

Kaa-tipeyimishoyaahk - 'We are those who own ourselves':
A Political History of Métis Self-Determination in the North-West, 1830-1870

by

Adam James Patrick Gaudry
Master of Arts, Queen's University, 2009
Bachelor of Arts, Queen's University, 2007

A Dissertation Submitted in Partial Fulfillment
of the Requirements for the Degree of

DOCTOR OF PHILOSOPHY

in the Department of Indigenous Governance

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University of Victoria

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Abstract

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This dissertation offers an analysis of the history of Métis political thought in the nineteenth century and its role in the anti-colonial resistances to Canada's and Hudson's Bay Company governance. Utilizing the Michif concepts of *kaa-tipeyimishoyaahk* and *wahkohtowin* to shed light on Métis political practices, this work argues that the Métis people had established themselves as an independent Indigenous people in the nineteenth century North West. By use of a common language of prairie diplomacy, Métis had situated themselves as a close "relation" of the Hudson's Bay Company, but still politically independent of it. Nineteenth century Métis had repeatedly demonstrated their independence from British institutions of justice and politics, and were equally insistent that Canadian institutions had no authority over them. When they did choose to form a diplomatic relationship with Canada, it was decidedly on Métis terms. In 1869-1870, after repelling a Canadian official who was intended to establish Canadian authority over the North-West, the Métis formed a provisional government with their Halfbreed cousins to enter into negotiations with Canada to establish a confederal treaty relationship. The Provisional Government of Assiniboia then sent delegates to Ottawa to negotiate "the Manitoba Treaty," a bilateral constitutional document that created a new province of Manitoba, that would contain a Métis/Halfbreed majority, as well as very specific territorial, political, social, cultural, and economic protections that would safeguard the Métis and Halfbreed controlled future of Manitoba. This agreement was embodied only partially in the oft-cited Manitoba Act, as several key elements of the agreement were oral negotiations that were later to be institutionalized by the Canadian cabinet, although were only ever partially implemented. These protections included restrictions on the sale of the 1.4 million acre Métis/Halfbreed land reserve, a commitment to establish a

Métis/Halfbreed controlled upper-house in the new Manitoba legislature, a temporary limitation of the franchise to current residents of the North West, and restrictions on Canadian immigration to the new province until Métis lands were properly distributed. While these key components of the Manitoba Treaty were not included in the Manitoba Act, they remain a binding part of the agreement, and thus, an unfulfilled obligation borne by the contemporary government of Canada. Without adhering to Canada's treaty with the Métis people, its presence on Métis lands, and jurisdiction over Métis people is highly suspect. Only by returning to the original agreement embodied by the Manitoba Act can Canada claim any legitimacy on Métis territories or any functional political relationship with the Métis people.

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Acknowledgments

This project was funded by a Social Sciences and Humanities Research Council Joseph-Armand Bombardier Canada Graduate Scholarship, and was completed while in residence at Yale University as the Henry Roe Cloud Dissertation Writing Fellow in American Indian and Indigenous Studies. This project would not have been completed without the generous support of SSHRC and Yale.

I also received a great deal of personal support when I was researching and writing my dissertation, and I am grateful for all of it. To the friends and colleagues who provided the encouragement I needed to complete this project, who pulled me through the rough patches and smoothed over the fine details, I extend a heart-felt thank you.

At UVic, I was fortunate to be surrounded by great scholars and friends who kept me engaged in my research and opened my eyes to a diverse range of scholarship. My supervisor, Jeff Corntassel, was especially helpful in this regard, and he helped me branch out into new fields of Indigenous political thought. My committee members, Taiaiake Alfred, Christine O'Bonsawin, and Victoria Pruden also provided me with careful guidance and support during my time in Victoria, and whose scholastic influence on my dissertation was extensive. Many other people at UVic also supported me in all the intangible and tangible ways required for a grad student to get through grad school. Rob Hancock, Heidi Kiiwetinepinesiik Stark, Kelly Aguirre, Trish Palichuk, Aimee Craft, Dale McCreery, Lindsay Lloyd, Carol Henriquez, Eva Jewell, Nick Montgomery, and Sam Grey helped me develop many of the ideas in this dissertation. The amazing staff at UVic's Office of Indigenous Affairs kept me grounded in community and culture, specifically the support of Carly Cunningham, Lianne Charlie, Ruth Young, Deb George, and Dawn Smith. I'm also indebted to many in the Indigenous Studies community across Canada—especially Matt Wildcat, Daniel Morley Johnson, and Damien Lee who have participated in engaging conversations with me about prairie history, as well as Métis-Cree and Métis-Anishinaabe relations, all of which have influenced this dissertation.

Many Métis also kept me connected to the thought and practice of our people, and they repeatedly reminded me of the real, on-the-ground struggles that are people face, the

relationship between our history, and our shared future. The Métis Nation of Greater Victoria community provided me with some of my earliest feedback—and some of my earliest support—and was always a great place to be reminded of the strength of Métis people and the values that motivate us. Victoria Pruden, Samantha Sansregret, and Barb Hulme kept me grounded in my culture, while I lived in Victoria.

There is also a great community of Métis scholars in Canada who have assisted me in countless ways. Chris Andersen, Jennifer Adese, Rob Hancock and Brenda Macdougall provided me with incredible cultural insight in our discussions and in their written work. This previous winter's "Plains Métis as Tribe" symposium in Ottawa was infinitely influential in much of my research analysis; I would like to thank all the symposium participants for sharing their insights and contributing new complexity to the field of Métis studies, and Brenda Macdougall and Nicole St-Onge for organizing it.

At Yale, the unparalleled writing and research support I received allowed me to finish my degree much quicker than I had ever imagined. As the Roe Cloud Fellow, a dedicated writing year in an intellectually engaging atmosphere enhanced the rigour of this dissertation. The support given to me by the Ethnicity, Race & Migration Program, the Yale Group for the Study of Native America, as well as all the grad students in the Indigenous Graduate Network and the undergrads in the Native American Cultural Center communities was a key element in my incredibly productive year at Yale. I am also indebted to Ned Blackhawk, Jay Gitlin, Ted Van Alst, Alyssa Mt. Pleasant, and Ryan Brasseaux for taking an interest in my work, and for providing intellectual feedback during my year at Yale. In New Haven, Jeffers Lennox was a brilliantly constructive and patient critic of my work, and provided me with an incredible amount of constructive advice.

My family's influence in this dissertation cannot be understated, and it is their ongoing encouragement that allowed me to stay in school for so long, and dedicate myself to my studies. The most important support I received was from my partner Elaine Alexie, whose constant feedback and honesty allowed me to work through ideas, concepts, and narratives that are central to this work. Elaine also put up with a year of often-absentmindedness, late nights, and deadlines that accompanied this dissertation, and I am forever indebted to her for helping me in so many ways, every day that I spent

researching and writing this project. It is to her that I owe the deepest debt, and whose patience and intelligence allowed me to get through the rather arduous task of writing a 400-page work.

With all of this support that I am fortunate to have received, I must still take responsibility for any shortcomings or deficiencies, as any errors are my own.

Chapter 1 – Introduction

Historical Métis governance can be understood through the application of two contemporary Michif concepts onto the events of the nineteenth century North-West:¹ *kaa-tipeyimishoyaahk*—which means *they own or govern themselves*, implying an embodied understanding of independence and self-sufficiency; and *wahkohtowin*—meaning *the act of being related to one another*, and implying a sense of relatedness, and the potential to make outsiders part of one’s family.² On the surface, these concepts appear contradictory. In one sense, the Métis people have historically prized an independent political existence above all else, and designed political institutions that limited the power possessed by any one individual. In another, Métis possess strong feelings of belonging to a Métis collectivity as well as a sense of relatedness with other Indigenous peoples, using marriage alliances to expand families, and creating new kinship relations through treaty-making practices. From this complex balancing of *kaa-tipeyimishoyaahk* and *wahkohtowin*, we find a helpful and culturally situated way in which to understand Métis political history, as well as a guidepost from which to better comprehend relationships between the Métis people and other peoples.

The purpose of this dissertation is to think about Métis history and Métis political thought in a culturally-grounded way; using Métis knowledge to understand Métis

¹ The nineteenth century North-West encompasses the vast territories now referred to as North-Western Ontario, Manitoba, Saskatchewan, Alberta, and the contemporary Northwest Territories, although “North-West” had stronger connotations with southern Manitoba and Saskatchewan during this period.

² These concepts have historical origins, and are both longstanding, foundational concepts of Métis governance, while little written evidence of nineteenth century Michif language use survives, the probability that these concepts were used in discussions of governance is still high, owing to their descriptive potential of Métis political practice. For a detailed explanation origins of *wahkohtowin* see Brenda Macdougall, *One of the Family: Metis Culture in Nineteenth-Century Northwestern Saskatchewan* (Vancouver: UBC Press, 2010), 8.

political culture in the decisive years of the nineteenth century. By re-centring Métis history within a Métis worldview of independence—*kaa-tipeyimishoyaahk*, and interrelatedness—*wahkohtowin*, a better understanding of the complexities of Métis political thought can be developed. By doing so, scholars and community members can also better comprehend the relevance of Métis political knowledge in the colonial present. This undertaking must contend with a large volume of material written *about* nineteenth century Métis, but not *by* Métis. The vast majority of the literature on Métis history and political thought does not examine how Métis understood themselves, or how Métis understood their relationship with other peoples. Rather, it seems preoccupied with detailing ‘how the West was won’ and how the Métis nation’s authority faded out of existence after the loss of our homeland in the 1870s, and the supposed political decline of Metis after 1885.³

Given this atmosphere, a sustained discussion of Métis political history from a Métis perspective is long overdue. There is a need to re-address the scholarship on nineteenth-century Métis history and to move it to a new intellectual terrain, one that belongs to the Métis people. The challenge for Métis scholars is to present Métis history in a way that connects the Métis people of today with our past in a culturally meaningful way. We must understand the worldviews that connect us to our ancestors in a way that situates Métis governance in its unbroken exercise of independent political existence, of *kaa-tipeyimishoyaahk*. The purpose of this work is to show how a continuous Métis self-determining authority was established in the period between 1830 and 1870, and that this

³ For an excellent and comprehensive review of the dominant narratives in historical scholarship on Métis politics see Leah Dorion and Darren R. Préfontaine, "Deconstructing Metis Historiography: Giving Voice to the Metis People," in *Resources for Metis Researchers*, ed. Lawrence J. Barkwell, Leah Dorion, and Darren R. Préfontaine (Saskatoon: Gabriel Dumont Institute, 1999). This work is highly critical of the “pejorative bias” of non-Métis researchers in the field.

authority, having never been extinguished, still exists today. This dissertation will demonstrate how Métis of the nineteenth century North-West consciously undertook specific actions, actions that were consistent with their political worldview, to ensure the survival of the Métis nation in the face of challenges to *kaa-tipeyimishoyaahk*.

Métis of the nineteenth century North-West understood themselves as having self-determining authority over their territory. While this Métis shared this territory with their non-Métis relations—most notably their Cree, Saulteaux, and Assiniboine kin—they did not share the North West in the same way with either Britain or Canada, at least not until treaty relations would redefine Métis-newcomer relations. The clearest attempt to define the relationship between the Métis people and the newcomers is found in what nineteenth century Métis referred to as the Manitoba Treaty, which was ratified (in part at least) by the Canadian Parliament as the Manitoba Act in 1870. While the negotiations that led to the Manitoba Treaty were conducted in a manner consistent with the established principles of Métis diplomacy, the legislative Act varied from the agreement in several important ways, with the most problematic variation undermining Métis control of Métis land. Ultimately Canada's departure from the original agreement undermined the viability of a Métis-majority Manitoba that the Treaty had envisioned.⁴ The following pages explore how an enduring Métis political and diplomatic way of life influence its relationship with British and Canadian institutions, culminating in a treaty that established a Métis-majority province within Confederation, an entity that both the people of Red River, and the Canadian government understood was designed to protect Métis political control, lands, culture, and language. Despite the effort of Métis to make

⁴ J. M. Bumsted, *The Red River Rebellion* (Winnipeg: Watson & Dwyer, 1996), 178.

the Canadians good treaty partners and to share political authority in Manitoba, the arrival of a large number of Canadian troops initiated an era of settler colonialism that destroyed any hope of maintaining the bilateralism envisioned during the negotiations of 1870.⁵ Since Canada's access to Métis lands was premised on this bilateral treaty relationship, Canada's failure to live up to its obligations under this binding international agreement creates problems for the legitimacy of Canada's contemporary political presence in the West, and indeed in all the places where it treated with Indigenous nations and has failed in its responsibilities. Yet this failure on Canada's part does not dissolve these treaties, it only necessitates a return to dialogue, to renew the original intent of agreements, and to live as good relations should—to live *wahkohtowin*. What this dissertation proposes is a need to reclaim Métis history. Within these historic events we can see the potential for a very different kind of relationship between Canada and the Métis people, the basis of which can be found in the original understanding of the Manitoba Treaty.

Conceptualizing Métis Political Authority and Métis Diplomatic Relations

In October 1885, Louis Riel, the greatest of Métis political leaders was executed in Regina for high treason. Few Indigenous leaders would find such a complex place in the story of Indigenous-Canadian relations, as Riel did, and none would have such a large impact on the diverse political cultures of Indigenous peoples, as well as on Canadians.

⁵ The arrival of this militia force is essentially an invasion and occupation, arguments which has been made elsewhere. J.M Bumsted's calls the Wolseley expedition a "military invasion of Red River" *ibid.*, 137. Bumsted also questions whether Manitoba in 1870, was "a fully autonomous province or one effectively occupied by the Canadian military" *ibid.*, 220. Soldiers like General Middleton in 1885 are referred to as "a permanent occupation force" were each offered a large land grant of 329 acres if they stayed in the South Saskatchewan area, according to Howard Adams, *Prison of Grass: Canada from a Native Point of View*, Rev. ed.(Saskatoon, Sask.: Fifth House Publishers, 1989), 95.

Riel led two armed resistances against Canadian colonialism, founded a province, and was convicted of treason by a Canadian court and executed. His execution would forever alter Canadian federal politics, cementing the estrangement of French Quebec from English Canada, as well as ending the dominance of one federal party, to be replaced with another. A hundred years after his death, he would have both statues and statutes to recognize his life. He would have a public holiday in Manitoba in his honour, the province he founded. He would capture the hearts and minds of generations of Indigenous political activists with his prophetic quotes about Indigenous rebirth. His poetry would be accepted (without any hint of irony) into the cultural canon of the settler-society that he sacrificed his life in resisting.⁶

But before Louis Riel rose to this status, when he was just a man waiting to die in a cold prison cell, he put pen to paper and wrote his “Last Memoir.”⁷ It is in these humble conditions that one of the most lucid descriptions of Métis political authority in the nineteenth century was penned. At about ten pages long, the Memoir is a relatively short document, but provides remarkably clear insight about how Riel understood the previous seven decades of Métis history. The Last Memoir is an important document, not just because it is the last piece of writing of a great Indigenous leader, but because it articulates a comprehensive Métis political philosophy at a time when Riel’s thought was at its most developed stage. Equally important is its presentation of a Métis historical narrative that stands in stark contrast to how this history is usually understood today, especially by non-Métis scholars. While Riel can never quite escape the twin discourses

⁶ See Albert Braz, *The False Traitor: Louis Riel in Canadian Culture* (Toronto: University of Toronto Press, 2003).

⁷ Louis Riel, “Last Memoir,” in *Hold High Your Heads: History of the Metis Nation in Western Canada*, ed. Auguste Henri de Trémaudan (Winnipeg: Pemmican Publications, 1985).

of historical progress and civilization, he does articulate one of the clearest conceptualizations of *kaa-tipeyimishoyaahk* ever put to paper:

When the Government of Canada presented itself at our doors it found us at peace. It found that the Métis people of the North-West could not only live well without it...but that it had a government of its own, free, peaceful, well-functioning, contributing to the work of civilization in a way that the Company from England could never have done without thousands of soldiers. It was a government with an organized constitution, whose jurisdiction was more legitimate and worthy of respect, because it was exercised over a country that belonged to it.⁸

Riel was careful to explicitly define the origin of Métis self-determination, as he was certainly aware that this terrain would be the major site of political struggle for the Métis people long after his death.

Riel also situated political authority in the Indigenous origins of Métis life, connecting life on the land and *wahkohtowin*, interrelatedness with other Indigenous peoples of the plains, like their Assiniboine, Cree, and Saulteaux relations—with the self-determining authority of the Métis people. Like Métis self-determination, the indigeneity of the Métis people would also come under attack from Canadians vying for Métis lands. Prefiguring this assault on Métis indigeneity, Riel argues that the “the Indian blood” in Métis veins “established their right or title to land” and thus the Métis “held possession of this land jointly with the Indians.”⁹ This connection of Métis to both the land and familial relations with our Indian relations, serves as the basis for Riel’s understanding of Métis political authority as an *Indigenous people*. For Riel, Métis were the descendants of Indians, but were also a people in their own right—a people with a common political culture capable of expressing authority *as a people*, not merely as the mixed-blood

⁸ Ibid., 204-05.

⁹ Ibid., 200.

progeny of fur traders and their country wives. Like many other Métis of his day, Riel understood Metis society as originating from the land, and thus Indigenous itself, while also sharing a familial bond with the other Indigenous peoples of the prairies.¹⁰

From this Indigenous relationship to land and people, Riel found the origins of Métis governance and political authority in the lived realities of Métis prairie life. The annual summer buffalo hunt, which brought together hundreds of families was the foundation for Métis government.¹¹ It is a government based on “true conceptions of public freedom and equality” and organized wherever and whenever Métis people gathered.¹² Riel saw this land- and practice-based authority as more legitimate than claims to European possession based on abstract claims found in the Hudson’s Bay Company (HBC) Charter. Not convinced that the HBC could unilaterally pronounce authority over the Métis people, Riel argued that Métis government actually “surrounded” the Company, which “hunted, traded and carried on business under the Prairie Council and under the protection of Métis laws.”¹³ This assertion of Métis authority over that of the Company is an often-overlooked challenge to the standard interpretation of Company-Métis relations in the North-West. The Métis people are most commonly understood by British and Canadians historians as living and trading in the North-West at the pleasure of the HBC.¹⁴ However, Riel reverses this argument, finding

¹⁰ Ibid.

¹¹ This is a type of “provisional government” as according to Riel it was never permanent, *ibid.*, 204.

¹² Ibid.

¹³ Ibid.

¹⁴ George Stanley’s claim that the Métis were mere “half-breed squatters” who felt “no need to bother about the Company’s title” (14), has been widely and uncritically reproduced. That the Métis were never really seen as legitimate land-holders, capable of organizing their own territory independent of the land-granting practices of the HBC is a common historical trope that has mystified the nineteenth century relationship between Métis people and their land base. George F. G. Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, Canadian University Paperbooks, (Toronto: University of Toronto Press, 1961).

the Métis as the protectors of law and order in the region, as well as the facilitators of a legitimate government in the North-West. Given that there was very little the Company could accomplish without the tacit approval of the Métis, there is quite a lot of truth to this statement. What was important for the exercise of *kaa-tipeyimishoyaahk* was the ability for Métis to actualize their political goals, and when political show-downs with Company arose, as they often did, Métis could realize these goals even when they conflicted with the Company's ambitions. The nineteenth century is full of examples of frustrated Company officials bowing to Métis pressure, as they were unable to exercise their distantly ordained sovereignty because of local political organization by Métis.

In the Memoir, Riel is adamant that the Canada's claim to ownership of the North-West does little to change the legitimacy of Métis and Indian governance. For Riel, Indigenous authority was established long ago, based on an actual presence on the land, descent from the original inhabitants, and an ability to defend one's territory.¹⁵ Canada's claim to Métis land was therefore considered by Riel to be inferior because it lacked the legitimacy of established, locally-practiced authority. Canada's claims were untenable because they were based on theft: Canada "laid its hands on the land of the Métis as if it were its own" and with armed force "even took away their right to use it".¹⁶ Riel denied that Canadian sovereignty can be unilaterally imposed, and argued instead that Métis must consent to some new political arrangement for any change in government to be legitimate. Riel wrote, that in Saskatchewan there existed,

a Métis Government, of which the Canadian Government cannot become trustee unless by the consent of the people. Because this consent had neither been asked nor given, the Council of the Métis of the Saskatchewan and their Laws of the

¹⁵ Riel, "Last Memoir," 204-05.

¹⁶ Ibid., 205.

Prairie continued to be the true government and the true laws of that country, as they virtually still are today.¹⁷

Following Riel's logic, one could argue that because consent was never given for the expansion of Canadian authority into Métis territory and Métis communities, real and legitimate self-determining authority has *never* been discharged to outsiders and remains with the Métis people to this day.

The closest Canada ever came to securing the consent of the Métis to alter the relations of political authority was through a treaty with the Manitoba Metis in 1870. In its most ideal sense, this was an agreement to share political authority in this territory between the Métis people and Canada, a bilateral process that specifically protected the Métis people's *kaa-tipeyimishoyaahk*. The agreement was to create a confederal relationship in which Métis would join with Canada as a province, yet retain significant amounts of freedom and authority in their homeland. Riel insisted his entire life that this agreement was a "treaty" between Canada and the Manitoba Métis, designed to share responsibilities, but also to protect *kaa-tipeyimishoyaahk*.¹⁸ However, as Riel noted, this relationship was quickly violated by Canada, Métis land was stolen, and political authority was usurped. Canadian governmental policy, he writes,

makes open warfare on the sanctity of treaties, like the one it made with the Métis in the 1870s, which seems to have been concluded with the aim of abusing their good faith, of gaining peaceable entry to their country, of demanding their money or their life.¹⁹

¹⁷ Ibid., 208.

¹⁸ See *ibid.* In Woodcock's translation of an 1885 letter between Riel and Dumont, Riel writes, "According to Article 31 of the *Manitoba treaty*, the Canadian government owes me two hundred acres of land." George Woodcock, *Gabriel Dumont: The Metis Chief and His Lost World* (Edmonton: Hurtig, 1975), 140-41.

¹⁹ Riel, "Last Memoir," 210.

This statement is as true today as it was when Riel made it in 1885. The Manitoba Treaty, is now rarely recognized as a treaty, but instead is treated as if it was a unilateral piece of parliamentary legislation with the original spirit of the agreement long forgotten.

Riel's understanding of Métis history and its links to the idea of Métis political self-ownership—*kaa-tipeyimishoyaahk*—is evident throughout this document, and it was an understanding that would have been shared by a great many Métis of his day. Yet, despite the Memoir's ready availability, and the publication of his papers in a five volume set, his political philosophy of Métis self-determination has never been given serious consideration as a work of political theory, nor has this way of thinking been used as the starting point for a historical study. Generally speaking, Métis political philosophy has not been given the historical attention it is due—as a freestanding worldview that has collectively governed Métis actions for over two centuries. Instead this perspective has been forced into the background by interpretations of history that take Canadian sovereignty and territorial legitimacy for granted. Without considering Indigenous political authority as a valid political phenomenon, historical scholarship has largely failed to understand Métis politics, Métis governance, and Métis-Canada relations.

A History of Métis Political Authority and Colonial Fantasies of Ownership

Given that the Métis people have engaged in a long struggle to exercise our political authority, our *wahkohtowin*, our *kaa-tipeyimishoyaahk*, as well as our nationhood, that so much academic scholarship in this field can be written without a grounding in a Métis worldview necessitates an intervention of this kind. How so many histories of the Métis people can be written without a full and proper understanding of a Métis worldview is

baffling. Yet, there are hundreds of books and articles written about this very topic.²⁰ Understanding Métis history while being situated in a Métis worldview is important, because like Riel's Memoir, it stands in stark contrast to the national mythology of Canada typically used to explain western expansion.

The foundational myth of Canadian history, that Canada is destined to be a country *a mari usque ad mare*—from sea to sea— is pervasive in academic scholarship. Countless historians and political scientists have uncritically projected into the past the assumption that Canada was, historically-speaking, in sole possession of legitimate political control of all the lands now claimed by the Canadian state. Implicit in this notion of Canadian authority is the myth that Canada was (and is) able to, as James Tully argues, “unilaterally exercise sovereignty over indigenous peoples and their territories”²¹ and that this exercise of sovereignty entitles Canada to “exercise exclusive jurisdiction over the territories and jurisdictions” of Indigenous peoples.²² When carefully examined, this myth, like almost all foundational myths, lacks historical legitimacy. Any mythology of this kind is only possible through the erasure and distortion of the history of Indigenous peoples, along with understandings of their political authority, as well as their resistance to, and negotiation with, a Canadian presence. To accomplish this mythologizing goal, Canadian historical scholarship has ignored the self-determining authority of Indigenous peoples, including the Métis, and replaced it with a different conception of authority—

²⁰ See Lawrence J. Barkwell, Leah Dorion, and Darren R. Préfontaine, *Resources for Metis Researchers*(Winnipeg and Saskatoon: Louis Riel Institute of the Manitoba Metis Federation and Gabriel Dumont Institute of Native Studies and Applied Research, 1999).

²¹ James Tully, "The Struggles of Indigenous Peoples for and of Freedom," in *Political Theory and the Rights of Indigenous Peoples*, ed. P. Ivison, P. Patton, and W. Sanders(Cambridge: Cambridge University Press, 2000), 50.

²² *Ibid.*, 40.

unilaterally asserted Canadian sovereignty—which is wildly inconsistent with both a Métis worldview, and historical reality.

Previous studies of nineteenth-century Métis have varied in the quality of their representation and understanding of this subject. The most widely read works attempt to situate Métis people in a state of backwardness and ignorance,²³ a notion that was widely rejected by nineteenth-century Métis.²⁴ While a small number of scholars have shown some sympathy with nineteenth Métis struggles,²⁵ these works do not necessarily attempt a comprehensive political examination of the Métis political thought. Despite the enormous amount of attention paid to the Métis of this time, scholars have failed to take seriously Métis political philosophy as an explanatory tool for Métis resistance. The mythologizing of Canadian expansion through the misrepresentation, denial, and appropriation of Métis worldviews has demonstrated itself incapable of fully understanding both Métis history and political thought.

The most distressing recent trend among the Canadian intelligentsia is the appropriation of Métis history into a multiculturalist founding mythology, which claims a disingenuous Indigenous past for Canadians. In his national bestseller, John Ralston Saul proudly boasts that Canada is “a métis civilization”²⁶ as well as,

²³ Thomas Flanagan, *Louis 'David' Riel: Prophet of the New World* (Toronto: University of Toronto Press, 1979); Marcel Giraud, *The Metis in the Canadian West* (Edmonton: University of Alberta Press, 1986); Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*.

²⁴ See Auguste Henri de Trémaudan, *Hold High Your Heads: History of the Metis Nation in Western Canada* (Winnipeg, Man., Canada: Pemmican Publications, 1982).

²⁵ Adams, *Prison of Grass: Canada from a Native Point of View; Tortured People: The Politics of Colonization*, Rev. ed. (Penticton, BC: Theytus Books Ltd., 1999); Woodcock, *Gabriel Dumont: The Metis Chief and His Lost World*.

²⁶ John Ralston Saul, *A Fair Country: Telling Truths About Canada* (Toronto: Viking Canada, 2008), 3.

a people of Aboriginal inspiration organized around a concept of peace, fairness and good government. That is what lies at the heart of our story, at the heart of Canadian mythology.²⁷

The struggle of the Métis people to maintain *kaa-tipeyimishoyaahk* and build a relationship with Canada, as outlined by Riel above, is lost in Saul's argument as he domesticates Métis politics by conceptualizing a "Canadian internal war"²⁸ rather than an armed struggle between two equal and self-governing political entities. Saul also fails to understand that the Métis fought for their own territorial integrity, not to be a place-holder for future Canadian sovereignty. He argues that Métis were instrumental in holding "the prairies to a latitude not far off our Canadian border" and then saving "the space that would become Canada."²⁹ As this type of domesticating narrative of Métis struggle is gaining popularity in academic, government, and cultural circles, it is important for Métis studies scholarship to challenge the existing body of Métis history by reclaiming our political past from outsiders.

Buried underneath this mythology that is the birth of western Canada, sits another set of stories, numerous and varied and belonging to a number of peoples. This history, while largely ignored by the written historical record, has been carried on in their oral traditions, collective memories, and their everyday acts of resistance. These stories, like Riel's "Last Memoir" are of particular importance to the Métis people because they demonstrate an understanding of the history of political thought and action that does not easily fit into the founding narrative of Canada. These stories of Métis life are of particular importance because they speak to the core values of how Métis live, and

²⁷ Ibid., xii.

²⁸ "Introduction," in *Louis Riel and Gabriel Dumont*, ed. Joseph Boyden (Toronto: Penguin Books, 2010), xiii.

²⁹ *A Fair Country: Telling Truths About Canada*, 39.

because they challenge the notion that our current circumstances are the by-product of a well-functioning relationship between the Métis nation and Canada. A better understanding of nineteenth-century Métis political thought illustrates the power of Métis political movements in that era, as well as the groundwork that Métis leaders laid for a long-term, mutually beneficial relationship with Canada that has yet to be realized. What is presented in this dissertation is a history of the exercise of Métis self-determining authority, embodied by *kaa-tipeyimishoyaahk* and *wahkohtowin*. These two Métis political concepts that signify independence and interrelatedness allow for a more comprehensive examination of Métis political movements, governance, and resistance grounded in the everyday cultural and spiritual existence of nineteenth-century Métis.

The period between 1830 and 1870 in the North-West is significant because it is this era where Métis political thought formed, crystallized, and adapted to the various influences on the plains. It is in this period where Métis developed the self-conscious nationhood that still connects the many Métis communities that spread out across the continent. It is in these years that Métis values, ways of life, and defining cultural features were refined by political assertions in the context of wider historical events. In order to understand Métis political thought in all its complexity, this era is definitive. This era contains the establishment of the great buffalo hunts, the development of the Red River Settlement as a Métis cultural crucible, the collapse of the HBC trade monopoly, the negotiation of the Manitoba Treaty to create a confederal relationship with Canada, and the start of the exodus of Métis people from Manitoba due to immediate treaty violations and settler colonialism. This short stretch of time contains some of the largest political movements in Métis history. It is also the time in which the groundwork was laid for

Métis political aspirations for the future. By examining these forty years, Métis can learn a great deal about ourselves and a great deal about the current socio-political context. At the very least, these are moving stories that have been an important source of motivation for generations of Métis leaders that followed.

Canadians also have much to learn about their historical relations with the Métis people, not only about Métis struggle against Canadian imperialism, but also the definitive Métis vision of a different type of relationship—based in a treaty agreement to co-exist and live together without trying to dominate one another. By learning this history, both Métis and Canada can work to realize another way of living together, and living side-by-side, in peace.

The Métis People, the New Nation

‘Who are the Métis people?’ is a question that has preoccupied academics and policy-makers (not to mention Métis people) for a considerable period of time. Despite these debates there has been common agreement among Métis that there is a distinguishable Métis people, who share a common history and culture, as well as a common nationhood. Some have referred to this group as capital-M Métis.³⁰ There has also been an acknowledgement of other groups of Indigenous-settler mixed people, commonly small-m “métis” who form self-determining political communities independent from Indian and white cultures. Métis scholar Chris Andersen describes the difference,

between métis and Métis on the basis that the former signifies distinctiveness from predecessor nonnative and tribal communities while the latter indicates (in

³⁰ For the original delineation of this terminology see Jacqueline Peterson and Jennifer S.H. Brown, "Introduction," in *The New Peoples: Being and Becoming Métis in North America*, ed. Jacqueline Peterson and Jennifer S.H. Brown (Winnipeg: University of Manitoba Press, 1985), 6.

addition to the assumed distinctiveness) *actual political self-consciousness as Métis*.”³¹

Andersen rejects the idea that being Métis is equated solely with being mixed, an equation that is at its core a racial identity based on Victorian notions of race and miscegenation.³² He argues instead that Métis are a *people* in the fullest sense of that word, and demonstrate this by “treating with...other Indigenous nations,” a “collective self-consciousness *as Métis*, and a history of challenging Canadian claims to sovereignty and the right to annex Métis territory.”³³ Métis identity, Métis political culture and Métis history are rooted not so much in the mixing of cultures—although this is certainly an important component—as in the experience of a collective Métis political and cultural life. Métis peoplehood should be seen as a holistic existence, and despite much internal variation, one can find enough kinship relations and a common feeling of belonging that allowed Métis to understand themselves as constituting a coherent and historically-based Indigenous nation.³⁴ The content of this work, then, concerns the Métis nation, an Indigenous people who understand themselves as Métis and have a common history that began in Red River and on the prairies of the Métis homeland.

The nominally Catholic, and French-speaking Métis people of the nineteenth-century North-West were also distinct from the Anglican/Presbyterian English-speaking

³¹ Chris Andersen, "*Moya 'Tipimsook* ('the People Who Aren't Their Own Bosses'): Racialization and the Misrecognition of 'Metis' in Upper Great Lakes Ethnohistory," *Ethnohistory* 58(2011): 46. Emphasis added.

³² See "'I'm Metis, What's Your Excuse?: On the Optics and the Ethics of Misrecognition of Metis in Canada," *aboriginal policy studies* 1(2011); "From Nation to Population: The Racialization of 'Metis' in the Canadian Census," *Nations and Nationalism* 14, no. 2 (2008).

³³ "*Moya 'Tipimsook* ('the People Who Aren't Their Own Bosses'): Racialization and the Misrecognition of 'Metis' in Upper Great Lakes Ethnohistory," 47.

³⁴ Indeed, this is how the Métis National Council has set its membership criteria—all Métis citizens must be able to demonstrate “historic Métis Nation Ancestry” in Western Canada. See Metis National Council, "Citizenship," (<http://www.metisnation.ca/index.php/who-are-the-metis/citizenship>: Metis National Council, 2013).

Halfbreed community (this term historically lacked the racist connotations it has today).³⁵

These two communities, bounded in some ways by language and religion, overlapped in many respects as well. There was regular intermarriage between Métis and Halfbreed families, and several prominent Métis buffalo hunt leaders, men like Cuthbert Grant and Jean-Baptiste Wilkie were actually born into Halfbreed homes but adopted as Métis.³⁶

Though at times the two communities were involved in much the same activities and are somewhat indistinguishable—common buffalo hunts, as well as boating and freighting ventures—there were also times, like in 1869 where the communities adopted very different political positions. While kinship practices were important for determining Métis-Halfbreed relationships, and the two communities understood a kind of commonality, they were also politically distinct peoples. Despite an overlapping membership, Métis and Halfbreeds of the nineteenth-century seemed to accept the reality that they were different political communities, and sometimes ascribed the difference on themselves, as they did throughout the existence of the Provisional Government of Assiniboia in 1870. However, even in 1870, Métis and Halfbreeds began to use the term “the people of the North-West” to signify a new kind of political unity. So while recognizing a social space where there were no cut-and-dried rules for differentiating Métis and Halfbreeds, these categories still existed and were recognized in the common political practice of the Indigenous peoples resident at Red River and in the North-West.

³⁵ See Frits Pannekoek, *A Snug Little Flock: The Social Origins of the Riel Resistance of 1869-70* (Winnipeg, Man.: Watson & Dwyer Pub., 1991).

³⁶ Irene M. Spry, "The Metis and Mixed-Bloods of Rupert's Land before 1870," in *The New Peoples: Being and Becoming Metis in North America*, ed. Jennifer S.H. Brown and Jacqueline Peterson (Winnipeg: University of Manitoba Press, 1985), 105.

Organization of Chapters

In developing a history of Métis self-determination, I will first examine the effectiveness and usefulness of the dominant historical narratives concerning Métis governance and territoriality. Chapter 2 examines the narratives used by British-derived political institutions to imagine their governance and sovereignty over the Métis people on the periphery of Britain's North American colonies in the nineteenth century. Since this fantasy is grounded in the Doctrine of Discovery's intensely problematic legal fiction of European political superiority, this chapter deconstructs the flawed logic that underwrites British/Canadian political authority in the North West. What emerges instead is a complex political space where Indigenous nations coexisted in close confines with European and Canadian settlers. While the fantasy of British sovereignty may have been rather successful in justifying British colonial governance in the minds of Englishmen and Canadians, attempts to claim the territories of the Indigenous peoples of the North-West was much less successful than this historical narrative would indicate. In practice, British governance was regularly contested and repeatedly disrupted by the direct intervention of Métis governance, and counter-narratives of nineteenth-century Métis regarding their own ownership, governance, and political authority over their territory, and in their diplomatic relations with other peoples.

Chapter 3 examines the buffalo hunt as the origin of Métis political philosophy, the grounding of *kaa-tipeyimishoyaahk* in the Métis value-system, and the practical development of Métis governance. This chapter explores the centrality of buffalo hunt political practices as the origin of Métis political life. Nineteenth-century Métis governance was a careful balancing act of respecting family self-ownership, while

acknowledging that familial independence was often contingent on family connections—*wahkohtowin*. This chapter, then, defines Métis governance as a coherent internal system, underpinned by a common political language among Métis families who understood both their relatedness to one another, and their independence from political coercion. Métis governance was expressed through the many Métis governments that embodied these practices. Nineteenth-century Métis governance allowed the buffalo hunt council to express a coherent political authority over its people, while still requiring Métis families to voluntarily form a government. In order for this authority to have legitimacy, Métis needed to consent to its formation. Therefore the expression of legitimate authority over Métis families could not be unilateral, and since the Company and Canada both attempted to establish governments without Métis consent, their authority over Métis has always been questionable.

Chapter 4 discusses the basis of *wahkohtowin* in Métis international relations as it emerged on the prairies. It examines Métis diplomacy with other Indigenous peoples, and the establishment of a common language of kinship and obligation, structured by the Cree-origin concept of *wahkohtowin*. Métis engaged with other peoples as kin, and were highly cautious of strangers—or those who they were not related to—and approached diplomacy quite differently with strangers than they did with family. This chapter analyzes the family-making diplomacy between Métis and Dakota, as well as Métis-Dakota relations during and after the Battle of the Grand Coteau in 1851. This chapter argues that through diplomatic and biological kinship, Métis had fully integrated themselves into the political and kinship structure of the plains, and were highly effectual

at mobilizing the diplomatic language of the North West in their dealings with other people, including non-relative Canadian strangers who arrived in Red River in 1869.

Chapter 5 describes the relationship between the Métis and the Hudson's Bay Company in the mid-nineteenth-century North-West. The early- and mid-nineteenth century can be characterized by a back-and-forth political relationship between the Company and the Métis in Red River. While the Company regularly attempted to claim the position of the sole legitimate political authority in the Red River region, the Métis were unwilling to give up their economic and political self-ownership on the basis of the Company's abstract claims to govern them. Throughout this era, several conflicts emerged around the Company's administration of justice in the Settlement. In resisting these attempts at overarching HBC governance, the Métis challenged the legitimacy of the Company's Charter, and ultimately the claim that the HBC could express coercive political authority over the Métis people. Throughout these relationships, nineteenth century Métis continually asserted their freedom to organize governments, exercise prairie justice, and when necessary, use force to protect their *kaa-tipeyimishoyaahk*.

Chapter 6 explores the arrival of Canada as diplomatic strangers to the Indigenous peoples of the North-West. In 1868 Canada began to negotiate with the Hudson's Bay Company for the purchase of the land granted to them by the HBC Charter. Yet, neither Canada nor the Company questioned their ability to buy and sell Indigenous land—ignoring Indigenous political authority and land tenure. As a result of Canada's fantastical purchase of the North-West Territories from the Company, and Canada's failed attempt to install a colonial government at Red River, Métis were able to successfully mobilize themselves in order to defend their *kaa-tipeyimishoyaahk*. The

result is the creation of a buffalo hunt government, the Provisional Government of Assiniboia established by a series of public assemblies, and the founding of a new governing body of Métis and Halfbreeds to negotiate a treaty with Canada.

Chapter 7 examines Provisional Government of Assiniboia's non-negotiable "rights" established by the legislative debates in Red River. Red River's *Lists of Rights* contained four principles that the representatives of the people of the North West considered peremptory conditions for a bilateral treaty agreement with Canada. The Provisional Government insisted that any agreement with Canada recognized the right of the people of the North West to negotiate with Canada as an independent political entity, thus ensuring a treaty based on a relationship between governments. It also required that the local traditions of land-holding, language, and politics be protected. The Provisional Government, which was to be recognized as the government of the country, would be free to determine the future political institutions of the new province of Manitoba. It was only on these terms, that the self-owning people of the North West would consent to any future political arrangement with Canada.

Chapter 8 contains an analysis of the debate over the standing of the Provisional Government's delegation to Ottawa, and the ultimate recognition of the delegation from the North-West, and its capacity to negotiate with the government of Canada as the representatives of a free people. Despite Canada's initial unwillingness to recognize the Provisional Government of Assiniboia, its ultimate decision to recognize the Provisional Government's delegation as both delegates of the North-West and delegates of the people, amounted to practical recognition of the Provisional Government's status. The Canadian delegates also established themselves as the delegates of the Canadian

government, a fact which when combined with their recognition of the Assiniboian delegation, led to a negotiation between governments with more or less equal political stature and authority.

Chapter 9 analyzes the success of this bottom line during the negotiations between the Provisional Government and the government of Canada. Both parties, negotiating on a government-to-government basis were able to achieve a consensus on the key matters of importance to Red River. The end result was a series of agreements, some institutionalized in the Canadian legislature's Manitoba Act, and others to be formalized in future Orders-in-Council, that allowed for the dual-ratification of this bilateral treaty. This chapter argues that the Provisional Government and the people at Red River agreed to the Manitoba Treaty—the robust agreement including written agreements, and a series of oral clarifications recorded by the Provisional Government's chief negotiator Abbé Noel Ritchot. It was this robust treaty then, that should be considered the principle text for understanding the relationship between Canada and the people of the North West, as created in 1870.

Chapter 10 concludes this dissertation with a discussion on what lessons Métis political history holds for both internal Métis governance and Métis-Canadian relations, today. I also examine what a just *wahkohtowin*-based relationship between Canada and the Métis people would look like, according to nineteenth-century Métis political thought. The conclusion stresses how a revival of the Métis political traditions of *kaa-tipeyimishoyaahk* and *wahkohtowin* are necessary for transforming the political relationship between the Métis people and Canada. By reviving these political concepts, we can better work towards the goals for living together, while respecting the

independence of others, the same vision contained within the original intent of the Manitoba Treaty.

