason for doing so and whether or not that people or nation agrees. For acceptance of that identification, however, it is necessary to win the approval of the people or nation with which one identifies. It would be inappropriate for anyone outside that nation to intervene. Therefore, when a government wishes to know a nation's membership for the purpose of engaging in nation-to-nation negotiations, it can legitimately consider only two criteria: self-identification and acceptance by the nation.

This does not mean that other governments can never legitimately concern themselves with who is or is not Métis. Suppose that the government of Canada agreed through negotiation to provide a benefit to Métis residents of a particular area. In the absence of an agreed definition of Métis, it would be necessary for the government to decide who did and did not qualify for the benefit. Or if, pending the negotiated settlement of a Métis issue, it were agreed that a government should administer a program related to the issue, the program's beneficiaries would necessarily have to be identified. It might also be appropriate for a government to identify the membership of an Aboriginal nation in order to assess the ramifications of a decision recognizing its status as a nation. Beyond such purposes, the composition of an Aboriginal nation should be the business of no one other than that nation and its members.

Recommendation

The Commission recommends that

4.5.2

Every person who

- (a) identifies himself or herself as Métis and
- (b) is accepted as such by the nation of Métis people with which that person wishes to be associated, on the basis of criteria and procedures determined by that nation be recognized as a member of that nation for purposes of nation-to-nation negotiations and as Métis for that purpose.

1.3 Métis Cultures and Communities

The mandate of the Commission extends to all Aboriginal peoples, however they may be designated by themselves or by others. Where a particular group of Aboriginal persons has chosen a name for itself, we feel obliged to respect that choice; any other response on our part would be unacceptably intrusive. For that reason, we use the term Métis in reference to the Labradorians and others beyond the Métis Nation homeland who so

describe themselves. On the other hand, in deference to the legitimate concerns of Métis Nation members who trace their roots to the western fur trade, we have tried to differentiate these two Métis worlds as much as possible by referring to one as the Métis Nation and to the other by terms such as other Métis, eastern Métis, Labrador Métis and so on. This chapter is organized along those lines, with the introductory material followed by discussions of the Métis Nation and other Métis.

There are many distinctive Métis communities across Canada, and more than one Métis culture as well. Geographically, the homeland of the Métis Nation embraces the three prairie provinces as well as parts of Ontario, the Northwest Territories, British Columbia, and the north central United States. Another Métis people, at least as old as the Métis Nation, is located in Labrador and has maritime traditions. Although the origins of that population are venerable, the application of the term Métis to it is relatively recent. Other Métis communities are found in Quebec, Ontario, Nova Scotia, New Brunswick, British Columbia and the North. Some have significant links to the western Métis Nation while others do not. A comparison of the size and distribution of these other Métis populations with those of the Métis Nation and the Métis of Labrador is shown in Table 5.1.

TABLE 5.1
Comparison of Size and Distribution of Métis Populations

	Origin	Identity
Newfoundland and Labrador	1,605	2,075
Prince Edward Island	185	—
Nova Scotia	1,590	225
New Brunswick	975	100*
Quebec	19,480	8,690
Ontario	26,905	12,055
Manitoba	45,575	33,230
Saskatchewan	32,840	26,995
Alberta	56,310	38,755
British Columbia	22,295	9,030
Yukon	565	190*
Northwest Territories	4,310	3,895
Canada	212,650	135,265

Notes:

These figures are unadjusted for undercoverage in the census. Because the Commission has not made any adjustment to the Métis population count in the 1991 census to take account of undercoverage, the unadjusted population counts of Métis in the Aboriginal Peoples Survey are used to facilitate the comparisons made in this table. The adjusted Métis count, used elsewhere in this chapter, is 139,400. — Figures suppressed because of small size; their coefficient of variation is higher than 33.3%.

* Figures to be used with caution; their coefficient of variation is between 16.7% and 33.3%.

Source: Statistics Canada, Age and Sex: Aboriginal Data, catalogue no. 94-327 (March 1993); Census Table 1, Aboriginal Peoples Survey, Table 1.

The Métis population of Newfoundland is located mostly in Labrador. Identifying the Métis Nation population is more difficult. Some think that only the figures for the prairie provinces should be included, while others would include some or all of the figures for Ontario, British Columbia and the northern territories. This variation in approach stems from fundamental differences in interpretation of the term Métis and the make-up of the Métis Nation. Unadjusted 1991 Aboriginal peoples survey (APS) data show that the Métis Nation is without doubt larger than the Labrador group, no matter how one counts them: 98,980 if only prairie residents are counted; 111,565 if half the Ontario, British Columbia and territorial figures are added; 124,150 if all Ontario, British Columbia and territorial Métis are included.² While the figures represent the number of persons who identified themselves as Métis in the APS, the number reporting Métis ancestry in the 1991 census was considerably higher.

These statistics can be strongly influenced by circumstances, as shown dramatically in the Newfoundland figures, which seem at first glance to show an impossible situation: more persons reported Métis identity than have Métis ancestral origins. The explanation for the discrepancy appears to be that, when asked to specify their origins, some Labrador Métis chose to answer the origin question on the census form in terms of their early Inuit or Innu ancestry, while they identified themselves as Métis in the APS. Many Labradorians probably reported Métis identity in the APS

because of the high-profile organizational and advocacy activities of the Labrador Métis leadership at the time the survey was being conducted. Advocacy activities in other provinces and territories could have a similar impact on future statistics for those areas.

Identifying Métis persons

The appropriateness of applying the term Métis to everyone covered by Table 5.1 is the subject of much dispute. Many members of the Métis Nation believe that, because the term has been associated most often with them and their ancestors, they have a right to its exclusive use. They believe other Canadians of mixed Aboriginal/non-Aboriginal ancestry and culture should be described in some other way. Persons in the latter category point out that in terms of dictionary definitions, 'métis' simply means 'mixed'. They point to early historical references to the term on maps of areas outside Métis Nation territory and contend there is evidence that when the term was inserted in the constitution in 1982, it was intended to apply to all Métis people. The controversy has legal, social, cultural and political dimensions. The legal aspects are discussed later in the chapter.³

Socially and culturally speaking, if people consider themselves Métis and those with whom they associate agree, it does not really matter what others think. Politically speaking, if those in the disputed categories can obtain places at the relevant bargaining tables or participate in political processes, the validity of their legal claim as distinct Métis peoples will be beside the point. If, for example, the Métis National Council and the Metis Nation of Ontario agree that all Ontario Métis constitute part of the Métis Nation, the governments of Canada and Ontario do not have to agree. Similarly, if the federal government chooses to offer its Métis-specific programs to the Labrador Métis, it

does not matter if the political leaders of the Métis Nation concur in the decision. Assuming that fair and justiciable qualifying criteria exist, if one order of government makes a decision that could have significant impact on the other (for example, by expanding the number of beneficiaries under a program), the other order is free to accept or reject the decision for its own reasons.

Apart from the laws relating to trade names, corporate names and fraud, there is nothing to prevent any group of people from calling themselves whatever they wish. While it is true that the term Métis has been associated with the Métis Nation of the west much more commonly than with any other group, the Labrador Métis and others who now consider themselves Métis within the meaning of section 35 of the Constitution Act, 1982 are entitled to refer to themselves as Métis (although not as members of the Métis Nation) if they choose.

Recognition of nationhood

There are sharp differences of opinion about the nation status of communities other than the Métis Nation. Although it is not easy to list definitively all the essential attributes of peoplehood or nationhood, they certainly include social cohesiveness, collective self-consciousness, cultural distinctiveness and effective political organization. While many are convinced that some of the other Métis collectivities already possess these essential attributes of nationhood, others doubt that stage has been reached by any community outside the Métis Nation. The Commission is not in a position to resolve that controversy.

Recognition of nationhood is an essentially political function about which we commented at length in Volume 2, Chapter 3. Having recommended a general recognition policy for application to all Aboriginal nations, it would be inappropriate for us to attempt here to settle controversial questions relating to the status of particular groups within the Métis population of Canada. That said, we do intend to offer a few observations on the subject of Métis nationhood for those whose task it will be to implement the recognition policy.

The Métis Nation and the Labrador Métis

Application of the recognition policy is not likely to cause any problems for the Métis Nation. Its long-standing existence as a people and as a nation seems to us indisputable. It is widely acknowledged that the Métis Nation is culturally distinct and that it has demonstrated social cohesiveness as well as political determination and effectiveness throughout its eventful history. The Métis Nation's political representatives are completely appropriate participants in intergovernmental negotiations concerning Métis issues. The Métis National Council, representing a large sector of the Métis Nation, proved its competence in that role during the deliberations that produced the draft Métis Nation Accord as part of the Charlottetown Accord deliberations. The Native Council of Canada (NCC) had previously negotiated the inclusion of Métis in section 35 of the Constitution Act, 1982. We believe that the Métis Nation is a suitable unit for the exercise of Aboriginal self-government. We say nothing about the question concerning

which communities constitute the Métis Nation, of course; that is to be determined by the nation and each community.

Although we have less information about the Métis people of Labrador, we believe that they are probably also in a position to exercise the rights and powers of nationhood. Certainly, the Labrador Métis community exhibits the historical rootedness, social cohesiveness and cultural self-consciousness that are essential to nationhood, and they are developing a political organization that will allow them to engage in effective nation-to-nation negotiation and to exercise self-government. While the way of life of the Labrador Métis is very similar to that of Labrador Inuit and Innu, the Métis culture is sufficiently distinct to mark them as a unique people, and in our view they are likely to be accorded nation status under the recognition policy we propose.

Other Métis communities

The Commission has not formed an opinion about the nationhood of other Métis communities. It is possible that some communities could qualify under the recognition policy and that those that cannot do so now will be able to do so at a later time as their cultural and political situations evolve.

The issue of nationhood must be approached with caution. We know much more about the Métis Nation and the Labrador Métis than we do about the other Métis groups. That is why we have recommended the application of a general recognition policy when the validity of any Aboriginal nation is called into question.

In the meantime, it may be possible for effective negotiations on some Aboriginal matters to be conducted by or on behalf of Métis communities that are in the process of emerging as nations. Few would doubt the legitimacy of NCC's efforts to have Métis people included in the Constitution Act, 1982; yet few would contend that those affected by the provision, apart from the Métis Nation and the Labrador Métis, possessed full nationhood at the time. That was a matter about which Métis opinion across Canada was all but unanimous, so NCC's representativeness on the question was indisputable. The legitimacy of NCC's role in the negotiations would have been very different if the subjects negotiated had been more controversial. For example, if NCC had attempted to relinquish Aboriginal rights on behalf of other Métis, or to create governing bodies for them, its attempts would surely not have been valid.

It may be that, for the purpose of negotiations concerning Métis collectivities that are emerging as nations, the only relevant question is whether the negotiating organization has a mandate to negotiate on behalf of those it purports to represent. In other words, rather than asking whether the organization in question can properly act in a governmental capacity, one would ask only whether it has a political mandate to negotiate on a particular question. In our view, satisfactory progress in the negotiation of some Métis issues may require this pragmatic approach rather than an all-or-nothing focus on nationhood.

Admittedly, in the absence of full nationhood, it would be difficult to determine which organizations governments should recognize for purposes of particular negotiations. The guidelines for such decisions would likely be the nature of the issue to be negotiated, the size, stability and significance of the organization's constituency, the group's access to satisfactory representation by an existing Aboriginal nation, the attitudes of other Aboriginal participants in the negotiations, and common sense.

In some cases, the decision would be obvious. Suppose that federal and provincial governments proposed to discuss a constitutional amendment or changes in legislation or policy that could affect the rights of all Canadian Métis but that the representatives of the Métis Nation and the Labrador Métis had no mandate to speak for anyone beyond the geographic boundaries of their respective homelands. It would then be imperative to invite to the bargaining table representatives of other Métis communities.

A more problematic situation would arise where a large group of self-identified Métis people disputed its exclusion from membership in a nation or demanded separate participation in negotiations. Generally speaking, such demands should be ignored by external governments if the citizenship process of the nation includes fair criteria and an effective appeal procedure, because matters of membership and representation within a nation should be resolved by the nation itself. If, however, a major component of the Métis population (for example, most of the Métis people of one province or a majority of the female population) renounced or was denied association with a nation or its political structures, or sought separate participation in negotiations, a more challenging situation would present itself, calling for sensitivity to both the position of the excluded minority and the autonomy of the nation.

1.4 Protection under Section 35

Another identity issue that divides Métis people to some extent relates to their legal status under section 35 of the Constitution Act, 1982. That historic amendment to the constitution of Canada recognized and affirmed existing rights of the "Aboriginal peoples of Canada" and certified that the Métis are among those peoples. What it did not make clear was who Métis people are for purposes of section 35. Some believe that the term Métis in section 35 was intended to cover only the Métis Nation. Others interpret it to mean that it applies to all who consider themselves Métis.⁴

The legal definition of Métis cannot be resolved without a Supreme Court of Canada ruling. Whatever the Supreme Court eventually decides, though, the practical legal consequences are likely to be the same, because section 35 unquestionably covers all "Aboriginal" peoples. That "Aboriginal" is not exhausted by the phrase "Indian, Inuit and Métis" is made clear by the word "includes" in section 35(2). Therefore, even if Aboriginal peoples outside the Indian, Inuit and Métis Nation categories are not "Métis" for purposes of section 35, they nevertheless have the full protection of that section since they are indisputably "Aboriginal". That logic has not been disputed by the government of Canada or of a province, and unless it was, we would see no need for further amendment to section 35, as some eastern Métis have proposed.

1.5 Coverage under Section 91(24)

A significant identity dispute between Métis people and the federal government centres on the meaning of section 91(24) of the Constitution Act, 1867, which gives Parliament exclusive jurisdiction with respect to "Indians, and Lands reserved for the Indians". Does the word 'Indians' embrace Métis people? The government of Canada has consistently said it does not and has refused to acknowledge its jurisdiction over Métis matters (although it has initiated certain programs for the benefit of Métis in recent years). Métis people have said that section 91(24) applies to them and have accused the federal government of discrimination in excluding them from social benefit programs available to other Aboriginal peoples. This question also has not been decided by the courts.

We are convinced that all Métis people, whether or not they are members of full-fledged Aboriginal nations, are covered by section 91(24). There are several reasons for that conclusion. The first is that at the time of Confederation, use of the term 'Indian' extended to the Métis (or 'halfbreeds' as they were called then). This can be seen, for example, in section 31 of the Manitoba Act, 1870 and in section 125(e) of the Dominion Lands Act 1879, both of which made provision for land grants to "halfbreed" persons ("Métis" in the French versions) or in connection with the "extinguishment of Indian title" [emphasis added]. The Supreme Court of Canada held as early as 1939 that Inuit ("Eskimos") are included within the scope of section 91(24) because the section was intended to refer to "all the aborigines of the territory subsequently included in the Dominion",⁵ and there is every reason to apply the same reasoning to Métis people. Most academic opinion supports the view that Métis are Indians under section 91(24),⁶ and a recent commission of inquiry in Manitoba reached the same conclusion.⁷ We support this view.

In light of the consistent refusal of the government of Canada to concur with that conclusion, however, it might be advisable to remove all possible doubt by an amendment to section 91(24), as the government of Canada agreed to do in the Charlottetown Accord. Sections 54 and 55 of the accord contained proposals for such an amendment:

54. Section 91(24).

For greater certainty, a new provision should be added to the Constitution Act, 1867, to ensure that Section 91(24) applies to all Aboriginal peoples. The new provision would not result in a reduction of existing expenditures on Indians and Inuit or alter the fiduciary and treaty obligations of the federal government for Aboriginal peoples. This would be reflected in a political accord...

55. Métis in Alberta/Section 91(24).

The Constitution should be amended to safeguard the legislative authority of the Government of Alberta for Métis and Métis Settlements lands.

To eliminate doubt about the inclusion of Métis people in section 91(24) as it is now worded, the governments of Canada and the provinces should, after consulting with appropriate representatives of Métis and other affected Aboriginal peoples, formulate an amendment to section 91(24) that will ensure their inclusion. Failing that, the government of Canada should refer the meaning of the present section to the Supreme Court of Canada in a constitutional reference.

Recommendation

The Commission recommends that

4.5.3

The government of Canada either

(a) acknowledge that section 91(24) of the Constitution Act, 1867 applies to Métis people and base its legislation, policies and programs on that recognition; or

(b) collaborate with appropriate provincial governments and with Métis representatives in the formulation and enactment of a constitutional amendment specifying that section 91(24) applies to Métis people.

If it is unwilling to take either of these steps, the government of Canada make a constitutional reference to the Supreme Court of Canada, asking that court to decide whether section 91(24) of the Constitution Act, 1867 applies to Métis people.

1.6 Economic and Social Profile

The 1991 census and the Aboriginal peoples survey (APS) that followed it painted a gloomy picture of Métis economic circumstances. Overall, Métis are a little better off than Aboriginal people generally but much worse off than most non-Aboriginal Canadians. Their health, safety, longevity and cultural stability are all threatened by their economic situation.

It will not come as a surprise that unemployment leads the economic difficulties of Métis people. Although the unemployment rate for Métis individuals (21.8 per cent) is lower than for Aboriginal persons (30.8 per cent), it is more than double the Canadian average (10.2 per cent) (see Table 5.2).

TABLE 5.2
Selected Labour Force Activity Indicators, Population Age 15+, 1991

	North American Indian		Métis	Inuit	Total Aboriginal	Total Pop.
	On- reserve	Non- reserve				
	%	%	%	%	%	%

Employed	31.4	46.5	49.4	42.9	43.0	61.1
Unemployed	14.0	14.2	13.7	14.3	14.0	6.9
Not in labour force	54.0	39.0	36.6	42.4	42.6	32.1
Participation rate	45.3	60.7	63.1	57.2	57.0	67.9
Unemployment rate	30.8	23.4	21.7	25.0	24.6	10.2

Source: Statistics Canada, 1991 Aboriginal Peoples Survey, catalogue no. 89-534; 1991 Census, catalogue no. 93-324.

