

DANIELS: In and Beyond The Law

January 26, 27, 28, 2017
Lister Conference Centre, U of A

Conference Report and Summary

One Year Later

Report prepared by Jenn Rossiter and Dr. Nathalie Kermoal
Based on the notes prepared by Apryl Bergstrom

The Rupertsland Centre for Métis Research
University of Alberta | Edmonton, Alberta

Daniels: In and Beyond the Law

January 26-28, 2017

Lister Conference Centre
University of Alberta

Conference Report and Summary

One Year Later

RUPERTSLAND CENTRE



FOR MÉTIS RESEARCH



© 2018 Rupertsland Centre for Métis Research. All rights reserved. No part of this report may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher, except in the case of brief quotations and certain other noncommercial uses permitted by copyright law. Requests for use shall be directed in writing to the Rupertsland Centre for Métis Research.

RUPERTSLAND CENTRE

FOR MÉTIS RESEARCH

 UNIVERSITY OF ALBERTA
FACULTY OF NATIVE STUDIES

Rupertsland Centre for Métis Research (RCMR)
Faculty of Native Studies
2-31 Pembina Hall, University of Alberta
Edmonton, Alberta
T6G 2H8
www.nativestudies.ualberta.ca/research/rupertsland-centre-for-metis-research
rcmr@ualberta.ca

 **Rupertsland
Institute**
Métis Centre of Excellence

Rupertsland Institute
1450-10060 Jasper Avenue, Scotia Tower 1
Edmonton, Alberta
T5J 3R8
www.rupertsland.org

TABLE OF CONTENTS

INTRODUCTION	6
HISTORY & BACKGROUND TO <i>DANIELS V. CANADA</i>	6
DAY 1: JANUARY 26, 2017	11
KEYNOTE SPEAKER 1: DR. KIM TALLBEAR	11
KEYNOTE SPEAKER 2: DR. CHRIS ANDERSEN	12
QUESTIONS, ANSWERS & COMMENTS	13
DAY 2: JANUARY 27, 2017	16
WELCOME AND ELDER BLESSING	16
PANEL 1: <i>DANIELS</i> IN CONTEXT	16
TONY BELCOURT	16
ELMER GHOSTKEEPER	17
GABRIEL DANIELS	18
MARIA CAMPBELL	18
QUESTIONS, ANSWERS & COMMENTS	19
PANEL 2: POLITICAL RESPONSES	20
GERALD CUNNINGHAM	20
WILL GOODON	21
QUESTIONS, ANSWERS & COMMENTS	22
LUNCH KEYNOTE: THOMAS ISAAC	23
QUESTIONS, ANSWERS & COMMENTS	24
PANEL 3: PROMISES & PITFALLS OF <i>DANIELS</i>	24
DR. D'ARCY VERMETTE	24
DR. DARRYL LEROUX	25
DR. ADAM GAUDRY	26
QUESTIONS, ANSWERS, & COMMENTS	27
PANEL 4: JURISPRUDENTIAL CHALLENGES	28
DR. ERIC ADAMS	28
DR. CATHERINE BELL	30
PAUL SEAMAN	30
QUESTIONS, ANSWERS, & COMMENTS	31
DAY 3: JANUARY 28 2017	33
PANEL 5: ALL MY RELATIONS (IDENTITY AND INDIGENEITY)	33
DR. ROBERT INNES	33

HAROLD ROBINSON	34
RICK SMITH	34
JESSICA KOLOPENUK	35
QUESTIONS, ANSWERS, & COMMENTS	36
PANEL 6: MÉTIS REGISTRIES	37
DR. BRENDA MACDOUGALL	38
RYAN SHACKLETON	38
DR. MIKE EVANS	39
TRACEE MCFEETERS	39
QUESTIONS, ANSWERS, & COMMENTS	40
LUNCH KEYNOTE: BRENDA GUNN	41
QUESTIONS, ANSWERS & COMMENTS	42
PANEL 7: UNIVERSITY ADMISSIONS ROUNDTABLE	43
DANIELLE SOUCY	43
LISA COLLINS	43
VALERIE ARNAULT-PELLETIER	44
DR. ANDRÉ COSTOPOULOS	45
KARA PAUL	46
QUESTIONS, ANSWERS & COMMENTS	46
COMMUNITY FORUM	46
CLOSING ELDER BLESSING	48
CONCLUSION	48
<hr/>	
GLOSSARY	49
<hr/>	
TERMINOLOGY	49
TREATIES AND JURISPRUDENCE	49
ORGANIZATIONAL ABBREVIATIONS AND COMMISSIONS	51
RESOURCES AND LINKS	52
<hr/>	

INTRODUCTION

The “*Daniels: In and Beyond the Law*” conference was held from January 26 – 28th 2017 at Lister Centre on the University of Alberta campus in Edmonton, Alberta, Canada. The conference brought scholars, political leaders, researchers, and community members together to discuss the 2016 Supreme Court of Canada’s decision in the case *Daniels v. Canada (Indian and Northern Affairs)*. Fostering dialogue between community members, scholars and the public domain, topics of identity, politics, law, and belonging were covered. It was an opportunity for discussion, networking, and further understanding of the issues, challenges, and successes around the case.



Overall, there was a total of 40 panel participants, and approximately 200 audience members in attendance over the course of 3 days. This report summarizes the presentation and discussion transcripts recorded over the course of the conference. Direct quotes are printed in blue text throughout the whole document.

The conference was both Livestreamed (see the **Resources and Links** section for more), and live-tweeted in order to reach a larger audience base. People from Canada, South America, Europe, and Asia tuned in online to watch the livestream, and many interacted with the Twitter posts.

Overall, there were four keynote speakers, seven panel-based discussions, and a community forum as the final exchange. Day 1

consisted of two keynote speakers, while day 2 and 3 were full days, starting with two sessions in the morning, one following the other, a keynote speaker over the lunch period, and then two more sessions in the afternoon, again, one following another. After each session community members were encouraged to ask questions or express themselves on issues raised by the panelists. The final community forum allowed for audience members and participants to share their final thoughts with the group.

The Rupertsland Centre for Métis Research (RCMR) planned, coordinated and hosted the event. RCMR was established in 2011 as an initiative between the Rupertsland Institute and the University of Alberta. Housed in the Faculty of Native Studies, it serves as an academic research program focused on Métis issues. The goals and objectives of the research center focus on building provincial and national connections with the Métis community, building research capacity to advance Métis-specific research, and training and employing student researchers. Please visit our website for more information, at: www.ualberta.ca/native-studies/research/rupertsland-centre-for-Métis-research.

All photos are reproduced with permission by RCMR.

HISTORY & BACKGROUND TO DANIELS V. CANADA

The Métis have been a very important driving force in Canadian history. The diversity of their economic activities (more specifically around the buffalo trade) allowed for the development of main corridors for the transportation of goods and the movement of services linking the north and west to the rest of Canada and the United States. They became indispensable partners in the development of Western Canada as

entrepreneurs, labourers, interpreters, and guides. The heartbeats of the Métis people, in their everyday lives and through their way of life, their knowledge of the land, their labour and their political struggles, have undeniably left a great imprint on the history of Western Canada. As well, their independence and resilience shaped the relationship they developed with Canada.

During the nineteenth century, the Métis expressed their nationalism in response to increasingly invasive colonial structures in order to protect their hunting rights, trade rights and lands from Canadian expansionism. In the beginning, the Hudson's Bay Company had no choice but to recognize Métis customary land-related practices (for example: long and narrow waterfront lots) as well as their trading practices (free trade) because Indigenous people were in the majority and the Métis were an important workforce for fur trade activities. With the massive arrival of new immigrants hungry for lands, the balance of power started to shift (especially in the 1870s and 1880s).

Nineteenth-century Métis nationalist events (in 1869-1870 in Manitoba and 1885 in Batoche, Saskatchewan) were part of a global protest movement against British (and by extension Canadian) imperialism. Moreover, all these nationalist expressions had a common thread: the affirmation of rights concerning land and territory.

Despite the pauperization and fragmentation of the Métis nation's population after 1885 (more specifically after the hanging of Louis Riel on November 16, 1885), the struggle for the recognition of rights continued into the twentieth century. The death of Louis Riel certainly weakened their claims, but the Métis did not forget why they fought. The Great Depression of the 1930s, however, spawned a nationalist revival that led some activists such as Jim Brady, Malcom Norris and Peter

Tomkins to sensitize Western provincial governments, including the governments of Alberta and Saskatchewan, to set aside land for the Métis. In Alberta, it led towards the creation of the Métis settlements in 1938. For these leaders, the Métis had inherent rights to land, resources, education and health. Influenced by Marxism, they denounced the pernicious influence of colonialism for the Métis. It is important to note, however, that the Métis nationalist movement of the 1930s was primarily local and provincial, and that it was not until the 1960s-1970s that the Métis organized on the federal scene.

In the late 1960s and early 1970s, the Métis shared a lack of political recognition at the federal level with non-status Indians. While history, culture, and political aspirations differentiated the Métis from non-status Indians, both groups had a similar relationship with the Federal Government which ultimately was inexistent. Both were perceived as a provincial responsibility. Since they had negotiated the entry of Manitoba into Confederation, Harry Daniels was very critical of this perception that the Métis were 'citizens like any other'. In 1979, he eloquently declared that "*The government continues to feed us the 2 founding nations myth while tossing in some Ukrainian Easter eggs, Italian grapes, or Métis bannock for some extra flavor*".

Despite the differences between the Métis and non-status Indians, the two groups joined forces in 1970 and formed the Native Council of Canada (NCC). By giving themselves a national voice, the Métis could put pressure on the Government of Canada to be included in benefit programs that were available to other Aboriginal peoples. Historical events, especially the Métis resistances of 1869-1870 and then of 1885, had aggravated the relations with Ottawa since the Federal Government considered that the Métis

question "*had been settled with the hanging of Louis Riel*".

As Tony Belcourt told the audience during the conference,

We needed to get Ottawa to pay attention to these needs and to provide programs and services. We desperately needed help for health, for housing, and for education. We saw that avenue through [section] 91(24). We took the position that we were Indians, for the purposes of that Act. For the purposes of the Federal Government to legislate for us and to take a responsibility.

Even after the Métis were recognized in the *Constitution Act, 1982* as one of the Aboriginal peoples of Canada, the Federal Government continued to exclude them from programs and from any processes to address Métis land settlements. The Métis, under the leadership of Harry Daniels, had no choice but to bring their grievances to court.

Harry Daniels was undeniably a very charismatic figure. Born in Regina Beach, Saskatchewan in 1940, Harry Daniels was very proud of his Métis heritage. He loved to express himself in the Michif language and loved to jig. In the 1970s and 1980s, he worked tirelessly in the Aboriginal political arena fighting for the rights of Aboriginal people. In the 1970s, he held leadership roles in the Saskatchewan Métis Society, the Métis Association of Alberta, and the NCC, which later became the Congress of Aboriginal Peoples. The NCC was the first national organization to represent Métis and non-status Indians. He became its president in 1976 until 1981. During the national constitutional negotiations in the 1980s, he played a leading role in guaranteeing the inclusion of Métis among Canada's Aboriginal people in the *Constitution Act, 1982*.

Maria Campbell describes him as

such a crazy, beautiful man, who loved conferences that were full of laughter, passion and politics. And if he was the centre of that, he loved it even better. [...] He loved to debate, and believe me, you had better be a good critical thinker if you were spending time with him [...] Later in his life, he would probably be wearing a \$1000 pinstripe suit, looking like an old 1930's outlaw. Back in the 60's, he would have walked in with his neatly-pressed blue jeans, cowboy boots, all polished and shiny, and his black hat tipped back just so on top of his long, curly hair.

For Murray Hamilton, a friend of Maria Campbell, "*Harry wanted to finish the work Riel started in 1870 that was to determine what the relationship would be between Métis and the Canadian state.*"

Daniels v. Canada (Indian Affairs and Northern Development) (herein *Daniels*, or the *Daniels* case, or the *Daniels* decision) is a case that was brought to the Supreme Court of Canada by Harry Daniels, Gabriel Daniels, Leah Gardner, Terry Joudrey, and the Congress of Aboriginal Peoples (CAP) in 1999, with the final decision made by the Supreme Court in 2016. They asked for 3 declarations:

1. that Métis and non-status Indians are "Indians" under s. 91(24) of the *Constitution Act, 1867*
2. that the federal Crown owes a fiduciary duty to Métis and non-status Indians
3. that Métis and non-status Indians have the right to be consulted and negotiated with

To start with, section 91(24) of the *Constitution Act (1867)* states that the

Canadian Federal Government has authority over all Aboriginal peoples. The term Indian in this section included all Aboriginal peoples within the Canadian territory. While this would unquestionably include First Nations and Inuit, there has been concern that Métis and non-status Indians have been left in limbo between provincial and federal government responsibility.