Like many other Indigenous peoples, the Métis have been experiencing a rebirth in traditional knowledge, cultural expression, and political mobilization. However, the intellectual production of Métis knowledge and Métis history has been dominated by non-Métis perspectives, and serves interests which are not necessarily consistent with wider Métis goals. Articulations and explanations of the development of Métis political thought are necessary to resituate traditional knowledges in the practice of contemporary politics. Given the diasporadic nature of Métis politics, an examination of the common origins of Métis political thought could also serve as a uniting force for Métis people, assisting in the realization of common political goals across the six political bodies that currently represent Métis people in the West. It could also assist in the building of transnational linkages with Métis living in the northern plains of the United States, who also trace their origins to Manitoba. Ultimately, the goal of this project is consistent with larger movements in Indigenous studies, which is to revive traditional Indigenous knowledges for use in the broader resistance and liberation struggles of our peoples, and the resolution of Indigenous political authority, rights and title, in relation to the claims of sovereignty by North American nation-states. Understanding the goals of our ancestors can allow us to see the commonality of Indigenous struggles across time and place, and help us better organize to reclaim the positions of political centrality that our ancestors once held.

* * *

Some Notes on Terminology

I will use “Indian” in several contexts. This is a most unsatisfactory word, given its racist origins and its continued legal meaning tied to colonial legislation, (even given the successful reclamation of the term by “Indians”). In the nineteenth century, colonial administrators rarely differentiated “Indians” by nation, which was an attempt to treat all “Indians” as one and the same primitive people, without regard for their complex political systems. It is not my intent to reproduce this racist assumption, but rather to use the word Indian as short-hand for non-Métis Indigenous peoples. Most commonly, in the nineteenth-century the terms “Métis” and “Indian” are used to describe the social and cultural differences between two major Indigenous groups on the plains (although this often proved difficult). When possible I will use nation-specific terminology—Cree, Blackfoot, Dakota, etc.—but on certain occasions I will discuss Métis-Indian diplomacy to represent the general differences between Métis and non-Métis Indigenous worldviews. The other options, such as Métis and Indigenous, would imply that Métis are non-Indigenous, which is the kind of thinking that is inconsistent with the nineteenth-century diplomatic culture that clearly treated Métis as an Indigenous people.

There is also a confusing use of “Canadian” in historical scholarship and nineteenth-century documents, which depending on context can mean both French Canadian (who have a long history of political and economic cooperation with the Métis in the North-West) and someone from the newly created Dominion of Canada (who have a largely adversarial relationship with Métis). To clear up this confusion, French Canadians will be referred to in the French-spelling “Canadien” and the Canadians will be referred to in the contemporary English form.

Chapter 2 – “the enlightened rule of Her Most Gracious Majesty our Queen”³⁷: The Fantasy of British and Canadian Sovereignty over the Métis People in the Nineteenth Century North-West

In 1869, a party of armed Métis soldiers barred William McDougall from assuming his post as Lieutenant-Governor-designate for Canada’s “newly acquired” North-West Territory. In no uncertain terms the Métis informed McDougall that Canada did not govern them. Ambroise Lépine, leader of the Métis soldiers, told McDougall that he was not welcome in the Red River territory and that he must turn back to wait on the American side of the boundary, until “the government” of the North-West gave him official permission to enter. McDougall was likely puzzled. His behaviour was that of a man who assumed his appointment by the Queen established him as the sole governor of what was supposed to be a British possession. So he asked Lépine exactly what *government* he was talking about. Lépine replied, “the Government we have made.”³⁸ McDougall was outraged but out-matched. He had no choice but to allow Lépine and his men to escort this Canadian-designated government out of the North-West. With this action, Métis soldiers acting on behalf of a self-constituted, popular government of the people of the North-West expelled a supposedly sovereign European entity from the territory. McDougall, like many others before him, had just gained first-hand experience of the uncertainty of European authority in the still-overwhelming Indigenous North-West of the nineteenth-century.

³⁷ William Mactavish, "Governor's Proclamation of November 16, 1869," in *History of the North-West*, ed. Alexander Begg (Toronto: Hunter, Rose & Co., 1894), 395.

³⁸ Ambroise Lépine, quoted in George F. G. Stanley, *Louis Riel* (Toronto,: Ryerson Press, 1963), 65.

This brief exchange between McDougall and Lépine is representative of a much larger political disjuncture between the Métis people and British political institutions claiming to govern them. How Métis understood their relationship with British authority was very different from how the British representatives of the Crown envisioned it. While Métis tended to see the authority of the Crown and their own political authority as co-existing, relational, and diplomatic in nature, the Crown's representatives imagined the Métis as British subjects governed by "the enlightened rule of Her Most Gracious Majesty our Queen."³⁹ Contrary to British imaginings, Métis regularly described themselves as an Indigenous people—lords of the soil, descendants of the original inhabitants, natives of the country, relatives of the Indians—rarely situating their political power and their diplomatic responsibilities within the constitutional apparatus of Britain or one of her colonies. Britain's claims to govern the Métis can thus be seen as inconsistent with Métis self-understandings, and as a result of the Indigenous power dynamics in the North-West, a British government of any kind was almost entirely ineffective without Métis approval, or in the very least Métis indifference to British institutions.

This chapter will examine how the British political institutions and their agents—the British Empire, the Hudson's Bay Company, and the Dominion of Canada—imagined their governance of the North-West. Through these imaginings, British institutions produced a complex narrative of ownership and sovereignty over the North-West and its peoples. Through the discovery of lands unseen by the agent of another Christian prince, a land cession through a treaty with the Indians, and then a transfer of this claim from the Company to Canada, allowed for the increasingly British possession and territorial

³⁹ Mactavish, "Governor's Proclamation of November 16, 1869," 395.

governance of the North West. However, this narrative was, at its core, a colonial *fantasy*. While such a story was used to justify British colonial governance in the minds of Britons and Canadians, attempts to claim and govern the territory of the Indigenous peoples of the North-West was much less successful in practice than this narrative would indicate. In practice, this colonial fantasy was consistently contested and disrupted by the direct intervention of Métis governance, and counter-narrative of nineteenth century Métis regarding their own self-ownership, governance, and political authority. This chapter analyzes five key moments in the development of this colonial fantasy of British territorial possession and government over the North-West, and examine how historical and political science scholarship has worked to maintain the fantasy of British/Canadian sovereignty over Métis people and territories. It also demonstrates how the actualization of Britain's claims to sovereignty had limited success in the North-West and how these claims were unable to stand up to the scrutiny of Indigenous intellectual traditions. The purpose of this chapter is to examine the colonial narratives that produce a sense of British ownership and possession. Subsequent chapters will explore the practical limitations of British claims to Métis lands examine the Métis response to these imaginings in more detail.

Beginning with Britain's earliest claims to sovereignty and government, this chapter first examines the "Charter for the Company of Adventurers of England, trading into Hudson's Bay," more commonly known as the Hudson's Bay Company Charter, or simply "the Charter," which in 1670, claimed by Discovery all lands and waters draining into Hudson Bay. After the fantasy of Discovery and nominal occupation of the Hudson Bay drainage imagined a British title to the Hudson Bay drainage, a second element in

this colonial narrative, Selkirk's Treaty with the Cree and Saulteaux in 1817 supposedly secured the "surrender" of the Indigenous lands around Red River. Selkirk's Treaty, according to this fantasy, was the legal justification for Company governance of Red River based on the establishment of an uncontested British sovereignty over the Red River Settlement. But the validity of Selkirk's Treaty was contested almost from its signing, with the Cree and Saulteaux signatories understanding it as a rental agreement, not an act of land cession, and much of the available historical evidence supports this view. A conflicting fantasy is also by Canada in 1857 during the hearings of a parliamentary select committee in London that scrutinized HBC activities in the North-West. In the third section of this chapter, the committee testimony of Canada's representative Chief Justice Draper will be explored. Draper disputed the Company's narrative of Discovery, arguing instead that Canadian fur traders had established a presence in the southern reaches—the fertile belt—of the North-West long before the Company did. This sequence of events, he argued, meant Canada had inherited the claim of Discovery from New France, therefore legitimate possession of the North-West for the purposes of settlement and governance belonged to Canada. While ultimately the Canadian challenge to Company Discovery did not bear fruit, the eventual transfer of the Company's territorial claims to Canada in 1869 did. This fourth fantastical narrative moment involved the mediation of the British Parliament, which transferred rights of governance from one British institution, the Company to another, in this case the Dominion of Canada. According to this fantasy, total British possession of the North-West was fulfilled with the joining of Manitoba to Canadian Confederation, supposedly by a unilateral act of Dominion Parliament—the Manitoba Act, 1870.⁴⁰ However, despite

⁴⁰ Complete sovereignty could only be imagined after the cession of indigenous lands through treaty. Since the

the claims of these three alien governments, this final legislation came into existence only through negotiation with representatives of the people of the North-West, and ultimately required the ratification of the Metis- and Halfbreed-run Legislative Assembly of Assiniboia, making for a bilateral act of diplomacy, not a piece of domestic legislation.

What each of these narrative moments contain in common is the presumption of the supremacy of British institutions and sovereignty, and the assumption of the relative inferiority of Indigenous governance. This chapter, however, will demonstrate that Métis and other Indigenous peoples not only disrupted much of these fantastical claims through intellectual intervention, but also physically challenged these alien claims on the ground. Indigenous peoples, particularly the Métis, repeatedly disrupted the legitimacy of this fantasy of British governance, in their sustained resistance to the consolidation of British political power in the North-West.

The Doctrine of Discovery and the Charter of the Hudson's Bay Company

The fantasy of British and Canadian possession of the North-West, and ultimately the ability to govern it, was rooted in the Doctrine of Discovery, a European legal fiction that allowed European empires to imagine the possession of newly found territories.

Discovery, as a European legal convention, historically allowed European 'explorers' to 'discover' 'new' lands, and claim them for their sovereign, based on notions of cultural superiority, civilization, and Christianity. This meant that five European empires—Britain, France, Spain, Portugal and the Netherlands—could theoretically divide up the Americas among themselves. While none of these empires could maintain a sustained

Métis were already considered to be British subjects, it was reasoned that the need for a treaty with the Métis was unnecessary for British sovereignty to be realized.

presence over much of this territory, and certainly could not count on the unwavering support from Indigenous “subjects,” the fantasy of ownership through Discovery was the conceptual backbone of empire-building during the modern age. Discovery has been used as a justificatory rationale since at least the Crusades,⁴¹ and was, in essence, the legal authorization for imperial undertakings. However, the Doctrine of Discovery has never been more than a fantasy, although at times, one that was backed up by physical violence. Discovery is a legal fiction that fails to establish European claims to territory and political power in North America in any meaningful way, it was a European ceremony of possession for Europeans, by Europeans, and one that had little impact on the actual exercise of Indigenous political authority in the New World, well into the nineteenth-century.

The primary assumption of Discovery is that European political formations were inherently superior to Indigenous North American governing structures, so that “the first European country to discover lands unknown to other Europeans gain[ed] property and sovereign rights over the lands” of Indigenous peoples.⁴² Europeans rationalized this with the misguided belief that Indigenous nations could claim only an inferior kind of political authority that was unequal to the assertion of sovereignty by a “Christian Prince”.⁴³ Even though most European ‘explorers’ were quite aware that the lands they ‘discovered’ were already ‘found,’ Discovery was premised on the myth that indigenous peoples possessed an inferior relationship to their territory, and had a weaker form of self-governance, that

⁴¹ Robert A. Williams, *The American Indian in Western Legal Thought: The Discourse of Conquest* (New York: Oxford University Press, 1990), 317.

⁴² Robert J. Miller, *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies* (Oxford: Oxford University Press, 2010), 6.

⁴³ Richard J. F. Day, *Multiculturalism and the History of Canadian Diversity* (Toronto: University of Toronto Press, 2000), 118.

could be overridden by the simple presence of a Christian monarch's agent. Their land was considered *terra nullius* "legally 'vacant' and 'unused,' and open to appropriation by Europeans."⁴⁴ But, as Richard Day notes, there was a problem inherent with *terra nullius*, "everywhere the Europeans went, the 'waste' lands turned out to be occupied," and so, "before the 'waste' lands could be populated, they had to be de-populated; that is, their emptiness had to be constructed by colonial practice so as to correspond to colonial theory."⁴⁵ It required a kind of *conceptual depopulation* of the landscape. To depopulate North America, the Doctrine of Discovery never really rejected Indigenous political presence; it was just treated as inferior. As a result, European empires could supposedly subsume much of the local Indigenous political authority by their simple Discovery of those lands. Discovery was a conjuring trick, as John Borrows notes, calling into existence a powerful legal fiction that unilaterally "changes an ancient people's relations with its land" by "mere assertion" of a foreign sovereignty.⁴⁶ Thus the European explorers were able to simultaneously understand the New World as a fully peopled landscape full of pre-existing political units, while at the same time constructing a legal logic that made these kinds of pre-existing political occupation of territory legally inferior to the political powers of European empires. The first claim of European possession and political authority in the North-West, then, did not rely on actual occupation for its legitimacy, rather it was a ceremony in which (in the British tradition at least) the agent of a distant king mapped the mouths of rivers from an English ship. The absurdity of this

⁴⁴ Robert J. Miller, "The Doctrine of Discovery in American Indian Law," *Idaho Law Review* 42(2005): 15-16.

⁴⁵ Day, *Multiculturalism and the History of Canadian Diversity*, 117.

⁴⁶ John Borrows, *Recovering Canada: The Resurgence of Indigenous Law* (Toronto: University of Toronto Press, 2002), 94.

claim doesn't matter if Indigenous political institutions were considered inferior to European sovereigns, but if we are to respect Indigenous peoples' political authority, and respect their nationhood, a very different understanding of Discovery emerges—an understanding of *Discovery as fantasy*.

The basis for British claims to territorial possession of the North-West originate in Discovery, and therefore Company claims inherit all the problematic baggage of this flawed legal device. The Company's constitutional document, "The Royal Charter of the Company of Adventurers Trading into Hudson's Bay", more commonly known as the Hudson's Bay Company Charter, is at its core a document outlining British Discovery of the North-West. In 1670, Charles II, King of England, Ireland, and Scotland, granted to his cousin, Prince Rupert, along with some other aristocrats, large tracts of land in the Hudson Bay drainage, none of which any of these individuals had actually seen. The Charter also granted the supposed exclusive right to trade in furs on, "all the Lands, Countries and Territories, upon the Coasts and Confines of the Seas, Streights, Bays Lakes, Rivers, Creeks and Sounds" that empty into the Hudson Bay, "which are not now actually possessed by any of our [British] Subjects or the Subjects of any other Christian Prince or State."⁴⁷ In addition to the gifts of lands not belonging to another Christian Prince, the Charter provided the Company with the supposed authority to govern these lands, and the British subjects inhabiting them, granting the power,

to make, ordain, or establish, any such Laws, Constitutions, Orders, and Ordinances, in such Form as aforesaid, shall and may lawfully impose...such Pains, Penalties and Punishments upon all Offenders, contrary to such Laws, Constitutions, Orders and Ordinances...for the better Advancement and Continuance of the said Trade.⁴⁸

⁴⁷ "The Royal Charter for Incorporating the Hudson's Bay Company, A.D. 1670," (England, 1670).

⁴⁸ Ibid.

The Charter, according to Darren O'Toole, theoretically invested "legislative, executive and judiciary powers" in the Company, generating the first European government in the drainage.⁴⁹ The Charter, as a grant from the King, was also intended to establish a British claim to the lands, and would protect it from the claims of other European sovereigns. These lands, or at least the shores of Hudson Bay, had been legally Discovered in 1668 by two explorers, Medard des Groseilliers and Pierre-Esprit Radisson, commissioned by the British Crown to sail into Hudson Bay and map the surrounding lands and waters. This mapping was the ceremonial act of Discovery. Although it "yielded no understanding of the interior or of the Native peoples who lived there," mapping, along with renaming the landscape after British places and people, provided basis for claims to British possession of the drainage under English law.⁵⁰ This rather absurd act of claiming vast territories by mapping the mouths of rivers was never really problematized by European legal systems, by this time they had already internalized the logic of Discovery in their legal culture.

Neither did British Discovery, require an on-the-ground presence. Its power originated in Europe, and flowed from the King's sovereign will. This claim, along with all Discovery claims, was so far removed from the reality of life in the drainage in 1670, that it did not affect the lives of the Indigenous people of the Hudson Bay drainage. It was pure fantasy. Yet, it would be a mistake to rob this colonial fantasy of its power. The immense influence of the Charter lay not in its immediate ability to assert itself over

⁴⁹ Darren O'Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba" (Dissertation, University of Ottawa, 2010), 93.

⁵⁰ Michael J. Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America*, 1st ed., Early American Studies (Philadelphia: University of Pennsylvania Press, 2012), 72.

Indigenous peoples, but *in its ability to motivate and justify the colonial ambitions of British traders and settlers*. In this sense, it is in the Charter that Company men found the confidence to assert, and act on, the sovereignty of their king in lands far away from their own, over which they could initially claim only nominal control. Discovery played an important role in the construction of the colonial fantasy of British sovereignty, even if Britain wasn't able to actualize its claims. The Hudson's Bay Company Charter's text speaks the language of Discovery, of granting land and monopolizing trade, of establishing governments, and enforcing laws. The Charter was supposed to make the Company "the true and absolute Lords and Proprietors, of the... Territory,"⁵¹ to be the bulwark of British imperialism over these vast, legally vacated lands.

The Charter's claims, and these stories of Discovery, have unfortunately been uncritically reproduced in the literature of the historic North-West, and little attention has been paid to the Métis counter-narratives that emerged to challenge the discursive power of Discovery and the Charter. One of the first thorough defences of the Charter and Company governance in general can be found in Alexander Begg's *History of the North-West* (1894). In it, Begg reproduces rather matter-of-factly the logic claimed by the Company for possession of, and governance over, the Hudson Bay drainage:

The charter gave the company the power to make, ordain and constitute reasonable laws, constitutions, orders and ordinances as to them seemed necessary—to put them in use, and execute them, and at their pleasure to revoke and alter them as occasion required. It provided also for the imposing of pains, penalties, and punishments upon all offenders.⁵²

While Begg does note that the "validity of the Hudson's Bay charter has been challenged on several occasions" he also defends it by noting that "the opinion of some of the

⁵¹ "The Royal Charter for Incorporating the Hudson's Bay Company, A.D. 1670."

⁵² Alexander Begg, *History of the North-West*, vol. I (Toronto: Hunter, Rose & Co., 1894), 122.

highest authorities in England...has been pronounced in its favour,”⁵³ including several instances of recognition from the Imperial Parliament.⁵⁴ Begg’s very limited critique only notes four common “complaints” regarding the Charter: 1) that the Charter was a royal grant that did not receive legislative ratification by Parliament; 2) that the Crown could not legally grant a trade monopoly to favoured subjects; 3) that the Company had failed to live up to its responsibilities in the Charter, including searching for a North-West passage, and civilizing the Indians; and 4) the Charter’s grant of territory included lands simultaneously claimed by another Christian Prince.⁵⁵ Tellingly, the criticisms included in Begg’s analysis do not include any Indigenous critiques, nor do they include the fairly vocal criticisms of Métis and Halfbreed leaders concerning the invalidity of the Charter as the basis for European government over them.

In fact, the literature in general has had trouble with integrating Indigenous criticisms of the Charter—that the Charter claimed other peoples’ territory—into the analysis of the nineteenth century North-West. Stanley, for example, simply echoes Begg’s sentiments, that the “validity of this charter had been challenged upon several occasions but the law officers of the Crown had always upheld it”.⁵⁶ Flanagan (who erroneously identifies James II as the signatory of the Charter) invokes the much more loaded term of “ownership,” arguing that the Charter, “gave the Hudson’s Bay Company ownership of Rupert’s Land—all the lands drained by rivers flowing into Hudson Bay.”⁵⁷ Bumsted, perhaps the most astute historian of the North-West, avoids passing judgement

⁵³ Ibid.

⁵⁴ Ibid., 121.

⁵⁵ Ibid., 125.

⁵⁶ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 27.

⁵⁷ Thomas Flanagan, *Metis Lands in Manitoba* (Calgary: University of Calgary Press, 1991), 13. Emphasis added.

on the Charter like previous historians. He does, however, also fail to separate the legitimacy of Company governance from its actual exercise, assessing instead the validity of the “administration” of Red River based on standards of good governance.⁵⁸ Bumsted writes,

True, Assiniboia was ultimately ruled under the paternal authority of the Hudson’s Bay Company, with which it shared a number of officers. But it was also politically separate. Members of the Council of Assiniboia were appointed by the HBC rather than elected by the populace, but some pains were taken to select men of importance representing the various segments of the community.⁵⁹

Whether or not the Company was a *good* government, is an entirely separate conversation than whether or not it was a *legitimate* government, and a question that Bumsted does not address. It is on the latter point, the question of Company legitimacy, in which Métis found the impetus for their resistance, repeatedly rejecting the idea that the Company had the legitimacy to form an authoritative government over them (this debate will be explored more in chapter 5).

In one of the few scholarly critiques of the Charter’s legitimacy, Howard Adams offers a provocative perspective that is probably closest to nineteenth-century Métis understandings of the document. Adams describes the Charter as “a gift of Indian land, resources, and people to a group of aristocrats” one that authorized these aristocrats “to hold imperial authority over this vast territory and its people.”⁶⁰ Adams’ biting analysis of the imperial dimension of the Charter has rarely been addressed in other academic studies, and thus the Charter’s legitimacy is in need of further analysis. In doing so, scholars must also adequately address Métis understandings of their own self-ownership

⁵⁸ Bumsted, *The Red River Rebellion*, 16.

⁵⁹ *Ibid.*

⁶⁰ Adams, *Prison of Grass: Canada from a Native Point of View*, 23.

in relation to the claims of the Charter; it is necessary to take a deeper, Métis-centric look at the sovereignty claims of European institutions.

It is important to note that Europeans did not see the Doctrine as the end of all Indigenous governance in newly discovered territories. Discovery did have important limitations that would confine the Charter's powers in the drainage. British law, for instance, did not allow the Company to unilaterally impose British government on Indigenous peoples, it could only govern interactions between "British subjects, between the latter and foreign subjects and between British subjects and Indigenous peoples."⁶¹ It was not intended to affect relations *between* Indigenous peoples, at least until they signed a treaty or otherwise consented to be protected by the Crown. In this logic, Discovery alone was not enough to fully extinguish the territorial title of Indigenous people. It did, however, hypothetically downgrade Indigenous authority into a kind of *right of occupancy*, which allowed Indigenous peoples to use their lands as before, but with limitations on diplomatic, political, and commercial rights.⁶² Indigenous peoples could no longer (at least in theory) treat or trade with other European powers, and were allowed only to alienate their lands to the discovering power.⁶³ Discovery then, supposedly placed 'discovered' peoples "under the tutelage and direction of the discovering Christian Prince."⁶⁴ In actuality however, these provisions were very difficult for the discovering empire to enforce and Indigenous nations continued to engage in diplomacy as they had for eons.

⁶¹ O'Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 92.

⁶² Miller, *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies*, 7.

⁶³ "The Doctrine of Discovery in American Indian Law," 5.

⁶⁴ Williams, *The American Indian in Western Legal Thought: The Discourse of Conquest*, 80.

It is important to note, that from a British legal perspective, these legal limitations on Indigenous use rights were not applied to Métis and Halfbreeds. The Company, as well as other British institutions, repeatedly claimed that the Métis were British subjects above all else and therefore under the purview of the Crown.⁶⁵ The Charter did not, even in British imaginings, transform inter-Indigenous relations, but British policy consistently attempted to de-Indigenize Métis and Halfbreeds, imagining them as British subjects, instead of Indigenous peoples. This legal limit of European power over inter-Indigenous relations, then, did little to prevent the Company from making overarching claims to control Métis territory and to govern Métis people. It appears that Métis' half-European parentage combined with semi-agricultural settlement in the Red River district justified this interpretation of Métis as a community of British subjects living a semi-civilized life under the tutelage and legal authority of the Company.

The discursive denial that Métis possessed the ability to fully understand the political world, or in some cases, to even take care of themselves, was a key element in conceptually depopulating Métis governance from the fantasized British landscape of the North-West.⁶⁶ As it were, Métis were too civilized to be self-governing, but also too primitive to conduct their own affairs in an effective manner. All of which served to justify the fantasy that the only institution capable of effective and good governance in the North-West was the Hudson's Bay Company. Conceptual depopulation was effective

⁶⁵ The Governor of Assiniboia, a Company servant, told the Métis "as British subjects, the half-breeds have clearly the same rights in Scotland or in England, as any person born in Great Britain, and your own sense of justice will at once see how unreasonable it would be to place Englishmen and Scotchmen on a less favourable footing in Rupert's Land than yourselves." Christie, Letter in Response to the Fourteen Questions, in Begg, *History of the North-West*, I, 263. This letter and its context will be discussed further in Chapter 5.

⁶⁶ Even though the Company saw Métis as primitive and inferior to Europeans, it should be mentioned that they were still considered at least *semi-civilized*, on a higher level of the civilizational hierarchy than Indians.

when it was able to remove from existing indigenous bodies “their possession of full humanity.”⁶⁷ In a string of claims meant to rob Métis of their collective ability to manage their own affairs, Alexander Ross, a member of the Company’s governing council in Red River, argued that the majority of buffalo hunting Métis families needed guidance to improve themselves, because they currently preferred “indolence to industry, and their own roving habits to civilized life.”⁶⁸ When it was time to sow or harvest, a Métis sauntered about “idle with his gun in his hand...anywhere but in the neighbourhood of proper work. In short, they do all things out of season, in the multiplicity of their pursuits oftener lose the advantages of all, than accomplish one.”⁶⁹ Ross concludes that Métis “live a ragged life, which habit has made familiar to them. Knowing no other condition, they are contented and happy in poverty.”⁷⁰ Without the ability to provide for themselves, without the knowledge to know more than a life of poverty and idleness, Ross, like many Company men, denied the existence of Métis collective capacities, and presumed that Métis required the oversight of the Company to advance themselves into a higher level of civilization.

The Company’s acceptance of any collective entitlements of the Métis people, were limited, in theory, to hunting and fishing rights, and the right to live on the prairies while exercising some self-organization in the North-West. In the Red River Settlement, the Company repeatedly sought to limit Metis freedoms and disparage any Métis collective action independent of the Company. Métis found themselves in a position

⁶⁷ Day, *Multiculturalism and the History of Canadian Diversity*, 118.

⁶⁸ Alexander Ross, *The Red River Settlement: Its Rise, Progress, and Present State* (Edmonton: Hurtig Publishers, 1972).

⁶⁹ *Ibid.*, 194.

⁷⁰ *Ibid.*, 196.

where they were at odds with the Company on a number of issues, including their ability to govern their own lives. This situation caused the Metis to regularly challenge the legitimacy of Company governance in general, and the Charter in particular.

In contrast to the Discovery claims of the Company, the Métis people already possessed a legitimate political authority of their own, and had exercised it for quite some time. This authority was based on a way of living on the land—including physical land tenure, an ancient relationship to territory, and a complex on-the-ground diplomatic system that governed relations between peoples. The Métis also outnumbered the Company, meaning that the denial of Métis political authority was something easier done in theory than fact. The Métis continued to articulate specific opposition to the Charter. For nineteenth-century Métis, the Charter was too distant and abstract to hold any real power. Métis readily identified the flimsy foundations of the Company's claims whenever company actions threatened their political independence. During the 1869-70 Resistance, for example, a reporter from the *Globe*, interviewed Métis guards at Fort Garry, who questioned how the Company gained the power to buy and sell Indigenous land in the first place:

Your Canada Government offered to pay £300,000 to the Hudson Bay Company for the Rivière Rouge Territory. Now what we want to know, and we will not lay down our arms till we know what they meant to buy. Was it the land? If so, who gave the Hudson's Bay Company the right to sell the land? When did the Canada Government bought the land did they buy what was on it? Did they buy us? Are we the slaves of the Hudson Bay Company? [sic]⁷¹

As explained in Chapter 5, the legitimacy of the claims to land and governance (supposedly granted by the Charter) were continually challenged by Métis in the North-

⁷¹ Quoted in O'Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 177-78.

West, and a persistent re-assertion of Indigenous title to the land, made by Métis, Halfbreeds and Indians, can be found throughout the nineteenth century.

Despite its distant and abstract basis, the Charter would become one of the defining institutions in the relationship between Métis and Company governance in the nineteenth century North-West. In the Charter was a document where British and Canadian subjects found the fantasy of legitimacy for their possession of Indigenous lands, as well as their overriding sovereignty in the region. It defined the basis for, and extent of, Company governance, as well as asserting the right of British sovereignty through Discovery. The Charter, then, along with the powers it was supposed to hold, was a specific target for Métis political organizing of the nineteenth-century. Opposition to the Charter was often coupled with a circumscription of the Selkirk Treaty of 1817. This treaty, which claimed to extinguish all Indian title in the Red River Settlement region was another contested document that supposedly legitimized British governance and sovereignty. Like the Charter, the Selkirk Treaty is a highly suspect document that is in need of renewed intellectual analysis highlighting the longstanding Indigenous opposition to its claims.

'By annual present of Quitrent': The Selkirk Treaty of 1817

In constructing the fantasy of British sovereignty, Discovery provided the means by which the European monarch could assert an underlying sovereignty to Indigenous territory. While Discovery justified the acquisition and government of newly found lands, complete sovereignty could only be achieved under English law through the extinguishment of Indian title. Sovereignty is the right of unitary and exclusive authority

over territory, and includes the legitimize monopoly of violence required to coerce and eliminate any competing authorities among those that live in this territory.⁷² Because, under British law, Indigenous peoples continued to possess certain residual use and occupancy rights on their territories, even after Discovery, agents of the Crown were required to negotiate for the extinguishment of all residual Indigenous title to newly Discovered lands in order to establish true sovereignty.⁷³

Even outside the rule of extinguishment of Indian title, the Company showed a willingness to exercise their Charter privileges without even the nominal consent of the local Indigenous nations. Armed with the understanding that the Charter had already granted the Company use of, and government over, all of the Hudson Bay drainage, in 1811 the Company's shareholders felt entitled to create a permanent agricultural settlement to supply cheap grain to Company posts, a more economical option than importing foodstuffs from Europe.⁷⁴ This was the scheme envisioned by Thomas Douglas, the Earl of Selkirk who was also the Hudson's Bay Company Governor, and he was theoretically granted 116,000 square miles of the Company's Discovery claim for this purpose.⁷⁵ Yet, problems over the legitimacy of the possession of the drainage plagued the scheme, especially when Selkirk, attempted to populate his new settlement in Red River with Scottish farmers. Métis soldiers forcefully removed these settlers in 1816, killing a number of Scots in the process during the Battle of Seven Oaks. Seven Oaks was an effective disruption of the fantasy of the Company's possession of the North-West.

⁷² See Taiaiake Alfred, *Peace, Power, Righteousness: An Indigenous Manifesto*, 2nd Edition ed. (Don Mills: Oxford University Press, 2009), 79-84.

⁷³ Tully, "The Struggles of Indigenous Peoples for and of Freedom," 50.

⁷⁴ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 17.

⁷⁵ J. M. Bumsted, *Lord Selkirk: A Life* (East Lansing: Michigan State University Press, 2009), 200-01.

Métis muskets had dislodged assumptions of Company ownership, and forced Selkirk to rethink the Company's territorial and political rights claimed under the Charter.

But Selkirk remained steadfast that his settlement scheme should succeed.⁷⁶

Determined Indigenous resistance had shown him that settlement, even with the Charter's claims and the Company's grant of land did little to provide the colonists with the ability to settle in Indigenous territories. In treating with the Cree and Saulteaux in the Red River valley, Selkirk sought to preserve the fantastic claim of the Charter—that he legitimately possessed the 116,000 acres the Company granted to him—while at the same time acquiescing to Indigenous demands that he gain their consent before settlers arrived in their territory.⁷⁷ On July 18, 1817 Selkirk and his agents met with five chiefs representing the local Saulteaux and Cree bands in order to settle through diplomacy any misapprehension about the future of the Red River Settlement.⁷⁸ The result was Selkirk's Treaty.

Selkirk's Treaty, although a relatively short and simple document, proved to be a controversial treaty, one that was left open to vastly different interpretations. It can be said with some certainty that this treaty did indeed solemnize an agreement with the Saulteaux and Cree for the establishment of an agricultural settlement governed by the Company on the Red and Assiniboine Rivers, but the form of the settlement's tenure was disputed for decades afterwards. Selkirk's Treaty did not clearly settle the dispute over the Company's claim to the lands initially raised by the Métis in 1816,⁷⁹ nor did the treaty

⁷⁶ See *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870* (Winnipeg, MB: Great Plains Publications, 2003), 34.

⁷⁷ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 10.

⁷⁸ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 34.

⁷⁹ *Ibid.*, 141.

clearly signal an end to Indian title through extinguishment, as the Company and Selkirk claimed.⁸⁰ For decades after signing the treaty, the Company maintained that the five signatory chiefs extinguished, or “granted to the King” an area extending six miles in all directions between Pembina and the Forks “to have and hold forever,” in addition to the land extending two miles from the banks on either side of the Red and Assiniboine Rivers.⁸¹ The Selkirk Treaty, in this view, legitimated Company government in the new Red River Settlement, as well as established sovereignty over the local Indian lands forever. The Company’s interpretation would, however, be bitterly contested by the Indigenous signatories for years, repeatedly stating that the treaty was a kind of rental agreement, not a land cession. By examining the treaty’s own language, even the written form possessed by Selkirk, we can see that the Indigenous interpretation is more consistent with the original agreement, than the cession of land to the Crown.

Regardless of its confusing language and decades-long controversy, Selkirk’s Treaty has been uncritically accepted in academic scholarship as an extinguishment document that alienated all remaining Indigenous title to most of the lands in the Red River valley. Existing literature tends to follow George Stanley’s lead by depicting the Selkirk Treaty as a simple land transaction transferring territory from the Indian signatories to Selkirk’s estate.⁸² Flanagan does offer some criticism of the Selkirk treaty, arguing that “the validity of the Selkirk Treaty is debatable,” although Flanagan’s concern was that the Selkirk negotiated with Saulteaux who “had only arrived in the area

⁸⁰ Gerhard Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century* (Toronto: University of Toronto Press, 1996), 33.

⁸¹ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 34; Earl of Selkirk, "Selkirk's Treaty with the 'Chippeway or Sautaux Nations, and of the Cree Nations'," (Manitoba Archives, 1817).

⁸² By 1836, a near-bankrupt Selkirk sold this land "back" to the Company for a substantial profit. Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 14.

in the 1790s.”⁸³ Since the title was supposedly gained from Saulteaux, Flanagan questions the treaty’s validity, arguing that the presence of the more-indigenous Cree was what made the treaty legitimate.⁸⁴ Despite any such deficiencies Flanagan maintains that,

the HBC always acted as if [the treaty] was valid. The company paid its annual quit rent of tobacco, made grants within the two-mile ‘settlement belt’ and never made any grants of land outside it. It authorized colonists to cut hay and pasture livestock behind the two-mile line, but it did not claim to confer ownership there.⁸⁵

Bumsted’s reading of the interpretation is similar to Stanley’s, and repeats much of the content as fact, but it also leaves room for differing interpretations on the treaty’s intent. He writes, that whether or not the indigenous signatories saw the treaty as a rental agreement or a land cession, “it made clear that the resident Aboriginals were in 1817 well disposed to Selkirk’s settlement.”⁸⁶ While scholars have criticized the Selkirk Treaty as a document which extinguished the title of a non-Indigenous people, and for the lack of consensus among its meaning, no one has done a thorough textual examination of the treaty for the purpose of examining its underlying assumptions in order to ascertain its meaning. It is my contention that a critical textual reading of the treaty leaves little doubt that it established a rental, or to use the treaty’s terminology “quitrent,” relationship between Selkirk and the Saulteaux and Cree signatories. This was definitely the prevailing interpretation among the local Indigenous peoples. Henry Prince, a descendent one of the signatories told the Métis on one occasion that “the land had only been leased

⁸³ Flanagan, *Metis Lands in Manitoba*, 14; which is actually the same critique made in Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 159. Interestingly enough, there is very little historic evidence available which suggests the Saulteaux were consider to possess an inferior title to the lands around Red River.

⁸⁴ Flanagan, *Metis Lands in Manitoba*, 14.

⁸⁵ *Ibid.*, 15.

⁸⁶ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 34.

and the annual gratuity now paid him by the HBC was part of the rental.”⁸⁷ In contrast to this interpretation, the Company repeatedly claimed throughout the nineteenth century that Selkirk negotiated the extinguishment of title from the local Indians for his settlement at Red River.⁸⁸ The difficulty in interpreting Selkirk’s Treaty is that it is a contradictory document, and in many places the intent is somewhat unclear. Given the conflicting language of the treaty, and the fact that the Indigenous signatories and their descendants understood it as a kind of rental agreement, the Company’s claim that Selkirk’s Treaty unquestionably extinguished Indian title of the land is debateable. If the treaty was a rental agreement, and not an extinguishment treaty, it could not extend British sovereignty over the North-West, and was no more a basis for the Company’s political legitimacy there than the Charter.

The actual text of the Selkirk Treaty of 1817 presents a complex agreement in which two Indigenous nations established a long-term relationship with the Company for the shared use of a specific parcel of land. What is less clear is the nature of that relationship defined by the treaty. Its language describes both a land grant by the Cree and Saulteaux to the Crown, as well as a quitrent relationship between these nations and Selkirk, who would pay an annual sum in exchange for certain use rights. The language used in the treaty invokes the fur trade tradition of reciprocal gift giving.⁸⁹ The Chiefs were said “to *give, grant and confirm* unto our Sovereign Lord the King, all that Tract of Land adjacent to Red River and Assiniboyne River, beginning at the mouth of the Red

⁸⁷ *The Red River Rebellion*, 47.

⁸⁸ *Lord Selkirk: A Life*, 349-51.

⁸⁹ *Ibid.*, 350-51.

River and extending along the same as far as Great Forks,”⁹⁰ in exchange for an annual gift to each chief of “one hundred pounds of good and merchantable Tobacco” from Selkirk, his heirs, and successors.⁹¹ What is particularly interesting however is the language describing this exchange as an “annual Present or *Quitrent*”⁹² to be delivered “on or before the fourth Day of October at the Forks” and that “the Presents” of tobacco will be “Provided always” by the “Earl, his Heirs and Successors, or their Agents annually.”⁹³ It is here that the treaty becomes more complicated, simultaneously referring to the land as both a “grant” to the King “to have and hold forever,” and a “quitrent” relationship with Selkirk.

Quitrent relationships, a common practice in Selkirk’s day, are a feudal practice⁹⁴ in which a tenant farmer paid “an annual fixed and heritable charge upon the land.”⁹⁵ Older feudal practices required peasants to contribute labour towards public works and military duties as defined by their lord, but by the nineteenth-century, in order to maximize their profitability, many estates consolidated all of these various feudal duties with fixed quitrents, or regular cash payments that replaced these other obligations.⁹⁶ As a feudal institution, quitrent explicitly recognized the ownership of the land by the feudal lord as well as institutionalizing a specific relationship between lord and tenant. It was

⁹⁰ Selkirk, "Selkirk's Treaty with the 'Chippeway or Sautaux Nations, and of the Cree Nations'." Emphasis added.

⁹¹ Ibid.

⁹² Ibid. Emphasis added.

⁹³ Ibid.

⁹⁴ Alan D. Watson, "The Quitrent System in Royal South Carolina," *The William and Mary Quarterly* 33, no. 2 (1976): 183.

⁹⁵ Beverly W. Bond, "The Quit-Rent System in the American Colonies," *The American Historical Review* 17, no. 3 (1912): 496.

⁹⁶ Ibid.

clearly understood in the nineteenth century that quitrent *did not transfer the land title to the tenant*; the land remained the property of the feudal lord.⁹⁷ Quitrent is the precursor to today's common rental agreements. Being himself a land-owning nobleman in Scotland, the language of quitrent would have been a concept Selkirk and his associates understood intuitively, as Selkirk would have had tenants who paid quitrent to his estate in Scotland at the same time that he was negotiating with the Saulteaux and Cree. We can assume then that the choice of the term 'quitrent' in the treaty has significant meaning, as it implies a very specific type of property relationship between owner and tenant. Since the term "quitrent" is included in the treaty several times, we can also assume it has significant meaning that, given the opportunity of including other terms, Lord Selkirk and his agents chose this one.

If the treaty does indeed describe a quitrent relationship, the question of who owns the land in this relationship is also quite clear. The Cree and Saulteaux communities were obviously the landlords, and Selkirk, who was paying to use the land, was obviously the tenant. Since the inverse relationship would make no sense, an obvious interpretation of the treaty is that Selkirk negotiated for use rights and rather than ownership of the land in question. The Selkirk Treaty, then, rather than ceding Indigenous lands to the Crown was actually recognizes the Cree and Saulteaux as the landlords of the Red River region, and thus their prior claim to possession of the North-West, thus Selkirk was actively recognizing Indigenous title in the territory, rather than extinguishing it.

While the Selkirk Treaty also makes the claim that the land under quitrent would be granted to the King "forever," presuming that this was indeed a quitrent relationship,

⁹⁷ Watson, "The Quitrent System in Royal South Carolina," 184.

this passage likely established the length of time that the quitrent arrangement would continue, that being, forever. The treaty's emphasis on quitrent seems to undermine the notion that any rights beyond Selkirk's occupation and use of the territory, such as ownership or sovereignty, were not part of this arrangement. This is certainly how the Saulteaux and Cree Chiefs understood the treaty they signed. Chief Peguis, one of the Saulteaux signatories of Selkirk's Treaty, was adamant that the treaty was an agreement for an annual rental of this tract of land, consistent with the quitrent interpretation, saying later:

There are at this place three Indians who were present when the treaty was made with Lord Selkirk, and they all affirm that no final bargain was made; but that it was simply a loan. The lands were never sold to the money master. I have not two mouths. There is not sugar in my mouth to sweeten the words, and I say positively *the lands were never sold.*⁹⁸

Peguis' statement indicates that the actual ownership of the land in the North-West continued to rest with the Indigenous peoples of the North-West, and not with the Company, Selkirk, or the Crown. The quitrent thesis was probably the dominant understanding among the Indigenous peoples of the North-West.