When annual income levels are examined (see Table 5.3) an equally dismal picture emerges: Métis people are represented more heavily than other Canadians in the income categories below \$20,000 per annum; in higher income categories, they fall sharply behind other Canadians. In annual incomes of \$40,000 and over, for example, we find 15.4 per cent of Canadians but only 6.5 per cent of Métis people. Off-reserve Indians are represented in almost the same relationship as Métis people in the categories above \$20,000.

TABLE 5.3
Income Distribution, Population Age 15+, 1991

Total Income	North American Indian		Métis	Inuit	Total Aboriginal	Total Pop.
	On-reserve	Non-reserve				
	%	%	%	%	%	%
Under \$2000	28.7	24.0	22.9	27.7	25.2	14.4
\$2,000 to \$9,999	35.5	26.4	26.4	29.7	30.0	19.6
\$10,000 to \$19,999	22.2	22.7	24.1	19.8	22.8	22.3
\$20,000 to \$39,999	11.9	20.3	20.1	16.0	17.8	28.2
\$40,000 and over	1.7	6.6	6.5	6.8	5.3	15.4

Source: Statistics Canada, 1991 Aboriginal Peoples Survey, catalogue no. 89-534; 1991 Census, catalogue no. 93-331.

Economic stress breeds social stress, and the economic hardship of Métis people relative to other Canadians is reflected in a correspondingly higher incidence of social problems. When the APS asked Métis respondents in 1991 to indicate which of several social issues were problems in their communities (see Table 5.4), the problems they cited most frequently were unemployment (66.9 per cent), alcohol abuse (58.8 per cent), drug abuse (45.2 per cent) and family violence (39 per cent). While Métis statistics for these perceived problems are marginally lower than for the general Aboriginal population, they are consistently higher by a greater margin than those reported by Indian people living off-reserve.

TABLE 5.4
Selected Social Problems Reported by Aboriginal Identity Population, 1991

	Total Aboriginal	North American Indian		Métis	Inuit
		On- reserve	Non- reserve		
	%	%	%	%	%
Unemployment	67.1	78.3	60.2	66.9	74.5
Family violence	39.2	44.1	36.4	39.0	43.5
Suicide	25.4	34.4	20.4	21.6	41.2
Sexual abuse	24.5	29.0	21.8	23.0	35.1
Rape	15.0	16.4	13.3	14.6	25.0
Alcohol abuse	61.1	73.2	56.0	58.8	57.6
Drug abuse	47.9	58.8	43.2	45.2	49.0

Note: Percentage of respondents reporting each phenomenon as a problem in their community.

Source: Statistics Canada, 1991 Aboriginal Peoples Survey, catalogue no. 89-533.

TABLE 5.5
Percentage of Aboriginal Identity Population Age 15+ that Reported Receiving Social Assistance, 1991

Duration	North American Indian		Métis	Inuit	Total Aboriginal
	On- reserve	Non- reserve			
	%	%	%	%	%
1 to 6 months	10.6	7.8	7.5	8.2	8.5
7 to 12 months	28.1	15.8	13.6	14.1	18.4
Total	41.5	24.8	22.1	23.5	28.6

Source: Statistics Canada, 1991 Aboriginal Peoples Survey, catalogue no. 89-534.

Among the few bright notes in Métis economic statistics are two indicators of the entrepreneurial spirit noted by the Cree when they called Métis people 'the independent ones'. The proportion of Métis people reporting receipt of social assistance in 1991 (22.1 per cent), although unacceptably high, was lower than for all Aboriginal persons (28.6 per cent) (see Table 5.5). In statistics for business ownership, the rate of Métis ownership (6.4 per cent) is well ahead of that for all Aboriginal groups (4.8 per cent) (see Table 5.6).

TABLE 5.6
Business Ownership, Aboriginal Identity and Canadian Populations Age 15+, 1991

	North American Indian		Métis	Inuit	Total Aboriginal	Total Pop.
	On- reserve	Non- reserve				
	%	%	%	%	%	%
Have previously owned	5.3	9.2	12.1	4.3	8.4	
Currently own	3.3	5.2	6.4	2.6	4.8	9.9

Are considering owning	7.3	9.6	8.9	10.1	8.8
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Source: Statistics Canada, 1991 Aboriginal Peoples Survey, catalogue no. 89-534; 1991 Census, catalogue no. 93-326.

Education holds the key to harnessing the independent Métis spirit to improve their future social and economic circumstances. Although Métis people have slightly more formal education on average than either Inuit or Indian people living on-reserve, their educational attainment is lower than that of Indian people living off-reserve and markedly below that of Canadians generally (see Table 5.7). Of the Métis population, 19.1 per cent have fewer than eight years of schooling, compared to only 11.8 per cent of Canadians generally. While 12.2 per cent of Canadians hold university degrees, only 3.3 per cent of Métis persons do. In all certificate or degree categories, from high school to university, as well as in university attendance, Métis people are significantly less well represented than Indian people living off-reserve.

TABLE 5.7

Highest Level of Education, Aboriginal Identity and Canadian Populations Age 15-64 No Longer Attending School, 1991

	North American Indian					
	On- reserve	Non- reserve	Métis	Inuit	Total Aboriginal	Total Pop.
	%	%	%	%	%	%
Less than grade 9	39.6	16.0	19.1	46.6	25.4	11.8
Secondary, no certificate	29.9	33.9	34.2	20.1	32.1	22.8
Secondary certificate	8.3	15.5	14.8	8.7	12.8	21.2
Non-university, no certificate	6.9	8.3	8.5	8.6	8.0	6.2
Non-university certificate	10.6	16.2	15.3	13.2	14.1	17.9
University, no degree	3.4	6.1	4.4	1.8	4.7	7.9
University degree	0.9	3.6	3.3	—	2.6	12.2

Note: — Figures suppressed because of small size; their coefficient of variation is higher than 33.3%.

Source: Statistics Canada, 1991 Aboriginal Peoples Survey and 1991 Census, custom tabulations.

TABLE 5.8

Aboriginal Language Use, Aboriginal Identity Population Age 15+ 1991

	Total Aboriginal	Total North American Indian			
		On- reserve	Non- reserve	Métis	Inuit
	%	%	%	%	%
No longer speak	6.1	5.3	7.1	5.8	2.9
Would like to learn	88.2	88.4	92.5	83.0	88.0
Never spoke	54.9	28.0	65.3	73.7	21.9

Would like to learn	74.9	73.6	86.8	72.5	73.6
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Source: Statistics Canada, 1991 Aboriginal Peoples Survey, catalogue no. 89-533.

A distressing pattern of cultural loss also emerges from the statistics on Métis use of Aboriginal languages and Métis participation in traditional Aboriginal activities. A much higher percentage of Métis adults than those of other Aboriginal groups reported having ceased to speak (5.8 per cent) or never having spoken (73.7 per cent) an Aboriginal language (see Table 5.8). However, 72.5 per cent of those people expressed a desire to learn an Aboriginal language (this contrasts with nearly 87 per cent of non-reserve North American Indians). The percentage of Métis adults who reported listening to or watching selected media such as radio, television, recordings or video tapes in an Aboriginal language was lower than in every other Aboriginal group (except for North American Indians residing off-reserve; see Table 5.9).

TABLE 5.9
Aboriginal Identity Population Age 15+ Who Listen to or Watch Selected Media in an Aboriginal Language, 1991

	Radio	Recordings	Television	Videos
	%	%	%	%
Total Aboriginal	25.3	19.1	33.9	15.1
North American Indian:				
On-reserve	40.0	28.9	37.9	22.1
Non-reserve	14.0	13.9	27.4	11.3
Métis	16.6	9.8	31.2	9.4
Inuit	78.0	49.3	81.0	34.1

Source: Statistics Canada, 1991 Aboriginal Peoples Survey, custom tabulations.

Other aspects of Métis culture are also seriously at risk. Métis participation in traditional Aboriginal activities, especially in the areas of the Métis Nation, is dramatically lower than for other Aboriginal groups (see Table 5.10). The Métis participation rate overall is 39.8 per cent for those 15 and over. While significant numbers of Métis continue to follow traditional lifestyles, those numbers will probably diminish over time. For most people, their Métis heritage is a source of enrichment that does not demand that they pattern their thoroughly modern lives on the past. When we speak of participation in traditional Aboriginal activities, we refer, for the most part, to activities that are cultural, spiritual, ceremonial or recreational in nature. While they may not affect the bread-winning capabilities of most, their contribution to the quality of modern Métis life is of cardinal importance. (See the discussion of education, culture and language later in the chapter.)

TABLE 5.10
Participation in Traditional Activities, Aboriginal Population Age 15+, 1991

	North American Indian									
	On- Reserve		Non- Reserve		Métis		Inuit		Total	
	#	%	#	%	#	%	#	%	#	%
Newfoundland & Labrador	170	49.3	750	41.8	985	71.9	1,790	62.5	3,570	57.4
Prince Edward Island	90	66.7	—	—	—	—	—	—	145	40.3
Nova Scotia	1,970	56.1	820	41.4	—	—	—	—	2,825	50
New Brunswick	805	45.4	515	38	—	—	—	—	1,350	41.9
Quebec	10,120	75.2	5,750	38.7	2,140	34.4	3,310	81.6	21,030	55.4
Ontario	8,910	64.9	20,130	37.8	2,530	33.2	265	64.6	31,660	42.6
Manitoba	11,280	55.9	8,415	42.5	7,660	35.7	—	—	27,220	44.3
Saskatchewan	10,470	64.1	9,590	54.9	6,765	43.1	—	—	26,705	54.2
Alberta	8,110	67	11,625	44.3	9,770	42.4	260	66.7	29,365	48
British Columbia	14,285	71	18,995	46.8	1,850	31.2	—	—	34,560	52.6
Yukon	195	90.7	1,890	70.5	75	—	—	—	2,175	71.4
Northwest Territories	115	88.5	4,845	79.6	1,635	65.3	9,680	80	16,215	78.2
Canada	66,510	65.2	83,390	44.8	33,460	39.8	15,410	74.1	196,830	50.6

Note:

— Figures suppressed because of small size.

Source: Statistics Canada: 1991 Aboriginal Peoples Survey, catalogue no. 89-533.

Ways to improve the situation of Métis cultural loss are suggested by the reasons respondents gave for not taking part in traditional Aboriginal activities (see Table 5.11). The two most frequently cited reasons are a lack of opportunity to participate (availability) and a lack of traditional knowledge. If Métis people are to participate more fully in Aboriginal culture, the assistance they need includes greater opportunities to participate and the provision of better information about what is available.

TABLE 5.11
Reasons for Not Participating in Traditional Activities, Aboriginal Identity Population 15+, 1991

	North American Indian	Métis	Inuit
	%	%	%
Availability	35.9	32.6	33.8
No time	15.9	16.8	18.3
Lack of traditional knowledge	15.3	19.7	9.2*

Legal problems	0.9	1.0*	—
Cost	1.5	1.1*	—
Health	3.8	4.2	8.9*
Personal reasons	7.1	7.1	9.6*
No desire	4.2	5.1	4.0*
Lack of information	9.4	11.1	—
Don't know/refused	12.4	7.9	16.1
Other	2.5	1.8	—

Note: * Figures to be used with caution; coefficient of variation is between 16.7% and 33.3%. — Figures suppressed because of small size; coefficient of variation is higher than 33.3%.

Source: Statistics Canada, 1991 Aboriginal Peoples Survey, custom tabulations.

A final demographic fact is that fully 65 per cent of Métis people live in urban areas, compared to 34 per cent of the registered North American Indian population. Only non-registered Indians (69 per cent) are more heavily represented in cities. Table 5.12 indicates that Winnipeg and Edmonton are home to much larger Métis populations than other cities in Canada.

TABLE 5.12
Métis Identity Population by Age, Selected Metropolitan Areas, 1991

	0- 14 years		15- 24 years		25- 34 years		55+ years		Total	
	#	%	#	%	#	%	#	%	#	
Montreal	—	—	—	—	785*	47	—	—	1,675	
Ottawa-Hull	395*	28	295*	21	650	46	—	—	1,425	
Toronto	—	—	—	—	—	—	—	—	1,430*	
Winnipeg	5,315	36	3,330	22	5,475	37	870*	6	14,990	
Regina	1,490	40	695*	19	1,295	35	235*	6	3,720	
Saskatoon	2,500	45	1,025	18	1,865	33	—	—	5,585	
Calgary	1,435	34	880*	21	1,755	41	—	—	4,285	
Edmonton	5,250	39	2,545	19	5,045	37	675*	5	13,515	
Vancouver	1,180	29	810*	20	1,765	43	315*	8	4,070	

Notes: Métis population is not adjusted for undercoverage in the 1991 Aboriginal Peoples Survey. — Figures suppressed because of small size; their coefficient of variation is higher than 33.3%.

* Figures to be used with caution; their coefficient of variation is between 16.7% and 33.3%.

Source: Statistics Canada, Aboriginal Data: Age and Sex, catalogue no. 94-327 (1993).

1.7 Métis Rights

The often inadequate consideration of Métis rights and the present status of these rights are addressed at length in Appendices 5A, 5B and 5C to this chapter and briefly later in the chapter. However, there are two issues we wish to highlight now.

We believe that Métis, as Aboriginal people, are entitled to exercise Aboriginal rights. Section 35(2) of the Constitution Act, 1982 lists Métis among Canada's Aboriginal peoples, making it clear that they have the same autonomous entitlement to exercise Aboriginal and treaty rights as other Aboriginal peoples.

Our other preliminary observation about Métis rights is that they are both legal and moral/political in nature. In our later discussion of Métis rights, it will be seen that for historical reasons, legal entitlements vary from one Métis group to another. It will also be seen that most if not all Métis legal claims are open to debate, although the grounds for disputing them differ with the situation. Common to most situations, however, is an indisputable moral claim to restitution. That moral claim is based on inexcusable governmental handling of Métis land rights over the years, as well as continuing discrimination and neglect experienced at the hands of the government of Canada by Métis people.

The experience of discrimination is common to all Métis people. It has contributed largely to their present problem, and it strengthens both their legal and their moral claims to entitlements. This problem is not unique to Métis, of course; every Aboriginal person is familiar with discrimination. Their situation does, however, have some unique characteristics.⁸ Although most Métis people are or have been involved in both the Aboriginal and non-Aboriginal worlds, many have never felt fully accepted by either world. That is one reason why their forebears established separate Métis settlements. While prejudice has affected many aspects of their lives, the worst and least excusable form it has taken has been discriminatory governmental policies, especially on the part of the government of Canada.

At the core of official federal government discrimination has been the government's consistent refusal to acknowledge that Métis matters fall within its jurisdiction under section 91(24) of the constitution. While that section does not refer explicitly to Métis people, there is strong legal reason to believe that section 91(24) applies to all Aboriginal persons. The government of Canada's refusal to accept that argument has had serious discriminatory consequences, both personal and collective, for Canadian Métis.

Except in the northern territories, Métis people often have been deprived of post-secondary educational assistance and benefits ranging from health care to economic development and cultural support programs available to other Aboriginal peoples. On one occasion, the federal government's refusal to deal with Métis concerns tied the hands of a provincial government trying to help: as discussed later in this chapter, when the Alberta government requested federal co-operation to enact a constitutional amendment to entrench the Alberta Metis Settlements, the government of Canada refused to help.

Of the many measures needed to ensure that Métis people receive fair treatment in the future, one of the most fundamental is the elimination of discrimination in all forms. The refusal by the government of Canada to treat Métis as full-fledged Aboriginal people covered by section 91(24) of the constitution is the most basic current form of governmental discrimination. Until that discriminatory practice has been changed, no other remedial measures can be as effective as they should be.

2. The Métis Nation

2.1 The History

Ancestors of today's Métis Nation people established communities in parts of what is called the Métis Nation homeland in north central North America. The better-known settlements were at Sault Ste. Marie in present-day Ontario, at Red River and White Horse Plains in present-day Manitoba, at Pembina in present-day North Dakota, at Batoche in present-day Saskatchewan, and at St. Albert in present-day Alberta.⁹

The culture of those early forebears derived from the lifestyles of the Aboriginal and non-Aboriginal peoples from whom the modern Métis trace their beginnings, yet the culture they created was no cut-and-paste affair. The product of the Aboriginal-European synthesis was more than the sum of its elements; it was an entirely distinct culture.

A fine example of that cultural distinctiveness is Michif, a unique language that blends components of French and Aboriginal languages in a novel way. A recent study of the language by a Dutch linguist says this about Cree-French Michif:

It is a mixed language drawing its nouns from a European language and its verbs from an Amerindian language...No such mixture of two languages has been reported from any [other] part of the world....Michif is unusual if not unique in several respects among the languages of the world. It poses challenges for all theories of language and language contact....Michif challenges all theoretical models of language. It is a language with two completely different components with separate sound systems, morphological endings and syntactic rules....The impetus for its emergence was the fact that the bilingual Métis were no longer accepted as Indians or French and they formulated their own ethnic identity, which was mixed and where a mixed 'language of our own' was considered part of their ethnicity.¹⁰

The right to pursue a distinct Métis way of life was not won easily. When the Hudson's Bay Company sponsored agricultural settlement at Red River, the intrusive policies of the company's governor of Assiniboia in 1815 and 1816 threatened the fur trade activities of the rival Northwest Company and its Métis employees and associates. The violent confrontations that resulted culminated in the bloody Battle of Seven Oaks, in which a party of Métis and First Nations warriors headed by Métis leader Cuthbert Grant defeated an armed force led by Governor Semple. Twenty-one members of the company's force, including the governor, were killed in that clash. One Métis person died. The victory was

celebrated in song by Pierre Falcon, the irreverent nineteenth century Métis bard (see box).

