

The Promise and Possibility of Being Métis in Canada: Practicing Proximity and Living in Translation

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On September 21, 1875, a small group of men representing the young Dominion of Canada entered the new postage stamp province of Manitoba and met with Stanislas Desjarlais, a 26 year old ‘halfbreed’, his Métis wife Virginie, and their family.¹ As part of the provisions for the newly signed Manitoba Act of 1870, Stanislas and some 1200 other Métis families near Red River had come to receive their individual portion of the 1.4 million acres of land that had been collectively held by the Red River Métis Nation. The Desjarlais family’s claim was officially recorded as Number 1259: Stanislas’ received ‘scrip’ 1161 and Virginie ‘scrip’ 1162, their consent ‘marked’ with an ‘X’ on the official documents. This was to be a new beginning for the Desjarlais, a point of transition from their earlier life as vital part of Métis society through Stanislas’ work as a Northwest hunter and scout to a different economic and political order based on agriculture. The Desjarlais ‘settled’ into their Métis homeland around the birthplace of Stanislas in St. Francois Xavier, a little village west of present day Winnipeg.

For their part, the Dominion of Canada’s commissionaires considered their task of satisfying Métis title complete and they returned to Ottawa to preserve and store the record of scrip 1161 and 1162 along with thousands of other Métis ‘extinguishments’ in their archives. The purpose of scrip documents and other government legislation like the *Indian Act of 1876*, was to individualize Métis collective identity thereby making it difficult, if not impossible, for individual Red River Métis to practice their existence as a member of a distinct nation. According to the Canadian government’s logic, the sum total of Métis nationhood that had been preserved in the negotiation of the Manitoba Act of 1870 was cancelled out by a mark on a legal document. The “X” gave politicians and economic elites far away in central Canada the justification to terminate the government’s historic and legal obligations to the Red River Métis Nation in order to fulfill their desire to open the West for settlement. Thus began government

¹ Stanislas Desjarlais was the great grandfather of co-author Joe Desjarlais.

policies that ignored historic Métis rights and rationalized the forced assimilation of Métis peoples through Canadian citizenship.

Family history is silent on the activities of the Desjarlais in the years after 1875. It is highly likely that they faced the same kind of discrimination that caused 80% of the Métis population to leave their Red River homeland during the ‘reign of terror’² as Newcomers attempted to access the promise of cheap and abundant agricultural land. In this often threatening and hostile environment, being Métis became incompatible with ‘progress’ and scrip as an expression of Red River Métis collective identity an impediment to bona fide settlement. Despite the Red River Métis making petition to the government for an inalienability clause, the government’s policy was to substitute Métis collective title for individual settler’s rights. Prime Minister Macdonald would defend the policy during the House of Commons debate on the 1885 ‘rebellion’ when he stated:

Go, take your 160 acres; take your pre-emption for 160 acres more, and you shall stand as well as a white man, and shall get your patent after three years ... We, the Government of the Dominion of Canada ... say: We give you the land; occupy it, cultivate it, live on it, be happy on it, and at the end of three years you will get 160 acres, and you will stand free and independent, a freeholder, a yeoman, a free man in the North-West.³

In the strict racial divide of the late twentieth century, Métis were forced to choose either Indian status or ‘white’ citizenship, there was no room for a collective, hybrid Métis identity. Despite the challenges, Stanislas chose to remain in St. Francois Xavier, probably to stay close to his established kinship network. Undoubtedly, his survival in Manitoba required the skills of resistance and adaptability that he had honed as a hunter and scout. It appears that the Desjarlais family’s best strategy was to blend into the new reality, limit expressions of their identity as Red River Métis, and live on the margins of a growing Canadian society.

² See Fred Shore, “The Emergence of the Métis Nation in Manitoba,” in L. J. Barkwell, L. Dorion and D. R. Prefontaine, Editors. *Métis Legacy: A Métis Historiographical and Annotated Bibliography*. Winnipeg, MB: Pemmican Publications, 2001. Also, Lawrence Barkwell, “The Reign of Terror Against the Métis of Red River,” The Louis Riel Institute, February 12, 2008.

<http://www.Métismuseum.ca/media/document.php/07260.pdf>. For Louis Reil’s and Ambroise-Dydime Lepine’s complaint to Alexander Morris, Lieutenant of Manitoba see: Governor of Canada, Parliament, House of Commons, “Report of the Select Committee on the Causes of the Difficulties in the North-West Territory in 1869-70” *Journals of the House of Commons* 8 (Appendix 6), [Ottawa: I.B. Taylor] 1874: pp. 200-207. <http://archive.org/stream/reportselectcom00geofgoog#page/n218/mode/2up>

³ “Speech before the house of commons, July 6, 1885.” <http://www.collectionscanada.gc.ca/2/4/h4-4090-e.html>

Only a few memories have been passed down about Stanislas in the Desjarlais' family history. One story of being caught in a prairie snowstorm with some Indians recalls his Métis uniqueness in that while others resorted to eating some dog meat to survive, he only ate the raw flesh around the paws. Another oral account of being sent to guard the Canadian-US border around the time of the Fenian raids in the Fall of 1871 celebrates his connection to the proud heritage of the Red River Métis collective's contributions to Confederation. Other stories, like the one of his baptism into the Catholic Church at the age of twenty-one by the legendary Father Lacombe, point to his conversion and the Christian heritage of the family. But almost all of the family's past treats Métis culture and identity as a 'dead letter', as a part of their past that had been 'extinguished'. Family anecdotes mirror the impossibility of remaining Métis: Sometime in the 1870s someone in the Desjarlais kinship network stole the money from the sale of his scrip and moved out West, never to be seen again. Dislocated from St. Francois Xavier, Stanislas moved his family to Fort Ellice on the Manitoba – Saskatchewan border near the present town of St. Lazare, the location where a photo, perhaps the only remaining image of Stanislas, was taken around 1908. At the same time when settlers were realizing Prime Minister, Wilfred Laurier, optimistic predictions of the wealth and prosperity of "Canada's Century", the stark black and white snapshot depicts an impoverished older Stanislas sitting with relatives in front of a dilapidated shack.

The next two generations of Desjarlais have few positive memories of life on the 'road allowances' where Stanislas raised a family and spent his last days. The family narratives reinforce the marginalized, dispossessed and disadvantaged position of Métis peoples who lived in an era when one culture was burned and stripped for parts and another poured in, prepackaged, ready to replace it.⁴ An appreciation of their Métis heritage in the Red River was replaced by a 'myth of the West' that celebrated Newcomers as the beginning of Canada and Métis/indigenous history as a thing of the primitive, pre-historic past. Just as his "X" on the scrip application had supposedly cut Métis ties to the land, the family's history effectively lopped off their Métis identity. The family focused was on 'being Canadian' or, given the prevailing prejudice as

⁴ Adapted from Naomi Klein. *The Shock Doctrine: The Rise of Disaster Capitalism*. Toronto, ON: Alfred A. Knoff, 2007: p. 409.

expressed by Prime Minister Macdonald that “we cannot change the barbarian, the savage, into a civilised man.”⁵, to prove that Métis could ‘be Canadian’.

The denial of ‘being Métis’ was inter-generationally devastating. After the shock of the political and legal events in the 1870s and 1880s, three generations of Desjarlais experienced extreme poverty as ‘road allowance people’ and at various points lived in shacks made out of discarded lumber. In stark contrast to immigrants who flooded into Métis homelands in the Red River and Northwest and with help from the government were thriving, buying land, working together and garnering the resources and financial capital to take advantage of the new agricultural order, the Desjarlais found themselves outside of Canada’s mainstream. The denial of ‘being Métis’ in the family history hid what should have been obvious from the start: That since the Manitoba Act of 1870, Stanislas and his fellow Métis had been subjected to systematic dis-integration as a culture, subjugation as a nation and assimilation as a people. Not only had ‘being Canadian’ ignored the economic advantage that benefitted those who had political power, it placed shame on the family for the economic marginalization and cultural stigmatization of ‘being Métis’.⁶

Central to the marginalized position of many Métis families like the Desjarlais was the problem of identity. The real-politik of early twentieth century Canada that replaced the amorphous, hybrid character of Métis collective identity with a genealogical rights-based identity left little space for cultural negotiation. The imposition of fixed identities, Indian or ‘white’, that did not suit the fluid character of ‘being Métis’ paralyzed Métis and encouraged a passivity that lingers, unresolved. The anxiety of not ‘fitting in’ created cycles of systemic poverty and social dysfunction that expressed itself in dependency, alienation, horrendous apathy, infighting, internalized oppression, lateral violence, low education completion rates and income disparities. Lost to past and current generations of Métis were the ways in which their ancestors, like Stanislas Desjarlais, resisted ‘becoming Canadian’ and maintained ways of ‘being Métis’. Generations of Métis suffered because they did not have an opportunity to create a shared history with Newcomers.