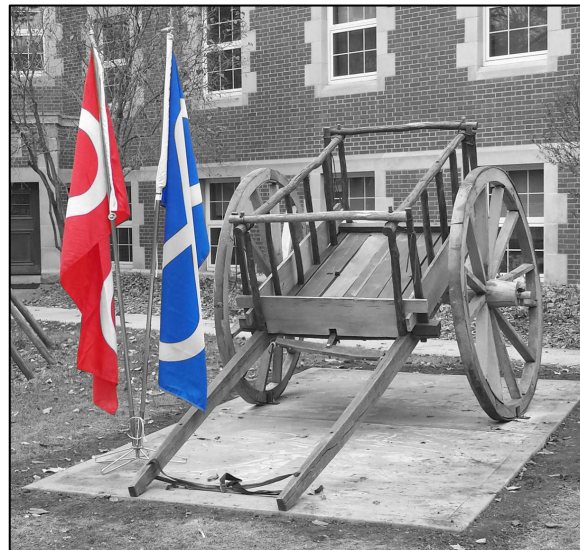
In the final decision, only the first declaration was passed, as the second and third were considered already covered by law (discussed further in **Panel 4** presentations), meaning that the Métis fall under federal jurisdiction.

However, there have been unanticipated outcomes from this decision. The judge's final ruling used terminology that opened up the possibility for individuals to claim Métis heritage without ancestral connections to a Métis community (discussed further in **Panel 3** and **Panel 5** presentations).

Inclusion in section 91(24) means that Métis and non-status Indians are under the jurisdiction of the Federal Government, and may now have better access to resources and funding. It is important to note, however, that provincial agreements that have been previously established with the Métis are still valid and must continue to be honored.

The goal of this conference was to analyze the political and the social ramifications of the *Daniels* case. The academics, the politicians, and the community members provided very rich and pertinent analysis and commentaries that deepened our understanding of the *Daniels* case, opening up possibilities for further dialogues and analysis.

This report provides a plain language document to people who could not come to the conference and to those who came but would like to re-immense themselves into the ideas, the analysis and the debates developed during the conference.



RCMR hopes you will enjoy the reading!

∞

DAY 1: JANUARY 26, 2017

Facilitated by the Director for the RCMR, Dr. Nathalie Kermaal, the opening session welcomed Maria Campbell as Elder for an introductory blessing.

Dr. Chris Andersen, Dean of the Faculty of Native Studies at the University of Alberta said a few words of welcome, followed by Audrey Poitras, President of the Métis Nation of Alberta.

The session kicked off with two keynote speakers to set up the weekend's talks and introduce audience members to the context of the conference.

KEYNOTE SPEAKER 1: DR. KIM TALLBEAR

Dr. Kim TallBear is an Associate Professor at the Faculty of Native Studies and the Canada Research Chair in Indigenous Peoples, Technoscience and the Environment at the University of Alberta. She is the author of *North American DNA: Tribal Belonging and False Promise of Genetic Science*, and works with the University of Illinois Institute for Genomic Biology. She is a member of the Wahpeton Oyate in South Dakota.



Kim's talk focused on the inadequacies of attaching indigeneity to blood quantum.



***Molecular Death and Redface
Reincarnation: Indigenous Appropriation
in the U.S. and Canada***

Recent circumstances have led to an increase of white people attempting to claim indigeneity in Canada and the United States based on biology rather than collective culture. Over recent years, more and more individuals are looking to locate an Indian in their familial ancestry, often based on mixed-ancestry stories that they have heard from others.

Whites have harnessed the power to define racial definitions. They have done this by establishing white-black categories within society to increase their own benefits, ultimately attempting to assimilate white Indians in order to manipulate land ownership and claims.

They are doing, with our biological resources today, what they have been trying to do with our land and other resources for the last couple of hundred years.

Basing identity on DNA alone allows settlers to control history, cutting out Indigenous people's own definitions, thereby perpetuating colonialist acts. Claiming Indian ancestry, that is, "playing Indian", highlights a white North American identity crisis. In the United States people claim to have Cherokee great-grandmothers from fictitious tribes, while in Canada people are inaccurately claiming Métis status, believing it to be a basic mixture of European and Indigenous heritage.

Two recent controversies over falsely claimed identities are relevant to this discussion: scholar Andrea Smith in the United States claiming Cherokee ancestry (a story that raised similar concerns to those raised around Rachel Dolezal and her fictitious black heritage), and Joseph Boyden here in Canada who has claimed membership with various communities (including Ojibway, Métis, and Mi'kmaq). Unfortunately, in both cases there are far-reaching consequences to these shaky claims, and a genuine concern for

transparency from within Indigenous communities.

The ability for those in power to dispossess others of resources, and now DNA, is why these issues matter. By ignoring challenges to their false claims, these individuals are missing the point that Indigenous groups are trying to make. Society needs to reach a point where blood ancestry does not carry so much weight for claims to identity.

The role of lived relations should be emphasized, not genetics alone, as a key to identity. The role of blood and DNA certainly matters, but the connections that are held to everything around us make the difference.

Perhaps instead of we are what we were, we should consider that we are what we become.

KEYNOTE SPEAKER 2: DR. CHRIS ANDERSEN

The second keynote speaker to kick off the conference was Dr. Chris Andersen, a Métis from Saskatchewan, and at the time of the conference, the interim Dean of the Faculty of Native Studies at the University of Alberta. He was also previously Director for the Rupertsland Centre for Métis Research. Chris has published a book called *Métis: Race, Recognition, and the Struggle for Indigenous Peoples*, as well as being the editor of a scholarly journal *Aboriginal Policy Studies*. He is now a member of the Royal Society of Canada’s College of New Scholars, Artists, and Scientists.

Chris’s talk focused on interpretations of identity and the law.

∞

Daniels v. Canada, beyond jurisprudential interpretations: what to do when the horse has left the barn

Courts and laws are seen as roadmaps, that is, they lay the foundation for future decision-making. Consider how the *Powley* case from 2003 has impacted subsequent court decisions, and Métis-government relations. Courtroom decisions, however, are rarely straightforward blueprints for future cases. Issues get translated from a social to legal arena, then back into society. These court decisions are considered by many to be indisputable, rather than influenced by things such as colonialism, racism, and power.

For people who work with legal issues, their roadmaps can be courts and laws. However, for people who are not regularly involved with courts and law, they instead end up seeing a colouring book: one where each person chooses their own colours and interprets the image as they see fit. People bring their own meanings to these decisions, and sometimes people in leadership positions produce ideas that were never intended by the court. These outcomes can be difficult to control, especially in places like universities.

It becomes interesting to think about the way in which people who evidently know little about law or jurisprudence still become very heavily invested in what they think a particular court decision has to say.

Essentially, individuals see a reflection of themselves within court reports, so they begin what Chris calls “self-making”: imagining ways in which the report plays into oneself and one’s relationships. The comments around identity that were made on



social media after the *Daniels* decision demonstrated this. This sudden construction of identity was not an intended consequence of the *Daniels* decision, but, as Chris puts it, “*the horse ha[d] left the barn by that point*”. In other words, we cannot control how others interpret court statements.

Self-making and identity have two distinct features in modern times: how individuals self-identify (refer back to Kim TallBear’s discussion on Andrea Smith and Joseph Boyden), and how identity can be something that you can become. While researching his book, Chris spoke to many people who identify as Métis when they are in fact not: self-identification based on family stories rather than community relationships, or identity based on what somebody wants to become, what he calls “white possessiveness”.

The important thing to think about is that identity is not just about who you claim to be, but it’s also about who claims you back.

There is ultimately a question of ethics around claims that are not reciprocated. There are of course individuals who are legitimately seeking identity due to lost family connections, but this cannot be the foundation to dismissing conversations around self-identity and the importance of community relationships. Belonging is an important element to the conversation. *Powley* presented a three-point test for Métis identification:

1. Self-identification as a Métis
2. Proven connection to an historic Métis community
3. Acceptance by a current Métis community

When courts remove the need for community acceptance, as they did in the *Daniels* case, they remove the importance of community claims on individuals- a key to accountability and Indigenous identity.

Databases and archival sources have provided access to resources for people in communities, which has been a great tool for those who are interested in learning more about their family and community relationships. However, “inert self-making”, as in the use of these resources by people who are unconnected by these types relationships, and who are able to pick and choose the information that they favour, is concerning.

According to the Métis Federation of Canada, the *Daniels* decision meant that Métis could be identified all over Canada linking to families as far back as 1644: find the documentation, send it in, and claim your new identity. Beyond archives and databases, this inert self-making is highlighted by DNA claims of identity, a theme that will be discussed in detail later in the conference.

QUESTIONS, ANSWERS & COMMENTS

Audience Member: *In some of the communities I work with in Northern Alberta, what we are seeing a lot of now are Métis people who became First Nations either through Bill C-31 or Bill C-3, and now they are finding that their children can no longer qualify to be First Nations and so they are applying to get back their Métis status generations down the line. What are your thoughts about that and where they fit in this whole big mix of things?*

Chris Andersen (Response): People can claim to have dual citizenship with both First Nations and Métis, but if people are claiming citizenship to maximize personal benefit, “double dipping”, then it becomes an issue around the disconnect between those two legal decisions, which can split families into different legal categories. There is a difference between culture and legal constructions, making these issues more complex.

Walter, Grande Prairie: *How do you see our identity being defined... in a way that people can hold onto as time goes on, even as... negotiations take place with the Federal Government? What would be a good way to deal with it?*

Chris Andersen (R): There's no way to know what identity will look like in the future, but it's not up to the courts to validate people's sense of Indigenous identity. Only family members can do this. Court cases can certainly have intergenerational impacts, but it's not for courts to make that defining decision. Whatever changes occur, so long as it's community-driven then it should be a positive move forward.

Jack Boucher, Buffalo Lake Métis Settlement: *With regard to the cases that have been won, we can look at it as an evolution of Métis-ism throughout the land. What is hoped to be gained with regards to the evolution of Métis-ism, the way it is now?*

Chris Andersen (R): The Métis community chose to use courts as a tool to 'gain means and concession'. The construction of identity that comes out of courts has never spoken to me, or cast a reflection of my own Métis family and lived experiences.

Jack Boucher, Buffalo Lake Métis Settlement: There is ambiguity around requirements for card-carrying members from several communities (Alberta Métis, Manitoba Métis, and Treaty card). We need to figure out how to unify these requirements.

Darlene St. Jean: In light of the *Daniels* decision and the protection of Parliamentary sovereignty, if the community shuns and alienates an individual member, are they no longer considered Métis?

Chris Andersen (R): It isn't about whether communities *accept* people, but whether they *recognize* people as members. *Even if they*

don't like you, will they still recognize who you are?

Métis Councillor, Buffalo Lake: There are many people like Joseph Boyden in communities across Canada. There seems to be a set of standards, but there is also a sense of transition in identity and in how people self-identify.

Lorne Ladouceur, Buffalo Lake Métis Settlement: The *Daniels* decision is bound to affect settlements, and how communities will identify individuals as Métis. Self-identity may not work because of people shifting their self-identity. What evidence is needed to prove being Métis?

Chris Andersen (R): The issue is less about proving identity, but more about proving membership, which will be a continued necessity.

Joe, Buffalo Lake Métis Settlement: [Joe, who knew Harry Daniels, spoke of his past work with Métis and Aboriginal peoples researching identity through consultation.] Frustrations have arisen around the government's power to make these decisions for people. Being Indian has been a disadvantage for many, and so many (Métis) declared themselves white when they could. Young girls from residential schools would be sent away to become wives, losing the Indian in them over time; their descendants are fighting (since Bill C-31) to claim Métis heritage. Discussions around Métis identity and heritage have been going on for many decades. Perhaps what's needed is for us to go back into the country.

Marilyn Buffalo took a moment to speak during this discussion segment, and gave acknowledgement to her late brother, Harry Daniels. She spoke of her grandfather Joe Dion, a founding member of the Métis settlements of Alberta; her paternal grandfather, John Tootoosis, dedicated his life

to advocacy and treaty rights. Marilyn spoke of her strong and supportive upbringing, and how this is something that is missing now from communities. *We have to restore and bring our children back* to cultures. There is a genuine need to pass on traditional knowledge that the youth are lacking.

∞

That concluded the opening talks. There was a reception afterwards to facilitate further conversation and networking.



DAY 2: JANUARY 27, 2017

The day's sessions focused more on the political side of the *Daniels* decision, and the context in which it came about through four panel discussions and one keynote speaker.

WELCOME AND ELDER BLESSING

The morning started with a blessing by Elmer Ghostkeeper. He had the group stand for a prayer that was delivered in the Michif language.

PANEL 1: DANIELS IN CONTEXT

Participants: Dr. Nathalie Kermaal (moderator)
Tony Belcourt
Elmer Ghostkeeper
Gabriel Daniels
Maria Campbell

The first panel was introduced and moderated by Dr. Nathalie Kermaal. The session would help contextualize the court decision, as well as talk about the work of Harry Daniels. Panelists had a close connection to Harry and his work, and so were brought together to recollect those times and the efforts that have gone into Aboriginal rights over the last several decades.



TONY BELCOURT

Tony Belcourt has long been a Métis leader and activist. Born at Lac Ste. Anne in Alberta, he founded both the Native Council of Canada and the Métis Nation of Ontario, serving on

both organizations. His work helped shape recognition of Métis in the *Constitution Act of 1982*, he contributed to Meech Lake, and he advocated in the *R. v. Powley* Supreme Court of Canada decision.



Among many other awards, Tony was named as an Officer of the Order of Canada in 2013.

∞

What brought it on- and did we get what we wanted?

Tony began with a short anecdote about Harry Daniels in recognition of the great man.