The Battle of Seven Oaks

Would you like to hear me sing
Of a true and recent thing? It was June nineteen, the
band of Bois-Brûlés Arrived that day,
Oh the brave warriors they!

We took three foreigners prisoners when
We came to the place called Frog, Frog
Plain. They were men who'd come from Orkney,
Who'd come, you see, To rob our
country.

Well, we were just about to unhorse
When we heard two of us give, give voice. Two
of our men cried, "Hey! Look back, look back
The Anglo-Sack
Coming for to attack"....

Now we like honourable men did act,
Sent an ambassador — yes, in fact! "Monsieur
Governor! Would you like to stay?"

A moment spare — There's something we'd like to say."

Governor, Governor, full of ire. "Soldiers!" he cries, "Fire! Fire." So they fire the
first and their muskets roar! They almost kill
Our ambassador!

When we went galloping, galloping by
Governor thought that he would try For to
chase and frighten us Bois-Brûlés. Catastrophe! Dead on the ground he lay.

You should have seen those Englishmen— Bois-Brûlés chasing them, chasing them.
From bluff to bluff they stumbled that day
While the Bois-Brûlés Shouted "Hurray!"

Tell, oh tell me who made up this song? Why it's our own poet, Pierre Falcon. Yes,
she was written, this song of praise, For the victory
We won this day. Yes, she was written, this song of praise— Come sing the glory Of
the Bois-Brûlés.

Source: Margaret Arnett MacLeod, comp. and ed., *Songs of Old Manitoba* (Toronto: Ryerson Press, 1959), pp. 5-9, translated by James Reaney.

In 1849, the Hudson's Bay Company again tried to restrict Métis fur trading, this time by prosecuting Métis trader Guillaume Sayer in its own court for allegedly violating its trade monopoly. A massive demonstration of Métis people in and around the Red River courthouse resulted in a decision that did not impose any penalty on Sayer. It thus conveyed a clear message that the company's trading monopoly was no longer enforceable. A Métis observer in the courthouse shouted to his confrères outside the building, "Le commerce est libre!", and history concurred.¹¹

One of the principal organizers of the Métis demonstration at the Sayer trial was Louis Riel, Sr., born at Ile-a-la-Crosse and prominent at Red River. His son, Louis David Riel, would later come to national and international attention as the leader of Métis resistance that would affect Canadian history in fundamental ways.

Misfortunes of an Unlucky 'King'

Now where in all the country
Could e'er be found again,
A tale as sad as this one
Of McDougall and his men?

Now as I sing, draw near,
If this, my song, you'd hear.

He journeyed to our region—
He thought it his estate;
The good man there would govern
Like an Eastern potentate;
This land for him was free,
By Cartier's decree.

From Canada he started;
His heart with hope did swell;
With confidence he stated,
"Out there we'll all live well,
With joy and rapture sing,
At last I am a king".

This minister so faithful
Was far from finding out,
That facts as he foretold them
Would never come about;
Delusions he would know—
Illusions turned to woe!

His kingdom lies before him,
He starts to enter it;
A man cries out to stop there—
"This thing we'll not permit;
My friend, you need not fear
Provided you stop here."

Astonished by the firmness
Of rebels brave and bold,
With threats he tries to conquer,

"You'll do as you are told."
His actions are in vain—
He won't have his domain....

In dreams he wears a crown still
And never knows defeat;
The only throne he has now
Has a hole cut in the seat:
And this today he owns;
He needs no other thrones.

As soon as the officials
Find out their plan fell through,
Will they turn black with laughter?
Will they know what to do?
They did not have their way,
Thanks to the Bois-Brûlés!

Source: Margaret Arnett MacLeod, comp. and ed., *Songs of Old Manitoba* (Toronto: Ryerson Press, 1959), translated by Robert L. Walters.

The first Riel Resistance began in 1869 with an ill-advised attempt by the government of Canada to open for Canadian and European immigration parts of the prairies it had purchased from the Hudson's Bay Company.¹² The government had not consulted those who already lived in the area, most of whom were First Nations and Métis people, but sent surveyors to Red River to prepare for a new system of land distribution, even before the transfer to Canada was complete. Métis people, who felt their land holdings threatened, ordered the surveyors to cease their activities and organized a common response with other residents to the incursions of the government of Canada. The newly formed provisional government, headed by Louis Riel, Jr., dispatched a delegation of Red River representatives to Ottawa to negotiate the terms of the area's entry into Canada. John Bruce was the designated president at first, with Riel as secretary, but Riel played a central role from the start and eventually was made president in name as well as fact. Local demands were embodied in a 'Bill of Rights' that the delegates carried with them. In the meantime, a party of Canadian officials, including the new governor-designate, was intercepted by an armed Métis force and ordered to stay out of the territory.

Again, the minstrel Pierre Falcon chronicled the events (now remembered by the place name La Barrière, just south of Winnipeg). He took particular delight in the turning back of governor William McDougall and his entourage. McDougall was a rather pompous fellow, and Falcon made the most of his predicament.

The negotiations in Ottawa were tough, but persistence on the part of the Red River representatives, especially Abbé Ritchot, resulted in a deal. A statute of the Parliament of Canada (the Manitoba Act) and written and verbal promises to Ritchot from the prime

minister's right-hand minister, Sir George-Étienne Cartier, met most of the demands of the Red River community:

- full provincehood rather than mere territorial status for Manitoba;
- guarantees for the French language and for Roman Catholic schools;
- protection for settled and related common lands;
- distribution of 1.4 million acres of land to Métis children "towards the extinguishment of the Indian title to the lands in the province" and (so Ritchot understood) to ensure the perpetuation of Métis communities in Manitoba; and
- amnesty for those who had participated in the resistance and formed the provisional government.

When Ritchot reported on the promises made to him at Red River, the provisional government's legislative assembly wholeheartedly endorsed the agreement.

The Manitoba Act, 1870 was enacted by the Parliament of Canada (and the next year given constitutional status by the British Parliament in the Constitution Act, 1871). Louis Riel and many Métis believed the Métis-related provisions of the Manitoba Act, supplemented by the other promises, to be the equivalent of a treaty.¹³ However, the Red River Métis were soon given indications that their 'treaty' with Canada would not be fully honoured.

The death of Thomas Scott at the hands of the provisional government resulted in Canadian troops being dispatched to Red River. The soldiers terrorized Métis residents of Red River and killed at least one, Elizéar Goulet. Louis Riel, far from being celebrated as the father of the new province, was forced to flee to exile in the United States. Riel was subsequently elected three times in succession to the Parliament of Canada, but he was not permitted to take his seat.¹⁴

Implementation of the promises made to Métis people in the Manitoba Act and accompanying agreements was grossly inadequate (see Appendix 5C). Decades-long delays were common in the distribution of land and the confirmation of existing holdings, and in the meantime much choice land was allocated to newcomers. Standards set for the confirmation of land holdings were inconsistent with the seasonal and non-agrarian occupancy patterns of many Métis. 'Title extinguishment' land grants were widely dispersed rather than being concentrated in areas contiguous to existing Métis settlements, thus frustrating Métis dreams of a cohesive homeland. Distributing Métis land entitlements as scrip created opportunities for unscrupulous land agents and even government officials to defraud Métis landholders. The activities of Robert Lang, a federal official who extorted bribes for prompt settlement of Métis claims, were known to Prime Minister Macdonald by April 1883, but Lang remained on the government payroll for a further two years and was never prosecuted.¹⁵

Although such cases of fraud and extortion by government authorities were relatively rare, it was common for officials to turn a blind eye to unfair dealings in which private operators were involved. Gilbert McMicken, the first dominion lands agent appointed by the federal government to supervise the distribution of western lands, invited his son to set up a real estate office in the same building and later traded in Métis scrip himself shortly after resigning from his post. His partner in some of those transactions was former Manitoba lieutenant-governor, Alexander Morris.¹⁶ Even the chief justice of the province, E.B. Wood, who once described the "half breed reserves" as "a curse to the country", profited personally from them.¹⁷

The government of Canada owed a fiduciary duty to the members of the Métis Nation, as to all Aboriginal people. The government was legally responsible to act in the best interests of Métis people and not to place its own interests, or those of non-Aboriginal persons, ahead of Métis interests. Its tolerance or reckless ignorance of, and occasional complicity in, the schemes by which many Métis people were effectively stripped of their Manitoba Act benefits is difficult to reconcile with that fiduciary responsibility.

Error and confusion were so widespread that both Parliament and the legislature of Manitoba enacted remedial legislation. Much of it was designed to relieve officials and others from liability for irregularities or illegal acts. More often than not, this legislation made things worse for the Métis population. One scholar has expressed the view that many of the statutes were unconstitutional.¹⁸

Even legislation that purported to be for the benefit of Métis people sometimes introduced problems. Section 31 of the Manitoba Act called for 1.4 million acres to be divided "among the children of the half-breed heads of families" [emphasis added]. The purpose of this distribution was stated to be "towards the extinguishment of the Indian Title to the lands in the Province" and "for the benefit of the families of the half-breed residents" (see Appendix 5C). The ambiguity of the wording made it unclear whether the distribution of land should be restricted to children (those who in 1870 were not yet heads of families) or should include heads of families as well. The reference "for the benefit of the families" as well as the history of the negotiations supported the broader application,¹⁹ but the government of Canada chose to exclude heads of families. Subsequently, in the face of Métis protests, Parliament enacted a statute giving Métis heads of families a right to scrip toward the extinguishment of Indian title.²⁰ However, that statute also gave equivalent benefits to long-time non-Aboriginal settlers, on the grounds that they had contributed as much to the development of the area as Métis old-timers. That Métis people and non-Aboriginal settlers were treated alike meant that the scrip given to Métis heads of families could not be construed to be for the purpose of extinguishing Indian title; it was no more than a grant in recognition of the contributions made by all old settlers. A strong legal argument can therefore be made that the Aboriginal title of Métis heads of families was never extinguished.

In fact, the Métis Nation disputes that the Aboriginal title of any Manitoba Métis person can be considered extinguished (see Appendix 5C). Of the more than 1.4 million acres of vacant Crown land distributed in compliance with the Manitoba Act and related

legislation, only a small percentage ended up in Métis hands. According to Sir John A. Macdonald, "apparently despairing of ever receiving patents for their lands, the majority of the claimants had disposed of their rights for a mere song to speculative friends of the Government...."²¹

The Métis believe, and historical events corroborate, that the bargain struck in 1870 between representatives of the government of Canada and the Red River delegation intended that the Aboriginal title to the land occupied by Manitoba Métis would be surrendered in return for land grants and other measures to preserve a Métis nation with a cohesive land base. It is clear that this did not happen. Since the government failed to live up to its part of the bargain, it is not surprising that the Manitoba Métis deny their forebears ever surrendered their Aboriginal title to land.

The despair that Macdonald recognized led to more than just selling what seemed like useless scrip for "a mere song". It led many Métis to abandon Manitoba altogether, to move westward and northward, where several Métis communities already existed, suggesting that it might still be possible to establish an autonomous Métis homeland. The flood of immigration and an epidemic of chicanery had ruled out the dream in Manitoba, but it would not be long before this dream too would be shattered.

The Manitoba Act applied only to the land in the original province of Manitoba, an area so small at the time that it was dubbed the 'postage stamp province'. It was necessary for Parliament to pass a further statute — the Dominion Lands Act — to deal with lands in the vast Northwest Territories that Canada acquired from the Hudson's Bay Company (see Appendix 5C). The first version of that act, passed in 1872, made no reference to Métis rights, although it did stipulate that land should not be disposed of for agricultural, lumbering or mining purposes until Indian title had been extinguished,²² a requirement that would be violated often in the years to come. It was not until 1879 that the act was amended to permit land grants to be made to Métis persons living in the Northwest Territories outside Manitoba in July 1870, in connection with the extinguishment of the Indian title. A further six years passed before any steps were taken to implement that provision.

The Dominion Lands Act was very different from the agreement made with the Manitoba Métis people. In the first place, it was not an agreement at all, since the Métis were never consulted about it. Nor did it have the constitutional authority given to the Manitoba Act by the Constitution Act, 1871. In any case, although it recognized the existence of Indian title, it granted no direct rights but rather empowered the government of Canada, in its absolute discretion, to make extinguishment land grants, unspecified as to size, "to such persons, to such extent and on such terms and conditions, as may be deemed expedient".²³

The order in council necessary to implement that provision was not passed until March 1885. By then it was too late to prevent impending tragedy. Métis concern for the protection of their lands had intensified by the month as land-hungry newcomers flooded into the prairies. The situation was made worse by the sudden disappearance of the buffalo in the early 1880s. In 1884 the Saskatchewan Métis persuaded Louis Riel to leave

his exile in Montana and move with his family to Batoche, in the heart of Saskatchewan Métis country, to organize negotiations with the government of Canada. The negotiations proved fruitless, and Riel persuaded his people once more to form a provisional government with himself at the helm and to establish a military force of plainsmen skilled in the arts of the buffalo hunt, with the legendary Gabriel Dumont as adjutant. The plains peoples, who had been placed in similarly desperate straits by the buffalo famine, were also preparing for violent confrontation, if necessary, under the strong leadership of Big Bear and Poundmaker.

The federal government reacted by sending a powerful military expedition to the Northwest in the spring of 1885, and the stage was set for disaster.²⁴ Although Métis and Indian forces met with some success in early skirmishes, government troops scored a decisive victory at Batoche. After Riel's surrender, they went on to crush the Indian resistance. Big Bear and Poundmaker were both sentenced to three years' imprisonment. Louis Riel, after a dramatic and controversial trial and an unsuccessful appeal, was hanged for treason at Regina on 16 November 1885. Dreams of an autonomous western Métis homeland did not die with Riel, however; his martyrdom continues to inspire progress toward that goal.

A large quantity of prairie land (160 acres for Métis heads of families and 240 acres for each of their children, including land they already possessed) was distributed by means of a scrip system in later years under the authority of the Métis land provision of the Dominion Lands Act 1879 (see Appendix 5C). As in Manitoba, however, very little of the land ended up being owned by Métis people. Delays, inefficiencies, inequities and outright scams were almost as common in the administration of the Dominion Lands Act as in that of the Manitoba Act. The land to which the scrip entitled them and the land registry offices where allocations had to be processed were so far from the Métis claimants' homes that they felt the only value they could get from the scrip was whatever price a land agent was willing to offer them.

Complaints about maladministration of Dominion Lands Act benefits have fallen mostly on deaf ears. Government commissions appointed to investigate Métis complaints resulted in little redress. Although it has been over a century since Louis Riel was hanged for seeking a just resolution of Métis claims, those claims remain largely unresolved. Métis people whose ancestors resided in the 1880s in areas of the old Northwest Territories outside the original postage stamp province of Manitoba believe that they are in a strong legal position. Since their Aboriginal title has never effectively been extinguished, they say they continue to hold it. If there is any difference between them and the Manitoba Act Métis, it is that their legal position seems stronger, since there was not even a pretence of obtaining their consent to the enactment of the Dominion Lands Act.

Litigation is currently under way on behalf of the Métis populations of Manitoba and Saskatchewan for vindication of what they believe to have been the suppression of their constitutional rights. We are advised that similar litigation is also being considered in Alberta.

Some Canadians think that Métis Nation history ended on the Batoche battlefield or the Regina gallows. The bitterness of those experiences did cause the Métis to avoid the spotlight for many years, but they continued to practise and preserve Métis culture and to do everything possible to pass it on to future generations.

It has not been easy. Increasing immigration and development consumed their historical lands at a distressing rate. Increasingly restrictive hunting laws, with which they were required to comply despite their Aboriginal heritage, made it more and more difficult to follow traditional pursuits. While they were never well off, Indian people at least had their reserves and benefited from various social services provided by the government of Canada. Not so the Métis. In the early twentieth century, the circumstances of the Alberta Métis were "especially grim in the central and north-central regions....Game was scarce, prohibitively expensive fishing licences were required, and white settlement was spreading remorselessly. The majority of the Metis were reduced to squatting on the fringes of Indian reserves and white settlements and on road allowances".²⁵ The 'independent ones,' who had been the diplomats and brokers of the entire northwest were now being referred to as the 'road allowance people'.

In 1930 the government of Canada agreed to transfer to the prairie provinces ownership of public lands in those provinces. All other provinces had owned their public lands from the moment they entered Confederation, but this had been denied to Manitoba, Saskatchewan and Alberta to facilitate the federal government's prairie settlement policies.

When the undistributed residue of prairie public lands was finally conveyed to the provinces by the Natural Resource Transfer Agreements (given constitutional authority by the Constitution Act, 1930), the arrangement included promises concerning Aboriginal use of land. One of those promises obligated the provincial governments to respect the rights of "Indians" to hunt, trap and fish "for food at all seasons of the year on all unoccupied Crown land and other land to which they have a right of access".²⁶ Although a strong legal, moral and political case can be made in support of treating Métis as Indians for the purpose of exercising this essential right, the provinces have never been willing to acknowledge that Métis people have that right. (For more on this subject, see Appendices 5B and 5C, especially the section on the Ferguson case in Appendix 5C.)

Some Métis settlements survived in the prairies, and in time more would be established. Developments in Alberta were particularly noteworthy.²⁷ There the provincial government showed itself willing, unlike the governments of Canada and other provinces, to help Métis people improve their lot. Taking lessons from an unsuccessful turn-of-the-century attempt by the Catholic church and the federal government to establish a Métis colony at St. Paul des Métis, and belatedly accepting the recommendations of a subsequent provincial royal commission concerning the 'Métis problem', the Alberta legislature in 1938 provided for the establishment of a number of Métis settlements on public land provided by the provincial Crown.²⁸

Eight of the original 12 settlements still exist. Although some of the assumptions underlying their creation were condescending and racist, and although the initial arrangements were undemocratic, the Alberta Métis Settlements constituted the first (and still the only) assured collective Métis land base in Canada. After years of evolution toward greater autonomy, the settlements were substantially reorganized and entrenched in the Alberta constitution in 1990.²⁹

Unfortunately, the constitutional validity of some of Alberta's efforts is being disputed, and the province has been unsuccessful in obtaining federal government assistance to resolve the problem. The uncertainty springs from two controversial constitutional questions:

- Does a provincial legislature have jurisdiction to enact laws relating to Métis matters in light of federal jurisdiction over "Indians, and Lands reserved for the Indians" under section 91(24)?
- Can a provincial legislature bestow group land rights in a manner that will ensure that they are constitutionally protected from abolition or abridgment by subsequent legislation?