The fact that Selkirk even negotiated for land the Company already claimed ownership of through Discovery is also telling of the lack of authority commanded by the Charter and other British institutions. Mere assertion of the possession of land by Selkirk and the Company through the Charter did not convince the local nations of the Company's right to possess and occupy the land, a treaty was a practical necessity for Selkirk to build an agricultural settlement at Red River. The very existence of this treaty testifies the weak position from which both Crown and Company authority operated. If

⁹⁸ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 141. Bumsted also notes that many other Métis had knowledge of this same interpretation after it was passed down through their family's oral history.

the Company had been entirely convinced of its own territorial legitimacy, and if the Company was capable of exercising and enforcing its much-touted governing authority, then a treaty to formalize land rights in the North-West would be superfluous. Donald Gunn made this very argument in the *Nor'-Wester* in June 1860. Gunn argued that the weakness of the Charter's claims meant that the HBC was required to gain Indian consent through treaty-making, and that the Company knew full well that "the Indians have a prior and superior claim to any which the Company can set up," if the Company felt differently, why the "farce" of buying the lands with the Selkirk Treaty?⁹⁹ Perhaps the most interesting opinion on the validity of Selkirk's Treaty comes from the Canadian treaty commissions. In 1871, while negotiating Treaty 1 on the same lands covered by Selkirk's Treaty, Canada chose to ignore Selkirk's Treaty and negotiate Treaty 1 as if there was no prior treaty relationship in the Red River valley, an act unnecessary if the Canadians considered Selkirk's Treaty was considered to have extinguished Indian title.¹⁰⁰

Regardless of what Selkirk thought he had accomplished, for the Indigenous peoples of the North-West, the status of the Selkirk Treaty vacillated between a long-term rental agreement, and a demonstration of the Company's tendency to distort the past to legitimize its claims of sovereignty and authority. Rather than solidifying the presence of the Company's authority, the Selkirk Treaty became yet another document of doubtful validity. The Métis were suspicious with good reason, the Selkirk Treaty was negotiated over land use, but the Company claimed it established their right to govern Red River. What the Selkirk Treaty did establish, even if it was only on a quitrent basis, was the

⁹⁹ Donald Gunn, "The Land Controversy," *The Nor'-Wester*, June 28 1860.

¹⁰⁰ Flanagan, *Metis Lands in Manitoba*, 14-15.

legitimacy for a sedentary European agricultural settlement, which could assume reasonably safe tenure of the land they were working. The Selkirk Treaty did not extinguish title or extend sovereignty over the Indigenous nations of the North-West. It may have created a new relationship between the British Crown and the Cree and Saulteaux, but it did not subjugate them to British rule. Nor can it be said that this treaty had any bearing on the Métis, who were not parties to the treaty, or even mentioned in the text. Selkirk's Treaty left the Métis-Company relationship unaffected, including the title to these lands that Métis also claimed as their own.

In the mid-to-late nineteenth-century, the Charter and Selkirk's Treaty were to varying degrees the target for Métis derision, as they remained at the core of the HBC's claims to legitimate governance in the North-West. Métis were well aware that a challenge to the Charter and treaty, was also a larger challenge the Company's authority in Red River. Whether the Charter and treaty took centre stage, or whether they were pushed to the sidelines, Métis opposition to overriding Company authority was common, flaring up from time to time into public confrontations. Far from contributing to a narrative of increasing British sovereignty over the North-West, Selkirk's Treaty, at best legitimizes a presence of an agricultural settlement. By doing so, it also reinforced the necessity of treating with Indigenous nations as a prerequisite for legitimate European settlement of the North-West.

Canadian Claims of Discovery at the 1857 Select Committee on the Hudson's Bay Company

The much-disputed Selkirk Treaty caused decades of uncertainty in Red River about the exact nature of Métis-Company relations. During these years, the Company attempted to

assert itself as the lone governing authority in Red River, while at the same time, Métis continued to assert their own powers of *kaa-tipeyimishoyaahk*. In the middle decades of the nineteenth century, the degree to which Métis in Red River undermined both the Company-run judicial system and the Company's all-important monopoly on the trade of furs (explored in detail in Chapter 5), demonstrated the actual on-the-ground weakness of the Company's position. Whatever the situation on the ground, the Company and Imperial agents in London continued to maintain the fantasy of British sovereignty, and consciously defended Discovery as the origin of their authority.

By the mid-nineteenth century the social dynamics that made the Company the vanguard of British colonialism in the North-West were shifting, and new imperatives of empire-building were emerging. These new social influences were conspiring to replace the governing colonial joint-stock companies—like the Hudson's Bay Company—with colonies directly responsible to the Crown. In the Victorian era, notions of progress more than ever drove the British desire “to tame the world's remaining wilderness regions and manage them for the desires of humanity.”¹⁰¹ The prevailing discourse on civilization, and its equation with settlement, expansion, and market-oriented agriculture was changing social discourses in Canada and Britain, and this very distant ideological shift would lead to a very intimate challenge to Métis governance in Red River. This era also saw a sustained challenge to the existing fantasy on British sovereignty, and new developments on the claims to foreign governance of the North-West by the Colony of Canada—including debates over what political institution was best equipped to represent the British Empire in the North-West.

¹⁰¹ A. A. Den Otter, "The 1857 Parliamentary Inquiry, the Hudson's Bay Company, and Rupert's Land's Aboriginal People," *Prairie Forum* 24, no. 2 (1999): 144.

This emerging mid-nineteenth century Victorian discourse led to challenges in British Parliament of the great trading monopolies. Foremost in the criticisms of Victorian humanists were the Hudson's Bay Company and its infamous Charter. The Company found itself under attack in the most unlikely place, not in the North-West by Indigenous peoples or other empires like in years past, but by other Britons 'at Home.' In their eighteenth century heyday, joint-stock trading companies like the HBC were the main thrust of British imperialism. But in the nineteenth century, the Company's interests seemed to run against the prevailing colonial interests. The Company was vocally opposed to large-scale agricultural colonization of North-West beyond Red River, for the shareholders wanted to protect the fur-bearing animals' habitats in the region. This stance caused the ancient joint-stock company to lose favour with the Imperial Colonial Office.¹⁰² The Colonial Office, and increasingly the colonial government of Canada, were both concerned about the loss of the North-West to the westward expansion of the United States. Canadians saw the North-West as a kind of colony within a colony, it was an opportunity to create new markets for their manufactured goods and to exploit the natural resources of the North-West.¹⁰³ Settlement in the North-West, as it were, was not just a force of civilization and progress, it was also a rush to exploit untapped natural resources.

It was in this changing social context that British Parliament formed the Select Committee on the Hudson's Bay Company in 1857. Its mandate was to review the activities of the Hudson's Bay Company, and assess the Company on its ability to spread

¹⁰² Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 20-21.

¹⁰³ Den Otter, "The 1857 Parliamentary Inquiry, the Hudson's Bay Company, and Rupert's Land's Aboriginal People," 145. Richard Day also describes Canada's attempts to appropriate Red River were a "self-conscious quest to rise from the status of a 'colony' to that of a 'nation' with colonies of its own." Day, *Multiculturalism and the History of Canadian Diversity*, 8.

British civilization through the fostering of agricultural settlement and Christian missionization of its territories.¹⁰⁴ Another obvious goal of the Select Committee was to determine the North-West's suitability for settlement, and to assess the fitness of the Company's governance to accomplish this end.¹⁰⁵ During its hearings, the Committee received testimony from a diverse group of witnesses, many of whom had direct interest in the outcome of the Select Committee's report. Company men claimed the territory's frozen landscape was unsuitable for agricultural settlement and that it was best that it remained a fur-harvesting region under control of the Company. They were challenged by pro-settlement witnesses who argued that the Company's failure to treat the North-West's Indigenous peoples fairly had demonstrated that the Company was a poor moral force to encourage Indigenous peoples to become civilized, Christian agriculturalists.¹⁰⁶ It was a Victorian spectacle, complete with London-based imperialists and philanthropists haggling over what was best for Indigenous peoples, without necessarily asking the people themselves.

An interesting outcome of the Select Committee's hearings, one that fundamentally challenged the narrative of British sovereignty in the North-West, was the oral testimony and written submission of Canada's representative, William Henry Draper. In his testimony, submitted on behalf of the Canadian colonial legislature, Draper argued that the Company's Discovery claim to the southern regions of North-West (the 'fertile belt' which included Red River) "was no more than a claim" and was supplanted by

¹⁰⁴ Den Otter, "The 1857 Parliamentary Inquiry, the Hudson's Bay Company, and Rupert's Land's Aboriginal People," 146.

¹⁰⁵ Stanley, *The Birth of Western Canada*, 21.

¹⁰⁶ Den Otter, "The 1857 Parliamentary Inquiry, the Hudson's Bay Company, and Rupert's Land's Aboriginal People," 146.

Canada's rightful possession of the region.¹⁰⁷ Draper also submitted a series of written arguments into evidence, which called into question the Company's narrative of Discovery for the fertile belt.¹⁰⁸ Draper's testimony and documents were intended to launch a preliminary legal assault against the Company's possession of the North-West, a legal process that Canada later abandoned. Nonetheless, Draper's evidence provides insight into how Canadians viewed their relationship to the then-distant North-West, and how they would lay claim to it in the future.

Draper's main argument was that the Canadian colony, through the Doctrine of Discovery possessed all territory in the North-West below the 53rd parallel, meaning all lands south of Lake Manitoba, including the all-important Red River Settlement.¹⁰⁹ To make such claims, of course, Draper rejected of the Company's claim of Discovery to all lands in the Hudson's Bay Company drainage. Through Draper's testimony and submissions to the Select Committee, the Canadian colonial legislature expressed its own fantasy of possession, projecting "a very strong opinion that a considerable portion of the territory occupied or claimed by the Hudson's Bay Company will be found to lie within the proper limit of that Province [of Ontario]."¹¹⁰ Draper's claim shows the degree to which the Canadian colonial leadership had, as early as 1857, already imagined a legal

¹⁰⁷William Henry Draper's Testimony, Parliamentary Select Committee on the Hudson's Bay Company, "Report from the Select Committee on the Hudson's Bay Company; Together with the Proceedings of the Committee, Minutes of Evidence, Appendix, and Index,"(London: The House of Commons, 1857), 212; William Henry Draper, "Copy of the Letter Addressed by Mr. Chief Justice Draper to Her Majesty's Secretary of State for the Colonies, Bearing Date 6 May 1857, Together with a Copy of the Memorandum Therein Referred," in *Report from the Select Committee on the Hudson's Bay Company*(London: The House of Commons, 1857), 375.

¹⁰⁸"Copy of the Letter Addressed by Mr. Chief Justice Draper to Her Majesty's Secretary of State for the Colonies, Bearing Date 6 May 1857, Together with a Copy of the Memorandum Therein Referred.": "Paper Delivered by Mr. Chief Justice Draper, 28 May 1857, Relative to Canadian Boundaries," in *Report from the Select Committee on the Hudson's Bay Company*(1857: House of Commons, 1857).

¹⁰⁹ "Paper Delivered by Mr. Chief Justice Draper, 28 May 1857, Relative to Canadian Boundaries," 379.

¹¹⁰ "Copy of the Letter Addressed by Mr. Chief Justice Draper to Her Majesty's Secretary of State for the Colonies, Bearing Date 6 May 1857, Together with a Copy of the Memorandum Therein Referred," 374.

right to settle the ‘fertile belt’ as its own territory. In challenging the Company’s claim to the North-West, however, Draper did not problematize the legitimacy of the Doctrine of Discovery as a way of dismissing the Company’s claims, rather he relied heavily on the Doctrine to produce a second claim to the Discovery of the North-West. What Draper aspired to do was assert this alternative claim of Discovery to allow Canada to assume possession of the region and to repopulate it with Canadians.¹¹¹ Consistent with past Discovery practices, Draper’s imaginings never directly addressed the pre-existing Indigenous authority in the North-West. Draper’s documents appear to be primarily concerned with disputing the claims of the Company, which he considered to be, as the lone European entity in the region, the only political authority that mattered under British law.

Draper’s argument rests on the assumption that during the seventeenth and eighteenth centuries, the Company’s claim to the North-West came after the Discovery of the lands of the North-West by New France. New France’s claim to New World land, however, was just as grandiose as the Company’s and equally fantastical. If Draper is to be believed, the Company’s Discovery of the drainage in 1670 had been seriously limited by competing French claims that predate actual British occupation of the North-West.

Just like Charles II, the French Crown claimed the Hudson Bay region by right of

¹¹¹ It is not my intent here to demonstrate the superiority of one set of these claims over the other, or to examine the historical accuracy of the claims to Discovery made by the Company and Canada, rather I wish to demonstrate that each claim is equally unilateral and equally detached from the on-the-ground realities of the territories concerned. In fact, the narratives are quite similar. Both of these Discovery claims presuppose British sovereignty in the North-West, even if they rely on different narratives about how such sovereignty was established, and even though they disagree on which British colonial institution was entitled to colonize the disputed territory. But being grounded on the grandiose and detached claims of Discovery, made in a distant imperial capital, these claims are largely based on colonial fantasy whose affect on the local Indigenous peoples was quite limited.

Discovery.¹¹² While the Company claimed through Discovery the entire Hudson Bay drainage by the act of mapping the Bay's shores, New France claimed that there was no northern limit to the territories originally settled on the St. Lawrence. New France, Draper claimed, had always stretched to the "Northern Sea," what the English called Hudson Bay. Draper's submission to the Select Committee recounts how, as a result of these contradictory claims of Discovery by English and French agents, there was regular conflict during the seventeenth and eighteenth centuries. During this period, there were a series of skirmishes in the Hudson Bay straits, fur trade forts changed hands, some forts were sacked and burned. Trade was interrupted as colonial conflict played itself out, and the two empires fought over the drainage and the lucrative fur trade it promised. The conflict ironically disrupted the very profitability of the trade that the two empires were fighting over, and so the French and English commercial interests sought a non-military solution to end this rivalry. Most importantly for Draper's argument, during the eighteenth century the Company announced its willingness to negotiate a clear boundary between the two competing claims—an eighteenth century diplomatic stance that the Company denied in the nineteenth century.¹¹³

Draper's submission stated that that, prior to 1763, the conflicting claims of the two Crowns led to several attempts by French and British interests to establish a clear north-south boundary line that would separate the more northerly Hudson's Bay Company Territory, from the French territory of Canada in the south. In one instance, Draper showed that the Company suggested a demarcation line between Forts York and

¹¹² Begg, *History of the North-West*, I, 126.

¹¹³ Draper, "Copy of the Letter Addressed by Mr. Chief Justice Draper to Her Majesty's Secretary of State for the Colonies, Bearing Date 6 May 1857, Together with a Copy of the Memorandum Therein Referred," 376.

Albany, which was near the 53rd degree of latitude.¹¹⁴ The Company explicitly stated that this proposed compromise should not be seen as limiting its larger claim to the entire drainage unless the French agreed to accept the proposed border, yet Draper interpreted that the Company's offer to compromise as an acceptance that its claim to the southern parts of the drainage as weaker than that of New France. Draper argued that because the Company was willing to compromise on its territorial claim with French Canada in the eighteenth century and effectively alienate of the southern parts of the Hudson's Bay Territory, this contradicted the Company's more recent claims to all of the North-West.¹¹⁵ Draper specifically challenged the Company's claim that it possessed by right of Discovery the "fertile belt" in the southern parts of the North-West because the French had maintained a presence in these regions long before the Company. Draper claimed that French Canada had an eighteenth century presence in the 'fertile belt' of the North-West, with forts at "Lake St. Anne, called by older geographers Alenimipgou; at Lake of the Woods; Lake Winnipeg, and two, it is believed, on the Saskatchewan."¹¹⁶ Using this knowledge, Draper constructed an alternative narrative of Discovery for the southern regions of the North-West that made Canada the inheritor of New France's superior claim to Discovery of the North-West.

In 1627, Draper argued, well before the HBC Charter of 1670, the French King Louis XIII chartered a company to settle, govern, and trade in Canada. In 1663, this company surrendered its charter to the King Louis XIV, and Canada became a crown

¹¹⁴ "Paper Delivered by Mr. Chief Justice Draper, 28 May 1857, Relative to Canadian Boundaries," 379.

¹¹⁵ "Copy of the Letter Addressed by Mr. Chief Justice Draper to Her Majesty's Secretary of State for the Colonies, Bearing Date 6 May 1857, Together with a Copy of the Memorandum Therein Referred," 376.

¹¹⁶ *Ibid.*, 378.

colony of France. In 1671 this colony sent out men to explore lands to the north and the west, where the,

Sieur de Luson returned after having advanced as far as 500 leagues [2400km] from here, and planted a cross, and set up the kings arms, in presence of 17 Indian nations assembled on the occasion from all parts, all of whom voluntarily submitted themselves to the dominion of his Majesty, who alone they regard as their sovereign protector.¹¹⁷

While this expedition's success was almost certainly exaggerated on all counts,¹¹⁸ Draper argued that its presence, as well as the establishment of early fur trade posts, allowed the French to realize their Discovery claim to the southern reaches of the Hudson's Bay drainage, which the Company "had not penetrated when Canada was ceded to Great Britain in 1763, nor for many years afterwards."¹¹⁹ This claim of French occupancy, allowed Draper to argue that the North-West was discovered and possessed by France prior to the cession of the French colony of Canada to Britain in the 1763 Treaty of Paris.

Furthermore, because the Crowns of Britain and France maintained these separate claims to the same territory over a hundred-year period, Draper argued that the British colony of Canada ultimately inherited these claims from New France. As a result of the Seven Years War, and France's 1763 cession of Canada to the British, France's claim was supposedly transferred to British colonial Canada with the Treaty of Paris.¹²⁰ Draper thus concludes that the contemporary colony of Canada inherited France's title to the southern regions of the North-West, including Red River, which was Discovered and

¹¹⁷ Ralon, quoted in *ibid.*, 377.

¹¹⁸ For in-depth analysis of this ceremony of French Discovery initiated by St. Luson on behalf of the King see Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America*, 69-71.

¹¹⁹ Draper, "Copy of the Letter Addressed by Mr. Chief Justice Draper to Her Majesty's Secretary of State for the Colonies, Bearing Date 6 May 1857, Together with a Copy of the Memorandum Therein Referred," 378.

¹²⁰ *Ibid.*, 375.

occupied by “Canadians” (even if they were in reality French Canadiens) before the Hudson’s Bay Company could Discover the North-West and establish an effective presence there. This meant that, at least in the mind of Draper and his Canadian colleagues, that the lands claimed by the Company in the fertile belt of the North-West actually belonged to Canada by right of Discovery. This French Discovery therefore entitled Canada to repopulate the North-West whenever it pleased, without regard for the Company’s claims under its Charter.¹²¹

From a Métis standpoint, however, Canada’s claim was as equally fantastical as the Company’s, as well as being entirely divorced from the reality of Indigenous political authority as it existed in the nineteenth-century North-West. A few fur trade posts, regardless of who operated them, could not create a broad claim to the territory superior to those who lived there. Nor could these claims compete with Métis self-governance, which had very different standards of territorial legitimacy. Riel, for example, stressed inter-generational, Indigenous inheritance as a precondition for the legitimate possession of territory:

One’s native land is the most important of all things on earth. Above all it is made holy through the ancestors who pass it on. To take it away from the people it gave birth to is as abominable as to tear a mother from her little children at the time they need her most.¹²²

Riel also rejected other claims to territory that lack this inter-generational attachment to land, which he sees as the primary means that legitimate possession of land is expressed. Abstract claims like Discovery, most often only realized through violent acts, were not a valid source of territorial legitimacy. For Riel, the theft of someone else’s territory is “the

¹²¹ O’Toole, “The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba,” 115.

¹²² Riel, “Last Memoir,” 205.

greatest sacrilege,” leading to further evil acts, and great suffering.¹²³ Riel is clear that justice, from a Métis perspective, does not allow “a stronger people to snatch away the homeland of a weaker people,” human conscience condemns such acts as “criminal and its grievous consequences are many and difficult to measure.”¹²⁴ It was along these lines that Canada’s fantasy of Discovery, possession, and the right to repopulate the North-West was rejected by the people of the North-West. In 1870, the Métis Provisional Government stylized Canada as foreign invaders, which upon their expulsion “rendered our land native to its children” asserting the Métis people’s Indigenous claims to territory as greater than Canada’s.¹²⁵ Métis clearly understood that Indigenous inheritance through being good relatives was the standard for the legitimate possession of territory in the North-West, an inheritance that Canada could not claim. With this understanding, Métis found a ready rationalization, not just for the dismissal of Canadian claims, but a justification to protect their lands from covetous foreigners.

While Draper’s narrative of Canada’s right to the North-West by Discovery was flimsy, even by the standards of British law, its explanatory power resonated elsewhere. Draper succeeded in crafting a powerful fantasy that justified unrestricted Canadian westward expansion. Much like the Company’s claim empowered Company servants to colonize their supposed possessions in the drainage, Canada’s narrative legitimated the expansionist drive of Ontario, generating a sense of entitlement to the southern regions of the North-West.¹²⁶ When Ontarians moved to the North-West, they began to express

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Provisional Government of Assiniboia, "Circular to the Inhabitants of the North and the North-West," (Red River Settlement: Provisional Government of Assiniboia, 1870).

¹²⁶ Stanley, *Louis Riel*, 44.

these sentiments in the bluntest of ways. The Red River paper, the *Nor'-Wester*, was pro-annexationist and Canadian-owned, and it readily seized on Draper's fantasy of Canadian Discovery as the basis for large-scale Canadian settlement in Red River. The paper latched onto Draper's narrative, and reported it as fact. In July 1867, in an issue celebrating Canadian Confederation, the *Nor'-Wester* reprinted a letter from the Duke of Buckingham, which more or less re-stated Draper's argument, made to the Select Committee in 1857:

When the Charter of the Hudson's Bay Company was granted by Charles the Second in 1670, the Valleys of the Assiniboine, Saskatchewan, and Red River, formed a part of *La Nouvelle France*, and were in the possession of subjects of the French King, by virtue of Charter granted by Louis the Thirteenth, [in] 1626. They had erected forts and established hunting stations in many parts of the territory. By the conquest of Canada this territory came into possession of the British Crown and shortly afterwards British subjects resident in Canada engaged in the fur trade, and carried out their enterprise through the North West Territory to the shores of the Pacific.¹²⁷

This rationale also allowed the paper to editorialize on the eve of Canada's attempted 1869 purchase of the North-West that,

We believe this territory belongs to Canada, it is her just right, and that she is best adapted to advance the interests of this people and to carry us onward in a career of prosperity under civil liberty in its truest sense; and we don't beat around the bush saying so.¹²⁸

Regardless of the accuracy of Draper argument, with its underlying assumption that Indigenous political authority did not matter, Canada's fantastical claim to the North-West was adopted as the creed of westward expansion and the fantasy was disseminated through the expansionist press to the general public.

¹²⁷ "Extracts: From a Memorandum to the Duke of Buckingham, Secretary for the Colonies, in Report of an Address to Her Majesty from the Inhabitants of the Red River Settlement, Praying to Be Turned into a Crown Colony," *The Nor'-Wester*, July 13 1867.

¹²⁸ "Misrepresentation," *The Nor'-Wester*, February 19 1869.

Despite its influence in Canada, Draper's argument proved unconvincing in London. The memorandum Draper submitted to the Select Committee was never referred to the Judicial Committee of the Privy Council, as he claimed it would be, and the argument was later abandoned by Canada in its attempt to secure the North-West under British law.¹²⁹ The Select Committee also seemed unconvinced by Draper's claims, and what was perhaps a nod to the Company's claims, that this dispute should be resolved at a future time.¹³⁰ Despite its shortcomings the Canadian fantasy of Discovery in the North-West, it would nonetheless remain a powerful narrative for Canadian expansionism. It allowed all manner of rationalization for annexation, it even provided rationale for the belief that the territory was already part of Canada, and thus under the scope of Canadian government.¹³¹ This understanding is perhaps the greatest source of the troubles that follow. It certainly provided the main antagonists of the Métis—annexationist Canadians in Red River known as Canadian party—with a rationalization for the unfettered Canadian immigration from Ontario to the North-West. Canada's claim to Discovery of the North-West, inherited through New France, thus served the same legitimizing and motivating purpose that the Charter did for Company men. Without being able to account for actual political authority established and expressed on the ground, Canadian insistence on the recognition of French Discovery and their inheritance of New France's territorial claims was the fantastic legitimizing logic of the Canadian North-West settlement drive.

¹²⁹ John S. Galbraith, "The Hudson's Bay Company under Fire, 1847-62," *Canadian Historical Review* 30, no. 4 (1949): 344.

¹³⁰ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 22.

¹³¹ *Louis Riel*, 44.

“Taken from under their feet”: Negotiations for the Purchase of the North-West, 1865-1869

With the Imperial rejection of Draper’s argument, Canada’s final claim to the North-West is situated in the purchase of the Hudson’s Bay Company Territory, through a process mediated by the Imperial Government in London. By agreeing to purchase the North-West, or Rupert’s Land, as the English called it, Canada was giving up on Draper’s narrative of Canadian Discovery, and was accepting that the purchase of the Company’s claim was necessary to secure the territory for Canadian settlement. In doing so, the Dominion of Canada recognized the Company’s claim to Discovery, and accepted that it was in legitimate possession of the North-West. However, since the Company’s claim was itself a fantasy, Canada was in effect purchasing a fantastical claim, a fact it realized when the Dominion attempted to install its own government in the territory in 1869, and was promptly escorted out of the region by the Métis soldiers described at the outset of this chapter. Despite Canada’s reliance on a fantasy to acquire the North-West, Canada’s contemporary claim to western Canada still implicitly relies on the Hudson’s Bay Company Purchase of 1869.

As early as the spring of 1865, delegates from the Canadian colonies, including John A. Macdonald and George Etienne Cartier were visiting London to discuss the possibility of a colonial union in British North America as well as “the vital necessity of opening up the North-West to Canadian enterprise and emigration.”¹³² The Canadian delegates expressed a desire to the Imperial government to acquire the North-West in the quickest possible manner, and they were willing to compensate the Company rather than bickering over conflicting Discoveries. The Canadian delegation proposed that the whole

¹³² *The Birth of Western Canada: A History of the Riel Rebellions*, 34-35.

of the Hudson's Bay territory be annexed to Canada, on conditions to be determined at a later date.¹³³ As a result of this meeting, and subsequent negotiations between the Dominion of Canada and the Company, the British and Canadian legislatures passed a series of legislation that relied on the colonial fantasy that territory could be unilaterally "transferred" between British institutions by the Crown and Parliament, without the involvement of the Indigenous peoples concerned. This fantasy posits that local feelings on the matters, whether from an Indigenous perspective, or even a democratic one, are inferior to Britain's imperial claims to sovereignty over the land.

The British colonial transfer of the Hudson's Bay Company claim of the North-West to the Dominion of Canada in 1869 was made possible through an unquestioned legislative fantasy of ownership, sovereignty, and the superiority of British institutions in the North-West. Because of this fantasy, three pieces of legislation could, under British law, unilaterally transfer possession of a vast peopled landscape from one outsider colonial entity to another. In July 1868, British Parliament initiated the transfer with the passage of the Rupert's Land Act, which made it legally possible for the admission of Rupert's Land into the Dominion of Canada, "upon such Terms as Her Majesty thinks fit to approve."¹³⁴ The Act also authorized the surrender to the Crown all Company's "Lands, Rights, Privileges, Liberties, Franchises, Powers, and Authorities" for their eventual transfer to Canada.¹³⁵ The Rupert's Land Act did not itself transfer the territory; it only made such a transfer possible "upon such Terms and Conditions as shall be agreed

¹³³ Ibid., 35.

¹³⁴ Great Britain, "Rupert's Land Act," (1868).

¹³⁵ Ibid., preamble.

upon by and between Her Majesty and the said Governor and Company.”¹³⁶ The actual agreement for the transfer came after a series of private London meetings in late 1868 between representatives of Canada and the Hudson’s Bay Company.¹³⁷ Both parties agreed to the surrender of all the Company’s rights and privileges in exchange for Canada’s one-time payment of £300,000, as well as a land grant to the Company of one-twentieth of all land within the fertile belt, including the land around the Company’s current fur-trade posts. The Company would be left with land in fee simple that totalled about 50,000 acres. It also received guarantees from Canada that they would not experience unnecessary limitations on their economic activities in the North-West.¹³⁸ At these meetings, no Indigenous peoples were present, nor were any consulted during these proceedings.

Once these terms were agreed upon, the British Parliament passed the Rupert’s Land Act allowing for the incorporation of the North-West into the Dominion of Canada through already existing Canadian legislation, section 146 of the British North America (BNA) Act.¹³⁹ Section 146 permitted the eventual transfer of the remaining British North American colonies and territories to the fledgling Dominion of Canada.¹⁴⁰ Section 146, as O’Toole argues, did not treat all colonies in the same way, and envisioned two categories of colonies that would be added to Confederation, using different processes. The incorporation of Crown colonies like Prince Edward Island, Newfoundland, and British Columbia, required Canada to first obtain “the acceptance of their respective Legislatures

¹³⁶ Ibid., section 3.

¹³⁷ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 39.

¹³⁸ Ibid., 41.

¹³⁹ Britain, "Rupert's Land Act," section 3.

¹⁴⁰ O’Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 1.

before the Imperial Crown could admit them as members of the Canadian federation.”¹⁴¹

But neither the Rupert’s Land Act, or the BNA Act required,

a legal obligation to consult either the Council of Assiniboia or the inhabitants of the [North-West] territories. ... The only legal mechanism that was available to the inhabitants was that of petitioning the Crown, but this did not in any way limit the Crown’s prerogative or impose any legal obligations [to consult].¹⁴²

This meant that according to British law, in order for Canada to legitimately annex the North-West and govern it as a colony of its own, it did not need the consent of the people of Red River, including the Indigenous nations who had never surrendered their governing authority to Britain or the Company. Under British law, the only legal requirement for Canada was the passage of legislation in its own parliament that incorporated the new territory *unilaterally*. It was assumed that, for the Indigenous nations of the North-West, their claims would be settled through future treaty-making, except for the Métis, who would be treated as any other British subject in the territory. In other words, they were ignored completely.

The Canadian legislation that, under British law, allowed Canada to take formal possession of the North-West Territory was signed into law in June 1869, known as the Act for the temporary Government of Rupert’s Land. This Act allowed the Queen “to admit Rupert’s Land and the North-Western Territory into the Union or Dominion of Canada” under s. 146 of the BNA Act.¹⁴³ The Act also provided for the appointment of a Lieutenant-Governor of the territory “to make provision for the administration of justice therein, and generally make, ordain, and establish all such Laws, Institutions and

¹⁴¹ Ibid.

¹⁴² Ibid., 145.

¹⁴³ Canada, "Act for the Temporary Government of Rupert's Land and the North-West Territory When United with Canada," in 32-33 *Victoria, c. 3* (1869), preamble.

Ordinances as may be Necessary for the Peace, Order and good Government of Her Majesty's subjects and others herein".¹⁴⁴ In addition to a Lieutenant-Governor, the Act created "a Council, not [to] exceeded fifteen nor less than seven persons" to aid in the administration of the Territory.¹⁴⁵ Since the Act stated that the Council was to be appointed by the Lieutenant-Governor, and not elected, it essentially combined both elective and governing functions of the Territory in a single person.¹⁴⁶ It was, as Red River trader Alexander Begg described it, "a fine Family Compact idea," making reference to the oligarchical system of colonial government that Ontarians themselves had thrown off in 1837-1838.¹⁴⁷ Despite this contradiction, this legislative processes seemingly satisfied the Dominion of Canada of its legitimate possession of the North-West, as it would soon appoint a Lieutenant Governor, William McDougall, to establish Canadian presence in the North-West. All that was required was the approval of the Queen to authorize the final transfer, and this was scheduled to occur on December 1, 1869.

It is interesting to note that none of the three legislative acts make any mention of the Indigenous peoples of the North-West or their governing capacities there. In addition to the absence of a discussion about Indian title to the territory, the Métis and Halfbreeds were not mentioned in the legislation, presumably because British law was still attempting to treat them as mere British subjects. At the core of these three acts was the

¹⁴⁴ Ibid., section 2.

¹⁴⁵ Ibid., section 4.

¹⁴⁶ O'Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 147.

¹⁴⁷ Alexander Begg, "Letter to the *Globe*, November 10, 1869," in *Reporting the Resistance: Alexander Begg and Joseph Hargrave on the Red River Resistance*, ed. J. M. Bumsted (Winnipeg: University of Manitoba Press, 2003), 89; See also O'Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 138.

Doctrine of Discovery, which assumed that the only legitimate political authority operating in the North-West was the Company's, and therefore no other entity or people were required to be consulted or even officially notified of Canada's purchase and Britain's transfer of power. Canada would hold on desperately to these beliefs until armed Métis dismantled all non-Indigenous authority in the region.

While Canada and Britain may have been willing to ignore Métis political authority in 1869, by 1870 this was no longer an option. The government of Canada was by then willing to negotiate with the people of Red River and their representatives for the establishment of Canadian authority in the region. Whatever the justificatory narratives used in the Imperial Parliament's Rupert's Land Act, 1868, and the BNA Act, 1867, as well as Canada's Act for the temporary government of Rupert's Land, 1869, Canada very quickly found out, as the Company had known for years, that it could not do much in the North-West without the consent and participation of the Métis people.

Regardless of their ability to satisfy British and Canadian legal requirements, these three acts of the Imperial and Dominion parliaments did little to transform the legitimate expression of political authority in the North-West. They were, in reality, unilateral acts by a foreign power over independent Indigenous peoples. The British and Canadians were unable to realize such claims to unilateral sovereignty and governance, and Métis interrupted their fantasy with armed soldiers. After the unceremonial expulsion of McDougall from the North-West in the events described at the beginning of this chapter, Canadian political strategy changed drastically, and Métis were able to negotiate for entrance into Confederation on their own terms. The creation of a province would create

greater security for the people, their rights and privileges, all the while “keeping the hands of the Canadian government out of local affairs.”¹⁴⁸

A Different Narrative of Political Authority in the North-West

Rather than remaining focused on the unilateral fantasies of British possession of the Métis homeland described throughout this chapter, there is ample historical evidence to put forward a new historical narrative—a narrative of Métis-Halfbreed treaty negotiation with Canada that resulted in a bilateral union with the Canadian Confederation. This negotiation resulted in the creation of a new province—Manitoba—that would retain its Indigenous character and was premised on the institutionalization of significant protections for Métis lands, culture, and political autonomy. Despite the historical evidence of such bilateral narratives, the fantasy of the “transfer” of the North-West to Canada persists.

The following chapters will examine the events leading up to the creation of Manitoba, and establish a different narrative of political authority in the North-West where Métis had banded together with the English-speaking peoples of Red River to develop four *Lists of Rights*, the terms on which they would freely confederate with Canada. After they determined their collective position, and collectively recognized the Provisional Government as the legitimate government of the Red River Settlement, the people sent three representatives to treat with Canada on this matter. The result of these negotiations is a treaty relationship, embodied in part by the Manitoba Act of 1870, and in part by numerous oral agreements and clarifications, recorded by Abbé Ritchot, the

¹⁴⁸ Bumsted, *The Red River Rebellion*, 137.

Métis-appointed negotiator sent to Ottawa. These two elements combined to form what the Métis referred to as the “Manitoba Treaty.” This agreement assured protections of Métis lands, language, and local political control, all the while creating a provincial government that would remain under local control for the foreseeable future.

However despite obvious signs of the bilateral approach to the creation of Manitoba in the North-West, historical scholarship has ultimately come to treat the Manitoba Act as a unilateral piece of legislation. This scholarship has failed to understand Manitoba as autonomous pre-existing entity—although previously called the North-West, Assiniboia, and Rupert’s Land—already full of distinct political units who freely confederated with each other, before approaching Canada to initiate another bilateral negotiation process. Rather, historical scholarship renews the fantasy that Manitoba was created by a unilateral act of empire, the Manitoba Act, which was sanctioned by the Dominion legislature, and later approved by the Imperial parliament. Given the option between resurrecting a fantasy of Discovery, possession, and the inherent superiority of European political institutions on the one hand, and the formal confederation of distinct political entities for a shared and mutually beneficial future, on the other, Canada has repeatedly chosen the former. However, this has resulted in a historically untenable rejection of the existence of Indigenous political authorities. The continued rejection of Indigenous political authority, as well as the rejection of a political presence of the Métis people in the North-West lacks historical rigour, ignores specific historical documents that give voice to this reality, and ultimately rely on the assumption that distant European empires were capable of expressing an inherently superior authority over Indigenous lands and peoples. A rejection of such narratives, like the one in the

following pages, gives us a very different historical outlook with the hopes of reviving much older ways of understanding the North-West, and the peoples who lived there.

Conclusion

Canada's contemporary claim to the lands formerly called the North-West is predicated largely on a fantasy of sovereignty and the erasure of Indigenous political authorities whose assertion of territoriality in the North-West are historically stronger than European claims. Canada's fantasy of sovereignty retains a certain power today, because it has been uncritically reinforced by scholars, educators, and public institutions. While Métis people were willing to share authority with Canada in 1870 with the ratification of the Manitoba Treaty, Canada's desire to assert a unilateral sovereignty has obscured the original good faith of numerous treaty negotiations throughout what is today called western Canada. Canada cannot reasonably claim that any of the prior myths—be it Discovery, Selkirk's Treaty, or the HBC transfer—can create a legitimate claim to the governance of the North-West, let alone a logical argument for overriding Indigenous sovereignty there. Thus, Canada's claim to the contemporary North-West—Manitoba, Saskatchewan, Alberta, the North-West Territories, and the Yukon—lacks a certain amount of legitimacy without adequate recognition of the numerous treaties which gave Canada access—albeit shared access—to the lands in the North-West. Without these treaties which envisioned a new era of coexistence throughout the North-West, Canada must fall back on older the explanations that have been discussed above, all of which rely on the Doctrine of Discovery and the assumed superiority of European political traditions. Furthermore, if these events do not provide legitimate access for Canada to the North-

West, the more vital question is: *how can Canada express legal and political authority in the North-West today?* The answer, then, is not found in the places Canadians typically look, but rather in the treaty relationships that Canada has negotiated with the Indigenous peoples in the North-West. Only by becoming treaty partners, and agreeing to share the land, can Canada claim a legitimate political presence in the North-West, and it is being bound to the treaties and the very specific relationships—the same Canada has typically ignored—that Canada can find the basis for its presence today. Canada's shared political authority in the contemporary North-West, then, is dependent on relationships with the Indigenous nations there, not on these historic imaginings based in fantasy and unilateral declarations of empire.

This chapter has demonstrated the underlying problems with the justificatory narratives for British and Canadian possession of the North-West, and highlights the problems in basing a political order on these concepts, as Canada has. The following chapters will demonstrate how Métis expressed political authority, and how they envisioned sharing it with other peoples. They will also argue that Canada's relationship with the Métis in 1870 was intended to do just this, *share authority*. In order to get at the crux of this issue, and to further dispel the fantasies and myths that currently underpin Canada's claims to the North-West, we must explore Indigenous cosmologies. Through these worldviews we can better articulate the laws that govern the relationship between the Indigenous peoples and their treaty partners. In this spirit, the next chapter explores how Métis envisioned their relationship with each other, and thus how they governed themselves.

Chapter 3 – ‘Enjoying our own government based on true conceptions of freedom’¹⁴⁹: Buffalo Hunt Governance and Expression of Political Authority

“It was simple prudence, therefore, to have some kind of order. Custom, child of experience, had laid down certain rules that had the force of law, controlling everything which might cause injury by other hunters or by a pain-crazed wounded buffalo. It followed that a council was need to sanction laws that everyone agreed were necessary for the safety of all.”¹⁵⁰

If we are to rule out the validity of self-proclaimed European political authority over the nineteenth-century North-West, as the previous chapter has done, we can better explore how Métis were governing themselves, and had by at least the 1830s developed a standardized and complex political system in the annual buffalo hunt. While the Métis political formation was not, as yet, nationalist in scope, it had established common processes for collective governance. Before 1869, when Métis governance made a nationalist turn, Métis authority rested in families, who were self-owning entities—*kaa-tipeyimishoyaahk*—who could temporarily elevate leaders from among themselves, and then return to their component parts, the extended family units that were the elemental basis of the Métis people. In these cases, Métis political authority was temporarily invested in large-scale buffalo hunts in the mid-nineteenth century, as well as to create new settlement-based governments for the Métis *hivernants* living on the prairies. While not all families were directly involved in the buffalo hunts of this era, the hunt still

¹⁴⁹ Riel’s “Last Memoir” describes the hunt as “the condition of a new people, civilized, and enjoying its own government based on true conceptions of public freedom and equality.” Riel, “Last Memoir,” 204.

¹⁵⁰ Louis Goulet, *Vanishing Spaces: Memoirs of a Prairie Métis* (Winnipeg: Editions Bois-Brules, 1976), 20-21.

seemed to occupy a considerable amount of space in the Métis political imagination, being reproduced even in circumstances outside of hunting families.

It was not until 1869, however that the Red River Métis began to reinvest political authority into a more permanent fixture, *The Comité Nationale de Métis* and later, the Provisional Government of Assiniboia—which find much of its form in the hunt, but with mostly non-hunt leaders at their head. Before this point, Métis governance is better defined as family-level political system, which at times could create a larger governing body through common consent. The early-nineteenth century North-West, was not actually a world of indigenous nations, but rather a world of families, brigades, bands, and other kinship relations that bound individuals together into a culturally and politically distinct *Métis people*.

All Métis governance—national or family-based—occurred independent of the Company and the Crown, and was firmly rooted in a Métis worldview that sought no higher authority to authorize its existence. As an Indigenous people of the North-West, fully immersed in the Indigenous political universe of the plains, Métis lived a political existence independent of European claims to land and governance. They had developed an intricate, shared, and self-constituted political system used by most, if not all, Métis political communities during the early- and mid- nineteenth century.¹⁵¹

Métis governance finds its origin in the great buffalo hunts of the early nineteenth century. These hunts were responsible for the creation of a self-contained and self-

¹⁵¹ This shared Métis political system is evident in several first-hand accounts of Métis life in the nineteenth century. See for example, Peter Erasmus, *Buffalo Days and Nights* (Calgary: Fifth House, 1999); Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*; Ross, *The Red River Settlement: Its Rise, Progress, and Present State*. These works provide perhaps the most comprehensive information on the political origins of Métis buffalo hunts, and its connection to Métis governance more generally.

conscious Métis political entity, independent of other political authority in the region.