⁵ “Speech before the house of commons, July 6, 1885.” <http://www.collectionscanada.gc.ca/2/4/h4-4090e.html>

⁶ Paul Chartrand, “Batoche Evokes Memories for Métis people” http://aborigin.sasktelwebhosting.com/Resources/July_2009.pdf

Supreme Court of Canada rulings in the last decade and a half have reopened up the question of Métis identity. Not since the Manitoba Act of 1870 and the era of Stanislas Desjarlais has there been such an opportunity to dialogue about the meaning of ‘being Métis’ in Canada. In many ways, however, the recent recognition of the Métis position in Canada can be understood as an anti-colonial movement that gained momentum in the post-World War Two period, gathered speed with the inclusion of Métis peoples in the Constitution Act, 1982 and found specific expression in the Powley and Daniels Cases. In recent decades, the agency of Métis people has called into question the exclusivity of the traditional historical definitions of Métis and has made it very difficult for Métis organizations and for Federal and Provincial government agencies to maintain standard forms of Métis representation. Governments in Canada have responded by endorsing and encouraging restricted definitions of Métis peoples in order to maintain status quo relations. However, the resurgence of distinct historical Métis communities from Labrador to British Columbia and the heightened awareness of Canada’s colonial history as a result of social movements like Idle No More, make it unlikely that current restricted relational models will hold or remain valid. The biggest challenge for Métis peoples will be to construct a positive representation of their communities while remaining fully aware of the systemic discrimination in Canadian society and the Federal Governments’ past and present assimilationist policies.

How we answer the question of ‘identity’ will largely determine if and how Métis will participate in CDN society. In many ways, the current status of all Métis in CDA is not unlike that of the Red River Métis who had to negotiate their own internal identity out of the diverse and dynamic context of the late 19th century alongside their desire to define their relationship with the rest of Canada. In engaging the ‘shared story’ of Métis once again attempting to ‘become Canadian’ in the critical period of the 21st century, we encounter the familiar world of ‘identity politics’ with its tendency towards marginalization and limitation. At the heart of the issue of Métis community (vs. individual’s identity) is ‘self-determination’ and ‘self government’. It is our position that if Métis people wish to assume their rightful place within Confederation, their communities must adopt the position that there are many representations of ‘being Métis’ and their leaders must embrace the necessity of negotiating Métis nationalisms based upon historical difference. We argue that the practice of proximity and living in translation within the context of nations-to-nation relations provides Métis with the best

opportunity for their communities to create associations that enable them to fully participate in Canadian society and effectively resist being recolonized by the Canadian state.

A Short History of Métis Identity

‘Being Métis’ is to find oneself in-between cultures and to negotiate an identity out of the complex and oftentimes ambiguous context of Newcomer-First Nations relations. From early on in this interaction between cultures, Métis have insisted they were historically different, which led to expressions of their sovereignty during the English colonial period in the signing of the Treaty of Niagara, 1764 and in the War of 1812 as allies of the British, and during the Canadian period in the negotiation of the Treaty of Manitoba in 1870 (Manitoba Act of 1870). However, the historical differences of Métis have not found a coherent expression in the official written histories of Canada because of the racial discourse associated with colonialism and as a result of the myth of cultural purity that often disregarded ‘mixed-blood’ communities.⁷ In that history, nations were either ‘indigenous’ (ie: barbaric) or ‘European’ (ie: Enlightened) and any ‘mixing’ made them “one of” or “the other” based on a perceived level of Christianity and Civilization. Three kinds of “Métis” have been constructed as a result of modern historical representations: The historians’ Métis, the Political Métis, and the Legal Métis.

The Historians’ Métis

Most of the history written on, about, or by Métis is preoccupied with establishing Métis identity at a particular time and in a particular place. From George Stanley’s *The Birth of Western Canada* (1936) to more recent books like John Weinstein’s *Quiet Revolution West: The Rebirth of Métis Nationalism* (2007) a single point of origin for Métis existence shapes a narrative that is validated by its relationship to the development of the Canadian state.⁸ In this version, “Métis” do not exist without “Canada”, and this whether or not Métis are characterized as the rebel populists or unscrupulous opportunists, heroic Western pioneers or impediments in the way of

⁷ Books like David Hackett Fischer’s *Champlain’s Dream: The European Founding of North America* New York, NY: Simon & Schuster, 2008, have problematized Canadian history written as racial discourse. As Hackett argues, Champlain’s dream was not to diminish difference; rather, his idea of humanity was to learn how to get along with others unlike ourselves and create a society based on harmony and respect.

⁸ George F. G. Stanley. *The Birth of Western Canada: A History of the Riel Rebellions*. Toronto, ON: Longmans, Green and Co, Ltd., 1936; John Weinstein. *Quiet Revolution West: The Rebirth of Métis Nationalism*. Toronto, ON: Fifth House, 2007.

progress, progenitors to Confederation or the fur trade's illegitimate byproduct. Despite the polemic nature of the historian's Métis, the communities' identity has become more nuanced, especially since 1982.⁹ The dominant academic paradigm used to explain the growth of Métis identity is the 'ethnogenesis' thesis, a theory that applies genealogical criteria and economic categories to show a unique culture emerging in the 19th century out of the context of the Red River fur trade. In this explanation, Métis uniqueness in the form of 'The New Peoples' is predetermined by geographies that can be traced to the many roads to Red River.¹⁰ While ethnogenesis has been useful in moving the Métis from 'just a collection of individuals' to a young nation struggling to define themselves amidst pressures from Canada, First Nations and the United States, as identified by shared interests, institutions and culture, the emphasis is grounding identity in a specific point of origin and on a culture 'left behind'.¹¹

However, the oral traditions of Métis communities have started to find their way into the standard Canadian narrative shedding new light on the many different ways of 'being Métis' and the diverse places, even within the 'Métis homeland', where Métis practiced everyday life.¹² These historical ruptures, which survive in oral conventions alongside 'official Métis history',¹³

⁹ For example, Gerhard Ens argues that earlier works that confined Métis identity to biology, blood or religion were incomplete and his book added the complexity of their economic and social niche in the Red River Valley. However, once the 'niche' was lost, so too, Ens argues, was Métis identity. See Gerhard J. Ens. *Homeland to Hinterland: The Changing Worlds of the Red River Métis in the Nineteenth Century*. Toronto, ON: University of Toronto Press, 1996.

¹⁰ Jacqueline Peterson and Jennifer S. H. Brown, editors. *The New Peoples: Being and Becoming Métis in North America*. Winnipeg, MB: The University of Manitoba Press, 1985. Jennifer S. H. Brown, "The Métis: Genesis and Rebirth," in Bruce Alden Cox, editor. *Native People, Native Lands: Canadian Indians, Inuit and Métis*. Carlton Library Series No. 142. Ottawa, ON: Carleton University Press, 1988: pp. 136-147.

¹¹ For example, an official government publication says this in its epilogue about the Métis final stand at Batoche: "The noise of war is gone. Much has been forgotten and lost, much difficult to recover. The Métis and Indians had little reason to recall the event, and they have left few records of it for storytellers, for historians. Their songs were *of another past*, of the buffalo hunt and the days of the fur trade in Rupert's Land." See Walter Hildebrandt. *The Battle of Batoche: British Small Warfare and the Entrenched Métis*. Revised Edition. Studies in Archaeology, National Historic Parks and Sites. Ottawa, ON: Environment Canada, 1986: p. 111 (italics mine).

¹² Jean Barman and Mike Evans, "Reflections on Being, and Becoming, Métis in British Columbia," *BC Studies*. No. 161 (Spring 2009): pp. 59-91; Nicole St-Onge, Carolyn Podruchny, and Brenda Macdougall, editors. *Contours of a People: Métis Family, Mobility and History*. Forward by Maria Campbell. Norman, OK: University of Oklahoma Press, 2012.

¹³ For example, this could amount to a story of earlier connections to a community, a way of life, or an expression of identity (say jigging, music, etc). Identities are validated through the collective memory of other self-identified 'Métis' that belong to a community. Community formation may not rely upon a genealogical chart, a blood quota or a connection to geographic region; it may be a 'loose association', a

challenge the dominant narrative that tends to consolidate Métis identity into a single national paradigm or marginalize Métis peoples in a footnote to the past. Alternative histories of Métis communities are being represented as scholars explore Métis languages like Michif, Chinook, Bungee and Métis geographies in Labrador, Northern Ontario or Eastern British Columbia. Rather than interpreting Métis history by its relationship to Canada, Métis histories are being informed by concepts of self-determination and historical difference.¹⁴

Two recent trends are of note when assessing the representation of Métis identity in the writing of history. The first is an attempt by some scholars to align traditional Métis values with those of Canadian society. John Ralston Saul's book, *A Fair Country*, for example, popularized the claim that Canada is Métis because its history of fairness, honour, hospitality and respect, all of which reflect indigenous, not Western, political philosophy, were unwittingly sewed into the nation's cultural fabric.¹⁵ Jennifer Reid, author of *Louis Riel and the Creation of Modern Canada* (2008), suggests that the traditional myths of Canadian history be replaced by more appropriate historical myths that "speak to the possibility of Métissage being a foundational factor in Canadian identity."¹⁶ While these kinds of post-colonial treatments of Métis identity are laudable for bringing indigenous ideals and values to the forefront of Canadian historical interpretation, they have been recently criticized for their 'representational values' approach. As Adam Gaudry points out, this approach amounts to an "inversion of colonialism" wherein Canada is reimagined as a "Métis civilization" built out of a "series of Canadian-Indigenous interactions that built a new society." Problematically, the new myths "construct a historical narrative where Canadians are actually assimilated by Indigenous peoples (in a rather benign

lost connection, an adoption but the story of identity is relatable to a community context. There is a possibility that Métis, marginalized peoples who often express shame about their heritage, maintained their history orally as a form of resistance. "Being Métis" was practiced in secret to avoid the stigmatization that often accompanied self-identification as Métis.

