

Twitter Thread by J Malone.

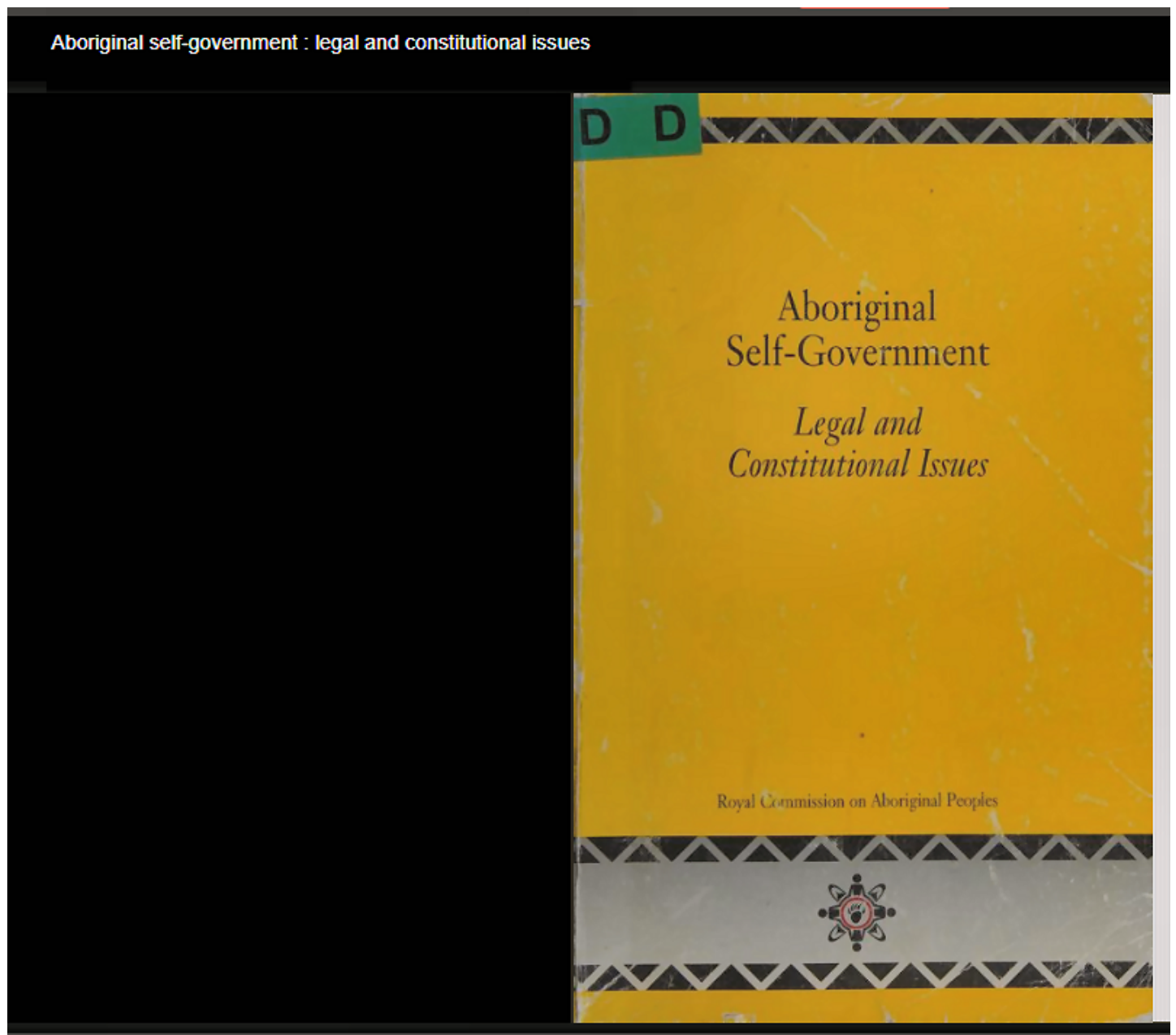


J Malone.

[@malone_j71](#)



**Aboriginal self-government - legal and constitutional issues 1995 Ottawa, Canada-
Royal Commission on Aboriginal Peoples #Metis**



Aboriginal self-government - legal and constitutional issues 1995 Ottawa, Canada- Royal Commission on Aboriginal Peoples- pg141. - papers argues that it is logical and sensible to consider persons of mixed ancestry of all kinds to be within

sec. 91(24) jurisdiction and that the

Aboriginal self-government : legal and constitutional issues - Adobe Acrobat Reader DC

File Edit View Sign Window Help

Home Tools Aboriginal self-gov... x

141 (147 of 452) 94%

EXECUTIVE SUMMARY

This paper examines the question of whether Metis are included in section 91(24) of the *Constitution Act, 1867*, drawing on existing literature and jurisprudence, as well as historical and political aspects of the relationship between the Metis and Canadian governments. It addresses definitions of Metis; federal policy, legislation, academic commentary and judicial decisions related to the pre-1982 constitutional status of the Metis; more recent federal and provincial constitutional policy, the *Constitution Act, 1982* and subsequent first ministers' conferences; and the potential consequences of the inclusion of Metis within the label 'Indians' for the purpose of section 91(24) of the *Constitution Act, 1867*. The paper argues that it is logical and sensible to consider persons of mixed ancestry of all kinds to be within section 91(24) jurisdiction and that the Metis are included within the fiduciary relationship owed by the Crown to Aboriginal peoples.

Arguments pointing to the inclusion of the Metis within the category of constitutional 'Indians' in section 91(24) are several. First, there is evidence of the inclusion of Metis in the treaty-making process throughout Canadian history, including the adhesion to Treaty 3 by "halfbreeds", and the issues of "half breed" scrip under the *Manitoba Act* of 1870 and later under several of the *Dominion Lands Acts*. A second line of reasoning in favour of federal jurisdiction is the legislative history of inclusion of persons of 'Indian blood' associated with Indian tribes or bands on membership lists as 'Indians' for purposes of the *Indian Act*. A third argument draws upon the wording of the *Manitoba Act*, the *Dominion Lands Act* and other legislation and orders in council implementing the land grant scheme. A fourth thesis for Metis inclusion lies in the modern federal practice of treating Metis as equivalent in constitutional status to the other Aboriginal peoples.

141

Metis are included within the fiduciary relationship owed by the crown to the Aboriginal peoples. (pg142) The recognition of Metis as one of the "aboriginal peoples of Canada" in section 35 of the Constitution Act 1982, reinforces this federal practice. "It is concluded that



The recognition of Metis as one of the "aboriginal peoples of Canada" in section 35 of the *Constitution Act, 1982* reinforces this federal practice.

Thus, on the balance of historical probabilities, practical convenience, and legal and constitutional logic, and to maintain the honour of the Crown, it is concluded that section 91(24) includes persons of mixed ancestry. It is also more feasible for the federal Crown to exercise the treaty-making power and to discharge constitutional obligations to the Metis. The role of Canadian courts in this regard should be to interpret the Constitution of Canada in such a way as to confirm primary federal responsibility and authority to advance the interests of all Aboriginal peoples as reflected in subsections 35(2) and 91(24).

The ramifications of section 91(24) inclusion are several. It would affirm the constitutional jurisdiction of Parliament to enact legislation in relation to the Metis, and confirm the authority of representatives of the Crown in right of Canada to treat with the Metis as collectivities and to conclude land claims settlements with them. The Department of Indian Affairs and Northern Development would lose one of its primary excuses for refraining from dealing with the Metis. In terms of the federal machinery of government, the role of the Federal Interlocutor for Metis and Non-status Indians and the Privy Council Office might be collapsed into a new Minister of Aboriginal Affairs and a restructured and renamed Department of Indian Affairs.

While this issue to some degree transcends the paper, the question arises, perhaps of equal significance, as to whether inclusion in section 91(24) means that Parliament has not only the capacity, but also an obligation to legislate for the benefit of Metis people. The constitutional entrenchment of Aboriginal and treaty rights in section 35(1) and the judicial articulation of the Crown's fiduciary obligation in

sec 91(24) includes persons of mixed ancestry." pg143- "the Guerin case suggests that the federal gov. may be breaching its fiduciary obligations if it refuses to initiate legislation needed to acknowledge the existence of certain Aboriginal peoples or to meet basic economic



the *Guerin* case suggests that the federal government may be breaching its fiduciary obligations if it refuses to initiate legislation needed to acknowledge the existence of certain Aboriginal peoples or to meet basic economic or social needs. The inclusion of Metis in section 91(24) also means that provinces cannot enact restrictive or negative legislation concerning the Metis specifically. Alberta Metis legislation likely would be readily subject to constitutional challenge.

Recommendations

1. The Royal Commission should formally conclude that Metis are included within the expression 'Indians' within section 91(24).
2. Commissioners should recommend to the Government of Canada that it renew efforts at constitutional reform to build upon and improve the Aboriginal provisions that were contained in the Charlottetown Accord.
3. The Royal Commission should conclude that the Metis are beneficiaries of the fiduciary relationship with the Crown. Further, it should recommend that the federal government respect its fiduciary obligation such that it immediately enter into comprehensive negotiations with representatives of the Metis people.
4. Commissioners should recommend to the federal government that it take immediate action to implement the amendments to the *Alberta Act* sought by the Alberta government and the Alberta Federation of Metis Settlements Associations. This will provide constitutional protection of the land rights of the Metis settlements and will address concerns about the invalidity of the provincial legislation.

or social needs." <https://t.co/90gG3LeCFC> -

RELATED CASES AND POSTS

Guerin v. The Queen, [1984] 2 SCR 335

pg144. - "there is no complete agreement on who the Metis are, although there are many different views, including among Metis people themselves. The term Metis has historically been largely associated with the French speaking and Roman Catholic population of Rupert's Land



DO THE METIS FALL WITHIN SECTION 91(24) OF THE *CONSTITUTION ACT, 1867*? *

BY BRADFORD W. MORSE AND JOHN GIOKAS

INTRODUCTION

Aboriginal constitutional and legal issues are notoriously complex, and none more so than those surrounding the Metis.¹ There are several reasons for this. In the first place, there is no complete agreement on who the Metis are, although there are many different views, including among Metis people themselves. The term "Metis" has historically been largely associated with the French speaking and Roman Catholic population of Rupert's Land reflecting the results of intermarriage among Indian women and *les Canadiens* along with their descendants.

Now it is widely and popularly used to identify a larger and still imprecisely defined group of persons of mixed Indian and non-Indian ancestry,² some of whom also fall within the category of non-status and status Indians as a result of the registration rules under the *Indian Act*.³

At the same time, and especially since the 1960s and the revival of pride in Aboriginal origins, it has also been adopted as a self-description by many people of origins far removed from the Red River in Manitoba. The result is considerable confusion among non-Metis and no small degree of disagreement regarding who the 'real' Metis are by the various groups and political organizations that today attempt to represent Metis interests in different parts of the country. While each group is clearly entitled to decide for itself how it wishes to define its own membership, and any external intrusion in this regard would be thoroughly improper, clear and fundamental disputes exist among Metis people reflecting both different historical experiences and different visions for the future.

reflecting the results of intermarriage among Indian women and les Canadiens along with their descendants." " Now it is widely and popularly used to identify a larger and still imprecisely defined group of persons of mixed Indian and non-Indian ancestry, some of whom also fall

within the category of non-status and status Indians as a result of the registration rules under the Indian Act."/

YC28-0-411-12-the people who own themselves-David Chartrand, president of the MMF also noted the issue of the Indian status in many of these historic Metis comm.

(iv) Indian Status

Indian status is a legal classification entitling registered individuals to certain rights and benefits set out in the *Indian Act*.⁶⁶ The committee heard that many self-identifying Métis populations have, for various legal and policy-related reasons, been recognized by the federal government as non-status Indians, or in some circumstances recognized as status Indians under the *Indian Act*.

The committee heard that the term Métis has, at times, been used to refer to non-status Indians. Marilyn Poitras, Assistant Professor of Law at the University of Saskatchewan, explained:

We have a history in this country of including non-status people in the definition of Métis. We have seen people drift on and off of that list on a regular basis, quite high-profile people. People who were denied status for various sexist reasons in the past were lumped in. It was a catch-all for some time about where you were going to fit. You were Métis if you did not fit in under a First Nation's category. You can see when you look at our history that that still happens.⁶⁷

In other cases, Métis may be registered Indians under the *Indian Act*. The committee heard from several witnesses who identify as Métis but had accepted Indian status, particularly after Bill C-31 in 1985. For example, members of the community of Cross Lake, Manitoba, told the committee that all in the community strongly identify as Métis, but almost all are status Indians under the *Indian Act*. David Chartrand, President of the Manitoba Métis Federation, also noted the issue of Indian status in many of these historic Métis communities:

A lot changed after Bill C-31 of course came, and people began to move towards accessing the Bill C-31 treaty card. But they have no place to go, so they still live in these communities. They still wanted to be Métis but they took the card for health reasons or hunting reasons at the time before hunting rights came into play here. But it is still predominantly strong Métis communities. The culture is still Métis. When you go inside, it is still Métis communities....⁶⁸

⁶⁶ The eligibility criteria are in section 6 of the *Indian Act*; these require primarily that registered individuals have a minimum "blood quantum" (or degree of Indian ancestry).

⁶⁷ *Evidence*, 26 September 2012.

⁶⁸ *Evidence*, 24 September 2012.

The People Who Own Themselves - Recognition of Metis Identity in Canada - Senate - YC28-0-411-12 - David Chartrand - families will eventually reclaim their Metis identity, as generations lose their status under the Indian Act over time.

Despite these practical considerations, witnesses indicated that some Métis choose not to apply for Indian status despite their eligibility. Some did not apply because they identified as Métis, or belonged to a Métis organization or community that did not allow members to register as Indians under the *Indian Act*. For example, representatives of the Métis settlements in Alberta told the committee that many members of the Métis settlements were eligible to become status Indians.⁶⁹ The committee also heard that applications to the five MNC registries are sent to the federal government to ensure that the applicant is not already a status Indian.

The result of such membership requirements is that many individuals with mixed First Nations-Métis parentage must choose to be officially recognized as one or the other. For example, Marilyn Poitras told the committee that her husband is a status Indian, while she identifies as Métis; but their child must be registered as either Indian or Métis.

My son is registered at the Sweetgrass First Nation. Because of the way the identity's been set up with the Métis Nation-Saskatchewan and the Métis National Council, the baby that I carried in my body for 9 months and gave birth to ... will never be a half-breed. He is being denied the right to be Metis because he is on an Indian registry.⁷⁰

on partial Aboriginal ancestry
rather than historic Métis descent,

That is not historic
Metis Descent !!

Some witnesses indicated that families will eventually reclaim their Métis identity, as generations lose their status under the *Indian Act* over time by "marrying out" (i.e. partnering and having children with non-status individuals). David Chartrand stated that the descendants of those who lose their Indian status will reclaim their Métis identity in future generations:

... Bill C-31, the way it is designed, is that those First Nations, they will bury themselves completely out. Those children, now going back to [the MNC] definition, will one day become Metis again.... those children will still be able to find their lineages back to their Metis community through our definition established by the Supreme Court of Canada, and you are going to find an upsurge again. You will see a Metis shrinking, but we are going to come back up again in probably 20 years or 50 years. They are going to come in great numbers.⁷¹

Metis election sees 70 candidates - 1993-08-30 - Windspeaker - lost 1000s of members in 1985 when Bill C-31 re-instated many Metis to status of an Indian.

Metis election sees 70 candidates

EDMONTON

This fall's Metis Nation of Alberta election will see a record number of candidates pursuing seats on the nation's executive.

Fifteen people are vying for the position of president while another 28 are running for six regional vice-president's seats in the Sept. 7 vote. A further 27 candidates are running for the six seats on the board of directors.

The legacy of former president Larry Desmeules, who died earlier this year, is partly to blame for the size of the candidacy, said presidential hopeful Muriel Stanley-Venne.

"There has been a lot of progress made but when I go through the districts and talk to the people, they are not happy," she said. "There is no communication. Especially, they feel that the head office often does not respond when

they call. The real test will be to find and elect someone with integrity to deal with the people."

The Metis in Alberta also want to have more control over their future, she said.

"They want to have a good life. They want to be educated, have a future. We have a lot of work to do to make the Metis Nation truly representative of all Metis people."

The MNA's 5,100 members

represent only a portion of Canada's 20,000 Metis, she said.

The organization lost thousands of members in 1985 when Bill C-31 re-instated many Metis to the status of Indian.

Only people who can trace their ancestry to the original Red River Settlement in Manitoba, who are accepted by the Metis community and who have publicly declared themselves as Metis are allowed to vote in the election, she said.

pg145 "is an inconsistent pattern of colonial, and subsequently federal and provincial, gov legislation, policy and practice with respect to the Metis." @CrownIndigenous @JustinTrudeau

Aboriginal self-government: legal and constitutional issues - Adobe Acrobat Reader DC

File Edit View Sign Window Help

Home Tools

Aboriginal self-gov... x



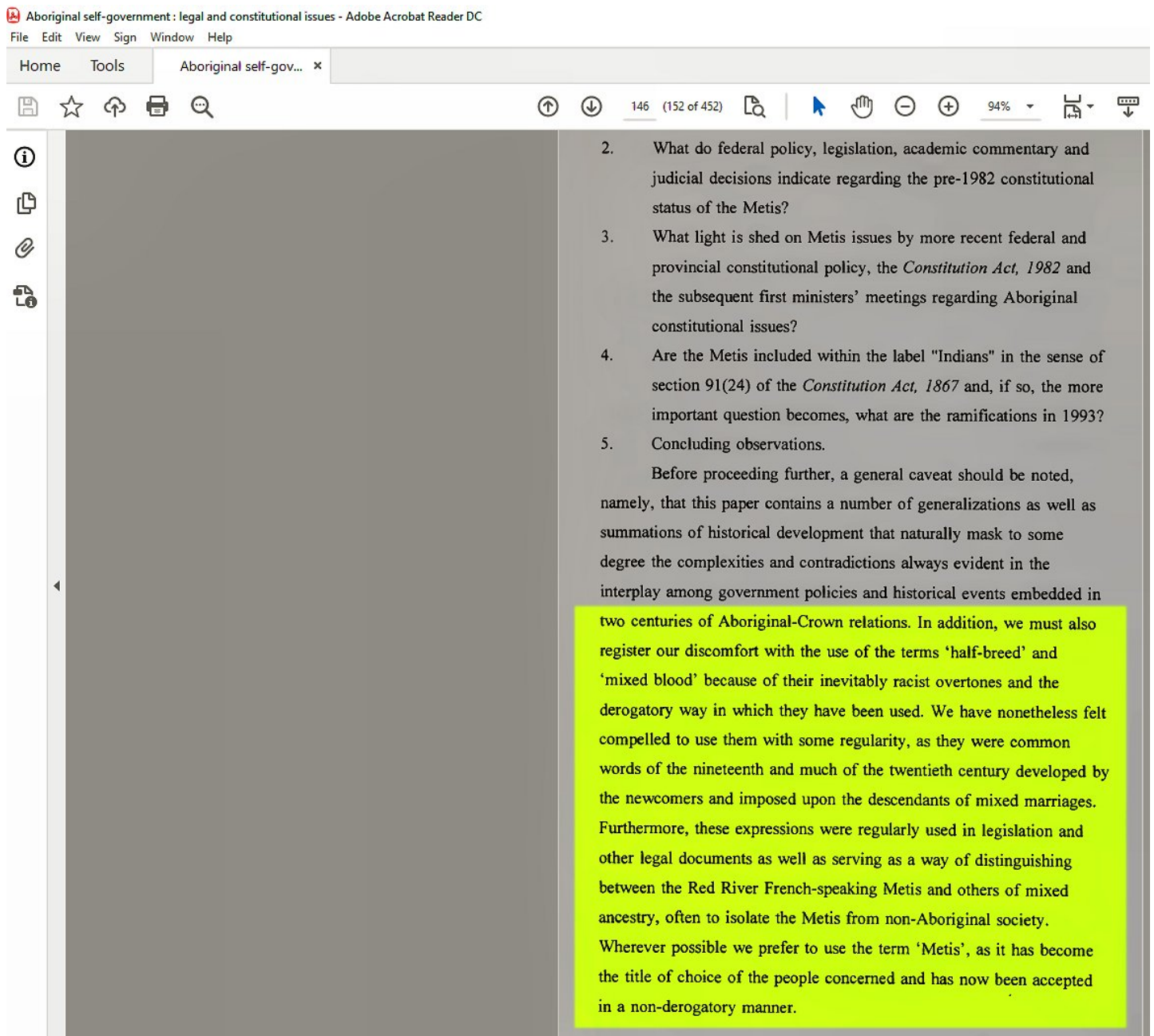
Another reason for the complexity of issues surrounding the Metis lies in the conspicuous lack of judicial guidance. There are extremely few cases dealing with Metis rights or status as such. Coupled with this relative absence of caselaw is an inconsistent pattern of colonial, and subsequently federal and provincial, government legislation, policy and practice with respect to the Metis. Consequently, one is obliged to examine legal history and to proceed both from first principles and by way of analogy to a much greater extent than is normally the case with respect to Aboriginal issues. This paucity of jurisprudence linked with inadequate legislative initiatives has opened the debate to a wide range of views that are difficult to reconcile.