Both difficulties could be avoided by co-operation between the legislature of Alberta and the Parliament of Canada, but such co-operation has not been forthcoming. We return to this question later in the chapter.

Although Riel's provisional government was smashed at Batoche in 1885, other Métis organizations have developed over time, for limited purposes at first, but with gradually expanding mandates. A group called the Union nationale métisse de Saint-Joseph du Manitoba was formed in St. Vital (the Manitoba community where the Riel family lived) in 1887, for the purpose of correcting the public record about Métis history. After many years of research, that organization published *L'Histoire de la Nation Métisse dans l'Ouest Canadien*, by A.-H. de Tremaudan, in 1935.³⁰

The first important post-Batoche Métis political organization had its origins in the concerns of Métis residents of Fishing Lake, Alberta, in 1929. Plans to open the area for settlement and to transfer control of prairie natural resources from the federal government to the provincial governments attracted the attention of many Métis throughout the province of Alberta. In December 1932, a founding convention held in St. Albert established the Métis Association of Alberta. The association was instrumental in persuading the Alberta government to establish the Metis Settlements, and it has since worked tirelessly to improve the situation of Alberta's Métis population.

The Saskatchewan Metis Society was formed in 1938. It lobbied the government of Canada for a just resolution of Métis land claims and for federal support for Métis agricultural and industrial enterprises. Those efforts were unsuccessful, but the society's activities resulted in greater receptivity to Métis concerns by the Saskatchewan

government. In 1944 the province made available eight townships at Green Lake for Métis settlement, supplementing a number of Métis farms it had established previously.

In 1965 the Lake Nipigon Metis Association was formed by Métis from northwest Ontario, primarily to do something about the plight of area Métis fishermen. That led to the creation of successive organizations, including the Ontario Metis and Non-Status Indian Association (now the Ontario Metis Aboriginal Association) and, most recently, the Congress of Aboriginal Peoples and the Metis Nation of Ontario.

Although the original Saskatchewan Metis Society had been based in the southern part of the province, it was subsequently matched by a northern organization, the Metis Association of Saskatchewan. In 1967, these two organizations amalgamated as the Metis Society of Saskatchewan (now the Metis Nation of Saskatchewan), which has become one of the most effective Métis political groups in Canada. Also in 1967, the Métis of Manitoba formed the Manitoba Metis Federation, uniting various existing groups and providing a strong Métis voice.

In British Columbia, the first organization representing Métis people (also non-status Indians) was formed in 1970. Today, British Columbia Métis are represented by several organizations, including the Metis Nation in British Columbia, a broadly based coalition of Métis associations. In 1972 the descendants of Métis people from trading posts along the Mackenzie River established what is now known as the Metis Nation of the Northwest Territories.

In 1970 an important national amalgamation of forces took place with the creation of the Native Council of Canada (NCC, now the Congress of Aboriginal Peoples). Métis organizations of Alberta, Saskatchewan and Manitoba came together in the NCC to give them and non-status Indians a single national voice for the first time. That national voice was effective in many ways. For example, it increased the pressure on the government of Canada to include Métis in benefit programs available to other Aboriginal persons. By that time, the government had begun to make certain programs accessible to Métis everywhere in Canada (usually in common with non-status Indians). The NCC also pressed the land claims and other constitutional concerns of the Métis, and although the federal government continued to assert that Métis rights had been extinguished by the Manitoba Act and the Dominion Lands Act, it did agree to fund land claims research.

The NCC's greatest achievement, in collaboration with other Aboriginal organizations, was to persuade federal and provincial politicians to agree to the entrenchment of "the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada" in section 35 of the Constitution Act, 1982, and to insist that Aboriginal peoples be defined in section 35(2) to include Métis people.

NCC representation of both Métis and non-status and off-reserve Indians (paralleling federal government policies at the time) created internal stresses. Those stresses resulted in 1983 in the withdrawal from NCC of most of the major Métis organizations of the

west, who immediately formed a new national organization, the Métis National Council (MNC).

The MNC pressed for full participation of the western Métis (whom they consider the only people entitled to be called Métis) at the constitutional bargaining table of first ministers, who were engaged at the time in discussions concerning future constitutional changes that would affect the Aboriginal peoples of Canada. When federal authorities resisted inviting the MNC to the constitutional table, the MNC sued in the courts. It eventually won its place at the table in an out-of-court settlement.³¹

The MNC's participation in the constitutional negotiations resulted in agreement being reached in May 1992 on the outline of a pact known as the Métis Nation Accord.³² It was part of a larger agreement, the Charlottetown Accord; like the larger accord, it was subject to ratification by the Canadian electorate in a referendum.

The Métis Nation Accord was described as follows in the Charlottetown Accord:

56. Métis Nation Accord(*)

The federal government, the provinces of Ontario, Manitoba, Saskatchewan, Alberta, British Columbia and the Métis National Council have agreed to enter into a legally binding, justiciable and enforceable accord on Métis Nation issues. Technical drafting of the Accord is being completed. The Accord sets out the obligations of the federal and provincial governments and the Métis Nation.

The Accord commits governments to negotiate: self-government agreements; lands and resources; the transfer of the portion of Aboriginal programs and services available to Métis; and cost sharing agreements relating to Métis institutions, programs and services.

The asterisk indicated that the consensus was "to proceed with a political accord", although the final product was to be "legally binding, justiciable, and enforceable". A best-efforts draft legal text for such an accord was concluded by representatives of the Métis and of federal, provincial and territorial governments on 7 October 1992. The complete text of that draft appears in Appendix 5D. The Métis Nation Accord died in the fall of 1992 when the Charlottetown Accord was rejected by voters. However, the attainment of a similar working agreement for Métis issues has not died as a goal of Métis people.

Also lost when the Charlottetown Accord foundered were the proposed texts of constitutional amendments that would have confirmed that Métis people are covered by section 91(24) and would have protected the position of Alberta's Metis Settlements:

54. Section 91(24)

For greater certainty, a new provision should be added to the Constitution Act, 1867 to ensure that Section 91(24) applies to all Aboriginal peoples. The new provision would

not result in a reduction of existing expenditures by governments on Indians and Inuit or alter the fiduciary and treaty obligations of the federal government for Aboriginal peoples. This would be reflected in a political accord(*).³³

55. Métis in Alberta/Section 91(24)

The Constitution should be amended to safeguard the legislative authority of the Government of Alberta for Métis and Métis Settlement lands. There was agreement to a proposed amendment to the Alberta Act that would constitutionally protect the status of the land held in fee simple by the Métis Settlements General Council under letters patent from Alberta.

While the text of the first of these proposed constitutional amendments would be subject to further political negotiation, the second was fleshed out in detailed legal language in sections 12 and 23 of another draft prepared by officials of governments and Aboriginal organizations and made public 9 October 1992. The draft texts are contained in Appendix 5E. The issues involved in the Charlottetown Accord controversy were certainly very complex, but there can be no doubt that the failure of the accord was a major setback for the Métis Nation.

We have already proposed action to deal with the federal government's past reluctance to accept the application of section 91(24) to Métis people (Recommendation 4.5.3), and we also make a recommendation concerning the Alberta Metis Settlements (Recommendation 4.5.4). It will also be important for the federal government and the governments of those provinces and territories within which parts of the Métis Nation homeland lie to demonstrate their good faith by entering negotiations as soon as possible with representatives of the Métis Nation to conclude a Métis Nation Accord as a foundation for future nation-to-nation relations.

2.2 Looking at the Present, Looking Toward the Future

The Métis Nation includes by far the largest proportion of Canada's Métis population. Even if it embraces only the prairie provinces, the Métis Nation includes 98,980 persons who claim Métis identity, which is 73 per cent of the Métis in Canada (see Table 5.1). Although there are differences of opinion about precisely how far the Métis Nation extends beyond its prairie core, there is wide agreement that it includes some portions of Ontario, the Northwest Territories and British Columbia. If only half of the disputed areas were considered to be part of the Métis Nation, its population would be 111,575 or 82 per cent of the Canadian total. If all disputed lands were included, the numbers would rise to 124,150 and 92 per cent respectively. These figures take no account, of course, of Métis people living in parts of the United States that once were part of the historical Métis homeland.

It is not for the Commission to say which Métis communities in the disputed areas form part of the Métis Nation and which do not. These are matters to be determined by the Métis Nation and the communities themselves. What we can say is that the Métis Nation

is the most significant Métis collectivity in Canada. It unquestionably constitutes an Aboriginal people within the meaning of section 35 of the Constitution Act, 1982 and an Aboriginal nation for purposes of negotiations with other governments.

We noted earlier that 64.6 per cent of Canada's Métis population lives in cities; the western cities of Winnipeg and Edmonton include an especially high proportion of Canadian Métis (29 per cent of the entire prairie Métis population, Table 5.12). Accordingly, urban land areas are potentially part of Métis land bases. (More information and recommendations regarding the Métis and an urban land base can be found in Volume 2, Chapter 4 and Volume 4, Chapter 7.) These facts, however, should not cause us to lose sight of the importance to all Métis, particularly members of the Métis Nation, of a rural land base. The Métis Nation culture is an Aboriginal culture, rooted in the land, and almost all who self-identify as Métis attach great value to the practice and preservation of traditional land-based activities, regardless of where they live.

The 35.4 per cent of Métis persons who live in rural areas represent many individuals and a number of distinct communities. While some of the rural population is scattered, high concentrations exist in a few locations, notably the Metis Settlements of Alberta and several predominantly Métis communities in other parts of the Métis Nation homeland. Those communities may well hold the key to preserving and perpetuating Métis culture for the future.

There is reason to be optimistic about the success of Alberta's Metis Settlements and their value as models for Métis communities on other land bases in the years to come.³⁴ When Commissioners visited the Elizabeth Settlement, we were given a detailed description of the history and contemporary operation of Metis Settlements by Ken Noskey:

I believe that the experience which we have had with the Metis Settlements legislation points to some wider lessons which might be of assistance to all Aboriginal peoples in Canada as they move towards greater political control of their own communities....

I would not want to leave the impression that the Metis Settlements legislation has ushered in a perfect world; not surprisingly, that is far from the truth or the case. As I have mentioned, the Metis Settlements General Council has recently established with the government of Alberta a joint review process to examine how effectively the legislation is meeting the goals established for it and what provisions should be changed.

I do believe, however, the settlements have achieved significant things with this legislation and that it provides a stepping stone to greater autonomy and higher levels of economic and social development in our communities. With regard to lessons which other jurisdictions might learn from our experience my short answer would be this: The transition to self-government on the part of Aboriginal communities can be most effectively addressed if it is done in co-operation with all levels of government: Aboriginal, provincial and federal. Only in such situations can resources be used with maximum efficiency in what is bound to be a difficult, demanding and expensive process.

The experience of the Alberta Metis Settlements is instructive. It is not conclusive, of course, since although the settlements are undoubtedly showing the way in some areas of Métis self-government, their institutions and processes are still evolving, and other Métis communities may prefer to develop along different lines. There is nevertheless much to learn from the pioneering attempts, both successful and unsuccessful, of the Alberta settlements.

It is unfortunate that the failure of the Charlottetown Accord prevented implementation of constitutional amendments to remove doubt about the constitutional status of Alberta's Metis Settlements and their lands. The best-efforts draft of October 1992 suggested wording for amendments to the Constitution Act, 1867, and the Alberta Act, 1905, which, if enacted, would have empowered Parliament and the Alberta legislature to make laws concerning Métis people and settlements in the province. They would also have provided constitutionally entrenched protection for settlement lands (see Appendix 5E). In our view, there is no reason to delay the enactment of these important amendments any longer. They could be brought into being by collaborative efforts of federal and Alberta authorities. No further time should be lost in doing so.

Recommendation

The Commission recommends that

4.5.4

The substance of the constitutional amendments relating to the Metis Settlements of Alberta, referred to in section 55 of the Charlottetown Accord and contained in sections 12 and 23 of the Draft Legal Text of 9 October 1992, be enacted as soon as possible by joint action of the Parliament and government of Canada and the legislature and government of Alberta.

Women

Women have special concerns in rural and urban communities of the Métis Nation as well as in its political organizations. Those concerns often find effective expression, because women are active in Métis Nation communities and organizations. Sometimes, however, Métis women share the sense of exclusion that is still too familiar among women in many sectors of Canadian society.

Views are sharply divided on this issue. Sheila Genaille, then president of the Metis National Council of Women, told the Commission that

Métis women had and continue to have a prominent role in the ongoing development of the Métis Nation. Our contemporary organizations have a strong participatory Métis

women's component....Our perceptions of the roles of the Métis women's provincial and national organizations differ from some of the roles that other Aboriginal women's groups have taken. Today, Métis women continue to be full partners and are an integral component to the continued success of the Métis Nation.

Sheila Genaille
Metis National Council of Women
Slave Lake, Alberta, 27 October 1993

On the other hand, according to Betty Ann Barnes,

Métis women have not been included as representatives of Aboriginal people. Governments must realize that male-dominated Aboriginal organizations do not represent the interests of most Aboriginal women and should not be seen as acting on women's behalf. Aboriginal rights of women are already being violated in their communities today, and without the involvement of women at a political level, we Aboriginal women will continue to live in oppressive conditions.

Betty Ann Barnes
Nechako Fraser Junction Metis
Prince George, British Columbia, 31 May 1993

One group of women from the west felt strongly enough about their exclusion from crucial aspects of the political process to voice their concerns at the Commission's special Métis Circle Consultation with representatives of eastern Métis in Ottawa in April 1994. Bernice Hammersmith, from the Metis Society of Saskatchewan, described the situation to that group:

How are Métis women involved in and presented in decision making at the community level? As far as I can tell, in our communities in Saskatchewan, the leaders are the women. They are the presidents of our locals, they are the secretaries of our locals, they are the treasurers of our locals, they are the community liaison people in our locals. The women are running the communities. However, their superiors are all males or their representatives for that area are males.

Youth

The position of Métis Nation youth was described to the Royal Commission, in part, by Métis spokeswomen. In several cases, however, youth spoke for themselves. From those presentations, three distinct but interconnected themes emerged: representation, healing and education.

Morgan McLeod stressed the inadequacy of political representation for Métis youth:

The main reason that I am here is to voice my concerns on youth views at the provincial Métis level. We, the Métis youth of Stanley Mission, feel that we are not represented in the provincial structure. We would [like to] have more impact on local issues in regards to the youth of our province.

Morgan McLeod
Stanley Mission Metis Youth Group
La Ronge, Saskatchewan, 28 May 1992

Delbert Majer pressed the same point:

Recommendation number three is to support organized national, provincial, regional and local youth councils, committees and groups....Often young people are looked at last after economic development, after self-government, after land issues. And it seems like non-youth politicians...have no energy or time left a lot of times to deal with the youth issue because often it's lost on the agenda — it's last.

Delbert Majer
Saskatchewan Metis Addictions Council
Regina, Saskatchewan, 10 May 1993

Too often youth bear the brunt of community social problems. Raymond Laliberté called for local healing facilities designed for the needs of socially injured youth:

On the issue of alcoholism and drug abuse, health in general, we require an adolescent healing lodge. We have to heal. To be more cost-effective, we don't require more in-patient treatment where we have to ship our people out of the north and get them treated in the south. We need some mobile treatment. We have to be more creative in that area.

Raymond Laliberté
Saskatchewan Metis Addictions Council
La Ronge, Saskatchewan, 28 May 1992

Healing and improved representation of young people's viewpoint are bound up with education. Only through education and fuller political and social participation can Métis youth develop the knowledge and skills they will need, as adults, to make self-government work.

While education must equip students with the knowledge and skills they will need to participate fully in the twenty-first century, it is imperative that educational programs designed for Métis and other Aboriginal youth also enhance their knowledge of their ancestral culture. It is heartening that youth themselves consider a fuller understanding of their traditional culture vital to effective healing:

The methods by which the centres could assist with healing could be history, customs, values, traditions, ceremonies and practices.

Delbert Majer
Saskatchewan Metis Addictions Council
Regina, Saskatchewan, 10 May 1993

Métis youth's thirst for knowledge about their Aboriginal roots is evident. Freda Lundmark of Thompson, Manitoba, told the Commission:

And how could we instill the Métis pride so that we can keep the children going? They asked that we invite them to any workshop or meeting that we have be it local, regional or provincial or even national. Always include youth in those workshops. They've asked for more information on Métis history and culture. They've asked to develop a Métis education program. They've asked that we get more involvement with the elders — youth-elder workshops, things like that. They've asked that we provide Métis days for them, cultural days. They asked that we have Saulteaux and Cree classes, Métis studies as part of an everyday part of our history. Instead of history learning about what Europe did, maybe learning about their own country and Métis. They've asked to have cultural type classes like jigging or square dance classes and overall more Métis awareness.

Freda Lundmark
Metis Women of Manitoba
Thompson, Manitoba, 31 May 1993

Education

In Volume 3, Chapter 5 we emphasized the paramount importance of education to all Aboriginal people. To be effective, education looks in two directions at the same time: to the future for which it must equip the student; and to the past whose treasures it must preserve and make accessible. Education is a bridge between origins and destiny. The ability to cross and re-cross that bridge with ease is essential for every Aboriginal person. It allows one to preserve and enjoy one's cultural inheritance while participating fully as a citizen of the twentieth and twenty-first centuries. The bridge between past and future is as important for members of the Métis Nation as it is for other Aboriginal persons. Our observations and conclusions in Volume 3, Chapter 5 are applicable to Métis people and will not be repeated here. There are, however, a few educational matters in the Métis context that call for emphasis.