¹⁴ It is interesting to note that the Constitution Act, 1982 defines Métis as having 'aboriginal rights' making it necessary to defend Métisness on its relation to indigenous thought and action (one can't be too Euro-CDN and 'be Métis'). It may well be that this definition limits Métis communities, especially if this is interpreted as *the* defining feature of Métis identity. However, as will be argued below, if the CA, 1982 is interpreted as a recognition of the nations-to-nation relationship between the Crown and First Nations and Métis peoples, then it opens up other possibilities of 'being Métis' based on historic difference shaped by self-determination (the ability to chose a 'way of life') and self-government.

¹⁵ John Ralston Saul. *A Fair Country: Telling Truths about Canada*. Toronto, ON: Viking Canada, 2008.

¹⁶ Jennifer Reid. *Louis Riel and the Creation of Modern Canada: Mythic Discourse and the Postcolonial State*. Albuquerque, NM: University of New Mexico Press, 2008: p. 51.

fashion) into a pseudo-Indigenous “Métis” identity” but in the process they erase “the very real colonial context in which Canadians and Indigenous peoples live, have lived, and will, in all likelihood, still be living for the foreseeable future.”¹⁷ It is likely that the intention of Saul and Reid was to valorize, not homogenize, Métis identity, nevertheless, by linking Métis hybridity to Canadian multiculturalism, their approach lends itself to appropriation of identity rather than appreciation of difference.

The second recent approach to Métis identity takes its frame of reference from the diverse and dynamic nature of the Métis community itself. Rather than attempting to define Métis in a way that satisfies a government’s rights-based agenda (ie: creation of rights-bearing citizens), which amounts to an identity by negation (the “everything but” approach that fixes identity in time and space), some scholars are expressing community formation as positively constructed out of the dynamic past experiences of self-determined peoples. Forefront in this new telling of history are Métis authors who are reaching into their cultures and traditions for inspiration and insight in order to articulate the historical differences that make their communities unique.¹⁸ Indigenous historians are now articulating how their self-governing nations, unbound by racial or ethnic criteria, managed relationships with Newcomers by establishing clear lines of sovereignty through agreements of peace, friendship and mutual respect.¹⁹ Constitutional agreements between nations (both First Nations, Métis and Newcomers) in the form of treaties enhanced the identity of First Nations and Métis because they were negotiated out of their own interests. Because territory was being shared, ‘identity’ was based in national distinctions that necessarily changed over time, something that was recognized in what one Canadian scholar has called a “chain of continual intercultural negotiations” that were dependent upon the ‘convention of

¹⁷ Adam Gaudry, “The Métis-ization of Canada: The Process of Claiming Louis Riel, Métissage, and the Métis People as Canada’s Mythical Origin,” *aboriginal policy studies* Vol 2: No. 2 (2013): p 67.

¹⁸ A good example of this scholarship is Laura Peers and Carolyn Podruchny, “Introduction: Complex Subjectivities, Multiple Ways of Knowing”, Heather Devine, “Being and Becoming Métis: A Personal Reflection” and Theresa Schenck, “Border Identities: Métis, Halfbreed, and Mixed-Blood,” as found in Carolyn Podruchny and Laura Peers, editors. *Gathering Places: Aboriginal and Fur Trade Histories*. Vancouver, BC: University of British Columbia Press, 2010.

¹⁹ For excellent examples see George E. Sioui. *For an Amerindian Autohistory: An Essay on the Foundations of a Social Ethic*. Translated by Sheila Fischman. Forward by Bruce Trigger. Montreal, QU: McGill-Queens University Press, 1992 and George E. Sioui. *Huron Wendat: The Heritage of the Circle*. Revised Edition. Translated by Jane Brierley. Vancouver, BC: University of British Columbia Press, 1999. And, John Borrows (Kegeedonco). *Drawing Out Law: A Spirit’s Guide*. Toronto, ON: University of Toronto Press, 2010.

consent'.²⁰ Such scholarship, as one Métis author puts it, allows Canadians, First Nations, Métis and Inuit to “remain who we are, without having to be anyone else or invent new identities for ourselves.”²¹

Political Métis

Within Canadian national (and colonial) discourse, the popularized representation of Métis identity revolves around the now familiar story of Louis Riel, the Métis homeland and the Northwest Rebellion(s).²² Politicized stories of the Red River Métis have created polarized versions of their identity and a battle over the nature of their society has played out in academia, the courts and popular culture.²³ The image and character of Riel is debated: Is he a national hero and a father of Confederation? Or, is he a villain, a religious zealot, a megalomaniac, an opportunist, and a traitor?²⁴ Interestingly, both images of Riel and the Métis fit well within the classical modernist notions of history that have facilitated the assimilationist doctrine practiced by the Canadian state.²⁵ Whether a hero or a lunatic, the function of both constructions of Métis

²⁰ James Tully. *Strange Multiplicity: Constitutionalism in an Age of Diversity*. Cambridge, MA: Cambridge University Press, 1995: 184, 122.

²¹ Gaudry, “The Métis-ization of Canada,” p. 85.

²² A fairly standard academic treatment from the perspective of social history, for example, is J. M. Bumsted. *The Red River Rebellion*. Winnipeg, MB: Watson & Dwyer Publishing, Ltd., 1996.

²³ One of the most polemic authors arguing against Métis self-determination and self-governance has been Thomas Flanagan. See Thomas Flanagan. *Riel and the Rebellion: 1885 Reconsidered*. Saskatoon, SK: Western Producer Prairie Books, 1983 (a 2nd edition was released by University of Toronto Press in 2000); Thomas Flanagan. *Métis Lands in Manitoba*. Calgary, AB: University of Calgary Press, 1991. Thomas Flanagan, “The History of Métis Aboriginal Rights: Politics, Principles and Policy”. *Canadian Journal of Law and Society* 5: 71–94. Thomas Flanagan, “The Case Against Métis Aboriginal Rights”. *Canadian Public Policy* 9 (3): 314–325. There has been much discussion about Flanagan’s polemic position regarding Métis self-determination. For an early expression of the debate over Flanagan’s scholarship see Susan Campbell and Thomas Dapp, “Whose Side Are You On?” *left history* (1991): pp. 134-139. For a critique of Flanagan as an expert witness for the government in almost every court case brought forward by Métis groups see Darren O’Toole, “Flanagan on the Stand: Revisiting Métis Land Claims and the List of Rights in Manitoba,” *International Journal of Canadian Studies* 41 (2010): 137-177.

²⁴ A classic treatment of this debate can be found in Hartwell Bowsfield. Editor. *Louis Riel: Rebel of the Western Frontier or Victim of Politics and Prejudice?* Issues in Canadian History Series, J. L. Granatstein, General Editor. Toronto, ON: The Copp Clark Publishing Company, 1969.

²⁵ Modernist notions of land and sovereignty as expressed by John Locke’s social contract and natural right and as applied in the Canadian context are still being used to assimilate indigenous people around the world. For one of his most recent disquieting interpretations of Aboriginal rights and title see Thomas Flanagan, “Aboriginal Orthodoxy in Canada” in Gary Johns, editor. *Waking Up to Dreamtime: The Illusion of Aboriginal Self-Determination*. Australia: Quadrant Online, 2012: 1-14 as found at <http://www.quadrant.org.au/Johns%20Waking%20up%20to%20Dreamtime.pdf>. For an explanation of

identity -- as invaluable partners in Confederation or as illegitimate claimants on Canada's sovereignty -- is to establish a Métis 'origin' that is designated to a specific time and space (the 19th century and the Red River) in order to manage its 'extinguishment' by virtue of the political relationship with a more powerful Canadian state.

There is little doubt that the Red River Métis and the political theorist Riel hold a prominent place in the protection of Métis nationhood. The provisional government of 1869-70 and the negotiation of the Manitoba Act of 1870 were lasting testaments to the aspirations of the Métis at a time when the Federal government's aggressive colonialism placed limits on almost all forms of extra-governmental authority. Riel's eloquent defense of Red River Métis sovereignty reflected his understanding of Western systems of common law and his familiarity with self-determined and self-governing Métis Nations. Within the Red River, Riel brought together "French" and "English" Métis to resist the government's plans to take over their land and resources. As Riel recognized, the sovereignty of these Métis communities was the product of their historical difference. His political genius was to argue for a Red River Métis Nation even as the Canadian government attempted to impose racial criteria that defined the community by their blood-relations (biology) and their status as 'half-breeds' (race).