Also emerging from the hunt was a shared Métis political culture, a culture that included a common political language and common sense of relatedness. Through the hunt, Métis could understand themselves as a web of kin relations, expressing a collective political will through an assembly of inter-related families, that choose a mutually agreed upon leadership. Over many summers, they built shared processes and a shared language for conducting politics, which could be translated in different contexts, like Métis parishes and settlements, who used hunt-like systems of governance in various capacities—including the formation of Provisional Governments—to protect their common interests from outside threats.

The buffalo hunt, with its elected chief and councillors, soldiers and scouts, served as the constitutional basis of Métis political authority. It determined how this authority could be legitimately expressed, and to whom it applied. It was the basis for Métis political life. In the larger political structure of the North-West, Métis understood their governments and political power existing alongside other Indigenous political entities (Cree, Saulteaux, Assiniboine, Lakota, Blackfoot, etc.), whom they related to based on a complex system of diplomacy that will be explored in the follow chapter.

This chapter, then, explores the various expressions of Métis authority and self-governance embodied by the buffalo hunt in the nineteenth-century. Buffalo hunt political protocol, like Métis political thought more generally, hinges upon two foundational principles, *kaa-tipeyimishoyaahk* and *wahkohtowin*. *Kaa-tipeyimishoyaahk*, which translates to “we are those who own ourselves,” can be understood as an ideal state of being where Métis are autonomous and independent political beings, free from

external coercion, capable of being their own masters.¹⁵² *Wahkohtowin* is the responsibility of being related to other beings as family, embodying collective obligations to one's relatives, as well as an ever-expanding network of kin. It is the complex balance of these two principles that is at the heart of Métis governance and political philosophy—*an independent, self-owning existence, made possible by family commitments and communal responsibilities*. Nineteenth-century Métis buffalo hunt governance embodied *kaa-tipeyimishoyaahk* and *wahkohtowin* in integral ways, using them as the language of legitimate expression of Métis political authority. Even after the decline of the prairie buffalo and the end of the great buffalo hunts in the 1870s, the basic principles they embodied—*kaa-tipeyimishoyaahk* and *wahkohtowin*—and the political language they created, continued to inform how Métis governed themselves and expressed their collective political authority.¹⁵³

***Kaa-tipeyimishoyaahk* and *Wahkohtowin*: Balancing Métis Governance**

Métis governance is structured by the complex interplay of two seemingly contradictory processes: *kaa-tipeyimishoyaahk*, the state of being self-owning, being free and able to provide the necessities of life on each extended family's own terms; and *wahkohtowin*, the responsibilities of being in, and making, family, with commitments to a constellation

¹⁵² Diane Payment, *The Free People - Otipemisiwak, Batoche, Saskatchewan, 1870-1930* (National Historic Parks and Sites, 1990).

¹⁵³ The buffalo hunt system continued well after the 1870s, even after the decline of the buffalo. The hunt persisted in Maria Campbell's family well into the twentieth century: "the annual summer and autumn excursions to pick roots, berries, and nuts, and preserve fish and meat, were a reenactment of the old buffalo hunts of our ancestors.... Uncle Pah cha neese was the grand chief, Dad was the captain, my uncles the guides and scouts. Instead of the buffalo, it was roots, berries, nuts, moose meat, and fish that we harvested. And with each group that joined us, there was an old respected uncle serving as grand chief, a captain, and scouts. We traded, not with the Hudson's Bay Company, but with farmers, for the goods we needed." Maria Campbell, "Changing the Way," in *Contours of a People: Metis Family, Mobility, and History*, ed. Nicole St-Onge, Carolyn Podruchny, and Brenda Macdougall (Norman: University of Oklahoma Press, 2012), xxi.

of different relatives, related by blood or by other means, and including non-human relatives like the land and the non-human beings that live on it.¹⁵⁴

While *kaa-tipeyimishoyaahk* involves a sense of independence, and some degree of separateness from others, *wahkohtowin* understands that seemingly separate units are all inherently connected, and thus responsible to one another through family-like relations. Nineteenth-century Métis governance then, was concerned with the preservation of familial freedom, as well as the establishment and maintenance of relationships that allowed different families to support one another, live together, and share in times of need or plenty. Emerging in the nineteenth-century North-West was a system of Métis governance premised on the concepts of *kaa-tipeyimishoyaahk* and *wahkohtowin*, an amalgam of self-sufficient family units, that would unite for common purpose, and could disperse when their interests no longer aligned. The understanding of family relatedness checked the potential for atomization, ensuring a common sense of responsibility to the well-being of one's relations. It was in this spirit that Métis repeatedly joined together, year after year, for common purpose—to live, hunt, trade, and celebrate together, but also regularly dissolved into their extended families to live independently. To better understand the complex practice of Métis governance and the expressions of Métis authority, it is first necessary to more thoroughly define both *kaa-tipeyimishoyaahk* and *wahkohtowin*, and then to understand how these two concepts were actualized in nineteenth-century governance.

1) *Kaa-tipeyimishoyaahk*: “We, who own ourselves”

¹⁵⁴ Macdougall, *One of the Family: Metis Culture in Nineteenth-Century Northwestern Saskatchewan*, 3.

The buffalo hunt before 1870 never aspired to be national in reach, nor did it attempt to unite all Métis families under a single government. The buffalo hunt was a political system, a kind of shared language of politics, common to Métis in the nineteenth century North-West.¹⁵⁵ This language allowed them to organize their families into a collective political entity whenever they desired by calling on political processes that resonated among Métis. The buffalo hunt system also allowed Métis to remain independent from one another, or to organize themselves with other Indigenous allies, like the Cree. Métis governance was a highly decentralized institution that allowed Métis to remain self-owning, and preserve their much-treasured freedom.

In Métis political thought, ideals of freedom, self-sufficiency, and independence are represented by the Michif concept of *kaa-tipeyimishoyaahk*, “we who own ourselves.” *Kaa-tipeyimishoyaahk* is understood by Métis in many different ways. It has both economic, and political connotations, which combine into a very robust and complex political ideal of self-ownership and freedom. The origins of *kaa-tipeyimishoyaahk* can be traced to the economic structure of the fur trade, an economic system that nurtured the ideal of self-ownership. In the North-West, the trade was a highly competitive venture at least until 1821, when the Hudson’s Bay Company forced a merger with its last standing rival, the North-West Company.¹⁵⁶ The result was a systematic consolidation European fur trade in the North-West, alongside a more urgent desire among Métis to own themselves and trade independent of the now-monopolistic Company. When the fur trade forts downsized and the monopoly economized the trade,

¹⁵⁵ This system was so pervasive it was even used by families that were not buffalo hunters, the close proximity to trading and freighting families to buffalo hunters, and their involvement in the great hunts in non-hunting capacities still influenced their approach to politics and collective political pursuits.

¹⁵⁶ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 42.

many Métis formerly affiliated with the North-West Company found themselves without a place in the newly consolidated fur economy. The result was an ever-increasing tendency to “go free,” to enter the fur trade as an independent trader, trading where one could get the best prices without formal ties to the Hudson’s Bay Company—a way of life that the HBC encouraged to buttress the trade.¹⁵⁷ Those Métis families who traded independently were classified as *les gens libre*, free men, and their families were, by necessity, “masters of their own affairs.”¹⁵⁸ This lifestyle, with its interconnected family networks created the common experience required for Métis families to identify themselves with one another. Building on these relationships, Metis could structure shared political, economic, and cultural structures that led to the development of a nationalist outlook among Métis families.

Throughout the nineteenth-century, free trading was an increasingly attractive option for Métis families, and it is in this economic strategy living in a family that is also an independent fur trade operation, that the intellectual origins of *kaa-tipeyimishoyaahk* are found. The mentality of freedom and self-ownership was part of the free trader ethos of being, what John Foster calls “a man of consequence.”¹⁵⁹ A person of consequence was a self-sufficient and resourceful fur trader capable of taking charge of their own fate in the North-West, flourishing in the many cultural and economic worlds of the North-

¹⁵⁷ Giraud, *The Metis in the Canadian West*, 349.

¹⁵⁸ Macdougall, *One of the Family: Metis Culture in Nineteenth-Century Northwestern Saskatchewan*, 195.

¹⁵⁹ John E. Foster, “Wintering, the Outsider Adult Male and Teh Ethnogenesis of the Western Plains Metis,” in *From Rupert’s Land to Canada: Essays in Honour of John E. Foster*, ed. Theodore Binnema, Gerhard Ens, and R.C. Macleod (Edmonton: University of Alberta Press, 2001), 188. Foster’s gendered concept, however was by no means restricted to men, as many Métis women from free trading families were also adept traders and diplomats, see Brenda Macdougall and Nicole St-Onge, “Rooted in Mobility: Metis Buffalo-Hunting Brigades,” *Manitoba History* 71(2013).

West.¹⁶⁰ The mentality of this Métis person of consequence encouraged Métis free trading families to remain in the bush for long periods of time, often as independent extended family units, producing and trading for all the necessities of life. This lifestyle required persons of consequence to be able to adapt to social, political and economic norms of many different Indigenous peoples in order to remain their own economic masters.¹⁶¹ The freedom of the Métis person of consequence followed from their family's ability to "go free" and trade independently of the fur trade companies, usually amassing wealth and broadening an already-extensive social and familial connections in the process.¹⁶² A Métis man's "value was measured by his freedom, and his ability as a tripman, buffalo hunter, and a horseman. Stature within his community of males and kin was dependent upon his ability at provisioning."¹⁶³ Métis women were likewise valued for their skills at outfitting their families, for their efficiency with meat and hides, and their artistic skill.¹⁶⁴ This "man of consequence" mentality was not an individualized mountain-man ideal, and was much more communitarian in outlook than Foster gives it credit for.

In Métis political and economic life, the extended family was the basic unit of self-ownership, both in terms of trade and subsistence activities. Thus, nineteenth-century Métis equated self-ownership with familial self-sufficiency. It was after all in their extended families rather than as lone individuals that Métis preferred to look after their own needs, relying on their family's skills and labour, in addition to their own, to survive.

¹⁶⁰ Foster, "Wintering, the Outsider Adult Male and Teh Ethnogenesis of the Western Plains Metis," 188.

¹⁶¹ Ibid.

¹⁶² Ibid.

¹⁶³ Pannekoek, *A Snug Little Flock: The Social Origins of the Riel Resistance of 1869-70*, 62.

¹⁶⁴ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 49-50.

A family's collective skill-set allowed them to avoid depending on others, which in an economic sense could amount to someone else 'owning' them. By living this independent life, Métis families could assure that they were their own bosses. The nineteenth-century Métis hunter and trader, Louis Goulet, described living as *kaa-tipeyimishoyaahk* as a mobile life with few possessions, but one that was richer and freer for it. Aside from the basic necessities, the land could provide everything his family needed, and by looking after their own needs, the Goulets could avoid dependence on others for their daily survival. For the Goulets, *kaa-tipeyimishoyaahk* was a life where families took with them, "everything a family needed," which when heading on a buffalo hunt included only,

a horse or two, three at most (left to fatten on the prairie grasses, ready to run the buffalo when the time came); a few oxen which were yoked each day; as many carts as possible, built by the father over some preceding winter; buffalo robes used as blankets at night; kitchen utensils and only the most indispensable crockery; a basin or two made from a keg sawed in half; a few pails, some guns, a rifle and enough ammunition to fight a battle in case of attack by Indians or other possible (if not probable) enemies.¹⁶⁵

Nothing else was necessary, because "the prairie provided the rest, from the clear, cool water of a spring to the wild berries, ever-changing according to the season and type of soil."¹⁶⁶ It was this ability to live simply, and produce the necessities of life as a family that brought both happiness and freedom to Métis families. Like Goulet, Peter Erasmus saw the simple independent life, as central to his well-being and sense of pride. Erasmus describes the "happiest and most contented years of my life," as the time when his family lived in the bush, in a roughly made house with only a few possessions.¹⁶⁷ The Erasmus

¹⁶⁵ Ibid., 16-17.

¹⁶⁶ Ibid.

¹⁶⁷ Erasmus, *Buffalo Days and Nights*, 185.

family used only their labour to make a living, and was therefore free to choose how they lived, as well as when and where they travelled and whom they associated with. In his memoirs, Erasmus repeatedly de-emphasizes his supposed lack of material wealth, instead highlighting the freedom that such a way of life ensures: “We had food and shelter, horses, guns, and ammunition—a lot more than many people had all their lives. We could get all the things we required by our own efforts.”¹⁶⁸ Erasmus’ wife Charlotte embodied *kaa-tipeyimishoyaahk* by possessing a “happy and joyful acceptance of what we had or could improvise,”¹⁶⁹ ensuring that they lived a free life on their own terms.

Goulet’s description of the collective labour in buffalo harvesting demonstrates the necessity of the involvement of entire family units, without which the task would have been impossible:

Without the prairie tradition of helping one another to get the butchering done before the sun got too hot or it started to rain, there would have been a lot more spoilage. Everybody had a job to do after the kill, whether or not he’d joined in the hunt. In those days there was none of this everybody out for himself like we see now.... We hadn’t all been spoiled by civilization.¹⁷⁰

So while *kaa-tipeyimishoyaahk* was a principle that aspired to independence, it was always tempered by a collectivist orientation to family life, and the responsibilities belonging to a family: *wahkohtowin*. While different economic responsibilities bound Métis together in a family, it did not lessen Métis understandings of self-ownership. Rather, it was in *living self-sufficiently together* that Métis individuals could be a self-owning people.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 55.

Given then the economic basis for a Métis love of freedom, it is not surprising that by the 1840s, freedom had taken on a collective political meaning as well.¹⁷¹ By this point, Métis were beginning to understand their collective freedom as an ideal that required meaningful political relationships beyond the immediate family unit. Métis self-ownership necessitated that different families lived as good relations with large numbers of other Métis families, in the formation of the great buffalo hunts of the day. The annual buffalo hunt allowed Métis to understand *kaa-tipeyimishoyaahk* as a *political way of being* common to the Métis people as a whole. It also allowed Métis to experience being free together, and understand themselves as possessing common political interests. It was by “feeling their own strength from being constantly armed, and free from control” that Métis became “marvellously tenacious of their own original habits.”¹⁷²

The buffalo hunt necessitated that Métis construct a common political language on which all Métis could communicate their familial best interest, and used *kaa-tipeyimishoyaahk* to this end. However, this shared sense of *kaa-tipeyimishoyaahk* has been grossly oversimplified by many observers, like Alexander Ross, who claimed the Métis of the 1840s “cordially detest all the laws and restraints of civilized life, believing all men were born free.”¹⁷³ What Ross mistook for a lack of law and restraint on the part of Métis, was actually a decentralized system of governance, which protected the state of *kaa-tipeyimishoyaahk* for all Métis families. The buffalo hunt system, informed by *kaa-tipeyimishoyaahk*, ensured that Métis government was non-coercive, decentralized, and created spontaneously to purposefully meet very specific needs. The buffalo hunt council

¹⁷¹ See Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 245-72.

¹⁷² *Ibid.*, 252.

¹⁷³ *Ibid.*

was non-coercive, and had a limited political capacity, it was only able to act “according to the authority entrusted to it,” and when the people’s delegated authority did not allow the council to make broad decisions outside of its mandate, “it had recourse to the people and based its decisions on the majority voice” of the heads-of-households.¹⁷⁴ All of the leadership positions were also elected by the assembled heads-of-household, a popular assembly held at the beginning of each buffalo hunt. It was in this manner that, the hunt chief and the twelve councillors were chosen. Other positions were elected only by those individuals who would be following certain elected leaders themselves, such as the captain of the *dizaines*, the soldier parties of the buffalo hunt.¹⁷⁵ Each *dizaine* chose its own captain from its membership.¹⁷⁶ It was this respect for the individual voices of the Métis families—often themselves represented in the both the hunt council and in the *dizaines*—that Métis governance preserved the self-owning capacities of its component families. Without this respect for preserving a state of *kaa-tipeyimishoyaahk*, Métis families would be much more suspicious of their governments, and less likely to participate in collective political enterprises with other Métis families. Non-coercive and decentralized as it may be, Métis governance still enforced laws, expressed authority, and punished those who broke its rules,¹⁷⁷ it only did so in a manner that was unfamiliar to those outsiders who witnessed it in action.

¹⁷⁴ Riel, "Last Memoir," 204.

¹⁷⁵ Darren R. Préfontaine and Leah Dorion, "The Meits and the Spirit of Resistance," The Gabriel Dumont Institute.

¹⁷⁶ Riel, "Last Memoir," 203-04. Given the practices of *wahkohtowin* common in Métis politics, we can assume that many of these *dizaines* were based on the relationships between male family members—fathers, children, uncles, brothers, cousins, brothers-in-law—who then elect the most experienced among them as captain. Family-based *dizaines* would allow Métis to exercise a significant degree of family autonomy, and thus a state of being *kaa-tipeyimishoyaahk*, even when in a large political formation like a buffalo hunt.

¹⁷⁷ See Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 20-21.

Métis governance was ultimately premised on an overriding concern for familial self-ownership, or *kaa-tipeyimishoyaahk*. Métis built specific structures into their political institutions that prevented a concentration of political power in specific individuals and families, while at the same time preserving the political and economic independence of Métis family units. Whether ensuring that the major family heads were annually represented on the buffalo hunt council, or that the hunt law required consultation with Métis families on decisions that exceeded the council's mandate, great care was taken not to step on the family-level governance that made Métis self-owning and self-governing. While there was great care to ensure the individual freedom of families, Métis governance likewise encouraged a proliferation of familial relationships, which brought Métis families into massive and overlapping kinship networks. This sense of kinship created immense webs of social and economic responsibilities outside of immediate self-owning families.¹⁷⁸ *Wahkohtowin*, the responsibility of being related, and a process of family-making was the second central principle of nineteenth-century Métis governance.

2) *Wahkohtowin: being a relative and making family*

Wahkohtowin is a Michif and Cree concept translating into the responsibilities of being related, or being in a family relationship.¹⁷⁹ It is a central component of Métis governance, and it is one of the underlining principles for large-scale social and political organization among Métis families. In light of this role, *wahkohtowin* has a robust

¹⁷⁸ See Macdougall and St-Onge, "Rooted in Mobility: Metis Buffalo-Hunting Brigades."

¹⁷⁹ Macdougall, *One of the Family: Metis Culture in Nineteenth-Century Northwestern Saskatchewan*, 1-8. Neal McLeod, *Cree Narrative Memory: From Treaties to Contemporary Times* (Winnipeg: Purich, 2007), 12.

contextual meaning, which Brenda Macdougall describes as “a worldview based on familial—especially inter-familial—connectedness”.¹⁸⁰ *Wahkohtowin* establishes the qualities that an individual should personify as a good family member, values that are critical to family relationships, “such as reciprocity, mutual support, decency and order—in turn influenced the behaviours, actions, and decision-making processes that shaped all a community’s economic and political interactions.”¹⁸¹ Ultimately, *wahkohtowin* “contextualizes how relationships were intended to work within Métis society by defining and classifying relationships, prescribing patterns of behaviour between relatives and non-relatives, and linking people and communities in a large, complex web of relationships.”¹⁸² From a governance standpoint, *wahkohtowin* is represented by an individual’s social and political responsibilities that are grounded in “teachings about how to be a good relative.”¹⁸³ Through *wahkohtowin* nineteenth-century Métis political culture expanded familial ties to current and future relatives through marriage, treaties, and other family-making institutions.

Wahkohtowin responsibilities also went beyond individual family units, and involved activities like sharing food with others in times of shortage, disease, and settler violence. Families treated their relative’s welfare as an important familial responsibility.¹⁸⁴ *Wahkohtowin* thus served as the foundational relationship for other Métis economic, religious, social, and political institutions. Family was thus responsible for the regulation of “broader internal and external community relations” in the Métis

¹⁸⁰ Macdougall, *One of the Family: Metis Culture in Nineteenth-Century Northwestern Saskatchewan*, 8.

¹⁸¹ *Ibid.*

¹⁸² *Ibid.*

¹⁸³ *Ibid.*, 11.

¹⁸⁴ *Ibid.*, 47.

political universe, and survival, in all its forms, was considered a collective, family affair.¹⁸⁵ In this way, *wahkohtowin* was integral to Métis political, social, cultural, as well as physical, survival in the nineteenth century. Métis thought did not confine *wahkohtowin* to human relations either; it also encompassed familial relationships and responsibilities with non-human beings, possessing among other things, a familial connection to the environment and the sacred world.¹⁸⁶ In being related to the land, and to the other non-human beings on the land, Métis embodied a sense of kinship to the land, *as an indigenous people*.

Given that *wahkohtowin* is a concept inherited from Cree thought, it should be no surprise that Métis had (and built) kinship ties with other Indigenous peoples using this political ideal. Métis needed only to consult the old Cree stories to learn their genealogy, or to study the cosmology that bound them to their Cree, Saulteaux and Assiniboine relations.¹⁸⁷ And as an Indigenous people, Métis also managed a *wahkohtowin*-based kinship with the prairie itself. It is in *wahkohtowin* that Métis understood their relatedness to the land, and understood their emergence from the prairie “as the descendants of the original inhabitants.”¹⁸⁸ In *wahkohtowin*, Métis found the basis of their Indigeneity, through their kinship with the Indians, and as relatives of the land itself, as “natural children of the country.”¹⁸⁹ It was also through *wahkohtowin* that Métis were accepted by other Indigenous nations as kin, as allies, and as an Indigenous people in their own

¹⁸⁵ Ibid.

¹⁸⁶ Ibid., 56.

¹⁸⁷ For an illustrative description of buffalo hunt campfire storytelling, see Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 42.

¹⁸⁸ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 99.

¹⁸⁹ Dumont, in Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 110.

right.¹⁹⁰ It was on the idea of family—*wahkohtowin*—as much as self-ownership on which Métis built their political philosophy. Through the concept of *wahkohtowin*, otherwise self-owning and independent families came to understand their relationships with other self-owning and independent family units as part of a large, extended family. Métis established a common language through these kinship practices to understand their relationships with one another.

In economic terms *wahkohtowin* demanded that good relatives support families who had lost their most experienced hunter, at least until the family could become self-sufficient again. Henry, the brother of Peter Erasmus, became the head of his family after the death of his father, and inherited the responsibility to take his family's carts on the great buffalo hunts in the late 1850s. Peter would later note that it was a common Métis practice where "in the event of the death or a sickness of the head of the family that all members of the party shared their portion of the hunt," and so the Erasmuses received their share of buffalo during those years.¹⁹¹ In return, Henry Erasmus was expected to "to repay the assistance given filling our carts," by work in the camp tending the horses and oxen, he too had obligations to support his kin.¹⁹² The buffalo hunt, indeed all Métis governance, mandated relatives look after the well being of all their relations.¹⁹³ It was on

¹⁹⁰ Innes notes that the heavily intermarried Cree, Saulteaux, Assiniboine, and Métis were close relatives in both familial and political terms, although this has been greatly misunderstood by historians of the prairies: "the level of tension and the different treatment—vis-à-vis other Aboriginal groups—between Plains Cree, Assiniboine, Saulteaux, and Métis has been glossed over by scholars, whose work has unjustifiably emphasized differences between First Nations and Métis." Robert Alexander Innes, "Multicultural Bands on the Northern Plains and the Notion of Tribal Histories," in *Finding a Way to the Heart: Feminist Writings on Aboriginal and Women's History in Canada*, ed. Robin Jarvis Brownlie and Valerie J. Korinek (Winnipeg: University of Manitoba Press, 2012), 133.

¹⁹¹ Erasmus, *Buffalo Days and Nights*, 6.

¹⁹² Ibid.

¹⁹³ George Woodcock also noted that Gabriel Dumont, in his capacity as hunt chief "would make at least one free run through the herd, dedicating the beasts he then slaughtered to the old and the sick who could not

this principle that Métis government brought families together and stressed the collective welfare of all, premised on *wahkohtowin*.

Wahkohtowin served a number of functions in Métis governance. Most importantly, *wahkohtowin* was premised in the very real family ties, nurtured through childhood, strengthened by love, and ongoing interaction with parents, grandparents, uncles, aunts, brothers, sisters, and cousins. It linked Métis families in a web of relations, and produced a collective sense of belonging within an otherwise independent culture of self-ownership. *Wahkohtowin* also protected Métis families in times of shortage by ensuring that their relations had a responsibility to share their “luck” with others. If a “lucky” family was capable of gifting food one year, in times of hardship in a following year, families could expect their relations to support them in kind. It was a kind of insurance policy in a world where life could be uncertain, or changes in the environment could deeply impact a family’s ability to survive.¹⁹⁴ Macdougall notes that *wahkohtowin* was used to “expand the boundaries of family by bringing additional people into the group, thereby increasing as much as possible the total number of relatives an individual could look to for support.”¹⁹⁵

Wahkohtowin also encouraged individuals with specific skills to contribute to the well-being of their relations. A non-hunter like Henry Erasmus was nonetheless seen as a valuable contributor to the buffalo hunt by diligently minding the camp’s stock.

Wealthy family members were expected to help finance the trade ventures of their kin,

hunt for themselves; it was an example he expected other good hunters to follow,” Woodcock, *Gabriel Dumont: The Metis Chief and His Lost World*, 76.

¹⁹⁴ See Alexis-Hyacinthe in Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 9.

¹⁹⁵ Macdougall, *One of the Family: Metis Culture in Nineteenth-Century Northwestern Saskatchewan*, 81.

sharing the wealth, and extending Métis prosperity through the North-West.¹⁹⁶ All of these practices ensured that “Métis settlements were like a large family” held together by *wahkohtowin*.¹⁹⁷ Such relations not only preserved *kaa-tipeyimishoyaahk*, family self-ownership, by ensuring that families could maintain an independent way of life, living on the land, while nonetheless having regular support from their (differently skilled and endowed) relations. Whether in situations of extreme need, or as a way to gain access to new trade goods, or even just to share some company for a season in a new and unfamiliar area, the principle and responsibility of *wahkohtowin* made this collective political orientation possible.

Much like *kaa-tipeyimishoyaahk*, *wahkohtowin* was a fundamental feature of nineteenth century Métis buffalo hunt governance. So much so, that Métis buffalo hunts were defined by *wahkohtowin* in both the philosophical and literal sense. Not only did hunts use the language of family to bring people together in a common political universe, these individual hunting brigades were often literally comprised of relatives through blood and marriage. In a study of the genealogical makeup of several buffalo hunting brigades of the mid-nineteenth century, Macdougall and St-Onge found that brigade membership was regularly determined by “a pattern of sisters...marrying brigade members and linking otherwise unconnected males into a kinship system predicated upon interfamilial structures.”¹⁹⁸ These marriage patterns reinforced family relations within

¹⁹⁶ Ross chronicles the story of Baptiste l’Espirit, a likely fictional Métis who, Ross uses to represent a class of people “in want of everything” but having “nothing of his own.” Yet despite Baptiste’s lack of personal resources he is able to gather all the required necessities from his relations to outfit a trip to the prairies with the great hunt, he “calls here, calls there, at this shop, at that shop, travels up, travels down” until he has what he needs. Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 86-87.

¹⁹⁷ Trémaudan, *Hold High Your Heads: History of the Metis Nation in Western Canada*, 12.

¹⁹⁸ Macdougall and St-Onge, "Rooted in Mobility: Metis Buffalo-Hunting Brigades," 21.

hunting brigades, and brought outsiders into the brigade-family. By developing these linkages, Métis could project onto larger political structures, the common understanding of family life in a way that made inter-familial political collaboration relatively simple. They just adopted family roles on a larger scale. Because of *wahkohtowin*, Métis political authority was determined not only by an ethos of self-ownership, as has often been observed,¹⁹⁹ but by a deeply interwoven kinship system, and family-oriented political structure that allowed Métis to practice politics through a common language, made possible by large networks of responsibility and belonging.

The Buffalo Hunt: The Constitutional Foundation of Métis Governance

The Métis buffalo hunt expeditions were massive political undertakings involving thousands of people in hundreds of families, and they had smaller incarnations as well. Families gathered in a great camp, selected leaders then marched double-, triple- or quadruple-file to find the great herds of buffalo on the prairies.²⁰⁰ These hunts inspired awe among almost every outside observer who witnessed them.

Every summer during the late “golden years”²⁰¹ the buffalo hunt camps marched west (and, as the great herds declined, increasingly south) in a massive caravan. Buffalo hunts were large collective undertakings that were best done in large groups, because buffalo would stampede when charged by a hunter, so large hunts could maximize the

¹⁹⁹ The first European to document the hunt in great detail, Alexander Ross, described the Métis hunters entirely on terms of the independence, unable to see *wahkohtowin* as the other major political principle at work: “Feeling their own strength from being, and free from control, they despise all others; but above all, they are marvelously tenacious of their own original habits. They cherish freedom as they cherish life. The writer in vain rebuked them for this state of things, and endeavoured to turn the current of their thoughts into a civilized channel. They are all republicans in principle, and a licentious freedom is their besetting sin.” Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 252.

²⁰⁰ Ibid., 245-46.

²⁰¹ Dorion and Préfontaine, “Deconstructing Metis Historiography: Giving Voice to the Metis People.”

number of animals killed before they stampeded out of range. The great camps therefore went to the prairies together, sending scouts out in search of buffalo in the best hunting grounds, until a large herd was sighted. Then the camp's hunters would assemble on horseback to make an organized run the animals.²⁰² Buffalo could smell approaching hunters from a great distance, but had poor eyesight, so the hunters could get close enough without being noticed by the herd, by approaching from upwind.²⁰³ This tactic required that the hunters approach the herd in a highly organized fashion. Only after the hunting party got close enough did the hunt chief give the signal for a coordinated run. The hunters approached in a line, and steadily increasing their horse's speed until at a gallop, rode up beside an animal, shooting into its body mass, hitting it, ideally, in the heart.²⁰⁴ A good hunt would kill thousands of buffalo, which would then be skinned, harvested, and much of the meat made into pemmican by the families sharing in the hunt. The skins and pemmican would be traded to the Company for provisions, or would be used by the family to provision itself through the following year.²⁰⁵ After many successful runs at several different herds, and ideally when all the camp's carts were full of meat and skins, the hunt would return to its destination, and then the camp would dissolve until the following year.²⁰⁶

Because of the importance of buffalo hunting for Métis economic survival, the buffalo hunt also occupied a central place in Métis politics. It functioned as the Métis people's constitution; it was the model for all other Métis political and social

²⁰² Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 257.

²⁰³ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 49.

²⁰⁴ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 257.

²⁰⁵ *Ibid.*, 258.

²⁰⁶ *Ibid.*, 272.

organization. Protecting the twin-principles of Métis political thought: *kaa-tipeyimishoyaahk* and *wahkohtowin*. Embodying these concepts *par excellence*, the buffalo hunt was, in essence, a constitutional gathering of self-owning Métis families, many of whom were related to one another. Together these families used the principle of *wahkohtowin* to join together to form a temporary government (a *provisional government*, as it were) to complete a specific task, hunting buffalo safely and effectively on the prairie. In this way, the buffalo hunt should be understood as the *constitutional* basis for Métis political authority: the hunt was the political formation that gave legitimacy to collective Métis political power, and it was the defining process through which self-owning Métis families could unite for a collective political enterprise. Therefore, it can be said that *the buffalo hunt is the Métis constitution*, and that all subsequent Métis political formations are derived from this model of governance. In order to understand specific Métis governments and the origin of their political authority, let us first examine how Métis created their constitutional political authority through the process of the “spontaneous” formation of the summer buffalo hunt at Red River.

The great Métis buffalo hunt as a political formation reached its zenith in the 1840s and 1850s, when there were at least three major summer hunts, each with thousands of participants, which left from the Red River area each June. The first party left from Pembina, a small town just south of “the line,” that was the old home of many Red River families who still joined the Pembina party each summer. Just west of St. Boniface was a gathering place for the second hunt, the “main river party,” which was the largest hunting brigade, drawn from the Red River parishes. A third party gathered at White Horse Plains, an off-shoot of the main river party that formed its own hunt when

the main river party grew too large. This party was closely aligned with the main river party, but these two groups would increasingly form separate kin groups as the nineteenth century progressed.²⁰⁷ In addition to the three summer hunts, there was also a fall hunt leaving from Red River, called the “green meat hunt,” which provided winter provisions and trade goods, like buffalo robes, for Red River families to make a living through the winter.²⁰⁸ Even after the 1850s, where a series of treaties with the Dakota made it safer for small hunting brigades to travel the prairies, the buffalo hunt government system continued in much the same way. This buffalo hunt constitution was also adapted to meet the needs of new semi-permanent *hivernant* (wintering) settlements that created year-round hunting brigades.²⁰⁹ While the buffalo hunt was an ever-evolving governance institution, the form established during the early hunts showed remarkable resilience and adaptability to new circumstances. This meant that, even as times changed, the buffalo hunt political system continued on in both form and content. The basic hunt form was already institutionalized by at least the 1830s, meaning that the events described by Ross in 1840 are remarkably similar to the descriptions made by Louis Goulet and Peter Erasmus in the 1860s and 1870s.

Regardless of how institutionalized the hunts were, Métis constituted each hunt with an assembly of families. For Riel, the motivation for organizing a hunt government was both political, in avoiding conflicts amongst Métis families, and for reasons of self-

²⁰⁷ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 40.

²⁰⁸ *Ibid.*, 39.

²⁰⁹ See Gabriel Dumont, *Gabriel Dumont, Memoirs: The Memoirs as Dictated by Gabriel Dumont*, trans. Lise Gaboury-Diallo (Saint-Boniface: Les Editions du Ble, 2006), 47. The *hivernants* at St. Laurent established a buffalo-hunt derived council in December 1873, establishing a code of laws for living together and institutionalizing hunting laws for the community, Denis Combet, "Introduction - Gabriel Dumont: The Prince of the Prairies," in *Gabriel Dumont: The Memoirs as Dictated by Gabriel Dumont*, ed. Denis Combet (Saint-Boniface: Les Editions Du Ble, 2006), 13.

defence, in protecting themselves from hostile Dakota or Blackfoot warriors they may encounter:

the Métis had almost no government. However, when they went on a buffalo hunt, naturally, there sometimes rose among them conflicts of interest. So, to keep order in their ranks and guard against horse stealing or enemy attacks, they organized themselves and set up camp. A chief was chosen, twelve councillors were elected, with a public crier and guides.²¹⁰

This assembly was a crucial component of an authoritative and legitimate buffalo hunt.

Each hunt was first announced “from the pulpit and by criers in as many parishes and missions as possible, telling people that if anybody wanted to join a buffalo-hunting caravan, all they had to do was be at a certain place on a certain day at a certain time.”²¹¹

Even though this announcement was, in many cases, an annual occurrence probably issued by the same hunt chief from the previous summer, the announcement nonetheless established each hunt as a unique political and economic undertaking, distinct from the hunts of previous years.²¹²

By the 1830s every major hunt had a regularized political process. Because of the regularity of membership, the choice of the hunt chief and council was usually all-but-certain. However, the concept of a spontaneously organized hunt had important political meaning among nineteenth century Métis, because it was central to how they understood the creation of legitimate multi-family institutions. Even if a hunt chief was repeatedly elected year after year and the rules and family-makeup of the party remained the same, it was the narrative process of calling a hunt, and the election of a chief and council by an assembly of families freely choosing to participate in a temporary alliance of families,

²¹⁰ Riel, "Last Memoir," 203.

²¹¹ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 17-19.

²¹² Ibid.

which gave the hunt its political authority. Without an assembly to constitute a new hunt government each summer, the hunt would be inconsistent with the more fundamental value of *kaa-tipeyimishoyaahk*, ensuring familial self-ownership and freedom from the interference of other families. Each family needed to openly and publicly consent to participation in the hunt *every year* and without such a ceremony the hunt would not command political legitimacy, and this constitutional assembly of families accomplished this. In this way the gathering of the families, and elections of the hunt leadership that followed, was fundamental to the existence of the whole political system.

As a constitutional process, the procedure for creating a buffalo hunt government was standardized and consistent in most Métis hunts.²¹³ Every summer Métis heads-of-families would gather at pre-determined times and places to begin the political ritual of forming a hunt government and selecting their leadership. The purpose of the assembly of families was “to elect a first and second leader along with a council of at least twelve” as well as to “decide on the rules of order for the march. Each member of the executive who took part in the expedition had a voice in the assembly.”²¹⁴ Even when men who served as hunt chiefs before, there was still a formal election by this assembly of families at the start of every hunt to appoint a leader, this was treated as a kind of constitutional protocol.

During hunt assemblies where there was more than one candidate for chief, Métis hunts held elections where the families voted for their leadership. Peter Erasmus describes one incident from the early 1870s during a Métis/Cree buffalo hunt held an

²¹³ For similarities see *ibid.*; Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 257.

²¹⁴ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 17-19.

election to choose between two potential hunt chiefs, John Whitford and Big Louis.²¹⁵ The leader was chosen by “the total vote of all the heads of families and any of the young men who were old enough to take responsible positions of trust in the duties of guards in camp or scouting for the camp.”²¹⁶ After each man gave a speech, and after his supporters canvassed the families of the camp, the assembled families voted on its leader. The assembly voted with sticks. Each voter was given two sticks to place in a large bag in order to cast their vote. In this particular election, the short stick in the bag represented a vote for Whitford, while a long stick represented a vote for Big Louis. After the tally, it was announced that Whitford was the winner, and vote totals were kept secret to avoid embarrassment or controversy. Big Louis gracefully accepted defeat, telling his supporters they should “give the leader now elected all the help and cooperation they were able to give.”²¹⁷ Whitford, in turn, after accepting the position as Chief of the Hunt, immediately appointed Big Louis his second in command.²¹⁸ Whitford also appointed a council made up of representatives from every major community and family group in the camp including those who opposed his candidacy—the newly elected chief’s first task was to ensure the unity of the party.²¹⁹ In Métis camps, this Council usually contained twelve members, because twelve was a politically significant number for Métis, recurring in many different assemblies of representatives from the hunt to the Provisional Governments in 1869-1870. The tradition of electing twelve councillors, plus a chief, probably originated in Métis’ nominal Catholicism, with twelve also being a significant

²¹⁵ It was likely that there were also many Métis and Halfbreeds present at this hunt, since Erasmus, himself, was a Halfbreed who often hunted with Cree and Red River Métis.

²¹⁶ Erasmus, *Buffalo Days and Nights*, 201.

²¹⁷ *Ibid.*, 202.

²¹⁸ *Ibid.*

²¹⁹ See *ibid.*, 200-03.

number for Christians—Jesus had twelve disciples—and so this political institution probably fit well within the blended Indigenous-Catholic cosmology of the nineteenth century Métis.²²⁰ The Council was an important advisory body, assuming a representative function for the camp, it replaced the great assembly of families with a smaller body that “met every evening if possible, except Sunday, heard and discussed various reports, took note of any crimes of contraventions of the rules.”²²¹ The Council also oversaw the guides, *dizaines*, guards, scouts and sentries for the camp, who would all assume their rotating political positions for the duration of the hunt.²²²

After the selection of the hunt’s leadership, the final responsibility of the assembly of families was the codification of the Law of the Hunt, a body of basic rules in which all party members were obligated to follow while part of the hunting party. By the 1840s, general rules appear to be more or less common in all the hunts. Despite their recurrence, they still required ratification by the assembled families in order for the rules to have legal authority. These rules, recorded by Alexander Ross in 1840 can be generalized to other hunts, as they prevented the “conflict of interest” pointed out by Riel. The rules noted by Ross are,

1. No buffalo to be run on the Sabbath-day.
2. No party to fork off, lag behind, or go before, without permission.
3. No person or party to run buffalo before the general order.
4. Every captain, with his men, in turn, to patrol the camp and keep guard.
5. For the first trespass against these laws, the offender to have his saddle and bridle cut up.
6. For the second offence, the coat to be taken off the offender’s back, and be cut up.
7. For the third offence, the offender to be flogged.

²²⁰ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 17.

²²¹ *Ibid.*, 22.

²²² Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 248.

8. Any person convicted of theft, even to the value of a sinew, to be brought to the middle of camp, and the crier to call out his or her name three times, adding the word 'Thief,' at each time.²²³

These rules, represent a fairly regularized approach to the hunt government. Each of the eight rules targeted behaviours that were most likely to create dissension in a Métis camp, such as those people who sought to hunt the buffalo ahead of the camp.²²⁴ No hunter could go ahead of the main party or break off from it without permission of the council, preventing opportunistic hunting by enterprising individuals whose early runs at buffalo scared the herds away from the main camp. These "laws of the hunt" reinforced the unwritten rule that the hunt would engage in "communal sharing regardless of the number of animals killed by any one man," so every cart on the trip received enough meat to support its family.²²⁵ To further ensure the communal benefit of the hunt, the hunt chief was also responsible for making "at least one free run through the herd, dedicating the beasts he then slaughtered to the old and the sick who could not hunt for themselves."²²⁶

The constitutional basis then, of the entire political assembly, was one of the equity among families, a recognition of familial *kaa-tipeyimishoyaahk* and the equal interest of all in the success of the hunt. The entire hunt revolved around this basic principle. Only after the "semi-religious ceremony" of electing the hunt's leadership, would the Council's decisions be considered "law, entirely and everywhere, for the duration of the journey."²²⁷ The election embodied principles of *kaa-tipeyimishoyaahk*

²²³ Ibid., 249-50.

²²⁴ Woodcock, *Gabriel Dumont: The Metis Chief and His Lost World*, 98.

²²⁵ Erasmus, *Buffalo Days and Nights*, 229.

²²⁶ Woodcock, *Gabriel Dumont: The Metis Chief and His Lost World*, 76.

²²⁷ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 21.

and *wahkohtowin*, as it protected families' self-determining capacities on selecting a leader (or alternatively forming their own hunt), as well as respecting the centrality of family allegiance, and the responsibility of the head-of-family for speaking on the family unit's behalf.