Métis children, who belong to a 'minority within a minority', find their formal education even more culturally arid than First Nations children. The little information about Aboriginal people they encounter in public schools is likely to have more to do with First Nations or Inuit cultures than their own. When material about Aboriginal people is developed for inclusion in school curricula, Métis educational authorities and elders should be consulted to ensure that the distinctiveness of Métis culture is not overlooked.

Another matter of importance is the issue of separate Aboriginal schools. Opportunities should exist, where practicable, for Métis parents to place their children in schools where the Métis culture is an integral component of their general education. The Canadian constitution already contributes to the preservation of the Catholic and Protestant religions and the French and English languages by guaranteeing public support for separate schools in parts of the country where the groups are in a minority position. Religious separate schools have existed in large parts of Canada since Confederation, under section 93 of the Constitution Act, 1867 and subsequent constitutional provisions.³⁵ A guarantee of French and English minority language schools, where numbers warrant, was added more recently by section 23 of the Constitution Act, 1982.³⁶

Some members of the Métis Nation who are either minority Roman Catholics or minority francophones are already beneficiaries of these separate school guarantees. Separate religious schools in the west, in fact, were intended originally for the benefit of the Métis population, which was predominantly Catholic. For that matter, the original constitutional guarantees (legal and legislative rather than educational) for the French language in the west were aimed mainly at the Métis, most of whom spoke French. French language educational rights under section 23 are very important to Métis people. But access to separate Catholic or French schools gives no assurance that children's education reflects the Aboriginal aspects of their Métis culture.

In our view, the establishment of Métis separate schools where the numbers of Métis parents desiring such facilities warrant, would contribute greatly to the protection and propagation of Métis culture. The case for such schools seems particularly strong in the case of the Métis Nation, many of whose members have had experience with separate schools since Manitoba entered Confederation in 1870.

Turning to post-secondary education, we reiterate a point noted earlier in this chapter, that the earlier refusal of the federal government to provide the same support for Métis people as it did for First Nations people and Inuit who sought advanced education has left some Métis at a serious educational disadvantage. We stated in Volume 3, Chapter 5 that negotiated measures to redress that imbalance are long overdue. In addition, although Aboriginal studies programs exist at many post-secondary institutions, few of them offer adequate Métis content.

Post-secondary educational institutions can be intimidating places: they are large, impersonal and remote from, if not alien to, the students' families. Their curricular and research priorities place relatively little emphasis on Aboriginal issues or related matters. Such institutional factors discourage Aboriginal participation in post-secondary education and contribute to an insufficiency of research information about Aboriginal concerns.

Problems of alienation and Aboriginal focus at the post-secondary level can be overcome, in part, by the establishment of Aboriginal institutions of higher learning. To this end, we proposed the establishment of an Aboriginal Peoples International University. In 1993, the Métis National Council presented a plan for an exclusively Métis university.³⁷ We doubt that an exclusively Métis university is feasible, but a separate Métis faculty or college might be an appropriate component of an Aboriginal Peoples International University.

There is, however, no reason to wait for the creation of an Aboriginal university before developing improved Métis post-secondary educational facilities. Giselle Marcotte of the Gabriel Dumont Institute (GDI) in Saskatoon told us about GDI's progress toward "federating with the universities of Regina and Saskatchewan to offer successful university education". The GDI and the University of Saskatchewan recently launched an important initiative in the form of an agreement for jointly operating Gabriel Dumont College. Discussions are under way concerning the possibility of transferring the GDI's

teacher education program, Suntep, to the new college. These projects should be encouraged in every possible way.

Other post-secondary initiatives could also provide valuable support for Métis culture. Designating and funding university professorships and scholarships for Métis studies would be of great benefit. Universities should ensure that their Aboriginal studies programs include substantial Métis content. The governments from which public funding for such programs is received must be prepared to support such improvements. Because the collegial atmosphere is of great importance to the success of post-secondary studies, consideration should also be given to providing residences for Métis students.

Recommendation

The Commission recommends that

4.5.5

When implementing this Commission's recommendations on education affecting Aboriginal persons, great care be exercised to ensure the preservation and propagation of distinct Métis cultures. Measures to achieve that goal might include, where appropriate, (a) consultation with Métis elders when educational programs are being planned;

(b) establishment of and public funding support of separate Métis schools where numbers warrant;

(c) assisted access to post-secondary education for Métis persons;

(d) creation of a college or faculty of Métis studies and professorships, scholarships and programs of Métis studies; and

(e) provision of residential facilities in post-secondary educational institutions that will be congenial to Métis students.

Other recommendations relating to or having an impact on education are presented in connection with Métis culture, the subject to which we turn now.

Culture and language

Language is a major component of culture. A people and its language and culture are inseparable: if the language and culture die, the people ceases to exist as a people. Preservation of their culture and their contact with Aboriginal languages underlies and informs all other concerns of the Métis Nation. Many Métis have described the importance of Aboriginal languages to the Métis culture in the same terms as Jim Penton:

I would argue, and argue very strongly, that all Aboriginals have a specific right to their own languages and to education in those languages. If people do not have language rights

and cultural rights, they have no rights at all, and the law becomes absolutely meaningless. The Constitution of Canada becomes meaningless.

Senator Jim Penton
Metis Nation of Alberta
Lethbridge, Alberta, 25 May 1993

Much of our discussion of Aboriginal cultures in general (see Volume 3, Chapter 6) applies equally to the Métis Nation, but a few Métis-specific observations must also be made. Our first observations relate to the language of Métis, Michif.³⁸

The 1991 Aboriginal peoples survey found that Métis people use Aboriginal languages less than other Aboriginal people in Canada. Michif, which is unique to the Métis Nation, is today spoken by only one per cent of the Métis population over the age of 15. Alarming, the number of children between five and 14 who speak Michif was too small to be reported in the survey.³⁹ Many more Métis people speak Amerindian or Inuit languages than speak Michif (see Table 5.13). While it is not realistic to expect Michif to become the day-to-day language of the Métis Nation, it is possible for the other Aboriginal languages with which Métis people have been associated historically to play a more significant role in their everyday lives than is now the case.

TABLE 5.13
Aboriginal Identity Population Age 5-14 and 15+ Who Speak an Aboriginal Language, 1991

	North American Indian									
	On-reserve		Non-reserve		Métis		Inuit		Total	
	5-14	15+	5-14	15+	5-14	15+	5-14	15+	5-14	15+
Newfoundland and Labrador	—	—	35.8	27.6	—	—	14.7	25.8	18.7	20.0
Prince Edward Island	33.3	29.6	—	—	—	—	—	—	—	18.1
Nova Scotia	42.1	67.0	—	12.9	—	—	—	—	28.4	46.5
New Brunswick	42.4	63.7	—	30.5	—	—	—	—	22.5	47.8
Quebec	82.7	85.1	12.4	14.9	5.6	3.0	97.2	97.0	53.9	46.9
Ontario	52.0	62.1	3.2	12.2	—	4.6	—	—	12.6	24.8
Manitoba	53.4	81.6	8.0	36.1	3.7	15.7	—	—	23.3	43.8
Saskatchewan	36.6	69.6	15.2	43.0	6.5	31.6	—	—	19.8	48.0
Alberta	39.5	73.0	10.0	32.4	6.3	20.3	—	38.5	14.7	35.9
British Columbia	13.8	31.6	5.7	13.0	—	8.9	—	—	7.9	18.5
Yukon	—	27.9	9.2	18.5	—	—	—	—	9.2	19.4
Northwest Territories	30.0	76.9	38.7	70.5	12.9	24.7	76.8	86.2	60.8	74.3
Canada	44.3	65.4	9.0	23.1	4.9	17.5	67.0	74.6	21.4	35.8

Notes: Of the 14,725 Métis aged 15+ who reported (in the 1991 Aboriginal Peoples Survey) speaking an Aboriginal language, 10,340 said they spoke Cree; 2,295 spoke Ojibwa; 820 spoke Michif; 645 spoke an Athapaskan language; and 400 spoke Chipewyan.

— Figures suppressed because of small size; their coefficient of variation is higher than 33.3%.

Source: Statistics Canada, 1991 Aboriginal Peoples Survey, catalogue no. 89-533.

It might be asked why anyone should be concerned about preserving and studying a form of communication now used by only a handful of people and unlikely ever again to be a vital language for a large population. Does anyone question the value of preserving ancient Greek or Sanskrit? Ancient languages tell us much about the people who created and used them: what their origins were, how they thought, what they valued, how they lived. They also tell us a lot about language itself, how it develops and evolves. How could we justify standing passively by as a unique component of the human story slipped away beyond recall?

Michif is in an especially precarious position. The APS figures speak volumes about how difficult it will be to save this language. Such an effort will not be cheap, but surely the cost of preventing the obliteration of a unique part of human culture can be justified. There still may be time to rescue Michif from becoming obsolete, and there are good reasons for taking heroic measures to prevent its total extinction. Pieter Bakker, a Dutch expert on languages has warned "of the utmost importance of studying and describing and preserving this unique language".⁴⁰

A unique problem affecting Métis Nation linguistic culture is the lack of a territorial base within which Métis people can use, develop and promote their languages. The APS found that the retention of language skills is strongly associated with a "place or territory where Aboriginal persons form a majority....Where such communities are absent...language skills have, by and large, been lost, a process...known as linguistic assimilation".⁴¹ We return to this question in discussing the need for a Métis Nation land base.

The establishment of Métis or Aboriginal separate schools would help to address the problem of language loss. Separate schools would ensure not only that formal instruction in Aboriginal languages is given but also that the all-important 'playground influence' reinforces instruction.

The family also plays an important role in preserving languages. If a language is not spoken at home, its chances of survival are limited. Many Métis parents and grandparents themselves have lost Aboriginal languages and so cannot pass them on. Even where senior family members do know a language, they sometimes will not speak it because it is seen as irrelevant to modern life or as a badge that attracts racist discrimination. This attitude must change. Intergenerational transfer of language must occur for the language to survive and flourish. (For a more detailed discussion of language retention, preservation and renewal, see Volume 3, Chapter 6).

Métis attempts to save Michif can be seen in the creation of a Métis language lexicon by Father Guy Lavalee, OMI, a Métis priest, and such events as the Michif Language Conference, held in Yellowknife in January 1994 and sponsored by the Métis Heritage Association.

There is a clear need for recognition by Canadian educational institutions that Michif is an endangered Aboriginal language urgently in need of preservation measures. Without that recognition, the maintenance of the existing language base and the creation of educational opportunities to expand its use, Michif will become extinct. Only one educational institution in North America offers course work in Michif. Located on the Turtle Mountain Indian Reservation in North Dakota, it is not readily accessible to Métis students living in Canada. Valuable work is being done at Turtle Mountain. The radio station there has recorded stories of the 'Roogaroo' (similar to Aboriginal 'Windigo' legends), and a Michif dictionary produced there has been published in Canada.⁴²

With the other endangered Aboriginal languages, Michif forms a significant portion of the human mosaic. The loss of these languages and their rich content would be tragic for human history.

The state of knowledge about Métis Nation history also requires attention. Every culture draws its nourishment from the past, and no medium of communication, popular or scholarly, can be expected to explain a culture if its history is not accurately known. Our earlier observation that one end of the educational bridge must be firmly anchored in the past is as true for informal sources of learning as it is for formal instruction.

Most Canadians know little of Métis history. They may know a bit about Louis Riel and may have heard of Gabriel Dumont. But many know nothing about Cuthbert Grant — fur trader, hero of the Battle of Seven Oaks, founder of a major Métis settlement, magistrate, and organizer of police protection for the Red River community. Who has heard of folk-poet Pierre Falcon? Frontier physician and judge John Bunn? Lawyer, political activist and philanthropist Alexander Isbister? How many know that John Norquay, one of the longest serving and most popular of Manitoba's early premiers, was Métis? Little has been published about these larger-than-life Métis pioneers, and even less about the countless other key figures and pivotal events of Métis history. What little has been published is not widely distributed and is too often subject to distortion and calumny.

Historical sites of great importance to the Métis Nation, such as Batoche on the North Saskatchewan River and the Forks in Winnipeg, are being developed by non-Métis authorities in ways to which Métis people sometimes object. Some historical artifacts are exhibited to the public in inappropriate locations and in disrespectful contexts, such as the moccasin and lock of hair, claimed to be from Louis Riel's corpse, which are displayed — along with the hood he was hanged in, handcuffs used to secure him, and the coroner's death certificate — at Casa Loma in Toronto. Riel's death rope is on show at the RCMP museum in Regina. This is demeaning to the memory of a hero of the Métis Nation and the founder of Manitoba.

The proposed institutional changes in post-secondary education will, if implemented, stimulate research and writing about Métis history, and that will ultimately result in more widespread and accurate knowledge of the Métis heritage by Métis people and other Canadians. By the same token, the sooner the Métis story is known, the sooner these changes will be considered. It is therefore desirable that early support be found for

projects designed to bring Métis history out of the archives and into the Canadian consciousness. Such projects might include public financial support for research and publications (television, movies and other creative media as well as books) about Métis history and culture; the development, under Métis auspices, of historical sites significant to the Métis; and the restoration to Métis possession of artifacts pertinent to Métis history.

Recommendation

The Commission recommends that

4.5.6

When implementing the recommendations made in Volume 3, all governments and relevant agencies bear in mind the distinct circumstances of Métis culture and languages.

Governments and private authorities and agencies should collaborate with authorized Métis representatives on measures to preserve, cultivate and study elements of Métis culture, including the following:

- (a) Aboriginal languages: to encourage and assist Métis people to learn and use the Aboriginal languages with which their Métis ancestors were historically associated;
- (b) Michif language: to implement, with Métis collaboration and public funding, special measures to save Michif from extinction and to encourage and assist Michif research and instruction;
- (c) research and publications about Métis history and culture: to provide financial support for research and publications to disseminate information about Métis Nation history and culture by means of print, radio, television, film, theatre and other modes of expression;
- (d) historical sites: to establish major Métis cultural history centres at historically significant sites such as Batoche and the Forks in Winnipeg, to be owned and operated by Métis representatives; and
- (e) repatriation of artifacts: to repatriate major Métis artifacts from public and private collections to appropriate Métis-run locations.

While these recommendations reflect those we made in Volume 3, Chapter 6 about Aboriginal cultures in general, we emphasize that cultural factors are intrinsically unique and must be addressed differently in each distinct culture.

Lands and resources

Although many Métis communities exist in Canada, the only ones comparable to reserves in terms of their associated land bases are the Metis Settlements of Alberta, created and

administered under the authority of the province's Metis Settlements Act. As discussed earlier, however, doubts about the constitutional validity of some parts of the legislation should be removed by constitutional amendment (see Recommendation 4.5.4).

Adequate land bases have always been essential to the collective material and spiritual well-being of Aboriginal peoples and central to their Aboriginal rights. Because they lack the reserves accessible to many First Nations, Métis people's need for land bases of their own is especially important. The Métis Nation's claim for satisfactory land bases for all its citizens has both legal and moral/political foundations, which are set out at some length in Appendices 5A, 5B and 5C. In this section we provide a brief overview.

The legal case for a Métis land and resource base

The legal arguments in support of the Métis Nation claim to have its land bases restored are complex in the extreme. Only the courts can decide such questions conclusively. Nevertheless, as a backdrop to our review of the moral and political claims, we outline the legal arguments.

Métis claims for Aboriginal rights — rights embedded in the common law and recognized and affirmed in section 35 of the Constitution Act, 1982 — are based on their Aboriginal ancestry. One of the most fundamental of these rights is the right to a collective land base and associated resource use rights. The Métis Nation asserts that this includes a right of collective Métis ownership of appropriate land within its homeland upon which to maintain Métis communities, to hunt, fish and gather subject only to laws of Métis making, and to conduct culturally significant activities.

Those who deny the existence of a Métis legal right to a land and resource base point to the fact that section 35 of the Constitution Act, 1982 recognizes and affirms "existing" rights only and contend that no such rights persist because they were extinguished in the past by voluntary relinquishment and statutory erasure. The Métis Nation's response is that there has been no effective extinguishment. They maintain that although both the Manitoba Act, 1870 and the Dominion Land Act, 1879 contained provisions that might be read as extinguishment measures, their legal efficacy is open to doubt owing to ambiguous wording and the massive irregularities involved in their negotiation and administration.

Fiduciary duty is the second important legal issue in claiming a Métis land and resource base. Even if the courts do not accept their contention that the many ambiguities and irregularities associated with the Manitoba Act and Dominion Lands Act invalidated any possible extinguishment of their Aboriginal rights, the Métis people assert that responsibility for the ambiguities and failure to prevent irregularities, of which federal and provincial authorities were well aware, violated the fiduciary duty owed to Métis people by those governments. This fiduciary duty is based on common law, the Royal Proclamation of 1763 and, in the case of western "Aborigines", the Rupert's Land and North-Western Territory Order of 1870.⁴³ Métis people assert that the appropriate legal

remedy for the alleged violation of fiduciary duty is compensation sufficient to establish an adequate land and resource base.

The position of federal and provincial governments on this issue seems to be that they did not owe a fiduciary duty to Métis people; that if they did, it was not violated by irregularities; that if there was a violation, the passage of time has eliminated any right to sue; and that if there still is a right to sue, the compensation claimed is excessive. Métis people have legal responses to each of these defences.

The Manitoba Act and Dominion Lands Act, pivotal to many of the claims advanced by the Métis Nation, give rise to two categories of legal issue. One category involves the extent to which the two laws support either Métis claims to title or the Crown's claim of extinguishment.