The hybrid representations of Métis nationalism was not coherent with the progressive nationalists like John A. Macdonald, who desired to reflect a 'pure Canadian/British culture' in the West.²⁶ The political narrative of the Manitoba Act of 1870 and the 'rebellion' that followed created a highly politicized environment, within which mix-blood criteria, especially when racially situated, led to identity competition and historical schizophrenia. Most defenders of the Métis homeland identity adopted exclusive terminology and restrictive definitions to defend their privileged political position and to limit access to 'being Métis'. By 1960, historical associations and archives, Riel commemorations, and political organizations formed and bolstered the exclusive claims of the Red River Métis. The zero-sum game played in identity politics made it difficult to entertain broader definitions of being Métis. As Métis activist and law professor, Paul Chartrand, put it in 2001, the "new 'Métis' identity reflecting a convergence around newly

Locke's theories and the implication on Aboriginal sovereignty see James Tully, "Aboriginal Property and Western Theory: Recovering a Middle Ground." *Property Rights* 11, no. 2 (Summer 1994): 153-180.

²⁶ For one interpretation of this ideological transformation in the West see Doug Owram. *The Promise of Eden: The Canadian Expansionist Movement and the Idea of the West*. Toronto, ON: University of Toronto Press, 1980; Reprinted with new Preface 1992.

emerged interests, an identity that was formerly recognized as a ‘pan-Indian’ identity ... will submerge Riel’s people”²⁷

It is apparent that the political Métis as an exclusive, homogeneous and geographically bound peoples whose rights flow from the Crown, has become the accepted cultural construction that has been supported by the Canadian government, some Métis organizations, the scholarly community and popular culture. As a larger part of narrative of Canada’s coming of age in the 19th century, Riel’s ‘rebellion’ or Métis ‘resistance’ were an impediment to progress that prompted Central Canada to ‘take control’ over the West. The resulting construction of an exclusive Red River Métis homeland identity has, without a doubt, enabled Métis leaders over the past 100 years to maintain their ethnic distinctiveness and to delay the complete assimilation of Métis peoples into Canadian society. However, the same limited political definition has also been utilized by the Canadian government to entrench strict representations of Métis identity into law, thereby systematically discriminating against all other ways of being Métis in Canada.

“Riel’s people” have become the basis of a constructed Canadian identity from which Métis organizations and government agencies can administrate all Métis peoples based on exclusive jurisdiction to certain rights. The effect has been that Métis agency has been restricted to that of ethnic interest group that has to compete for scarce government resources through active lobbying and deal-making. In short, organizations that have politicized Métis identity have become partners in the Canadian government’s long-term plan to exercise power over Métis in order to dispossess them of their land, to rationalize their rights, and to assimilate them into Canadian society.²⁸ Ironically, by identifying Métis communities through genealogy and biology rather than in the context of historical difference and nationhood, Métis peoples never escape from the historically marginalized position of ‘half-breeds’. Because of this politics of identity, Métis communities are never considered as self-determined and self-governing nations

²⁷ Paul L. A. H. Chartrand, “Confronting the “Mixed-Blood Majic”: Towards a definition of ‘Métis’ for the purposes of section 35 of the Constitution Act 1982. A Paper prepared for the Canadian/Indigenous Studies Association Conference, Saskatoon, SK, (June 2, 2001): p. 6. <http://www.metismuseum.ca/resource.php/06517>.

²⁸ The struggle over issues of Métis identity and citizenship are laid out in Tony Belcourt, “FOR THE RECORD ... On Métis Identity and Citizenship Within the Métis Nation. *aboriginal policy studies* Vol 2: No 2 (2013): pp. 128-141. For a practical example of how policy is shaped by identity politics see the recent Governance and Financial Accountability Accord between the Canadian Government and the Métis National Council on April 29, 2013 where a 'block funding' arrangement is given in exchange for MNC's agreement to establish an 'Objectively Verifiable Membership'. <http://www.Métisnation.ca/wp-content/uploads/2013/04/Governance-and-Financial-Accountability-Accordsigned1.pdf>

with a unique historical connection to the Crown and First Nations and therefore are not a part of the national imagination that guides the actions of the Canadian government, its courts of law, or its society.

Legal Métis

The success of the CDN government's efforts to place severe limitations on Métis nationhood and bring Métis peoples 'under the law' has been well represented in Canadian history by the hanging of Red River Métis leader and political theorist Louis Riel in Regina on November 16, 1885. Since then the legal construction of the Red River Métis, and all other possible Métis nations in Canada, has placed Métis in a marginalized geographical position within Confederation, not as nations with homelands but as squatters on the 'road allowance'.²⁹ As historians have described it, Métis were caught "in-between" First Nation and Euro-Canadian culture and became "Canada's forgotten peoples".³⁰ In order to avoid the force of laws that denied their communal existence³¹ or punished them for expressing their Métis heritage, Métis communities across Canada went 'underground' or became invisible urban individuals. Métis agency in the late 19th and in the 20th century was expressed through the many forms of resistance that countered the colonial pressures in Canada, including feigned assimilation or 'fitting in' while maintaining kinship networks, continuing Métis cultural norms like fiddling, jigging, and 'living free' on margins of Canadian society. Because there was no legal category for 'half-breed' or 'mix-blood' peoples, Métis communities were encouraged to assimilate into

²⁹ It should be noted that the Sault St. Marie Métis community asserted their claim to sovereignty with the support of the Ojibwa but were denied treaty by the British Crown's negotiator, William Robinson, in the 1850 Robinson Treaties because they were "too Indian, too French and too Catholic". See James Morrison. *The Robinson Treaties of 1850: A Case Study*. S.l. : Royal Commission on Aboriginal Peoples, Treaty and Land Research Section, 1996.

³⁰ D. Bruce Sealey and Antoine S. Lussier. *The Métis: Canada's Forgotten Peoples*. Winnipeg, MB: Manitoba Métis Federation Press, 1975; David McNabb and Ute Lischke. *The Journey of a Forgotten People: Métis Identities and Family Histories*. Waterloo, ON: Wilfred Laurier University Press, 2007;

³¹ The Indian Act, 1876 did not recognize Métis as 'Indians'; Red River Métis settlement individualized aboriginal title through scrip much like The General Allotment Act (Dawes Act), 1887, in the US. The Dawes Act was designed to take collective Indian title and divide it up into individual titles for the express purpose of reducing native landholdings. For an example of the implications of severalty like the scrip and the Dawes Act see Melissa L. Meyer, "Dispossession and the White Earth Anishinaabeg, 1889-1920," in Albert L. Hurtado and Peter Iverson, editors. *Major Problems in American Indian History: Documents and Essays*. Toronto, ON: D. C. Heath and Company, 1994: pp. 391-404.

either ‘white’ or ‘Indian’ society.³² As Prime Minister Macdonald reminded the House of Commons in 1885, “Now, the half-breeds must be considered either as white men or as Indians.”

³³ Within the restrictive political, legal and societal context created after 1876, Métis had to give up their collective identity in order to become Canadian citizens. After more than a century of systemic legal subjugation, any remaining self-identified Métis communities and individuals are a testament to the resistance strategies of Métis peoples.³⁴

Métis people formally emerged from Canadian legal purgatory with the debates over the repatriation of Canada’s constitution.³⁵ Through the work of Harry Daniels and the Native Council of Canada (later renamed the Congress for Aboriginal Peoples), Métis were recognized as one of the ‘aboriginal peoples of Canada’ within the meaning of s. 35(2) of the Constitution Act, 1982.³⁶ Issues of Métis identity quickly surfaced thereafter as both Canada and Métis peoples realized the legal implications of the entrenchment of the Métis as aboriginal peoples.³⁷ The test case for the legal collective identity of Métis peoples began in 1993 when Steve and

³² ‘Being Indian’ was something to be denied and suppressed. Métis had to go under the Indian Act (1876) as status Indians or they had to be white. Métis who chose Indian identity were often included in Treaties because they were considered to be sufficiently ‘primitive’ or lived in an ‘uncivilized manner’, like the First Nations with whom they had kinship ties. For an example, see the 1875 Half Breed Adhesion to Treaty Three. Métis who chose ‘white identity’ were expected to assume the norms of Euro-Canadian society and most families, like that of the co-author Joe Desjarlais, attempted to adopt and aspire to middle-class values.

³³ “Speech before the house of commons, July 6, 1885. <http://www.collectionscanada.gc.ca/2/4/h4-4090-e.html>

³⁴ These strategies of resistance include but are not limited to mobility, adaptability, integration, story-telling, ‘living-free’, hunting, language retention, cultural activities, etc. Much more research and scholarship needs to be done on the oral traditions of Métis peoples in order to reveal how they maintained their sense of belonging during the long 20th century. See recommendations in conclusion of this paper.