While practical organization was a central aspect of the buffalo hunt, so too was the military capacity it created. The hunt, as a constitution, legitimized the formation of a military force which could compel hunt participants to follow its laws, and defend the camp from outside dangers—ensuring the protection of the hunt's collective *kaa-tipeyimishoyaahk*. The hunt's ability to realize Métis powers of self-defence allowed for the development of a coherent Métis political collectivity, as well as a presence on the plains that could provide protection from enemy war parties. This meant that the hunt required a militaristic form, which Louis Goulet describes as an essential feature of the political body:

No hunting expedition would have ventured out on the prairie without making some basic preparations for battle, at least when there was any possibility of it. We'd learn from experience that to be sure of peace we had to prepare for war. So we travelled in a caravan, and this is how the thing was usually organized.²²⁸

Métis were well aware that hunting was a dangerous activity, especially in this era when many peoples hunted the same declining buffalo herds. It was through this military organization and large-scale presence that Métis were able to maintain their presence on the plains, and with their Cree, Saulteaux, and Assiniboine kin, protect their livelihood in an era of increasing strain on the buffalo herds.

While the specific topic of Métis diplomacy will be explored in detail in the following chapter, it is important to understand the buffalo hunt provided the internal and

²²⁸ Ibid., 17.

external legitimizing presence for Métis on the prairies. In being able to generate these large-scale collective undertakings, Métis were capable of understanding themselves as a nation and a people, with a common basis and common way of life, just as the military presence allowed them to realize their common power as a people. It was in many ways the hunt was the unifying feature of Métis life, and the common basis for Métis politics, allowing families to create new political formations, using this constitutional formula. Some have even argued that the hunt was even more central to a collective Métis identity than was life at Red River.²²⁹ The hunt not only produced a connection to a common identity, but it also produced less abstract connections as well, as families would gather together and reinforce kinship bonds every summer in a common undertaking from which all benefited. This social solidarity was reinforced through agreed-upon political processes that allowed Métis to organize themselves, which were consistent with an already-shared value system. It allowed Métis to understand themselves as “an entire population on the march,” as kin, possessing a common origin and a common future.²³⁰

Outside of Métis kinship relations, the presence of a large and formidable institution, premised on Indigenous values demonstrated the increasing political power of Métis as an Indigenous collectivity and as an emerging economic power on the prairies. As the hunts grew larger and more organized, the Dakota attacks subsided. By the 1850s, treaties had been negotiated, and relative peace ensued.²³¹ While this peace with their primary enemies would itself redraw the boundaries of the great hunts, the necessity for self-defence and large numbers remained significant for many Métis families. As late as

²²⁹ See Macdougall and St-Onge, "Rooted in Mobility: Metis Buffalo-Hunting Brigades."

²³⁰ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 19.

²³¹ W. L. Morton, "The Battle at Grand Coteau: July 13 and 14, 1851," Manitoba Historical Society, www.mhs.mb.ca/docs/transactions/3/grandcoteau.shtml.

the 1870s, Goulet noted that “we never missed a chance to extend a forgiving and forgetting hand, but we still kept a good grip with the other on our loaded guns.”²³² The hunt would remain an important demonstration of Métis political authority to other peoples—allies and outsiders, including those arriving in the North-West from Britain and Canada.

Situational Authority and the Limits of *Kaa-tipeyimishoyaahk*

A buffalo hunt council’s purpose was to oversee the camp’s activities, making sure it was orderly, disciplined and fair. Yet in order to preserve a state of *kaa-tipeyimishoyaahk*, great care was taken to ensure that the hunt’s political authority was shared among many different people, without residing in a single individual for more than a few hours at a time. Different individuals, depending on the situation, expressed authority over the hunting party, and the hunt institutionalized, a rotating system of leaders who shared possession of a single camp flag, which symbolized the camp’s leadership as it flowed to different individuals:

The hoisting of the flag every morning is the signal for raising camp. Half an hour is the full time allowed to prepare for the march; but if any one is sick, or their animals have strayed, notice is sent to the guide, who halts till all is made right. From the time the flag is hoisted, however, till the hour of camping arrives, it is never taken down. The flag taken down is the signal for encamping. While it is up, the guide is chief of the expedition. Captains are subject to him and the soldiers of the day are his messengers; he commands all. The moment the flag is lowered, his functions cease, and the captains’ and soldiers’ duties commence. They point out the order of the camp, and every cart, as it arrives, moves to its appointed place. This business usually occupies about the same time as raising the camp in the morning; for everything moves with the regularity of clockwork.²³³

²³² Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 17.

²³³ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 248-49.

Once the hunt was on its way to the plains, the chief was the primary political authority of the camp, but many other prominent Métis were chosen to fulfill rotating leadership roles that mitigated against highly concentrated political power invested in a single chief. The first safeguard of concentrated power was the hunt council that—along with the chief, captains, and guides—met every night to determine “the line of march for the morrow,” to discuss reports from the scouts, as well as to take note of “any crimes or contraventions of the rules.”²³⁴

During its march the party was overseen by a rotating group of guides, who managed the miles-long caravan that spread across the prairie. In order to ensure that the caravan followed the correct route, and was capable of defending itself in the case of attack or avoid natural disasters like prairie fires, ten guides were selected who had extensive knowledge of the territory. According to Ross, the duty of these guides was to lead the camp towards the herds, “each in his turn,” before turning over their responsibility to the next day’s guide.²³⁵ Guides were selected due to their knowledge of the country, and because of this knowledge, their authority could trump that of the chief while the caravan was on the move. Ross noted that, while in a caravan, “the camp flag belongs to the guide of the day; he is therefore standard-bearer in virtue of his office.”²³⁶ Each morning then, the chief and the guide of the day would take their place at the head of the caravan, allowing both leaders to be kept informed of developments on the prairie by the scouts. The guide was responsible for the camp’s movement, while the chief was responsible for the camp’s safety, both worked together to exercise authority throughout

²³⁴ Ibid., 252; Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 22.

²³⁵ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 248.

²³⁶ Ibid.

the day. At the end of each day's march, the guide of the day would lower the party's flag and order the wagons to form a protective circle, the guide would then officially transfer the flag, and thus the responsibility for the safety of the camp that night, to the chief.²³⁷

At night the camp became a temporary prairie fortress when the Red River carts were circled into a stockade. The families camped safely inside, while grazing their animals in a guarded pasture outside of the carts that was overseen by the camp's guards. In times of perceived danger, however, the animals would also be grazed within the stockade to protect them from raiding parties.²³⁸ The camp was well aware that, at night, the transfer of authority to the chief marked a time of heightened camp discipline, "the closing of the circle was a signal to the whole caravan that the rules would be in full force for the rest of the night."²³⁹ The next day a new guide would assume a position at the front of the caravan with the chief, taking over responsibility to guide the camp across the prairie. The authority of the buffalo hunt brigade was invested in multiple places and was exercised by different individuals depending on the situation. The chief of the hunt was capable of wielding significant authority, and so were the guides in their turn, but no individual possessed authority on a continual basis, and when individuals did possess power for a longer period, they were nonetheless subject to the people's sense of *kaa-tipeyimishoyaahk*. With an ever-rotating group of leaders, Métis sought to preserve *kaa-tipeyimishoyaahk* by ensuring that no individual was able to consolidate the power of their position to coerce others. It was a mode of governance designed to have decentralized political authority.

²³⁷ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 24.

²³⁸ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 246.

²³⁹ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 24.

In fact, a hunt chief's authority could only be exercised in a coercive fashion when individuals perceived that their self-interest outweighed the collective interests of the party as a whole. It was only these instances where a family's state of *kaa-tipeyimishoyaahk* was considered subordinate to the camp's collective authority. First and foremost, the chief was responsible for enforcing the laws of the hunt, and penalizing individuals who hunted ahead of the camp, or stole from others. In these cases an individual's behaviour necessitated an intervention on behalf of the camp, to ensure collective welfare. These interventions often suspended the individual's (or their family's) state of *kaa-tipeyimishoyaahk* in order to punish or otherwise deter the behaviour. The chief and the camp's soldiers were responsible for meting out punishment. Minor infractions would involve the seizure of "a certain number of skins payable to the council who in turn distributed them to the needy."²⁴⁰ Other penalties involved public shaming, where the guilty part was brought to the middle of camp and the camp's crier called out the offending individual's name three times with their crime added to the end.²⁴¹ These punishments were perhaps the most effective, because Métis usually "found losing face more difficult to endure than losing possessions."²⁴² Fines and penalties allowed the hunt to avoid more coercive punishments, although physical punishments, which were exceptionally rare, were still within the power of the hunt's chief and council.²⁴³

²⁴⁰ Ibid., 21.

²⁴¹ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 249-50.

²⁴² Woodcock, *Gabriel Dumont: The Metis Chief and His Lost World*, 35.

²⁴³ Goulet notes one particular incident where capital punishment was deemed necessary to deal with a disruptive and dangerous family who had attempted to murder a member of the buffalo hunt council, Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 21.

More serious infractions, like attempts by families under the guise of *kaa-tipeyimishoyaahk* to “fork off” during the hunt and revert to their self-owning extended family unit, were censured because “it was the unwritten law amongst buffalo hunters that no man could separate himself from a party for his own advantage in obtaining buffalo.”²⁴⁴ Once the families had committed to a hunt and its leadership, they were bound to respect that authority, at least until the hunting party government had fulfilled its purpose. Ross recorded one episode where a Métis family attempted to leave the main party, only to be returned to the caravan by one of the hunt’s captains. Métis families were expressly forbidden from leaving the camp without the assent of the hunt leadership: one of the laws of the hunt was that, no party could “fork off, lag behind, or go before, without permission.”²⁴⁵ During the 1840 Pembina hunt’s return trip, one family, the Parisiens, decided to fork off from the main party to “take a road of [its] own, contrary to the regulations of the camp.”²⁴⁶ One of the hunt’s guard-captains Hallett²⁴⁷ ordered the Parisiens not to leave the main party. When the Parisiens refused, the caravan was ordered to stop, and in front of hundreds of Métis families, they were physically returned to their designated spot in the long line of carts. Hallett, in his position as a captain, was authorized to “compel Parisien to return” by forcing his carts and animals back to the caravan.²⁴⁸ Hallett’s actions were justified in the name of protecting the caravan as a whole, even if that involved limiting a single family’s self-owning capacity for the duration of the hunt. This coercion was acceptable due to the very real threat of a

²⁴⁴ Erasmus, *Buffalo Days and Nights*, 228-29.

²⁴⁵ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 249-50.

²⁴⁶ *Ibid.*, 271.

²⁴⁷ Probably William Hallett, a prominent hunt chief of the 1860s, and opponent of Riel in 1869-1870.

²⁴⁸ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 271.

Dakota attack. The hunt's chief and council were concerned that the loss of a family, (and likely the other families that would follow the Parisiens), would weaken the camp. Not only would they have lost skilled hunters and their weapons necessary to defend the camp, each family's carts were used to build the camp's stockade each time the caravan closed into a circle. A loss of carts would also decrease the size of the stockade, which compromised the safety of the entire camp. Since all families had agreed that their collective safety was of primary concern when the assembly of self-owning families spontaneously created the hunt, limiting the Parisien's sense of *kaa-tipeyimishoyaahk* was justifiable. This authoritative hold over families did not last forever, though. A few days after the confrontation with the Parisiens, "several small bands forked off under various pretences and were allowed to go."²⁴⁹ The difference this time was that, the caravan was now "out of danger," which lessened the necessity that families stayed in the main party.²⁵⁰ Since there was no longer a Dakota threat, Métis were free to pursue the ideal of *kaa-tipeyimishoyaahk* on their own terms, because their departure did not threaten the collective well-being of the camp, nor did it violate their obligations to the rest of the party.

There was also a second class of events where special limits were placed on families' state of *kaa-tipeyimishoyaahk*, which involved imminent non-human danger that threatened the camp's safety. Erasmus and Goulet both identify the limits of *kaa-tipeyimishoyaahk* during the buffalo hunt by describing specific events that required the *temporary* intensification of camp discipline to protect the party's collective well-being. One of these special limits on *kaa-tipeyimishoyaahk* was a threat of diseases, like

²⁴⁹ Ibid., 271-72.

²⁵⁰ Ibid.

smallpox, which were raging in epidemics across the prairies in the late 1860s and early 1870s. Peter Erasmus describes an western buffalo hunt in present-day Alberta in the late 1860s, where his party encountered a Blackfoot man infected with smallpox. The infected man was sent to warn the approaching caravan of the outbreak so that they could keep their distance from the Blackfoot camp. The response from the Erasmus's hunt chief, John Whitford, was swift and authoritative and designed to protect the general welfare of his camp. He immediately ordered no contact with any person from outside the hunting party: "No one from this camp will touch or handle anything belonging to others outside this camp."²⁵¹ The chief was aware of the danger that smallpox posed if even one member of the camp was to violate this order; the collective well being of the camp became a more vital and immediate concern than any individual claims of *kaa-tipeyimishoyaahk*. Only after reaching its final destination did the no-contact order end, and families were free to leave the camp.²⁵² It was then that the families reverted to their previously independent and self-owning state of being.

Goulet also notes the limits of *kaa-tipeyimishoyaahk* when confronted with imminent non-human danger. In this case, it was an encounter with a quick-burning prairie fire in the early 1870s that necessitated a consolidation of camp authority by the chief and council. Prairie fires were dangerous because they were explosive, and because it was difficult to predict their movements as they spread quickly across the prairie spewing dense smoke. Goulet's party battled dense smoke for several days before its scouts noticed that,

²⁵¹ Erasmus, *Buffalo Days and Nights*, 204.

²⁵² *Ibid.*, 208.

prairie chickens began flying over very high, downwind and away from the fire, only to fall to the ground here and there, suffocated. The windspeed increased day by day and the fire moved faster and faster. Deer, antelope, elk, large hares, little prairie dogs, foxes, wolves, even the buffalo we hadn't seen since the day we left, came out of hiding as if by magic, all of them fleeing at full speed.²⁵³

The scouts reported that the fire was nearby and being fed by a dried out muskeg full of dead weeds and grasses. The chief and council, as well as the camp's guides, were knowledgeable of the country, and planned to march towards the Old Wives' River, a few days to their east. They sent out scouts to find sloughs that the caravan could use as refuges should the fire come upon them. The chief ordered that the caravan repeatedly practice "manoeuvres to assure that the carts could be quickly and efficiently harnessed and moved in the direction of any sloughs that had water enough to protect them from the flames."²⁵⁴ When fire came upon the camp, so quickly "that herds of antelope and deer trying to escape were caught and roasted on their feet," and the camp's crier gave the order,

for the wagons to drive into the water in the sloughs, it was done without a word. Once the fire had passed, the same order prevailed, in reverse. No sooner were the wagons out of the water than the oxen were unhitched in the glow of retreating flames. Not long after, the first light of dawn appeared. An hour later, the tents were pitched and everybody needed down except for the guards who redoubled their vigilance keeping watch over the grazing oxen.²⁵⁵

Families may have wished to flee in any direction they could away from the fire, but it was the combined knowledge of the chief and council alongside the camp's guides and scouts that allowed the party to collectively strategize a response to the fire. Since the hunt leadership had extensive knowledge of the land, and was able to use a collective and disciplined approach to keep their people safe, the consolidation of their authority was

²⁵³ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 62.

²⁵⁴ *Ibid.*, 62-64.

²⁵⁵ *Ibid.*, 64.

justified. In times of danger, it was thus acceptable for collective responsibilities to override considerations of familial self-ownership.

So, while *kaa-tipeyimishoyaahk* was an important part of the buffalo hunt, and Métis political authority more generally, it was by no means absolute. It was always limited by Métis commitments to their kin (*wahkohtowin*), and their fellows, who had together formed a government that was responsible for their collective well being, and to prevent any conflict of interest from breaking out among the camp. To prevent such complications, the council had the ability to exercise a disciplining authority over Métis individuals. What these examples demonstrate is that the authority of the buffalo hunt government was both situational and temporary. Métis government of this era was always provisional, it would end once it reached its final destination or achieved its goals. It protected the people from hostile war parties, while ensuring fairness during the hunt. It provided for everyone by guaranteeing a fair share of meat to support their families. Once it had fulfilled these obligations its authority lessened, and its collective hold began to dissolve as it neared its end. Approaching its final destination, the number of families permitted to fork off grew numerous. Once the hunting party arrived back at its starting place, “the functions of the men in office ceased, the camp broke up, and the different parties, as they got ready, threaded their way to the settlements.”²⁵⁶ After fulfilling its purpose the hunt lost all collective hold on the Métis, and the families returned to their pre-hunt locales, governed by more elemental forms of *wahkohtowin* and *kaa-tipeyimishoyaahk*. The hunt then, as a organized government came to a close, and would reconstitution again in the fall for the green meat hunt, or the following summer for the

²⁵⁶ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 272.

next large hunting expedition to the prairies. In this way, the hunt as a whole was situational, and when this situation ceased to be, more basic forms of Métis governance took hold of Métis families as the camp broke down into its self-owning component parts.

Wahkohtowin and Familial Self-Ownership during the Hunt

In recognizing the centrality of *wahkohtowin*, we must also acknowledge that the buffalo hunt was a family expedition and not merely confined to “hunting.” The expedition was a kind of mobile production process that involved everyone—young and old, men and women. The entire family worked to harvest the buffalo, and the term “buffalo hunt” actually downplays the complexity of economic behaviour undertaken by the camp.²⁵⁷ The summer hunt’s was a major commercial operation designed to produce pemmican on a large scale to trade with the Hudson’s Bay Company for wares and foodstuffs.²⁵⁸ It was a kind of economic and political confederation of families.

Louis Goulet’s family who travelled with Red River’s main party on their summer hunts, was not actually a hunting family in the strict sense of the word, rather they were a trading family who accompanied the expedition with supplies to trade in the camp, as other families needed them. The Goulets, “never had less than ten wagons and sometimes as many as thirty, loaded with goods easily exchangeable for the products of the hunt: buffalo skins and robes, raw or dressed; dried or smoked pemmican meat; rawhide, doeskin, sinews, marrow, furs.”²⁵⁹ By attending the hunt, the Goulets were able to trade

²⁵⁷ Macdougall and St-Onge, "Rooted in Mobility: Metis Buffalo-Hunting Brigades," 19.

²⁵⁸ Norbert Welsh, *The Last Buffalo Hunter* (Edmonton: Fifth House, 1994), 60.

²⁵⁹ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 15.

for their own livelihood without actually hunting. They could get pemmican by provisioning Métis families with goods they needed during the hunt but would not have had access to otherwise. Louis Goulet notes that many other traders were also present on the expeditions, including the representatives of the major trading companies in the North-West.²⁶⁰ In this way, the hunt had a complex internal economy of its own, made possible by the presence of traders in the camp.

The extended family unit was the central economic actor, as well as “the basic unit of residence and of pooling and distributing resources for consumption.”²⁶¹ The extended Métis family bore little similarity to the modern nuclear family, but was instead comprised of multiple generations, aunts, uncles, cousins, *moshoms* and *kohkoms*, brothers, sisters and parents. Any analysis of the buffalo hunt, then, must not only examine the lives of the hunters, but the lives of all family members, each of whom contributed in deeply meaningful and productive ways to the family’s economic, social, and political livelihood. There were well-defined gendered divisions of labour and in a *wahkohtowin*-informed fashion; the skills of each family member were utilized for the benefit of the family as a whole. Men would usually tend the animals, hunt, clean the kill, and scrape buffalo hides.²⁶² Women would typically prepare the harvested meat, pound it into pemmican, tan hides, mend the fires, and cook.²⁶³ While little is written about children’s responsibilities in the camp, it is likely that children were apprenticed in these tasks to develop the expertise possessed by their parents. There were, of course, many variations based on family needs and skill-sets (Peter Erasmus was reliant his wife

²⁶⁰ Ibid.

²⁶¹ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 57.

²⁶² Welsh, *The Last Buffalo Hunter*, 56-57.

²⁶³ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 49-50.

Charlotte's superior trapping skills), but these roles often served as the basis for many families' divisions of labour.²⁶⁴

Given that there is much present-day concern over unequal gender roles, it is important to point out that traditional Métis gender roles were not based on a hierarchy of value. Since all work was necessary for the family's well-being, all labour was important. One's contributions were assessed based on how one's skill assisted in realizing *wahkohtowin* obligations—how they supported their relations—not by the type of work they performed. Since sewing clothes and preparing meat were equally vital responsibilities, to say, hunting buffalo, all of the various skills needed to survive were equally valued. It is unfortunate, then, that hunters usually receive a disproportionate amount of attention in the archive, even though by the 1860s, their numbers were relatively small. In the 1860s Erasmus's camp of several hundred Cree and Métis, for instance, "only allowed from four to eight men to take part in a buffalo run," unless the herd was substantial.²⁶⁵ Since the meat was ultimately shared in the camp, it was important that the most skilled hunters ran the buffalo to maximize the harvest. While the larger hunts would have more buffalo runners, these individuals were still a small minority of those who contributed to the camp's success.

Yet, in the literature, there is a substantial gap in the understanding of non-hunting labour responsibilities in the camp—particularly the work of women and children. Despite this focus on the roles of a small number of men, women played a vitally important role for the wellbeing of their families and the camp as a whole. After the hunters ran the buffalo, and killed as many animals as they could successfully harvest

²⁶⁴ Erasmus, *Buffalo Days and Nights*, 185.

²⁶⁵ *Ibid.*, 205.

without risking spoilage, the hunters harvested the meat where the animal fell.²⁶⁶ After the herd had dispersed, the Métis women arrived with their family's carts, and assumed leadership over harvesting and preserving the meat. From this point on, the senior women of the camp guided the process of working the kill into (marketable) pemmican and buffalo robes and commanded a significant amount of authority and respect in the process.²⁶⁷

Skilled and knowledgeable Métis women were vital to the economic prosperity of their families. Upon their arrival at the kill site, the women would take possession of the animal, butcher the buffalo, and load the meat on to their families' carts to take it back to the camp. Once in camp the women again assumed responsibility for the preparation and preserving the meat, cutting it into thin strips, which were fire-dried for several days, and "tied into sixty- or seventy-pound bales."²⁶⁸ The women would also take charge of pemmican making, pounding the dried meat into a powder to be sweetened with berries and mixed with fat, this high-energy fuel source would keep for years.²⁶⁹ Women oversaw the tanning of buffalo hides and their transformation into the basic necessities for Métis life—tents, leather bags, thongs, whips, drums, and clothing—as well as valuable trade goods to ensure Métis familial self-ownership.²⁷⁰ In making pemmican and tanning buffalo hides, the men were responsible for scraping the hides, but just like cutting meat the intricate work of preservation was the responsibility of the women.²⁷¹

²⁶⁶ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 55.

²⁶⁷ Ibid.

²⁶⁸ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 42.

²⁶⁹ Ibid.

²⁷⁰ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 55.

²⁷¹ Ibid., 50.

Since much of the hunt was market oriented, and the Métis livelihood depended on the quality of the pemmican, robes, and other buffalo-derived products, women's labour was essential to their family's economic status. In this way, women were highly regarded for their contribution to family's economic prosperity and independence.²⁷²

During this labour process older relations also apprenticed younger ones, setting them to work on smaller and simple tasks, and developing more complex skills through patient mentorship. This approach to careful mentorship was embodied in the hunt's approach to scout training. Scouting was usually "reserved for novices of the hunt," and scouts would travel in twos, teaming up "an old hand without one who had little or no experience."²⁷³ This mentorships system ensured that the novice scout was acclimatized to the intricacies of the hunt and its military organization, "he had to familiarize himself with the code of signals used to communicate with the other scouts, warning the camp of the presence of buffalo, hostile or friendly Indians and their approximate numbers."²⁷⁴ The hunt, then, and all the labour required for it, was not limited to hunting. Each family member had a specific responsibility from *wahkohtowin*, which contributed to the well-being and *kaa-tipeyimishoyaahk* of the larger family system. Thus, there was value in all the work performed, and the diversity of skills invested in different people. The camp could not function without all the knowledges and skill-sets possessed by men, women, and children, and every contribution was valued.

The Un-Ending Hunt: Métis Governance in the Settlement

²⁷² Ibid.

²⁷³ Ibid., 22.

²⁷⁴ Ibid.

While each summer hunting expedition officially dissolved upon arrival at its final destination, independent Métis governance persisted across the North-West in a variety of forms throughout the rest of the year. In Métis settlements whether at Red River or on the prairies the underlying values of *kaa-tipeyimishoyaahk* and *wahkohtowin* deeply influenced Métis relationships. These principles continued to inform other political practices, which used buffalo-hunt-adapted systems of governance to express authority and define relationships between Métis families and individuals. Métis governance continued to use the common political language of the buffalo hunt in the many locales where Métis spent their winters and springs. In these settlements, *wahkohtowin* was the basis for a growing network of Métis kinship relationships, and *kaa-tipeyimishoyaahk* allowed for the development of settlement and parish councils. This section will explore the nature of independent Métis governance and the increasing importance of self-conscious Métis governance as the nineteenth century progressed. It will also examine how the buffalo hunt political form remained the legitimating political process for the articulation and expression of Métis political authority in the nineteenth century North-West.

When the great summer hunts disbanded, one of the primary destinations for Métis families were the parishes of the Red River Settlement, although in the 1860s an increasing number would make their home elsewhere. These parishes were tightly-knit communities which contained the local church, school, and other social gathering places integral to Métis self-understandings of home.²⁷⁵ The communal nature of parish life in the non-hunting season meant that Red River parishes were, as Gerhard Ens describes

²⁷⁵ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 7.

them, “the focal point of Métis social life.”²⁷⁶ They were also the centres of Métis *political* life. Here Métis governed themselves in a similar manner to the hunt, but with most of the emphasis put on regulating landholding among Métis families.

There were at least twenty clearly defined parishes in Red River by 1870, half of which were culturally, linguistically, and politically Métis.²⁷⁷ Métis parishes tended to contain French/Michif speaking families, who were at least nominally Catholic, many of whom intermarried along *wahkohtowin* lines amongst one another to tighten the kinship bonds of the parish. The Halfbreeds had equally tight bonds in their parishes, which were Protestant (usually Anglican or Presbyterian) in makeup, with English or Bungee being the primary language.²⁷⁸ While Ens notes that there was some intermarriage between the two groups, in-parish family-making was the most common practice: “Daily social life in these communities turned almost exclusively on the parish and the neighbourhood: children grew up, went to school, courted, and married within the same parish.”²⁷⁹ While Red River developed into a *de facto* Métis-Halfbreed political entity, the individual parishes were the most capable units in Red River of embodying Métis authority. Outside of the hunt, parishes functioned as “semi-autonomous village communities,”²⁸⁰ embodying and expressing a significant amount of Métis political power.

The Métis parish has long been noted for its religious and social elements,²⁸¹ but it was also a vitally important political body, one that embodied *wahkohtowin* and *kaa-*

²⁷⁶ Ibid.

²⁷⁷ See Spry, "The Metis and Mixed-Bloods of Rupert's Land before 1870."

²⁷⁸ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 50.

²⁷⁹ Ibid.

²⁸⁰ Ibid., 28.

²⁸¹ This is the central focus of Ens' *Homeland to Hinterland*.

tipeyimishoyaahk otherwise expressed in the buffalo hunt. This meant that the parish was the primary entity through which Métis expressed their political authority at Red River. Due to the regularity of the summer hunts, the economic opportunities on the prairies, and Métis employment in Company boat brigades, parish populations were highly mobile. But, through a complex network of marriages, the parishes were able to maintain a more or less fixed membership that returned annually or semi-annually in order to trade, garden, or fulfill their *wahkohtowin* responsibilities to their parish kin.²⁸² While some families lived in the parish year-round, it was also common for some families to spend considerably less time in their home parish. Families could spend most of the year trading, or even wintering on the plains to make buffalo robes for the American market. Whatever the length of the stay in one's parish, it still retained a central orientation in a family's sense of place.

Louis Goulet's family, for instance, spent most of its time on the prairies hunting and trading, often travelling as far west as Fort Edmonton. Even if only for a few weeks the Goulet's would come "home" to Red River. Louis' language repeatedly situated Red River at the centre of his family's world. They would "*return* to the Red River,"²⁸³ or "come back" to their home parish of St. Norbert.²⁸⁴ Goulet depicts this return as a "homecoming" that reunited his family with "little cousins and friends."²⁸⁵ The other places Goulet lives are never described with this sense of attachment. Even when

²⁸² St-Onge describes northern parishes with a stable membership that travelled regularly to the prairies as well as spending considerable time in the Red River Settlement's orbit, Nicole St-Onge, "Uncertain Margins: Metis and Saulteaux Identities in St-Paul Des Saulteaux, Red River 1821-1870," *Manitoba History* 53(2006): 5-6.

²⁸³ Goulet, *Vanishing Spaces: Memoirs of a Prairie Metis*, 53. Emphasis added.

²⁸⁴ *Ibid.*, 16.

²⁸⁵ *Ibid.*, 59.

wintering on the prairie, this “home” remained an important place for the Goulet family, even if they only stayed in St. Norbert for a few weeks before they would have to “leave” for the prairies.²⁸⁶ Goulet’s attachment to Red River is so definitional to his sense of self that he begins his life history narrative, by orienting himself to this home: “we lived on a farm on the west bank of the Red River just upstream from the mouth of the [Rivière] Sale.”²⁸⁷ Not every Métis family who lived hunting buffalo and wintering on the prairie felt this kind of attachment to a Red River “home,” but many families such as the Goulets certainly did. Although the prairie remained a significant part of their seasonal round, it was a place one went, while Red River was the place one returned to, even if they were to only live there a few weeks each year.

Like the origins of the buffalo hunt, the origins of parish or settlement governance was also created spontaneously, from the ground-up, in order to create an agreed-up task. Like the hunt’s legitimacy, the parish’s political power, originated from an assembly of families. The Métis political culture at Red River likewise nourished a careful balance of familial self-ownership and kinship obligations. Like the state of *kaa-tipeyimishoyaahk* existing during the hunt, in the parish a similar state prevailed, where the “average person was used to doing things for himself,” but could still count on the support of one’s extended family and neighbours:

whenever some building needed to be done, people would have a *corvée*. It was a long-standing custom with us. If a job was too much for one man’s strength or talents, everyone was ready to lend a hand. That way, people shared their skill or labour automatically and an entire house could be built from scratch in one day with spontaneous help from neighbours. Nobody ever had to be asked.²⁸⁸

²⁸⁶ Ibid., 16.

²⁸⁷ Ibid., 3.

²⁸⁸ Ibid., 4.

As families built their homes together (and eventually semi-sedentary communities alongside kin) a common political language paralleling the buffalo hunt was used. This language was grounded in the understanding that Red River belonged to Métis families and the Métis people collectively shared this place with the other Indigenous peoples of the region. By understanding Red River as their home and their connection to the land as relatives, Métis articulated an Indigenous relationship to Red River. Their homesteads and parishes were their own, it was said, “once by [Indian] title, twice for defending them at the cost of their blood, and thrice for having cultivated, fenced and lived on them.”²⁸⁹ Métis thus, had a keen understanding of their relationship to land as an Indigenous people, living on the lands at Red River together, and organizing themselves into parish communities, Métis created a common language for the legitimate possession of land, and the expression of political authority over that land.

Through their relationship to Red River parish lands, and the individual family’s attachment to their river lot on the Assiniboine and Red Rivers, Métis developed a common practice for establishing a family’s homestead. Like buffalo hunt practices, Métis families used the principles of *kaa-tipeyimishoyaahk* and *wahkohtowin* for establishing a process of legitimate occupation under Métis political authority. Métis rules of possession operated independently of the Company’s land tenure regime, which differentiated those Métis heads-of-household with “legitimate ownership” of a river lot, from those who were merely “squatting.”²⁹⁰ Métis developed their own practices for organizing their parishes and settlements. While it has been repeatedly argued that the Company possessed proper ownership of “all this land in Assiniboia, subject to the

²⁸⁹ Riel, quoted in Trémaudan, *Hold High Your Heads: History of the Metis Nation in Western Canada*, 115.

²⁹⁰ Flanagan, *Metis Lands in Manitoba*, 18.

burden of unextinguished Indian title”²⁹¹ and that it, for practical purposes, “left undisturbed” those Métis families “who squatted on lands unclaimed by another,”²⁹² the origin of the Company’s ownership of Red River was about as fantastical as the Company’s imaginings of its political authority.

For many families, the homestead was an important site of familial subsistence, ensuring *kaa-tipeyimishoyaahk*, as many Métis planted gardens before leaving for the summer, to protect against a poor hunt. Métis were not extensive farmers, (although many Halfbreed families were more partial to agriculture), the river lot garden was an important supplement for the hunt and “whenever the hunt failed, the produce of the farm helped provide the needs of the Métis hunters, and vice versa.”²⁹³ So the homestead assumed an important role in Métis economic and subsistence strategies.

Métis, confident in their title to lands on a collective basis as an Indigenous people had common practices for denoting familial ownership of a river lot. Most of these practices involved claiming an unoccupied site for oneself, without disturbing another’s occupation.²⁹⁴ Métis thus relied on *kaa-tipeyimishoyaahk*-inspired independent family initiative to take possession of land, an act which typically relied on *wahkohtowin*-based *corvée* parties of a family’s kin, to establish occupancy. There were many different approaches used by Métis homesteaders to denote their lots, all of which relied on a physical demonstration of river lot ownership. One could “mark off land by putting stakes in the ground, cutting blazes on the trees, or plowing a furrow around the edge.

They might also erect a roofless square of logs as a sign of intended future

²⁹¹ Ibid.

²⁹² Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 32.

²⁹³ Ibid., 38.

²⁹⁴ Flanagan, *Metis Lands in Manitoba*, 19.

occupation.”²⁹⁵ In this way, many families may claim several lots at a time for their “sons, brothers, or in-laws,” or the land may be used seasonally at first, for cutting hay and timber, pasturing livestock, making maple sugar, and then occupied more permanently at a later date. The final step of taking up a river lot almost always involved “building a permanent house and planting crops”.²⁹⁶ Through these ceremonies, all of which demonstrated the practical use of the homestead, Métis authorized themselves to occupy a river lot. There was no central Métis authority that oversaw river lot distribution, rather it was dictated by a family’s own labour and *kaa-tipeyimishoyaahk*-derived authority. Families tended to cluster together on their lots, which was a useful way to limit disputes over occupancy.

Since Métis occupied their homesteads by demonstrating use of the land, they also interpreted a lack of use to represent the abandonment of a homestead. This meant that another family could take possession of what they perceived to be a long-unused site, providing they could demonstrate their own long-term occupation through regular use. A lot’s earlier inhabitants did not always share one family’s presumption that a site was abandoned, but these disputes were often settled in the parish, or occasionally in the Company courts. In many cases, however, both families were deemed to be “squatters” according to Company landholding logic, so the Company courts could hardly adjudicate who was in legitimate possession of the river lot. This may have left individual parishes to work out the differences among themselves.²⁹⁷

²⁹⁵ Ibid.

²⁹⁶ Ibid.

²⁹⁷ Further examination of the Court of Assiniboia is necessary to determine whether or not Métis regularly used the HBC courts to settle these disputes, or if they preferred to settle their disputes internally.

Métis parishes grew quickly in the nineteenth century and many new parishes were established, growing out from the Settlement's nucleus at the Forks of the Red and Assiniboine Rivers.²⁹⁸ As new households were established, it was customary for Métis parents to give the new household either an adjacent river lot or to subdivide an existing lot, for the new family to start a homestead. When this practice became difficult in a rapidly growing parish, new parishes were established to include new families, and some even saw the out-migration of entire extended families to inhabit a new parish together. St. Charles, St. Vital, and St. Norbert, all central Métis parishes were actually an out-growth of the oldest parish, St. Boniface. In the 1850s and 1860s, Métis again began to expand to parishes further south on the Assiniboine River. It was here that both Ste. Anne des Chênes and Lorette were founded.²⁹⁹ These parishes, still sparsely populated in 1870, were in the midst of transforming into fully established parishes themselves, before they were overrun with Canadian settlers. These migration patterns show that Métis, preferred to migrate in family groups, as parish communities were endlessly bound up with family and kinship networks. It was because parishes were such a central element in the practice of *wahkohtowin* that Métis had such a fond attachment to their "home" regardless of how crowded or distant it was.

Kaa-tipeyimishoyaahk and *wahkohtowin* thus retained their political centrality for governance in Red River. Both family self-ownership and kin obligations informed how Métis occupied their homesteads and how self-owning families related to one another. Métis families occupied their river lots by demonstrating continual use, always emphasized by their self-owning capacities to establish their own river lot. Nonetheless,

²⁹⁸ Flanagan, *Metis Lands in Manitoba*, 19.

²⁹⁹ *Ibid.*

common practices existed that regulated individual Métis families, even without a central or national government. *Kaa-tipeyimishoyaahk* and *wahkohtowin* created a common language that allowed Métis to participate in a shared political culture through which a legitimate, and Indigenous, Métis political authority flowed.

Conclusion

This chapter has explored the many forms of Métis governance informed by the political culture of the buffalo hunt, as well as by the fundamental philosophical concepts of *kaa-tipeyimishoyaahk* and *wahkohtowin*. Métis valued their independence and self-ownership, but also placed high value on their family responsibilities. These twin concerns can be found in almost any Métis political body, and were essential for how Métis understood their relationship with one another. The commonality of Métis governance allowed Métis to increasingly understand themselves as a people, who may not necessarily be unified under a common government, but possessed a common political language to, if necessary, form a government together. Métis formed various governments in different contexts, and some were more obvious than others. The great prairie buffalo hunts were probably the most obvious political articulations, and winter parish governance was probably the least institutionalized. Nonetheless, Métis governance existed in all of these places, and the Métis who lived there shared a common set of social and political expectations.

Regardless of the context, the process of forming a legitimate Métis governing authority was the same. It involved a general assembly of families using this common political language to establish a constitutional basis for the new government, including agreeing on a time and when the government would dissolve (although this was not

always the case, as with the Council of St. Laurent, and arguable, the Provisional Government of Assiniboia). This formation of Métis government was centrally important in Métis thought, for only when Métis were direct participants in the creation of a government, could it be said to have any authority over the attendant families. Métis highly valued being *kaa-tipeyimishoyaahk* and objected to being governed by others, especially those that never sought their consent in the formation of a government. For Métis, government without personal involvement and consent, (as will be seen in subsequent chapters), was never legitimate, and rarely obeyed. Government was about family, and Métis typically formed governments based on principles of *wahkohtowin*. This did not merely mean a collective orientation to the well-being of the camp, but many of the members of a brigade or parish were literally family. Kinship bonds were essential in Métis collectivities and Métis governed within family groups. Since kinship was an equally important part of forming a government or expressing political authority in a Métis political world view, government by outsiders (again, as we shall see) was something Métis equally detested. Métis distrust of outsiders, however, was more easily overcome than typically thought, as within the logic of *wahkohtowin* was always the logic of incorporating outsiders as family. It is in this vein that I will now turn to the diplomatic processes of Métis governance, particularly Métis relations with other indigenous peoples of the prairies, to understand how Métis understood diplomacy, treaty-making, and the extension of family and governance to non-Métis.

Chapter 4 – ‘peace and friendship, which has so long knit our hearts together’³⁰⁰: The Métis Diplomatic Tradition and the Indigenous Political System in the North-West

Diplomacy in the nineteenth-century North-West was really about answering one question, who was as a relative and who was a stranger? Each kind of relationship required a different set of diplomatic behaviours. In his innovative essay, “Multicultural Bands on the Northern Plains and the Notion of ‘Tribal’ Histories,”³⁰¹ Rob Innes makes an intriguing observation about the diplomatic relations between the Métis, Cree, Saulteaux, and Assiniboine of the nineteenth-century North-West. Namely, that while the historic archive contains many “references to conflict” between these four Indigenous nations, Innes notes that there are no “actual accounts of any battles” between them.³⁰² Indeed, the historical record has clear examples where these four nations fought other nations together—particularly their shared traditional rivals the Dakota and the Blackfoot—but there is no evidence from the nineteenth-century that suggests that the Métis, Cree, Saulteaux, or Assiniboine actually fought one another in a physical battle.³⁰³ The conflicts that did arise between these four peoples seem to have been settled through a normalized process of diplomacy rather than through warfare. It was because these four peoples had created a common diplomatic language through which they could easily communicate, create kinship-like obligations amongst themselves, and made family from

³⁰⁰ "Half-Breeds to the Sioux, Grantown, December 8, 1844," in *The Red River Settlement: Its Rise, Progress, and Present State*, ed. Alexander Ross (Edmonton: Hurtig Publishers, 1972), 328.

³⁰¹ Innes, "Multicultural Bands on the Northern Plains and the Notion of Tribal Histories."

³⁰² *Ibid.*, 132-33.

³⁰³ See Dumont, *Gabriel Dumont, Memoirs: The Memoirs as Dictated by Gabriel Dumont*, 36; Morton, "The Battle at Grand Coteau: July 13 and 14, 1851".

strangers. They were able to live together on relatively peaceful terms in an otherwise competitive region.³⁰⁴ Enduring diplomacy and alliance was possible because the four distinct cultures contained enough “common points” that these communities were able to build “social, political, military, and economic alliances.”³⁰⁵ These four peoples could thus form alliances based on kinship and a common political language that allowed for broad-based diplomatic organization and shared political institutions. The result was a complex social, economic, and political network of families that bound these four peoples to one another. In fact, these four peoples became so diplomatically intertwined and closely allied that throughout the nineteenth-century they regularly lived together in intercultural bands and communities: Métis lived with Cree, Saulteaux, and Assiniboine in nominally “Indian” bands,³⁰⁶ Métis joined Cree buffalo hunts and trading parties, while Métis welcomed their “Indian” kin into their families through marriage, and into their political culture as members of the great Métis buffalo hunts.³⁰⁷

Academic scholarship has only started to address what Neal McLeod refers to as “ambiguous genealogies” in the nineteenth-century North-West. McLeod argues Indigenous families living on the prairies were much more multicultural than standard historical accounts tend to depict, meaning that plains political organization was based more on kinship than a sense of belonging to a ‘nation.’³⁰⁸ Nicole St-Onge notes that

³⁰⁴ Innes, "Multicultural Bands on the Northern Plains and the Notion of Tribal Histories," 127.

³⁰⁵ Ibid., 133.

³⁰⁶ Unlike nations, whose membership extend beyond the immediate relationships of individuals and are to some degree imagined, bands are subnational political units that live together based on notions of kinship and *wahkohtowin* rather than abstract national claims. Innes and Witgen, bands (often extended families) are the primary political unit from plains peoples and *pays d'en haut* Anishinabe understand the world. See *ibid.*

³⁰⁷ Ibid., 133.