His presentation connected to the *Daniels* case from a personal perspective- that is, growing up and being very active in the Métis community, before the *Constitution Act of 1982*. Federal recognition of Treaty and Aboriginal rights were not acknowledged back then.

Throughout the 1960s, he was heavily involved with Métis rights. Learning more about government responsibility through the *Constitution Act 1867*, and federal and provincial powers, he recognized in section 91(24) that federal responsibility included Indians and lands. There had been a 1939 Supreme Court case, *R. v. Eskimo*, where Quebec had succeeded in telling the Federal Government that the Eskimos (now Inuit) of Northern Quebec were Indians and therefore fell under federal jurisdiction. The Supreme Court of Canada agreed. Seeing this, Tony realized that the way forward for the Métis was to approach Ottawa through that window of section 91(24).

He and other Métis leaders established a plan to create an organization based in Ottawa: The Native Council of Canada, representing both Métis and non-status Indians. Priority issues for the organization would include lands, poverty, racism, and housing. Section 91(24) was identified as a way to provide support for these problems.

Difficulties arose while advocating for the cause- issues like securing funds, challenging people’s perspectives, and meeting with decision-makers. During a conversation about the availability of federal resources for Indians, with a representative from the National Indian Brotherhood, Tony observed: *Ottawa is not a loaf of bread. Ottawa is a bakery. And you’re not getting your fair share. And we’re not getting anything.*

Recognition under section 91(24) was vital to the work being done, and getting representation within the federal Department of Indian and Northern Affairs seemed to be the best route. The Federal Government continued to fight back, refuting legal responsibility over the Métis despite recognition in the Constitution.

Harry had no choice but to take the Federal Government to court. Did we succeed and did we get what we want? Not yet, but the opportunity is there... [The] Daniels decision is a critical catalyst for us eventually getting what we want.

ELMER GHOSTKEEPER

Elmer Ghostkeeper was born on the Paddle Prairie Métis Settlement, and went on to get a Master of Arts degree from the University of Alberta. He was elected into several Métis leadership roles, and as such was a part of the negotiations to have Métis recognized as

Aboriginal peoples in Canada. He continues to work in community service roles.

Elmer and Harry Daniels were both leaders on Aboriginal rights in federal and provincial settings back in the day. They travelled around to New Zealand and Australia learning more about the government structures of other mixed cultures.



∞

Threading the Constitutional Needle with the Sinew of Métis Land and Métis Nation Government

In the early 20th century, the Métis were left in a precarious position- living on road allowance and public lands, with poor health and housing. Community members came together, establishing what would build into Métis nationalism and organization- creating a collective constitution. At its heart was land, governance, and economic & social growth.

In the 1930s the Ewing Commission was established by the provincial government to respond to growing Métis pressure. Land was sought to satisfy resource needs, and with a change in provincial government came the *Métis Population Betterment Act*. Whether this constitutes a Métis treaty, as an agreement between the Crown and its people, is still under debate.

The provincial government gained responsibility for the Métis people, and as such, the *Betterment Act* can be considered legally-binding, according to Elmer. It was negotiated and agreed upon under both

English and Cree understandings of partnership.

The *Daniels* decision does not make Métis Indians, as they continue to be a distinct culture with distinct treaty rights.

The decision does not invalidate Métis provincial legislation, and confirms that the Crown owes a fiduciary right to Métis and the right to be consulted and accommodated.

During negotiations to establish Métis as Aboriginal peoples, there was an attempt to legally define who the Métis were. The leaders involved were quick to put a stop to that. *There is no question that we know who we are.* The *Daniels* decision, then, is about bringing the Crown to the table for negotiations on Métis land claims.

GABRIEL DANIELS

Gabriel Daniel's presentation started out with an acknowledgement to his father, Harry Daniels, and to those who were on the panel and knew the great man.

∞

Harry Daniels and the Daniels case: A son's perspective on the man, his legacy and vision for a united Métis Nation

Despite his work gaining recognition in the Constitution Harry Daniels never felt it was enough, so Gabriel was more than willing to step in after Harry's passing, knowing what it meant in terms of uniting the Métis people. There are challenges to unification now, as people are discriminating against others based on Red River heritage. Communities should be more welcoming.

... the government does a good enough job of keeping us apart

and we don't need to do their work for them.

During the Supreme Court hearing, there were Métis there who were intervening, going against this idea of trying to bring people together, to make the communities better.

Gabriel explained that his name was attached to the case as a way to fulfil his father's legacy- to negotiate for land and to bring people together. *We are more than the Red River.*



MARIA CAMPBELL

An accomplished author, playwright, filmmaker and researcher, Maria Campbell has worked in areas of violence against women and children, and works for the Centre for World Indigenous Law at the University of Saskatchewan. She has numerous elite awards, including as an Officer of the Order of Canada.

∞

Opening her presentation with heartfelt words about Harry Daniels, Maria spoke on the importance of family connections during their time advocating and building support while working for the Métis Association of Alberta in the 1960s.

Maria shared personal stories from her past, such as her first encounter with Harry on the day she was fired from her job; Harry had been hired as her replacement. In astonishment, his great generosity and kindness was exemplified when he chose to

share his pay with Maria until she found further work.



Leadership is not an easy task, and Harry did so much for the communities while his family dealt with a lot of challenges. Gratitude to them should not be forgotten. Harry was a natural

leader, along with many of the other great men during that time who were fighting hard to obtain lands that could be called their own.

The desire and need for land has long been discussed among Métis, above that of identity. But, *what is wrong with many tribes? There is Métis from Red River, but what is wrong with Métis from someplace else?* Identity is about lived-experience, and community; living off the land. People need to stop thinking in colonial, Western, terms.

QUESTIONS, ANSWERS & COMMENTS

Lorne Ladouceur, Buffalo Lake Métis Settlement: Learning more about the history shows that Harry and his friends were like Louis Riel: passionate and kind. *We are all Métis, and it does not just go from the Red River Manitoba.* We can't let the government weaken our own communities.

Gabriel Daniels (Response): Relying on strict regional criteria is not helpful. But there does need to be particular guidelines to avoid more cases like Joseph Boyden.

Lorne Ladouceur: *If you have North American Indian and European blood, you are Métis.*

Dan Cardinal, VP with Region 1: *What does section 91(24) mean for the Métis people?* Questions are developing in the north about the application of this section to the people.

Tony Belcourt (R): Recognition as an individual in need of federal social services is one thing, but recognition as an entire people who have been ignored is quite another. Land is a very important priority in future agreements and negotiations, as is self-governance, and these will be brought to the table.

Gabriel Daniels (R): It comes down to land. With section 91(24), the Federal Government has a legal obligation to listen.

Kim Beaudin, VP of the Congress of Aboriginal Peoples: Only a few mentions have been made about non-status Indians, but they cannot be forgotten or ignored. There are too many attempts to divide everybody already.

Tony Belcourt (R): My work has been representative of non-Status Indians in the past, but there were difficulties in trying to work for Métis and non-Status Indians at the same time. It seemed better to split in order to focus on the unique needs and demands of each group. There were enough Métis organizations in Canada to get the attention of the Federal Government. Those who are non-Status need to do the same: be clear about who they are and what they want to discuss.

It's about, as Indigenous people, what is rightfully ours. And what we want to leave for future generations. So, we work together to help each other, but we have to be clear about who we are, what we want, and who we represent and establish our legitimacy.

Elmer Ghostkeeper (R): There is a long history to political division. During

negotiations of section 35 with federal ministers there were 2 seats each allotted to Indian, Inuit and Métis representatives. The Native Council of Canada had recently undergone internal changes, resulting in a non-Status President and Vice President. These individuals were going to be sitting in as Métis representatives, so the Métis chose to start a new organization, eventually becoming the Métis National Council, a group that *truly represented the Métis at constitutional talks.*

Maria Campbell (R): There have long been treaties between Aboriginal groups as a way of working together and supporting each other as Indigenous peoples on particular issues. But,

I believe that Métis people have to be alone in an organization, just like I believe that non-status Indians need to organize and speak for themselves... I also think that's true of First Nations people. But I also believe that there are some things today- like the suicides in our communities and the missing and murdered Aboriginal women... that we should all stand up together on and speak against.

Canada broke up families to try and deal with Indigenous people. Resources that could go to communities gets lost when there's infighting. The youth should be communicating with the older generation to learn histories and to find paths. *We have wasted so much money on lawyers and taking each other to court that it just makes you crazy. We could have bought our land by now.* That is what Harry and Louis were working on. *Daniels* says that the Métis are now Indians, and can negotiate for land.

Gabriel Daniels (R): Nobody should be left out, and this case ensures that. There is an immediate need now for people to get

organized and start talking, rather than pointing fingers and forming a hierarchy of Métis-ness.

Garry Bailey, NWT Métis Nation: We are Métis, and we recognize our ancestry. *Daniels* is limited to programs and services, but getting land can come through Métis identity as Aboriginal peoples. Métis was a title given by the government (rather than the more commonly used term "half-breed"). *It's good to hear what people are saying here, that we are all one, whether you are tied to Louis Riel or Red River or not. Bottom line, we are Métis people.*

PANEL 2: POLITICAL RESPONSES

Participants: Dr. Shalene Jobin (moderator)
Gerald Cunningham
Will Goodon

The second panel was introduced by Dr. Shalene Jobin, Associate Professor at the Faculty of Native Studies at the University of Alberta. Margaret Froh, President of the Métis Nation of Ontario, had been scheduled as a contributor to this panel but was unable to make it in the end.

The session would speak to the political responses to the *Daniels* decision, and how political leaders can use it to move forward on issues like land claims.

GERALD CUNNINGHAM

Métisland: Métis Settlements and the Daniels Decision

Gerald Cunningham is the President of the Métis Settlements General Council (MSGC). He has long been a leader in his community.

This presentation focused on the MSGC's involvement in the court case, and its role going forward to advance Métis rights.



The presentation began with a brief history of



the Métis Settlements: families going west after the Battle of Batoche and setting up

the colony of St. Paul in Alberta. Officials, however, declared the colony a failure. Métis families were considered unable to adapt to agricultural development, and so the lands were made public for homesteading. The Métis were forced out and many became Road Allowance People. Individuals began to organize, and by the 1930s the Métis Association of Alberta and the Northwest had been created to represent the Métis and their demands.

The efforts of these individuals, notably the Famous Five, helped lead to the government of Alberta's Ewing Commission, addressing some of the issues that affected the Métis populations. After that came the *Métis Betterment Act*, which resulted in some improvements, but provided no protection for lands.

After four colonies were taken back by the government, political leaders set up the Alberta Federation of Métis Settlements to negotiate agreements between the Métis and the Alberta Government.

Throughout our unique history, gifted to us by our ancestors, we have always pursued our goals of autonomy, self-reliance and self-government.

The *Daniels* decision is a great accomplishment for Métis and Indigenous peoples in Canada. The Métis Settlements General Council intervened during the court

case to try and advance ideas around guarding the validity of provincial legislation, preventing too narrow a definition of Métis, and Métis rights to define themselves. The Council's top priority is to recognize and protect lands, and this decision provides opportunities for engagement.

As the important work is done to determine the outcome of Daniels, it should not be forgotten that real people are impacted in real ways.

The *Daniels* decision does not strip or create Métis identity, but gives Canada primary jurisdiction on Métis issues. The Métis Settlements General Council is the only political body uniquely representing Alberta Métis settlement land, though efforts are being made to increase consultation and partnership with off-settlement Métis organizations on common issues. Hopefully the Crown honors its commitment to a renewed relationship with all Indigenous peoples, equally.

WILL GOODON

Elected to the Métis government and working with the Manitoba Métis Federation (MMF), Will Goodon became a provincial board member for the southwest region.

With a uniquely Manitoban perspective, Will spoke about the legal and political context of the *Daniels* decision.



How *Daniels* relates to MMF land claims, and how the *Powley* case plays into this, are important both legally and politically. However, there are and have been many cases and agreements that have been happening around these issues too, including the Kelowna Accord, UNDRIP, TRC, and the Manitoba Métis Policy, among others. Terms

like “partner” and “reconciliation” have become common language in these documents, but there is a serious division in these relations between the Manitoba Métis and the Crown.

Section 91(24) is about the Crown’s relationship with Canada’s Aboriginal people, and even the *Daniels* decision stated that

it would be constitutionally anomalous for the Métis to be the only Aboriginal people to be recognized in section 35 yet excluded from 91(24).

Métis are distinct, and Métis of the Red River Settlement are a distinct community.

So, from a Manitoba perspective, *Daniels* means that Canada holds jurisdiction and responsibility over Métis issues. The MMF is working hard on negotiations, as are other Métis groups in other provinces. These are important. We need to ensure the current Liberal government of Canada is including the Métis Nation as a unique group for future negotiations.

QUESTIONS, ANSWERS & COMMENTS



Joe Blyan, Buffalo Lake Métis

Settlement: The history of the Settlements is important; it gave people a chance to come together. There is so much internal division now. Young people are more eager to split groups and focus on politics, but there are

problems with the election process. Métis organizations in Alberta just aren’t working together well enough to represent everybody.

Blake Desjarlais, Métis Settlements

General Council: Democracy is a challenge, and organizations are working on these issues. *We want to be able to protect our land and our local economic self-sufficiencies, and our local autonomy. And what that means... is finding structures that can support those goals.* Work is being done to empower settlement members in areas that matter to them.