³⁵ Métis people were recognized in the 1951 *Indian Act* for the purposes of reiterating the exclusion of Métis who had “shared in the distribution of half-breed lands” and to add the exclusion of the descendants of these initial script recipients in all other provinces of Canada.

³⁶ s. 35(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, “aboriginal peoples of Canada” include the Indian, Inuit and Métis peoples of Canada.

³⁷ Interestingly, many defenders of the Red River Homeland insist that Daniels’ argument for inclusion of Métis into the Constitution Act, 1982 as ‘aboriginal peoples’ was exclusive to descendants of the Manitoba Act of 1870. However, at the time of the Constitutional Debates, Harry Daniels was president of the Native Council of Canada (later renamed the Congress of Aboriginal Peoples), which represented Métis, non-status Indian peoples and status Indians living off-reserve throughout Canada. See Harry Daniels’ testimony before the Special Joint Committee on the Constitution of Canada, Ottawa, Canada, 1980: <http://www.metismuseum.ca/browse/index.php/995>

Roddy Powley, a part of the Sault St. Marie Métis community were charged with hunting moose without a license and unlawful possession of a moose while they claimed to be exercising their Métis/aboriginal right to hunt. The Powley Case was appealed all the way to the Supreme Court of Canada, which ruled in 2003 that the Powleys had a constitutional right to harvest as Métis. Most important for the development of legal Métis, was the court's declaration that "We would not purport to enumerate the various Métis peoples that may exist." The SCC went further to legally define "Métis peoples" by declaring the 'Powley Test' for Métis communities.³⁸ In sum, Métis communities claiming rights under s. 35 must verify "they belong to an identifiable Métis community with a sufficient degree of continuity and stability to support a site specific aboriginal right. A Métis community can be defined as a group of Métis with a distinctive collective identity, living together in the same geographic area and sharing a common way of life."³⁹

In setting out identity criteria for the legal recognition in Powley, the SCC created the legal Métis as a person who self-identified as being Métis, had an ancestral connection to a historic Métis community, and had some form of membership or acceptance into that community. Although some Métis organizations and legal scholars continue to press for a restriction on the extension of Métis identity outside of the historic homeland of the Northwest, the courts opened up the possibility that Métis communities existed before the Red River settlement and outside the geographic region from the Lake of the Woods to the Rocky Mountains and from the Northwest Territories to the central northwest plains in the United States.⁴⁰ The Powley Test is as difficult to satisfy as it is to apply, forcing Métis communities to opt for Indian status and inducing many individual Métis to bring rights cases before the court in places like New Brunswick, Ontario and Alberta, BC, all with varying degrees of success. Even

³⁸ An excellent summary of the Powley decision and the Powley Test can be found at Jean Teillet, *R v. Powley: A Summary of the Supreme Court of Canada Reasons for Judgment*. Vancouver, BC: Pape & Salter Barristers and Solicitors, 2013. <http://www.pstlaw.ca/resources/Powley%20summary-final.pdf>

³⁹ The Powley Test is a modification of the Van der Peet Test that is used to define the Aboriginal Rights of s. 35 Indians. <http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/2076/index.do>

⁴⁰ This is the position taken by esteemed Métis lawyer, Jean Teillet in *Métis Law in Canada, 2012*. Vancouver, BC: Pape, Salter and Teillet, 2012 edition. <http://www.pstlaw.ca/resources/MLIC-2012.pdf> While Teillet praises Canada for being the only country in the world to recognize a "mix-race" culture as a "rights bearing aboriginal peoples" in the Constitution Act, 1982, she states: "The post-Powley search for stable, small, continuous Métis communities is misguided and is yielding unfortunate results. Specifically, it has resulted in a proliferation of litigation as governments and court try to put geographical boundaries on these fictional, individual Métis communities." (p. 25).

though the ruling could just as easily have led to an exploration of many ways of being Métis through a shared sense of belonging, Powley has become less about establishing Métis collective rights and more about refining processes for establishing which individuals can exercise these rights.

Since Powley the legal definition of Métis has increasingly been restricted to a rights-bearing individual within an ethnic collective. This will come as no great surprise to Métis communities whose histories are riddled with examples of the Canadian government using law as an instrument of state power to gain social, political and cultural control over their communities in order to carry out the political objectives of assimilation. “Riel’s people”, in particular, should be wary of courts that ‘rule’ the potential of Métis nationhood out of existence and Canadian governments that use narrow interpretations of agreements to dispossess and subjugate Métis peoples. The MMF (Manitoba Métis Federation) Case⁴¹ (Manitoba Métis Lands Case) decided by the Supreme Court of Canada on March 8, 2013 is a case in point. Asked by the Manitoba Métis Federation to determine the legal status of Section 31 land rights provisions of the Manitoba Act, the Court determined that Métis interests in the so-called Child’s Land Grants that were (fraudulently) administered by the Métis Lands Commission were limited to “personal history, not their shared Métis identity.”⁴² While this refers specifically to Child’s Land Grants, the decision seems to uphold the lower court rulings that the Métis did not create collective land-based rights with Section 31 and 32 of the Manitoba Act.⁴³ In the absence of the MMF proving the Red River Métis held a collective interest in the land, the SCC ruled that the Federal government has no ‘fiduciary’ responsibility to Métis collective/nationhood. What the MMF ‘won’ was the recognition that the Crown owed a duty of diligence in administering

⁴¹ The MMF case was initially filed in the Manitoba Courts by Yvon Dumont, the then president of the MMF, in 1981. It has also been referred to as the Dumont Case.

⁴² SCC, *MMF v Canada*, Reasons for Judgment, paragraph 56. <http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/12888/index.do>

⁴³ The SCC accepted the MMF’s argument that the purpose for land grants was to give a ‘head start’ to Métis children. For commentary on the *MMF v Canada* see: Paul Chartrand, “The Other Side of the Métis Story” Winnipeg Free Press (03/12/2013); Opinion Section: The View from the West: <http://www.winnipegfreepress.com/opinion/westview/the-other-side-of-the-Métis-story-197265771.html>

For a more positive perspective see the MMF site: http://www.mmf.mb.ca/index.php?option=com_content&view=article&id=858

Section 31 and was therefore bound to uphold the rights of individual Métis because of the ‘honour of the Crown’.⁴⁴

The importance of *MMF v Canada* for Métis identity, especially the application of the ‘honour of the Crown’, has yet to be realized.⁴⁵ Opportunities to negotiate with the federal government may produce a long awaited settlement for descendants of Child’s Land Grants but some fear that long-overdue compensation may resemble “more the case of Japanese-Canadians whose ancestors were detained during World War II” than an independent Métis nation looking to secure its place within Confederation⁴⁶ In the blunt words of the court: “It was up to the Métis to prove that they held an Aboriginal interest in land prior to the Manitoba Act, and they have not done so ... Canada acknowledges that individual Métis people held individual parcels of land, but it denies that they held the collective Aboriginal interest necessary to give rise to a fiduciary duty.”⁴⁷ By not arguing for and establishing the validity of a ‘pre-existing’ Métis sovereignty, the MMF provided the courts with a limited remedy for Métis peoples in this case. It could very well be that Métis people covered by s31 and s32 of the Manitoba Act are well compensated but ‘homeless’ rights-bearing citizens of Canada. In this sense, Métis legal identity originates from an individual’s ability to access the rights of a disadvantaged ethnic group rather than the Aboriginal right to self-determination and self-government.⁴⁸

⁴⁴ SCC, *MMF v Canada*, Reasons for Judgment, paragraph 9.

⁴⁵ The Honour of the Crown legal principle is laid out in the Reasons for Judgment. See SCC, *MMF v Canada*, Reasons for Judgment, paragraph 73.

⁴⁶ Paul Chartrand, “Manitoba Métis Lands Case: Now What?” *Eagle Feather News* (April 2013): p. 6. Also, Paul Chartrand. *Manitoba’s Métis Settlement Scheme of 1870*. Saskatoon, SK: University of Saskatchewan Native Law Centre, 1991.

⁴⁷ SCC, *MMF v Canada*, Reasons for Judgment, paragraph 55.