³⁰⁸ Neal McLeod, "Plains Cree Identity: Borderlands, Ambiguous Genealogies and Narrative Irony," *The Canadian Journal of Native Studies* 20(2000).

while “nationalist and other ethnic ideologies hold that social and cultural boundaries are unambiguous and clear-cut,” in their everyday usage, “identities are negotiable and situational and the actual lived context of the Métis nation contained anomalies, fuzzy boundaries and ambiguous criteria of belonging.”³⁰⁹ Where the nation ended and where it began was not always a clear boundary, there was always some level of ambiguity. Nonetheless there was a clear understanding of kinship and relatedness that transcended “national” belonging. However, due to contemporary incentives by the Canadian government, it has become politically expedient to forget the “untidy details” of Indigenous identities on the prairies in order to assert a clear nationalist identity.³¹⁰ In response many communities have “simplified their identities to one tribal group.”³¹¹ The reduction of this complexity is no more apparent than in the fact that many of the men who are remembered as the great Plains Cree and Saulteaux leaders, had at least one Métis parent:

Chief Poundmaker’s mother is reputed to have been Métis. ...Chief Little Bone or Michel Cardinal, was of Saulteaux/Métis ancestry, and had many wives who were either Saulteaux or Métis, or both. Chief Gabriel Cote, or the Pigeon, was the son of a Saulteaux mother and Métis man. ...Chief Cowessess may have been Marcel Desjarlais, who was of Saulteaux and Métis ancestry.³¹²

Given the remarkable overlap between Métis and other peoples, contemporary political policies based on mutual exclusion should not be “projected back” onto the history of

³⁰⁹ St-Onge, "Uncertain Margins: Metis and Saulteaux Identities in St-Paul Des Saulteaux, Red River 1821-1870," 3.

³¹⁰ McLeod, "Plains Cree Identity: Borderlands, Ambiguous Genealogies and Narrative Irony," 441.

³¹¹ *Ibid.*, 439. The same process has happened with contemporary Métis politics, in which Halfbreed is no longer considered a distinct identity, and Métis and Indian are treated as mutually exclusive identity categories.

³¹² Innes, "Multicultural Bands on the Northern Plains and the Notion of Tribal Histories," 133.

Métis, Cree, Assiniboine, and Saulteaux. Instead we must endeavour to understand this era as the people who lived it did.³¹³

The noticeable existence of Métis parentage among the Cree political elite attests to the level of integration achieved by the nineteenth-century, which emerged out more localized intermarriage practices. Since Métis lived in close proximity to their Indian allies, marriage between Métis-Indian families was common; indeed they were seen as beneficial alliance-building practices between families. In mid-nineteenth century Red River, St-Onge notes extensive inter-generational marriage alliances between Métis and Saulteaux families in the St-Paul des Saulteaux mission.³¹⁴ There was a definitive socio-economic incentive to such relationships. Not only did it extend family use rights to Métis families for the abundant Saulteaux fisheries in the Interlake region, but it also brought many Saulteaux families from St-Paul into the great bison hunts.³¹⁵ As a result of these marriage networks, Métis and Saulteaux alike could enhance their economic prospects.

This kind of intermarriage and integration was not confined to St-Paul. Michel Hogue finds evidence of similar Métis-Cree and Métis-Saulteaux camps in Southern Saskatchewan and Montana in the early 1880s. In 1880s Montana, geographically and temporally removed from 1840s St-Paul des Saulteaux, Métis and their Indian kin had forged enduring living arrangements, even combined bands or brigades capable of collective action and mutual benefit, even joint military operations. In 1881, in the Milk River valley, American troops dispersed “camps of Métis and Cree” that were thought to

³¹³ St-Onge, "Uncertain Margins: Metis and Saulteaux Identities in St-Paul Des Saulteaux, Red River 1821-1870," 10.

³¹⁴ *Ibid.*, 6-7.

³¹⁵ *Ibid.*, 8-9.

be the camps of “British Indians” illegally in the United States.³¹⁶ The following summer American troops “set fire to 250 houses in a Métis and Indian settlement whose inhabitants had already fled north.”³¹⁷ In response to these expulsions, warriors from a Métis-Saulteaux camp detained an American sherriff in 1881 after he had seized the camp’s buffalo robes in a supposed cross-border smuggling sting. The confinement of Sheriff Healy (and liberation of the seized merchandise) involved “about eighty Métis and Saulteaux” working together to protect their common economic interests.³¹⁸

These alliances did not depend entirely on economic benefit, but were important political institutions as well. At many points throughout the nineteenth-century, the Indian relatives of nearby Métis bands voiced dissatisfaction with the exclusion of Métis from treaty agreements with the advancing settler states. Indian leaders lobbied (and occasionally even agitated) for Métis inclusion in treaty negotiations and to be recognized as signatories of treaties already in place. During the 1863 US negotiations with the Red Lake and Pembina Chippewa, the Chippewa stalled negotiations with the United States awaiting the arrival of their Métis relatives from nearby St. Joseph. The Chippewa initially refused to negotiate unless the Métis were also included as a treaty partner.³¹⁹ This was probably influenced both by kinship and by population numbers as well. The Métis augmented the Chippewa’s ranks and together could assert better terms in any future treaty, which was only possible if there was some basis of common interest among

³¹⁶ Michel Hogue, "Disputing the Medicine Line: The Plains Crees and the Canadian-American Border, 1876-1885," *Montana: The Magazine of Western History* 52(2002): 12.

³¹⁷ *Ibid.*, 13.

³¹⁸ *Ibid.*, 12-13.

³¹⁹ Martha Harroun Foster, *We Know Who We Are: Metis Identity in a Montana Community* (Norman: University of Oklahoma Press, 2006), 45-46.

the Métis-Chippewa families in attendance.³²⁰ Ultimately, the US Treaty Commissioner Alexander Ramsay refused to negotiate with the Métis, as he preferred to negotiate with fewer bands. Ramsay's excuse for Métis exclusion was that only Indians could cede land, because "the half-breeds could not be considered to have aboriginal claims to the land."³²¹ Given the actions of the Chippewas and their insistence on Métis involvement, it would seem to indicate that the idea of joint Chippewa-Métis title was uncontroversial, if not widely held by Indigenous peoples.

Allied Métis and Cree bands in the Saskatchewan District likewise sought Métis inclusion in Treaty 6 via a treaty adhesion. While Métis were not included in the original treaty, the infusion of Métis families into Treaty 6 was probably seen as a way to increase Indigenous control over its implementation. At Fort Walsh in 1881, when Canadian government agents refused to distribute treaty annuities to Treaty 6 bands that had left their reserves to hunt buffalo in southern Saskatchewan, other Treaty 6 bands began to refuse their annuities.³²² In solidarity with their Cree relations, the local Assiniboine bands refused their treaty annuities until the Cree received their annuities as well.³²³ As the standoff intensified, two Treaty 6 chiefs, Lucky Man and Little Pine, refused their own bands' annuities and told the Canadian officials that they were to pay "every native of this country," (meaning that the Métis in the vicinity were also to be taken into the treaty).³²⁴ Expansion of the treaty to include Métis relatives seemed to them to be a reasonable request to the chiefs. The result of the refusal to pay annuities, and the

³²⁰ Ibid.

³²¹ Ibid., 46.

³²² Hogue, "Disputing the Medicine Line: The Plains Crees and the Canadian-American Border, 1876-1885," 10-11.

³²³ Ibid.

³²⁴ Ibid.

solidarity among the Assiniboine, Cree, and Métis camped near Fort Walsh, caused the fort's garrison to reinforce its defences and confine its personnel to barracks in anticipation of an attack.³²⁵ While the situation was diffused when buffalo were spotted nearby, it is again obvious that Métis recognition as an Indigenous people was something that their Indian kin considered important.

While Métis had developed a complex and comprehensive political system of their own, it had not attempted to unite Métis under a single authority. It was also localized by the relationships between Métis families and hunting brigades and Cree, Saulteaux, Assiniboine, along with other Indigenous peoples of the North-West. This diplomatic system meant that Métis politics never functioned in isolation, but that they were always informed by the political needs their allies, treaty-partners, and family—even if their family was from a different nation. If we attempt to understand Métis political thought outside of the larger diplomatic system of the North West, we could erroneously create an artificial divide between Métis and our non-Métis relations. We need to approach prairie diplomacy, then, from a broader level of analysis.

While much contemporary discussion of Métis governance stresses the separate status of Métis from the other Indigenous nations of the prairies,³²⁶ this chapter examines

³²⁵ Ibid.

³²⁶ Many historical studies including Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, and Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, have tended to ignore Métis diplomacy with their Cree, Saulteaux, and Assiniboine relations, but others such as Blair Stonechild and Bill Waiser, *Loyal Till Death: Indians and the North-West Rebellion* (Edmonton: Fifth House Publishers, 1997), 61, in which they declare that during the 1880s, the Cree “saw the Métis as competitors” and “that their interests and concerns differed from those of the Métis,” highlight conflict over cooperation. Innes challenges this kind of Métis exclusion specifically, noting, that “some First Nations people continue to hold the view that Métis are ‘not Indian’; from this perspective, it follows that Indians are more culturally Aboriginal than Métis and therefore have a stronger claim to Aboriginal rights, thus raising the issue of cultural authenticity. For some First Nations leaders and First Nations people of Métis ancestry, then, acknowledging the close relationship with the Métis or Métis ancestry could be viewed as detrimental in terms of rights and entitlements. These contemporary tensions are similar to the historic tensions, for access to resources is the central issue. The emphasis on tension between Métis and

the Métis diplomatic tradition as it is embedded larger Indigenous political structures of the North-West. By using a systemic level of analysis to better understand Métis relations with other Indigenous peoples throughout their daily lives, this chapter examines the Indigenous diplomatic and treaty-making traditions of the North West. This Indigenous diplomatic universe possessed a common, international political language, based on the symbolism of kinship, which determined how families, bands, and nations were to behave towards one another. It was through this system, too, that non-Indigenous outsiders were able to situate themselves in the prairie political universe, using Indigenous protocols and traditions to do so.

This chapter, then, first explores the necessity of using a systemic and international level of analysis when examining the diplomatic tradition of the North-West. By using the analysis of Indigenous diplomacy scholars such as Robert A. Williams, Richard White, and Leanne Simpson, this first section analyzes how large-scale regional Indigenous diplomatic systems functioned, and why this level of analysis is necessary to properly understand Métis diplomacy in the nineteenth-century North-West. This chapter's second section then turns to the closely linked political traditions of the Indigenous nations of the prairies, who shared a common diplomatic language, often living together, hunting together, and marrying into one another's families. The third and final section of this chapter examines Métis diplomatic practices as they related to non-Métis peoples, analyzing two seminal events in Métis relations with the Dakota. The first event is a diplomatic exchange between the Sisseton Dakota and White Horse Plains Métis over the winter of 1844-1845, resulting in treaty relationship that transformed Métis and

First Nations' groups belies the fact that these groups were closely related, and is underscored by the actual level of conflict that existed in comparison to other Aboriginal groups." Innes, "Multicultural Bands on the Northern Plains and the Notion of Tribal Histories," 138-39.

Sisitou Dakota from strangers into relatives. The second diplomatic event examined is a failure of Métis-Yankton Dakota diplomacy, resulting in the legendary Battle of the Grand Coteau, the largest battle between these two peoples who nurtured strong military cultures. While this event has been historically interpreted as an inevitable conflict, this chapter will examine how both sides initially sought a diplomatic solution to their standoff, and the end result of violence and death was the result of a failure to resolve their dispute through diplomatic means.³²⁷ These two incidents, which involved Métis relationships with non-allies, demonstrate the stark contrast in Métis approaches to diplomacy with those recognized as kin, such as the Cree, Saulteaux, and Assiniboine, and diplomacy with those considered strangers, and thus non-relatives. This chapter will conclude by examining the relationship between Métis-Dakota diplomacy in the 1840s and 1850s, and the Métis approach to treaty-making with Canada in 1869-1870. In the examples of the Sisitou Treaty and Grand Coteau we find an unlikely model for understanding Métis-Canadian relations. Canada, like the Dakota, was considered a “stranger” to the Métis, and thus outside of the Métis political universe. While the Métis had a sustained relationship with the Hudson’s Bay Company, and with the British Crown, Canada’s affiliation with Britain did not necessarily make it a relation of the Métis people. Canada’s status as a stranger would require that Métis approach the young Dominion in a way resembling their tentative relationship with the Dakota.

A Systemic Approach to Indigenous Diplomacy

³²⁷ Morton, "The Battle at Grand Coteau: July 13 and 14, 1851".

Until the end of the nineteenth century, the diplomatic reality of the North West remained profoundly Indigenous. While European entities, like the Hudson's Bay Company, regularly engaged in diplomacy with North-West's Indigenous peoples, they did so almost entirely on Indigenous terms, learning, and then internalizing pre-existing Indigenous diplomatic practices.³²⁸ Long before European arrival in North America, complex diplomatic systems had been established that linked Indigenous peoples together over vast distances in large-scale diplomatic systems bounded largely by geographic formations.³²⁹ Indigenous diplomatic systems were already fully formed when Europeans attempted to enter relations with Indigenous peoples, and therefore Europeans were obligated to do so according to Indigenous expectations.

While all diplomatic system possessed distinct qualities, they were by no means discrete, and most international diplomatic systems were actually modeled after the everyday relationships between individuals, bands, and peoples. These relationships were sanctified, sacralized, and solemnized in *treaties*, institutions that transformed the constitutional makeup of two previously disconnected entities.³³⁰ Treaties created interdependence and they created family, they were sealed by ceremony, pipe smoking in the North-West, the wampum exchange in the Eastern Woodlands, and the adoption of kin almost everywhere in North America. Treaties had the power to remake strangers into kin, to old rivalries and desires for revenge. They fundamentally remade prior

³²⁸ See J. R. Miller, *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada* (Toronto: University of Toronto Press, 2009), 9 & 22; Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America*, 26; Robert A. Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800*(New York: Routledge, 1999), 81.

³²⁹ See Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America*, 73.

³³⁰ See James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity* (Cambridge; New York: Cambridge University Press, 1995), 124-26.

relationships, empowering all parties to live a fair and interdependent future together.³³¹

Treaties also necessitated on-going diplomacy and renewal of these kinship relations, bringing peoples closer together as ritualized gift exchanges and other responsibilities knit progressively tighter bonds.

Perhaps the most well known diplomatic system (and definitely the most researched) is the treaty culture of the eastern woodlands, including most of the Indigenous peoples in what is now the Eastern United States, Eastern Canada, at times even reaching into the North-West.³³² Acting as a subset of this expansive system, or more likely a smaller system closely connected to this larger one, was the *pays d'en haut* or upper country, the western interior of the Great Lakes region, which included the Anishinaabeg, Cree, and Dakota peoples as well as peoples moving west from eighteenth century Canada, like the Haudenosaunee and Wyandot.³³³ This *pays d'en haut* diplomatic system was also connected with the prairie North-West, as the Saulteaux (Anishinaabe), originating in the woodlands of North-Western Ontario, moved out to the plains in the eighteenth- and nineteenth- centuries, bringing the symbolism and language of woodlands diplomacy with them. Combined with local customs, Saulteaux diplomacy contributed to the emerging alliance with their Métis, Cree, and Assiniboine treaty partners.³³⁴

Because these systems were so diverse and extensive, and were vitally important in the day-to-day relationships between Indigenous peoples, it is important to understand

³³¹ Miller, *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada*, 8-9.

³³² See Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800*, 20-22.

³³³ Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America*, 46.

³³⁴ Robert Alexander Innes, *Elder Brother and the Law of the People: Contemporary Kinship and Cowessess First Nation* (Winnipeg: University of Manitoba Press, 2013).

them, not just from the perspective of one of their members, but to understand the system as a whole. In his seminal study of woodlands diplomatic culture, *Linking Arms Together*, Robert A. Williams Jr. does precisely this. Williams' monograph examines the systemic nature of the woodlands diplomatic system, which governed international relations over much of the eastern portion of North America, and was ultimately responsible for binding diverse nations together as kin, and governing conflicts between peoples. Williams' work is probably the first study to analyze treaty-making and alliances *at a systemic level*, and it explains how diplomatic structures allowed Indigenous nations (and later European empires) to make "a sure and lasting peace" in the woodlands.³³⁵ By using a systemic analysis, Williams develops a broader understanding of treaty-making norms that informed Indigenous diplomacy in the East, therefore producing a methodology for systemic analysis of diplomatic cultures that can be applied to other geographic contexts, such as the prairie diplomatic context of the North West.³³⁶

The binding feature of an Indigenous diplomatic system, the glue that holds the diverse nations together, is what Williams calls "an amazingly rich and complex specialized 'language' of diplomacy" that developed over generations of diplomatic practice. This *shared language* is not necessarily a shared spoken language, (although a *lingua franca* could serve this role), rather it was a shared set of symbols, rhetoric, and ideologies that allowed diplomats to "speak" to one another, and have their allusions and metaphors understood.³³⁷ The importance of this shared diplomatic language usually lay

³³⁵ Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800*, 49.

³³⁶ See also J. Marshall Beier, ed. *Indigenous Diplomacies* (New York: Palgrave Macmillan, 2009); Leanne Simpson, "Looking after Gdoo-Naaganinaa: Precolonial Nishnaabeg Diplomatic and Treaty Relationships," *Wicazo Sa Review* 23, no. 2 (2008).

³³⁷ Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800*, 47.

in its imagery, as it allowed diplomats to speak in a common language of “symbols, metaphors, stories, and rituals”:

It was a language that continuously appropriated, blended, and reconstructed the diverse narrative traditions of the tribal cultures of indigenous North America... as Indian diplomats constantly adapted themselves to the challenges of a rapidly changing multicultural frontier.³³⁸

This common diplomatic language was developed over time by stressing common elements of different Indigenous cultures, and creating new symbols that allowed for mutual understandings to emerge among diverse peoples. It was, in essence, the development of a diplomatic ‘middle ground’ between Indigenous peoples that allowed them to communicate their diverse cultures through a common language.³³⁹

While Richard White has used the term “middle ground” to refer to relationships between Indigenous peoples and Euro-North American empires, the creation of a middle ground is also necessary for successful diplomatic relationships *between* Indigenous nations.³⁴⁰ According to White, the middle ground was the creation of a shared space through “a process of mutual invention,” that made cultural traits mutually intelligible for many different peoples.³⁴¹ The creation of a middle ground was a process where peoples used diplomatic symbolism from their own culture in an attempt to create a common resonance with their diplomatic partners.

Through trial and error, and through cultural exchange, a common language was created. Usually, this language was premised on the symbolism of kinship, and pipe

³³⁸ Ibid.

³³⁹ See Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815*, Cambridge Studies in North American Indian History (Cambridge ; New York: Cambridge University Press, 1991), 50.

³⁴⁰ See *ibid.*

³⁴¹ See *ibid.*

ceremonies. Shrewd diplomats sought out congruencies between their culture and their neighbours, a way to communicate common sentiments and common understandings. And since any cultural congruence, no matter how tenuous, “can be put to work and can take on a life of its own if it is accepted by both sides,” these commonalities were stressed during diplomatic talks.³⁴² Cultural signifiers from one people could, over time, come to have similar resonance in another, and it was this process that generated a shared diplomatic language, *a symbolic language that was synonymous with diplomacy itself*.³⁴³ The shared resonance of a common diplomatic language created procedures for strangers to cooperate with one another, to agree to live peacefully alongside one another, to share hunting territory or village sites, and even a long-term political alliance or confederacy. The middle ground of Indigenous diplomacy, then, stressed common features of distinct political cultures that highlighted common traits as the basis for political relationships.

Once a common language was developed, a diplomatic system was born. As these systems grew to incorporate new peoples, their languages adapted to new congruencies and new resonances. These dynamic processes were also vehicles for cultural exchange, inter-marriage, and complex political alliances across diverse peoples. International diplomatic systems had profound impacts on the domestic politics of their member nations, who inherited new *wahkohtowin* obligations to their kin from other peoples. Yet, these systems were also geographically bounded, as the prairie North-West, like the woodlands, had a common language, and a diplomatic middle ground of its own. Analysis of the woodlands, while illuminating in some respects, is not directly transferable to the North West. It is therefore necessary to examine the particularities of

³⁴² Ibid., 52-53.

³⁴³ Ibid., 50.

the common diplomatic system of the North West, and to understand it as a self-contained system.

***Wahkohtowin* and the Diplomatic Tradition of the North-West**

In the North-West, the common symbolic language of diplomacy relied heavily on metaphors of kinship and family.³⁴⁴ Family responsibilities—*wahkohtowin*—established political alliances across the boundaries of language, culture, and nation. *Wahkohtowin* determined the qualities individuals were expected to personify as a good family member, values that were critical to family relationships. As a common diplomatic language, *wahkohtowin* contextualized how relationships were intended to work between these relatives by defining and classifying relationships, and “by prescribing patterns of behaviour between relatives and non-relatives.”³⁴⁵ In the nineteenth-century North-West, *wahkohtowin* obligations were determined as much by biology as by diplomatic custom. Metis families (by marriage, treaty, and biology) included members who were Cree, Saulteaux, and Assiniboine, just as the Cree, Saulteaux, and Assiniboine had Métis family in the same way. Many hunting groups, bands, or family units in the nineteenth-century were “multi-national,” with families from the four peoples living together in close-knit communities.³⁴⁶ These groups, despite being multinational, did not necessarily hybridize, but rather they maintained their multiple cultures, multiple alliances, and continued to speak their own languages.³⁴⁷ This was possible due to the multilingual

³⁴⁴ Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America*, 80-81.

³⁴⁵ Macdougall, *One of the Family: Metis Culture in Nineteenth-Century Northwestern Saskatchewan*, 8.

³⁴⁶ Innes, "Multicultural Bands on the Northern Plains and the Notion of Tribal Histories," 123-24.

³⁴⁷ *Ibid.*, 125.

nature of most prairie peoples, who were capable of understanding the many languages of their kin, or at the very least, being able to speak one common language among them.

The diplomatic culture of the nineteenth-century North-West was rooted, then, in a reality that was already multicultural and multi-national. It developed in a space where it was generally accepted that one's obligation to their relations was a major factor in determining how one lived and who they lived with—regardless of whether they were Cree, Saulteaux, Assiniboine, or Métis. Since *wahkohtowin* determined alliances as much as anything else, it is not surprising that international diplomatic culture, and the symbolic common language it used, was also defined by family. So one's family could be determined politically—through formal alliances, through pipe ceremonies, as well as through ritualized gift exchange.

Family also determined access to territory, as much as diplomacy did. In the nineteenth century North-West, Indigenous geography functioned very differently from the bounded and discrete territories, which contemporary scholarship has projected onto the prairie landscape. Diplomacy and *wahkohtowin* governed territory. Access to territory was less determined by what we refer to today as “national” membership; rather it was determined by kinship, a kind of “constellation of lived relationships” where one's so-called national identity did not create “an exclusive claim to occupy a particular physical space.”³⁴⁸ Territory on the prairies, like the *pays d'en haut*, “was not the exclusive dominion of a single individual or nation.” It was “a shared resource where use rights were claimed, negotiated, and exercised as part of the lived relationships that people

³⁴⁸ Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America*, 89.

forged with one another in the process of creating a landscape and social identity.”³⁴⁹ It was *wahkohtowin* that determined where one lived and could live, where one hunted and trapped, and who one lived with. Métis, through marriage and treaty, gained the right to hunt, trap, and live in different territories. They also inherited the responsibilities to the local peoples who originated there. Upon Peter Erasmus’s marriage to a local Cree woman, for example, the local chief assigned him a trap line from the community’s territory near the Victoria Post in present-day Alberta.³⁵⁰ Erasmus, a Halfbreed from Red River, had married into the community and thus become family. As family, Erasmus was entitled to hunt and trap in the band’s territory, yet he also inherited all the obligations expected of a family member. Even though he was not Cree, his place was never questioned, so long as he lived up to the responsibilities of *wahkohtowin*.³⁵¹

Diplomacy in the North-West governed the use of territory, and as strangers were made into family members, territory became an increasingly overlapping geography governed by kinship. Diplomacy and treaty making, though, was not all created through major political events like treaty councils. Some treaties were formalized people-to-people agreements, but the vast majority of treaties were mundane, everyday agreements—pipe ceremonies, gift exchanges, even, as some argue, breastfeeding.³⁵²

Treaties could be found in the simplest form of gift-giving, creating what Witgen calls an

³⁴⁹ Ibid., 20.

³⁵⁰ Erasmus, *Buffalo Days and Nights*, 185.

³⁵¹ Ibid.

³⁵² Simpson argues that breastfeeding is the first treaty in a Anishinaabe child’s life: “Nursing is ultimately about a relationship. Treaties are ultimately // about a relationship. One is a relationship based on sharing between a mother and a child and the other based on sharing between two sovereign nations. Breastfeeding benefits both the mother and the child in terms of health and in terms of their relationship to each other. And treaties must benefit both sovereign independent nations to be successful.” See Leanne Simpson, *Dancing on Our Turtle’s Back: Stories of Nishnaabeg Re-Creation, Resurgence and a New Emergence* (Winnipeg: Arbeiter Ring Pub., 2011), 106.

“unequal exchange.”³⁵³ An unequal gift-exchange is a one-sided gift-giving ceremony that generates an obligation for the receiving party to accept the gift and repay the social debt either immediately, or sometime in the future. This gift exchange process established or renewed an ongoing social, political, spiritual, and diplomatic relationship, affirming an alliance, and reassured the parties that they each retained kinship obligations to one another.³⁵⁴ In fact, the basis for diplomacy in the North-West was solidified by these mundane gestures, often more so than the grand diplomatic gestures on a “national” scale. So it was everyday inter-familial processes that created both the language of, and protocol for, various forms of, diplomatic alliance.

Wahkohtowin in its most basic form was the metaphor for larger diplomatic dealings. Mundane intra-familial relations, then, played a prominent role in creating a shared diplomatic language in the North-West. Like family life, prairie diplomatic culture was premised on structuring relationships between families, bands, and peoples, as obligations to kin. In this way, diplomacy in the nineteenth century North-West relied upon family-level *wahkohtowin* practices and projected them onto larger diplomatic processes involving more complex entities. Family was an accessible concept that everyone understood, its symbolism was mutually intelligible and resonated well between different cultures. Larger-scale diplomacy thus invoked everyday *wahkohtowin* relations and family life in its imagery, and sought to reproduce relationships that already existed as a part of regular family life. These ceremonies, which made family and ensured good *wahkohtowin* practices were adopted by a general North-West diplomatic culture.

³⁵³ Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America*, 124.

³⁵⁴ Ibid.

Mundane, everyday diplomatic rituals, then, were the common diplomatic language and the political middle ground of more formalized treaty relationships.

Diplomacy among Relatives

Wahkohtowin was the basis for a common diplomatic language for the Indigenous peoples of the North West. It was the everyday diplomacy of marriage and kinship that allowed the four peoples—the Métis, Cree, Saulteaux, and Assiniboine—to live as closely together as they did. The Métis, Cree, Saulteaux, and Assiniboine were united by a thousand little treaties—marriages, ritualized gift-giving, alliances forming multicultural bands. Regardless of the lack of centralized structure, this four-way alliance functioned as effectively as if there was a unifying treaty, and the people involved supported their relatives and allies all the same.

The diplomatic middle ground of the North-West placed great importance on the ritual of smoking the pipe of peace together. The pipe was a collectively recognized ritual where both parties called upon spiritual powers to create, renew, or protect the relationship between their peoples. In this way, the pipe solemnized a diplomatic treaty for it recognized a shared diplomatic narrative process “that committed two different peoples to live according to a shared legal tradition.”³⁵⁵ The pipe also reconstituted treaty partners as relatives, creating new kinship connections that bound families, bands, and peoples together. The pipe symbolized “a divinely inspired, universal vision of all humankind as one.”³⁵⁶ Thus, the diplomatic life of treaty partners was defined “by a

³⁵⁵ Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800*, 48.

³⁵⁶ *Ibid.*, 50.

world of connections and shared normative commitments” to each other.³⁵⁷ These connections were so prominent, in fact, that they often brought together Indigenous peoples from different cultural and linguistic groups into new political formations. These political formations were multiethnic, multilinguistic, and multicultural,³⁵⁸ yet were nonetheless bound together by kinship and sacred diplomatic obligations manifested by principles of *wahkohtowin* and through treaty-making.

Gabriel Dumont’s encounter with a Blackfoot warrior demonstrate how effective the pipe ceremony was at making new relations. In his youth, while on the western reaches of the Métis and Cree hunting grounds, Dumont encountered a lone Blood warrior on the open prairie. Upon recognizing him as a Blood, a member of the Blackfoot Confederacy, Dumont identified the distant rider as a non-relation, and thus a stranger.³⁵⁹ Since the Métis were closely allied with the Cree, the traditional enemies of the Blackfoot, Dumont and the Blood warrior both made the independent assessment that they were enemies. After the recognition that they are not relatives, both men were obligated to fight, flee, or make peace. They chose to fight. After a brief skirmish, Dumont unhorsed the Blood, captured him, and escorted him back to the Métis camp as a prisoner. Yet, rather than killing the warrior, or keeping him captive, Dumont brought out his pipe to smoke it with the man. After this ceremony was completed, Dumont released the man from this temporary captivity.³⁶⁰ By inviting his Blood prisoner to smoke the pipe with him, Dumont also invited the man to join in a different type of relationship with him—one of fellowship, even kinship, transforming their status as enemies. Smoking the

³⁵⁷ Ibid., 70.

³⁵⁸ Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America*, 137.

³⁵⁹ Woodcock, *Gabriel Dumont: The Metis Chief and His Lost World*, 66.

³⁶⁰ Ibid.

pipe together formalized a small treaty between two people without a prior relationship, resulting in a sacred pact that made the former strangers into relatives.

Interestingly enough, several years later, Dumont was attending formal treaty negotiations between the Cree and Blackfoot, and Dumont's relation, the Blood warrior, now a prominent chief named Bull Hide, was representing the Blackfoot as a diplomat. According to Dumont's biographer George Woodcock, as a result of their pipe ceremony, Dumont and Bull Hide were now able to "greet each other as brothers."³⁶¹ Given their ceremonially-induced kinship, the two men had a different means of meeting one another, not as unattached strangers, or even as diplomats, but as "brothers." It was the act of smoking Dumont's pipe together that diffused a potentially dangerous situation, and created new attachments that could assist in creating larger scale treaties, like the Cree-Blackfoot alliance the two men were now negotiating. The pipe allowed both men to be ritualistically recreated as friends, even kin, where before they were prepared to kill one another. Despite no longstanding relationship between their peoples, there still existed a common diplomatic language—the pipe—that allowed Métis and Blood to communicate a shared intent, and to recognize the symbolism of the ritual they had just engaged in, as they both understood the pipe had made them relative.

Alliances made by kinship or by ceremony were not always perfect institutions. While the alliance of the four peoples was a close one, it did have its tensions. Disputes arose, and in an era of declining buffalo, the behaviour of one's kin and allies could have detrimental affects on the well-being of one's family. While diplomatic relations between the four peoples may be strained, they also had common practices for resolving these

³⁶¹ Ibid.

disputes. Innes notes an incident where the Plains Cree, Saulteaux, and Assiniboine were “concerned about Métis buffalo hunting practices.”³⁶² However, due to pre-existing Métis kinship relations with their allies, Innes notes that this disagreement never escalated to a “violent response,” whereas something like Blackfoot horse theft almost undoubtedly would.³⁶³ Instead these disagreements were settled internally, involving diplomatic talks, by getting other allies to relay the Indians’ displeasure, and when these tactics failed, they kept the Métis under surveillance while subjecting them to ‘annoyances,’ or lighting prairie fires.³⁶⁴ Métis-Cree disagreements were considered to be a family affair, and were thus addressed as one corrected the behaviour of a family member out of line.

Further *wahkohtowin* diplomacy between Métis and Cree relatives is also recounted in Gabriel Dumont’s memoirs, exemplifying the recourse to internal diplomatic processes rather than to the violent conflict between strangers. In his youth, Gabriel joined a Cree war party against the Blackfoot, in order to fulfill his obligations to Cree relatives, as well as to resolve a dispute between his family and a Cree warrior. This unnamed Cree warrior arrived at Dumont’s camp while he was out hunting and impressed on Dumont’s wife Madeleine the obligation of involuntarily “gifting” their best warhorse to the Cree.³⁶⁵ Dumont was deeply offended by “theft” of his horse, which the Cree warrior probably interpreted as a “gift-giving” obligation owed to relations. Dumont immediately went to a Cree council meeting to resolve this misunderstanding. Dumont’s choice of a diplomatic avenue as opposed to violent action is demonstrative of the relationship between the Cree and Métis—they were relations, and could expect to

³⁶² Innes, "Multicultural Bands on the Northern Plains and the Notion of Tribal Histories," 133.

³⁶³ Ibid.

³⁶⁴ Ibid.

³⁶⁵ Dumont, *Gabriel Dumont, Memoirs: The Memoirs as Dictated by Gabriel Dumont*, 36.

settle disagreements by a common diplomatic language, through gift giving, and the renewal of alliances.³⁶⁶ They were not strangers and had protocols in place to address such tensions. Dumont's complaint then was situated within a common symbolic language of prairie diplomacy, intended to invoke a common symbolism. He addressed his complaint to the Cree warriors, and did so by boasting of his own skills as a Métis soldier, making him a valuable ally,

Friends! Friends! I will tell you what I have done! I have done this... I have done that... I have fought here where my courage has been admired, and there where I made my enemies flee. All of my enemies fear me and all of my friends say that I am the best horseman and rider, and the best at shooting a rifle, etc., etc. Well, today you have done something that has offended me.³⁶⁷

The Cree again impressed on Dumont that the gift of his best horse was a part of the Métis gift-exchange responsibility of their treaty relationship, stating that it was “their law” that “their friends, allies, and they themselves were obliged to give their best horses when they had to fight an enemy.”³⁶⁸ Dumont never objected to this responsibility, but instead used the shared language of kinship obligations and ally responsibilities, he was able to convince the Cree that he should fulfill his kinship obligations in a different manner. Dumont offered to join the Cree the next day, as a gift to his allies, in their battle against their common foe, the Blackfoot, which as allies was their due. But, in order to do so he would need to ride *his* horse into battle, and understanding the bravado of plains warrior culture, changed the request for the gift of his horse, into a challenge. If, Dumont said, some of the Cree were able to “pass in front of me headed towards the enemy,” then he would gift them the horse, but if Dumont was “the first to gallop towards the enemy,”

³⁶⁶ Ibid.

³⁶⁷ Ibid.

³⁶⁸ Ibid.

then the Cree “should not touch my horse when I am not there!”³⁶⁹ The next day, Dumont rode out at the front of the Cree war party, as he said he would, he “ran [a] Blackfoot down,” killing him, to show the Cree “that they should respect me.”³⁷⁰ While horse “theft” between Cree and Blackfoot was very often the impetus for war or raids against the enemy, Dumont, ally and kin of the Cree, handled the situation very differently. Dumont and the Cree band were able to transform a disagreement over a horse into an opportunity to renew kinship obligations and their mutual commitment to the Métis-Cree alliance. By participating in the Cree-Blackfoot battle, and coming to the aid of the Cree at a potentially dangerous time, Dumont also demonstrated the importance of his role with the alliance. Rather than resorting to violence against a man he considered a thief, Dumont channelled his anger against the allies’ traditional enemy, demonstrating the importance of Métis-Cree cooperation, all the while keeping his horse.

Diplomacy, and treaties, occurred with great regularity among Indigenous peoples in the North West, the majority of which were small, everyday treaties between families and individuals, with larger international treaties following this example. Diplomacy, then, emerged out of the everyday, with the shared language finding voice from the most mundane places but being expressed in more formalized diplomatic spaces. Whether exchanging gifts to symbolize a relationship between families, or to symbolize the lasting peace between two peoples previous at war, treaty-making followed everyday patterns of *wahkohtowin* and linked together diverse peoples and families into an increasingly complex web of kinship.

³⁶⁹ Ibid., 36-37.

³⁷⁰ Ibid., 37.

Métis Diplomacy with Strangers

As Dumont's changing relationship with Bull Hide demonstrates, Métis diplomacy with non-relatives followed different protocols than diplomacy among relatives. Relatives and allies could be made through pipe or marriage ceremonies and had gift giving obligations that regularly reinforced these relationships. Non-relations and non-allies had no pre-existing institutions to reassure one another of their good intentions, they had no gift-giving obligations to meet, no family responsibilities to fall back on. They were strangers, and strangers were potentially dangerous people.³⁷¹ Prairie diplomacy was a cautious diplomacy where relationships were built slowly over time, and these relationships were the basis for all politics, economics, and socialization on the prairies. Few people freely associated with strangers.³⁷² So diplomacy among strangers was a complex process, and a process in which the ability to make relations, to impart *wahkohtowin* on the process, would likely determine its success.

The Métis diplomatic rival on the prairies was the people that nineteenth century observers referred to as "the Sioux," namely the Dakota. These were peoples who, like the Métis, were a buffalo-hunting warrior culture, capable of mobilizing large numbers of skilled soldiers. The migration of the declining buffalo herds into Dakota hunting territory, and the Métis decision to follow them into these regions, often led to diplomatic conflict, raids, and occasionally, outright battles. This situation was made all the more volatile by the existence of fewer pre-existing relationships between Métis and Dakota, in comparison to the Métis' allies. When conflicts arose, very few diplomatic protocols stood in the way of violence. Yet, Métis were still able to communicate with these

³⁷¹ Miller, *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada*, 7.

³⁷² *Ibid.*

strangers using the common diplomatic language of the prairies and were able to use this symbolism to slowly (and painfully) construct common institutions to share hunting grounds and co-exist peacefully, by becoming relatives. This process occurred unevenly and took patience, trial, and error to resolve. The Métis-Dakota diplomatic process was ultimately able to mobilize a common language to slowly transform Métis and Dakota from strangers to kin, but it was not without bloodshed and loss.

1) *“We are now strangers”*: Sisitou-Métis Diplomacy in 1844-45

In the autumn of 1844, the Sisitou Dakota sent an emissary to the Métis chief Cuthbert Grant at White Horse Plain. The messenger carried a letter lamenting the loss young men during a series of deadly skirmishes between Sisitou warriors and Métis soldiers.

Following a simmering conflict years in the making, Métis hunters had been killed by a Dakota war party early in the summer of 1844, and shortly after this attack, another Métis hunter, Louis Vallé, was ambushed by Dakota warriors while harvesting a buffalo and killed in front of his young son. Vallé “had just time to call out to the boy, ‘Make for the camp, make for the camp!’ and instantly fell under a shower of arrows.”³⁷³ But this attack “was not long unrevenged” by the Métis party.³⁷⁴ As soon as Vallé’s son made it back to the Métis camp, “the alarm was given, and ten half-breeds, mounting their horses, overtook the murderers in less than an hour.”³⁷⁵ Four Dakota warriors escaped, the others—four Sisitou and four Yankton Dakotas—“were overtaken and shot down like beasts of prey. One of the half-breeds had a narrow escape, an arrow passing between his

³⁷³ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 258-59.

³⁷⁴ Ibid.

³⁷⁵ Ibid.

shirt and skin; the others got off scot free, and all returned to camp safely.”³⁷⁶ Given this outcome, Sisitou families felt entitled to seek either revenge or restitution from the Métis for their lost relatives. So they met in council to discuss whether it would be war or peace with the Métis. After much discussion, they sent a letter to their Métis adversaries at White Horse Plain to initiate a diplomatic process.

In their message, the Sisitou stressed their love of peace, but also the desire of their warriors to revenge the four dead Sisitous. They told the Métis that “the pipe of peace has not been in our council for the last six days,” in other words, they were leaning towards war.³⁷⁷ They lamented that their “young men had been killed. They were good warriors: their friends cry. . . . Our hearts are no longer glad,” and the Sisitou demanded “four loaded carts” of gifts to compensate the community for their four dead relations, this would allow both Métis and Dakota to avoid war.³⁷⁸ To drive their point home, the Sisitou announced to the Métis that “we are now strangers,”³⁷⁹ meaning that any bond of friendship or kinship between Métis and Sisitous was no longer a relevant consideration in these diplomatic talks. The Dakota decision would be an act towards strangers, not kin, and thus war with the Métis was likely. They ended their letter to the Métis by posing the question of peace or war:

Friends,—Tell us if we are to be friends or enemies? Is it to be peace or war? Till now our hands have always been white, and our hearts good.
Friends,—We are not frightened; we are yet many and strong. Our bows are good; but we love peace: we are fond of our families.

³⁷⁶ Ibid.

³⁷⁷ "Sioux to the Half-Breeds, White Bear's Lodge, November 14, 1844," in *The Red River Settlement: Its Rise, Progress, and Present State*, ed. Alexander Ross (Edmonton: Hurtig Publishers, 1972), 325.

³⁷⁸ Ibid.

³⁷⁹ Ibid.

Friends,—Our hearts were not glad when we left you last; our shot pouches were light, our pipes cold; but yet we love peace. Let your answer make our wives happy, and our children smile.³⁸⁰

The Métis response evoked the shared diplomatic language of the plains using common symbolism to impart empathy with the Sisitou sense of loss. The Métis too, were “as sad as yourselves,” and feeling that, while recent events created “a momentary disruption to the pipe of peace,” the Métis hoped that it would not “wholly extinguish it.”³⁸¹ The Métis also referred to a “half a century or more” where the Métis and Dakota “have smoked the pipe of peace together.”³⁸² Yet, the Métis leadership insisted that the Métis were the wronged party, acting “in self-defence” and that the Dakota warriors “were the first aggressors.”³⁸³ The Métis expressed their regrets for the four dead Sisitous and the four dead Yankton, but reminded the Dakota that they “forget to express your regret that our people were killed also: the one fact is as well known to you as the other; and they were killed first.”³⁸⁴ It was in this manner that the Métis categorically refused to repay the Sisitous for their four dead warriors: “You demand from us four loaded carts for the four Sisitous: we never refuse paying a debt, [but] never consent to paying an unjust one...you know your people were the first aggressors.”³⁸⁵ The Métis therefore could not comply with the Sisitou demand “be the consequences what they may” because they considered it “unjust.”³⁸⁶ In an effort to keep open the possibility of reciprocal gift-giving as a pathway to peace, the Métis did mention that they “may give a pipe of tobacco, or a load of

³⁸⁰ Ibid.