The other category involves the new rights created by those laws: the entitlement of Métis children to share in the 1.4 million acres of land and so on. Whether or not these new rights can be viewed as substitutes for Métis Nation Aboriginal rights, they were legally distinct entitlements, and their implementation gave rise to a host of difficult legal questions. Was every entitled Métis person given the chance to benefit? Was fraud or chicanery practised in particular cases? If so, to what extent were government officials involved? If not involved, were officials aware of the unfair dealings, or should they have been? What is the legal effect of the passage of time and the acquisition of competing rights by innocent third parties?

The prospect of large-scale litigation concerning individual claims of that sort is nightmarish. While we cannot predict the likely outcome of any particular piece of litigation, we are certain that it would be undesirable from every point of view to leave the resolution of individual Métis Nation claims to so haphazard, costly and time-consuming a process. A negotiated settlement would be infinitely preferable.

The Constitution Act, 1930 gave status to the provisions of the Natural Resource Transfer Agreements. It is on these agreements that the Métis Nation's claim to exclusive land bases analogous to those of other Aboriginal peoples in Canada is based. In addition, its members also assert the right to hunt and fish for food in the three prairie provinces at all times of the year on unoccupied Crown land and other land to which they have a right of access.

When the ownership of natural resources, denied at their entry into Confederation, was finally bestowed on the prairie provinces by constitutional amendment in 1930, it was subject to certain Aboriginal rights of resource use:

In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Province from time to time shall apply to the Indians within the boundaries thereof, provided, however, that the said Indians shall have the right, which the Province hereby assures to them, of hunting, trapping and fishing game and fish for food at all

seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access.⁴⁴

It can plausibly be contended that prairie Métis enjoy the same or similar protections as First Nations with respect to hunting for food. Provincial authorities disagree and are currently attempting to enforce provincial wildlife laws against prairie Métis who hunt or fish for food on vacant Crown land. The 1930 guarantee has been raised as a defence, but the judicial decisions on the question are inconclusive so far. Litigation currently before the courts may eventually resolve the issue.

The moral and political case for a Métis land and resource base

Whatever the legal situation, it is clear to the Commission that the Métis Nation is entitled, both morally and politically, to have access to land bases and land use rights sufficient to fulfil its legitimate aspirations as an Aboriginal people.

The basis for the moral case depends to some extent on historical facts that are difficult to establish and that differ sharply from area to area (see Appendix 5C). It can be said with certainty that, as a result of governmental policies and their irregular implementation in years gone by, the people of the Métis Nation, through no fault of their own or of their ancestors, find themselves deprived of the collective land bases that once supported their ancestors.

The extent to which governments can be blamed for the result is a matter of opinion. Some argue that dispossession of the western Métis was an intended goal of federal land policies from 1870 onward;⁴⁵ others contend that the dispossession was brought about chiefly by the inexorable operation of market forces, to which many Métis people willingly submitted.⁴⁶

Our conclusion is that even if the former view cannot be accepted with complete confidence, the latter must clearly be rejected. Putting aside all evidence on which there is no agreement, it is unquestionable that the governments of Canada and the prairie provinces must bear paramount responsibility for the lack of an adequate Métis land and resource base today. These are the indisputable facts:

- The verbal promises made to the Manitoba Métis in 1870 were never fulfilled.
- The benefits that were eventually bestowed under the Manitoba Act and Dominion Lands Act were so long delayed, for the most part, that their value was severely eroded by a huge influx of new settlers grabbing up much of the choicest land and by the decision of many discouraged Métis to migrate further westward.
- The Dominion Lands Act provisions were imposed on Métis people without negotiation.

- Much of the land potentially available to Métis people under the Dominion Lands Act was located too far from where they lived to be of practical use to them, as were the government offices where the land transactions were processed.
- The 'market transactions' whereby many Métis were stripped of their land were marked by sharp dealing and fraud on the part of private land agents and occasionally of government officials.
- The government of Canada was aware that such sharp dealing and fraud was being practised on a large scale but failed to take effective steps to prevent it or to compensate for it.
- Métis people have been denied the right that 'Indians' have, under the Natural Resource Transfer Agreements, to hunt and fish for food on unoccupied Crown land.

Even if all debatable questions about the legal and moral rights of the western Métis were disregarded altogether, the foregoing undeniable facts, considered in light of governments' fiduciary obligations to Métis people, create an unanswerable moral entitlement for the Métis Nation to an exclusive land base as well as to fair harvesting rights on unoccupied public land.

The political case for restoring Métis land bases is even stronger than the moral one. As explained in Volume 2, Chapter 3, Aboriginal peoples' right of self-determination and self-government is well established. In our view, the Métis Nation has almost certainly reached the point of social and political development at which this right accrues. We would be astonished if its nationhood were denied by any reasonable recognition policy. Possession of a land base is vital to the full exercise of nationhood, especially Aboriginal nationhood, which has always been intimately connected with the land. For the Métis Nation to realize its aspirations — economic, governmental and cultural — a satisfactory land base is essential.

For the Métis Nation, the legal question of entitlement to its historical land base is of secondary importance since, even if legal extinguishment occurred, it was accomplished in such a fundamentally unjust and flawed manner that every principle of fairness demands the return of what was taken. In any case, they assert, a land base is a vital element of full nationhood. They regard the establishment of Alberta's Metis Settlements as a good but insufficient beginning to the restoration of their land base and demand that the process now be completed.

We agree. Full nationhood and the governmental autonomy it implies require a territorial anchor. This is not to say that the area governed needs to be coterminous with the territory over which exclusive land rights exist. Recognition that Métis Nation governmental authority extends to its citizens throughout its homeland would be compatible with the existence of a relatively small number of exclusive Métis land bases scattered throughout the homeland. Meaningful Métis self-government would not be possible, however, without some such exclusive territories, appropriately located and

sufficient in size and resources to nurture the culture that makes self-government worthwhile; to enable citizens, wherever they live, to benefit from it; and to provide an adequate economic foundation for the nation. Although this land base would be primarily rural, an urban component would also be required. For those who reside in cities, as so many Métis do, appropriate urban land bases are also needed, as explained in our general discussion of lands and resources (see also Appendix 5C).

Not everyone is easily moved by arguments based on rights; some require hard-nosed practical reasons. Perhaps the best pragmatic reason to recommend a political solution to the land base question is that waiting for a complete legal solution would prolong the agony unacceptably and would require the expenditure of inordinate amounts of energy and money.

The number, size and location of Métis Nation land bases and the conditions and restrictions under which they would be established and operated are matters for negotiation, and the Commission accordingly has little to recommend in that regard. A few general guidelines may nonetheless be useful. Certainly, the land bases must be suitable in terms of size, location and type of land to accommodate both residential needs and reasonable resource uses of the Métis people of each area. It should not be expected that every Métis person with access to a particular land base would necessarily live on it. While exclusive Métis Nation proprietorship of the collective land base would be the general rule, the sharing of all or part of a land base with other Aboriginal groups and with non-Aboriginal persons might be agreed upon in some situations, and joint management arrangements for the exploitation of particular resources might sometimes also be desirable.

While the foregoing discussion has focused on the situation for the Métis Nation, it should not be forgotten that Métis people of the east, whose situation we examine more fully later, also have legitimate grounds upon which to base claims for land.

Recommendation

The Commission recommends that

4.5.7

The governments of Canada and the relevant provinces and territories be prepared to make available, through negotiations with each recognized nation of Métis people, land bases sufficient in number, size, location and quality to permit the fulfilment of the nation's legitimate social, cultural, political and economic aspirations.

No one should suppose that this will be a rapid or easy process. Negotiations will undoubtedly be prolonged, and many difficult snarls will have to be unravelled. One thing can and should be done quickly, however, and that is the constitutional confirmation of Alberta's Metis Settlements, a question dealt with earlier (Recommendation 4.5.4).

Not all Aboriginal resource use rights are necessarily exercisable on exclusively Aboriginal lands. We have pointed out that "Indians" of the prairie provinces have the right under the Constitution Act, 1930 to hunt, trap and fish "game for food on all unoccupied Crown lands, and on any other lands to which the said Indians may have a right of access". Whether that right extends to Métis persons is as yet uncertain legally, but in our view, from a moral and political perspective, it ought to. Métis people in the prairie provinces have the same need, and in our view the same moral right as their First Nations counterparts to seek sustenance from unoccupied public lands. We therefore call upon the governments of the three provinces to which the Constitution Act, 1930 applies — Manitoba, Saskatchewan and Alberta — to recognize the right of all Métis Nation citizens to exercise the food exemption guaranteed by that act. While no equivalent formal guarantee exists for areas outside the prairie provinces, it is our view that Métis and other Aboriginal persons outside those provinces whose Aboriginal rights have never been extinguished ought to have a similar entitlement and that it ought to extend, where appropriate, to salt-water fisheries in public waters.

This issue is made especially urgent by the absence of a sufficient Métis land base. With neither a territorial base of their own nor the same opportunity that prairie First Nations members have to hunt for food at all times of the year on unoccupied public property, the people of the Métis Nation risk losing their ancestral links with the land. Therefore, although the food exemption provision of the 1930 act may ultimately become an element of land claims negotiations, its confirmation cannot wait for those negotiations to conclude. An immediate response by the governments of the prairie provinces would terminate expensive litigation now under way and would contribute to keeping Métis people in touch with the land while land claims negotiations are in progress. In some cases, the need for change in provincial policies concerning Métis food harvesting is especially urgent because the individuals affected need the food for sustenance. The exclusion of Métis people from the food exemption has hit the poor the hardest. They should not have to await the outcome of prolonged political negotiations to feed their families.

Recommendation

The Commission recommends that

4.5.8

The governments of Manitoba, Saskatchewan and Alberta

- (a) recognize immediately that the right, under the Constitution Act, 1930, of "Indians" of those provinces to hunt, trap and fish for food in all seasons on unoccupied Crown land and other land to which they have a right of access applies to all Métis persons in those provinces;
- (b) consult with leaders of the Métis Nation when determining who qualifies as a Métis person for that purpose;

(c) give the same right to non-status Indians residing in the prairie provinces after they have demonstrated their Aboriginal ancestry by some prescribed and fair method; and

(d) give the same right to Aboriginal persons residing outside the prairie provinces unless it has been extinguished by a legally binding extinguishment measure, and extend the right, where appropriate, to public waters.

Other interim measures probably also will be needed. If Métis land claims negotiations prove as slow in reaching conclusions as we anticipate, the economic benefits associated with control of a land base will have to be found elsewhere in the meantime. While some support might be found in subsidies, it would be preferable from every point of view if most derived from land-related enterprises. We therefore urge that while negotiations for a permanent land base are under way, federal, provincial and territorial governments consider entering into temporary land use agreements with the Métis Nation. It might be mutually advantageous for land use agreements of more permanent duration to be negotiated, perhaps on a joint use basis and in conjunction with other Aboriginal interests, or with private interests.

Recommendation

The Commission recommends that

4.5.9

Federal, provincial and territorial governments

(a) be prepared to enter into temporary land use agreements with Métis nations while land claims negotiations are pending or continuing; and

(b) be prepared, where appropriate, to consider longer-term land use agreements with Métis nations, perhaps in association with other interests, Aboriginal or private.

Self-government

We stated in our constitutional commentary, *Partners in Confederation*, and elaborated in Volume 2, Chapter 3 of this report, that every Aboriginal people has as a component of its Aboriginal rights the inherent right of self-government.⁴⁷ The right of the Métis Nation to govern itself is therefore undeniable.

We are aware that some Métis people, although proud of their Métis heritage and imbued with Métis culture, are satisfied with existing governmental arrangements and do not want the picture complicated by the addition of Métis governmental structures. It is, of course, their democratic right to reject self-government. Our position is that Métis people have the right to make that choice, and we believe that when they do, the majority will opt for self-government.

Historically, the Métis Nation exercised the power of self-government on many occasions and in many ways, the Riel provisional governments of 1869-1870 and 1884-1885 being the best-known instances. Today, the Métis Nation is demonstrating its capacity for self-government in the governmental structures of the Alberta Metis Settlements. Provincial and territorial Métis organizations are now making the transition from benevolent associations and lobby groups to quasi-governmental bodies. The Métis National Council has developed nation-wide governmental associations, and the Metis Nation of Saskatchewan has enacted wildlife conservation legislation to be observed by its citizens. The successful constitutional negotiations conducted by the Congress of Aboriginal Peoples (when it was the Native Council of Canada) and the Métis National Council with federal, provincial and territorial governments leave no doubt about the Métis Nation's ability to hold its own in intergovernmental diplomacy.

The ways in which the right of self-government is exercised, and through which it will be integrated with other governmental authorities, are subject to determination by each Aboriginal people and to intergovernmental negotiation. It would be inappropriate for the Commission to suggest the form or forms that Métis self-government should take. However, government structures must be capable of serving a citizenry spread across several provinces and territories, which could include

- a number of predominantly Métis communities with sizeable adjacent land bases;
- several predominantly Métis communities without adjacent land bases;
- several large urban areas with diverse populations; and
- numerous rural and smaller urban areas with diverse populations.

The structures are, to a considerable degree, already in place. They assume the establishment of adequate territorial and funding bases, recognition by other governmental authorities, and agreement on respective roles and integration. Negotiations on the missing elements are long overdue.

Recommendation

The Commission recommends that

4.5.10

The governments of Canada and of relevant provinces and territories

(a) be prepared to negotiate immediately with appropriate Métis representatives (as well as, where appropriate, other Aboriginal governments) on the manner in which Métis self-government will be recognized by and integrated with other governments and assisted to become financially self-sufficient; and

(b) pursue independently and swiftly those aspects of self-government that are not dependent upon land base considerations, although it will be appropriate for part of these negotiations to take place in the context of negotiations concerning the nation's land base.

Métis access to Aboriginal benefits programs

Métis people have been disadvantaged over the years, along with non-status Indians, by being denied access to programs — from non-insured health benefits to post-secondary education — that have been available to other Aboriginal peoples. (For more detailed discussion, see Volume 3, Chapters 5 and 6.)

Some people demand both immediate and retrospective parity of access to the programs from which they have been excluded. While recognizing the very serious wrong done to Métis people by excluding them for more than a century from benefits provided under the authority of section 91(24) of the Constitution Act, 1867, the Commission is of the opinion that negotiated settlements are preferable to perpetuating the paternalism of the past and extending it to Métis people. In our view, the focus should be on negotiated arrangements that permit all Aboriginal nations, including Métis nations, to assume eventual responsibility for their own benefit programs. These should be coupled with appropriate interim measures such as the Aboriginal scholarship fund referred to in Volume 3, Chapter 5. We agree, however, that parity of access must apply to all new Aboriginal programs in future, assuming Métis consent. The sooner effective nation-to-nation negotiations on the future of the Métis Nation are completed, the fewer such interim measures will be required.

Conclusion

The people of the Métis Nation live diverse lives. They include both rural residents and city dwellers. They pursue livelihoods in just about every field of endeavour, from the traditional Aboriginal occupations of trapping and fishing, to agriculture, business and professions like medicine, engineering, architecture, journalism and law. They are found in every economic and educational stratum, although they are, on average, considerably less well off economically and educationally than other Canadians. More important than those differences is their common Métis heritage, forged in the fur-trade partnerships that opened the North American northwest to the rest of the world. That heritage is part of every Métis Nation citizen.

The Métis Nation is struggling for preservation of its culture and eradication of discrimination. The nation's determination has been tempered in the flames of much fiercer conflicts, and its leaders are confident of victory in several arenas. Important court cases concerning land and harvesting rights are working their way to the Supreme Court of Canada, and other litigation is in process. Although they are hopeful that their legal rights eventually will be confirmed by the courts, Métis leaders recognize that legal rights are less important than moral and political rights. They are therefore pursuing political initiatives, and it is our hope that other Canadian governments will be wise enough to explore those initiatives with them.

The twentieth century began with the people of the Métis Nation uprooted, fragmented and dispirited. They are determined that before it closes they will have regained their rightful place as a self-governing, self-sufficient, culturally vibrant Aboriginal people inside a more equality-conscious Canadian society.

3. The Other Métis⁴⁸

3.1 History

Several Métis communities came into existence, independently of the Métis Nation, in the eastern part of what we now call Canada, some of them predating the establishment of the Métis Nation.⁴⁹ The history of Métis people who are not part of the Métis Nation is not easy to relate. For one thing, their past has not been much studied by historians. If the Métis Nation's story is unfamiliar to most Canadians, the story of the 'other' Métis is almost untold. For another thing, their story is made up of several largely unconnected segments, each relating to a different geographic area. Here we can provide only the briefest of sketches for each of the areas involved. Each sketch represents a complex history that has yet to be studied in detail.

Because the recommendations made with respect to the Métis Nation seem applicable, with appropriate adjustments, to other Métis as well, no recommendations are made in this section.

Labrador

Even before Jacques Cartier's explorations in the 1530s, European fishermen were exploiting the fishery in the Strait of Belle Isle. Later, non-Aboriginal fishermen came from Newfoundland. Although many of these men stayed aboard their vessels most of the time (thereby acquiring the name 'floaters'), some established shore bases, either seasonal — 'stationers' — or permanent — 'liveryers' or 'settlers'. Inevitably, relationships developed between the men who lived on shore and the women of the indigenous Inuit and Innu populations. The children and grandchildren of those unions formed communities with distinct ways of life. The first Métis communities appear to date from the late 1700s.⁵⁰ The Labrador Métis Association described the origins of its people this way:

For many generations...before Newfoundland and Labrador joined with Canada, and even long before Canada itself existed as a nation, the Labrador Métis, who were then commonly referred to as the 'liveryers', or 'settlers', lived on the coast, both north and south, in complete harmony with the land and the sea, much the same as their Inuit and Indian neighbours. The same can be said for those who ultimately settled in the Lake Melville region and became the celebrated trappers of central Labrador....