⁴⁸ In 2011, the Federal government tasked the Canadian Standards Association, an extra-governmental organization known for its standardized approach to product safety, with the work of defining Métis identity based upon membership rules established by organizations that represent Métis peoples. It is hard to escape the conclusion that the government was attempting to ‘brand’ Métis peoples. The MNC protested and subsequently agreed to produce their own standardized membership. Furthermore, it was reported to the Senate Committee on Aboriginal Peoples, which was asked in 2011 to ‘examine and report on the legal and political recognition of Métis identity in Canada’ and has been holding hearings since then, that by 2013 a total of \$35 million dollars in federal funding has been given to six Métis organizations to establish Métis identity based on the “Harvester Identification System”, which is a list constructed out of geneological records that show the mix-blood relations resulting from the fur trade on the Canadian prairies. See Senate Canada, Proceedings of the Standing Senate Committee on Aboriginal Peoples, Issue No. 34., “Legal and Political Recognition of Métis identity in Canada”. (March 20, 2013): 20-42.

http://www.parl.gc.ca/SenCommitteeBusiness/CommitteeTranscripts.aspx?parl=41&ses=1&Language=E&comm_id=1

The legal identity of ‘being Métis’ in Canada has become a hotly contested issue. Because *MMF v Canada* more broadly deals with reconciling “the Métis Aboriginal interests in the Manitoba territory with the assertion of Crown sovereignty over the area that was to become the province of Manitoba”, many Métis remain hopeful that an identity based on nationhood status would facilitate many Métis nation homelands across Canada.⁴⁹ The Daniels Case, declared by the Federal Court of Canada on January 8, 2013 and now under appeal to the SCC, appears to have, in the words of scholar Jean Barman, “broadened the discussion beyond externally imposed geographic bases of exclusion.”⁵⁰ The trial judge declared on the case, initiated by the Congress of Aboriginal Peoples in 1999, that Métis and non-status Indians, defined as “native people who maintain a strong affinity for their Indian heritage without possessing Indian status”, should be included under s. 91(23) of the Constitution Act, 1867 as “Indians, and Lands reserved for the Indians.” In other words, as collectives the Métis peoples in Canada have a direct Constitutional relationship with the Crown. By extending the legal definition of Métis beyond the Powley Test and by defining Métis as s.91 Indians, Daniels brings Métis communities into conversation with broader legal discussions on the nation-to-nation relationship as defined in the historical treaty process.⁵¹ The question of Métis nationhood raises questions of identity and belonging and some Métis, such as distinguished lawyer Jean Teillet, have responded by stating that the Federal Court’s use of “Indianness” based on self-identification and group recognition to define Métis is “brutal and wrong in every way”. She goes on to say that the Federal Court’s judgment “virtually erased the Métis nation.”⁵² Barman, expert witness before the Standing Senate Committee on Aboriginal Peoples, responded to similar exclusive claims on Métis identity brought forward by witness the Honourable Gerry St. Germain when she opined that there is little doubt the Red River Valley Métis are “a very

⁴⁹ SCC, *MMF v Canada*, Reasons for Judgment, paragraph 9.

⁵⁰ Senate Canada, Proceedings of the Standing Senate Committee on Aboriginal Peoples, Issue No. 34., “Legal and Political Recognition of Métis identity in Canada”. (March 20, 2013): 20-42. http://www.parl.gc.ca/SenCommitteeBusiness/CommitteeTranscripts.aspx?parl=41&ses=1&Language=E&comm_id=1

⁵¹ Some Métis were immediately concerned that Daniels brought them under the authority of the Indian Act but this is not the case. What Daniels allows is the exclusive jurisdiction of the Federal Government to create statutes/legislation that concerns Métis issues. See Federal Court of Canada, *Daniels v. Canada*, Reasons for Judgment: <http://cas-ncr-nter03.cas-satj.gc.ca/rss/T-2172-99%20reasons%20jan-8-2013%20ENG.pdf>

⁵² Joe Friesen, “Defining Who Is Indian: A Confusing Question of Identity and Belonging,” *The Globe and Mail* (January 11, 2013). <http://www.theglobeandmail.com/news/national/defining-who-is-indian-a-confusing-question-of-identity-and-belonging/article7282445/>

distinctive group within Canada and within Canadian history.” However, without diminishing this historic identity, she goes on to say that the “real question” is the extent to which “the elements of what makes them [Red River Métis] unique apply more generally” to other Métis nations across Canada.⁵³

The many different ways of ‘being Métis’ present a huge challenge to political, legal and historical imagination of Métis communities across Canada. Most, like retired Métis lawyer and former Commissioner for the Royal Commission on Aboriginal Peoples (1996), Paul Chartrand, opt for the default position of an exclusive definition even though, ironically, he recognizes that Métis identity should be grounded in nationhood status. He writes: “... it is easier to construct Canada as a multicultural country that accommodates individual differences than it is to construct a vision of Canada as a multinational North American country that is built upon the foundations of all its historic nations, including the indigenous nations with special group political rights and status ... the future destiny of the Métis is one of a minority ethnic group striving for protection by the State, especially by its courts, and not, as in former days, a people seeking protection from the State. This is why I fear that Métis nationalism will not survive in Canada.”⁵⁴ But if Métis identity has a chance to survive, it might just be in the plural form. Avoiding the ‘either all’ or ‘nothing but’ colonialism that is so prevalent in Canada’s past, present and future may require a re-affirmation of the ways in which Métis nations have made unique claims about their identity. If this approach to Métis community formation and Métis nationalisms is consistent with its values and characteristics, and if historical difference is best expressed in an on-going community formation and a commitment to the dynamism of Métis life, what might be required to see it practically implemented into Métis nations in the future?

A Way Between: Proximity and Translation

The fear of hybridity (the many different ways of ‘being Métis’) is the biggest impediment to establishing Métis nations as coherent communities of historical difference and as meaningful partners in Confederation. From all indications, it appears that Canada’s preference is to

⁵³ Senate Canada, Proceedings of the Standing Senate Committee on Aboriginal Peoples, Issue No. 34., “Legal and Political Recognition of Métis identity in Canada”. (March 20, 2013): 42.
http://www.parl.gc.ca/SenCommitteeBusiness/CommitteeTranscripts.aspx?parl=41&ses=1&Language=E&comm_id=1

⁵⁴ Chartrand, “Confronting the “Mixed-Blood Majic”: p. 6.

continue to rationalize Métis identity; its government system is well equipped with mechanisms that take diverse nations with claims to sovereignty and turn them into rights-bearing citizens. How is it possible to recognize and affirm the cultural diversity of Métis communities that the Canadian state has consistently tried to ignore or destroy? How can Métis communities access their history in a way that respects the differences between themselves? Is it realistic to believe we can think in categories that are not pre-determined by either/or dualisms? Are we able to imagine a relationship that can accommodate the diversity of Métis nations in Canada?

The answers to all of these important questions center around moving away from identity politics, which tends towards particularity and reductionism for the purpose of assimilation, to recognizing the particularities of difference that arise from the historic relationship between Indigenous peoples and Newcomers in all of its variant forms. Clearly, not all people of mixed-descent constitute a “Métis nation”, nor are Métis “just like every other Canadian”, nor should “Métis” be a designation for an exclusive ethnic social club. Rather, in order to initiate a political, social and cultural movement that honours the self-determination and self-government of Métis nations, Métis leaders need to recognize each ‘other’ and develop a shared sense of difference beyond each particular Métis nations’ history. Perhaps the only way to stop the competition for scarce government resources, which is generated out of the current rights-based system, is to initiate a complementary movement to re-educate governments of the nations-to-nation Constitutional arrangements that will guide future relations. To do anything less would to negate the possibility of ‘being Métis’ in the 21st century. The remnants and fragments of all Métis nations that have survived the policies of colonial governments for the past 250 years require appropriate strategies to bring their communities out of margins of Canadian society. Our suggestion for embracing a different reality for “being Métis” is the practice of proximity and living in translation.

The Practice of Proximity

Proximity is the acknowledgment of, recognition in and tolerance towards historical difference. As an alternative to identity, which requires differences to be fixed in definitions or categories that are then regulated or legislated, proximity does not remove uniqueness (therefore it is not identity’s opposite or binary) but rather it is the practice of relating to historical and contingent difference by respecting and negotiating it. Rather than becoming ‘objects’ of a particular

identity that ignores certain aspects of the past (such as systemic racism or colonial prejudice) and create an ‘other’, people in proximity become agents in their own history with the ability to necessarily remember the violence of the past in a way that leads to restoration and well-being. While there are no easy solutions, even when practicing proximity (it is no panacea), it allows for the possibility of being neither one, nor ‘the other’, but something else, besides or in-between. It may well be that to practice proximity has been the experience of Métis nations in Canada for centuries.⁵⁵

Most Canadians and Métis are not fully aware of how the practice of proximity is part of the legal and historical relationship of Aboriginal peoples and European nations since the beginning of encounter in North America. The best formal expression of ‘the practice of proximity’ can be found in the Two Row Wampum belt, which was used by British colonial authorities, First Nations, and probably Métis nations to establish a diplomatic convention that acknowledged and affirmed the separation of Newcomer and Indigenous Nations after the Conquest of 1760 and the Royal Proclamation of 1763. The Gus Wen Tah Principle, initially used to solidify agreements between the Haudenosaunee and the Dutch (1645) and French (1701) and applied at the Treaty of Niagara, 1764, a meeting which included over two thousand chiefs who represented at least twenty four nations from all across North America, put the British declaration of 1763 into an indigenous context and established the ground rules for future relations. Legal scholar and historian John Borrows (Kegeedonce) quotes the words of Sir William Johnson, the British diplomat negotiating the Treaty, to describe Gus Wen Tah or Two Row Wampum:

There is a bed of white wampum which symbolizes the purity of the agreement. There are two rows of purple, and those two rows have the spirit of your ancestors and mine. There are three beads of wampum separating the two rows and they symbolize peace, friendship and respect. These two rows will symbolize two paths or two vessels, traveling down the same river together. One, a birch bark canoe, will be for the Indian people, their laws, their customs and their ways. The other, a ship, will be for the white people and their(s) [sic] laws, their customs, and their

⁵⁵ Our understanding of identity and proximity when navigating historical differences has been greatly enhanced by the work of sub-altern author Dipesh Chakrabarty. See Dipesh Chakrabarty. *Provincializing Europe: Postcolonial Thought and Historical Difference*. Princeton: Princeton University Press, 2000 (reissued with a new preface, 2008). Also, Dipesh Chakrabarty, “The In-Human and the Ethical in Communal Violence,” in Dipesh Chakrabarty. *Habitations of Modernity: Essays in the Wake of Subaltern Studies*. Forward by Homi K. Bhabha. Chicago, IL: University of Chicago Press, 2002: pp: 138-148.

ways. We shall each travel the river together, side by side, but in our own boat. Neither one of us will try to steer the other's vessel.