A third complicating element lies in the fairly recent renewal of the drive of all Aboriginal peoples for new power-sharing arrangements within the Canadian federation. This has resulted in recognition of the Metis for purposes of the "existing aboriginal and treaty rights" protected in section 35 of the *Constitution Act, 1982* as well as in their inclusion over the last decade in a series of multilateral meetings and first ministers' conferences on constitutional issues affecting them. How this relatively recent renewal of recognition of the existence of another constitutional category of Aboriginal peoples alongside the Indian and Inuit dovetails with the earlier pattern of inconsistent treatment by the governing authorities is a mystery that has yet to be clarified, let alone fully resolved.

Given the foregoing, it is advisable to proceed in stages. Accordingly, it is proposed to divide this overall inquiry into five sections in order to come to grips with the complexities inherent in the issues to be addressed in a more effective and thorough fashion. These five sections are as follows:

1. Who are the Metis?

pg146 - "use of the terms 'half-breed' and 'mixed blood' because of their inevitably racist overtones and the derogatory way in which they have been used. We have nonetheless felt compelled to use them with some regularity, as they were common words of the nineteenth and much of



the twentieth century developed by newcomers and imposed upon the descendants of mixed marriages." "these expressions were regularly used in legislation and other legal documents as well as serving as a way of distinguishing between RR French-speaking Metis and others of mixed

ancestry, often to isolate the Metis from non-Aboriginal society." "Wherever possible we prefer to use the term 'Metis', as it has become the title of choice of the people concerned and has now been accepted in a non-derogatory manner."

pg148- The Many Definitions of Metis-" recent study of the question of Metis identity by a Metis scholar, Antoine Lussier notes that at a 1981 conference "there appeared to be much confusion regarding the term to be used when discussing the mixed-blood people of



WHO ARE THE METIS?

The Many Definitions of Metis

In a relatively recent study of the question of Metis identity by a Metis scholar, Antoine Lussier notes that at a 1981 conference "there appeared to be much confusion regarding the term to be used when discussing the mixed-blood people of nineteenth-century Canada and the northern United States."⁴ After citing the essential portions of seven current definitions of Metis, Lussier observes that in some cases they allow not only for non-status Indians to join Metis organizations, but that in one case even certain non-Aboriginal people are eligible to join (through marriage and subject to associate member status without voting rights or the ability to hold executive office).⁵ Somewhat ironically, one other Metis organization mentioned in his article - a small association with a primarily cultural rather than political focus - requires that its members be French-speaking, Roman Catholic and Metis, but offers no definition of the latter term.⁶ "These new criteria," he remarks, "have not brought the diverse Metis cultural groups together but have more or less separated them."⁷ Recent constitutional history supports Lussier's cogent observation.

Originally formed in 1968 to represent non-status Indian and Metis people, the Native Council of Canada (NCC) has a broad definition of Metis encompassing virtually all persons of mixed Aboriginal and non-Aboriginal blood in Canada, irrespective of historical origins, who self-identify as Metis. While the history of the Metis inhabitants of western Canada provides much of the legal and historical foundation for Metis claims to Aboriginal and treaty rights by the NCC, it does not exhaust them.⁸ Despite the success of the NCC, and particularly through the efforts of its then vice-president and noted Metis leader Harry Daniels, in bringing about the constitutional recognition of the Metis,

nineteenth-century Canada and the northern US." After citing the essential portions of seven current definitions of Metis, Lussier observes that in some cases they allow not only for non-status Indians to join Metis org's, but that in one case even certain non-Aboriginal people

Early Membership Rules

At the time of the founding of most of the Métis political organizations in western Canada the activists were made up of Métis and Non-Status Indians. Many of the Non-Status Indians could easily identify with Métis because their mothers or fathers were married to a Métis spouse or they had grandparents who were Métis. Many of the women involved with the Manitoba Métis Federation development had lost their First Nations status when they married Métis men. Elizabeth Isbister and Mary Guilbault are examples of these women. At the time the MMF constitution allowed membership of enfranchised Indians – i.e. anyone who had lost their treaty rights or who had given up his/ her treaty rights.

When MMF was first formed the voting age was set at 13 years of age. In 1981 the age was changed to 16 and then during Yvon Dumont's presidency the age was raised to 18 years.

Métis Membership Rules in 1978

Tony Lussier writing in 1978, states: Today a Métis is defined by the MMF as:

- A person of mixed blood - Indian and European (no matter what amount) The Manitoba Métis Federation Constitution states, a non-registered person of Indian descent. M.M.F. Constitution, 1976, Article III, Sec. (A).
- One who considers himself as a Métis
- An enfranchised Indian - one who has given up or lost his/ her treaty rights. See *Indian Act*, Section 108, 109, Queen's Printer, Ottawa, 1951.
- One who received land scrip during the 1870s. In the *Manitoba Bar News* of August 1968, Mr. W. P. Fillmore discusses the issue of Half-Breed Scrip. In this article, he maintains that at the time of issuing of scrip a "Half-Breed" was apparently any person who could claim to have any ancestor of White blood," p. 124.
- One who is identified with a group that identifies as Métis . A Native but not a registered Indian. In some Manitoba Métis Federation locals, a non-native can belong to the M.M.F. provided he/she is married to a Métis. For the sake of administrative records of the organization, that person is counted as a Métis. (Manitoba Métis Federation Constitution, 1976, Article III, Sec. 2(b).)

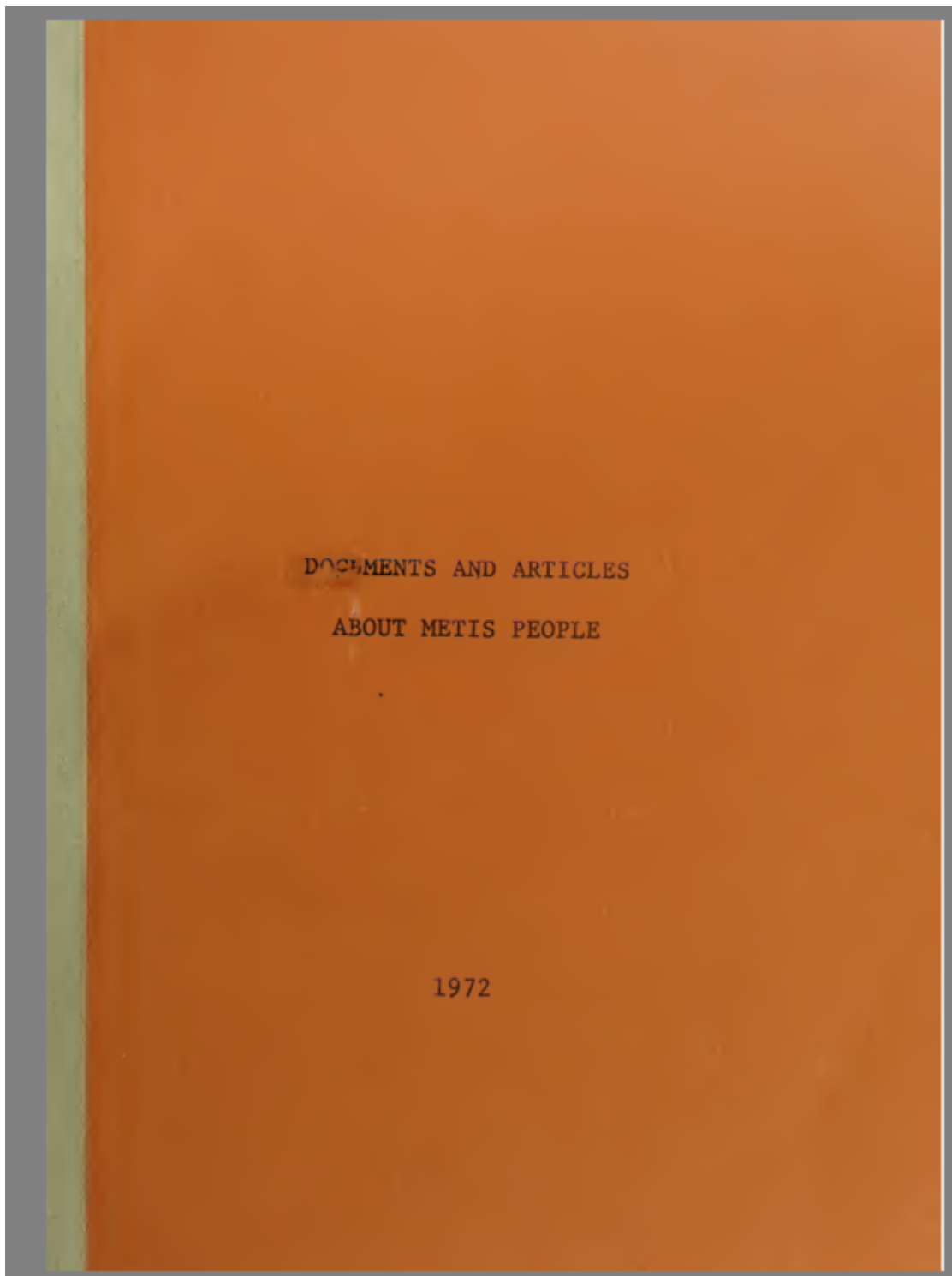
are eligible to join(through marriage and subject to associate member status...) "NCC has a broad def of Metis encompassing virtually all persons of mixed Abor and non-Aboriginal blood in Can.,irrespective of historical origins, who self-identify as Metis."(MMF identity in 1978)

Identity 1978

MMF identity of Metis in 1978

- Tony Lussier writing in 1978: Today a Metis is defined by the MMF as:
- A person of mixed blood - Indian and European (no matter what amount)
The Manitoba Metis Federation Constitution states, a non-registered person of Indian descent. M.M.F. Constitution, 1976, Article III, Sec. (A).
- One who considers himself as a Metis
- An enfranchised Indian - one who has given up his/ her treaty rights. See *Indian Act*, Section 108, 109, Queen's Printer, Ottawa, 1951.
- One who received land scrip during the 1870s. In the *Manitoba Bar News* of August 1968, Mr. W. P. Fillmore discusses the issue of Half-Breed Scrip. In this article, he maintains that at the time of issuing of scrip a "Half-Breed" was apparently any person who could claim to have any ancestor of White blood," p. 124.
- One who is identified with a group that identifies as Metis. A native but not a registered Indian. In some Manitoba Metis Federation locals, a non-native can belong to the M.M.F. provided he/she is married to a Metis. For the sake of administrative records of the organization, that person is counted as a Metis. (Manitoba Metis Federation Constitution, 1976, Article III, Sec. 2(b).)

Documents and articles about Me'tis people-1972- Saskatoon, Sask-Basis for some of the information used in the book The non-people, by Dave McKay- Membership



Documents and articles about Me'tis people-1972- Saskatoon, Sask-Basis for some of the information used in the book The non-people, by Dave McKay- "Membership - wives and children of those of Metis Extraction." #Metis

Documents and articles about Métis people. --

Article 1

- A. The name of the Society shall be "The Saskatchewan Metis Society."
- B. The Society shall confine its work to the Province of Saskatchewan and shall have its head office in the City of Regina.
- C. The Society shall be non-political and non-sectarian.

Article 2 Objects

- A. To organize the Metis of Saskatchewan so that they may strive to better their social, economic and cultural life.
- B. To assist so far as possible, in recording and perpetuating a correct history of the Metis of the Province of Saskatchewan.
- C. To set up branches of the Society in the Province of Saskatchewan, and to affiliate with or to accept affiliation with organizations having similar aims and objects.

Article 3 Membership

- A. Any resident of Saskatchewan of Metis extraction and their wives and children, who is in sympathy with the aims and objects of the Society, and who is prepared to uphold its principles, and abide by its rules, may become a member.

Article 4 Dues

- A. Each branch of the Society shall fix its own dues, provided that each branch shall pay monthly to the Saskatchewan Society the sum of two cents per member of such branch.

Article 5 Officers

- A. The Officers of the Society shall consist of:
 - 1. President
 - 2. Vice-President
 - 3. 2nd Vice-President
 - 4. Secretary Treasurer

Article 6 Executive

- A. The Executive shall consist of the above named officers and five Executive members, all of whom shall be elected at the annual general meeting.
- B. Except in the case of a vacancy occurring, the officers and members of the Executive shall hold office until the annual meeting following the one at which they were elected.

Article 7 Powers of Executive

- A. The Executive shall manage the affairs of the Society, and shall supervise the work of all committees elected by the Society.

Documents and articles about Me'tis people-1972- Saskatoon, Sask-Basis for some of the information used in the book The non-people, by Dave McKay- Claims of the Metis - Leader Post Jan 31 - 1939.

LEADER POST, JANUARY 31, 1939

CLAIMS OF THE METIS

The native people of Saskatchewan of the mixed Indian and white blood have now under way an organization designed to give stability to their movement to obtain the rights they claim are owing them from the government of Canada. A central organization has been formed and 14 local branches have come into being. In this way such places

23

continued...

as Battleford, Lebreton, Green Lake, Estevan, Willow Bunch, Meadow Lake and other centres of Metis population have become represented in the councils of the movement, and the work is being vigorously prosecuted. For many years the leaders of the Metis people in the province have contended that their people had a strong interest in the title to the western domain before it was transferred by the Indians to the Crown, and that this claim has never been adequately liquidated. When the treaties were signed--notably the Qu'Appelle treaty in 1874--the Indians always maintained that their "half-brothers," as they picturesquely called the Metis, were joint inheritors with them in the country, and entitled to equal consideration. Much was promised but little then done in respect to the Metis except giving them the right to "take treaty" as Indians.

Various Canadian governments since 1874, the year the first Indian treaties were made in the North-West Territories, with the exception of a few lapses--notably in 1884--have lived up to their obligations in respect to the Indians. Annuities have been paid; common and several technical schools have been provided; large reserves of the best land in the country are held in community ownership by the various bands; livestock has been provided; indigents looked after; and medical and sanitary services rendered. Millions have been spent on the Indians.

The Metis claim that the consideration given to them is so trivial that it is ridiculous in comparison. They point out that some of the greatest parliamentarians in Canada were of the opinion that the Metis had an inalienable interest in the Indian title that has never been properly extinguished. It is true, they claim, that scrip of 240 acres was given during the last years of the 19th century to each child born outside the boundaries of Manitoba, after 1870 and prior to 1885. This was issued at a time when land had little value and, for the most part, as soon as this scrip was issued, it was bought up by rapacious speculators at prices that often amounted to little more than a few cents per acre.

The organization now formed has for its chief purpose, the investigation of the Metis claims and, if they are found to be valid, to press them upon the Dominion authorities with all the logic and power possible.

Attempts are also being made to interest the members of the provincial legislature. Mr. Gregory, member for the Battlefords, made an interesting speech on the subject during the debate on the budget last session, and much interest has been aroused respecting the question. The Metis themselves are bending every effort to gather into their organization every representative person of the mixed blood in the province, and intend to do all in their power to obtain from the government of Canada a liquidation of what they believe is a just claim.

My words --- Culture ? Language ? No Mention of it.

"Every representative person of the mixed blood in the province"

The one-and-a-half men- the story of Jim Brady and Malcolm Norris, Metis patriots of the twentieth century-Dobbin, Murray-1981- Ewing commissions working definition of a half-breed. "if he has one drop of Indian blood in his veins and has not been assimilated into

THE EWING COMMISSION 95

focussed on defining just who the commission was investigating; the chairman wanted a working definition of "half-breeds." It was soon agreed that non-treaty Indians were within the commission's terms of reference. The early Metis petitions had explicitly mentioned the non-treaty Indian and both Bishop Guy, an ally of the association, and Joe Dion confirmed the place of the Indian in the deliberations. Dion emphasized that: "The most destitute amongst the Metis today are the direct descendants of Indians who left treaty in favour of scrip..."⁸

But Ewing was less interested in an historical definition of "half-breed" than he was in a social definition. Norris, chosen by the executive to present the Metis' case, contributed the following:

...if he has one drop of Indian blood in his veins and has not been assimilated into the social fabric of our civilization he is a Metis.

On February 28 the discussion picked up where it had left off. Ewing paraphrased Norris:

Ewing: Would you say the definition "anyone having Indian blood in their veins and living the normal life of a half-breed" comes within the definition of "half-breed"?

Norris: Yes...

Ewing: You see, you must include "living the life of a half-breed"...there are a large number of men in Edmonton occupying responsible positions, who are not intended to be included in this investigation."

Norris hesitated to agree with the definition: "For the purposes of this investigation it is rather difficult to give a definition..." But the initiative was lost, the issue settled. The "working definition" was arrived at. It was not history which defined a "half-breed," not politics nor even biology. You weren't a Metis because you could trace your origins to the Red River or the South Saskatchewan. You had to have Indian blood, but you were a "half-breed" only if you lived outside the dominant society, if you lived the "life of a half-breed." Because you lived a certain kind of life—the traditional life of hunting, fishing and trapping, a poor life, characterized by illness and ignorance—you were a "half-breed." Why were people condemned to live such a life? Because they were "half-breeds." There was no escape from this nether world. The cause was also the consequence.