Bill Enge, President of North Slave Lake

Alliance: A thank you is due to Harry Daniels and his work, and people like Tony Belcourt, and Will Goodon who deliberately challenged the Canadian government on Métis hunting rights. There is a current land claim negotiation going on between the MMF and the Crown for 1 million acres of land. What grounds is the Crown basing their negotiations on (e.g. Aboriginal Title)? From *Daniels*, the Crown has a duty to negotiate with Métis on land, but it’s unclear on what basis they are doing this.

Will Goodon (Response): Negotiations are based on a constitutional agreement that we consider a treaty between Métis and the Government of Canada. The case claimed that obligations were not met. Title does have a part in this, based on section 31.

Bruce Bearing, Buffalo Métis Settlement:

Is it the policy and formal position of the Métis Settlements General Council that any new members should only be those of existing families living on settlements?

Blake Desjarlais (R): There is no membership or migration policy- each settlement deals with this differently, but the Métis Settlements General Council is trying to create one policy for all settlements. There are still on-going discussions with communities, however.

LUNCH KEYNOTE: THOMAS ISAAC

A prominent lawyer in areas of Aboriginal law, Thomas Isaac has represented clients at various court levels across Canada, and has worked with Canadian governments, notably as a Special Representative at the provincial and federal level.

Thomas examined his recent report, *A Matter of National and Constitutional Import (2016)*, and its relevance to *Daniels*, and emphasized the role of Métis inclusion in reconciliation efforts.

∞

Métis Rights, Daniels, and Reconciliation



There has already been advancement in case law around Métis issues over the last few years, such as the Manitoba Métis Federation decision in 2013 that developed on section 35 terms. Thomas was appointed as the Special Representative to look into that issue on behalf of the Government of Canada back in 2015.

The ultimate objective of his report, besides providing the government with recommendations that could be acted upon, was to support moving forward with reconciliation. This was a key element to the work, as many Métis institutions and leaders

have already put forward practical actions for development. What mattered for the government was its overall objective of reconciliation.

Several themes emerged in the report: education, law, distinctiveness, and funding allocation.

Initial research-based discussions demonstrated a widespread misunderstanding of section 35. There was clearly *a huge knowledge gap between what [the law] is and what [the government] thought the law to be*. A vital recommendation, then, is the need for far-reaching education about section 35 and Métis culture & history. Despite countless misconceptions, a lot of visible work has gone towards education and challenging these false ideas over the last year and a half, which is something that needs to continue.

This report was an attempt to bring the Constitution into focus and demonstrate that Métis are to be treated equally by the Crown under section 35; there is no hierarchy of rights in the law.

We are still in the infancy of understanding rights fully under section 35, and understanding the nature of Métis claims under section 35.

Canada needs to work on procedures to build governance structures that reflect its people, and allow for identity development rather than restriction. Métis should be considered distinct from other Aboriginal groups in Canada, and genuine reconciliation means the Crown needs to acknowledge and act on this. *Daniels* acknowledged that Métis are a recognizable group for legislation purposes. It provided clearer jurisdiction, while maintaining that provincial laws continue to be applicable.

Daniels raises fundamental issues of identity, responsibility, reconciliation, and what it means to be Indigenous in Canada.

Equitable allocation of federal funding amongst Aboriginal peoples in areas of programming and service is a key concern. There is, however, a need to acknowledge that the Métis do not receive adequate funding distinct to their needs. If the government is able to end hierarchical distribution of funding, this decision can greatly impact support to Métis organizations. Real reconciliation is an opportunity this country can't afford to miss, and we need concrete outcomes and actions to work with in order to achieve it.

QUESTIONS, ANSWERS & COMMENTS

Audience Member: My Northern Alberta community consulted with the Crown and were notified that their shared discussions were not considered pertinent. We were able to quote Thomas Isaac's report around perceived hierarchies of rights, successfully contending that the community may not have been properly consulted with.

Kim Beaudin, Congress of Aboriginal Peoples: If the government enfranchises a whole band that has been disenfranchised from the *Indian Act*, would they still be on the Act's registry, and how does this affect their descendants?

Thomas Isaac (Response): A very interesting question, but the answer is unknown at the moment.

Vernon, Kelowna: Are government officials successfully working towards removing colonial attitudes at the federal and provincial levels?

Thomas Isaac (R): There are a lot of challenges for the government, and one is the current absence of a sustainable public policy approach to these issues. Federal election cycles challenge the ability to move forward. Reconciliation requires truth in the matters, and truthful dialogue is key- but politics does not make this a straightforward approach. We need policy that will go beyond politics.

Bill Enge, President of the North Slave Lake Alliance: The Métis rely heavily on consultation to preserve section 35 rights. What is the difference between consultation and negotiation? To us, negotiation means recognition, dialogue, and resolution.

Thomas Isaac (R): The duty to negotiate stems from consultation processes when section 35 rights are applied- whether that comes from the assertion of a right, or the infringement of a right. The use of language by courts is very deliberate and can be significant.

PANEL 3: PROMISES & PITFALLS OF *DANIELS*

Participants: Dr. Daniel Voth (moderator)
Dr. D'Arcy Vermette
Dr. Darryl Leroux
Dr. Adam Gaudry

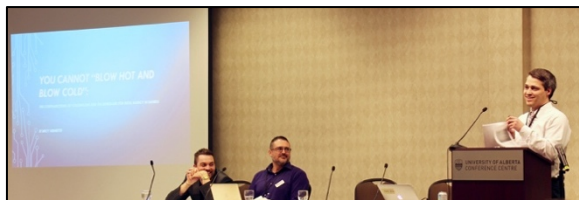
The third panel focused on several different issues that have emerged since the *Daniels* decision.

Jason Madden, a Métis lawyer based in Ontario, was scheduled to participate in this panel but was unable to make it to the conference in the end.

DR. D'ARCY VERMETTE

An Assistant Professor and Associate Dean of Research in the Faculty of Native Studies at the University of Alberta, Dr. D'Arcy Vermette studies Métis and treaty issues.

D'Arcy's presentation centered on language usage versus duty & action.



∞

The *Daniels* decision is missing Métis agency. Reading the final court statement, it is apparent that community was absent during the decision-making, and rather, they were *decided upon*. Referring back to the case of *R. v. Tronson* (1932), D'Arcy described how this particular case was meant to determine whether, and how, an individual is considered white or Indian. Unfortunately, governments continue to interpret law through a colonial lens, despite this endless need for Aboriginal people to adapt themselves socially and culturally in order to navigate irregular and changing laws. *Daniels* is no different. The Crown has categorized Métis now: it has determined a definition for a people, without taking those people into account.

During the *Daniels* decision, the court spoke of the significance of Métis people in helping to shape the nation and in developing the constitutional composition. This discussion is not included in the final legal decision, however; it will be forgotten over time when people look back at *Daniels*. So much time and effort has been put into trying to erase Métis history. But the importance of reconciliation means that they are trying to include Métis history, while remaining at arm's length. Fiduciary duty has not previously been incorporated into the legal relationship between Crown and Métis, but the rhetoric is preserved through reconciliation discussions.

Historical record matters, and seeing how judgments lead to particular decisions will be accessible for generations to come. What's important going forward is ensuring that Aboriginal people are noticeably involved and documented in the decision making.

DR. DARRYL LEROUX

An Associate Professor of Sociology at St. Mary's University, Calgary, Dr. Darryl Leroux is a white Settler whose ancestors were among the first Europeans to colonize the area now known as the St. Lawrence River Valley.

∞

'Les Métis de l'Est': Outlining the Intellectual Currents at the Basis of 'Métis' Self-Identification in Quebec

Since the *Powley* decision in 2003, there have been over two dozen new Métis organizations formed in Eastern Canada, and from this, a new area for academic research. Three main themes have emerged from this new research:

1. An alternative ethnogenesis narrative
2. French-English language politics
3. The 'disappearance thesis'

The first theme focuses on origin stories. One of the new organizations describes Métis origins starting from the St. Lawrence River Valley, crossing what is now Ontario and Quebec. Families emigrated Westward to Riel's Métis nation, away from political restrictions in Lower Canada. The organization does not have authentic evidence for this, but base their arguments on a poorly researched chart created by Denis Gagnon in the early 2000s. This is the primary support for those who oppose Western Métis claims, and argue instead that Métis identity originates from Quebec. Others claim that Métis origins were established further east in Acadia or Nova Scotia.

The second theme refers to the oppression of Eastern, French-speaking, Métis by Western, English-speaking, Métis. Activists talk of language barriers between Western Métis and those who speak French. This could lead to requesting membership to the Métis National Council (as a French Métis) within a French language rights political framework. Since English dominates in the West, the French Métis are looking elsewhere for support, contributing to communities citing French Canadian origins. Similar issues are being examined in other Indigenous communities across Canada.

Lastly, the ‘disappearance thesis’ can be used as a claim to establish a new group of Métis Indians. Communities cease to exist due to intermixing with other peoples, or they develop a new line of peoples. The most widely discussed example of this is the Innu people in northern Quebec and Labrador. Though many do criticize this thesis, it lurks in the background of this particular issue.

Court cases are using reports, such as the Bagot Report from 1844, to inaccurately claim Quebecois Métis identity based on mixed-race kinships in community villages. Research is limited by these false representations, that is, *the use of European, white settler and/or Eurocentric thinkers to explain Indigenous life, past and present.*

DR. ADAM GAUDRY

Dr. Adam Gaudry is an Assistant Professor in both the Faculty of Native Studies and the Department of Political Science at the University of Alberta. His research explores Métis political thought.

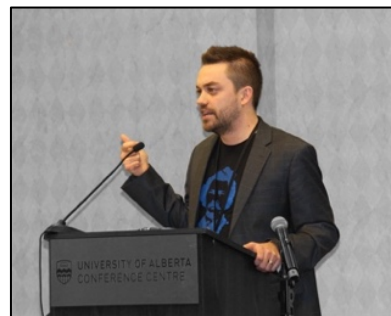
∞

‘Get your application in!’: Post-Daniels Pitfalls, Self-Identification and the Rush to Become Métis

Looking at the interpretations of *Daniels* and similar historical records, this presentation focused on misconceptions of the decision, and challenges claims made about it. That is, to *look at how a case that sought to clear up jurisdictional responsibility for different levels of government has been reconstructed by some as a Métis rights case...* To be clear: *Daniels* was concerned with jurisdiction, not rights allocation.

The importance of having a Métis-centered sense of identity and belonging, both in a political and legal sense, is critical. Unfortunately, Canadian governments often have limited experience with this knowledge and with Indigenous communities, and don’t have the proper resources to make the decisions that are being asked of them. The solution could be in giving agency to the Métis as a people; those with the greatest ability to determine identity and belonging from collective experiences.

Since the *Powley* case, there have been numerous Métis organizations that have claimed Métis Aboriginal rights through loose ancestral ties. These groups are basing themselves off of generalized mixed-race histories. For them, membership is simple: find evidence of an Indigenous ancestor from any point in history. The Supreme Court’s decision links Métis to the Red River Settlement, but historical kinship networks should alter that term to include the Prairies and beyond.



Increased membership to the Métis nation is part of a larger social trend away from unfulfilled

whiteness, in an attempt to create a personal

link to indigeneity. We're brought back to this idea of 'playing Indian' and the similarities between Canadian Métis in the east, and Cherokee 'race-shifters' in the USA. Rejection from these ancestral tribes can lead to individuals establishing a tribe of their own, a concern for all Indigenous peoples.

Self-identification among Métis creates a new identity construct, and these organizations that have recently been formed are using power to arbitrarily authenticate genealogy. In their eyes, simply being part Native validates becoming Métis - not originating from one community, but from historical mixing. *Daniels* has unfortunately given weight to these identity claims.

The [Daniels] outcome has led multiple groups to declare that they are the true and original possessors of a Métis identity that pre-date our own... They don't see themselves as a part of us as much as they see us as a part of them.

Métis nationhood does not exist in blood or historical mixing, but as part of a living culture and community. They have already determined the answer to "Who is Métis?", to the general satisfaction of the Nation. This collective definition is flexible enough to incorporate dynamic relationships, while preserving a united sense of belonging and history.

The courts failed in taking the opportunity to engage with Métis to make sense of this question of identity, instead taking the view that they are in a position to fill a presumed cultural void. Unfortunately, *Canada has been long hesitant to allow Indigenous communities to manage [their] own affairs and this is the mainstay of Canadian colonialism.* Losing this part of self-determination is common when courts are involved. Within the discussion around respect and reconciliation, non-action

in these matters only sustains colonialism. Rather, supporting Indigenous legal orders and incorporating them into current practice would demonstrate genuine dedication to empowering Indigenous communities, and ensuring a fundamental Indigenous right: to determine who they are.

QUESTIONS, ANSWERS, & COMMENTS

Muriel Stanley Venne, Institute for the Advancement of Aboriginal Women: It's important to talk about the role of women, and their importance in communities. Violations to women's bodies is criminal, especially within this country with our favourable international reputation. We need to be inspired by the TRC and UNDRIP during this challenging time and focus on what we need. We need equal representation for women at events like this one too.