[T]he people in such places as Paradise River, Black Tickle and Pinsent's Arm on the south coast [who are now calling themselves Métis] are essentially no different than the Inuit of Rigolet, Postville, or Makkovik on the north coast. [I]t is only geography and the attitude of outsiders that separates them....

I say to you and to Canada we are not livyers. We are not settlers. We are Métis — the progeny of our Indian and/or our Inuit and European settlers who long ago settled this harsh and beautiful land when others considered Labrador to be the land God gave to Cain.

Bernard Heard
Labrador Métis Association
Happy Valley, Newfoundland and Labrador, 16 June 1992

The statement that the Labrador Métis are essentially no different from Inuit should not be misunderstood. It may be true that it is only geography and the attitude of outsiders that separates these two groups, but those two factors have been significant in isolating and shaping Métis cultures everywhere.

Although economic activities and resource use patterns of the Labrador Métis are similar to those of Inuit and Innu in neighbouring areas, social and geographic distinctions have always existed between these peoples. This sense of identity resulted in the development of about 20 primarily Métis communities in the area from upper Lake Melville south to the Strait of Belle Isle. To the north of the region, communities are chiefly Inuit; to the south and west, they are mainly Innu. A relatively well-defined geographic area has developed, therefore, of communities populated predominantly by Aboriginal people who have long considered themselves different from other Aboriginal and non-Aboriginal people in the area. Their livelihood depends heavily on seasonal harvesting of the sea and the land in patterns with ancient origins. The territory within which they have traditionally exercised harvesting rights overlaps with that of Innu inhabitants.

As the Labrador Métis Association brief suggests, communities of mixed-ancestry Labradorians did not always refer to themselves as Métis. That term has come into use relatively recently in Labrador, chiefly since the inclusion of the word "Métis" in section 35 of the Constitution Act, 1982. Some members of the Métis Nation think it is not appropriate for Labradorians to call themselves Métis now when they did not do so in the past. The position of the Labrador Métis Association and its members is that what counts is not the expression used — then or now — but the substance of their ancestry and their identity. Although they had no need in the past to call themselves anything but livyers or settlers or Labradorians, they always knew they were Aboriginal people of mixed ancestry who long had lived in distinct communities and pursued a distinctive way of life. That, they contend, is precisely what the word Métis means in section 35 of the Constitution Act, 1982. They are accordingly now claiming the Aboriginal entitlements that the constitution describes as being available to Métis people.

It seems clear that the Métis of Labrador are an Aboriginal people within the meaning of section 35. They display the social and geographic distinctiveness, the self-consciousness and the cohesiveness of a people, along with an unmistakably Aboriginal relationship to the natural environment. If their political institutions are not so fully developed as those of some other Aboriginal nations, it seems likely that they will be soon. It is likely that they would qualify as a nation under the recognition policy we have proposed. Since they are probably a people and are undeniably Aboriginal, we do not consider it legally crucial

whether they are labelled Métis or Aboriginal for constitutional purposes. For social and political purposes, they are entitled to call themselves Métis if that is how they wish to identify themselves.

The Métis people of Labrador were never the subject of any Aboriginal treaty. On the other hand, until recently there was little or no governmental interference with their harvesting of the natural resources of their region. In short, they were largely ignored by governmental authorities. Recently, however, their harvesting activities are being interfered with by government to an extent they consider a violation of their Aboriginal rights. That contention is being examined by the courts. A collective land claim is also under study.⁵¹

The Maritimes

Métis people in the Maritime provinces can also trace their communities to early contacts between the Aboriginal populations (Mi'kmaq and Wuastukwiuk, or Maliseet) of the region and French or British newcomers. Rewards were offered by British authorities in the early eighteenth century to British subjects who married Indians.⁵² The offspring of Aboriginal-European marriages often congregated, as in Labrador, in communities away from those of both ancestral peoples.⁵³

Along with most of the rest of the early Maritime population, Métis people were profoundly affected by the British expulsion of Acadians between 1755 and 1763. Métis communities endured or regenerated, however, in parts of what are now Nova Scotia and New Brunswick. One of the earliest recorded uses of the word Métis ("Isle Mettise") occurs on a map drawn in 1758 of the area drained by the Saint John River.⁵⁴

The New Brunswick Association of Métis and Non-Status Indians stated in a 1984 presentation to the Native Council of Canada that Métis people were, in the early years, generally included as Indians, in Wuastukwiuk and Mi'kmaq treaties.⁵⁵ They participated in the treaty process as individuals, however (although some maritime Métis people participated as Indians); they did not do so as a people, despite the fact that government negotiators seem to have been well aware of their distinct culture and identity. From the late 1870s onward, the governmental practice of treating Métis individuals as Indians for treaty purposes was abandoned, and a series of Indian Act amendments was adopted with a view to encouraging enfranchisement by Métis and other people previously treated as Indians. In short, the government of Canada consciously ignored the New Brunswick Métis as a separate people.

Quebec

Some of the earliest origins of the western Métis Nation can be traced to Quebec: the first francophone coureurs de bois to serve the western fur trade came from the lower St. Lawrence region. Their migration to the Great Lakes basin resulted in some of the first clearly identifiable Métis communities in North America, and their subsequent movement westward culminated in the evolution of the people who went to the barricades with

Louis Riel and Gabriel Dumont. In talking about the French element of the Métis Nation, it may be useful to think of the Métis culture as having been conceived in Quebec, gestated in Ontario and born on the western plains.⁵⁶

Whether or not the intermarriage of First Nations people with the early French settlers of Quebec was ever a significant element of official French colonial policy, as it apparently was for the British in Acadia, is a subject of some disagreement among historians. Champlain certainly supported establishing such a policy, but it does not seem to have been made official. The approach of later administrations is unclear.⁵⁷ With or without government stimulus, Aboriginal-French intermarriage on a large scale (especially when there were few female immigrants) was a reality of early Quebec society. Distinct communities resulted, perhaps because European people came to North America before European institutions arrived.

Collectively, too, Métis people have a presence in Quebec that cannot be ignored. Some 8,690 people in Quebec identified themselves as Métis in Statistics Canada's 1991 Aboriginal people's survey.⁵⁸ The Commission received several forceful and informative presentations on behalf of Quebec Métis from such organizations as the Association des Métis et des Indiens hors-réserve du Québec and the Métis Nation of Quebec. Some presenters referred to Quebec Métis as "the twelfth distinct Aboriginal nation in the province of Quebec and the fifty-fifth Aboriginal nation in Canada".⁵⁹ In explaining their distinctiveness as a nation, Métis people emphasized that they should not be considered "Indians living off reserves" any more than Québécois should be considered "francophones living outside France".⁶⁰ They pointed to the early origins, the number and the permanence of Métis communities in Quebec:

We formed little by little our own communities in respect of our own reality. We were denied access to the communities...constituted by European settlers and those of the Native nations.

Élizabeth LaMadeleine
Métis Nation of Quebec
Montreal, Quebec, 28 May 1993

Over the centuries our people have developed their own physical communities with a social, political and cultural community structure that is unique to us and that we, like other Aboriginal nations, wish to preserve. île du Grand Calumet, Fort Coulonge, Saint Epiphane, Otter Lake, Quyon, Mont Laurier, Chicoutimi, Trois-Rivières, Les Escoumins are examples of these communities. [translation]

Sylvie Plouffe
Métis Nation of Quebec
Montreal, Quebec, 28 May 1993

[W]e do not live off the reserves; we have specific communities. Go to the île du Grand Calumet, I invite you to come to the île du Grand Calumet... You will see the Métis beauty of an island. [translation]

In 1992 the Native Alliance of Quebec presented a paper to a consultation forum on the Charlottetown Accord, which demonstrated the determination of Quebec Métis to take charge of their collective destiny:

We the Métis People of the province of Quebec are distinct Aboriginal People in the province of Quebec and in Canada. We will no longer remain in the back seat of First Nations dreams, hoping for their good will. We the Métis people have a right to the front seat and we are taking it.⁶¹

Ontario

There is a difference of opinion about how far east the homeland of the Métis Nation extends. There can be little doubt that the Great Lakes region was important for that part of Métis Nation culture that draws on Quebec antecedents. The difference of opinion concerns whether Métis people whose ancestors remained in Métis settlements in Ontario rather than emigrating to the prairies should be considered part of the Métis Nation. The answer to that question, in the Commission's view, is essentially political rather than historical or legal. If a community and the Métis Nation agree that the community is part of the Nation, then surely it is; otherwise, it is not. The fact that we have chosen, as a matter of convenience, to treat the Ontario Métis here rather than in the section devoted to the Métis Nation signifies nothing regarding the political question. Indeed, it may be worth noting that the political relationship between the Métis Nation and the Métis people of Ontario has changed during the term of the Commission's mandate.

It is indisputable that the distinct Métis communities of Ontario — in locations as widespread as Burleigh Falls (near Peterborough),⁶² Moose Factory (on James Bay), Sault Ste. Marie and Rainy River (in the north and west of Thunder Bay)⁶³ — have long and unique histories, as well as indisputable claims to recognition of their Aboriginal origins and entitlements. The Métis community at Sault Ste. Marie, a hub of early fur-trade activity, has a particularly long and eventful history. It would appear, in fact, that the area was largely under Métis control from the late seventeenth to the mid-nineteenth century. The pre-eminence of a Métis family called Langlade has been noted by historians.⁶⁴

It is reported that in 1849 (the same year the Red River Métis organized to protest Guillaume Sayer's prosecution for free trading), Métis people of the Sault Ste. Marie area helped seize a mining operation of a Quebec-based company.⁶⁵ That event seems to have influenced the Canadian government the following year to appoint W.B. Robinson to negotiate Aboriginal treaties in the area. The Robinson treaties took some account of the Métis population, which was estimated, presumably in terms of families, to be 84 on Lake Superior and 200 on Lake Huron. Robinson commented on the matter in his official report:

As the half-breeds at Sault Ste. Marie and other places may seek to be recognized by the Government in future payments, it may be well that I should state here the answer that I gave to their demands on the present occasion. I told them I came to treat with the chiefs who were present, that the money would be paid to them — and their receipt was sufficient for me — that when in their possession they might give as much or as little to that class of claimants as they pleased. To this no one, not even their advisers, could object, and I heard no more on the subject.⁶⁶

There was considerably more to the question of Métis claims in the Huron and Superior area than this reference would suggest. For one thing, the claim had Indian support. Chief Shingwakance and Chief Nebenaigoching of the Ojibwa people, who led the Indian negotiating team at Sault Ste. Marie, gave commissioner Robinson a list of about 60 Métis, whose claims they submitted with the proposed text for a section of a treaty that would have provided 100-acre grants from the Ojibwa lands to the Métis individuals named. While acknowledging that the Indians could allocate some of their treaty land to the Métis, Robinson was unwilling to include such a provision in the treaty.⁶⁷ He may have feared that Indians might then claim a correspondingly larger share of public lands or that openly recognizing Métis entitlements would create a precedent.

The idea that Métis people had an Aboriginal entitlement distinct from that of their Indian relatives was not a novel concept to those who took part in the Robinson treaty negotiations in 1850. A treaty between the Ojibwa and the United States government, signed at Fond du Lac on Lake Superior in 1826, had called for 640-acre allocations to designated "halfbreeds". That treaty provision had been the model for the draft provision that Shingwakance and Nebenaigoching had unsuccessfully urged Robinson to accept. In 1836 an American treaty with Ojibwa of northern Wisconsin and Michigan had provided for the distribution of \$150,000 in cash among "halfbreed relatives" of the Indians covered by the treaty.

Although he rejected special treatment of "halfbreed" claims in the treaties, Robinson did agree that "Canadians resident on the lands just surrendered at Sault Ste. Marie" should be "liberally dealt with" in connection with "land on which they have long resided and have made improvements". These "Canadians", most of whom were Métis, were advised to petition the government with their claim, and when they did (stressing their Aboriginal connections rather than their old settler status), Robinson urged the government to give them favourable consideration. What came of the idea was an offer to allow them to buy back 50 acres of their own land for 1 shilling per acre, a fee intended to help the government recoup surveying and patenting costs.

Precisely how many Métis individuals acquired land under this buy-back scheme is not clear. A few certainly did, but a recent study of the question concludes: "It appears...that few Métis obtained patents". More Métis chose to be treated as Indians, live on reserves and accept treaty benefits, but that group is also difficult to quantify. By no means all Métis people in the areas covered by the Robinson treaties sought treaty status, and not all who did so were accepted. It depended, in part, on who was responsible for administering the treaties in particular areas. Those administered by Hudson's Bay

Company officials seem more likely to have included Métis people, while those administered by the chiefs were less likely to include them, though some chiefs were willing to do so. After 1875, however, when the government took over distributing treaty benefits, it made a major effort to eliminate Métis people from the rolls.⁶⁸

While an accurate reckoning of the proportion of Great Lakes Métis who received treaty benefits or land grants will never be possible, it seems likely that it is small. A recent study of the Robinson treaties states:

One group of Aboriginal people...derived very little benefit from the treaties. These were the Métis, whose settlements in 1850 dotted the upper Great Lakes region. If it was better to be Ojibway in Canada than in the United States...it was far worse to be a Halfbreed.⁶⁹

At Rainy River in 1873, an agreement was struck between government representatives and the Métis community, as a distinct collectivity, on a 'halfbreed adhesion' to Treaty 3.⁷⁰ However, the political fall-out from the Métis uprising at Red River contaminated Métis-government relations and spawned federal policies that increasingly deprived Métis people of their Aboriginal entitlements. The 'halfbreed adhesion' was repudiated by government, and the Métis of Rainy River found themselves, much as their compatriots elsewhere in Ontario, frozen out of treaty benefits .

In 1905, when Treaty 9 was being negotiated, the government's treaty commissioners encountered a major Métis presence in the Moose Factory area. By that time there was no longer any question of bargaining with the Métis as a group. Those who had been assimilated to the Indian way of life were generally given treaty status, but those who asserted Métis identity were offered scrip under the Dominion Lands Act.⁷¹

The Métis community at Burleigh Falls, which has deep historical roots, consists of persons whose forebears took treaty status in the early and mid-nineteenth century but who gradually lost their treaty rights by marrying non-status men or through other forms of enfranchisement. They have actively asserted their Métis identity and rights as a group since at least 1975.⁷²

3.2 Looking at the Present, Looking Toward the Future

The 'other' Métis are better organized now than they have ever been. They have established democratic organizations that could in time evolve into full-fledged instruments of self-government. Although they are not so elaborately organized as the Métis Nation, they are nonetheless fully prepared to work for the best interests of their members, and they are anxious to take their rightful place at bargaining tables where those interests are being discussed. The Métis of Labrador may well have reached nationhood status, and other Métis soon will follow suit. In the meantime, all major communities of Métis seem well equipped to engage in interim discussions concerning their future.

Among the activities in which their organizations are engaged is the defence of their right, as Aboriginal people, to pursue resource harvesting. The Métis of Labrador, for instance, are currently engaged in litigation against fishing and hunting restrictions imposed by government authorities. They hope the courts will rule that they have the right to hunt and fish without restriction, because their Aboriginal right to do so was never lawfully extinguished.

As with the Métis Nation, other Métis are deeply concerned about their place in Canada's future. To a considerable extent, in fact, their present is preoccupied with their future. Generally speaking, other Métis share the goals of the Métis Nation, but their aspirations and approaches differ in significant ways from those of the Métis Nation. The following observations are brief because they focus primarily on those differences.

Nation-to-nation relations

Like their western counterparts, other Métis want to be fully responsible for their own fate. They want to be represented separately, as much as possible, in negotiations about their future relations with Canada. This is a natural consequence of recognition of nationhood.

With groupings of Métis communities whose nationhood may not be developed fully enough for recognition, complete independent representation may be put off. It is likely, however, that considerable immediate independence on certain issues would be appropriate and practicable for some communities.

Because their political structures are less well developed in some respects than those of the Métis Nation, and because they are labouring under stringent economic circumstances, other Métis need financial support to help them perfect their organizations and make preparations for effective negotiation and implementation of governance arrangements. Indeed, as we noted in the chapter on self-government (see Volume 2, Chapter 3), even fully emerged Aboriginal nations need interim funding to assist in nation building. Other Métis, like all Aboriginal people reconstructing their nations, should have access to such funds.

Sections 91(24) and 35

Other Métis concur that section 91(24) of the Constitution Act, 1867 must be amended to confirm that it applies to all Aboriginal peoples, and they also seek assurance that section 35 of the Constitution Act, 1982 applies to all Métis, not just to those who are part of the Métis Nation. In fact, they want confirmation that they are Métis within the meaning of section 35.

Education, culture and language

Other Métis feel as strongly as the members of the Métis Nation about the need for federal, provincial and territorial measures to preserve and enhance Métis cultures, Métis

use of Aboriginal languages, and education for and about Métis people if they are to survive as a people. Unlike the Métis Nation, they have no distinct language to protect, but encouraging and assisting their use of Aboriginal languages is equally important to them. As to other aspects of their cultures, especially their history, other Métis have a greater need for assistance because their stories are not as well known as those of their western counterparts.

Land and resource base

Other Métis contend that the case for their having an existing, unextinguished Aboriginal entitlement to land and resource use is as strong as that of the Métis Nation. There were few, if any, attempts to extinguish their Aboriginal title to land as in the west under the Manitoba Act and Dominion Lands Act. The legal right of other Métis to negotiate land claims settlements is therefore difficult to dispute. In the case of the Labrador Métis people, there is no doubt they can negotiate directly, but for other eastern Métis communities the means of conducting negotiations must be given careful consideration.

Self-government

Like the representatives of the Métis Nation, organizations of other Métis are anxious to talk to federal, provincial, Aboriginal, territorial and municipal politicians about implementing the inherent Aboriginal right of self-government. This will be easier for the Labrador Métis than for less fully developed Métis communities of the east, but even there some progress toward eventual self-government may be possible.