The legal precepts that were to be embedded in subsequent treaty relationships as the result of the Treaty of Niagara reflect the practice of proximity: respect for pre-existing sovereignty, peaceful relations through alliance, freedom of movement and expression, the necessity of consent before any trespass, fiduciary responsibility to the other, and mutual friendship and respect.⁵⁶ It is in this context of mutuality and accountability -- in nations-to-nation agreements -- that Métis collectives need to be situated so that Métis identities can remain dynamic and resourceful.

Living in Translation

The goal of translation is to put 'others' (whether governments, societies or cultures) at ease in the presence of Métis hybridity. Most nationalisms, including Canada's, are uncomfortable with identities that are incoherent with standard social, political and cultural categories or incomprehensible when placed within predictable binaries (Indian or White; Primitive vs. Civilized; Heathen vs. Christian). In this view, as it is often expressed in Métis politics and history, hybridity is heresy and boundary crossing is blasphemy. Living in translation, on the other hand, is to be in constant negotiation with the past, present and future. It is to be comfortable with having to navigate through uncertainty and complexity while maintaining the agency that is required to negotiate difference.⁵⁷ It is likely that any Métis nations left in Canada are already living in translation; their very existence is evidence of their ability as expert translators to resist the tendency of Western culture to compartmentalize the world and draw rigid boundaries between cultural expressions.

For a practical example of 'living in translation' we once again return to the indigenous traditions that were on display at the Treaty of Niagara, 1764. A second wampum, called the Belt of the Covenant Chain, was exchanged so that all of the participants would "not forget our mutual Engagements." The Silver Covenant Chain depicted a hieroglyphic representing First

⁵⁶ John Borrows, "Wampum At Niagara: The Royal Proclamation, Canadian Legal History, and Self-Government" in Michael Asch, editor. *Aboriginal and Treaty Rights in Canada: Essays on Law, Equity, and Respect for Difference*. Vancouver, BC: University of British Columbia Press, 1997: 169-172.

⁵⁷ When considering the concept of translation, we have benefitted from the theoretical work of Homi Bhabha. See Homi K. Bhabha. *The Location of Culture*. Routledge Classics Edition. New York, NY: Routledge, 1994, 2007.

Nations territory on one end and a ship with its bow pointed towards the land on another, the two objects being joined by a cable being held by twenty-four First Nations, each one, starting at the ship, holding on with their right hand until the last figure rested his foot on the land. The principles of translation are clearly laid out in the explanation that legal scholar John Borrows gives of the indigenous meaning behind the belt:

It [The Silver Covenant Chain] is to be pure, strong and untarnished, and binds nations together without causing them to lose their individual characteristics or their independence. Those holding the Covenant Chain are responsible for keeping their relationships bright and preventing them from breaking.⁵⁸

While the principles of autonomy and integration mentioned here are consistent the Two Row belt, the onus in the Covenant Chain is on each nation to ensure they are being understood and respected. If this did not happen, Sir William Johnson warned, “it may shake the belt.”⁵⁹ Métis nations are an integral part of this tradition and must embrace their role as translators in order to realize the promise of an ongoing dynamic relationship with each other and with Canada through nations-to-nation negotiation.

Conclusion: Stepping Forward

We have argued that two important foundational concepts are required if Métis peoples are to reflect their historical and legal place within Canadian society and for Canada to co-exist with Métis nations. First, any position on Métis community formation must be open to historical difference and appreciate the past, present and future dynamics of being Métis: there are many different ways of ‘being Métis’ in Canada. Second, historically unique and diverse and dynamic Métis communities must engage the Canadian state through nation-to-nation agreements. While rights-based agreements premised upon narrow constitutional arrangements or legislative enactments are beneficial in the short term, they are not an accurate reflection of the historic or legal position of Métis communities. It is impossible to ‘be Métis’ in Canada without honouring the well-entrenched relational principles that recognize self-determined, self-sufficient and self-governing Métis nations. Canada is one of the few countries in the world that has the historical traditions, constitutional precedents and societal awareness to effectively understand the complexity of Métis communities and recognize their unique identity within the nation’s

⁵⁸ John Borrows. *Canada’s Indigenous Constitution*. Toronto, ON: University of Toronto Press, 2010: 76.

⁵⁹ Borrows, “Wampum at Niagara”: p. 127.

political, economic and social structure. Due to the expression Métis pasts and through their own agency, there is a legal and historical heritage within which we can understand and respect our differences as we learn to live ‘side by side, neither one steering the other’s ship.’ We propose five ‘movements’ that will begin to re-establish an accurate representation of Métis identity within the legal, political, cultural and social fabric of Canada:

Movement #1: Métis communities must begin to reimagine themselves as nations and make themselves known to Canadian society.

- ∞ Reviving and speaking the language of Gus Wen Tah means practicing the principles of mutual respect for historical difference between the Métis nations of Red River and others across Canada. We must avoid falling back into a determinedly homologous present where the divisive contest for a single rights based-identity premised on certain genealogical connections limits our ability to embrace new understandings that open up to a future of possibility.

- ∞ Engage the Federal government within the framework of nations-to-nation dialogue that takes into account the Indigenous and Western traditions that inform hybrid Métis identities. A celebration of the complexity of the many ways of being Métis challenges the primacy of monolithic linear understandings about land and place, and a coercive centralized (governmental) philosophy based upon race, corporatism, false populism, binary thinking, misguided emotions, and many other traits associated with the negation of Métis collective identity. Colonial declarations and Canadian political expressions did not create Métis sovereignty; they only recognized what had already existed as a product of the sharing of land and resources.

- ∞ Imagine ways that Métis peoples can reconnect with the land. Métis political authority must derive from the land itself, not from Canada’s founding documents, negotiated settlements like the Manitoba Act of 1870, constitutional inclusions like the Constitution Act, 1982, or association bylaws. Métis lived histories with the land, including those of Métis diasporas who have lost their formal connection with Métis community life due to centuries of marginalization or urbanization, is the counter-narrative to Canada’s 19th century assertions that dispossessed Métis people of their collective sovereignty.

- ∞ Operate government, corporate and societal relationships based upon a partnership model. The duty to consult operates on certain assumptions about nationhood and relationship to

the state and society. A fiduciary relationship requires the recognition of the *sui generis* nature of Métis title and rights.⁶⁰

Movement #2: Commitment to an on-going, open negotiation of Métis identities.

∞ The exercise of agency and power through identities that consider the character of Métis-ness as an “open question”, undetermined by a fixed past or point of origin, that challenges damaging cultural constructions and leads to human flourishing. Métis agency resists the post-Section 35 fixed rights-based neo-colonial development logic wherein the federal and provincial governments substitute Métis nationhood with service delivery associations. Negotiation and resistance are both legitimate expressions of Métis self-determination.⁶¹

∞ Creative and sensitive strategies to repatriate Métis citizens in full recognition of over a century of cultural discrimination, social prejudice, economic stereotyping and political assimilation. Encourage constructive tensions that open up national dialogues on the status of all of the different ways of being Métis in order to create vibrant and healthy communities.