Buffalo Lake Métis Settlement Councillor: Some Métis Settlements don't have the resources to check individual applications for membership. There is no national registry for our people, so how do people prove they are Métis? Each province has different political groups, so how do we determine an acceptable standard of Métis identification?

Adam Gaudry (Response): Panel 6 will address that in more detail. So long as it's

Métis-owned, and not a federal designation, that is the key.

Gabriel Daniels: *Are you for or against the Daniels case?* Will protection be required to manage this increased Métis population?

Adam Gaudry (R): In terms of establishing a relationship between the Métis and the Federal Government, I agree with it. I take issue with Paragraph 17, an area that was determined without fully understanding the context, allowing groups to claim Métis membership. People will misread these decisions in a way that reflects their own issues no matter what. The case *left something open that wasn't open before*.

Tony Belcourt: Discussion is needed on the correlation between *Powley* and *Daniels*, and to determine how they tie in to the larger discussion of Métis identity and belonging. *The courts have no business defining who we are, in any shape or form.* The *Powley* decision resulted in the wrong definition. The MNC can say Métis are from particular historic communities, but what are those? *What is community acceptance? Where does it begin and where does it end, and who gets to decide?* What about the communities that emerged in our more recent history- are they no longer considered Métis because of these court definitions? *I think it's folly for us as a people to say 'We are now going to determine, because of [the Daniels] decision, who may belong to our communities, both at the community and national level'.*

Joe, Buffalo Lake: In the past, Elders have played a role in determining membership. Culture, language and values were taken into consideration. The legal system doesn't allow for this kind of system, even though it works. *If we go back to our traditional ways, we know who we are, and we can identify all the Métis people in the province.*

PANEL 4: JURISPRUDENTIAL CHALLENGES

Participants: Larry Chartrand (moderator)
Dr. Eric Adams
Catherine Bell
Paul Seaman

This panel brought together perspectives on the theoretical challenges and legal implications of the *Daniels* case.

Darren O'Toole, Associate Professor of Law at the University of Ottawa was scheduled to present at this panel, but was ultimately unable to make it to the conference.



DR. ERIC ADAMS

Dr. Eric Adams is a professor at the Faculty of Law at the University of Alberta. He worked as a lawyer in Toronto, and acted for the plaintiffs at the initial legal proceedings for *Daniels*. He noted that his work on the *Daniels* case concluded around 2007, so his position at the Conference was one of a more personal, rather than professional, nature.

∞

History, Jurisdiction, and Identity in Daniels v. Canada

Criticisms of the *Daniels* case so far during panel discussions at the conference have been justified, but the outcome of the case was the only possibly correct decision based on

evidence in court. And hopefully, this decision will help build a framework for reconciliation.

There are three concepts directly impacted by *Daniels*: (1) history, (2) constitutional jurisdiction, and (3) identity & citizenship. *Daniels* created space for Crown recognition, respect, and negotiations with Indigenous populations; it also set the stage for self-determination.

First, that of history. In order to get to the *Daniels* decision, 800 pieces of evidence pulled from 15,000 historical documents were presented over 6 weeks. Determining what the writers of Confederation meant by the term “Indian” was, and is, a difficult challenge. There has also been no consistency in the use and understanding of that term over the course of history. It was established as a way to categorize a complex world that settlers did not understand but wanted to control.

There is a fluidity in the use of race as a means to achieve particular ends by colonizers. The use of the term Indian is no different- it has been used deliberately to advance governments. The concept could expand in order to control many groups, or shrink down to limit the distribution of benefits. This was significant under the *Indian Act*, when the term became more and more restrictive over time.

Daniels does not establish a history of the Métis Nation, despite what some may think. The history involved is the constitutional meaning of section 91(24), and figuring out its original intent. It is important to note that histories of colonialism and origins are independent from this decision.

Secondly is that of constitutional jurisdiction. The Constitution is meant to be a framework to allow governments to exercise legislative authority, rather than re-create history. However, the government’s attempt at thinking they alone could define the

constitutional meaning of Indian is misplaced power.

The *Daniels* decision is perfect, in terms of constitutional jurisdiction: it formalizes that the Federal Government has always had jurisdiction to Indigenous matters. In terms of constitutional law,

it is the only sensible interpretation of the Constitution, when considering its language, its purpose, its context, and the present imperatives that call for national recognition, respect and negotiations... between the Federal Government and Canada’s Indigenous peoples.

Lastly, identity and citizenship should not be constrained by constitutional jurisdiction, which in turn should not be restricted by history.

Daniels did not create a single new Métis person or community. It did not have that impact. Those matters are part of current politics, and should be debated and determined by communities themselves.

We must continue to demand that respecting diversity and the circumstances of individual Indigenous peoples must guide the Crown in its relationship with Indigenous peoples, not a one-size-fits-all approach.

Daniels put the government on the right path to recognize Métis as a constitutional partner. It does not limit respect and recognition- but the courts should not be doing that anyways. That is the challenge that *Daniels* creates, and it now provides an opportunity for people to act on that.

DR. CATHERINE BELL

Dr. Catherine Bell is a professor in the Faculty of Law at the University of Alberta, specializing in Indigenous Law. She has published several books and articles on Aboriginal rights and Métis issues, and in 2012 was awarded the Canadian Bar Association Governor General's Gold Medal for her contributions to the development of law and legal education in Canada.

∞

The Other Declaration in Daniels: Fiduciary Obligations and the Duty to Negotiate

The *Daniels* decision came about from three declarations, of which the first was passed and the remaining two were rejected. Declarations in court are meant to resolve a dispute or clarify a law. The first declaration, that Métis are Indians under section 91(24), was granted because the court saw it had a practical use and would clarify jurisdiction for the Métis. The other two declarations of the case were considered to be settled already by law. This decision to reject those two can affect future policy, and has affected how the *Daniels* decision is interpreted both inside and outside the legal community.

The second declaration, on fiduciary duty, was rejected due to the judge's apparent blending of fiduciary duty and fiduciary relationships. The Crown's duty to *consult* (which is context-specific) gets mixed in with a duty to *negotiate* (which is broader, and covers rights and claims). Though the court did not grant this declaration, the judge's statement can be interpreted as confirmation that governments have a fiduciary relationship, which includes a duty to act in the best interests of Métis and non-status Indians (addressed in both the *Manitoba Métis Federation* decision and the *Haida* case).

The confusion around fiduciary duty & relationship is important when considering how *Daniels* has been interpreted. Fiduciary duty does not automatically lead to equality of treatment. The inclusion of Métis within section 91(24) does not mean that the Métis are entitled to the same rights and treatment as other First Nation and Inuit peoples, and it does not guarantee equity. There is a strong argument for equality, however, especially when *Daniels* is taken into consideration alongside other legal cases.

The third declaration, on negotiation, was rejected as it was determined to have been addressed by the *Powley* decision and would therefore be a re-assertion of existing law. However, it is not clear whether the judge was referring to the specific duty to consult, or to a broader duty to negotiate. Interpretations of *Daniels* exist because the Supreme Court of Canada has used these terms interchangeably.

To clarify uncertainty around provincial and federal jurisdiction, although Métis fall under section 91(24), provincial negotiations with the community are still valid, so Métis Settlements are under no threat from the *Daniels* decision. That being said, the Federal Government should come forward and protect Métis land under the Constitution in order to secure it for the Métis Nation.

Finally, there is no single legal definition of Métis that can be used in all courts and contexts. It is notable that there are still debates going on about the definition within communities too.

PAUL SEAMAN

Paul Seaman is an associate lawyer with Gowlings WLG where he practices Aboriginal and Environmental law. He works extensively

on issues around duty to consult between community, industry and government groups. During the *Daniels* case, he acted as an intervenor on behalf of Gift Lakes Métis Settlement.

∞

The result of the *Powley* case, essentially defining a community and its individuals, has given the government a sense of power in having the right to establish this type of classification. At the same time, the court has claimed that it does not want to be put in a position that would determine Métis identity. *Powley* states that Métis claims and identity will have to be determined on a case-by-case basis. But, *we need to have a better idea of who is entitled to deal with the Crown on relevant issues, and this simply has not come out of any of the existing case law*. There is clearly some doubt around what a Métis collective really is, for the purpose of section 35 rights, which is significant when using it for legal cases.

For section 35, acceptance by a community is foundational to being a rights holder. Whereas in section 91(24), which is about the Federal Government's relationship with Indigenous peoples, those who may no longer have connections to their communities are included. However, this suggests that those with tenuous links would otherwise be unable to re-connect with their Métis community, and re-establish that link as a section 35 Métis rights holder. This government suggestion only encourages a colonial view of assimilation and victory. Then again, can those who are disconnected from communities be regarded as Métis under section 91(24), and what purpose would this serve? These are questions that deserve consideration.

QUESTIONS, ANSWERS, & COMMENTS

Métis Settlement Councillor: Clarification is requested around an earlier suggestion from a presenter that under section 35, Métis Settlements could be removed by provincial government.

Catherine Bell (Response): There was an attempt to have settlements protected under the Canadian Constitution, but instead an amendment to Alberta's Constitution was made to secure land and government. There is legal uncertainty as to whether this amendment can bind future provincial governments, but many lawyers are confident it can. The aim is to get it under the Canadian Constitution for long term protection, but so far this has proven difficult.

Garry Bailey, NWT Métis Nation: *I think it's important to know what everybody else is doing... It is really all about our inherent right to self-govern ourselves and own land as well.*

Peace River leader: There is too much internal fighting amongst the Métis people. *Why are we fighting each other? Why are we doing what the government wants?* Métis people need to band together, move forward, and support each other. There will be differences among individuals, but there are still connections. These issues can't be argued for generations over- there needs to be action taken and decisions made.

Kim Beaudin, Congress of Aboriginal Peoples: Does the Federal Government represent off-reserve people who have no connection to their bands? And how will bills like Bill C-31 and Bill C-3 impact Métis in this country?

Paul Seaman (R): *We need to get beyond the Indian Act and not continue to extend... these kinds of things.* By removing the section on enfranchisement, those who are registered

cannot be removed from the list. Now there is a new category of people who can register, and who are perhaps not truly First Nations, who may need access to things that status will provide but that may prevent them from claiming to be Métis.

Audience member: To identify as Métis, we had to come from an Indian. We have fought a long time for equality. Let's not *make the same mistake that they made: genocide*. Blood quantum should not matter to be Métis- what matters is culture and practice. ... *we are trying to move forward, all of us, as different groups*. Our struggle in this country will go on for a long time- it's been going on a long time already. *We identify ourselves how we want to identify ourselves*.

∞

DAY 3: JANUARY 28 2017

The third and final day of the conference opened with another blessing by Elmer Ghostkeeper, spoken in Bushland Cree. It transitioned straight into a full day of panels and discussions.

PANEL 5: ALL MY RELATIONS
(IDENTITY AND INDIGENEITY)

Participants: Dr. Adam Gaudry (moderator)
Dr. Robert Innes
Harold Robinson
Rick Smith
Jessica Kolopenuk

This first panel of the day focused on how people relate to one another, and how others define themselves.

DR. ROBERT INNES

Dr. Rob Innes is a member of Cowessess First Nation, and an Associate Professor in the Department of Indigenous Studies at the University of Saskatchewan.

∞

Kinship vs. Race: Reconciling Métis-First Nations Historical Relations

The differences between Métis and First Nations have long been emphasized, creating a cultural and racial distinction between peoples. Colonial tools have shaped this separation so well that even Indigenous people believe it to be true, rather than seeing cultural similarities.

Interestingly, the concept of race has not been applied to First Nations in the same way that it affects Métis, despite the presence of similar mixed ancestry and the incorporation of certain European practices. Political organizations can be blamed for highlighting

the racial component to identity, when in fact Indigenous communities have many cultural similarities, such as kinship. Métis people are not only Indigenous based on heritage alone, but also because they incorporate historical cultural practices and beliefs into their own.

Historically, First Nation-Métis tension can be distinguished by an absence of battle between groups (notably Plains Cree, Saulteaux and Assiniboine). First Nations certainly fought other First Nations groups, but they never seem to have waged war on the Métis, despite evidence of friction between the two (for example, around Métis buffalo hunting practices). It would appear that First Nations treated the Métis differently to the way they treated other First Nations groups, and that there was a form of relationship between the Métis and these other groups: that of kinship.

There was a high rate of intermarriage between the Métis and First Nations, which led to the inclusion of Métis during Treaty negotiations. However, if the government refused to accept Métis inclusion, community members merely joined their relatives within recognized bands. Despite a unique Métis culture, there were enough similarities with Indigenous culture that they could join other nations without much difficulty, or that Europeans could easily be incorporated into their own family networks. This fluidity leaves *little doubt that the presence of Métis added a certain complexity to understanding intra-Indigenous relations.*

Race and Métis are inextricably linked in discourse, with Métis being considered cultural brokers straddling both Indigenous and European cultures. This position can just as easily be held by other First Nations groups, yet for some reason they have not been considered in the same way, and neither have they been demoted in their “indigeneity” for incorporating various European practices or having mixed heritage.

Many historians have emphasized the European-ness of Métis, while ignoring their indigeneity, reinforcing the idea of Métis as racially and culturally distinct from First Nations.

If it were just about blood, discussions would not be concerned with eastern Canadians as Métis, but rather about Cree as Métis.