³⁸¹ "Half-Breeds to the Sioux, Grantown, December 8, 1844," 326.

³⁸² Ibid.

³⁸³ Ibid., 326-27.

³⁸⁴ Ibid., 326.

³⁸⁵ Ibid.

³⁸⁶ Ibid.

ammunition voluntarily; but we will not submit to unjust demands.”³⁸⁷ The Métis then answered the final Sisitou question of peace or war, by turning the question back to the Dakota,

You put the question, ‘Shall we be friends or enemies, or shall there be peace or war?’ We leave yourselves to answer that question. They who would have friends must show themselves friendly. We have violated no faith, we have broken no peace. We will break none. We will not go to find you to do you harm.³⁸⁸

The Métis re-assured the Sisitou “we are for peace, peace is our motto,” but that they were also ready to war, “we will defend ourselves, should you be as numerous as the stars, and powerful as the sun.”³⁸⁹

The Sisitou received the Métis reply and their council discussed it extensively for three days at White Bear’s Lodge, with strong proponents representing positions for peace and war. Ultimately the council “received [the Métis] message as one of peace,” and sent the Métis a letter calling on the creation of common bonds between the affected families to foster peace between the two peoples.³⁹⁰ The Sisitou reply evoked the shared language of prairie diplomacy by insisting on the building of a diplomatic common ground. In essence, the Sisitou called for the creation of kinship bonds between the family of their dead, and the families of the Métis warriors who killed them. Among these were two instances where adoption was accompanied by gift-giving from the dead Sisitou warrior’s possessions. One Sisitou, Tah-wah-chan-can, told the Métis that,

³⁸⁷ Ibid.

³⁸⁸ Ibid., 328.

³⁸⁹ Ibid.

³⁹⁰ "Sioux to the Half-Breeds, to Cuthbert Grant, Chief of All the Half-Breeds, and Warden of the Plains, White Bear's Lodge, February 12, 1845," in *The Red River Settlement: Its Rise, Progress, and Present State*, ed. Alexander Ross (Edmonton: Hurtig Publishers, 1972), 329.

Friends,—You killed my son, he was brave, San-be-ge-ai-too-tan. He who pointed the gun at him, I wish to be my son. He had a feathered wand in his hand. I send it...to my adopted son.³⁹¹

While Kan-tan-kee wished to adopt a father from the Métis warriors,

Friends,—You killed my father last summer. I wish him who made me fatherless, should be my father. He was a chief, a Sisitou warrior, had a gun and a bow, had been scalped young. His feathers reached the ground. Whoever will wear those proud feathers, I will give him a horse. I will be proud of him.³⁹²

These statements, along with four other offers to adopt Métis soldiers into their families, contain the gift-giving rituals that establish obligation and kinship. By offering the Métis hunters the possessions and social capital of the dead Sisitou warriors, they were proposing to make kin out of strangers, an action that would situate diplomacy in a language of family obligations, rather than diplomacy among non-relatives. By integrating these Métis outsiders into the Sisitou family network, and by then also including Sisitou families in the Métis kinship systems, increased levels of attachment would help to limit violence between the two peoples. Family had obligations to one another, to share their resources, to look after one another in times of insecurity, and most importantly, to behave as good relatives would to one another. In becoming relatives, it was expected that any violence or ill-feeling in the family would be resolved within the family, it would not spill over into larger Métis-Dakota relations.

By recreating individual enemies as kin, the Sisitou and Métis transformed their diplomatic people-to-people relationship as well, creating a kinship between the Sisitou people and the Métis people of White Horse Plain as a whole. The social requirements for these new relationships were demanding for both sides. The Sisitou relatives of the dead

³⁹¹ Ibid.

³⁹² Ibid., 329-30.

warriors were giving up any entitlement to revenge against the Métis. The Métis adoptees, in accepting their new relationships, would also inherit the responsibilities to the Sisitou families who had been deprived of fathers, sons, brothers, uncles, and cousins. They would be expected to support these families, as good relations, and embody the new relations, in the name of peace between their people. In making peace, individuals were expected to act in a selfless way, giving up on revenge, or supporting another family, all for the peace of their people. These selfless acts were the backbone of prairie diplomacy, as they were the unequal gift exchange that precipitated a reciprocal relationship between peoples. By becoming kin, the Sisitou and Métis families would be responsible for each other's welfare, and ensure lasting peace between their families, for they would act as mediators in future conflicts.

Unfortunately there is no surviving correspondence after these offers were made, and we cannot be certain if Métis accepted these positions, and became kin with the Sisitou. There is, however, evidence that they did, as Alexander Ross notes that the following summer, the Métis returned to the prairie, hunted alongside the Dakota, "as if nothing unpleasant had happened."³⁹³ Later that summer, a party of Sisitou visited Red River to trade at the Company forts, and "after a short stay returned again to their country in safety."³⁹⁴ Like so many other treaties between Indigenous nations in the North-West, the final outcome was not written down, but we can presume that the Métis and the Dakota again smoked the sacred pipe of peace, keeping it warm, and living now as

³⁹³ *The Red River Settlement: Its Rise, Progress, and Present State*, 330.

³⁹⁴ *Ibid.*

relations in “peace and friendship, which has so long kin our hearts together heretofore, [and] still continues to do so hereafter.”³⁹⁵

2) *The Battle of Grand Coteau and Métis-Yankton Diplomacy*

While the alliance with the Sisseton Dakota was a welcome peace for the Métis on the prairies, it did not make relatives out of the other Dakota people involved in the conflict, the Yankton. This peace had a much higher cost in blood and violence. Like the Métis, the Dakota maintained a strong warrior culture; this gave both peoples enough military power to view war as a viable alternative to diplomacy with non-relatives. So in 1851, five years after the Métis-Sisseton peace, a small brigade of Métis organized a hunt government, and fought the Yankton on the prairies, as they had many times in the past. This would be the last major Métis-Dakota battle (although smaller conflicts would continue for some time still), and would be immortalized as the Battle of Grand Coteau. This battle has entered into Métis legend, memorialized as the battle that made the Métis people, “the masters of the plains wherever they might choose to march,”³⁹⁶ and the decisive victory that ensured that the Métis would never again “have to fight again a battle on the scale of [that] engagement,”³⁹⁷ at least until Batoche. Yet, in the rush to memorialize the Métis military victory, or more realistically, the successful Métis defence of their camp, historians have tended to obscure the prevalence of prairie diplomacy in the events leading up to the battle. While the common language of diplomacy failed to produce a middle ground leading up to the battle, it nonetheless

³⁹⁵ "Half-Breeds to the Sioux, Grantown, December 8, 1844," 328.

³⁹⁶ Morton, "The Battle at Grand Coteau: July 13 and 14, 1851" 8.

³⁹⁷ Woodcock, *Gabriel Dumont: The Metis Chief and His Lost World*, 62.

sowed the seeds for “a kind of alliance” that emerged afterwards between the Métis and the Yankton.³⁹⁸

This is not to understate the bravery of the Métis soldiers and families who defended themselves against a much larger Dakota force. After all, a small group of hunting families, isolated on the prairies, successfully fought off a superior party of Yankton warriors, five or six times their number. This battle was nonetheless governed by common diplomatic protocols. Given the constant recourse to diplomacy, the battle was likely not a conscious attempt by either party to go war, but rather a failure to achieve a diplomatic consensus that usually prevented such violence. Without being able to successfully negotiate an alternative to violence, and not having the requisite relationships to mediate such conflicts, war became a default response for two large groups when each party was emboldened by a significant number of armed warriors in close proximity. Nonetheless, despite the lack of a formalized relationship between the Métis and Yankton, the two parties still utilized a common diplomatic language in order to parley, and eventually fight one another. Even in war, a common diplomatic language determined what was acceptable protocol and what each party was authorized to do if that protocol failed to produce peace. From the beginning of the Métis-Yankton engagement, from the initial meeting to the final moments of the battle, proper diplomatic protocol was regularly observed, it was only after both sides failed to recognize each other as relations, and after they had failed to successfully communicate their intentions to each other, that they readied their weapons.

³⁹⁸ Ibid.

During a buffalo hunting expedition in July 1851, the White Horse Plains party, led by Jean-Baptiste Falcon, was skirting the edge of Yankton territory, when the party's scouts encountered a very large Yankton camp. The scouts reported back to Falcon that there were roughly 2000-2500 warriors (an exaggerated estimate by all accounts).³⁹⁹ Falcon then assigned a scouting party to parley with the chiefs at the Yankton camp. However, when arriving at the edge of the Dakota picket line, the Métis diplomats were forcefully "invited" into the camp "in a way that left no doubt that they were considered prisoners." Two of the scouting party immediately made a break for it, and galloped back to warn the Métis camp. After hearing that three of their own were taken prisoner, Falcon readied the Métis camp for a Yankton attack.⁴⁰⁰

The Yankton pursued the fleeing Métis diplomats back to their camp, where the Métis and Yankton then had another parley. The Dakota told the Métis that they had no warlike intentions, and that the Métis captives would be freed the following day. According to Morton, the Yankton diplomats "protested that they were hard up, and in need of help. They would come the next day with the prisoners and only a small party, in the hope of receiving some presents."⁴⁰¹ This second parley reveals a complex set of diplomatic initiatives by the Dakota, who in invoking the language of being "hard up" or in need of "some presents," were signalling to the Métis that a kind of gift-giving relationship could initiate a more formalized diplomatic relationship to avoid violent conflict.⁴⁰² This message was compounded with the reality that the Yankton held three Métis prisoners, who they would exchange for these gifts. The Yanktons' diplomatic

³⁹⁹ Morton, "The Battle at Grand Coteau: July 13 and 14, 1851" 4.

⁴⁰⁰ Ibid.

⁴⁰¹ Ibid.

⁴⁰² Ibid.

overtures to the Métis requested a kind of unequal gift-exchange—trading the Métis captives for trade goods, ammunition, and food. The exchange of presents would also symbolize the beginning of a different type of relationship, one of friendship, peace, and maybe even a formalized alliance in the future. It may have been that the exchange of Métis hostages for “gifts” from the Métis was the Dakotas’ original aim. The behaviour of both sides, however, which involved preparing for battle and scouting each others camps, likely did not inspire the confidence in each other that the next day would hold a peaceful exchange.⁴⁰³

With no kinship relations to fall back on, and no common relatives to mediate the conflict, it was probably difficult for both camps to imagine an outcome other than violence, and so, the following day, on July 13, 1851, the Métis and Yankton had their final diplomatic meeting, a parley outside the Métis cart-stockade. The Yankton came in full force and a Métis scouting party met with them and presented a small offering of presents, with the request that the Yankton leave them be and release their Métis captives. While Morton argues that the Yankton “ignored both the presents and the request,” this is not entirely true. Rather, the Dakota showed four empty carts to the Métis, a signal that would have been obvious to the Métis that the Yanktons found their small gifts insufficient to exchange for the captives and peaceful relations.⁴⁰⁴ The empty carts would have been symbolic in the prairie diplomatic language in a number of ways. First the carts demonstrated the expectations of the Yankton, showing the Métis what they believed the lives of the Métis prisoners were worth, and the costs of preventing a battle with their formidable force. It was also a threat, a fact which Morton does successfully

⁴⁰³ Ibid.

⁴⁰⁴ Ibid., 5.

identify, noting that the Dakota “brought out some carts to haul away the booty.”⁴⁰⁵

Unlike the Sisitou with whom the Métis were able to navigate a common ground to become relatives, the Yankton and Métis were unable to find such a middle ground, and possessed different expectations for the price of that peace. It was only after this final parley, and a failure to make relations out of strangers through gift-giving that a battle was truly inevitable.

The Métis had spent the previous day digging bunkers and rifle pits to protect their families. The Yankton came in waves, attempting to overrun the Métis position or at the very least to stampede the Métis’ horses and oxen in the stockade in order to break the Métis defences. The Métis, however, held on for almost forty-eight hours, as the failure of each rush sapped the Yanktons’ desire for continued fighting. During the fighting the Métis captives fled the Yankton lines. One was shot down during the escape, but the others made it back. The fleeing captive shot during his escape, Malterre, was to be the only Métis fatality.⁴⁰⁶ The Yankton, by this time, had lost nearly eighty warriors while attempting to advance on the entrenched Métis position, and decided it was best to orchestrate a disciplined retreat.⁴⁰⁷ The Yanktons initiated one last round of diplomacy before leaving the area completely,

a Sioux chief rode up, upraised palm out in the gesture of peace, and demanded to be allowed to enter the [Métis] camp. He was told to leave quickly, if he did not wish to be left on the prairie. He replied with dignity, before retreating, that the Sioux had had enough, that they were going away; that, henceforth and forever, they would never again attack the Métis.⁴⁰⁸

⁴⁰⁵ Ibid.

⁴⁰⁶ Ibid., 6.

⁴⁰⁷ Ibid., 8.

⁴⁰⁸ Ibid., 7.

While Morton's Métis-friendly interpretation implies that the Métis had won a grudging respect from their enemies who would no longer risk such huge losses on a fruitless attack against the fierce Métis, a different explanation is more likely. It is much more probable that Yankton and Métis did not create peace merely by respecting each other as warriors, as peace was created when the two peoples could understand each other as relatives. It is to some degree true that the battle between these two warrior cultures pushed their diplomats towards peaceful relations, however, at each parley after all, attempts were made by both sides to realize a common diplomatic ground—expectations were communicated, presents were offered, threats were made—they had just failed to establish this diplomatic commonality. The legacy of the last battle between the Métis and Dakota was that it created an impetus for peace, an incentive to initiate the much more successful and fruitful diplomatic gestures of 1844-1845 between Métis and Dakota. Each side now had an idea of the cost of war, and four loaded carts probably no longer seemed a steep price in this regard. A common language had predated Grand Coteau; now the battle had helped develop a common price for peace.

Conclusion

The common ground of diplomacy in the nineteenth-century North West was ultimately about determining who was as a relative and who was a stranger. Relatives could be counted on to give gifts, to share, to live side-by-side, and to be predictable in their actions. Strangers, however, were unpredictable and thus unknown quantities, who must be treated with caution in order to survive in a highly competitive region, made even more so by the steady decline of the once-great buffalo herds. Métis diplomacy then,

relied on the protocols of their kin, as well as the constantly developing diplomatic middle ground, the shared language of international relations to make this determination, relation or stranger. Determining whether an outsider was a total stranger, or capable of becoming a good relative, was an important political process for nineteenth century Métis, and Métis-Company, and Métis-Canada relations were built on this way of thinking, as well.

The Métis people had a longstanding relationship with the Hudson's Bay Company in the nineteenth-century, and were thus able to count on the Company to behave as a good relative for much of this time, (or at least be a predictable, if often imperfect, relative).⁴⁰⁹ However, the Company often extended its reach, attempting to trade in its role as relative for the role of governor. In these cases, Métis tended to treat the Company as a stranger, and when acting as a stranger, responsibilities as relatives broke down, until a renewal of these relationships again stressed Métis-Company *wahkohtowin* obligations, over the Company's pretensions to govern the Métis. The Métis-Company relationship will be explored in more detail in the following chapter.

Métis-Canadian relations were a different matter entirely. Canada was the quintessential stranger—when a lone Canadian “governor” showed up in the North West in 1869 to take possession of Métis homes in the name of some young and distant state, Métis had no obligation to treat these new arrivals as kin. Canada was, in a diplomatic sense, a stranger to the Métis people, and had no prior relationship with them. It could not, as Canada hoped, rely on its relationship to the Crown through the Company, to inspire the confidence of the Métis people. What ensued over the next year was a

⁴⁰⁹ For a discussion of Company as a good relative see, Brenda Macdougall “‘The only men obtainable who know the country and Indians are all married’: Family, Labour, and the HBC,” pp. 158-182 in Macdougall, *One of the Family: Metis Culture in Nineteenth-Century Northwestern Saskatchewan*.

determined process to treat with Canada, to define the relationship between the Métis and Canada, and to ensure that both parties could behave as good relatives within this new treaty framework. This diplomatic process will be closely examined in chapters six, seven, eight and nine.

It was the common language of prairie diplomacy then, more so than any other factor, that would inform how Métis approach these European strangers, and attempt to situate them in their diplomatic universe. By situating these strangers as kin, it allowed Métis to navigate these new relationships with powerful newcomers, all the while preserving their collective *kaa-tipeyimishoyaahk*. Understanding Métis-Company and Métis-Canadian relations as diplomacy not only preserves the existence of Métis political autonomy in our analysis, but it also recognizes Métis agency in dictating the role of Euro-Canadian governance in their homeland. As the subsequent chapters will demonstrate, Métis leaders were highly successful diplomats and were repeatedly able to harness the political forces in order to steer diplomatic outcomes to their liking. Métis thus proved effective at determining their own destiny in the nineteenth century, and did so by harnessing the forces of prairie diplomacy and regularly outmanoeuvring their European opponents.

Chapter 5 – ‘That government to which we had subjected ourselves through necessity’⁴¹⁰: *kaa-tipeyimishoyaahk* and Hudson’s Bay Company Governance in the Mid-Nineteenth Century North-West

In 1835 the Hudson’s Bay Company attempted to formalize their government in the Red River region by consolidating its claim to a superseding political authority through Discovery into a formal institutionalized structure. Historians and political scientists have tended to treat the reorganization of the Company’s Council of Assiniboia, an unelected committee of Company fur traders and clergymen, as “the establishment of formal government,” in the region.⁴¹¹ Such a narrative, however, does not acknowledge the prior existence of Indigenous governance in the North-West, or the presence of Indigenous governance alongside the Company’s government. Foundational historical works have treated the pre-Council period of the North-West as a kind of primitive state of anarchistic politics, which has rendered invisible the Métis buffalo hunt and family-based political institutions that preceding the Company’s presence there. For example, Alexander Begg writes that before 1835,

the inhabitants at Red River...lived without laws and without protection, depending solely on their own good feelings and faith toward each other. For several years, a few councilors to assist the governor, aided by a small body of constables, nominally appointed, had been the only machinery of government existing in the settlement.⁴¹²

⁴¹⁰ Provisional Government of Assiniboia, "Declaration of the People of Rupert's Land and the North-West,"(Red River Settlement, 1869).

⁴¹¹ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 58.

⁴¹² Begg, *History of the North-West*, I, 234.

Yet, despite the lack of recognition of Métis governance in the region, history would prove that the Council of Assiniboia was utterly dependent on Métis support to exist, and to build its foundational institutions, like a bare-bones judicial system. The Council's attempts to influence Métis politics is generally overstated in the historical literature, in actuality the Council had to rely on diplomatic persuasion, rather than an expression of sovereign authority, to convince Métis to recognize its most basic policies.

This chapter, then, scrutinizes the Company's claims to govern Métis in the mid-nineteenth century North-West, and explores the Métis response to such claims. It also demonstrates that the Company's weak claim to political authority over the Metis, was well known to Métis leaders, and that they regularly challenged the legitimacy of the Company's governance. In numerous cases, the unilateral claims of governance led the Company to open conflict with the Red River Métis. The uncertainty of the Company's ability to govern the North-West in the mid-nineteenth century is clearly demonstrated by three clashes with the Métis at Red River: the Laroque assault of 1834 and the subsequent Métis demonstration; the St. Denis flogging in 1836 and the translation of the Company's punishment to Métis buffalo hunt justice; and the Sayer Trial of 1849, during which the Métis leadership pronounced the death of Company's claimed fur trade monopoly in the North-West. In each of these instances, Métis at Red River refused to recognize Company authority over them and instead asserted their own in its place. Métis were so successful in asserting *kaa-tipeyimishoyaahk* that they rendered the HBC's most cherished institution and reason-for-being, its much-touted (but practically unenforceable) monopoly on the trade of furs in the North-West. As this chapter shows, the Métis who contested Company authority were well aware that the Company's claims

to authority was built on shaky foundations, and that it did not, on the basis of some distant king's proclamation, override Indigenous relations to place or Métis practices of *kaa-tipeyimishoyaahk*.

By examining these conflicts, this chapter will argue that Red River Métis of the mid-nineteenth century typically viewed Company authority as an outside imposition of questionable legitimacy, and thus felt justified to act in ways that limited the reach of HBC governance into their daily lives. This chapter will therefore argue that in the mid-nineteenth century Métis were so successful in their rejection of HBC government and the assertion of their own authority, that almost all of the Company's political decisions in Red River and the North-West required the approval of the Métis population to be accepted as legitimate. This situation meant that, at the very least, tacit Métis consent was required for the Company's laws and regulations to be tenable. The Company's ultimate dependence on Métis consent for the establishment of new policies, can lead us to question: Was the Company really in charge? If not the Company as so many historians have suggested, then who was really governing the Métis people of Red River? This chapter argues there can only be one answer: Red River Métis were living in a state of *kaa-tipeyimishoyaahk*, a state of self-ownership. They were not beholden to the Company to manage their political affairs, and were, in effect, governing themselves.

Using Métis understandings of *kaa-tipeyimishoyaahk*—the Michif concept of Métis self-ownership, independence, and self-sufficiency—developed in chapter 3, this chapter will explore three sites of Métis political confrontation with the Company and its belief in the overriding political authority originating in the Company's Charter. As was discussed in chapter 2, most historical studies of nineteenth century Métis politics

presumes that the Hudson's Bay Company managed to gain legitimate political possession of the North-West, without ever problematizing *how* this possession came about. How a joint-stock company could possess huge tracts of lands, much of it unknown and inaccessible to the proprietors, has not been adequately accounted for in the historical discourse of the nineteenth century North-West. When Company ownership has been challenged in academic literature, the questions tend to concern the validity of the HBC Discovery claim to the Hudson's Bay drainage in relation to the Discovery claims of other empires. The Hudson's Bay Company Charter, however, was too removed from Indigenous ways of life, and based on too abstract claims rooted in unilateral assertions to be taken seriously as the true government of the territory. Even if these abstract claims were accepted by the Europeans present in the North-West, their small population was incapable of asserting these political claims by force. The literature rarely (if ever) questions the legitimacy of the Doctrine of Discovery. Even scholars friendly to the Métis like A.-H. de Trémaudan seem to uncritically accept the legitimacy of HBC possession through Discovery, which supposedly "gave it ownership of the land but also confirmed it as the legal government of the country."⁴¹³ In more recent works, historians like J.M. Bumsted reinforce these perceptions by stating matter-of-factly that,

the jurisdiction of the council [of Assiniboia], presided over by the governor of Assiniboia, extended in a circle radiating 50 miles from the forks of the Red and Assiniboine Rivers. Beyond this limit the only government was by officers of the HBC serving as magistrates.⁴¹⁴

By implicitly limiting discussions of government in the North-West—and the Red River Settlement in particular—to the British-derived institutions of the Company, historians

⁴¹³ Trémaudan, *Hold High Your Heads: History of the Metis Nation in Western Canada*, 41.

⁴¹⁴ Bumsted, *The Red River Rebellion*, 16.

and political scientists have obscured the larger practices of Indigenous governance in operation throughout the North-West. Indeed, the presence of pre-existing Indigenous governments was often the Company's greatest challenge to realizing its claim to possess and govern the North-West. Yet, in this climate of uncritical acceptance of the Company's governing legitimacy, few scholars have viewed Métis obstruction of Company government as an act of Métis self-determination in the North-West.⁴¹⁵ This omission not only diminishes the visibility of Métis political power in the nineteenth century, but over-emphasizes the ability of the Hudson's Bay Company to 'govern' Métis who were, for the most part, unwilling to be governed. In order to address these misconceptions, this chapter will examine nineteenth century Métis understandings of *kaa-tipeyimishoyaahk* as it relates to the first claims of European authority in the region, those made by the Hudson's Bay Company.

Governing at the Pleasure of the Métis

By the early 1830s, it was obvious to the Company that the Selkirk settlement scheme for Red River had proven a bust. Indigenous resistance, natural disasters, and ill-suited farming techniques had taken their toll on the Selkirk settlers, many of whom began to leave for greener pastures in Upper Canada and the American Midwest.⁴¹⁶ But at the same time that some European settlers were leaving, more Métis and Halfbreed families were taking up river-lots in Red River. When the Selkirk experiment ended in 1835 and

⁴¹⁵ Nor have extensive historical studies examined the resistance of other Indigenous peoples to Company authority as an act of self-determination.

⁴¹⁶ A massive flood in 1826 destroyed much of the Red River Settlement. As a result, many of the settlers, including a small group of Swiss military pensioners, left for the United States. This emigration "was another step in the emergence of the mixed-bloods as the dominant ethnic element in the community." Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 56-57.

the Company bought-out his claim, Red River was already on its way to being a definitively Métis- and Halfbreed community rather than the Scottish colony envisioned by Selkirk and the Company.⁴¹⁷ After the collapse of the Selkirk-run colony at Red River, the Company began experimenting with a formalized political system of its own in Red River. They appointed a Governor and Council of Assiniboia in 1835 made up of the European economic and religious elite of the Settlement,⁴¹⁸ and lacking any real Métis representation. Only one Métis—Cuthbert Grant—was to sit on an early Council, and no Métis would follow him for a generation. The absence of Métis councillors was considered a major slight to Métis, and immediately hurt the Council's standing with the Métis.⁴¹⁹

In addition to the absence of Métis participation, numerous historical commentators have remarked that the Council's authority was weak and regularly contested. Alexander Ross, the Sheriff of Assiniboia, had little confidence in his ability to enforce Company rule in the mid-nineteenth century, and that his contemporaries were “well aware that the peace was kept in Assiniboia by influence and persuasion, seldom by authority” and that “there was no means of raising a public force that could impress the Métis.”⁴²⁰ The reality was that the Company Government had insufficient police power to

⁴¹⁷ Ibid., 57.

⁴¹⁸ According to Bumsted “the Council of Assiniboia, which met infrequently, and passed mainly municipal regulations for controlling loose livestock, plus a handful of part-time constables constituted the entire government of Red River before 1835.” Ibid., 70-71.

⁴¹⁹ Begg, *History of the North-West*, I, 235.

⁴²⁰ W. L. Morton, "Introduction to the New Edition," in *The Red River Settlement: Its Rise, Progress, and Present State*, ed. Alexander Ross (Edmonton: Hurtig Publishers, 1972), xxii.

deal with any sort of Métis resistance⁴²¹ and so, the governor and council understood very well that they could govern “only with the consent of the Métis.”⁴²²

Well aware of its inability to enforce the Council’s claimed authority, the Company tried repeatedly in the 1840s to convince the British Imperial government to send military troops to Red River to enforce law and order over its inhabitants.⁴²³ The Company’s repeated plea for the dispatch of British troops vividly illustrates the degree to which armed force was required to compensate for the lack of legitimacy that the Company could command. While few problems tended to arise if the Company satisfied the Métis, when the Company deviated too far from policies that the Métis were willing to support, Company government quickly broke down. Between 1830 and 1850, there were at least three major instances where the Métis asserted their own self-governing authority over the Council’s attempts at governance: i) the Laroque affair in 1834; ii) the St. Denis flogging in 1836; and iii) the Sayer trial in 1849. In all three cases, the principle of *kaa-tipeyimishoyaahk* had been violated, and the Metis responded by using their own political power and authority—augmented by their superior military force—to undo decisions made by the Council.

In all three of these cases, however, though Métis were capable of expressing their authority in the Settlement, they did not seem interested in removing the Council entirely from the political life of the Settlement. While often at odds with the HBC, Métis often seemed willing to work with the Company again, once circumstances were returned

⁴²¹ Bumsted, *The Red River Rebellion*, 49.

⁴²² Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 12.

⁴²³ Bumsted suggests the presence of British troops prior to 1849 tempered Métis agitation around free trade. Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 109.

to their liking. Consistent with principles of *wahkohtowin*, violations of these relationships necessitated the restoration of balance in the relationship, not its dissolution. What was at the heart of the Métis-Company relations at Red River, then, was not relations between strangers in which violence could break out at any moment (as the Métis and Company were “strangers” in 1816 leading to a violent confrontation at Seven Oaks), but rather a kind of *wahkohtowin* agreement between the Métis people and the Company. Whatever their disagreements over policy and politics, the Métis seem to have acted as if the Company was an ally, and sometimes even family. So when conflict arose, Métis tended to act as if they were in disagreement with a friend or ally, but still in the situation together. This likely meant that Métis were comfortable with Company governance in the Settlement, so long as this governance did not supersede their own governance or their own sense of *kaa-tipeyimishoyaahk*. Diplomatic circumstances in Red River were such that the Company was obligated to respect their *wahkohtowin* relationship with the Métis by assisting them in the development of economic infrastructure, or by supplying food and other provisions in the event of disaster, as it did during the flood of 1826 and in the late 1860s during the grasshopper scourge.⁴²⁴ In return, the Métis would support the Company in its trading ventures, and assist in trade with their Indians relations. However, there was constant struggle to maintain balance in this *wahkohtowin* relationship. Attempts by the Company to curtail the Métis state of *kaa-tipeyimishoyaahk* in the North-West or to extend Company control over Métis lives was commonplace, and these inconsiderate gestures often provoked Métis mobilization against the Company to restore balance to the relationship. While many of these disputes

⁴²⁴ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 101.

were small-scale and mundane, three separate occasions over a fifteen-year period demonstrate that Métis were both willing and able to publicly refute Company authority, and assert their own in its place. But, this relationship with the Company *was a wahkohtowin* relationship, and meant that there was specific diplomatic protocol to pressure the Company to return to a balanced relationship between kin. Métis were more comfortable with threats of violence, than its actual use. Nonetheless, in several instances, the Company did not prove willing to respect Métis self-ownership, and violence could have been used by the Métis to address the dysfunctional relationship. The Laroque, St. Denis and Sayer incidents all shed light on how Métis sought to restore the balance in their *wahkohtowin* relationship with the Company, while at the same time ensuring their ongoing standing as *kaa-tipeyimishoyaahk*, the people who own themselves.

The Laroque Affair

The first significant Métis challenge to the Council of Assiniboia's authority in the mid-nineteenth century occurred in 1834. The Laroque affair broke open the racial discrimination that underpinned the Company's business practices, and it was the first instance of Métis political organizing aimed at transforming the Red River Settlement since the violent confrontation in 1816 at Seven Oaks.

Shortly before Christmas 1834, Antoine Laroque went to Upper Fort Garry to receive an instalment of his wages for an upcoming trip with a Company boat brigade. Thomas Simpson, a Company clerk, used insulting and disparaging language to address Laroque. The Métis tripman was not to be outdone by Simpson's insults and promptly

“returned the compliment” to the clerk. Simpson became enraged at Laroque’s disrespect for his betters, and the flaunting of a larger social structure that should have subordinated Laroque to Simpson. Simpson, in his anger, “struck him on the head with an iron poker.”⁴²⁵ With blood streaming from a wound on his head, Laroque ran out of the fort in order “to rouse other Métis to respond to this injustice.”⁴²⁶ As a result of this seemingly unprovoked attack on one of their own, “the entire Métis community in the settlement took up arms in Laroque’s defence,” surrounded the Council’s seat at Upper Fort Garry, and demanded that the Governor turn over Thomas Simpson to them to receive Métis justice.⁴²⁷

Complicating matters was Thomas Simpson himself, while he was well known for his “general contempt” of the Métis, he was also the well-placed cousin of Sir George Simpson, the highest-ranking Company officer in North America.⁴²⁸ As a result of Thomas Simpson’s station, he also came to be personally representative of the exclusionary and demeaning employment policies of the Company.⁴²⁹ While the assault was itself enough to generate conflict, these larger Métis grievances concerning their social status, employment prospects, and the arbitrary career limitations placed on Métis and Halfbreeds, who could not rise above the middle-management position of post-master in the Company hierarchy. Many other Métis were also concerned about the special status of the foreign-born gentry whose sense of privilege and entitlement caused social friction throughout the Settlement. In this instance, the arrogant, entitled and well-

⁴²⁵ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 54.

⁴²⁶ Ibid.

⁴²⁷ Ibid.

⁴²⁸ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 66.

⁴²⁹ Ibid., 66-67.

connected foreigner, Thomas Simpson, insulted and assaulted a Métis voyageur of humble origins, a common insult that likely resonated with Métis more generally and made Simpson's offence into a collective affront to the Métis as a whole.

What the Métis demanded of the Council, went beyond the immediate issue of Laroque's assault, addressing the larger political situation in Red River. The Métis demanded, "that Thomas Simpson be delivered up to them to be dealt with according to their law of retaliation."⁴³⁰ The Métis clearly had an understanding of justice independent of, and even superior to, the Company's judicial institutions. Since one of their own was wronged, and an imbalance had been created in the Métis-Company *wahkohtowin* relationship, it could only be corrected through Métis notions of justice. Since nineteenth century Métis justice tended to be both public and shame-based, this call for Thomas Simpson to be turned over to them was consistent with Métis understandings of justice and the restoration of *wahkohtowin* with their Company kin. Since a foreigner assaulted one of their own, the Métis also would have seen this as a collective diplomatic process, and called upon diplomatic practices from the plains tradition to ensure a restoration of balance and *wahkohtowin*.

Although Métis made their demands clear, the Company also sought to minimize the disruption that this event had caused and the two sides ultimately brokered a diplomatic compromise, mediated by a respected Catholic priest, Father Belcourt. The agreement, which bears striking similarities to plains-style diplomatic peace-making with the Sisseton Dakota, addressed the wrongdoing of the Company's man, and extracted reparations for both Laroque and the Métis people as a whole. The Company invited

⁴³⁰ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 54.

Laroque to “draw his wages without performing his trip” and the Company gave the assembled Métis “a ten-gallon keg of rum and tobacco.”⁴³¹ In doing this, the Company was forced to acknowledge the offences it committed against Laroque, and its collective sleight of the Métis people caused by a Company representative assaulting a Métis.

It is important, however, to note that balance to the relationship was restored only on terms consistent with Métis notions of justice and diplomacy. Only after their wronged man was satisfied, and his people given reparations for the collective insult did the armed crowd disperse and the siege of Upper Fort Garry end. This event can hardly be seen as a triumph for Company law and order, as its resolution was dependent upon plains diplomatic protocol, *and not the Company's institutions of justice*. In the end the negotiated compromise that restored balance to the Red River community was a victory for the Métis in the Settlement. The Laroque affair both challenged Company authority, and demonstrated the power-base of the Métis that could force the Company into diplomatic negotiations whenever they chose without having to resort to the governing institutions of the Company to mediate disputes. Métis had asserted themselves as an independent body that the Company must engage with *diplomatically* rather than as an internal population.

A second and much larger issue that the Métis mobilization sought to address, was the unequal social structure that the Company had created in the Settlement. Simpson, a foreigner who would leave after his contract was up, represented a class of workers in which most Métis could not aspire to join, not because of their education or

⁴³¹ Ibid., 55.

competence, but because they were considered to be socially inferior by the Company.⁴³²

Instead, “those higher positions were kept for British imports like Thomas Simpson.”⁴³³

Bumsted describes Red River in 1835 as having a social structure where,

a handful of fur trade officers (mainly from Scotland) allied to a small number of Scottish farmers, and an even smaller number of clergymen (from England and Canada) lorded it over a population mainly composed of mixed-bloods.⁴³⁴

The mobilization made clear the Métis resented the unequal social status accorded to them.

The ultimate success of this Métis mobilization, however, was the demonstration of the Company’s inability to coerce the Metis, or to mediate political disagreements. The mediator was after all a Catholic priest, unaffiliated with the Council, and known to be friendly to the Métis. The result was an obvious display of Métis authority that challenged to the Company’s assumptions that it governed the Métis as an internal population using domestic institutions like the Council of Assiniboia. Instead, Métis had forced it into an international diplomatic structure, as they would again in the future. In order to address what the Company saw as a breakdown in what was supposed to be the relationship between government and governed, the Company sought to transform the Council and justice system to be more responsive to Métis demands—such as the inclusion of Métis councillors. Attempts by the Company were also made to distance political decisions from economic decisions,⁴³⁵ although it would never really be able to disentangle these twin purposes. Accordingly in 1835, the Company re-organized the

⁴³² Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 67.

⁴³³ Ibid.

⁴³⁴ Ibid.

⁴³⁵ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 55.

Council of Assiniboia, bought-out Selkirk's claim to the region, and attempted to consolidate its political authority in the Settlement. Its actions were likely an attempt to domesticate the political relations with the Métis, and to ensure that it could assert a monopoly on the enforcement of justice and the rule of law. These aspirations would later come into conflict with the Métis, as they still failed to address Métis as *kaa-tipeyimishoyaahk*.

The Métis however, seem to have had a collective realization during the Laroque affair, according to Ens, "if they stood united, the company would have to gain at least their tacit assent to govern the colony."⁴³⁶ It was a lesson they would not forget, and it would structure Métis politics well after the exodus from Red River in the 1870s. The Métis would also adapt this model of using armed resistance to force diplomatic negotiations to many other political situations, allowing Métis governance to continue within the Settlement, even as the Company attempted to assert a monopoly on the legitimate expression of political authority in Assiniboia.

The Flogging of St. Denis

Shortly after the Laroque Affair was resolved, Métis in Red River would again transform what the Company saw as a domestic issue of justice, into a diplomatic process of negotiation between the Company's Council of Assiniboia and the Métis. As a direct result of demands for Métis justice for the assault on Laroque, the Company established a new justice system in Assiniboia. Sir George Simpson pronounced at the first meeting of the re-formatted Council of Assiniboia:

⁴³⁶ Ibid.

Under such circumstances, it must be evident to one and all of you, that it is quite impossible society can hold together; that the time has at length arrived when it becomes necessary to put the administration of justice on a more firm and regular footing than heretofore, and that immediate steps ought to be taken to guard against dangers from abroad, or difficulties at home, for the maintenance of good order and tranquility, and for the security and protection of lives and property.⁴³⁷

The timing of this move, and the reference to “difficulties at home” suggests that the new justice system was intended to both inspire the confidence of the Métis people who had lost faith in the Council after the Laroque affair, while also domesticating them under the Company’s rule of law. Since the Laroque affair so quickly escalated out of the Council’s control, a new regime of institutional justice could be used ensure that Company governance of the Métis was more effective in the future. It was only a matter of months however, before Métis again subverted Company authority with their own. The Métis once again transformed what was supposed to be a matter of domestic Company governance into a diplomatic crisis, where the reassertion of a Métis sense of justice was the only way to resolve the dispute.

The very first case faced by the new system of “firm and regular” justice was ironically an event that triggered a massive diplomatic controversy over Company justice. In 1835, the jury trial of Louis St. Denis, a Canadien accused of theft was heard in the new Company court system. A jury of his peers found St. Denis guilty of the offence. His sentence—public flogging—however, was to become intensely controversial.⁴³⁸ Public punishment and shaming were not radically discordant with Métis notions of justice, so the public nature of the sentence was not widely debated. However, for Métis, violent punishment was exceedingly rare for non-violent crimes, and usually only resorted to

⁴³⁷ Sir George Simpson, quoted in Begg, *History of the North-West*, I, 236.

⁴³⁸ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 72.

when the hunt government had exhausted all other options. So the spectacle of a violent punishment unsurprisingly offended the collective Métis sense of justice.

The horrific flogging of St. Denis was so offensive to the Métis who witnessed it that it created a general “feeling of indignation” among the Métis at Red River. The Métis then became outraged at this widely disproportionate punishment of someone whom they probably regarded as their kin. In response to this assault on their relative, Métis challenged the legitimacy of the Company’s justice system in its entirety. For example, “the man who administered the flogging had to flee for his life”⁴³⁹ taking refuge at Upper Fort Garry, which was again surrounded by armed Métis demanding retaliation and restorative justice for the assault of their French-speaking kin. Rather than being able to treat this dispute as a domestic issue, the Company again was forced to broker a compromise with the Métis, which saw the flogger escorted out of the Settlement,⁴⁴⁰ and the assurance that flogging would cease to be used as punishment, except in the most extreme circumstances.⁴⁴¹

The St. Denis flogging had created a divergence in Métis and Company understandings of legitimate and proportionate justice. Métis buffalo hunt laws sought the restoration of balance and management of social discord, so it used shame as a motivator, not a public spectacle of violent punishment to deter future offenders.⁴⁴² Métis justice was shame-based and punishments were relatively mild, “physical sanctions seemed to have been regarded as the last resort, to be used only against the habitual offender. ... For

⁴³⁹ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 56.

⁴⁴⁰ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 72.

⁴⁴¹ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 56.

⁴⁴² See Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 249-50.

the most part, reliance seems to have been placed on the moral effect of public ridicule among a proud people who found losing face more difficult to endure than losing possessions.⁴⁴³

Aside from Métis aversion to physical punishment, the law of the hunt had a prescribed sanction for theft: “Any person convicted of theft, even to the value of a sinew, to be brought to the middle of camp, and the crier to call out his or her name three times, adding the word ‘Thief,’ at each time.”⁴⁴⁴ Given the established norm of Métis justice, watching a man being whipped for a crime in which shaming was the norm, was likely seen by the Métis as a barbaric act and one that did little to enhance the legitimacy of Company authority.⁴⁴⁵ By forcing an early end to the punishment, and replacing the Company’s “firm and regular” law and order with buffalo hunt law, the Métis present at St. Denis’s flogging were also asserting the legitimacy of their own form of justice for their relations. Since many Métis families spent their summers on the plains exercising their own justice system independent of the Company, its use in the Settlement was likely considered a viable alternative to Company justice as well. After witnessing such an unsophisticated example of Company law and order, many Métis probably felt the need to re-assert their own notions of justice.

The Laroque and St. Denis incidents created a negative perception of the Company’s justice system from which it never entirely recovered. When larger issues came before the courts, especially those concerning the Hudson’s Bay Company

⁴⁴³ Woodcock, *Gabriel Dumont: The Metis Chief and His Lost World*, 34-35.

⁴⁴⁴ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 249-50.