This working definition would be used by Ewing and the other commissioners in their deliberations. It was a pathological model.¹⁰ The "half-breed" was a problem to be dealt with as one would deal with an

the social fabric of our civilization he is a Metis." / The one-and-a-half men- the story of Jim Brady and Malcolm Norris, Metis patriots of the twentieth century-Dobbin, Murray-1981- "Brady couched the executive to use Metis Classification during the hearings." "The nomadic

... conception, the source of political salvation for their less fortunate cousins. They were the descendents of the old nationalist leadership of the Metis from the Red River, South Saskatchewan and St. Paul des Metis. Brady argued that they were proof of the Metis' ability to become productive citizens.

Brady was the sole author of this dual-class analysis of Metis society and it is likely that he coached other executive members in preparation for the hearings. The executive and its allies used this classification

*Brady's description of two broad classes of Metis did not fit the orthodox Marxist view of class. It was an analysis which recognized implicitly the colonial reality of many Metis and a continuing national liberation movement. An individual's class position was based on how they related to the mainstream society. Thus Brady does not talk about a Metis working class as such—the working class Metis were included in the category of “progressive” just as farmers and small businessmen were. All these economic classes were part of the Canadian mainstream and were therefore “progressive.” The nomadic Metis—a large proportion of whom were actually ex-treaty Indians—were outside the mainstream. As described earlier some Metis were on the borderline—entering one or the other of these two classes depending on economic conditions. Brady describes this class analysis in “Politics in the Metis Association,” October, 1942, Brady Papers.

92 THE ONE-AND-A-HALF MEN

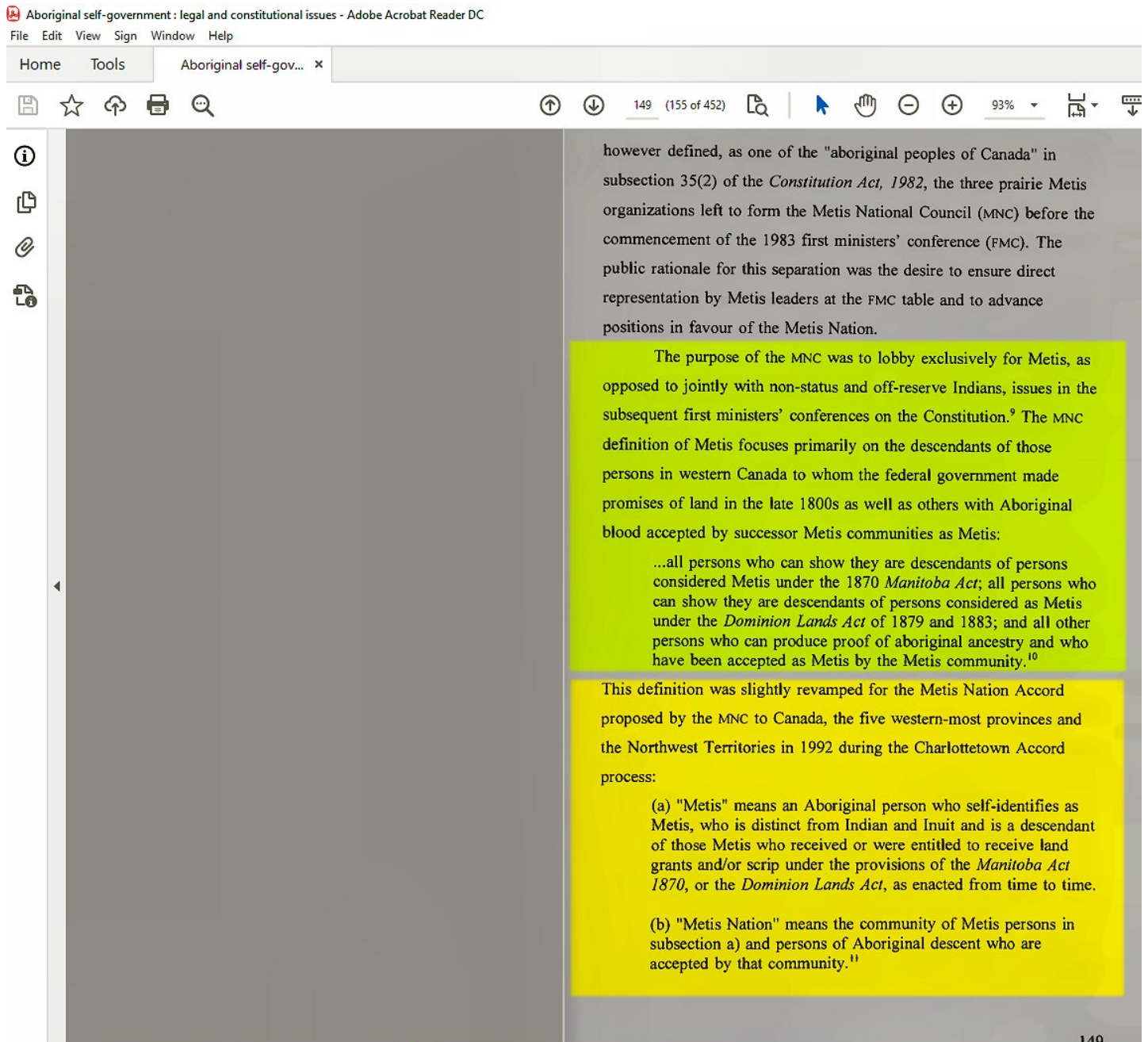
whenever the subject arose during the hearings.

The alliance between the deprived nomadic Metis and the progressive land-owning Metis—despite its inherent contradictions—was a reality without which the Metis association would never have been built. The line of secondary, local leadership which held the association together consisted of that very class of land-owning “Red River” Metis. Their understanding of political developments, their education and their ability to engage in sustained political action was crucial to the organization in its most active years. Without them the “big four,” for all their remarkable talents, would never have succeeded. Brady pinned his long-term hopes for Metis liberation, whatever the outcome of the hearings, on the alliance between the nomads and progressives.

Once he had established the capacity of the Metis to govern themselves by virtue of this alliance, Brady's final step was to establish that the moral authority of that alliance was vested in the Metis association. The settlements would provide the economic base for self-determination; the association would direct the process of self-determination. In Brady's scheme it was critical that the association's political authority as the united voice of the Metis be extended to the settlements once they were established. The cheap relief

Metis—a large proportion of whom were actually ex-treaty Indians"

primarily on the descendants of those persons in



western Canada to whom the fed gov made promises of land as well as others with Aboriginal blood accepted by successor Metis communities as Metis:" [@MNC tweets](#)

June 1983 - New Breed - Policy Development Workshop for MNC Successful - Chartier said the "MNC- was not a closed society and that there is room for other Metis. "

Policy Development Workshop for MNC Successful

by Joan Beatty

Saskatoon — The Metis National Council (MNC) recently held a policy workshop in Saskatoon with the three boards from the Manitoba Metis Federation, the Metis Association of Alberta and the Association of Metis and Non-Status Indians of Saskatchewan. According to national representative, Clem Chartier, the primary purpose of the workshop was to look at policy development as it related to a number of issues that are facing the MNC. Wide ranging discussions were held on issues such as MNC political directives and headquarters, the Canadian constitution and First Minister's conferences, the issue of Non-Status Indian members of the three associations, the parliamentary committee on Indian self-government and the Batoche centenary. Chartier said Metis child welfare and a Metis census were also discussed.

"There is a need for the Metis people to take control again over all aspects of the Metis nation and one of the most important ones is Metis children," he said.

With respect to Metis generally, we have to have a census of our people done so that we know how many Metis are living in the prairies and in Canada," Chartier said the MNC estimates that they currently represent up to 80 percent of the Metis people in Canada. "The prairie provinces are the heartland of the Metis nation," Chartier said. That is why the MNC was given a seat at the constitutional conference to represent the Metis people, he said.

Sam Sinclair, President of the Alberta Metis Association, said the MNC is very concerned over delays of economic development funds, in particular the \$345 million dollar Native Economic Development Fund, announced by the federal government almost three years ago. "We want some representation from the three provinces to be able to sit on a committee that will decide where that money goes. We want to ensure that the Metis get a fair share of the \$345 million being talked about," Sinclair said. Although the three prairie provinces may have their individual differences, the priority is to ensure the Metis are included in the decision as to where and how the money is distributed, he added.

Ferdinand Guiboche, speaking on behalf of the Manitoba Metis Federation, said he was very pleased to see the positive developments that have been taking place for the Metis people in recent years. "It's been a long-standing dream of the Metis in Manitoba to establish a strong national Metis presence in the prairies. We are particularly pleased with the establishment of an interim office here in Saskatoon, and eventually a Metis parliament in Batoche and a lobbying office in Ottawa."

Outlining the structure of the Council, Chartier said the MNC is composed of the three prairie Metis organizations. Each has four seats on the executive of the MNC and can appoint national representatives from

amongst themselves. "There is presently one national representative, but that will change," he said.

"We have not and will not move in the direction of election of officers in the foreseeable future. The Metis National Council will operate on the basis of consensus with all provinces involved in the discussions both at the executive level and the Metis National Council assembly level," he said.

With what Chartier called a Metis parliament (consisting of ten representatives from the three prairie groups) the MNC will be meeting in July at Batoche. One such assembly was already held in Ottawa prior to the First Minister's conference.

Chartier said the MNC is not a closed society and that there is room for other Metis, outside of the prairies, to join the Metis nation. "We will no longer have the situation where 80 percent of the Metis are controlled by 20 percent of other aboriginal people," Chartier said, referring to the current system of representation by population.

Replying to a question regarding Non-Status Indians in the MNC, Ferdinand Guiboche said the Non-Status Indians themselves will determine their place and what they want. "We do have Non-Status representation on all our provincial organizations. It's our view they will decide where they wish to belong."

Chartier said it's peculiar to AMNSIS that they are the Association of Metis and Non-Status Indians of Saskatchewan. "It's a political association voluntarily entered into by Non-Status Indians and Metis." He said the AMNSIS board has discussed when doing the census that people "self identify". "They will identify either as Metis or as Non-Status Indians. It's a very difficult issue," he said.

Chartier mentioned that Jim Sinclair, President of AMNSIS, had announced during the first day of the meeting that he will be organizing the Non-Status Indians to gain their rights. "There will be a time frame but it's difficult to say what that will be. But if people like Jim Sinclair are going to be going in that direction, it will have to be done at their own pace, at their own time, and we will have to respect the aspirations of the Non-Status Indians."

Chartier also said the issue was discussed at the last day of the meeting and the MNC is not in the position to say, 'here is what is right for the Non-Status Indians', but rather, 'Non-Status Indians will decide what they want'. "The Metis National Council can support their initiatives," Chartier said.

Sam Sinclair said his organization was open to Non-Status Indians becoming Metis if they chose to and that they would continue to support their aspirations whatever they may be.

The group expressed satisfaction in having come away with a solid direction for the MNC.

Ferdinand Guiboche, Clem Chartier and Sam Sinclair at MNC press conference.



pg150 - The issue of how to define Metis is not a new one. Lussier's research into the question uncovers historical evidence of a similar debate more than 100 years ago. A list drawn from an anthropological journal from 1875 reveals nine different categories of persons



This accord has yet to be signed by the government of Canada, the five provinces or the government of the Northwest Territories, however, the MNC is continuing its efforts to obtain formal acceptance of the accord and to move forward with its implementation.

More recently, the MNC proposed a constitution for discussion purposes entitled "Draft Constitution of the Government and People of the Metis Nation" which contained a slightly different formulation for a definition of the Metis, namely,

6.(1) For the purposes of this Constitution "Metis" means an Aboriginal person who self-identifies as Metis, who is distinct from Indian and Inuit and

(a) is a descendant of those Metis who received or were entitled to receive land grants and/or scrip under the provisions of the *Manitoba Act, 1870*, or the *Dominion Lands Acts*, as enacted from time to time or

(b) is recognized as a Metis pursuant to laws enacted by the Metis Nation Parliament.

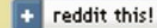
(2) For the purposes of identifying the people of the Metis Nation, the Metis Nation Parliament shall establish laws for the enumeration and registration of the Metis people of Canada.¹²

The issue of how to define Metis is not a new one. Lussier's research into the question uncovers historical evidence of a similar debate more than 100 years ago. A list drawn from an anthropological journal from 1875 reveals nine different categories of persons classifiable as members of the "mixed-blood race".¹³ We know from other historical records that there was some degree of confusion throughout the 1800s and early 1900s concerning who was Indian and who was 'Metis' or 'half-breed' and whether and under what circumstances the latter were also Indians. For example, in the negotiation of the Robinson-Superior and Robinson-Huron treaties in the province of Canada in 1850 it is reported that the chiefs urged the

classifiable as members of the "mixed-blood race". / September 6 2010 - Turtle Mountain Star - pg 9 - Great musicians, singers and dancers of mixed-blood ancestry from the Turtle Mountain Band of Chippewa proudly demonstrated their talents.



Share



© Turtle Mountain Star. All rights reserved.

September 6, 2010

The Star

Page 9



Above left: Ryan Keplin, left, and Linus Davis at the Metis Fest held recently at the International Peace Garden. Center: Alvin, left, and Ella McLeod in front of the Red River Cart, which was raffled off during the festival. Far right: Darrick, left, and Taylor Falcon of Belcourt entertained the crowd during the festival with their two-part harmonies.

A Metis weekend at the Garden

Local residents play a big part in annual festival

By Logan Davis

Of the Star
Red River carts and Red River jigs were part of the 2010 Metis Fest held recently at the International Peace Garden, which again hosted the cultural and music event.

Great musicians, singers and dancers of mixed-blood ancestry from the Turtle Mountain Band of Chippewa proudly demonstrated their talents, alongside their Metis brethren from the Canadian side of the border.

Although there were many great entertainers who performed at the four-day event, the local Turtle Mountain performers held their own on stage with the best of them. Local fiddling dynamo, Ryan "Fiddler" LeFebvre, Keplin of Belcourt practically stole the show in the Saturday night stage performances. Keplin had the crowd at his nimble fingertips as he cranked out a number of upbeat fiddle tunes.

"He owned that stage on Saturday night and everyone was amazed by how good he was," stated Yvette Falcon, whose daughter Taylor Dayne Falcon also performed several times at the Metis Fest. Falcon and her two

"Ryan is so good, and he makes us all so proud we're from Turtle Mountain and of our Michif culture. Taylor is honored to be part of this, and she hopes that she can come back again next year. She has a video of her interviews here at Metis Fest and that helps in a big way for her to get exposure."

Yvette Falcon

two children, Taylor and Darrick (Big Jim), blew away the crowd with their duets and harmonies in three separate performances. The Falcons won the "Most Talented Family" of 2010 during Turtle Mountain Days earlier this summer.

"Ryan is so good, and he makes us all so proud we're from Turtle Mountain and of our Michif culture. Taylor is honored to be part of this and she hopes that she can come back again next year. She has a video of her interviews here at Metis Fest and that helps in a big way for her to get exposure. They had a blast when she and Big Jim (Darrick) sang together on stage," Yvette said.

The siblings sang a song penned by Taylor called "Falling in Love," a song that plays regularly on the local talent show on KEVA. They also sang several country numbers by George Jones, Tammy Wynette, the Judds, and Glen Campbell. Darrick Falcon also did a solo called "Simple Man" by Leonard Skynyrd.

"Taylor really enjoys singing with me and Big Jim, because she feels so much more comfortable up there when we're up there with her," Falcon said. "She is young, but she is also aware of her heritage. She considers other Michifs and Metis like her big family."

The Falcons of Belcourt were

backed up by the Falcons of Trenton each time they got on stage.

Ricky Thomas of Belcourt won the adult male division in the Sunday jiggling contest which was held in conjunction with the fiddling contest on the last day of the Metis Fest.

Keplin played a medley of his favorite tunes in his Metis Fest performance, including some of his own fiddle tunes. The popular Belcourt musician is in the running for a major music award and has advanced to the final rounds of voting for the Aboriginal People's Choice Music Awards in Canada for 2010 "Best Fiddle CD." The last day for voting for Keplin is September 7, 2010 by going to www.aboriginalpeopleschoice.com.

Other local performers at the Metis Fest was the band "Hicktown," which features KK Keplin on lead vocals.

Although the rainy weather that weekend put a damper on the event, there was plenty of entertainment and countless friendships were formed, said Falcon.

There's Only One Place to Find the Best of Everything!!

The International Peace Garden

9-11 Ceremonies

Saturday, Sept. 11 • Beginning at 11 a.m.

Everyone is welcome to share in the events

Join us for the opening of the new

Contemplative

and Stroll Garden

surrounding the Peace

Garden 9/11 Memorial Site

11 a.m. • Sept. 11

We encourage schools and the

public to share in this meaningful

memorable celebration.

The International Peace Garden extending a special invitation to firefighters,

emergency responders, police officers, serving military, homeland security officials,

veterans and local government officials all from both Canada and the United States

Official dedication of the new

Interpretive Centre and Conservatory

Beginning at 12:15 p.m. Sept. 11



April 26, 2010 Turtle Mountain Star - A matter of identity - Little shell people embrace their mixed race heritage, like the Chippewa of Turtle Mountain, many call themselves Metis.

April 26, 2010 Turtle Mountain Star

PAGE 10 (10 of 24 available) PREVIOUS NEXT Full Size Image

Like 0 Share

Save

SHARE

+ reddit this!

© Turtle Mountain Star. All rights reserved.

IMAGE © SMALL TOWN PAPERS, INC. ALL CONTENT COPYRIGHTED. ALL RIGHTS RESERVED. USE SUBJECT TO LICENSE AGREEMENT. REPRODUCTION, DISSEMINATION, STORAGE, DISTRIBUTION PROHIBITED.

Page 10

The Star

A matter of identity

Descendants of Chief Little Shell seek recognition as their own tribe

By Chuck Haga

Of The Grand Forks Herald
They are few in number. They are scattered. The history they share, more or less, is splintered and disputed.

But some Turtle Mountain descendants and admirers of the late-19th century Chippewa Chief Little Shell, who walked away from what he considered an unjust land settlement offered by the United States in 1892, believe they have an identity all their own.

"We want to be a separate entity of the Turtle Mountain Band of Chippewa Indians, with our own self-determination," said Delvin Cree of Dunseith, who says he is a fifth-generation descendant of Little Shell. Cree and other blood descendants of the chief and his followers, numbering a few hundred in North Dakota and perhaps a few thousand around the country, want federal recognition as a distinct Indian tribe, he said. They seek a share of treaty funds and their own land base.

It's not likely to happen, said Richard Marcellais, the elected chairman of the Turtle Mountain Band. "He'd have to be recognized as a separate tribe by the federal government," he said. "It's a long, drawn-out process, and I don't know how many people would want to follow him."

As to Cree's claim that the hereditary chieftainship remains in his family, "we have no position for that (a chief) in our tribal government," the chairman said.

Marcellais, who also is a state senator, said that about 800 members of the Turtle Mountain Band live at Trenton, N.D., southwest of Williston near the Montana border, and some there "want to break off as a separate tribe, too. But they've been trying for years."