Benefit program compensation and parity

Other Métis have been as much the victims of government discrimination as members of the Métis Nation, with the result that they too are in grave need of catch-up measures in almost every area. Because their level of organization is not as mature as that of the Métis Nation and therefore not as well equipped to take over their own benefit programs, they require more external assistance than the western Métis. They also require a guarantee against discrimination in new programs.

Conclusion

Even if they were looked upon as a homogeneous collectivity, other Métis would constitute a minority within a minority within a minority: they are a neglected fragment of Canada's Métis population, which is itself a small and too often overlooked part of the larger Aboriginal minority. Other Métis are not a homogeneous collectivity, of course. They include many discrete communities and groups. Few Canadians are more exposed by their ethnicity to the risks of isolation and alienation than other Métis.

Yet other Métis have made remarkable progress toward winning recognition as founding partners of Canadian society and securing the benefits to which that partnership entitles them. Their determination to finish the job is evident. We believe that the other Métis,

with assistance of the type we have recommended, can create a future characterized by full participation in Canadian affairs as integral, though distinct, elements of the Aboriginal universe.

As mentioned at the beginning of this section, we have not made separate recommendations for other Métis. While their uniqueness is unquestionable, we believe their needs can be met by the application to them, with appropriate changes, of the general principles underlying the recommendations previously made.

Notes:

* Transcripts of the Commission's hearings are cited with the speaker's name and affiliation, if any, and the location and date of the hearings. See A Note About Sources at the beginning of this volume for information about transcripts and other Commission publications.

1 For an explanation of the plural word 'peoples', see the discussion of Métis cultures and communities below.

2 The Commission takes no position on which areas and communities should be considered part of the Métis Nation; that is a matter for the Métis Nation and the communities in question to determine for themselves. The population figures mentioned in this chapter are cited for the sole purpose of indicating the relative sizes of the Métis populations of each province and territory.

3 See note 4 and accompanying text.

4 See Dale Gibson, "The Beneficiaries of Section 35" (forthcoming). Harry W. Daniels, who was instrumental as president of the Native Council of Canada, in negotiating the inclusion of section 35(2) in the Constitution Act, 1982, contends that it was intended to cover all Métis people and non-status Indians, regardless of where they lived in Canada. The government of Newfoundland and Labrador has taken the position, as expressed in its letter to the Commission on 18 March 1994, that while it "recognizes there are people of aboriginal descent in the province who identify themselves as 'métis', it does not agree that they are "Métis" within the meaning of section 35(1) of the Constitution Act (1982)". See Appendix 5F.

5 Re the term 'Indians', [1939] S.C.R. 104; [1939] 2 D.L.R. 417 at 433 per J. Kerwin.

6 Peter W. Hogg, *Constitutional Law of Canada*, 3rd Edition, (supplemented) (Scarborough, Ontario: Carswell 1992); C. Chartier, "'Indian': An Analysis of the Term as Used in Section 91(24) of the B.N.A. Act" (1978) 43 Sask. L. Rev. (1978-79) 37; and Bradford W. Morse and John Giokas, "Do the Métis Fall Within Section 91(24) of the

Constitution Act, 1867?", in *Aboriginal Self-Government: Legal and Constitutional Issues* (Ottawa: RCAP, 1995). A contrary view was expressed by Bryan Schwartz in *First Principles, Second Thoughts: Aboriginal Peoples, Constitutional Reform and Canadian Statecraft* (Montreal: Institute for Research on Public Policy, 1986), p. 245.

7 *Public Inquiry into the Administration of Justice and Aboriginal People, Report of the Aboriginal Justice Inquiry of Manitoba, Volume 1: The Justice System and Aboriginal People* (Winnipeg: Queen's Printer, 1991).

8 In her article, "Métis d'Oka condamnés à l'exode", *Recherches amérindiennes au Québec* 12/2 (1982), Michelle Sarrazin explains how some Métis were forced to leave their homes because of municipal housing policies.

9 See Appendix 5A. The inclusion of Sault Ste. Marie as part of the Métis Nation homeland is not intended to express a position on the extent of that homeland, a question that is subject to dispute. We refer to Sault Ste. Marie here only as a reminder that however far the homeland can be considered to extend, some of its inhabitants have historical links with Métis communities in the Great Lakes basin.

10 Pieter Jan Bakker, "'A Language of Our Own': The Genesis of Michif, the Mixed Cree-French Language of the Canadian Métis", PH.D. dissertation, Drukkerij Universiteit van Amsterdam, 1992, pp. 1-2.

11 See Roy St. George Stubbs, *Four Recorders of Rupert's Land: A Brief Survey of the Hudson's Bay Company Courts of Rupert's Land* (Winnipeg: Peguis Publishers, 1967), p. 30.

12 See Maggie Siggins, *Riel: A Life of Revolution* (Toronto: Harper Collins, 1994), p. 67; and W.L. Morton, *Manitoba: Birth of a Province* (Altona, Manitoba: Manitoba Record Society, 1965).

13 Legally, this is an open question. See discussion of surrender in Appendix 5A.

14 Siggins, *Riel* (cited in note 12), p. 191.

15 Thomas Flanagan, *Metis Lands in Manitoba* (Calgary: University of Calgary Press, 1991).

16 Dale Gibson and Lee Gibson, "Who was Gilbert McMicken?" (1986, unpublished).

17 D.N. Sprague, *Canada and the Métis, 1869-1885* (Waterloo, Ontario: Wilfrid Laurier University Press, 1988), p. 125.

18 See D.N. Sprague, "Government Lawlessness in the Administration of Manitoba Land Claims, 1870-1887" (1980) 10 *Man. L.J.* 415.

- 19** Paul L.A.H. Chartrand, *Manitoba's Métis Settlement Scheme of 1870* (Saskatoon: Native Law Centre, University of Saskatchewan, 1991), p. 32.
- 20** An Act respecting the appropriation of certain Dominion Lands In Manitoba, S.C. 1874, c. 20.
- 21** House of Commons Debates, 6 July 1885, p. 3114.
- 22** An Act respecting the Public Lands of the Dominion [Dominion Lands Act], S.C. 1872, c. 23, s. 42.
- 23** An Act to amend and consolidate the several Acts respecting the Public Lands of the Dominion [Dominion Lands Act 1879], S.C. 1879, c. 31, s. 125(e).
- 24** See, generally, Bob Beal and Rod Macleod, *Prairie Fire: The 1885 North-West Rebellion* (Edmonton: Hurtig Publishers, 1984); and Siggins, Riel (cited in note 12), p. 327. The war was not just a Métis affair. See also A. Blair Stonechild, "The Indian View of the 1885 Uprising", in F. Laurie Barron and James B. Waldram, eds., *1885 and After: Native Society in Transition* (Regina: Canadian Plains Research Centre, 1986), p. 166. Reference is made to the hanging of eight Cree people at Regina, apparently for their part in the war.
- 25** T.C. Pocklington, *The Government and Politics of the Alberta Metis Settlements* (Regina: Canadian Plains Research Centre, 1991), p. 7.
- 26** Constitution Act, 1930, S.C. 1930, reprinted in R.S.C. 1985, Appendix II, No. 26, Schedule (1) Manitoba, s. 13; schedule (2) Alberta, s. 12.
- 27** See Pocklington, *Alberta Metis Settlements* (cited in note 25); and Catherine E. Bell, *Alberta's Metis Settlements Legislation: An Overview of Ownership and Management of Settlement Lands* (Regina: Canadian Plains Research Centre, University of Regina, 1994). Professor Bell is currently engaged in a major study of dispute resolution in the settlements.
- 28** Pocklington, *Alberta Metis Settlements*, p. 27.
- 29** Constitution of Alberta Amendment Act, 1990, S.A. 1990, c. C-22.2. See Bell, *Alberta's Metis Settlements Legislation*.
- 30** Translated by Elizabeth Maguet and republished in 1982 as *Hold High Your Heads, History of the Métis Nation in Western Canada* (Winnipeg: Pemmican Publications, 1982). Other studies of Métis history include Marcel Giraud, *The Métis in the Canadian West*, trans. George Woodcock (Lincoln and London: University of Nebraska Press, 1986); and Antoine S. Lussier and D. Bruce Sealey, eds., *The Other Natives: Les Métis*, 2 vols. (Winnipeg: Manitoba Métis Federation Press and Éditions Bois-Brûlés, 1978). Most

historians seem to agree, however, that the definitive history of the Métis has yet to be written.

31 Métis National Council, transcripts of the hearings of the Royal Commission on Aboriginal Peoples [hereafter RCAP transcripts], Ottawa, Ontario, 4 November 1993. See A Note About Sources at the beginning of this volume for information about transcripts and other Commission publications.

32 The Métis Nation Accord did not include all provinces. At that point, only five provinces joined federal representatives in agreeing to sign the accord. They were, however, the provinces within which the Métis Nation lies: the three prairie provinces, Ontario and British Columbia. The government of the Northwest Territories later entered into the agreement as well.

33 The asterisk meant that a political accord was to be used. For the proposed text of that accord, see Appendix 5E.

34 Pocklington, Alberta Metis Settlements (cited in note 25); and Bell, Alberta's Metis Settlements Legislation (cited in note 27).

35 The separate school guarantees in section 93 (Constitution Act, 1867 (U.K.), 30 & 31 Vict., c. 3, reprinted in R.S.C. 1985, App II, No. 5) are too lengthy to quote in full. The central guarantee is found in section 93(1), which states that nothing in any provincial statute about education "shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union". This protection has been held to extend to the right of members of the denomination in question to manage their own schools: Roman Catholic Separate Schools of Ottawa v. Ottawa [1917] A.C. 76. Because the only denominational schools whose supporters possessed rights or privileges "by law---at the union" in 1867 were Protestant and Roman Catholic, only schools of those faiths are protected by section 93.

36 This guarantee is also too long to quote in full. Among other things, it ensures that any Canadian citizen "whose first language learned and still understood" is English or French, or who "received their primary school instruction in Canada" in one of those languages, and who resides in a province where that first language or primary school language is "the language of the English or French linguistic minority population of the province", has the right to have his or her children "receive their primary and secondary school education in that language in that province" (section 23(1)). That right includes, where numbers warrant, receiving that instruction "in minority language educational facilities provided out of public funds", but applies only "wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction" (section 23(3)). As with separate school rights under section 93, this right extends to management of the minority language schools by members of the minority. That point was established, along with several others, by the Supreme Court of Canada in *Mahe v. Alberta*, [1990] 1 S.C.R. 342.

37 Giselle Marcotte, Gabriel Dumont Institute Research and Development Team, RCAP transcripts, Saskatoon, Saskatchewan, 28 October 1992; and Gerald Morin, President, Métis National Council, RCAP transcripts, Ottawa, Ontario, 4 November 1993.

38 Although Michif is often referred to as a single language, it is in fact a related group of Indian-French linguistic blends.

39 Statistics Canada, 1991 Aboriginal Peoples Survey, Catalogue No. 89-533 (hereafter APS).

40 Bakker, "‘A Language of Our Own’" (cited in note 10), p. 2.

41 Statistics Canada, APS (cited in note 39).

42 Patline Laverdure and Ida Rose Allard, *The Michif Dictionary: Turtle Mountain Chippewa Cree*, ed. John C. Crawford (Winnipeg: Pemmican Publications, 1983).

43 Métis people claim to be ‘Indians’ within the meaning of the Rupert’s Land and North-Western Territory Order of 23 June 1870. It probably does not matter whether the order in council applies to them since the fiduciary duty of the provincial and federal governments, in any event, is rooted in common law. See Appendix 5A.

44 Constitution Act, 1930 (cited in note 26).

45 See Sprague, *Canada and the Métis* (cited in note 17).

46 See Flanagan, *Metis Lands in Manitoba* (cited in note 15).

47 RCAP, *Partners in Confederation: Aboriginal Peoples, Self-Government, and the Constitution* (Ottawa: Supply and Services, 1993).

48 This section draws on Martin F. Dunn, "All My Relations — The Other Métis", research study prepared for the Royal Commission on Aboriginal Peoples [RCAP] (1994). For information about research studies prepared for RCAP, see A Note About Sources at the beginning of this volume. The appropriateness of describing the people discussed in this section as ‘Métis’ is disputed by some. See our discussion earlier in the chapter on the differing uses of the term ‘Métis’.

49 See Olive Patricia Dickason, "From ‘One Nation’ in the Northeast to ‘New Nation’ in the Northwest: A Look at the Emergence of the Métis", *American Indian Culture and Research Journal* 6/2 (1982). A revised version appears in Peterson and Brown, eds., *The New Peoples: Being and Becoming Métis in North America* (Winnipeg: University of Manitoba Press, 1985).

50 See J.C. Kennedy, *People of the Bays and Headlands: Anthropological History and the Fate of Communities in the Unknown Labrador* (Toronto: University of Toronto

Press, 1995); and J.C. Kennedy, *Labrador Village* (Prospect Heights, Illinois: Waveland Press, 1996). The position of the government of Newfoundland and Labrador on the status of Métis people in that province is described in note 4 and in Appendix 5F.

51 Kirk Lethbridge, Labrador Métis Association, RCAP transcripts, Sheshatshiu, Newfoundland and Labrador, 17 June 1992.

52 See Jacqueline Louise Peterson, "The People in Between: Indian-White Marriage and the Genesis of a Metis Society and Culture in the Great Lakes Region, 1680-1830", PH.D. thesis, University of Illinois, 1981.

53 See Olive Patricia Dickason, *Louisbourg and the Indians: A Study in Imperial Race Relations, 1713-1760* (Ottawa: Supply and Services, 1976).

54 A photocopy of the 1758 map was provided to the Commission by the Skigin-Elnoog Housing Corporation of Fredericton, New Brunswick. Its provenance has not been confirmed, however. Of course, the presence of the word Métis on a map does not necessarily confirm the presence of a Métis population there.

55 "The Métis of New Brunswick", Report to Native Council of Canada, October 1984.

56 No metaphor can reflect a complex historical phenomenon accurately. In reality, the French elements of the Métis Nation culture were themselves conceived, gestated and born in many different locations.

57 See Dickason, *Louisbourg and the Indians* (cited in note 53); Dickason, "From 'One Nation' in the Northeast" (cited in note 49); Peterson, "The People in Between" (cited in note 52); Peterson, "Prelude to Red River: A Social Portrait of the Great Lakes Métis", *Ethnohistory* 25/1 (Winter 1978), p. 41; and Isabelle Perrault, "Traite et métissage: un aspect du peuplement de la Nouvelle France", *Recherches amérindiennes au Québec* 12/2 (1982), pp. 86-94.

58 The Laurentian alliance of Métis and non-status Indians has also commissioned research about their demographic situation in Quebec. See Danielle Gauvreau, Francine Bernèche and Juan A. Fernandez, "La Population des Métis et des Indiens sans statut: essai d'estimation et distribution spatiale", *Recherches amérindiennes au Québec* 12/2 (1982), pp. 95-103.

59 Sylvie Plouffe, Métis Nation of Quebec, RCAP transcripts, Montreal, Quebec, 28 May 1993 [translation].

60 Réjean Pilote, Métis Nation of Quebec, RCAP transcripts, Montreal, Quebec, 28 May 1993 [translation].

61 Native Alliance of Quebec, "Moratorium, The Métis People of the Province of Quebec", tabled at the consultation forum of the Native Alliance of Quebec on the

Charlottetown Accord, Campbell's Bay, October 1992. The Native Alliance of Quebec appeared before the Commission at hearings in Montreal on 1 December 1993.

62 We understand that residents of Burleigh Falls have recently been restored to Indian Act status. While that development illustrates the political nature of many identity issues, it cannot obliterate the historical association of Burleigh Falls with Métis people.

63 Other early Métis settlements were formed at Penetanguishene on Georgian Bay, Shebandowan (Killarney) on Lake Huron east of Manitoulin Island, and Gachkiwang (Pembroke) on St. Joseph's Island. James Morrison, "The Robinson Treaties of 1850: A Case Study", research study prepared for RCAP (1993).

64 See Brad Morley, "Charles de Langlade, 'Riel' of the Lakes", *Invisible Natives*, Dimensions Special Editions 8/3 (June/July 1980), p. 19; Peterson, "The People in Between" (cited in note 52), Carolyn Harrington, "Sault: First Capital", *Invisible Natives*, p. 8; Ontario Metis and Non-Status Indian Association [OMNSIA], "The Development of a Halfbreed Community in the Upper Great Lakes", Ontario Métis and Non-Status Indian Association Report, 1979; "Historical Survey of the Relationship Between Half Breeds and the Wars which were Part of the Social Milieu of Eastern North America", in summary field report for OMNSIA, 1979; and "Métis Middlemen Heart of Frontier Community", *Invisible Natives*, p. 22. (OMNSIA is now the Ontario Metis and Aboriginal Association.)

65 See Harrington, "Sault: First Capital"; K. Noble, "Field Report on Robinson Treaties Area", summary field report for the Ontario Métis and Non-Status Indian Association, 1979, p. 48; and Morrison, "The Robinson Treaties" (cited in note 63).

66 Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories* (Toronto: Belfords, Clarke & Co., 1880), p. 20.

67 Morrison, "The Robinson Treaties" (cited in note 63), from which the following account is drawn.

68 Dunn, "All My Relations" (cited in note 48).

69 Morrison, "The Robinson Treaties" (cited in note 63).

70 W. Moss, "Métis Adhesion to Treaty 3", summary of field report for OMNSIA, 1979; E.B. Borron, "Report on Indian Claims Arising Out of the Northwest Angle Treaty #3", Archives of Ontario, F1027 Irving Papers, 30/36/6(2), 1893; and Gail Lem, "A Chronology of the Adhesion by the Half-Breeds of Rainy River and Lake", Native Council of Canada, 1977.

71 J. Long, "The Métis of Treaty #9", OMNSIA, 1979.

72 Kawartha Branch, OMNSIA, 1978.