HAROLD ROBINSON



Harold Robinson is a Métis lawyer and mediator from Edmonton, Alberta. He sits on the Métis Settlements Appeal Tribunal, and contributes to the Canadian Human Rights Commission.

The presentation offered a series of agenda items for the Métis nation to take forward, based on the *Daniels* decision.



By granting the first declaration that Métis fall under the federal head of power... the Supreme Court reunites Canada and Métis people with one another. In their view, this is the first step toward reconciliation.

However, the court's decision to reject the second and third declarations suggests that reparation will be delayed. Challenges exist going forward as Canada recognizes that it has abused the Métis, through an awkward "you broke it, you bought it" form of awareness that continues to this day.

The agenda outline presented is based on practical utility, as well as dialogue, relationship and resolve. Items are all grounded in the need to heal from the wounds of residential schools in order to eventually gain strength in programming and partnership.

The first agenda item is to set up centers of reconciliation. This is a call to everybody who has the capacity to do so, and a response to part of the TRC. The second item is to negotiate a residential school agreement that is centered on Métis, recognizing how the institution affected communities directly. Number three is a call to 'Make it Awkward', a take on a recent Edmonton campaign to confront offensive or racist attitudes in the city. This year marks Canada's 150th year, and it is important for people to be aware that John A. MacDonald, the first Prime Minister of Canada following Confederation, was racist towards Indigenous peoples. His policies and practices were an attempt to eradicate Indigenous culture. *That Canada and Métis leaders should now 'Make It Awkward' for John A. MacDonald is important, because his words are still hurtful.* The final agenda item is a request for the government to support scholarship funds and post-secondary education as a growth strategy. Métis children who get advanced education help to close the socio-economic gap, and are in demand during this time of important dialogue and discussion.

RICK SMITH

A doctoral candidate in the Department of Anthropology at the University of Texas, Rick Smith's research focuses on molecular biology and social anthropology to explore how different forces interact to create bodies and identities.

This presentation focused on DNA science and its use by settlers who claim indigeneity,

similar to Kim TallBear's Keynote presentation on Day 1 of the conference, with an emphasis on American contexts.

∞

All My Relations: Making Kin and Kindred in a Postgenomic World

Genetics has become an increasingly challenging subject within identity and belonging, especially settler claims of indigeneity and the legal repercussions that stem from these claims. *More than 2 million people have already participated in genetic ancestry testing from three companies alone.* The problem is that complex relations cannot be tested genetically, despite claims by these companies to be able to find ethnic identities, tribal affiliations, or geographic origins.

There are various forms of testing on the market: mitochondrial (matrilineal descent), Y chromosome (patrilineal descent), and nuclear genome testing (DNA inherited by both matri- and patri-lineal genetics). This last is a more advanced form of testing, resulting in somewhat ambiguous results.

For these genome tests, geographic origins are determined based on matching sequences of DNA with those found in clusters within a database. This can be highly misrepresentative of realities when considering historical migration, the genetic material used for testing, or the use of a small database with which to position results. All told, these tests will never produce the same result twice.

DNA and genetic ancestry, *this... process of scientists making decisions about who counts as Indigenous, have contributed to the materialization of Indigenous bodies... And these misconceptions about what counts as Indigenous are the very foundation on which settler possession of Indigenous identities... has unfolded within recent decades.* Kinship

and membership alter this relationship drastically, however, as Indigenous DNA ancestry becomes varied and complex. It is social belonging and membership that creates indigeneity, with DNA only one small part of the mix.

The presentation concluded with an image of two DNA ancestry results. One was that of an Indigenous man, while the other was Rick's own. The sequences were both very similar, with the results placing both in highly European ancestry clusters. However, the realities of these two men are vastly different. DNA does not take into account material, social and political histories of individuals and communities. The Indigenous man lived as a claimed community member growing up on a reservation, while Rick grew up in a distinctly different environment on a farm in Texas. Though their results are similar, the DNA does not capture social and material relations. Identity cannot be based solely on DNA sequencing; settlers claiming Indigenous ancestry are in fact imposing colonial forms of social relations onto others.

JESSICA KOLOPENUK

Descended from Chief Peguis' people (Cree and Anishinaabe) from the Red River region, and specializing in political theory and Indigenous nationhood, Jessica Kolopenuk is a PhD candidate in the Department of Political Science at the University of Victoria in British Columbia.

Drawing on works by (earlier presenters) Dr. Chris Andersen, Dr. Adam Gaudry, and Dr. Darryl Leroux, Jessica summarized current academic research on Métis identity based on genetics rather than social belonging.

∞

***Ancestry, Genes, and a Colony Chief:
Peguis' People and the Red River Métis***

A review of the *Daniels* and *Powley* decisions shows that Métis identity is not based on the language of genetics, but rather about connections to an historic Métis community. A dependence on genetics has not crossed into Canadian legal interpretations of indigeneity, though it certainly is a racialized subject.

It would seem, then, that *definitions of Métis identity that rely on... generic or vague racial mixed-ness racialize the Indigenous ancestors of Métis people homogenously as Indians, and it erases the... relationships out of which Métis genealogies and communities emerged.*

Recognizing Métis peoples based on blood-mixing limits possibilities and peoplehood. It is apparent that

seeing us as a race rather than... humans with a capacity for political sovereignty and governance has typically shaped the colonial treatment of Indigenous peoples in Canada.

Racialization of Métis distracts from inter-nation relationships, and the historical origins of the Métis Nation at Red River. It also depreciates other Indigenous groups, like the Peguis First Nation: once the largest band at Red River, and the only one to oversee one of the parishes in the Red River Settlement. Ancestral kinship bonds likely tied Peguis' people with the Métis, but they maintained political distinctiveness during negotiation with the government that led to the *Manitoba Act*.

The Peguis First Nation is made up of Cree and Anishinaabe peoples. Chief Peguis led approximately 200 Saukteaux from Ontario up to Manitoba, establishing an alliance with the Assiniboine. Cultivating over 2,000 acres of land around what is now Winnipeg, Peguis

and his people welcomed and supported Selkirk settlers, forming a strong relationship. He offered support to the colony during the Battle of the Seven Oaks, continuing to dismiss the Métis, which led to the Selkirk Treaty in 1817. Tensions grew between the Métis and the Peguis First Nation, and both Nations refused to claim the other during the Red River resistance.

So, while administrative processes hardened colonial categorization of Indian and 'Half-Breed', these types of categories had been in existence already through band relationships and history.

Despite the influence of Peguis and his peoples, they have been ignored in Red River histories. But historians must ask: what if they hadn't helped the settlers, and had banded together with the Métis? The history of Manitoba would likely be altered. Inter-nation relationships were strained during colonization as groups and individuals had to determine which relationships would benefit their people best.

Shared ancestry then does not indicate close kinship relationships. Métis identity based on mixed ancestry should require more specifics to who they are claiming kin with, *because our shared ancestry has not always meant that we have acted like family.*

**QUESTIONS, ANSWERS, &
COMMENTS****Jack Boucher, Buffalo Lake Métis**

Settlement: Kinship is important in how we come together. In the past, membership came from acceptance by the community itself, whereas now it is more political. Membership requires history, paperwork, and analysis. So, to clarify for outsiders, *what happens at the settlement level when you say 'no' to a person who has applied for membership in a Métis*

settlement? Especially for those who arrive from outside Alberta?

Harold Robinson (Response): Legislation is structured to require proof of Métis identity, but there is also a socioeconomic element. Decisions can be made based on land availability or funding, which is not reflected by this legislation. Some people who are declined can feel they're being told they are not Métis, which is not really the case, so there is a need to expand legislation to incorporate separation of resource availability and acceptance of identity into the decision-making process. There is a 5-year residency requirement for those from outside Alberta, in addition to several key pieces of evidence, so there is a discussion that occurs. A General Council policy could perhaps provide a better legislative structure for all Métis settlements though.

Walter, Grand Prairie: What are the chances that the US Government would start using science as a means to classify membership of ethnic or racial groups? Can somebody prove Indigenous inheritance from DNA testing? What error rates do these results show when re-tested?

Rick Smith (R): It is possible to imagine a future where DNA can be the basis for discrimination- it has happened before. Proving indigeneity from DNA alone is not sufficient, but some groups value different elements when claiming identity. Many factors need to be considered to contextualize the DNA sample- and this should be a community-based decision. Re-testing results can show a 50% difference each time, depending on the test and the data used.

Audience member: The Métis have been supporting First Nations people by maintaining historical tradition, culture and language through tough periods, like the residential schools. Spirituality is important, and despite a dominant Christian presence,

being spiritual helps to understand a lot about relationships and tradition. Dancers cannot be assumed First Nations- many are Métis people practicing their First Nations culture. Métis people sit between White and Indian cultures. But the discussions here are missing something: they do not speak to what it is to actually practice and be Métis on a day-to-day basis. Come speak to the Elders up north and learn about our everyday realities from them.

Darcy McRae, Métis Calgary Family Services: Truth and Reconciliation: are we ignoring the Truth part of it? We have recorded evidence of where our ancestors originated, now census data that we can access. People expect Métis to align with Europeans, but no matter which lineage is dominant, *our blood goes back in this country from times immemorial, same as First Nations, and that's something that no one wants to look at or recognize.* We are here because of our ancestors, and cultural knowledge is irrelevant.



PANEL 6: MÉTIS REGISTRIES

Participants: Dr. Yvonne Poitras Pratt (moderator)
 Dr. Brenda MacDougall
 Ryan Shackleton
 Dr. Mike Evans
 Tracee Mcfeeters

Dr. Yvonne Poitras Pratt, a professor at the University of Calgary in the Werklund School of Education teaching instructors about First Nations, Métis and Inuit people, introduced this panel. She expressed her support for a conference that aimed to bring academics, leaders, and community members together to learn and share their knowledge.

DR. BRENDA MACDOUGALL

Dr. Brenda Macdougall is the Appointed Chair of Métis Research at the University of Ottawa. Her work centers around Métis family and culture, documenting community histories in Saskatchewan.



Wahkootowin as Methodology: How Archival Records Reveal a Métis Kinscape

Sources used to develop registries easily relate to social, material and political relationships. Family structures, however, and their impacts on lifestyle can be represented by the term “kinscapes”- merging landscapes and the kinship bonds that exist within the territory.

Reducing ancestors to blood quantum diminishes their connections. One example would be Louis Riel- people point out that he may only have been 1/8th Indian. This focus on weighing indigeneity originated from white scholars rather than Métis people. Sacred kinship is important to communities, and he is a sacred ancestor. He led a vital movement that was part of the social, material and political culture of Red River.

Riel’s extended family includes several Poitras members; these kinships could be recognized when travelling into communities. But tracing one ancestor back through time removes these complex relationships and kinships, focusing only on bloodlines. Riel had his own existence, but he also existed in the broader kinscape that blended into Plains Métis families. The same goes for Gabriel Dumont, who married a Laframboise woman. Her family can be traced back several generations through political campaigns. Relationships were often strategic, building up kinship alliances across time and space. Researchers can trace kinship ties between these two important men and their ancestors: they existed within the same

kinscape. Relationships are strategic, complex, and challenging.

We know who we are. But we need to stop talking about ourselves in fractions. We need to start talking about ourselves in these kinds of kinship connections... How a people behave is the best indication of how they feel and what they believe about each other.

Families involved in the Battle of Seven Oaks are tied to those from Red River in that they are part of an extended political action stretched across the 19th century. These kinscapes could ultimately be used to rewrite Canadian history.

RYAN SHACKLETON

Director of the Know History research company in Ottawa, Ryan Shackleton is an expert in Métis and Arctic history. His organization provides genealogical support to Métis groups in Canada.

This presentation built on Brenda McDougall’s idea of kinscapes, and how people can use big historical data to trace various forms of relationships.



Big Historical Data: Strategies for Leveraging Colonial History

Big historical data often comes from census records, birth certificates, death certificates, and many other pieces of information. Annual census reports can help build a strong understanding of particular individuals, families, and the communities in which they lived.

Traditional genealogy is limited to direct family lineage rather than close family

connections- that is, chosen relationships between people and families. This type of social network analysis connects people to one another, representing relationships that extend beyond a simple family tree.

Tracing these alternative social networks draws attention to the outliers- those who are not interacting with the communities. These are the people who are likely mixed-ancestry based on DNA alone; who are not connecting with others in a conventional way, and who may be challenged when coming up against the *Powley* test.

DR. MIKE EVANS



A professor at the University of British Columbia (Okanagan), Dr. Mike Evans has worked extensively on community-based research with the Métis in Northern British Columbia in Canada.



The *Daniels* decision could have a real impact on Métis registries, establishing the possibility of a national registry. There are advantages to the formation of a Métis-controlled registry, with information such as historical documents and fur trade journals stored in digital databases.

The Métis Nation of British Columbia had an exceptional program, where those who were applying for membership could choose to have their documents uploaded to a database, along with the other historical documents that were being added, thus creating a repository of documents relevant to a large number of Métis in British Columbia.

There are concerns that need to be taken into account with this sort of record keeping, however. Databases require maintenance since technology develops quickly now, and platforms end up obsolete if organizations are not paying attention. There can also be variances in data quality, types of document support, interpretation of data, and verification- that is, a document's connection to the Métis nation.