A heroic symbol

Within the Ojibwe (Chippewa) family, Cree and his associates are a faction of a faction, one of many groups claiming Chief Little Shell as a heroic forer. The federally recognized band, with its reservation in north-central North Dakota, uses an image of Little Shell on its Web site, letterhead and license plates.

In Montana, a landless and scattered group calling itself the Little Shell Tribe of Montana continues a century-long struggle for recognition by the U.S. government. The old chief's name also has been used by a splinter group tagged by the Anti-Defamation League as an extremist organization.

According to the ADL, the so-called Little Shell Pembina Band of North America — disavowed by the Turtle Mountain Band — ran afoul of the law in Florida and other states in 2004 for offering to sell tribal memberships to undocumented immigrants, a sort of red "green card." No Ojibwe or other Indian blood was required.

Cree said his people have "no connection at all" to the group, which appears to have faded. "We have no part in that kind of anti-government behavior."

Cree's grandfather, the late Francis Cree, fought a long battle over treaty decisions as they applied — or didn't apply — to the Little Shell people of the Turtle Mountains. He went to Washington to plead the case to senators and met with President John F. Kennedy.

Francis Cree was a party to lawsuits filed in federal court in 1992 alleging government mismanagement

"We want to be a separate entity of the Turtle Mountain Band of Chippewa Indians, with our own self-determination."

Delvin Cree

of funds due the Chippewa from the 1863 Old Crossing Treaty, which also involved the Red Lake Band of Chippewa, and the 1892 agreement. He died in 2007, but the legal actions continue.

Delvin Cree and relatives say they hold documents which establish their family's claim to the hereditary chieftainship of the Turtle Mountain tribe. "The chieftainship continues," Cree said. The tribal government in Belcourt, "is not a legal government." His has been a shoestring crusade.

Last month, denied travel assistance by the Turtle Mountain Band's council, Cree raised money for a trip to Washington by raffling traditional willow baby baskets, selling homemade fry bread and chili and asking friends for help with gas. (Chairman Marcellais, who was in Washington at the same time, said he helped a member of Cree's party return to North Dakota after she apparently had a falling out with Cree.)

Introducing himself as a member of the Little Shell Nation Grand Council, Cree met on March 1 with Sen. Byron Dorgan, D-N.D., and with staff members of the Senate Indian Affairs Committee, which Dorgan chairs.

Dorgan had to speak at the National Congress of American Indians and left the meeting at his office before the Little Shell issue came up. Cree and a Senate staff member said, but the senator and Cree discussed a poverty reduction project and other Turtle Mountain issues.

In Montana, a plea for recognition. The Montana Little Shell also trace their drive for recognition to 1863 and the Pembina Band of Chippewa Indians' signing of the Old Crossing Treaty. In 1892, after mass immigration and settlement of Indian lands, a government commission led by Porter J. McCumber (a future U.S. senator from North Dakota), negotiated a further land deal that restricted the Ojibwe to the present reservation in north-central North Dakota.

Chief Little Shell refused to accept the terms, including the government's offer of 10 cents an acre for 10 mil-

lion acres of prime farming land, and his people were left out of the settlement. Little Shell died in 1901. His people have argued since that the government brokered the 1892 deal with illegitimate interests, including Canadian and Minnesota Indians and non-Indians. (One thing uniting the factions: the ongoing effort to negotiate a settlement for alleged mishandling of Indian trust funds by the Bureau of Indian Affairs.)

After the McCumber agreement, Little Shell's people wandered the Northern Plains, hunting the dwindling buffalo herds until finally settling — individually and by small family groups — in towns and on other tribes' reservations across Montana and adjacent states and provinces. They have no reservation of their own.

For decades, they pleaded for state and federal recognition, which might bring a land base and protections for a fading culture. Montana formally recognized the Little Shell people there in 2000, which allowed them to apply for state economic development grants and other benefits. But after the petition for federal recognition was filed in 1978, the United States stalled — until October 2009, when the U.S. Department of Interior finally gave a clear answer: No.

Federal authorities cited the "tribe's" scattered, landless membership, about 4,300 people spread across Montana and neighboring areas, a lack of "cohesion" and a history of intermarriage with non-Indians and members of other tribes. But that is who and what we are, the Montana Little Shell said, vowing to press their claim in Congress, where a bill to extend federal recognition has been introduced by a Montana senator and assigned to Dorgan's committee.

The Little Shell people embrace their mixed-race heritage. Like the Chippewa of Turtle Mountain, many call themselves Metis, and many bear surnames of French origin. Others claim ancestors with such far-flung origins as Syria, Lebanon, Mexico and Scotland. The Little Shell tribal song is the Red River Jig.

played on a fiddle.

"People look at us and say, 'You're not Indian,'" Chairman John Sinclair told the Associated Press in 2008 as the band waited for Interior's decision. "We say, 'We're not. We're Little Shell.'"

When the negative decision came last fall, elder Roger Salois, 72, struggled to explain how he felt.

"You have your community and your place to go," he told a reporter. "We don't have that. But we're still together, and we're still Little Shell."

And they still are breaking into factions. Recently, tribal members unhappy with Chairman Sinclair and his council "elected" a new chairman and council. Sinclair did not take part and refuses to acknowledge the special election. The challenge was due to "personal vendettas ... false allegations and distortions," he said, adding that the internal dispute "hurts the tribe's chance to gain long-awaited federal recognition."

No relationship

Despite the name, there appears to be little enduring connection between the Montana Little Shell and those in North Dakota who claim to be the old chief's blood kin.

But many families still have ties across the divide, Turtle Mountain Chairman Marcellais said.

"There is no relationship," Delvin Cree said. "We have made two requests to meet with Mr. John Sinclair and his council in the past few months, and they have never responded."

"We believe we are (perceived as) a threat to their organization," he said, because Sinclair and his people are kin to followers of Louis Riel, the Metis leader who led the Red River Rebellion of 1869-70 and the Northwest Rebellion of 1885, which ended with his execution for treason.

"When Louis Riel was hanged in Canada, his descendants came to the United States," Cree said, "and took refuge within the Little Shell Band."

(This story was reprinted from a recent issue of the Grand Forks Herald.)

Dear Families of Loved Ones Buried at St. Ann's Cemetery

We respect and admire greatly your devotion and honor you give to your loved ones here. We want to provide a cemetery that reflects this respect by providing a cemetery that is kept in a good state of repair and cleanliness.

Sadly, we are not able to do so at this time. It is increasingly difficult to move the cemetery area due to the many items left on the gravesites. In order to keep our cemetery looking good, families will have two options as follows:

1. Allow each family one (1) solar light, plus two (2) flower arrangements placed near or on the headstone.
2. Register your gravesites at the Parish Office indicating you will maintain them. You will sign an agreement with us agreeing to mow and trim your gravesites twice a month from May to August. You must register with Carol Laverdure in the Parish Office (477-5601 ext. 13) by Friday, May 21, 2010, if you plan to maintain your family gravesites.

We all want a cemetery that brings honor and respect to your loved ones buried here. Please cooperate with us.
Father Mark A. Ropel, SOLT
Pastor, St. Ann's Catholic Church
St. Ann's Parish Council

1-Stop

We offer 3 grades of gasoline, diesel fuel & propane cylinder change.

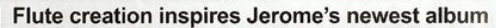
The o
HIGHWA
Open: Mon

NORTH DAKOTA LOT

Swanson - 7 oz.
POT PIES
5/\$5

Assorted Sides
RICE-A-ROLI

Page 17



Father Mark Ropel with the new truck being raffled off by St. Ann's Catholic Church

By Logan Davis
First-Time Star

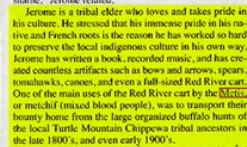
By Logan Davis
For The Star

It's even bigger and better this year. Similar to the "Bigger and Better" theme for last year's car raffle sponsored by the St. Ann's Catholic Parish and Mission, this year's fundraiser is a major "upgrade" in many ways.

Not only will the grand prize be a top-quality new pickup; this year the community raffle will include and benefit all five of the local Catholic parishes in the county.

Christina Skalko and Noel Lugo are the coordinators of raffle sales and marketing of the 2010 St. Ann's Mission 4x4 Truck Raffle, and sales are already brisk. The two St. Ann's volunteers hope the fundraiser will be a "fantastic event" this year, and that the parish is pointing to that end result. St. Ann's thanks to corporate sponsors donating the new 2010 Toyota Tundra pickup to the St. Ann's Mission, there are no payback costs to any dealer. Secondly, the area of sales will be expanded to all five parishes that will be involved this year: St. Ann's in Belmont, St. Michael the Archangel in Dunstable, St. John the Baptist in St. John and the country churches of St. Anthony's and St. Benedict's. Finally,

the type of vehicle is much more valuable and appealing to the broad spectrum of area residents who will be the main supporters of the raffle. The sponsors who picked up the tab for the new truck are Tracy Indus-



Christina Skalko, left, and Noel Lugo. (Photos by Logan Davis)

around \$31,000 after paying out the prizes and paying for the vehicle. This is our biggest fundraiser during the year, so we would be hurting without this being a success. But Christina and Noel are the real workers behind this and they're doing a great job with this for the parishes."

Besides the grand prize of the new Toyota Tundra, there are cash prizes in the raffle which include a \$1,000 first prize, one second prize of \$500, and four \$250 third place prizes.

prizes. The cost per ticket is \$20, or six tickets for \$100. Each ticket includes a coupon for \$500 off any new or used vehicle valued at \$5000 or more at Lake Toyota in Devils Lake. The drawing for all prizes will be held on Saturday, April 24, 2010, at the St. Ann's Gymnasium in Belcourt. A ticket holder does not need to be present to win. For more information on the St. Ann's 4X4 Truck Raffle, call 477-5601 for Christina Noel (ext. 25) or Doc Brien (ext. 33) in the St. Ann's Development Office.

This flute has the two birds that are side-by-side and singing, so some of my friends say this could symbolize marriage, harmony and love. I have a painting that shows the flute in a natural setting with a warrior wooing his maiden with songs from the flute. So I guess this new flute could be construed in that way. But whatever a person gets from my flutes, I just hope it's something memorable and cultural," Jerome stated.

Jerome is renowned for the many beautiful flutes he has fashioned and completed over the years, and now he has recorded a CD entitled "Turtle Mountain Echoes" which features much of his own music: a creation from the heart, if you will. Most of the musical contents are totally original and as he plays, Jerome remembers each tune. The songs he plays that he created himself are much easier to play, he noted.

"Each song I have in my heart is very easy to remember because they come from inside of her," he stated as he patted his chest lightly. "It's the songs that have done that are another person's creation where I have trouble with the notes. Mine are very much in my heart and are a part of me that I enjoy sharing with people. Like it says on my CD cover, the legends say that all the birds and animals of the forest have put their voices into the flutes. They sit in the cedar trees and red willow branches, singing all the time while the tree is growing. Therefore, the beautiful hallowing sounds are already in the flute, so just let your spirit work for you as you ex-

press your soul."

Jerome was encouraged to record his music by a few local artists who told him that he would be able to use his knowledge of the blues as a springboard for his music, and Ojibwa arts and crafts. Jerome was convinced and proceeded to do what was necessary to record his songs. He began the project in earnest in November and December of 1987, recording studio cuts and producing the CD and the distribution of the music—an added cost through the travel he and his wife, Bea, do together as they deliver requested copies of the flute music compilation, "On Turtle Mountain Echoes," which features one of the best recordings of the classic tunes of "Daddy Boy," "Amazing Grace," and "Shenandoah." The originals, like the title track, "Echoes," from "The Heart," "Secrets of the Morning River," and "A Prayer," are several generations of masterpieces flow from his flute with an instant sense of peace when you hear from the first few notes. These are the songs from the heart of Dan Jerome, a Turtle Mountain Chippewa elder who has lived his life through his traditions and his love to live on through his arts and crafts, and now through his music.

Jerome has found the perfect person to pass down his energy and passion for Ojibwa art, crafts and music. His son, Owen is learning all of what his father has had the time to teach him. Owen Jerome has made over 250 flutes already in his young life, so he is definitely taking over the Jerome mantle of cultural identity and preservation. His father is always a realist with a wry sense of humor. That was evident when he pointed out what inspires him most when he does his work with Ojibwa art, music and culture.

"I'm getting up there in age, so I try to make the best use of my time and I certainly don't buy green bananas anymore," Jerome joked. "But seriously, it's an honor to be able to be just one of the people who, in some way, helps our proud culture live on — long after I'm gone."

CHAMPLAIN

WORDPLAY

Métis

A **Métis** is a person of mixed European and Native blood. In the late 1880s, a man named Louis Riel founded the province of Manitoba and emerged as the leader of the **Métis** people. He led a series of rebellions against the Canadian government in protest over the treatment of the Native and **Métis** peoples. He is considered a hero by many.

Tolerance was necessary in any French colony. Both Catholics and Protestants must be welcomed and taught to live in harmony. Intermarriage should be promoted to create a new kind of people (forecast of the **Métis**). Champlain was now longing to return home where he could surely find some nobleman to support him in a quest to find a suitable place for a colony in North America. He wanted to be well away from the Spanish, and the

Portuguese, who, he feared, might not be much kinder.

However, the voyaging was still far from over. By 1600, sailing again in the *Saint-Julian*, he was visiting Cuba. Next came Cartagena far to the south, then back to Cuba, then perhaps to Florida, but there is a lack of evidence to say for certain. He stayed some four months in Cuba, which brought him to the spring of 1601. Havana, he recorded, was a fine place with a picturesque harbour capable of sheltering many great ships during hurricanes. Now he set off for Cadiz, sailing by way of Bermuda and the Azores, arriving there about mid-August. On the return trip he made no mention of the *Saint-Julian*. The ship had been badly damaged in storms, and was condemned by the authorities in Havana.⁶

Upon landing he went first to see his Uncle Guillaume, Captain Provençal, who was staying with a friend because he was very ill. Samuel moved in with him so that he could take care of his benefactor, and he undertook the difficult task of putting his affairs in order. One item he found was a letter requesting compensation for the loss of the *Saint-Julian* and part of her cargo. By June 26, 1601, Uncle lay obviously dying. He invited his many friends to his bedside and dictated a new will that made Samuel his main heir. A week later he died, leaving his most valuable possession, a large estate near La Rochelle, France, in the hands of Champlain, his beloved nephew. He would now have funds he could apply to his voyages of discovery.

An empty shell of a treaty promise- R v Marshall and the Rights of the Non-Status Indians - Pamela Palmater Dept of Justice
- "Metis people are Aboriginal people with mixed Aboriginal ancestry."

to the face of aboriginals commonly referred to as Inuit—as per section 4(1) of the Act. The *Indian Act* specifically defines the term “Indian” in section 4(1) as follows:

“Indian” means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian.

There is no racial requirement that status Indians have an Aboriginal blood tie or lineal link to an Aboriginal nation. There is academic support for the proposition that non-status Indians are protected under s. 35 of the *Constitution Act, 1982* as Aboriginal people either specifically in the category of Indian, Métis or as a yet unlisted Aboriginal group.¹⁶ Section 35 defines Aboriginal people as “including” certain named groups, but did not limit the content of that group. Some of the non-status people alternatively identify as Métis and assert those rights as well. Jack Woodward explained the significance of the terminology used in section 35:

Prior to the passage of the *Constitution Act, 1982*, each of the three aboriginal groups had received some form of legal recognition. The use of the word “includes”—rather than, for example, “means”—infers that there may be other peoples who could raise a reasonable claim that they ought to be considered “aboriginal.”¹⁷

10. Métis people are also Aboriginal people with mixed Aboriginal ancestry. This group will not be the focus of this article as their status in law has yet to be determined, and they have a unique history as compared with First Nations. There is currently some controversy over whether Métis will be recognized as a nation, part of those that descend from the Red River group in Western Canada, or whether they are anyone of mixed ancestry. I will discuss briefly some relevant cases later in this article that may help answer those questions.

14. *R. v. Powley* (2000), 47 O.R. (3d) 30 (Sup. Ct.) [hereinafter *Powley*, appeal]. The court in this case rejected a solely blood quantum requirement for Métis peoples in paragraph 56: “Blood quantum requirements for Métis people should be rejected because they reveal little about how an individual defines his or her own identity in relation to a Métis community. Requiring proof of a genealogical tie to the original Métis inhabitants places . . . too heavy a burden on Métis applicants and too easily leads to the extinguishment of Métis rights through attenuated blood lines.”

15. *Re Eskimos*, [1939] S.C.R. 104.

16. J. Woodward, *Native Law* (Toronto: Carswell, 1990) [hereinafter *Woodward*].

17. *Ibid.* at 3.

Micmac News June 1979 - NO THREAT TO COUNCIL - President Viola Robinson says 75 percent of its membership is Metis because all children of a non-status Indian woman are classified as Metis.

"NO THREAT TO COUNCIL"

The President of the Native Council of Nova Scotia has said she is not alarmed by a recent rift within the organization which led to formation of a new Indian association in Nova Scotia last month.

The Metis Cultural and Development Association of Nova Scotia was formed by Rheel Plourde, St. Peters, Richmond County, and a few other dissatisfied Native Council members who claimed the Council did not provide adequate representative for Metis people.

Viola Robinson, in an interview with Micmac News, said the division does not represent a threat to the Native Council because he (Plourde) does not have widespread support among Nova Scotia's native people.

"There may be a few people from some of the Zones supporting him but certainly not enough to harm the Council," she said.

Attacking Plourde's allegations about the Native Council Robinson said the Council does not distinguish between non-status Indians and Metis.

"They are both artificial terms....although the term Metis is not as strongly identified with in Nova Scotia as in

western Canada where it originated." However, the Council makes no distinction, she said, representing all people of native ancestry who are not registered with the department of Indian affairs.