∞ Facilitate a dialogue about the practice of historical difference within and between Métis communities and across communities in mainstream Canada. Métis and Canadians can act, be agents, in the creation of new possibilities that include living alongside of one another as

⁶⁰ There is a whole system of scholarship aligned against this view. For example, Thomas Flanagan in “Métis Aboriginal Rights: Some Historical and Contemporary Problems” as found in Menno Boldt and J. Anthony Long, editors. *The Quest for Justice: Aboriginal Peoples and Aboriginal Rights*. Toronto, ON: University of Toronto Press, 1985, reprinted 1988: pp. 240, note 23 uses scholarship by the current President of the Métis National Council to call into question Métis title (sovereignty) as the basis for Métis rights. Clem Chartier is quoted as saying that Métis rights “are on a higher plane than the legal fiction of aboriginal title” (from his article Clem Chartier, “Aboriginal Rights: The Métis Perspective,” in *Aboriginal Rights: Towards an Understanding*. J. Anthony Long, Menno Boldt, and Leroy Little Bear, Editors. Edmonton, AB: The Alberta Law Foundation, 1983: pp. 46-52. In other places, however, Chartier clearly states: “The two cornerstones of these [Métis] rights were, and remain, a Métis land base and self-government.” See Clem Chartier, “Aboriginal Self-Government and the Métis Nation,” in John H. Hylton, editor. *Aboriginal Self-Government in Canada: Current Trends and Issues*. 2nd Edition. Purich’s Aboriginal Issues Series. Saskatoon, SK: Purich Publishing, Ltd., 2000: pp. 112-128. It remains unclear whether Chartier understands Métis rights as flowing from their nationhood (sovereignty) or their ‘inherent right to self-government’ (constitutional status). However, understanding Métis sovereignty through narrow European colonial legal definitions, which in turn requires an exclusive claim to Métis nationhood, tends to ignore broader historical and philosophical understandings of Métis nationhood and leads to decisions like *MMF v Canada* where, in the absence of a robust presentation of Red River Métis nationhood, Canada’s fiduciary responsibility is replaced by new concepts like “the Honour of the Crown”.

⁶¹ As Riel put it in his poem, *The French-Canadian Métis: Only a diplomat can handle/And tame the men of Albion/And entice and entangle/The unicorn and the lion*. Louis Riel. *Selected Poems of Louis Riel*. Paul Savoie, translator. Glen Campbell, editor. Toronto, ON: Exile Editions, 1993.

Canadians, Métis, Indians and Inuit. Set realistic goals to begin the process of integrating Métis perspectives back into the economic, political, legal and social structures in Canada, especially through the intentional inclusion of traditional oral knowledge that accesses the wisdom of the community. It is possible to create a comfortable accommodation where Métis can be Indigenous and Canadian, both at the same time.

Movement #3: Protect the ability to live in proximity and through translation

∞ Métis communities are living, acting, dynamic cultures. Become comfortable with the notion that to be Métis is to embrace the sometimes uncertain and open-ended practices of proximity and translation. Come to understand the history of this (marginalized) minority position within Canada and explore ways in which it can become the backbone of a healthy, constructive and enduring relationship with Canadians and the Canadian government.⁶²

∞ Cultivate interdependence between Métis and Canadian histories where both identities create shared understandings and meanings, a co-inspired past where we learn from each other. Articulate how Métis ideas and practices shape lives and provide opportunities for people to participate in their world at the local, national and international levels, between indigenous societies as well as different societies. In creating a shared society -- Métis, First Nations, Inuit and Canadians -- together engage in new identity formation, with reconstituted identities linked to people and place.

∞ Welcome the opportunities that come from slowly building a consensus in policy that finally reflects our many realities in this country. Explore financial and social incentives that would inspire Métis peoples across Canada to accept the role of innovators and cultural transformers and as initiators of cross-cultural dialogue in Canada.

Movement #4: Explore possibility of co-existence through creative citizen engagement.

∞ Intentionally construct institutional and personal spaces to give expression to Métis voices. Our shared principles and practices on how to live, how to relate to the land, how to organize will be drawn out of the margins; it is not likely that established Métis Associations invested in rights-based politics or academics who freeze Métis identity in space and time will

⁶² Riel was clear about this objective in 1870 for the Red River Métis when he stated: “we must seek to preserve the existence of our own people. We must not, by our own act, allow ourselves to be swamped. If the day comes when that is done, it must be by no act of ours” “Convention at Fort Garry”, *New Nation* (11 February 1870): p. 1.

provide the hope that Métis people need to thrive in their own communities and within Canada. Courage and inspiration will come as Métis communities become aware of the many ingenious methods utilized to preserve their identities and determine their own destiny in the Canadian colonial context.

∞ Recover, reconnect and repatriate the sense of place. Uncover Métis indigenous efforts to link history and identity to natural surroundings and to coexist with their environment. Raise awareness about the lack of accountability of governments and corporations and the consequences that development has on the public good of Métis people and communities. Local Métis communities and associations should inform and enable Métis activism.

∞ Articulate terms, concepts and ideas that suit Métis values and are intrinsic to Métis cultures.⁶³ Adapt Canadian legal, political and constitutional discourse to suit Métis understandings of self-determination so that there are clear and recognizable historical concepts that give substance and meaning to Métis identity. Instill pride in Métis citizenships and position Métis peoples into an enhanced position within Canadian social fabric.

∞ Initiate educational opportunities that encourage the revival of Métis self-determination in Canada by opening up new avenues for expressing historical difference. An educational strategy must be developed so that Métis can explore and contribute toward the revival of the indigenous Métis humanities in Canada. By educating Métis peoples and nations, Canadians, industry, governments and other institutions about the nations-to-nation relationships, we may foster inclusion, creative vitality, and patterns for principled relations.

Movement #5: Good governance through visionary and responsive leadership

∞ Support leadership that affirms the dynamic and fluid balance, complexity and locality of historic Métis-ness, and applies broader indigenous values at the core of Métis histories, such as self sufficiency, inclusion, harmony, constant negotiation, egalitarianism, democracy and

⁶³ This may or may not include the recapturing of languages like Michif, Chinook, Bungee, etc. It may well be that certain words within these languages would come into common usage again as ways of expressing unique ideas that are a product of the historic difference of Métis. For example, Brenda Macdougall's recent book *One of the Family: Métis Culture in Nineteenth-Century Northwestern Saskatchewan*. Vancouver, BC: University of British Columbia Press, 2010, utilizes the term 'wahkootowin', a Cree term describing the lifeview of the Ile a la Crosse community that privileges family and values relatedness between all living things. She argues that this lifeview developed out of the community's roots in Cree values but adapted to suit their interactions in fur trade and their commitment to the Roman Catholic faith.

treaty relationships.⁶⁴ Demand compliance with Métis living traditions of consultation, cooperation and consensus that resonate in current contexts.⁶⁵

∞ Encourage the next generation of Métis leaders and provide them with opportunities to test new ideas and to implement practices that reflect their contagious optimism about the place of Métis in Canada. Find ways to access the intellectual and creative capital within Métis nations to address even the most problematic issues facing Métis peoples. Prepare Métis individuals to have a meaningful role in all areas of Canadian society, including politics, law, the arts, and infuse Métis principles, ideas, and values into all areas of society. Facilitate the transfer of traditional knowledge and practice between elders and the next generation of Métis.

∞ Prioritize the centrality of the land and its ability to provide for and nurture the Métis spirit of self-determination and its importance as the source of self-sufficiency. Establish partnerships with governments and industries that are premised upon rebuilding Métis nations, supporting consultative governance and growing healthy, thriving Métis societies.

In almost every Métis family, even the most acculturated, there are little ruptures, stories of affection and affiliation, that give some indication of the proud heritage that comes with ‘being Métis’. In the Desjarlais family, this pride is exhibited in the form of a gun that Stanislas, or *Moshom* as he is referred to in their stories, used as a Northwest hunter and scout. As the story goes, the gun and a hoe were two prized articles that *old Moshom* carried with him on his last train trip back to St. Lazare. The coexistence of the gun and hoe expressed a plurality in *old Moshom’s* present reality and with them he traversed social worlds, negotiated entrenched cultural orders and economic systems, and exercised his agency. *Old Moshom’s* ability to be ‘free from history’, those totalizing narratives of the Canadian ‘frontier’ that constantly marginalized him in an increasingly certain and coercive society, and his insistence that he had the freedom to adhere to traditions, those elements of ‘living free’ that proved it was possible to live in the constant fragmentation of a hybrid identity, can inspire all Métis today.

⁶⁴ The flip-side of this is that Métis people should question leadership that attempts to impose a unified national distinction that identifies all “Métis”. Such an approach is not likely to be successful and often leads to technocratic, elitist, demagogic styles of leadership that are preoccupied with signing narrow written contracts, adopting strict guiding principle of order, and utilizing loyalty as a political weapon. Some results are insular behavior, lack of transparency, accountability, anti-democratic tendencies, political instability and acrimony.

⁶⁵ For example, Red River Métis legal traditions found in buffalo hunt and at St. Laurent. See Borrows (Kegeponce). *Canada’s Indigenous Constitution*: pp. 86-91.

At this critical juncture in Canada's history, Métis peoples have an opportunity to reconsider how to best reconcile two cultures, two spiritualities, two pasts, two economies, two political systems, two legal traditions, and how to inspire all Canadians to embrace the principles of co-existence. By constructing identities that include a preferred future within self-determined, self-governing and self-sufficient nations, this current generation will ensure that future generations will have the ability to 'be Métis'.

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