By recording all these different forms of family lineage, communities can be mapped through the various interrelationships that have existed. A national registry can be created, and perhaps now is the time to act on it: to collect and analyze data based on registry-related, citizen-related, and historical understandings of the Métis community.

TRACEE MCFEETERS

Director of Registry at the Métis Nation of Alberta (MNA), Tracee Mcfeeters is sixth generation Métis from Smithers, British Columbia.

Tracee's presentation focused on the purpose of the Métis Identification Registry at the MNA, and how the organization registers membership.



The MNA is the longest-running Métis organization in Canada, established in 1928, serving the largest population of Métis in Canada. Any self-identifying Métis who is a permanent resident of Alberta can apply for membership.

Prior to 1991, when the MNA centralized the registry, each local oversaw registration and membership to their communities. MNA leadership began using the registry as a resource in 2004, establishing guidelines and goals for management and staff. In 2006, Métis ID cards with a secure barcode were

issued. This change required a mass re-registration process for all members, who *...now meet the objectively verifiable criteria, based on the national definition of Métis, consistent with the Powley decision.*

The registry established and ensured lifetime membership for those who were eligible, and was considered a leading system to other Métis registries in Canada. Certain measures were required to get to this point: a database, policies & procedures, standards of service, and regular staff training.

These days, applications go through several steps once they are received at the Registry Office, typically by walk-ins or by mail. Supporting documentation is checked to make sure all the necessary pieces were included in the package. The application then goes to a registry agent who reviews the documents and applies it to an ancestral family tree, which is then analyzed by a genealogy research center for validity. If everything checks out, the tree is certified. A quality assurance check completes the process, after which an ID number and card is assigned, and a letter of welcome and a certificate are mailed to the individual.

Typically, the applicant provides consent for the MNA to search the national Indian registry and/or band lists. In 2015, the MNA began a pilot project with the federal Department of Indigenous and Northern Affairs Canada to set up a secure file exchange in order to reduce manual paperwork and procedural time. The MNA Registry is the only Canadian Métis Nation using this process; results can be shared within a couple of days, rather than 6 months under the previous system.

Service Alberta recognizes MNA ID cards as reliable identification, which validates the work being done at the Registry. At the beginning of 2017, the MNA had over 32,500 registered Métis citizens.

QUESTIONS, ANSWERS, & COMMENTS



Audience member 1: How long does it take for an individual's application to get through the registration system?

Tracee Mcfeeters (Response): Our times have increased as a result of an increase in applications since the *Daniels* case, so it went from 6 months to somewhere between 7-9 months.

Audience member 1: Would somebody's eligibility to *Indian Act* status be noted on file? Since some people could be Métis or Treaty, could you identify their entitlements? If not, would this be worth pursuing in your process?

Tracee Mcfeeters (R): No, that information would not be on file, as we only use information provided by the applicant with the aim of Métis membership. We are not checking eligibility for Treaty status. Identifying this would be done at the political level.

Audience member 2: There will be a need to protect information that is stored on our Provincial registries, and keep it from getting out into the public domain. The government acknowledges only particular information from us without contextualizing it, condensing it down into small pieces. If this provincial registry information goes beyond our

protection, the government could use it to their own purpose. Are there any suggestions on how we can keep this information secure?

Mike Evans (R): There are various levels of access to data. Some is publicly accessible, with some material protected for FOIP reasons (*Freedom of Information and Privacy*), and other material is available to people with different access levels (public, member, or employee for example).

Jack Boucher: What rules or laws would have to be broken in order for me to be stripped of my MNA card, when I also have a Métis Settlement card?

Tracee Mcfeeters (R): MNA membership can only be terminated voluntarily. You would need to remove yourself from the registry, or your name would have to appear on the Indian Registry/ a band list.

Kim Beaudin, Congress of Aboriginal Peoples: The registry has become so political, with who is managing what, and who can apply for what. Is there any opportunity to take politics out of it?

Yvonne Poitras Pratt (R): *I think we are always already political. We have no choice, whether the government defines who we are, we are captured in all the complexities and ambiguities that are the Métis people. I think we'll do a lot more together than apart, but how we do that needs to be done in a very respectful manner.*

LUNCH KEYNOTE: BRENDA GUNN

The lunchtime Keynote session was presided by Larry Chartrand, a professor of Law at the University of Ottawa. He spoke briefly about the Métis Treaties Research Project (a web link is included in the **Resources and Links** section of this report), and its importance in forging a relationship with the government as a Métis nation. A number of conference

presenters and participants are part of this project, including Brenda Gunn.



Brenda Gunn works in the Faculty of Law at the University of Manitoba, on the scholarship of Aboriginal rights and the intersection of international law.

∞

Daniels Through the Lens of the UN Declaration on the Rights of Indigenous Peoples

Though ultimately positive, the *Daniels* decision both supports and contradicts international law. Now is the time to analyze the extent, and outcomes, of the case.

To begin with, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was passed in 2007 by the UN General Assembly. It is a declaration rather than a human rights treaty, which means that leaders are not required to sign or ratify the agreement, they only vote on passing it. Canada voted against the declaration. However, it passed and so the government is still bound to follow that law. UNDRIP essentially lays out Canada's obligations to its Indigenous peoples, but it is not an instrument to give rights.

The declaration establishes the minimum standards that governments should meet within these obligations, and demonstrates that some human rights can apply to collectives, and not just individuals. It does not define who is Indigenous, nor who can claim these rights. These decisions were left to the communities themselves.

Understanding how UNDRIP fits into other human rights frameworks is important. Earlier definitions of Indigenous peoples by the United Nation's Working Group on Indigenous Populations include "*peoples who have occupied and used specific territory in a time period prior to colonial governments and colonialism*". They have maintained unique cultures through language, practice, and community bonds. Self-identification is another aspect, but this doesn't *just happen at the individual level... There is also recognition by other Indigenous peoples about who is Indigenous*.

The Inter-American Commission of Human Rights is another human rights framework that recently passed a declaration on Indigenous rights. For them, self-identification is the key to defining indigeneity, both individually and collectively. A connection to the land supports this, along with a shared cultural identity.

How the Métis fit into this international understanding of Indigenous peoples is important to consider, along with how these various understandings align with discussions in the *Daniels* case. What does the term 'Métis' really refer to? The court recognized Métis as a distinct people, but it also stated that Métis could refer to a general mixed ancestry bloodline. This was likely to allow inclusion of individuals who are disconnected from their communities, to ensure federal responsibility remains broad rather than intensely categorical.

Using *Daniels* as means of getting land back is one way it can connect to international law. *Under international human rights law, Indigenous peoples clearly have a right to self-define*, and self-regulate.

UNDRIP is not just a tool for the Federal Government, as even Métis governments can be expected to uphold rights within the declaration. There is a need to support these

nationhood governments so they aren't placed in difficult positions of defining a people on behalf of others.

QUESTIONS, ANSWERS & COMMENTS

Muriel Stanley Venne: *Maybe one of the things that happened with Daniels is that things have become more complicated.*

Audience member: How can people in Canada support the government to recognize United Nations treaties, and have them be supportive of the Jay Treaty? There are Métis people who have not been able to cross the border to the US under this treaty.

Brenda Gunn (Response): A requirement for states to recognize all treaties encourages a government to uphold them and to avoid potential international court disputes. The Jay Treaty is a political, state-level agreement and the US has never challenged Canada for failure to recognize it. It is treated very differently between the two states.

Darcy McRae, Métis Calgary Family Services: First, Canadians have benefitted from Métis resources for a long time: fur, agriculture, and now oil & gas. The UNDRIP is very helpful to us for that. Secondly, *we look at [Aboriginal] rights as being ours. Clearly, these are not ours. These are our ancestor's...* Nearly 20% of the population in Western Canada is Aboriginal. If we use this to our advantage, we can be politically stronger. We can better advocate for our rights as recognized by UNDRIP.

Walter, Grande Prairie: There is work being done on recognizing Métis rights, but how will that apply to the forest & environment, or to fish & wildlife? Our rights are being impacted by development, but we haven't had a chance to sit down with United Nations representatives.

Brenda Gunn (R): There is work being done to look at the implementation of UNDRIP at the local level. One useful resource is a handbook from 2013 that was developed, the *Handbook on Understanding and Implementing the UN Declaration of Indigenous Rights* [see the **[Resources and Links](#)** section for more].

PANEL 7: UNIVERSITY ADMISSIONS ROUNDTABLE

Participants: Dr. Chris Andersen (moderator)
 Danielle Soucy
 Lisa Collins
 Valerie Arnault-Pelletier
 Dr. André Costopoulos
 Kara Paul

DANIELLE SOUCY

Danielle Soucy is the Director of Aboriginal Health Services at McMaster University, in Hamilton, Ontario.

This presentation concentrated on how the *Daniels* case has affected university admissions that rely on competition and funding.



Where are you from? Reframing Facilitated Admissions Policies in the Faculty of Health Sciences

Admissions impact academic decisions over who qualifies as First Nations, Métis, Inuit, status or non-status. This is no easy task, and made all the more difficult due to organizations issuing unauthorized cards, causing concern in Admission Offices about legitimacy and dishonesty.

Typically, the average medical student in Ontario is white, from a stable, upper middle class, academically inclined household, who

has had many opportunities to build a strong application. Indigenous applicants typically come from more complex demographics: mature students, with families and responsibilities who maybe don't have as strong an application package. So what happens when a new cohort of students who have recently claimed Métis heritage start to apply? These students tend to have higher GPAs and stronger applications than other Indigenous applicants. A major concern is that the Admissions Office will begin to adjust expectations to accommodate these newer applicants and their circumstances, eventually ignoring those with more disadvantages and higher barriers to overcome.

The university attempts to account for inclusion in its decision-making. The process requires a letter of intent that asks typical questions about wanting to be in health sciences, and includes a question about what Indigenous/ Aboriginal identity means to the individual. The applicant should be considered as a whole, including their sense of indigeneity within the health sciences field. There are areas that still need development, however, and committees are looking for feedback on this process.

There are two other parts to the application process: a letter of recommendation, and the applicant's potential to succeed. This is an on-going process that is developed through meetings to share resources, connections, etc. Everybody is encouraged to apply and to succeed.

LISA COLLINS

Currently Vice-Provost and Vice-Registrar at the University of Alberta, Lisa Collins works directly with registration and registration services on campus.



Admissions is a gatekeeper for the university community. Students wishing to pass through must be deemed eligible, but who should be included or excluded? Who gets to decide?

Criteria at the University of Alberta is fairly explicit for basic admissions; deciding on how the campus community develops is entirely different. *We shape our university communities and we shape important sectors of society.*

One of the most important aspects of building these communities is that of equity: who passed through the gate, who was left outside, and who didn't even try (and why not)? At the University of Alberta there are over 1,000 self-identified Indigenous students, approximately 3% of the entire undergraduate group. Constant efforts are made to recruit qualified students, manage relationships with communities, understand what students need for success, as well as seeing that Indigenous culture and practices are evident on campus and in the curriculum content.

The last admission intake saw an increase by almost 10% of self-identified Indigenous applicants, based on a willingness to self-identify and positive recruitment activities. The goal is to have a number on campus representative of Alberta's Indigenous population. The university is halfway there, but there is still more to do as the target number continues to expand.

Aboriginal applicants are asked for proof of First Nations, Métis or Inuit status, or proof of Aboriginal ancestry. There are a number of seats set aside in several programs for these students, as well as financial supports and scholarships. Determining what forms of proof should be required can be a challenge. The Dean of Native Studies, Dr. Chris Andersen [one of the conference Keynote presenters], has been involved in developing this policy.

The university's request for proof of ancestry has been challenged by communities to instead look at identity, which initiated discussion over the role of community within identity, and whether active relationships to communities should be a part of the decision process. But how would one prove this, and what about those who are disconnected from communities for various reasons?

Policy will continue to adapt and change as Admission Offices learn more and understand the needs of students more. The *Daniels* decision came out after a round of policy changes at the university. It was vital to take into consideration what it meant, and how it would be interpreted. How does it affect admissions policy? There is the potential now to affect societal change, and these discussions are helping to move everybody forward.



VALERIE ARNAULT-PELLETIER

As part of the College of Medicine at the University of Saskatchewan, Valerie Arnauld-Pelletier is the Aboriginal Coordinator for students in the undergraduate program.

Her presentation was based off of a speech she had given to the Senate of Canada, speaking to the challenges of admitting Métis students who have little connection to their identity or culture as Indigenous peoples.

∞

The college only has 10 seats available to students who have verifiable proof of First Nations, Métis or Inuit ancestry. Other than providing this proof, these applicants must fulfil the same requirements as every other individual applying to Medicine.

First Nations applicants who have submitted proof of Treaty or status cards have direct access to these equity placements. Those who self-identify as Métis have been more of a challenge. So far, the College has not placed restrictions on evidence, accepting everything from letters, genealogy charts, and nation cards. Challenges exist around organizations that produce affiliation cards claiming to be status cards for Métis communities; Admissions cannot determine whether some of these groups are genuine or not, and for what purpose the cards are issued.

It concerns me greatly that we potentially have individuals who are taking advantage of our equity seats for their own means. They have not indicated any intention of reciprocity or pay it forward to our people.