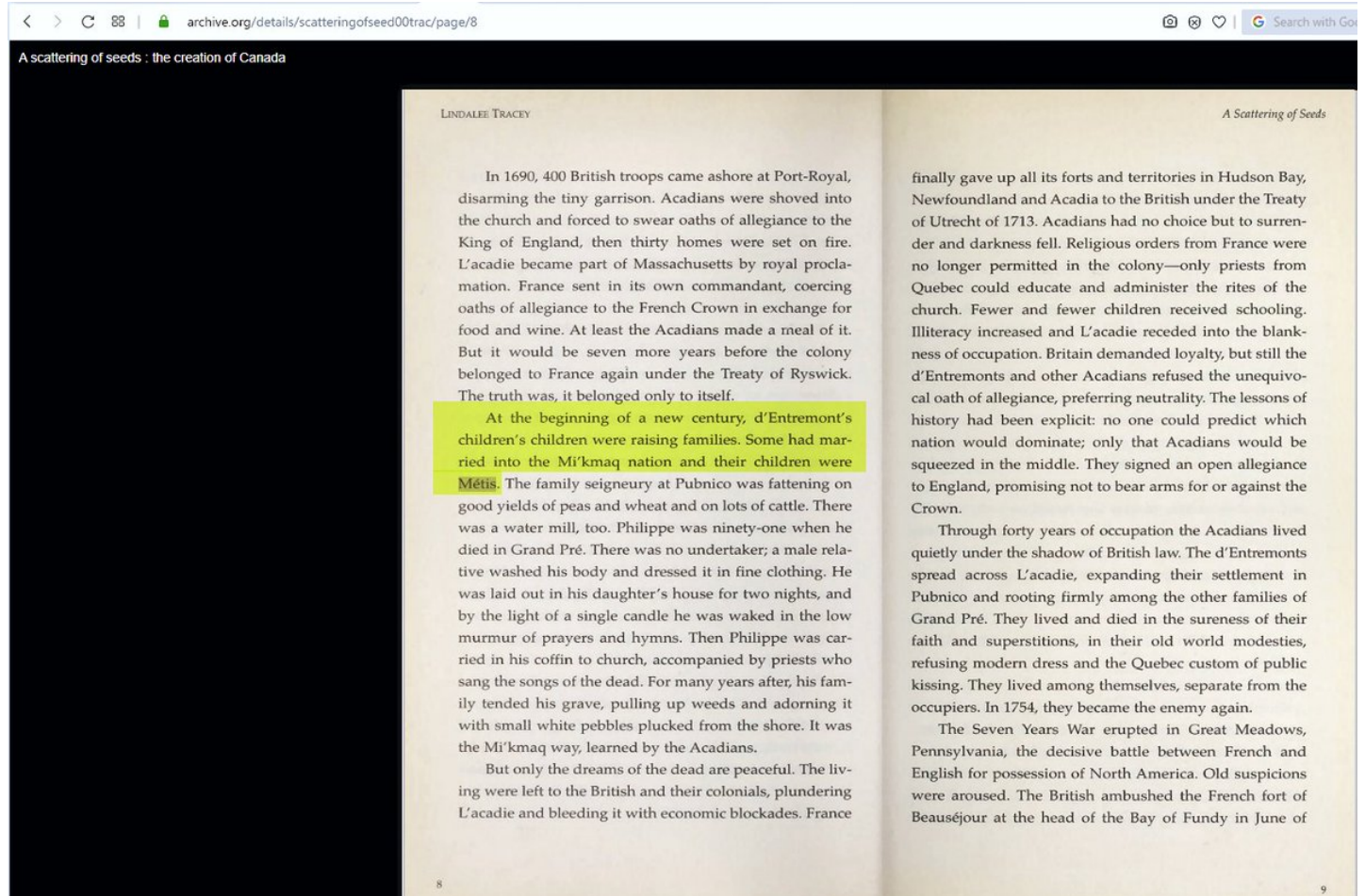
President Robinson said although the Council was initially formed by non-status women about 75 per cent of its membership is Metis because all children of a non-status Indian woman are classified as Metis. She also said that although some women want to regain their lost Indian status through changes to the Indian Act it is not the primary interest of all women nor the goal of the Native Council.

The Council President said that Plourde has had his membership revoked by the Native Council because "there existed a conflict of interest" since formation of the new association.

Plourde, who was President of the Zone 7 Local before his expulsion from the Council, has not yet been contacted for comment.

However, it's likely the issue will generate considerable controversy at the Council's fifth general assembly at Sheet Harbour, June 15-17.

A scattering of seeds - the creation of Canada-by Tracey, Lindalee 1999 - some of d'Entremonts children's children had married into the Mi'kmaq nation and their children were Metis.



First Nations Child And Family Services-Whither Self-Governance- By Kelly A MacDonald-UBC- Thesis submitted-For The Degree Of Master Of Laws Oct 2000- Non-Status children by default become Metis.

If the child is an aboriginal child, the importance of preserving the child's cultural identity must be considered in determining the child's best interests.

The *Draft Overview of the CFCSA From an Aboriginal Perspective* notes that this section is particularly important because:

A child's cultural identity is fundamental. It is important to note that there is a requirement to recognize the importance of a child's specific cultural identity. This refers to a child's cultural identity, within their specific aboriginal cultural [sic] whether that may be Haida, Metis, etc.¹⁵⁵

Ministry practice, however, has lead to a failure to effectively implement this section. The Ministry is required to complete plans of care for all children in care. This is done on a computerized system. The system is designed to first inquire if a child is First Nations and if they are so identified a band number is requested. If, however, a child is not registered as an "Indian", or is non-status, the next field of inquiry asks whether the child is Inuit or Metis and does not ask if the child is non-status or non-registered. This is obviously highly problematic, especially from the perspective of a

¹⁵⁴ *Supra* note 9 (CFCSA).

¹⁵⁵ *Supra* note 149 at 6.

non-status individual such as myself. I do not identify with Metis culture, I am Tsimshian and Haida. The Ministry's reporting system, therefore, is incapable of adequately addressing the purpose of section 4 - identifying the child's identity. Non-status children, by default become Metis. The system effectively circumvents

Canadian environmental law reports, third series 2003 - Labrador Metis Nation - had 6000 members of mainly mixed Inuit and European descent in 24 communities.

T.C.T. Canadian Trade and Commodity Tax Cases	T.T.R. Trade and Tariff Reports
T.D. Supreme Court, Trial Division	Terr. Ct. Territorial Court
T.D.P.Q. Tribunal des droits de la personne du Québec	Trib. Tribunal
T.E. Recueils de jurisprudence du Tribunal de l'expropriation	U.F.C. Unified / United Family Court
T.E. Qué. Tribunal de l'expropriation (Québec)	W.A.C. Western Appeal Cases
T.J. Recueils de jurisprudence, Tribunal de la jeunesse (Qué.)	W.C.A.T. Workers' Compensation Appeals Tribunal
T.J. Qué. Tribunal de la jeunesse (Québec)	W.C.A.T.R. Workers' Compensation Appeals Tribunal Reporter
T.L.L.R. Tenant and Landlord Law Reports	W.C.B. Workmen's / Workers' Compensation Board
T.M. Trade Marks	W.C.R. Workers' Compensation Reporter
T.M. Bd. Trade Marks Board	W.D.F.L. Weekly Digest of Family Law
T.M. Opp. Bd. Trade Marks Opposition Board	W.L.A.C. Western Labour Arbitration Cases
T.O. Taxing Officer(s)	W.S.I.A.T.R. Workplace Safety and Insurance Appeals Tribunal
T.P. Qué. Tribunal des professions du Québec	W.W.R. Western Weekly Reports
T.R.B. Tax Review Board	Y.R. Yukon Reports
T.S.T. Canada Trade and Sales Tax Cases	Y.T. Yukon Territory
T.T. Décisions du Tribunal du travail	
T.T. Qué. Tribunal du travail (Québec)	

DIGESTS OF CASES

Aboriginal law

Constitutional issues — Rights under constitutional statutes generally — Constitution Act, 1982 — **Labrador Métis Nation** ("LMN") had 6,000 members of mainly mixed Inuit and European descent in 24 communities — LMN participated in public environmental assessment process relating to construction of highway — Minister of Transportation and Works and Minister of Environment and Conservation denied LMN's requests to be provided with applications for all wetland and watercourse crossings and adequate time to comment on them — LMN applied to quash Ministers' decisions — R claimed right to act as representative plaintiff for individuals of Inuit descent in southern and central Labrador in asserting claim — Applications judge found that Crown had ongoing duty to engage in meaningful consultation with LMN during construction of highway and quashed decisions — Crown appealed; LMN and R cross-appealed on basis that there were sufficient Inuit rights to sustain duty to consult — Appeal dismissed; cross-appeal allowed — LMN did not need to ethnically identify its members definitively as Inuit or Métis before Crown's duty to consult and accommodate arose — It was sufficient to assert credible claim that members of LMN belonged to Aboriginal people within s. 35(1) of Constitution Act, 1982 — Members of LMN communities could be either constitutional Métis or present day manifestation of historic Inuit communities — Fishing rights in issue were not dependent upon whether claim was Inuit or Métis-based — Corporate LMN could be vehicle for enforcement of Aboriginal right to consultation and had authority of its members to do this — R, as representative plaintiff, had no obligation to show any authorization from other potential plaintiffs — Applications judge clearly erred in employing Métis analysis when case was argued on basis of Inuit-based claim, but other findings were sufficient to establish credible claim based on Inuit ancestry — Claim for Aboriginal rights was at least strong enough to trigger duty to consult at low level requested — Preliminary evidence-based assessment of strength of claim supported view that claim was more than dubious, peripheral or tenuous, which would attract merely duty of notice.

Labrador Métis Nation v. Newfoundland & Labrador (Minister of Transportation & Works), 2007 CarswellNfld 376 N.L. C.A. 220

Aboriginal law

Practice and procedure — Parties — General principles — **Labrador Métis Nation** ("LMN") had 6,000 members of mainly mixed Inuit and European descent in 24 communities — LMN participated in public environmental assessment process relating to construction of highway — Minister of Transportation and Works and Minister of Environment and Conservation denied LMN's requests to be provided with applications for all wetland and watercourse crossings and adequate time to comment on them — LMN applied to quash Ministers' decisions — R claimed right to act as representative plaintiff for individuals of Inuit descent in southern and central Labrador in asserting claim — Applications judge found that Crown had ongoing duty to engage in meaningful consultation with LMN during construction of highway and quashed decisions — Crown appealed — Appeal dismissed — Corporate LMN could be vehicle for enforcement of Aboriginal right to consultation — LMN established through its memorandum and articles of association that it had authority of its mem-

Fourth census of Canada, 1901 by Canada. Census office - 1902 - People of mixed white and red blood - commonly known as - metis.

Japanese, Chinese and "N^are" are proper terms of race; But in the case of the Savages the names of their tribes must be given such as "Chippewa", "Cree", etc. People of mixed white and red blood — commonly known as "metis" will be described by Addition initial letters "m. f." for metis Français, "m. a." for English metis, "m. e." for Scottish metis, and "m. i." for Irish metis. For example: Cri m. f. indicates that the person is of mixed Cree and French origin; and Chippewa m. e. indicates that the person is Chippewa and Scottish. Other mixtures of Savages, apart from those mentioned above, are rare, and may be described by the letters "a. R." If several races are combined with red, such as English,

rg/1/items/cu31924094333170/cu31924094333170.pdf 3 of 18

51. En désignant le pays ou lieu de naissance il suffira, dans le cas de toutes personnes nées hors du Canada, de donner le nom du pays, tel que Angleterre, France, Allemagne ou les Etats-Unis, sans donner les noms de subdivisions plus petites. Si la personne est née au Canada, le nom de la province ou territoire devra être donné, car cela servira à indiquer la tendance vers la migration. Il importe aussi, dans tous les cas, de savoir si la personne est née à la campagne ou en ville, ce qui sera indiqué en ajoutant la lettre "r." pour rural, ou la lettre "u." pour urbain, selon le cas. Ainsi, une personne née dans une ville dans la Nouvelle-Ecosse sera décrite dans la colonne 11 comme "N.-E. u.", ou si elle est née sur une ferme dans Québec, comme "Q. r."

52. Si la personne est née à l'étranger, l'année d'immigration au Canada sera inscrite dans la colonne 12; et si elle est née dans quelque pays autre que le Royaume-Uni ou aucune de ses colonies ou dépendances, l'année dans laquelle la personne a été naturalisée et a acquis les droits de citoyenneté devra être inscrite dans la colonne 13. Si la personne a demandé des papiers de naturalisation, mais n'a pas encore atteint le plein droit de citoyenneté, le fait devra être indiqué en écrivant dans la colonne les lettres "pa".

53. Parmi les blancs, l'origine selon la race ou la tribu est tirée du père, tel que Anglais, Ecosais, Irlandais, Gallois, Français, Allemand, Italien, Scandinave, etc. Il faut avoir soin, toutefois, de ne pas appliquer les termes "Américain" ou "Canadien" dans le sens de race, vu qu'il n'y a pas de races d'hommes ainsi appelées. "Japonais", "Chinois" et "Nègre" sont des termes propres de race; mais dans le cas des Sauvages les noms de leurs tribus devront être donnés tel que "Chippewa", "Crie", etc. Les personnes de sang mêlé blanc et rouge—communément appelés "métis" seront décrites par l'addition des lettres initiales "m. f." pour métis français, "m. a." pour métis anglais, "m. e." pour métis écossais, et "m. i." pour métis irlandais. Par exemple: Cri m. f. indique que la personne est de race mixte crie et française; et Chippewa m. e. indique que la personne est Chippewa et Ecosaise. D'autres mélanges de Sauvages, à part ceux ci-dessus cités, sont rares, et peuvent être décrits par les lettres "a. r." Si plusieurs races sont combinées avec la rouge, tels que les Anglais, Ecosais, Irlandais et Français, ou toute autre race, elles devront aussi être décrites par les initiales "a. r." Une personne dont le père est Anglais, mais dont la mère est Ecosaise, Irlandaise, Française ou de toute autre race, sera classée comme Anglaise, et ainsi pour les autres dans la race blanche—la ligne descendante étant tirée du père.

54. Nationalité est un terme plus ou moins de convention, mais vu qu'il s'applique par droit d'usage aux citoyens du Canada—l'expression nouvelle nationalité a été introduite en ce sens dans le discours du Gouverneur général à l'ouverture du premier parlement du Canada—il convient d'employer le mot Canadien dans la colonne 15 pour décrire toute personne dont le foyer est dans le pays et qui y a acquis des droits de citoyenneté. Une personne qui est née aux Etats-Unis, ou en France, ou en Allemagne ou dans un autre pays étranger, mais dont le foyer est en Canada et qui est un citoyen naturalisé devra être inscrit comme Canadien; de même pour une personne née dans le Royaume-Uni ou aucune de ses colonies, dont la résidence au Canada n'est pas simplement temporaire. Un aubain sera classifié par nationalité selon le pays de sa naissance, et le pays auquel il prétend devoir allégeance.

55. La religion de chaque personne sera inscrite selon ce qu'elle professe, spécifiant l'église ou secte à laquelle la personne appartient. Si les fils ou filles appartiennent à une église ou secte autre que celle de leurs parents, ou de l'un d'eux, l'inscription convenable devra être faite, mais sauf dans ces cas ils devront être classifiés avec leurs parents. La classification des gens selon leur croyance religieuse ne doit omettre ni négliger aucune église ou secte ou forme de croyance, sauf dans le cas d'une église ou secte qui aurait perdu son identité en s'unissant à une autre église ou secte, ou de quelque autre manière. Il n'y a pas d'Eglise de l'Etat en Canada, et si une personne n'est pas membre ou n'adhère pas ou ne soutient pas une

RCAP 577 - Metis Settlement membership - it should be noted that Metis is defined in s.1j of the Metis Settlements Act as meaning - a person of aboriginal ancestry who identifies with Metis history or culture.

ure data2.archives.ca/rcap/pdf/rcap-577.pdf

< > 1 of 1

¹¹ The requirements for settlement membership are set out in s.74 of the *Metis Settlements Act*. All of those people who had been settlement members under the previous *Metis Betterment Act* automatically became members of the settlements under the *Metis Settlements Act*. This is provided for in the Transitional Membership Regulation, Alta Reg. 337/90. With regard to obtaining membership in a settlement subsequent to the passage of the 1990 legislation s.74(1) of the *Metis Settlements Act* states:

"A person may apply to a settlement council for membership in a settlement only if

(a) the applicant is a Metis and at least 18 years old, and

(b) the applicant

(i) has previously been a settlement member or a member of a settlement association under the former act, or

(ii) has lived in Alberta for the 5 years immediately preceding the date of the application.

It should be noted that "Metis" is defined in s.1(j) of the *Metis Settlements Act* as meaning "a person of aboriginal ancestry who identifies with Metis history or culture."

There are further statutory provisions establishing criteria to which settlement councils must advert when making membership decisions (see *Metis Settlements Act*, ss.77-80). As is discussed in this paper, there is an automatic right of appeal to the Metis Settlements Appeal Tribunal from all settlement council membership decisions.

¹² For a discussion of this subject, see the text and footnotes at footnote 16 below.

An ethnographic report on the acadian metis 2018 - Pere Jean-Mande Sigogne noted Isaac Mius and Dominique Mius to have been Sang-Meles in his April 29 1809 letter to Monseigneur Joseph-Octave Plessis.

The archival data indicates that the previously-discussed Isaac Mius and Dominique Mius, whom Père Jean-Mandé Sigogne noted to have been *Sang-Mêlés* in his April 29, 1809 letter to Monseigneur Joseph-Octave Plessis, concerning five couples who required dispensations to marry, were, in fact, the great-grandsons of the "part Indian" named Joseph Mius d'Azy I and his French wife, Marie Amirault.¹⁴⁴ Not only are we seeing endogamic marriage patterns emerging through the examination of these complex genealogies, pinpointing a rich sample of who the Acadian-Métis people or *Sang-Mêlés* caste are (as described in Sigogne's letters and other historical documents), but we can, moreover, trace the movement of these peoples across events such as the Deportation, to significant clusters of Métis families we can now identify with particular historical settlements, such as Sainte-Anne-du-Ruisseau or Argyle.

Chartier - founding of mnc began to crystallize the shift in Metis identity - not as off reserve mixed-bloods-but as a distinct people .

According to Chartier, the founding of the MNC began to crystallize the shift in Métis identity "not as off-reserve mixed-bloods, but as a distinct people and nation with a common history, culture, territory, language and political will to be self-governing."

Following the 1983 constitutional talks, the MNC expanded its geographical reach, admitting Métis organizations from British Columbia and Northwestern Ontario. It continued to maintain a small office in Ottawa. In 1988, the boards of the member affiliates elected Yvon Dumont from Manitoba as the first MNC president.

In the following years, the MNC supported the regional work of provincial Métis organizations and intervened in several key constitutional legal cases that clarified Métis rights. That included *R. v Powley*, which created a legal test of Métis identity that very closely mirrored the MNC's definition.

Aboriginal self-government-legal and constitutional issues 1995 Ottawa, Canada-Royal Commission on Aboriginal Peoples-pg152. - "Until 1930 so many individuals were still moving back and forth between the 'Indian' and 'half-breed' categories that the Dept of Indian Affairs had to



rights and Indian status.¹⁹ But still the confusion continued. Even after these amendments, federal negotiators for Treaty 8 apparently encouraged Metis to take treaty and not scrip, but many Metis resisted this suggestion.²⁰ Until the 1930s so many individuals were still moving back and forth between the 'Indian' and 'half-breed' categories that the Department of Indian Affairs decided it had to investigate the band lists and chose to discharge hundreds of people.²¹ It is also important to realize that many people solely of Indian ancestry, particularly in the northern part of what are now the prairie provinces, chose to take scrip, and thereby became identified as Metis, because of their resistance to the idea of relocating to reserves and their preference to maintain their traditional lifestyle as wildlife harvesters in the bush.

Definition proved difficult even for Metis who were only a few generations removed from the events surrounding President Louis Riel and the Provisional Government in that period of Metis history. The Metis Association of Alberta offered an initial definition to the Ewing Commission (established by the Alberta government in 1934 to look into the health, education and general welfare of the "half-breed" population) as being "anyone with any degree of Indian ancestry who lives the life ordinarily associated with the Metis." Later, the Association expanded the definition to include anyone who self-identified as a Metis and who was accepted by the Metis community as belonging to it.²²

The Ewing Commission, which saw the position of the Metis largely as a social welfare problem for the province, appears to have viewed the Metis as Indian in culture, for the Commission report from 1936 uses the following definition of Metis: "...a person of mixed blood, white and Indian, who lives the life of the ordinary Indian, and includes a non-treaty Indian."²³ In 1938 the *Metis Population Betterment Act* of Alberta simply eliminated the cultural or lifestyle component: "...a

investigate the band lists and chose to discharge hundreds of people." "it is important to realize that many people solely of Indian Ancestry particularly in the northern part of what are now the prairie provinces, chose to take scrip and thereby became identified as Metis,

because of their resistance to the idea of relocating to reserves and their preference to maintain their traditional lifestyle as wildlife harvesters in the bush." "Definition proved difficult even for Metis who were only a few generations removed from Louis Riel (who also was

not 1/4 blood and at times would not meet the Metis definition)The Metis association of Alberta offered an initial definition to the ewing commision in 1934,as being "anyone with any degree of Indian ancestry who lives the life ordinarily associated with the Metis" /Federal and

The Ewing Commission recommended setting aside land for the Metis. However, it might have been more accurate to describe the intended beneficiaries as landless natives rather than Metis. The Commission's mandate was with respect to the "Half-breed population of the Province", and it had a problem defining just who that was. The Commission's report stated:

It may be well to define here the term "half-breed" or "Metis". We are not concerned with a technically correct definition. We merely wish to give a clear meaning to the term as used in this report. By either term is meant a person of mixed blood, white and Indian, **who lives the life of the ordinary Indian**, and includes a non-treaty Indian. It is apparent to everyone that there are in this Province many persons of mixed blood (Indian and white) who have settled down as farmers, who are making a good living in that occupation and who do not need, nor do they desire, public assistance. The term as used in this report has no application to

³⁵ Sanders, *A Legal Analysis of the Ewing Commission*, unpublished manuscript

such men. [emphasis added]³⁶

provincial responsibility in the Métis settlements of Alberta - Fred Martin - 1988. 50 p - Claims and Historical Research Centre S.14 - half-breed definition - ewing commission.

Devoid of Principle-The Federal Court determination that section 91(24) of the Constitution Act, 1867 is a race-based provision- JEAN TEILLET AND CARLY TEILLET - Louis Riel described his preference for the term Métis as follows:

iels case which we deal with in more depth below.

III Who Are the Métis?

A brief overview of how the Métis have named themselves and how they have been classified by others will provide insight into the complexities of their identity and treatment by Canada. Throughout this paper the term *Métis* is used in preference to other terms, such as *half-breed*, that have been applied by historians, government and other observers. *Métis* is how the people have chosen to name themselves. Louis Riel described his preference for the term *Métis* as follows:

The Métis have as paternal ancestors the former employees of the Hudson Bay and Northwest Companies, and as maternal ancestors Indian women belonging to various tribes. The French word "Métis" is derived from the Latin participle *mixtus*, which means "mixed;" it expresses well the idea it represents. Quite appropriate also, was the corresponding English term "Halfbreed" in the first generation of blood mixing, but now that European blood and Indian blood are mingled to varying degrees, it is no longer generally applicable. The French word "Métis" expresses the idea of this mixture in as satisfactory a way as possible, and becomes by that fact, a proper race name suitable for our race.

A little observation in passing without offending anyone. Very polite and amiable people, may sometimes say to a Métis, "You don't look at all like a Métis. You surely can't have much Indian blood. Why, you could pass anywhere for pure White." The Métis, a trifle disconcerted by the tone of these remarks, would like to lay claim to both sides of his origin. But fear of upsetting or totally dispelling these kind assumptions holds him back. While he is hesitating to choose among the different replies that come to mind, words like these succeed in silencing him completely. "Ah! bah! You have scarcely any Indian blood. You haven't enough worth mentioning." Here is how the Métis think privately.

It is true that our Indian origin is humble, but it is indeed just that we honour our mothers as well as our fathers. Why should we be so preoccupied with what degree of mingling we have of European and Indian blood? No matter how little we have of

20 Reference re Term "Indians" [1939] SCR 104, [1939] 2 DLR 417 [Re Eskimos].

one or the other, do not both gratitude and filial love require us to make a point of saying, "We are Métis."²¹

use of the term half-breed - Metis term is at the preference of MNC - Library Archives of Canada.

Library and Archives Canada

Canada

Rechercher BAC-LAC.gc.ca

Research

Discover the Collection ▾ Search online ▾ Services to the Public ▾ Services and Programs ▾

Home → Discover the Collection → Aboriginal Heritage → Métis → Archive scrip → Use of the term 'half-breed'

Métis Scrip

How to find a certificate

Use of the term 'half-breed'

Glossary

Additional resources

The scrip - a new start

Use of the term 'half-breed'

In the English version of the scrip archives guide, the term " Half-Breed " means residents of western Canada who are of Aboriginal and European descent - origins that would have been recorded by a commission with authority issuing certificates land or money. The term " Half-Breed " was used almost exclusively by the federal government at the end of the XIXth century and early XXth century to describe these people. The term was used in memos, reports and ministerial records, federal laws, decrees and official publications. Researchers can actually see the documents of that time without ever encountering the term "Métis". Therefore, the term " Half-Breed " was selected in the guide scrip archives when referring to archival material in which this term is used almost exclusively. However, to meet the preference of the Métis National Council, the term "Métis" is used to refer to this cultural group generally.

Aboriginal self-government - legal and constitutional issues 1995 Ottawa, Canada- Royal Commission on Aboriginal Peoples- pg153. - In 1940 the act imposed that Metis needed to be 1/4 blood Indian - Louis Riel himself would not qualify. / "The ewing commissions mandate was to

person of mixed white and Indian blood but does not include either an Indian or a non-treaty Indian as defined in the *Indian Act*".²⁴ In 1940, the Act was amended to impose a rule requiring at least one-quarter Indian blood to qualify as Metis.²⁵

The Ewing Commission's main recommendation was to establish rural Metis settlements akin to reserves, originally and rather ironically called 'colonies'. This is somewhat surprising, given that its mandate was to deal with the problems of the "half-breed population of the province", that is, destitute mixed-blood individual residents throughout the province. One comment on the ambiguity of the treatment of Metis in this regard is worth repeating in its entirety:

Throughout much of the report of the Commission, the uniqueness of the Metis is seen to consist in their poverty, poor health, and lack of education. But of course the Metis were not really unique in these respects...plenty of white settlers shared these debilities [although not as entire communities]....many persons of mixed Indian and white ancestry did not. If the Metis were in fact just ordinary victims of the Depression, they could have been dealt with by the same measures of relief granted to other citizens. That the Commission did not recommend that they be treated in the ordinary way...was at least an implicit recognition that the Metis had something else in common....The Commissioners mention frequently the propensity of the Metis to pursue a common style of life. Only this commonality could justify the recommendation that colonies be established exclusively for Metis. The striking ambiguity here is that the Metis are characterized as both ordinary and special. Clearly, the Commissioners, while steadfastly opposed to granting the Metis special status like that of the Indians, were constrained to admit that the Metis were unique. This ambiguity emerges most clearly in the recommendation, that, while the Metis should not be compelled to join the colonies, they would have no other claim to public assistance if they did not.²⁶

The point is, of course, that the Metis were treated by the province more or less the way Indians would have been treated by the federal government - as a culturally and racially distinct group meriting separate group treatment, including recognition of the need to establish a

deal with the problems of the "half-breed population of the province", that is destitute mixed-blood individual residents throughout the province." "Metis were treated by the province more or less the way Indians would have been treated by the federal gov, as a culturally and

racially distinct group meriting separate group treatment. Aboriginal self-government-legal and constitutional issues 1995 Ottawa, Canada-Royal Commission on Aboriginal Peoples- pg154- The Phenomenon of Mixed-Blood Populations - "In etymological terms, Metis means simply mixed



distinct land base, as they frequently lived in distinct communities separate from both the Indian reserves and non-Aboriginal settlements. At the same time, they were also being treated like non-status and off-reserve Indians in that the Metis would receive special attention only if they resided within government-approved segregated communities; otherwise they were left to their own devices.

The Phenomenon of Mixed-Blood Populations

It is not immediately apparent why there is so much confusion surrounding this issue. In etymological terms, Metis means simply 'mixed' and is defined as follows in the French dictionary *Le Petit Robert*:²⁷

1. Vx. Qui est mélangé; qui est fait moitié d'une chose, moitié d'une autre.
2. (Metice, 1615; du port. de même orig.) Qui est issu du croisement de races, de variétés différentes dans la même espèce. Dont le père et la mère sont de races différentes.

Once this *croisement* is made, the 'Metisness' is never lost in a sense, as the offspring of subsequent unions will retain this Metis ancestry. Intermarriage among Metis, however, gives rise to a distinct identity, and thus a new people is born - and some would suggest a new race.

Harrap's Shorter Dictionary (French-English) translates Metis as 'halfcaste' or 'halfbreed'.²⁸ The historical record supports the continuity of these definitions. Both 'Metis' and 'half-breed' were the terms generally in use in the nineteenth century on what was seen by the dominant Euro-Canadians of the east as the western frontier²⁹ to describe persons of mixed Indian and white blood. A number of writers note that 'Metis' was first recorded in use in what is now Manitoba to refer to persons of mixed French-Indian ancestry, while 'half-breed' and

and is defined as follows in the French dictionary *Le Petit Robert* "Once this *croisement* is made, the "Metisness" is never lost in a sense, as the offspring of subsequent unions will retain this Metis ancestry. Intermarriage among Metis, however, gives rise to

a distinct identity, and thus a new people is born and some would suggest a new race." "*Harrap's Shorter Dictionary* (French-English) translates Metis as 'halfcaste' or 'halfbreed'. The historical record supports the continuity of these definitions. Both 'Metis' and 'half-breed'

were the terms generally in use in nineteenth century ..." The "Possessed" Girls of Bas-de-Tousquet -An Interpretation of Popular Religious and Cultural Evidence-Colby Gaudet-02 February 2018.- "detested caste of mixed people." (Nova Scotia)

Sigogne, in his sermon notes, speaks extensively about the “scandals” (*scandales*) caused by the corrupt morals and worldly “libertine” nature (*libertinage*) of these “incestuous” (*incestueux*) mixed-blood families who he had to routinely attempt to defend in the eyes of the wider community, requesting for them numerous retroactive marriage dispensations from the bishopric of Québec.⁴⁷ His writing is filled with public reproaches of their illicit behaviour which he attributed to a unique combination of factors—namely their endogamous, mixed-blood heritage and a propensity for alcoholism, infidelity, and debauchery.⁴⁸ The Mius and Doucet families, he observes, are from the “detested caste” (*caste détestée*) of these “mixed people” (*gens mêlés*) who he specifically differentiates from the “best families” (*meilleures familles*) of the region.⁴⁹ As such, a nuanced sociological interpretation of the outbreak of the 1810 possessions begins to take shape. In these caste distinctions between particular Acadian families based on notions of genetic purity/impurity we see more of Lévi-Strauss’ theory of social estrangement at work. Before further analyzing the mixed communities of Sainte-Anne and their evident internal social tensions, let us look briefly at the historical perception of the Acadian people generally and their penchant for libertinism to better comprehend how such a reputation evolved.

The British Empire-Somervell,D. C. David Churchill- 1934 published-Second edition-French fur-trappers,known as *coureurs de bois* ...became as wild as the Red Indians,intermarried with them,and formed a widely dispersed half-caste population.

88 Not secure http://collections.mun.ca/cdm/compoundobject/collection/cns/id/67121/rec/4 Search with Google Search

Reference URL Save to favorites

The British empire

Page 92 Save page Previous 106 of 400 Next

View Description View Image & Text Download

Image Text Go 7 found in document

of the colonists were settled along the St. Lawrence. “From Montreal to Québec the St. Lawrence was like a street, with houses and farms on both sides. The land was granted in long strips, each with a frontage on the river, and stretching back several miles. When a farm was divided the new owner was always given an outlook on the river, and to-day, as one sails up the St. Lawrence, the first thing that strikes the eye is the long ribbon-like farms, often no more than a few yards wide, which stretch back so far inland. . . . fifteen or twenty miles to the Laurentian mountains.”¹

There were other French colonists who had gone further afield, in the wake of the Jesuit missionaries, the explorers, and the soldiers. These French fur-trappers, known as *coureurs de bois*, often became as wild as the Red Indians, intermarried with them, and formed a widely dispersed half-caste population. They hardly concern us in 1760 ; we shall meet them again more than a hundred years later.

Canada was extremely fortunate in its early British

¹ The British Empire, ed. by A. F. Pollard, p. 253.

North of Italy. In the Milanese alone there were eighteen Ursuline houses at the death of St. Charles. The excellent César de Bus assisted a lady of Avignon, Françoise de Bermont, to establish there a colony of Ursulines, on the original plan, in 1594. Françoise was a person of great energy; she travelled from city to city in the South of France, and planted Ursulines at Aix, Marseilles, and Lyons. She adhered to the design of St. Angela, except that, in obedience to a

exertions of Mme de la Peltrie, in 1639. The site at Quebec which they still occupy was soon obtained for them, and till 1850 might be seen within the convent precinct a venerable ash tree, sole relic of the ancient forest, under which the first Ursulines used to teach the catechism to little Indian children. Having belonged to different congregations in Europe, the Ursulines of Quebec had for some years no determinate constitution, but in 1682 they affiliated them-

A Catholic Dictionary: Containing Some Account of the Doctrine, Discipline, Rites, Ceremonies, Councils, and Religious Orders of the Catholic Church

William Edward Addis Thomas Arnold Jan 1893
Benziger Brothers

Digitized by Google

912

USURY

selves to the congregation of Paris. The services rendered by this community, during the two centuries and a half of its existence, in preserving a religious spirit among the French population and humanising and instructing the Indians and half castes, are beyond all estimation. In the chapel of their convent may be seen the tomb of the brave Marquis de Montcalm, slain in the unequal combat on the heights of Abraham (1759), which decided the fate of Canada.

The Irish Ursulines owe their establishment at Cork in 1771 to Miss Nano Nagle, the foundress of the Presentation Order (see that article). They regard themselves as a filiation of the convent St. Jacques at Paris, because all but one of those who founded the house at Cork were trained there; that one was Mrs. Kelly, a professed nun of the Ursuline convent of Dieppe, who, accompanying her countrywomen to Cork, governed the new monastery for four years, establishing regular discipline with prudence and gentleness, and then returned to her own monastery.

The Ursulines do not now increase so rapidly as in former times; congregations taking simple vows, like the Faithful Companions and the Sisters of Provi-

USURY

little distinction was made between the two kinds of interest. The laws of the Old Testament on the subject had a most important influence on Christian feeling, so that something must be said about the former here.

(1) *Usury in the Bible.*—Public loans and the humane spirit of the law in Christian nations have taught us to draw a clear line between lawful and usurious interest; but in the ancient world, as it is in the East at this day, interest was always usurious. The Egyptian law contented itself with prohibiting interest which was more than cent. per cent. (Diodor. Sic. i. 79); the laws of Menu permitted an interest of 18 or even 24 per cent. (see the reference in Smith's Bible Dictionary, article *Usury*), and 12 per cent. is, or was till quite lately, a minimum rate in the East. Partly, no doubt, for this reason, partly because in an agricultural nation like Israel loans were only asked by those whose need put them at the creditor's mercy, partly to encourage kindness towards the poor, the Mosaic law prohibits lending at interest. The most ancient code (Exod. xxi.-xxxiii.) prohibits lending at interest (תקן) to poor Hebrews. Deut. xxiii. 20 forbids interest to be taken from

[296] In the 1850s it was well-known that the lease to the Hudson Bay Company (HBC) of that vast territory in the northwest and north (the bulk of present day Canada) was about to expire and that it would not be renewed. The British Parliament established a Select Committee to report on the HBC to the House.

[297] The Select Committee Report has already played a significant role in Canadian constitution law. That Report was one of the principal documents referred to in the Supreme Court of Canada decision in *In Re Eskimo Reference*, above (the Eskimo Reference case discussed more fully later). Both Wicken and von Gernet had their own views on what the Supreme Court of Canada did or did not do. This area of debate is more properly one for the courts to deal with. The Court opined that Eskimos (more properly the Inuit) are "Indians" under s 91(24) of the Constitution.

[298] The census information in the Select Committee Report referred to by the Supreme Court of Canada judgment included the following comment:

"The estimates referred to are headed "Establishments of the Hudson's Bay Company in 1856 and number of Indians frequenting them." After a long list of the names of the posts and localities and of the number of Indians frequenting each post is appended the following:

Add Whites and half breeds in Hudson's Bay Territory, not included	6,000
Add Esquimaux not enumerated	4,000
Total	158,960

The Indian Races shown in detail in the foregoing Census may be classified as follows:-

Thickwood Indians on the east side of the Rocky mountains	35,000
The Plain Tribes (Blackfeet, &c)	25,000
The Esquimaux	4,000
Indians settled in Canada	3,000
Indian in British Oregon and on the Northwest Coast	80,000
Total Indians	147,000
Whites and half-breeds in Hudson's Bay Territory	11,000
Souls	158,000*

[299] This census data has led to the argument that half-breeds were not considered Indians because they are not listed under "Indian Races".

[300] In addition to the census data, the Report also contained a narrative of the problems with half-breeds at the Red River Settlement - problems which the new government of Canada would face as it expanded west:

Half-breeds. Difficulty in governing half-breeds, as at Red River, Ross 129-131 --- Reluctance of the English half-breeds to settle, Rae 655-659 --- Doubt as to there being any difficulty in governing the English half-breeds, ib. 660, 661--The half-breed population is in some places largely increasing, ib. 662.

There are about 4,000 half-breeds at Red River, Sir G. Simpson 1681, 1682 --- The increased instruction of the half-breeds has not created any increased desire on their part for a free trade in furs, ib. 1686-1694.

Dissatisfaction among some of the half-castes at Red River on account of the monopoly of the fur trade, Sir J. Richardson 2942, 3128 --- Discontented state of the half-breeds at Red River, because they were not allowed to distil spirits from their own corn, or to traffic in furs, Crofton 3232-3246.

Progressive social and intellectual development of the half-castes at Red River, Right Rev. Dr. Anderson 4383, 4421-4429 ---

Aboriginal self-government - legal and constitutional issues 1995 Ottawa, Canada- Royal Commission on Aboriginal Peoples- pg155. - "Persons of mixed blood- the term Mestizo, the Spanish equivalent of Metis that refers to the mixed-blood pop of Central and South America."

'country-born' were reserved for persons of other European (primarily English or Scottish) and Indian ancestry.³⁰

Persons of mixed blood are not restricted to Canada, as attested to by the term *Mestizo*, the Spanish equivalent of Metis that refers to the mixed-blood populations of Central and South America.³¹ In the United States, 'half-bloods' have always existed, although not usually as a population separate from Indian bands or tribes as such as in Canada, except to a limited degree in Montana and North Dakota. In fact, over the course of American history, 'half-bloods' have often played a leading role in domestic tribal affairs.³²

Moreover, the mixed-blood phenomenon is not limited to the Americas. An initial comparative study of the Canadian west and the southern African colonies reveals the existence of several 'hybrid' or 'Metis' groups in southern Africa.³³ Although generally known as *Basters*, over time this category of persons came to be differentiated by lifestyle into *Griquas*, *Berganaars* and *Orlams*. The political evolution of these southern African groups shows startling parallels with that of the Metis in the Canadian prairie provinces, including a series of uprisings against the African colonial authorities around the turn of the century.