After extensive consultation with Métis students, Elders, student centers, the Métis Nation of Saskatchewan, the Human Rights Commission, and various other equity bodies, the College changed its policy to specify that Métis applicants would require a Métis card from one of the provincial peer organizations to the MNC.

In light of the *Daniels* decision, this policy may need to change once again. Flexibility to adapt guidelines and criteria is important, and there will be much more work needed to maintain the value of these equity seats.

DR. ANDRÉ COSTOPOULOS

The former Dean of Students at McGill University in Montreal, André Costopoulos

now holds that same position at the University of Alberta.

∞

Admissions at the university should lead to true equity and diversity in all communities. There is a need to be proactive towards those who have undergone historic injustices, and to provide advantages in the rights ways. This is an ongoing discussion to be had.

The balance between equity and the success of individuals can be a challenge for many universities. The ability to admit students who are ready to be challenged in a university environment, and then to take those learnings back to their communities and society in general, is critical.

Credentials, like diploma results, are imperfect indicators to a student's ability or drive. There are countless individuals who do not have access to these forms of certification, but are nonetheless motivated to be university students. There are also individuals who have achieved in these credentials, but are not ready to be admitted to university.

What other credentials could be valid for people who are in positions that would support their success in higher education, but are unable to provide standard admission documentation? This question ties to hiring faculty and staff as well, and the expectation that professors must have obtained a PhD.

If decision-makers are able to adjust their process, to gradually build equity, accept various forms of credentials, and consider an individual's ability to succeed and make a positive impact for communities, then true diversity is attainable.

KARA PAUL

Kara Paul is the Director of the Aboriginal Health Services Initiative at Dalhousie University in Halifax, Nova Scotia.

This presentation focused on Dalhousie's affirmative action and self-identification policies.

∞

Currently there is no policy in place to require student affiliation or proof of ancestry due to Nova Scotia's *Freedom of Information and Protection Act*. The Act limits the university's ability to verify proof, so self-identification is entirely voluntary. Anybody can self-identify as First Nations, Métis or Inuit in their application. The biggest challenge is within competitive programs, like Medicine, that have equity placements.

The target demographic for Dalhousie is those from the Atlantic Maritime population. Students who self-identify as Aboriginal are asked to submit an essay about their connections to culture and community of the Mi'kmaq Maliseet. However, this has narrowed the admission's focus to the exclusion of other applicants. There are increasing concerns about fraudulence in self-identification within some applications.

In terms of *Daniels*, the Mi'kmaq Grand Council does not recognize Eastern Métis claims; contact began in the 16th century, long ago, and mixed families and relationships led to either Mi'kmaq or Acadian communities.

There was no need for a new society of Métis, because there was no marginalization.

Inclusion was a natural part of social structures.

Admissions need to develop policies around understanding and recognizing self-identification, and criteria for competitive placements and scholarships. With the

emergence of Métis affiliation cards that anybody can obtain, the marginalized are becoming more marginalized.

QUESTIONS, ANSWERS & COMMENTS

Paul Seaman, Conference presenter: How did Admissions at the University of Saskatchewan come to the decision to only accept MNC cards? This would exclude Settlement membership, which is recognized by statute, and goes against what *Powley* tells us.

Valerie Arnault-Pelletier (Response): That is specifically a College of Medicine decision, and therefore not legally binding. It is open for further consideration and consultation to ensure inclusivity.

Lisa Collins (R): This is also a challenge at the University of Alberta. We have a list of what forms of identity proof are acceptable, and it becomes fairly general for Métis cards. We have proposed a policy change that specifies which Métis cards will be accepted, but that could become too narrow and increases the chance of exclusion. We may include a line such as "other forms/ proof of identity may be considered", which would allow us to be more flexible. There is an Appeals Board too with a range of representatives for those who request further scrutiny.

COMMUNITY FORUM

The community forum panel was offered as a chance for audience members and panelists to share their final thoughts, comments, personal learnings, and suggestions for moving forward. It began with a few closing remarks from Gabriel Daniels, and Dr. Chris Andersen.

Gabriel Daniels: *I just wanted to say that I've been listening to everyone and the concerns and questions. It's all good and valid. It's important to have these discussions, so that we are all on the same page.* Keep in mind that we are at risk of just talking and dissecting without taking action. These discussions are vital, but they also need to move forward in the right direction. It would be great to see all five Métis organizations join together. Together we could figure out who those false people are.



Chris Andersen: This has been a wonderful opportunity for people to connect, and for those of us in a privileged position to have the chance to have Elders and political leaders come and converse with us; to point out what has been missed.

Muriel Stanley Venne: It would be interesting to see a Chair position created at the University of Alberta: the Harry Daniels Chair. The position could schedule a conference like this every couple of years to encourage everyone to keep the discussion going.

Kim Beaudin: First off, the Congress of Aboriginal Peoples will be putting on its own Daniels Symposium in Ottawa, March 2017, to which everybody is invited. Looking back, there has been so much in-fighting behind this case. But we need to come together, to work together. *I am hoping that this will get us further with respect to what we are trying to do as Indigenous people in this country.*

Lorne Ladouceur: We have come a long way, thanks in part to the Métis scholars, lawyers and doctors that have helped lead the way.

Chantelle Daniels: Thanks to everybody for participating. My father was Harry Daniels. *My father's dream was not for this to divide us and have questions about who we are. He wanted to bring us together.* We need to build a stronger community to help those who are still suffering.

Victoria Norris: Our Aboriginal peoples have the highest rates for suicide and incarceration in Canada. Identity is such a key issue for teens, and so when we talk about membership this concern needs to be a priority. *We need to be mindful, when we are making decisions for our future generations, that we are inclusive.*

Sophia Hamelin: The government and legislation are defining people, and it can be confusing. Coming from a mixed background of First Nations and Métis, I questioned my own identity and place in society. The land and cultural practices bring us together. So does shared history. *Canada has a big part to play in that too. Hopefully they understand that it's not all about us explaining who we are to them, it's about allowing us to be who we are.* Moving forward, it will have to be a group effort of First Nations, Métis, Inuit, and anybody else.

Jack Boucher: The Métis have existed primarily on a provincial level until recently, whereas First Nations and Inuit have been on the federal level for a while now. Within these groups there are all forms of relationships. We are all tied together by kinship, but bureaucracy is keeping us separated. How can we change this so that bureaucracy brings us together?

Karine Martel: I am a Masters student in Native Studies at the University of Manitoba. This conference has got me thinking about Indigenous voice and academia, which ... *ultimately must benefit Indigenous peoples.* I want my academic work to act as a resource for people in my community to understand.

CLOSING ELDER BLESSING

Maria Campbell and Elmer Ghostkeeper closed the conference with a blessing and a few final words of appreciation.



CONCLUSION

The livestreaming of the conference went well, with 400 connections on Thursday, 1,000 connections on Friday, and 250 to begin with on the Saturday morning. People were streaming online from all over the world: Canada (St. Albert, Grande Cache, Morinville, Revelstoke, Smithers, North Bay, Yellowknife, St. John, and Gatineau), Indonesia, Brazil, Spain, and the Netherlands.

The conference was a successful attempt to bring together people from all sectors and communities to discuss the challenges and successes that developed from the *Daniels* decision, and to promote discourse on ways to move forward, together, as a people.

Individuals understand *Daniels* in different ways, and do not all agree on its outcomes. This fostered excellent dialogue throughout each panel's question & answer period. It was also a chance to learn what community members had to say about the *Daniels* case, and the work being done in academic circles as well.

It was apparent from the discussions that there would be interest in maintaining dialogue around *Daniels*, and any other cases or political developments that come from it. This report is an attempt to continue that dialogue.

Overall, the conference was a success. It covered topics that ranged from politics and law, to challenges and interpretations, and on to registries, kinship, and identity. Taking what was learned and shared is the next important step to moving forward as a Métis Nation.



Thank you for reading!



GLOSSARY

TERMINOLOGY

Blood quantum – analysis of a blood sample to determine a quantifiable amount of Indigenous ancestry in an individual

Crown – the Federal Government of Canada

Disenfranchise – to deprive somebody of political or social privileges

Enfranchise – to grant political or social privileges to somebody

Ethnogenesis – the formation or emergence of a new peoples within a larger population

Equity – acting or measuring in an equal or fair manner

Fiduciary duty – a legal obligation for one party to act with honesty in the best interest of another

Fiduciary relationship – a relationship in which one party places a particular trust in an associate to act for the party's benefit

Intervene – when a third party voluntarily enters a legal dispute or court proceeding because the outcome will affect them

Jurisdiction – formal power to make legal decisions

Jurisprudence – a body of law; the science or philosophy of law

Matrilineal descent – kinship heritage passed on by the female (mother) line

Patrilineal descent – kinship heritage passed on by the male (father) line

Road allowance – land set aside for highway development on which many Métis were forced to live, separate from Treaty land and colonial settlements. People who lived on these lands were often known as Road Allowance People.

TREATIES AND JURISPRUDENCE

Bagot Commission Report, 1844 – This report proposed the idea of residential schooling for Aboriginal children as a way of assimilating them into settler societies. It also put forward the idea of allowing only one form of legal status (Indian or citizen).

Bill C-31 (1985) and **Bill C-3 (2010)** were amendments made to the *Indian Act* in order to remove discrimination against women in light of the *Canadian Charter of Rights and Freedoms*. Originally, the *Indian Act* disenfranchised women who married non-status men, stripping them of their Indian status. The bills aimed to rectify these issues.

Constitution Act 1867 – This Act, as part of the Canadian Constitution, created a federal dominion and the structures associated with a Government of Canada. Originally it united Canada, Nova Scotia, and New Brunswick under the British Crown.

Constitution Act 1982 – The Canadian Constitution gained the inclusion of the *Canadian Charter of Rights and Freedoms*, giving the Federal Government further independence from the British Crown.

Haida Nation v. British Columbia (2004) – This case focused on Haida land claims and duty to consult between corporation, government, and the Haida nation. The judge held that the provincial government did have a duty to consult.

Indian Act – This is the primary document for Federal Government use in establishing entitlement rights over Indian status, First Nations governance, land reserves, and funding. It is relevant only to First Nations people, excluding Inuit and Métis populations.

Jay Treaty – Article III of the treaty states that Indigenous people are entitled to pass freely between Canada and the United States for work, study, retirement, trade & commerce, or immigration purposes.

Kelowna Accord (2005) – The Accord was a plan to improve the living standards of Aboriginal people in Canada, aimed at health, education, housing and relationships between Aboriginal communities and the Federal Government.

Métis Betterment Act (1938) – The act identified land for Métis settlement in Alberta through a joint Métis-government committee, along with plans to improve the lives of Métis livelihoods in the province.

Manitoba Métis Policy – The aim of the policy is to build capacity among Métis people to tackle economic and social challenges they face, through a collaboration of the Manitoba government and the Manitoba Métis Federation.

Manitoba Métis Federation Inc. v. Canada (2013) – The case focused on Crown obligations, with a decision that stated the Crown had a fiduciary relationship with the Métis, but not a fiduciary duty.

R. v. Powley (2003) – Though originally focused on hunting rights, this case decision resulted in the ‘*Powley test*’, establishing criteria that would define Métis rights, and who would be entitled to those rights.

R. v. Tronson (1932) – This case examined a situation where the racial identity of an individual remained ambiguous. Tronson claimed to be Indian but lived on the reserve land of a people to which he did not belong (though his wife did), and had applied for voting rights, which was forbidden to Indians. This action was considered establishment of his status as a white man. The court determined that although he acted in both white and Indian ways, non-Aboriginal would be considered his dominant status.

Selkirk Treaty (1817) – A treaty that gifted a small section of Peguis First Nations land to the British settlers, making way for the Red River Settlement, and establishing a formal relationship between the Indigenous and settler communities.

ORGANIZATIONAL ABBREVIATIONS AND COMMISSIONS

Ewing Commission (1934-1936) – The commission was formed to report on Métis health, education, housing, and land issues in Alberta.

MMF – Manitoba Métis Federation

MNC – Métis National Council

MNA – Métis Nation of Alberta

RCMR – The Rupertsland Centre for Métis Research

TRC – Truth and Reconciliation Commission

UNDRIP – United Nations Declaration on the Rights of Indigenous Peoples

RESOURCES AND LINKS

Rupertsland Centre for Métis Research, University of Alberta

Website: <https://www.ualberta.ca/native-studies/research/rupertsland-centre-for-Métis-research>

Twitter: [@RemrMetis](https://twitter.com/RemrMetis)

Facebook: [Rupertsland Centre for Métis Research](https://www.facebook.com/RupertslandCentreforMétisResearch)

Faculty of Native Studies, University of Alberta <https://www.ualberta.ca/native-studies>

Daniels: In and Beyond the Law livestream: <https://www.ualberta.ca/native-studies/research/rupertsland-centre-for-Métis-research/news-and-events/daniels/daniels-videos>

Daniels v. Canada (Indian Affairs and Northern Development) <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/15858/index.do>

Métis Nation of Alberta <http://albertaMétis.com/>

Rupertsland Institute <http://www.rupertsland.org/>

Handbook on Understanding and Implementing the UN Declaration of Indigenous Rights
http://ww.indigenousbar.ca/pdf/undrip_handbook.pdf

Métis Treaties Project <http://www.Métistreatiesproject.ca/>