The term Metis first appears in Canadian historical records mainly with respect to the mixed-blood population of western Canada. These are the people often referred to as the historical Metis Nation connected with the fur trade and the creation of the province of Manitoba in 1869-70. Because of the historical importance of the emergence of a relatively large and distinct Metis population in western Canada in the nineteenth century and the central role played by Louis Riel in two conflicts with the Canadian state, there has been an understandable tendency to associate the term Metis only with the historical Metis Nation, the entry of Manitoba into Confederation, and

Black Africans and native Americans-color, race, and caste in the evolution of red-black peoples-by Forbes, Jack D 1988-Mestizo and its equivalents - especially mestis or metif in French.

same circumstances seem to hold true for Dutch *bruin* being dominated by *swart*.

THE SHIFT OF OFFICIAL IBERIAN TERMINOLOGY FROM A COLOR TO A MIXTURE EMPHASIS

One of the significant occurrences in the sixteenth century is that the interest of Spaniards and Portuguese begins to gradually shift from simply describing all intermediate colored people by the same general color reference terms to one wherein people of mixed ancestry are singled out by new descriptors, especially *mestizo* and *mulato*. Of course, the use of color terms persists, but as noted with *pardo*, one tends to see a partial identification of this term with a mixed-blood status.

This shift of emphasis is, I believe, quite significant. In general, it correlates with the rise of overseas colonialism and, in all likelihood, with the appearance of racist caste systems in those areas.

Mestizo, which literally means 'mixed', has already been referred to in connection with the discussion of 'hybrid'. As will be recalled, 'hybrid' referred to almost any kind of mixture, of wild and tame, of citizen and non-citizen, of resident and traveler. It possessed no 'racial' implications.

Mestizo and its equivalents (especially *mestis* or *metis* in French) seem to have appeared primarily as a referent to mixtures of a similar nature to 'hybrid' and particularly of different kinds of animals. We might argue that growing prejudice was responsible for their application to human beings as physically close as Americans are to Europeans. On the other hand, it may well be that *mestizo* developed primarily as a way to designate persons whose culture and social status were felt to be distinctive from those of either parent group. Thus, initially at least, its use may have primarily pointed not towards biology but towards culture.

An early use of the Latin root *mixtus* occurs in a statement describing the *mozárabes* (Arabized Christians) of Muslim Spain: 'et en los otros logares dechos mixta árabes que quiere dezir mezclados con los árabes e oy chaman los moscárabes.'⁷⁶ Thus 'mixed' was used in a cultural sense, referring to their physical juxtaposition against Arabs.

THE USE OF *MESTIZO*: A SHIFT TOWARDS RACIALISM AND CASTE

The term *mestizo* does not appear in the Nebrija dictionaries of c.1495 or 1520 although *mezcla*, *mesturar* and related words are included. *Mestiço* also is not a word found in Santa Rosa de Viterbo's study of the medieval Portuguese language. Its first known appearance is in Cardoso's Portuguese dictionary (1560s) when it is equated with Latin *Ibria* (corrected to *Hybris*, *hybrida* in the

The only land they knew-the tragic story of the American Indians in the Old South-by Wright, J. Leitch 1981- The burden of proof today is to establish that an eighteenth or nineteenth century chief in question was not a mestizo.

THE ONLY LAND THEY KNEW

they had no mixed blood.⁴⁸ The burden of proof today is to establish that an eighteenth- or nineteenth-century chief in question was not a mestizo or did not have African ancestry. Racial mixing between whites and ordinary Indians was also commonplace, though probably not to as great an extent.

Not all miscegenation occurred in the Indian country. Contrary to Spotswood's disclaimer and despite the fact that some statutes made them illegal, unions occasionally were countenanced by ceremonies in a Christian church. A few years after Georgia's founding, Samuel Quincy, an SPG missionary in the province, was criticized by some for marrying a settler to an unbaptized Indian woman.⁴⁹ Far more common were informal liaisons. William Byrd II with his usual bravado recorded how he had had "good sport" with an Indian girl.⁵⁰ A South Carolina planter forced an Indian to be his wife and then, to the neighbors' consternation, because of an altercation had her "scalped."⁵¹ Yet another Carolinian, Robert Johnson of St. George Parish, was sincerely attached to his Indian wife Catharina, whom first he freed and then married. In his will he left her his house and part of his estate, while the mestizo offspring received their share of the remaining property and slaves.⁵² From the time of Menéndez, Christian Indian women had married soldiers and civil servants in Spanish Florida. At one point two of the offspring were captured and taken to Charleston. The British governor characterized one of these "livers" in St. Augustine as being mestizo and "in truth the other not white."⁵³ It was male colonists who most often came into contact with the natives, and the ensuing unions usually were between them and Indian women. Exceptions occurred, however. A "sensible, industrious" Creek man, married to a white woman, in the latter part of the eighteenth century rowed William Bartram across the Altamaha River in southern Georgia.⁵⁴ The British surveyor David Taitt in West Florida, just before the Revolution, complained that a white female had run away with her Indian husband and was in the Indian country, not to be found.⁵⁵

Differences in patrilineal and matrilineal descent caused disputes over whether the white father or the Indian mother should raise the offspring. At the end of the American Revolution young Alexander McGillivray had the option of returning to Scotland with his father, a Tory Indian trader, or remaining among the Upper Creeks with his mother. The bonds of clan membership

236

This 'New American'

and aboriginal culture won out, and Alexander remained with the Indians. Before the American Revolution, however, his father had brought him to Charleston and Savannah and educated him in his counting house.⁵⁶ Another well-to-do Creek Indian trader tried to bring his mestizo children to Charleston for an education, but, as Bartram noted, the Indian mother, to the distress of her spouse, adamantly refused.⁵⁷ If mothers were slaves, they had little or no say in the matter. A Carolina trader, Richard Prize, stipulated in his will that upon his death his Indian wife should be free, that she should have two Indian slaves, but that white friends should raise and educate the mestizo children, who would inherit most of his estate.⁵⁸ In their wills other Carolinians emancipated slave wives and children, providing them with property and a fixed income. In many instances, such as among the Cherokees, the growing mestizo class encouraged adopting features of the white man's patrilineal society.⁵⁹

Among the Cherokees and the Indians in general, as a result of mixed marriages, tensions developed over property ownership. The Mississippian practice had been for the wife to own or control the house, its contents, and adjoining fields, whereas in Europe the husband generally assumed control of his wife's property upon marriage. Indian wives in the Tidewater fairly soon had to adjust to the white man's law, but remnant tributaries on reservations and especially more powerful tribes on the frontier for many years resisted this innovation, which was undermining the clan system. The Cherokee Council in 1819 even specifically prohibited white men from disposing of their Indian wives' property.⁶⁰ The long-term trend, however, was the weakening of the importance of matrilineal descent and the clan system, as Indian males who remained in the East or removed to Oklahoma began to own their houses and lands like their white male counterparts.

Language is another area where one can observe the inroads of white culture. Even when aboriginal languages did not become extinct they often were modified. Because of the disruption of aboriginal culture after contact, the relocation and mixing of ethnic groups, and the increasing importance of trade and hunting, as best as can be discerned it was whites rather than Indians who were primarily responsible for the development of Mobilian, Occaneechee, and similar kinds of lingua franca or trade jargon. Even Tuscarora, Catawba, Creek, and other "tribal" lan-

237

The only land they knew-the tragic story of the American Indians in the Old South-by Wright, J. Leitch 1981-mestizo offspring of white traders and natives.

THE ONLY LAND THEY KNEW

years in England being civilized, living proof of what with proper backing the church might accomplish. He was outfitted with a copybook, primer, ciphering book, and slate, and his mentors furnished him proper clothes: shoes, buckles, gloves, shirts, stockings, cravats, and a better than average, though not too stylish, suit. Eventually he learned to read and cipher, but Prince George was homesick for his Carolina village, unhappy as an English schoolboy. He was taught by a series of schoolteachers and seemed uneasy or dissatisfied with them all—or vice versa.⁵² Finally in 1715 he returned to Carolina, where the "whole province sees with admiration the improvement of the Yamouseea Prince."⁵³

When he stepped ashore, news of the Yamasee revolt greeted him, and his first concern was his family's fate. Rumor had it they were safe in St. Augustine, yet before long his father and kinsmen arrived in Charleston as slaves, having been surprised and captured while building a new village on a coastal island nearer the Spaniards. Commissary Johnston hoped that the repentant chief would lead whites against the rebels. The chief refused, assuming he had been given the opportunity, and he and his villagers were sold and presumably shipped off to the West Indies.⁵⁴ We can only assume that in his new suit Prince George visited his shackled father in Charleston, and one can only speculate about the youth's emotions. There is no way to know what George might have done had he been at Port Royal at the outbreak of the rebellion. Yamasees had captured the aggressive Anglican Thomas Nairne, slowly burning him for three days. Would the prince have stepped to Nairne's defense, or would he have piled on more faggots?

Prince George lived in Commissary Johnston's house for a time and eventually disappeared from history. The Yamasee rebellion had shocked the SPG, dashing expectations of making wholesale converts among the Yamasees, Apalachees, and Savannahs. All had joined the uprising, and after 1715 few remained near Carolinians. Planters lost most of whatever zeal they had for converting slaves, whether Indian or Negro. Anglican ministers did not completely forget the aborigines' spiritual life but were skeptical about making much headway among local natives, who were addicted to barbarous customs, were wild and stupid, and strayed about not even wearing decent clothes or talking intelligibly.⁵⁵

194

Jehovah and the Corn Mother

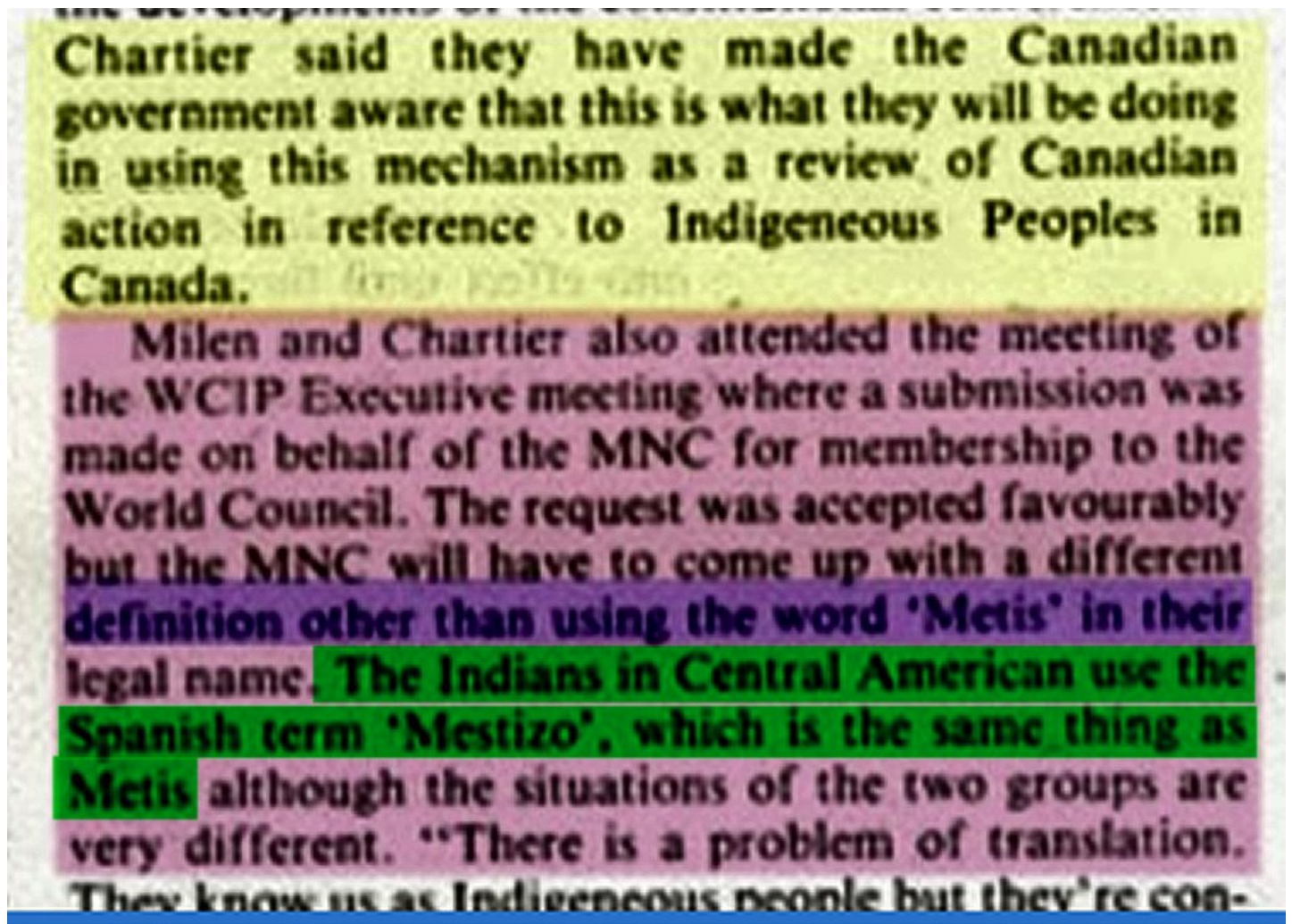
After 1715 the two largest Indian tribes adjacent to South Carolina were the Creeks and Cherokees, and the SPG turned its attention to them, hoping to counteract failures among the Yamasees, Apalachees, and Savannahs. In 1723 a new missionary, Francis Varnod, arrived in the province and began conversing with traders, visiting the back country, talking to the Indians, and learning as much as possible about these tribes. He envisioned cooperation between Anglican missionaries and traders in spreading the faith. The French and Spaniards had not found this type of collaboration particularly fruitful, nor in time did Varnod. However, he made some progress. On a visit to Savannah Town (near the future Augusta) he baptized five mestizos, children of white traders and Creek, Cherokee, and other Indian women who had located there, and on occasion he baptized mixed-blood natives deep in the Indian country. A Cherokee chief made a promise—which he did not fulfill—to send his son to Varnod to be educated.⁵⁶

From the 1720s until the end of the colonial period the Anglicans enjoyed only modest successes. Both beyond the white frontier and in settled parishes, a few natives were baptized and perhaps taught to read, write, and cipher. At her earnest request a free Indian woman was baptized in South Carolina's St. Bartholomew Parish.⁵⁷ Most of these natives, like the ones Varnod christened at Savannah Town, were mestizo offspring of white traders. One such mixed-blood in Perquimans Precinct, North Carolina, first repeated the catechism by memory in front of a large congregation before she and her three children were baptized and admitted to membership.⁵⁸ Ministers insisted that converted aborigines would be a bulwark against rebellions and poisonings, but planters were not convinced.

Taking the broad view, it became obvious that the church made the least inroads among natives in the South, where Anglicanism was strongest and the Indians most numerous. In Northern colonies, primarily among the Mohawks, the missionaries' efforts were longer lasting. The Apalachees and Yamasees in whom the SPG had placed such high hopes during Queen Anne's reign have disappeared. Had Yamasees, like Mohawks, remained fast friends of the British, it is conceivable that today they also would be in the Anglican communion, perhaps using some of the church plate Governor Moore had seized in the 1702 sack of St. Augustine.

195

Chartier and Milen attend meetings in Geneva - AUGUST-SEPTEMBER 1983 - New Breed./ "Milen and Chartier also attended the meeting of the World Council Of Indigenous People executive meeting." "MNC will have to come up with a different definition other than using the word 'Metis'



in their legal name. The Indians in Central America use the Spanish term 'Mestizo', which is the same thing as Metis, although the situations of the two groups are very different.

pg 156 - Some writers and, more important, many Metis people in eastern Canada oppose the traditional western frontier and fur trade orientated explanation of the origins of the Metis, however, and focus on the presence of mixed-blood persons and groups from the earliest periods

the subsequent land distribution under the *Manitoba Act*³⁴ and later the *Dominion Lands Act*³⁵ to 'half-breeds' presumably connected to that Metis Nation.

Some writers and, more important, many Metis people in eastern Canada oppose this traditional western frontier and fur trade-oriented explanation of the origins of the Metis, however, and focus on the presence of mixed-blood persons and groups from the earliest periods of European exploration and colonization.³⁶ The writings of an early French colonist in Acadia refer to the children produced by the interaction between local Mi'kmaq women and French sailors.³⁷ More recent writers note the existence of a separate Metis community in what is now Nova Scotia as early as 1650.³⁸ The presence of sizeable

numbers of people of mixed ancestry among the Indians in Ontario and in at least one separate community of their own is also referred to in contemporaneous accounts of the nineteenth-century treaties in that province.³⁹ The existence of a distinct Aboriginal population in southern Labrador that has chosen quite explicitly and consciously to identify itself as Metis and to form the Labrador Metis Association in recent years to advance their political and legal interests, including pursuing a comprehensive land claim, is further indication not only of historical but also of contemporary realities of "Metisness" far removed from the Red River settlements and the territory of the Metis Nation.

Even in the frontier western provinces and the northern territories there are communities of people of mixed ancestry who call themselves Metis yet have no connection with the historical Metis Nation of early Manitoba and Saskatchewan. Many of these persons took treaty as members of Indian bands during the negotiation of treaties 5, 8, 10 and 11, or received scrip or were eligible to receive scrip as "half-breeds" under the *Dominion Lands Act*. It is, of course, possible that individual Metis were also included in the remaining

of European exploration and colonization. "Writings of an early French colonist in Acadia refer to the children produced by the interaction between local Mi'kmaq women and French sailors. More recent writers note the existence of a separate Metis community in what is now

Nova Scotia as early as 1650./The Metis in SouthWestern Nova Scotia-William Wicken Oct 2004- Mirligueche (Lunenburg) where a distinct metis community had emerged in the years after it's settlement by the Compagnie des cents-associes in 1632.

bound to happen. How often? We don't know. We know that Charles La Tour married a Mi'kmaq woman in about 1624 but she died sometime before the 1650s and La Tour remarried. We also know that Philippe Mius, the fourth child of Charles La Tour's lieutenant, the Sieur d'Entremont, was married to two different Mi'kmaq women, an unidentified woman whom he married before 1679 and who died sometime before 1688, and Marie whom Philippe married in 1688.⁴⁸

We don't much about La Tour's offspring from his first marriage and so it probable they were absorbed into the Mi'kmaq community. We know something more about Philippe's fourteen children. Three sons, Francois, Mathieu, and Maurice married Mi'kmaq women. The eldest son, Joseph, married Marie Amirault, daughter of Francois Amirault (also known as Tourangeau) and Marie Pitre, and later settled at Baccareaux. The eldest daughter, Marie, married François Viger in 1696 and settled at Ouimakagan. Another daughter, Anne married Paul Guedry, himself the product of a mixed marriage and moved to *Mirligueche* (Lunenburg) where a distinct metis community had emerged in the years after its settlement by the *Compagnie des cents-associés* in 1632. Not much is known about the next generation; the most is known about Marie Mius and her children.⁴⁹

⁴⁸ Bona Arsenault, *Histoire et généalogies des Acadiens*, t. 4 (Montreal: 1978), 1593-5, 1643-4.

⁴⁹ D'Entremont, *Histoire du Cap Sable*, t. 3, 968-1017.

Father Clarence d'Entremont's researches into the nature of the "Glode Farm" and the Great Pubnico Lake metis community, 1840 to 1930

Father Clarence d'Entremont spent many years interpreting notes, given him by his uncle, Leander d'Entremont, as well as Desire d'Eon, a noted Acadian journalist who founded *Le Courier* at West Pubnico, about a group of Mi'kmaq and metis who lived on or around the road between West Pubnico and Great Pubnico Lake. In the end, Father d'Entremont was able to provide such a clear perspective of the composition and activities of the inhabitants of this community from roughly 1820 to the early twentieth century, that one can follow many of its members about the landscape over time.

Several Mi'kmaq families lived along what became known as Great Pubnico Lake Road. The Mi'kmaq family who lived closest to West Pubnico were the Glodes. Samuel Glode and his wife, Molly Victore Marie,³²⁹ the daughter of Jean Marie Blanchard,³³⁰ erected a cabin in a meadow along Abbott's Road³³¹ en route to a site once known as *Quo-Quogueniche*. This couple and their children were likely the first Glodes who resided for any length of time at "Champs des Glodes" ["Glodes' Meadow"].³³² Close by Samuel and Victoire's dwelling, a second structure stood, where John Glode Sr. - probably Samuel's brother - resided with his wife, Isabelle Labrador, and a son, John Jr. John Sr. also had a daughter who had married William Carty, a resident of the Great Pubnico Lake road community. Will's father, Etienne Henri Carty, was an English immigrant whose grandfather or great grandfather had adopted the Acadian way of life.³³³ Will's mother was a Mi'kmaq named Isabelle Charles, who had been born into Charles Sulno's family while Sulno was living along the Tusket River. Etienne Carty, who lived wholly by hunting and trapping, fell through the ice at Great Pubnico Lake to his death while out looking

Aboriginal self-government - legal and constitutional issues 1995 Ottawa, Canada- Royal Commission on Aboriginal Peoples- pg158. - Catherine Bell - Aboriginal Terminology

Indians. He too associates the term Metis with the historical Metis Nation of early Manitoba and finds the only available legal definition of Metis in the "half-breed" grants under the *Manitoba Act* and the *Dominion Lands Act* whereby promises were made in statutory form to them.⁴⁴ William Pentney generally agrees, but would include in that legal definition those who were entitled to receive scrip but who did not and their present-day descendants.⁴⁵ It is important to realize, however, that the approach of both Sanders and Pentney implies greater certainty than it delivers, since the legislation in question provides little direction as to who was eligible to obtain the land grants or scrip.

In a more recent article, Catherine Bell reviews the issue in terms of the requirements of section 35(2) of the *Constitution Act, 1982*. She notes that a number of terms have been used throughout Canadian history to designate the Aboriginal inhabitants and that the fragmentation of terminology in this regard "is partially due to the introduction of legal and administrative definitions for various native groups through federal Indian legislation and assistance programs" and that "[f]urther divisions have been created by the denial of federal responsibility for metis and non-status Indians...".⁴⁶ Given the fragmentary and political nature of the terminology now being used, she assembles five broad categories of persons that could be defined as Metis:

1. anyone of mixed Indian/non-Indian blood who is not a status Indian;
2. a person who identifies as Metis and is accepted by a successor community of the Metis Nation;
3. a person who identifies as Metis and is accepted by a self-identifying Metis community;
4. persons who took, or were entitled to take, half-breed grants under the *Manitoba Act* or *Dominion Lands Act*, and their descendants; and

Aboriginal self-government - legal and constitutional issues 1995 Ottawa, Canada- Royal Commission on Aboriginal Peoples- pg159./ "Lussier's review of the writings of certain nineteenth century commentators indicates that the historical Metis and half-breeds of western Canada



My arrow, not the books,
important historical info.

5. descendants of persons excluded from the *Indian Act* regime by virtue of a way of life criterion.⁴⁷

Her own resolution of the debate is for purposes of her reading of the requirements of section 35 and focuses on those falling within the second and third categories: descendants of the historical Metis Nation, and persons associated in some way with current Metis collectivities.⁴⁸

Lussier cautions, however, against imposing on nineteenth-century mixed-blood people modern definitions and notions of their essential homogeneity in terms of the primacy of their historical sense of political collectivity. Lussier's review of the writings of certain nineteenth-century commentators indicates that the historical Metis and half-breeds of western Canada were not necessarily a homogeneous group possessed of a shared group identity, despite the two conflicts with Canada led by Louis Riel.

It is important, therefore, to realize that there were many mixed-blood groups at Red River during the nineteenth century and that each was distinct religiously, linguistically and even geographically. To write now as if they were a homogeneous group is to distort history and, more important, attribute characteristics and historical drama to groups that did not see themselves as such.⁴⁹

Likewise, there are many people today who are eligible to be regarded as Metis under whichever definition is being used who do not choose to identify themselves in this way, while there also distinctly different approaches between those who see the only Metis within the context of the Metis Nation of the West connected to the Red River era and those who favour a pan-Canadian view.

The Fluid Frontier Between Indian and Metis

The various versions of the *Indian Act* since 1876 have not clarified matters, primarily because of the failure to settle on a consistent basis for defining 'Indian' even for the limited administrative purposes of the

were not necessarily a homogeneous group possessed of a shared group identity, despite the two conflicts with Canada led by Louis Riel." "It is important, therefore, to realize that there were many mixed-blood groups at Red River ... and that each was distinct religiously,

linguistically and even geographically. To write now that they were a homogeneous group is to distort history..."The one-and-a-half men- the story of Jim Brady and Malcolm Norris, Metis patriots of the twentieth century-Dobbin, Murray-1981- Brady knew that a reinterpretation of

how to protect themselves against the vicious features which marked the penetration of the white man into the Western prairies.

We are on much firmer ground when we refer to the glorious tradition of the Metis in fighting for a democratic opening of the West than in representing them as an utterly primitive people incapable of protecting themselves. After all, they fought for a long time and they fought very well, first against the Hudson's Bay Company in the old days and then in the two North West rebellions. . . What has happened, of course, is that they were crushed and the present misery is the result of that shameful episode of the forward march of capitalism on the prairies. Incidentally, the picture of the Metis as a sort of savage people has been deliberately presented by the conquerors in order to falsify issues and attempt to present some kind of justification for the treacherous way in which these original pioneers were treated. Constitutional "principles" in the abstract have no significance in our struggle. In one instance the popular forces will be found using provincial rights against the reactionary control of the central government powers. In recent times we have witnessed the conflict of the Western provinces with the Dominion government. In other instances, reforms initiated by the central government will be opposed by the sectionalism of provincial groups. This has been a general phenomenon since confederation. We must establish the fact, at the outset, that the relation of social forces will determine the constitutional issue of any problem at any given historical time. . .

The Metis problem is basically related to the general problem of the economic and social needs of the Canadian people. The hardship, poverty and suffering of the great majority of the Metis people in a country of great natural resources is forcing to the forefront of our administrative affairs the issue of government measures to cope effectively with the economic and social problems of the people as a whole. It is becoming more evident that such measures as are needed and demanded by the Metis population are impossible within the present framework of provincial administration. Hence the issue of changes in the administrative structure required to deal with the problem has

... Certain aspects of the Metis problem have a definite

in the light of the economic and social developments of the last seventy years. The government will give ready recognition to the point of view that any constructive change of policy must proceed from the needs of the people. The Alberta Metis Association shares this belief in common with all constructive thinking people. It is this attitude and the conclusions which must be drawn from it that we wish to set forth in basic outline to you. It is our hope that it may commend itself to your judgement and influence your deliberations to the end that it will become the embodiment of the progressive aspirations of the Metis population in their struggle for rehabilitation.³

Brady knew that a reinterpretation of Canadian and Metis history would not suffice to persuade the commissioners that "relief" was an inadequate solution to the problem. The enquiry's frame of reference and the government's objective was focussed narrowly on the present. In order to promote self-determination Brady would have to draw the historical argument further and illustrate that there was a continuity between the "glorious tradition of the Metis in fighting for the democratic opening of the west"⁴ and the present Metis population.

Brady would argue that the Metis population consisted of two classes: the "nomadic" Metis, who lived the traditional life of hunting, fishing and trapping, and the "progressive" or "Red River" Metis, who were educated and who represented, as workers, successful farmers and entrepreneurs, the Metis elite. The nomadic Metis were the destitute, malnourished, uneducated Metis who constituted the "half-breed problem."⁵ The "progressive" Metis were, in Brady's conception, the source of political salvation for their less fortunate cousins. They were the descendants of the old nationalist leadership of the Metis from the Red River, South Saskatchewan and St. Paul des Metis. Brady argued that they were proof of the Metis' ability to become productive citizens.

Brady was the sole author of this dual-class analysis of Metis society and it is likely that he coached other executive members in preparation for the hearings. The executive and its allies used this classification

³Brady's description of two broad classes of Metis did not fit the orthodox Marxist view of class. It was an analysis which recognized implicitly the colonial reality of many Metis and a continuing national liberation movement. An individual's class position was based on how they related to the mainstream society. Thus Brady does not talk about a Metis

Canadian and Metis history would not suffice to persuade the commissioners that 'relief' was an inadequate solution to the problem... In order to promote self-determination, Brady would have to draw the historical argument further and illustrate that there was a continuity

"... I realize that any departure from the established regulations would inevitably create friction by allowing the introduction of temporary non-Metis workers who would indirectly be deriving benefit (sic) from the natural resources (sic) within the area. The resultant effects would aggravate the present deep-seated antagonism that the nomadic element feel for the aggressive working type of Metis . ? ... I am more than ever convinced that non-Treaty Indians or persons whose immediate antecedents were non-Treaty should non (sic) be permitted within Metis Areas except in special (sic) circumstances deserving of recommendation. The non-Treaty element are by nature hostile to the Metis of a more advanced type like the agricultural Metis of French descent who in most cases is progressive and ambitious in outlook. At all events in any area where the non-treaty or nomadic Metis constitute a

4

majority the internal administration is fraught with friction and disputes between the two inimical groups." (WLD, November 22, 1942, p 57)

between the "glorious tradition of the Metis in fighting for the democratic opening of the west" and the present Metis population." It is likely Brady coached other executive members in preparation for the hearings. The executive and its allies used this classification..."

"My experience has convinced me that where we have Metis settlers who formerly resided or who were raised on Indian Reserves we invariably discover such individuals to be antipathetic to the agricultural mode of life. Settlers whose immediate antecedents have been Treaty Indians with very few exceptions (sic) revert to the nomadic life and display an aversion to physical effort which distinguishes them markedly from other racial groups. It is my considered opinion that during the formative stages of (sic) Metis Area, this type should be excluded. Only when faced by an overwhelming majority do these people make efforts toward self sustenance (sic). (cites example of Green Lake, Sask.)" (WLD, March 29, 1942) p 30.

Aboriginal self-government - legal and constitutional issues 1995 Ottawa, Canada- Royal Commission on Aboriginal Peoples- pg160. - Many people who had lived their entire lives as Metis were now status Indians.



Act. The definition over the years has allowed the inclusion of persons with no Indian blood whatsoever through marriage or adoption, has resulted in the absolute exclusion of others of 'pure' Indian blood and, by including some and excluding others of mixed blood (largely on a patrilineal basis) has left the overall question of the status of mixed-blood persons in doubt. Douglas Sanders notes that "mixed blood peoples were not excluded from Indian status when membership lists were first prepared and could not now be excluded from Indian status without purging the Indian-reserve communities of at least half their population."⁵⁰ A number of largely lower court decisions concerning the hunting and fishing rights of 'Indians' under treaty and statute have wrestled inconclusively with the issue, sometimes finding that the relatively narrow *Indian Act* definition was controlling,⁵¹ sometimes finding the opposite.⁵² Rather than reducing the level of uncertainty regarding who the Metis are, the amendments to the *Indian Act* in Bill C-31 in 1985 - which attempted in an incomplete way to eliminate discrimination so that the Act would not conflict with section 15 of the *Canadian Charter of Rights and Freedoms* - have only added to the confusion.

Many individuals who had lived their entire lives as Metis suddenly found themselves eligible under Bill C-31 to be registered as status Indians, in part due to the repeal of the disenfranchisement of recipients of scrip and their descendants in the former sections 12(1)(a)(ii) and (iii). Even some Metis political leaders have now been registered under the *Indian Act*, as have residents of the Metis settlements in Alberta. In the latter case this has led to a conflict with the definition of Metis in the *Metis Betterment Act*⁵³ and could have required their ouster from the settlements. This problem has been overcome on the surface in the *Metis Settlements Act* of 1990,⁵⁴ as the

definition of Metis now means "a person of aboriginal ancestry who identifies with Metis history and culture",⁵⁵ coupled with control over membership residing in each settlement council. On the other hand, subsection 75(1) of the *Metis Settlements Act* excludes from membership anyone who is registered under the *Indian Act* or registered as an Inuk under a land claims settlement (subject to a very limited exception in subsection (2)).⁵⁶

As a result of Bill C-31 it is possible, therefore, for some people who define themselves as Metis to register under the *Indian Act* and to be legally labelled as status Indians. At the same time, other Metis people who are eligible for registration under the *Indian Act*, and are therefore legally Indians for some purposes (because of the definition of Indian in subsection 2(1), which includes people who are "entitled to be registered"), may choose not to seek registration for personal reasons or to avoid losing benefits and rights flowing from the Alberta Metis settlements.

Methods of Defining Aboriginal Group Membership

Historically a number of approaches have been used in Canada and elsewhere to designate certain persons as entitled to unique legal status by virtue of Aboriginal heritage. Little attention has been paid to this question in the academic literature.⁵⁷ Most of these approaches involve objective tests that have been applied by the dominant society to Aboriginal groups, usually without a high degree of consent by those affected or even consultation with them.

1. Blood quantum: One could simply require a set minimum percentage of Aboriginal blood. In the United States, for example, the Bureau of Indian Affairs offers a certain number of services and programs to 'Indians' only if they are members of

Metis does not have a blood quantum requirement per Powley.

So, where does this leave the debate? It is beyond the scope of this inquiry to resolve the issue once and for all. It is clear that the term 'Metis' now encompasses far more people in a much larger geographic area than the original French-speaking and Roman Catholic Metis inhabitants of the Red River area of Manitoba. It also covers the other mixed-blood persons in that region originally referred to as 'half-breeds' or 'country-born'. It further includes those who took, or were eligible to take, scrip under the *Manitoba Act, 1870* and the *Dominion Lands Acts*. It must also cover the descendants of all these people. It should logically also cover those persons living within the Alberta Metis settlements as Metis whether or not they are descendants of scrip recipients. And, at the risk of criticism from purists as well as from many western Metis, and because the term's origin essentially means mixed blood, the presumption here will be that the term Metis, as opposed to members of the Metis Nation, can potentially refer to all persons of mixed Aboriginal and non-Aboriginal ancestry across Canada regardless of historical origin. This is the only way, for example, in which some of the Metis in the Northwest Territories, who are widely recognized as Metis and accepted as such in land claims negotiations or agreements recently reached with the government of Canada and the territorial government, can come within the term Metis. In one recent lower court decision that considered the issue, the judge concluded simply that "[i]t appears that today's Metis could be someone of some North American Aboriginal blood who holds himself out as such."⁶⁶

Catherine Bell makes a strong point in emphasizing the importance of collective Metis life, self-identification and acceptance as belonging to that collective life. Perhaps the Australian experience offers a useful point of reference in the definition debate. Although the law

Aboriginal self-government - legal and constitutional issues 1995 Ottawa, Canada- Royal Commission on Aboriginal Peoples- pg167. - need for a definition of Aboriginal.

and policy respecting Aboriginal rights are less developed in Australia than in Canada and the United States, the need for a definition of 'Aboriginal' has long since arisen. Aboriginal people themselves have devised a three-part definition that has gained rapid acceptance among the governments in Australia. To be considered in law an Aboriginal person, an individual must (1) be of Aboriginal ancestry; (2) self-identify as Aboriginal; and (3) be accepted by the Aboriginal community as being Aboriginal.⁶⁷ This description has also been used to include the distinct indigenous peoples of the Torres Strait Islands. The Maori of New Zealand have developed a similar approach to describing themselves, which is recognized by the government in all its laws, policies and programs. In neither case does this deny the important role that regional tribes or groups play regarding land and resource rights or culture and language.

It is suggested that a similar test should be employed in Canada regarding which individuals ought to be considered Metis for constitutional purposes. Such a person must be of mixed Indian and non-Indian blood (or Inuit and non-Inuit in the case of southern Labrador), regardless of the historical or geographic origins of that mixing. Such a person must, in addition, self-identify as Metis. Most important, such a person must be accepted by, and must accept to be a member of, a self-identifying Metis community.⁶⁸ That community could be urban or rural and anywhere in Canada such that it need not be a part of the modern Metis Nation. It must, however, be the current vehicle of Metis collective identity in Canada in a way that enables it and its members to call themselves Metis in 1993. It should also be noted that a pan-Canadian approach to the definition of Metis does not mean that all Metis communities would possess the same legal rights or status, any more than the use of the term Indian across the country means that all Indian people have the same Aboriginal, treaty or other

Aboriginal self-government - legal and constitutional issues 1995 Ottawa, Canada- Royal Commission on Aboriginal Peoples- pg168. - ultimately it is up to the Metis themselves to decide who they are.



rights. Furthermore, this approach would likely result in a distinction between those who affiliate with the Metis Nation born in the prairies and those who have both a different history and a different approach toward the future. In both cases, however, it is ultimately up to the Metis themselves to define who they are and what their aspirations will be.

THE PRE-1982 CONSTITUTIONAL STATUS OF THE METIS

Reducing Constitutional Obligations Toward Indians

In 1867 the federal Parliament was assigned what was widely assumed in Euro-Canadian circles as constituting exclusive legislative authority regarding "Indians, and Lands reserved for the Indians" under section 91(24) of the *Constitution Act, 1867*. That assignment of legislative authority is still the subject of considerable uncertainty,⁶⁹ largely because the precise parameters or scope of this grant of power have never been addressed thoroughly by the courts. The traditional legal view has been to consider section 91(24) as just another head of power similar to the rest of sections 91 and 92 in the sense of extending to Parliament an exclusive sphere of jurisdiction. An alternative approach has been developing in recent years, vigorously advocated by Aboriginal leaders, namely, that the role of section 91(24) is to identify the Crown in right of Canada as the proper party able to negotiate treaties with Aboriginal nations and the primary holder of the fiduciary obligation owed to Aboriginal peoples. Under this approach, the authority to legislate evident in section 91(24) is restrained by factors outside the wording of the *Constitution Act, 1867* so as to be neither exclusive nor fully discretionary. This distinction between responsibility and jurisdiction, as well as the important aspect of fiduciary obligation