⁴⁴⁵ The Laws of the Hunt, as recorded by Ross did allow for flogging after the third violation if a ‘running the buffalo ahead of the party’ offence was committed (ibid), which was a much more serious crime than theft, but it seemed to be rarely used, as most Métis found public shaming powerful enough of a deterrent. Woodcock, *Gabriel Dumont: The Metis Chief and His Lost World*, 34-35.

monopoly, Métis contested on an increasingly larger scale the legitimacy of the Company to make laws and enforce them. While the Métis never directly challenged the actual existence Council of Assiniboia, they did challenge the applicability of Company laws to Métis and Halfbreeds, regularly claiming exemptions from HBC laws by virtue of being “descendants of the original inhabitants” and “natives of the country.”⁴⁴⁶ And it was in this context, that Métis saw themselves as being outside the authority of the Company on its most important claimed right: the exclusive trade in furs in the Hudson Bay drainage.

‘Le commerce est libre!’: The Fourteen Questions, *Wahkohtowin*, and Sayer’s Trial

Métis understood themselves as being both *natives of the country*⁴⁴⁷ and *the descendants of the original lords of the soil*,⁴⁴⁸ a reality that entitled them to specific privileges such as a share in land title with their Indigenous kin and the ability to exist independent of Company authority. This understanding coloured most Métis-Company interactions, but was a specific point of contention for Métis and Halfbreeds who rejected the Company’s claim to a fur trade monopoly. While the Charter’s monopoly was understood as only applying to Europeans, and did not affect Indians trading with other Indians,⁴⁴⁹ Métis traders found themselves in a rather ambiguous position. The Métis leadership of the day considered themselves to be descendants of the original inhabitants—thus an Indigenous

⁴⁴⁶ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 99.

⁴⁴⁷ James Sinclair and 19 Other Metis and Halfbreed Free-Traders, "Fourteen Questions Letter, August 29, 1845," in *History of the North-West*, ed. Alexander Begg (Toronto: Hunter, Rose & Co., 1894), 261.

⁴⁴⁸ See Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 33-34.

⁴⁴⁹ O’Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 92.

people—and like their Indian kin beyond the scope of the Company’s monopoly. The Métis, looking back to a much older tradition of kinship-based trade and *wahkohtowin* insisted they were entitled to trade in manners consistent with the Indigenous diplomatic traditions of the prairies. The Company, however, rejected Métis Indigeneity, claiming that Métis were at least partially civilized, and therefore British subjects under the law. Therefore, the Métis were bound to the fur monopoly instituted by royal decree in the Company Charter. In short, the Company believed that Métis traders should only trade their furs with Company men, and that all other trade outside of this was illegal.

The difference in interpretation over who qualified as an Indigenous person, which was therefore exempt from the Charter’s authority, was a controversial and ultimately explosive issue. While the freedom to trade outside of the Company’s monopoly had important economic implications for Métis families, Métis did not just assert their right to “free trade” on economic argument alone. The free trade of furs was also rooted in *kaa-tipeyimishoyaahk* as well as practices of *wahkohtowin* gift-giving among Métis families and their Indian kin. Resistance to the Company fur monopoly was based on economic, social, and political understandings of Métis Indigeneity and was closely connected with Métis relationships with other Indigenous peoples. The Company’s view of Métis as mere British subjects, not as an Indigenous people, was thus wildly inconsistent with Métis self-understandings.

An increasingly public debate over Métis inclusion or exemption from the Company fur monopoly emerged in the 1840s, as well as numerous incidents of free trading, both of which led to a Company crackdown on Métis traders. This crackdown provoked mass Métis mobilizations against the Company in support of their inalienable

rights to hunt, trap, and trade as descendants of the original inhabitants. This debate also quickly incorporated a direct challenge by Métis to the authority of the Charter. In many ways the controversy over the Company's fur trade monopoly was a proxy debate, over which the ability of the whole Hudson's Bay Company to exert authority over the Métis, an Indigenous people, was questioned. The stakes in the fight over the monopoly were very high. In the Company's eyes Métis free traders posed a significant threat to their privileged economic position, and successful resistance to this aspect of the Charter could trigger the collapse of the Charter's political authority in the Settlement. For the Métis it again appeared that the Hudson's Bay Company was illegitimately interfering with the stature of Métis as *kaa-tipeyimishoyaahk*. Something had to give, and what gave way was the Hudson's Bay Company monopoly, due to the direct assertion of an armed and organized Métis political community at Red River.

For a considerable period of time, Métis had been free trading—that is, trading with Indians, Americans, and each other independent of the Company's infrastructure, and with little regard for the trade monopoly. A series of crop and agricultural failures in the 1840s only served to entice Métis families to a free trading life. In 1844 and 1846-1848, the Red River Settlement could not grow enough food to feed itself, which meant that many Métis families moved to the plains to hunt and trade for their livelihood.⁴⁵⁰ In addition to these economic push factors, the American fur market was opening up, which allowed Métis to trade with Americans unconcerned about the Company's claimed fur monopoly in the North-West. A popular destination for Métis trappers and hunters was St. Paul, Minnesota, where market fur prices were much higher than the artificially

⁴⁵⁰ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 74.

depressed monopoly rates found at HBC forts. Before arriving at St. Paul, there was also a considerable amount of trading between Métis families and their Indian relations, this trade was a central part of Indigenous gift-giving obligations among kin in the region that functioned quite independent of the Company's laws.⁴⁵¹ But, since the Company considered Métis as primarily British subjects, even trading with their Indian kin placed Métis families in theoretical violation of the Charter's monopoly, which forbid British subjects from trading with Indians unless authorized by the HBC to do so.

The Company considered Métis free trading and trading with their Indian relations to be illicit, and a drain on its profits. Falling back on the Charter, the HBC felt both morally and legally justified to stamp it out. However, the Company's blunt tactics of suppression were so wide-reaching that it pulled many more Métis into the free-trade controversy, especially when Company agents began opening the private mail of the Settlement's inhabitants,⁴⁵² or invading the private homes of Métis families in order to track down free traders:

The settlers' houses had been ransacked at all hours, without warrant or reason, in search of furs; and the police had more than once been sent after persons leaving for Minnesota, with instructions to overhaul their baggage and seize their furs, without inquiring whether such furs were obtained from the Indians or hunted by the owners themselves.⁴⁵³

While resistance to these laws had always existed, by 1845 it was widespread. A Halfbreed by the name of James Sinclair began to publicly organize against the Company's monopoly. Many Métis who found resonance with Sinclair's argument quickly joined with him, including one of the leading Métis hunt chief of the day, Jean-

⁴⁵¹ For a discussion of kinship-based trade see *ibid.*, 13.

⁴⁵² Gunn, "The Land Controversy."

⁴⁵³ *Ibid.*

Baptiste Wilkie.⁴⁵⁴ The free traders seemed to realize quickly that challenging the political legitimacy of the Charter to govern the economic activities of Métis and Halfbreeds was the most thorough way to challenge the legitimacy of the trade monopoly. So, in the late 1840s, the Métis and Halfbreeds of Red River set out to take down the Charter as the source of the Company's power to govern the economic and political lives of their peoples.

To express their objections to the Company, a group of prominent Métis and Halfbreeds drafted a letter to the Council of Assiniboia in August 1845, asking Alexander Christie, the Governor of Assiniboia, to clarify the Company's stance on the fur monopoly. Known as the "Fourteen Questions" letter, this document contained Métis and Halfbreed declarations of their Indigeneity, as well as the assertion of their rights and political authority existing independent of the Company's political regime. In the letter, these Métis and Halfbreed leaders state rather plainly that they have a right to trade as they please, consistent with their rights as "natives of the country" and "descendants of the original inhabitants." The Fourteen Questions letter is a seemingly rhetorical exercise, meant to feel out the political position of the Government of Assiniboia. Many of the questions are loaded, implying an obvious 'right answer' in their phrasing. Because of these qualities, the Fourteen Questions offer an enlightening description of how Métis and Halfbreeds understood their trapping and trading activities *as Indigenous peoples*. This letter also demonstrates the level of concern about the Company's attempt to criminalize even the most basic economic pursuits of Métis families. In a response to the

⁴⁵⁴ Begg, *History of the North-West*, I, 262.

hard-line stance of the Company, the Métis challenged the validity of Company authority based on their own Indigeneity. They believed that,

we, as natives of this country, and as half-breeds, have the right to hunt in furs in the Hudson's Bay Company territories whenever we think proper, and again sell those furs to the highest bidder; likewise having a doubt that natives of this country can be prevented from trading and trafficking with one another.⁴⁵⁵

It is no coincidence, then, that the first two questions in the Fourteen Questions letter are concerned with the rights of Métis and Halfbreeds as Indigenous people: "1. Has a half-breed, a settler the right to hunt furs in this country?" and "2. Has a native of this country (not an Indian) a right to hunt furs?"⁴⁵⁶ These two questions would exempt most of the population in Red River from the fur trade monopoly. The questions also make an important distinction in nineteenth century terminology between a "halfbreed" and a "native of the country." Halfbreeds, as a mixed-Indian and European, was considered by Métis to be a descendent of the original inhabitants, and thus an Indigenous person with kinship responsibilities and rights to political independence. Natives of the country were those born in the North-West and could include Métis, Halfbreeds, Canadiens, as well as the occasional Scot and Englishman. While the Fourteen Questions letter seems to accord special status to natives of the country, and sees all those born in the country as somewhat independent of the Company's laws, the letter nonetheless recognizes that Métis and Halfbreeds have rights and responsibilities that extend far beyond those natives of the country could claim. For example, question four asks "Can a half-breed sell his furs to anyone he pleases?" and question ten asks if half-breeds have "any rights or

⁴⁵⁵ Sinclair and Free-Traders, "Fourteen Questions Letter, August 29, 1845," 261.

⁴⁵⁶ Ibid.

privileges over Europeans”.⁴⁵⁷ With four questions on the subtleties of who has the right to hunt furs in the North-West, the letter writers were trying to ascertain what the Company’s views of an Indigenous right to trade furs, and who the Company believed possessed such rights. The specific question concerning the rights or privileges of Métis and Halfbreeds over Europeans, suggests that the signatories understood their rights as originating from their Indigeneity, rather than their place as British subjects. As Indigenous peoples, Métis and Halfbreeds fell outside of the Charter’s scope, and therefore outside of Imperial law, meaning that they could govern themselves, and continue their trade relations with other Indigenous peoples free from imperial interference.

Likewise concerned about kin responsibilities, and the superiority of these obligations to the Charter, the signatories asked in questions six and seven: “Can a half-breed receive any furs as a present from an Indian, a relative of his?” and “Can a half-breed hire any of his Indian relatives to hunt furs for him?”⁴⁵⁸ Both of these activities—trading with relations, and engaging in joint trading ventures with Indian kin—were central to the responsibilities of Métis kinship practices of the prairies. With outsiders attempting to regulate what were ultimately considered family matters, the exemption of these kin relations from Company oversight were necessary to remain *kaa-tipeyimishoyaahk*, and to protect Métis gift-giving and receiving for diplomatic and political reasons.

While the letter’s signatories were politically adept enough to profess a desire “not to do anything in opposition, either to the laws of England, or the honorable

⁴⁵⁷ Ibid.

⁴⁵⁸ Ibid.

company's privileges,"⁴⁵⁹ many signatories were free-trading at the time of their inquiry and quite comfortable flaunting royal authority at least to some degree. The future role of many of these signatories in armed opposition to the Company's monopoly in 1849, also attests to their comfort with violating British law. The focus of the Fourteen Questions suggests that Métis and Halfbreeds understood themselves as possessing specific Indigenous rights, rights that were exempt from the distant, unilaterally proclaimed Charter. In this vein, the letter's final question expressed doubt in the special privileges claimed by the Company, asking what "privileges" are granted to the Company by the Charter, because they had "never seen any official statements, nor known, but by report, that the Hudson's Bay Company has peculiar privileges over British subjects, natives, and half-breeds resident in the settlement."⁴⁶⁰

While the letter is ostensibly composed as if asking questions to Company authorities, the letter should be read as a challenge—a series of rhetorical questions that demanded justification for the enforcement of the monopoly. It is likely that the signatories had a great deal of experience navigating Company experience, asking these questions required the Company to defend their practices in light of Métis and Halfbreed opposition. A monopoly which had never been effectively legitimated in they eyes of those it most directly affected—the Métis and Halfbreeds—who were Indigenous peoples of the North-West, not mere British subjects as the Company insisted they were.

However, when Christie issued a formal response on behalf of the Company to the Fourteen Questions letter, his defence of the fur monopoly insisted that Métis and Halfbreeds were British subjects, and as such possessed no special rights over other

⁴⁵⁹ Ibid.

⁴⁶⁰ Ibid.

British subjects. The governor rejected any notion that Métis and Halfbreeds possessed Indigenous rights, dismissing the majority of their questions *en masse* in a single paragraph:

Your first nine queries, as well as the body of your letter, are grounded in the supposition that the half-breeds possess certain privileges over their fellow citizens, who have not been born in this country. Now, as British subjects, the half-breeds have clearly the same rights in Scotland, or England, as any person born in Great Britain...how unreasonable would [it] be to place Englishmen and Scotchmen on a less favourable footing in Rupert's Land than yourselves.⁴⁶¹

Despite the very clear implication of the Fourteen Questions letter that the Métis and Halfbreeds possessed Indigenous rights to hunt furs, and that they were not the same as any other British subject, Christie failed to address the signatories on these terms. He dismissed their concerns in a paragraph, noting that any difference in rights “between half-breeds and persons born in this country of European parentage” was “more unreasonable” than claiming special privileges beyond other British subjects.⁴⁶² It is clear from these flippant responses that Christie either did not fully understand the questions being asked, or that he could not see the Métis and Halfbreeds as they saw themselves, as Indigenous peoples possessing inherent Indigenous rights.

Like the Charter, Christie's response is underwritten by the logic of Discovery and a superior claim of European political authority in the North-West. Christie's response denied any claim to independent Métis authority and attempted to subsume Métis and Halfbreed political existence under Company authority. So, according to Christie the Métis and Halfbreeds were supposedly obligated to submit to the Company,

⁴⁶¹ Alexander Christie, "Governor of Assiniboia's Response to the Fourteen Questions Letter, September 5, 1845," *ibid.*, 263.

⁴⁶² *Ibid.*; Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 99.

who discovered the land, and only engage in trade relations as dictated by the representatives of the British Crown. It also denied two central features of Métis self-understanding. First it denied Métis *kaa-tipeyimishoyaahk*, that they were a self-governing and a politically independent people, and second, it denied that Métis were Indigenous, and thus exempt from the Charter which had no authority over inter-Indigenous trading practices. With all this considered, it is not surprising that the Métis were unhappy about Christie's response that, according to Alexander Begg, "did not attend to allay the feeling of opposition to the company."⁴⁶³ Being rebuffed, the signatories made their challenge of the Charter more explicit and went beyond the HBC, petitioning Parliament for the intervention of the British Government in 1846. The Métis "wanted the liberty of trade that prevailed elsewhere in the Empire"⁴⁶⁴ so that they would not "be reduced to a kind of slavery."⁴⁶⁵ However, it was not the demands placed before the British empire that would resolve the issue, (that petition took two years to receive a non-response from the Colonial Office⁴⁶⁶), but it was on-the-ground assertions of *kaa-tipeyimishoyaahk* in 1849 that generated the decisive change the Métis wanted, combined as before with the inability of the Company to realize the privileges it claimed through the Charter.

In early 1849, four Métis traders were arrested for trading furs with Indians, and violating the Hudson's Bay Company monopoly. Upon hearing of the arrests, the Métis resolved themselves to challenge the Company and to defend their rights as descendants

⁴⁶³ Begg, *History of the North-West*, I, 264.

⁴⁶⁴ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 101.

⁴⁶⁵ *Ibid.*

⁴⁶⁶ *Ibid.*, 102.

of the original inhabitants. Using buffalo hunt protocol Métis chose leaders to organize their response. Jean-Louis Riel, Louis Riel's father, was chosen as the leader of the movement, while other prominent Métis were chosen as his counsellors: Benjamin de Lagimodière, Urbain Delorme, Pascal Bréland, and Francois Bruneau.⁴⁶⁷ Both Delorme and Bréland were themselves prominent hunt chiefs, and Bruneau would one day sit on the HBC's Council of Assiniboia as a representative of the Métis. The prominence of the counsellors is a clear demonstration of the widespread backing that the movement had among the Métis in Red River. The movement also attracted the support of an educated and politically adept Catholic priest, Father Georges Belcourt, would offer sound advice to the Métis.

A central tenet of the Métis argument in favour of free trade was expressed by Riel and Belcourt: the Hudson's Bay Company Charter was invalid, and that violation of, and resistance to, the Company's monopoly was therefore justified.⁴⁶⁸ The rationale of the Métis argument was the same as in the Fourteen Questions letter: that being the descendants of the original inhabitants—by being an Indigenous people—they possessed rights to trade furs independent of the privileges claimed by the Company. To assert a state of *kaa-tipeyimishoyaahk* on the day of the trial of the four free traders the Métis armed themselves and surrounded the courthouse at Upper Fort Garry. The Sheriff of Assiniboia, Alexander Ross noted that, “the object of the mob was to resist the infliction of any punishment, whether of fine or imprisonment, on the offenders”.⁴⁶⁹ Ross counted 377 men armed with muskets and rifles, in addition to “groups armed with missiles of

⁴⁶⁷ Trémaudan, *Hold High Your Heads: History of the Metis Nation in Western Canada*, 46.

⁴⁶⁸ Stanley, *Louis Riel*, 14.

⁴⁶⁹ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 373-74.

every description,”⁴⁷⁰ the balance of which greatly outnumbered the small contingent of British army pensioners brought in to keep order.

In an act of further defiance of the Company’s justice system, the Métis physically protected the first trader to be tried, Guillaume Sayer, refusing to acknowledge the Court’s summons. The Court, upon several failed attempts to get Sayer to appear,⁴⁷¹

sent word to the half-breeds, that they might appoint a leader, and send in a deputation to assist Sayer during his trial, and state in open court what they had to urge in his defence.⁴⁷²

Agreeing to this compromise, the Métis selected the Halfbreed leader and vocal free trader James Sinclair to represent Sayer at trial.⁴⁷³ While Sinclair was a Halfbreed, and not Métis, he was nonetheless a staunch Métis ally who also asserted the Halfbreed right to hunt furs on the basis of their Indigeneity, regardless of Company depictions of Métis as mere British subjects. Sinclair was also the moving spirit of the Fourteen Questions letter in 1845 as well as an articulate speaker.

After the selection of Sinclair, the Métis initially seemed content to let their position be heard by the Company leadership, but just to be sure they also sent in eleven other well-armed Métis with Sinclair who “took up a position in the court-room, with Sayer under their protection.”⁴⁷⁴ Not only did the Métis and Halfbreed contingent sent to the Court number twelve, the number of chosen leaders in the political organization of the buffalo hunt, but they also identified themselves to the court as the “Delegates of the

⁴⁷⁰ Ibid., 374.

⁴⁷¹ Ibid., 375.

⁴⁷² Ibid.

⁴⁷³ Since the presiding judge Adam Thom notoriously spoke no French, the choice of a Halfbreed over a Métis was also likely because of his fluency with the language used in the Court.

⁴⁷⁴ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 375.

people,⁴⁷⁵ thereby implying a representative and governance function to their presence there. Having a large group of armed Métis men inside and outside of the courtroom demonstrated the power base of the Métis, while the presence of arms also reminded the Company establishment who possessed the monopoly of the use of force in the Settlement. Outside of the courtroom, Sheriff Alexander Ross counted a guard of twenty Métis at the courthouse door, while fifty others guarded the outer gate of the Fort's courtyard.⁴⁷⁶ The Métis also had couriers who "kept in constant motion going the rounds, and conveying the proceedings in the court to the main party outside, so that at a moment's warning, had anything gone wrong, a rush was to have been made to rescue Sayer."⁴⁷⁷ From Ross's eyewitness testimony, it is apparent that the Métis never intended for Sayer to be punished, and there were simply too many Métis in strategic positions around the Fort for the Company to take any action without Métis consent. Sayer could be removed at a moment's notice, and protected by the nearly four hundred armed Métis inside the Fort's walls, as well as many more armed men outside.

While the Métis could have shut down the trial outright, it is likely that the Métis leadership proceeded with the trial to make their case to the Company establishment and give the opportunity to the Company to allow the traders to go free. It was likely an opportunity to avoid violence and bloodshed, giving the Company—as they had often given it in the past—the opportunity to right its wrongs and restore balance to their relationships. It was another call by the Métis and Halfbreeds for a diplomatic negotiation, while the Company maintained was, against all indication otherwise, just a

⁴⁷⁵ Circular Court of Assiniboia, "The Honourable Hudson's Bay Company V. Pierre Guilleaum Sayer, May 7, 1849,"(Winnipeg: Manitoba Archives, 1849).

⁴⁷⁶ Ross, *The Red River Settlement: Its Rise, Progress, and Present State*, 375.

⁴⁷⁷ Ibid.

domestic legal issue. The Métis decision to argue their case in court was not necessarily a recognition of the Company's ability to make determinations of legality in place of Métis political institutions, for the Métis could have ended the trial at any time they chose. As early as 1845 with the Fourteen Questions, the Métis and Halfbreed leadership had already determined what was legal, but they seemed determined to use the trial as a diplomatic means to convince the Company to respect their point of view.

Inside the courtroom, Sinclair, acting in his capacity as Sayer's representative, and as the spokesperson for the Métis and Halfbreeds of Red River, immediately challenged the validity of the Charter. The Recorder, Adam Thom,

explained to them from the Honourable Hudsons Bay Company's Charter that as the Charter then stood the Company had the exclusive right to trade until that Charter was set aside by act of Parliament any person transgressing by trading was committing a breach of the laws.⁴⁷⁸

Sinclair replied that many prominent members of the Imperial Parliament "entertained great doubts as to the validity of the H.B.C.'s Charter,"⁴⁷⁹ a perspective likely gleaned from the mixed Imperial response to the Métis and Halfbreed petition to London in 1846. Sinclair's challenge to the Charter evidently went on for some time and almost certainly involved the assertion of Métis and Halfbreed Indigeneity as an exemption from the Charter's authority. Unfortunately the court records describe the lengthy argument by Sinclair as "some further discussion."⁴⁸⁰ As the Charter was the first topic of discussion at Sayer's trial, brought up even before a plea was entered, it is apparent that the heart of the issue was not simply a matter of the trial at hand, but was a fundamental challenge to

⁴⁷⁸ Circular Court of Assiniboia, "The Honourable Hudson's Bay Company V. Pierre Guilleaum Sayer, May 7, 1849."

⁴⁷⁹ Ibid.

⁴⁸⁰ Ibid.

the Company's power to create and enforce laws over the Indigenous Métis and Halfbreeds through the Charter.

Sayer never denied that he traded outside of the Company's monopoly, rather he stated claimed to have traded with his relatives.⁴⁸¹ In other words, Sayer and the other traders were motivated *wahkohtowin* gift-giving obligations with his relatives, something more immediate and real to Métis families than the abstract pronouncements of the Charter. Much of Sayer's trading was actually conducted with his relatives through practices of ritualized gift-giving. Sayer told the court his father "got a *present* from his relations of a few skins...2 parchment skins, 3 cat skins and 1 martin skin" and that he then "traded some furs" and received blankets in return.⁴⁸² By receiving a gift from his Métis relatives of a few skins under the principles of *wahkohtowin*, Sayer's family was obligated to reciprocate with some furs and blankets. The exchange of these items was a symbolic renewal of *wahkohtowin* between the two Métis families. Macdougall notes the centrality "reciprocal sharing" and "respectful behaviour between family members" was the fundamental basis for Métis kinship relations and diplomacy in the fur trade era.⁴⁸³ These presents from Sayer's relations were a way of reinforcing familial relations "grounded in reciprocal support".⁴⁸⁴ By trading within one's family network, Métis were not merely trading for profit, they were also engaging in vital kinship responsibilities, many of which were central to Métis governance and diplomatic relations with other Indigenous peoples. Refusal to trade with one's relations—even if using the Company's much-touted monopoly as a rationale—would be an insult to one's relations, violating the

⁴⁸¹ Ibid.

⁴⁸² Ibid. Emphasis added.

⁴⁸³ Macdougall, *One of the Family: Metis Culture in Nineteenth-Century Northwestern Saskatchewan*, 45.

⁴⁸⁴ Ibid., 185.

foundational principles of *wahkohtowin*. It could even result in the estrangement of one's kin. By refusing to engage in this gift-giving ceremony, Sayer would have risked larger diplomatic repercussions for his family's relationship with other families. When the Company began to impinge on this very mundane practice, it had overstepped its bounds. From a Métis perspective, then, Sayer's actions were well within the accepted norms of economic practice, and would have been commonplace for most Métis families whether or they considered themselves to be free traders. Sayer's perspective would have also been shared by many sitting in the jury, many of whom were Métis and Halfbreed. The jury even contained noted critics of the monopoly like John Garrioch⁴⁸⁵ and Donald Gunn, the latter being the jury's foreman.⁴⁸⁶ Most notably, however, the jury contained several Métis soldiers from the free trade party demonstrating outside the courthouse, including Dom. Ducharme and old Dauphinnas who both sat in the jury box "with powder and shot pouches on."⁴⁸⁷ Given this prevalence of Métis and Halfbreeds on the jury, the reciprocal sharing logic of *wahkohtowin* that informed Sayer's actions, would have been well understood by a significant portion of the jury.

Ironically, the jury delivered a guilty verdict for Sayer, since all were in agreement that he did violate the Company's law, the law that the jury was given to judge him on. But the jury also recommended leniency from the Company court "as it appeared that he thought that he had a right to trade as he and others were under the impression that

⁴⁸⁵ Circular Court of Assiniboia, "The Honourable Hudson's Bay Company V. Pierre Guilleaum Sayer, May 7, 1849."

⁴⁸⁶ Ibid.

⁴⁸⁷ Lieutenant-Colonel Caldwell, "Letter to Chief Factor Donald Ross," (Winnipeg: Manitoba Archives).

there was a free trade.”⁴⁸⁸ The Company’s prosecutor seemed content with a symbolic guilty verdict and agreed with the mercy recommendation. In the end, despite being found guilty, Sayer was not given a punishment by the court.⁴⁸⁹ This outcome—a guilty verdict without punishment—was probably calculated by the Company to appease the armed crowd of Métis outside. It probably intended to show that while Sayer had indeed violated the Charter, the Company was a merciful governing authority responsible to its subjects. The HBC probably intended for this decision to uphold the Charter as a valid document capable of both regulating trade and enforcing laws, but the Métis understood this outcome for what it was, an inability of the Company to force their law onto the Métis people.

The outcome of Sayer’s trial meant that the Company was proven unable to regulate an everyday *wahkohtowin* obligation between Métis families, demonstrating the political impotence of the monopoly, and the death of the Charter’s authority over the Métis people.⁴⁹⁰ The Métis knew very well that this was a major victory. One of the jurors, Dom. Ducharme, ran outside to share the news with the people. He called out “Le commerce est libre!” which became the new rallying cry of the people. And it was true, from this point on, trade was free, and the Company ceased to harass Métis fur traders for trading with non-Company traders.

Sayer’s trial also had a long-term impact on politics in the North-West, ten years later, Donald Gunn would describe that day as a victory for the Métis over the Charter, rendering it “virtually dead”:

⁴⁸⁸ Circular Court of Assiniboia, "The Honourable Hudson's Bay Company V. Pierre Guilleaum Sayer, May 7, 1849."

⁴⁸⁹ Ibid.

⁴⁹⁰ Gunn, "The Land Controversy."

The day for the trial arrived and to a certainty there was present a formidable array of ‘the little Guns and Pistols of Red River.’ And most successful they were in battering and upsetting ‘the great chief, the charter’ ... they frightened the aforesaid worthy to death. And who is there in Red River so blind as not to see and so uncandid as not to acknowledge that he has been virtually dead ever since? Thus I have shewn how force has been opposed to force, and how signally the charter failed to maintain its multifarious assumptions when popular opinion was armed against it.⁴⁹¹

Historians tend to agree that Ducharme’s announcement of free-trade effectively killed the Charter. George Stanley writes:

The Company had, in reality, lost the battle to hold its privileged position in the matter of trade. There was still the statement in the Charter, still the regulations in the book of rules but so far as the Red River Settlement was concerned the monopoly was as meaningless as it was ineffective. Every year more and more carts made their way south to the trade centres in Minnesota.⁴⁹²

The outcome of Sayer’s trial is demonstrative of the political reality of the North-West in several important ways. First, that the Métis people, by the forceful assertion of their political authority, could challenge any institution, law, or regulation made by the Hudson’s Bay Company. The monopoly of the fur trade was the Company’s most treasured privilege, and the Métis had destroyed it by publically rejecting its existence. Second, the trial’s outcome demonstrated the very weak political position that the Company occupied, gaining its authority from a paper document, and going up against a people that could at any time assert its *kaa-tipeyimishoyaahk* with the force of large numbers. The Company’s actions after the Sayer trial also demonstrates the changing power of the Métis people and their ability to assert their Indigeneity against the Company’s claim that they were simple British subjects. Ultimately, the trial demonstrated to everyone that Métis protocols, like *wahkohtowin* gift-giving obligations,

⁴⁹¹ Ibid.

⁴⁹² Stanley, *Louis Riel*, 13.

trumped Company institutions. Métis Indigeneity had come up against the Company's privilege *and won*.

Throughout the mid-nineteenth century, as a result of Métis assertions of their Indigeneity and political authority, the Company was continually forced to overhaul its governing institutions in order to hold on to some legitimate standing in the Settlement. Likewise, immediately after the trial ended and the Métis went home, the Governor and Council of Assiniboia proceeded to make extensive political reforms, including creating Métis representation of the Council for the first time. In 1850, the Council of Assiniboia let it be known that it would be including six Métis representatives to its body in order to bolster its legitimacy in the eyes of the Métis.⁴⁹³ But even the choice of Métis appointees was designed to reinforce the Company's political authority. While the Métis initially assumed that their inclusion in the Council of Assiniboia would be chosen by the Métis community through popular election and would be directly accountable to the Métis people in Red River, the Company saw fit to appoint them from its own preferred constituency. The Company appointed its Councillors from Métis that best suited their interests in an effort to maintain the oligarchic arrangement that defined the Council of Assiniboia.⁴⁹⁴ Several Métis notables like Jean-Louis Riel, who commanded the confidence of the Métis people were not included in the expanded Council. Stanley suggests that the senior Riel "was looked upon as too independent, too firm to be easily moulded to the will of the Governor".⁴⁹⁵ This move provoked a predictable response from

⁴⁹³ "Sir George Simpson therefore recommended to the Governor and Committee of the Hudson's Bay Company in London the appointment of six mixed-bloods to the Council, and then permitted knowledge of this recommendation to trickle through the Red River Settlement" *ibid*.

⁴⁹⁴ O'Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 111.

⁴⁹⁵ Stanley, *Louis Riel*, 16.

the Métis. In 1850 they again wrote the Governor of Assiniboia: “You promised us last year that we should have councillors chose from our nation by ourselves, but they were nominated without our knowledge.”⁴⁹⁶ Before the inclusion of Métis in the nominal government of the Settlement was even realized, the Company was already facing heavy criticism on what that representation would look like.

In the immediate aftermath of the Sayer trial, Jean-Louis Riel was still organizing against the zealous pro-monopoly HBC Recorder Adam Thom, who ruthlessly pursued Métis free traders. Thom was also unable to speak French, which did not fit with the bilingual character of Red River. Thom’s pursuit of Sayer had not endeared him to the Métis, and so, after a brief hiatus from active duty following the Sayer demonstrations meant to let the dust settle, Thom returned to his duties.⁴⁹⁷ As soon as he returned, the Métis protests resumed, so that “whenever he sat in judgement he did so by the grace of Riel and the métis.”⁴⁹⁸ Eventually, Thom was removed, and much to the jubilation of the Métis, left the Settlement to be replaced by a bilingual Recorder that the Jean-Louis Riel’s Métis supporters found more tolerable. In yet another setback to the legitimacy of Company justice, the Métis were able to remove a troublesome adversary from the bench, to be replaced with someone more in suiting to their political aspirations, and to do it in an atmosphere where the Company’s trade monopoly was unenforceable. After the expulsion of Thom it would be three years before the first Métis, François Bruneau, received an appointment to the Council of Assiniboia. Maximilien Genthon, Salomon

⁴⁹⁶ Quoted in O’Toole, “The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba,” 112.

⁴⁹⁷ Stanley, *Louis Riel*, 15.

⁴⁹⁸ *Ibid.*

Hamelin, and Pascal Bréland joined him in 1857 as Métis Council members.⁴⁹⁹ The presence of Métis on the Council of Assiniboia would ultimately do little to placate the Métis, which as we will see in the next chapter, were unable to convince Métis to abandon later assertions of *kaa-tipeyimishoyaahk* in Red River, or even to prevent the Métis leadership from dissolving the Council of Assiniboia and creating their own representative government in 1869-1870.

Conclusion

Throughout the mid-nineteenth century, Métis consistently asserted as themselves as *kaa-tipeyimishoyaahk*, a self-owning Indigenous people. Despite claims by the Hudson's Bay Company that Métis were British subjects with an obligation to adhere to the Company's Charter and Company law, the HBC had difficulty enforcing this position. Métis did not reject Company governance outright, but they did regularly deny that it applied to them. Throughout the mid-nineteenth-century Métis consistently refused to recognize the Company's authority to control their lives. Given the very flimsy origins of the Company's professed political authority—the unilaterally asserted Charter, and the quitrent-based Selkirk Treaty with the Cree and Anishinabe in 1817—it is clear that the Métis people never ceded their *kaa-tipeyimishoyaahk* to the Hudson's Bay Company, or even fully supported the Company's government.

In the 1850s and 1860s, after the collapse of the Hudson's Bay Company monopoly, Métis found themselves in a new age of unrestricted *kaa-tipeyimishoyaahk*. The new economic prosperity, as well as the destabilization of Company authority that

⁴⁹⁹ Ibid., 16.

Sayer's trial had created, meant that Métis were more contented with the political dynamics of Red River than they ever had been before.⁵⁰⁰ Métis responded to this new economic reality by establishing themselves in a number of lucrative market-oriented enterprises, increasingly becoming "enmeshed in a complex network of commerce" with their relations and other emerging prairie traders.⁵⁰¹ Many families adopted the full-time lifestyle of *les gens libres*—fully independent, self-sustaining free traders, living in a state of total *kaa-tipeyimishoyaahk*—while others became independent 'carters' that shipped trade goods over the prairies in Red River carts. The decades following Sayer's trial saw a rapid diversification of the Métis economy, which lessened Métis families' dependence on trade with the Company. They could find what they needed elsewhere, and could now trade with whomever they pleased, without fear of sanction by Company agents.

The most liberating economic niche for *les gens libres* families was in buffalo robes—the skin of a buffalo with its winter coat preserved—which could fetch up to \$10 per robe in St. Paul.⁵⁰² Buffalo robes were a valuable commodity because they were made the animal's thick woollen winter coat, which meant that the buffalo needed to be harvested when the winter coat was still on. So buffalo robe hunting was a winter vocation. These *hivernant* or wintering families spent their winters on the plains to be near the buffalo, spending less of their time in Red River.⁵⁰³ The shift to a *hivernant* existence by many Métis families further displaced the Company as a viable authority

⁵⁰⁰ Bumsted, *The Red River Rebellion*, 20.

⁵⁰¹ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 73.

⁵⁰² This was an enormous sum, for example, when Peter Erasmus was engaged as a translator for the Palliser Expedition he was paid \$75 per year. Erasmus, *Buffalo Days and Nights*, 57.

⁵⁰³ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 75.

over the plains-based Métis. In the years before Sayer's trial, Métis political relations with the Company were in kept in check by the need to maintain good economic relations with the only major commercial entity in the North-West. After the collapse of the Company's monopoly, however, Métis families found better prices and better wares in Minnesota, and the Company's political influence among the Métis was weakened considerably when it no longer occupied the privileged economic position before 1849. So when Métis families spent longer periods of time on the prairies and away from Red River, the ability of Company entities, like the Council of Assiniboia, to influence Métis political decision-making, also waned. This political and economic space was quickly filled by Métis buffalo hunt brigades, which were self-contained political and economic units that "engaged in a complex, multifaceted behaviour" governed by the governance protocols of the hunt, and an economic ethos of familial self-ownership.⁵⁰⁴ Thus, the collapse of the Hudson's Bay Company's fur trade monopoly in 1849 was the beginning of a new era for the Métis people. The following years were an era of unprecedented prosperity and an age that saw many sweeping economic, social, and political changes in the North-West. As liberating as this era was, none of the Métis who attended Sayer's trial could have predicted that their children would be confronting an even more dangerous group of strangers that would again threaten their *kaa-tipeyimishoyaahk* in twenty-years time.

⁵⁰⁴ Macdougall and St-Onge, "Rooted in Mobility: Metis Buffalo-Hunting Brigades," 19.

Chapter 6 –‘transferred to a strange power’: Canada-Métis Relations and the Formation of the *Comité National de Métis* in 1869

In the late 1860s, much to their surprise Métis learned that Canadian politicians were offering to “purchase” the North-West from the Hudson’s Bay Company. Not only did this revelation renew debates about the validity of the Company’s possession of the North-West, but it could mean the replacement of a politically weak Council of Assiniboia long domesticated by the Métis, with a more forceful government made up of strangers from the East. Métis kept informed of this developing situation by reading the local newspaper, *The Nor’-Wester*,⁵⁰⁵ an annexationist paper in Red River, run by local Canadian annexationists. Armed with the knowledge that Canada intended to flood the North-West with thousands of settlers from Ontario, the Red River Métis launched a substantive military resistance to Canadian annexation of their homeland. Central to the Métis resistance was a comprehensive intellectual challenge to Canada’s ability to purchase the North-West without Métis consent, who as an Indigenous people commanded a prior relationship to the territory, along with their Cree, Saulteaux, and Assiniboine relatives. So in 1869, when Canada, the Company, and the Crown, were preparing the transfer of the North-West, an increasingly confident Métis people were organizing a response that would voice their collective rejection of the transfer agreement.

Prior to the transfer discussions in London, Métis had asserted themselves as *kaa-tipeyimishoyaahk*, calling on an Indigenous authority that existed entirely independent of

⁵⁰⁵ The *Nor’-Wester* diligently reported on the developing political events, and reprinted articles about the transfer negotiations from other newspapers in St. Paul, Montreal, Toronto, New York, and London.

the Crown. To substantiate their political power in response to the transfer talks, Métis created a series of increasingly complex political institutions, that were intended to govern Red River on behalf of the people who lived there, regardless of the outcomes of the London meetings. It was during this mounting resistance to Canadian annexation that the Métis people began articulate themselves as a *nation* in addition to an interlocking network of relations that shared a common culture, language, and worldview. Where previously Métis political authority was invested primarily in self-owning extended family units, Red River in 1869 marks a shift towards an investiture of political authority in a larger entity, *the Métis nation*. This new sense of nationalism that led to an increasing comfort with more permanent governing institutions, including ultimately a provincial government for a new Métis/Halfbreed-majority province.

Métis understandings of *wahkohtowin* and *kaa-tipeyimishoyaahk* were central components of the 1869 Métis resistance to Canadian annexation of their homeland. Through principles of self-ownership and family-based diplomacy, Métis rejected the Company-run Council of Assiniboia as a viable government for Red River, and instead formed their own *Comité National de Métis* to replace it.⁵⁰⁶ The *Comité* was then successful in keeping the Canadian-appointed government out of the North-West by constructing a Provisional Government to act as the lone governing authority in Red River. By comparing the differing political claims to the North-West made by the numerous political actors in Red River in the late 1860s—the Métis people, the Halfbreeds, the Dominion of Canada, the Crown, and the Hudson's Bay Company, we can assess the validity of each entity's claim to govern the region.

⁵⁰⁶ Legislative Assembly of Assiniboia, "Sessional Journal of the Legislative Assembly of Assiniboia," (Winnipeg: Provisional Government of Assiniboia, 1870). June 24 1870.

Unlike the British institutions that in the North-West that found their legitimacy elsewhere and pronounced it as fact in Red River, Métis governments used buffalo hunt protocol to gain the respect of their people. The *Comité* of 1869, emerged out of a common Métis political language—the language of the buffalo hunt, *kaa-tipeyimishoyaahk*, and *wahkohtowin*—which allowed Métis to quickly and effectively organize themselves using political forms that bestowed legitimacy on their governments. Métis also strategically incorporated European political norms to their governing bodies, utilizing a loose parliamentary procedure, drawing on characteristics from both European-style liberal democracy and the buffalo hunt. Thus, the buffalo hunt, and its attendant institutions allowed Métis to transfer the legitimacy of their traditional form of government to semi-European-styled legislative bodies. When Métis political bodies took these forms, European governments more easily recognized them *as a government among other governments*, a feat which the traditional form of the buffalo hunt could not have accomplished. The Métis were quite successful at organizing their people using these institutions, so successful in fact, that by the end of November 1869, the Métis *Comité* became the only viable government for Red River—the *Comité* formally expelled the Canadian government-in-waiting from the North-West, then replaced the Council of Assiniboia by seizing Upper Fort Garry and assuming control of the Company's economic and political infrastructure. In a final demonstration of Métis political primacy in the Settlement, the *Comité* published *The Declaration of the People of Rupert's Land and the North-West* which informed Company, Crown, and Canada that they would only allow Canada access to the North-West, if the new territorial government was consistent with their rights as a free people.

The Distrust of Canada in Red River

The foundation of prairie diplomacy was *wahkohtowin*, the interlocking web of kinship that bound families, bands, and nations to one another. Family, created through biology or diplomatic ceremony, defined relationships between peoples, and created mutual responsibilities that would protect families from the unpredictable danger of strangers and non-relatives. While the Métis needed to regularly remind the Company of its relationship with, and obligations to, the Métis people, it was generally known that the Company was expected to acquiescence to Métis demands to maintain good relations with the people. The Company was flexible in a way that made Métis-Company relationships dependable and predictable. Company men had shown themselves to understand the obligations of *wahkohtowin*, and, through years of well-established trade relations, gift-giving ceremonies, and support in times of shortage, Métis were able to recognize the Company as a kind of relative. Unlike the Company, however, Canada had no working relationship with the Métis people, and lacked a shared relationship that would mitigate political crises. Making matters worse, those Canadians known to the Métis people, those Canadians in Red River who thought themselves the vanguard of civilization in the North-West, were the kind of arrogant and unpopular men who seemed incapable of being a good relative.⁵⁰⁷ Previous experience with Canadians did little to convince the Métis people that Canada could be more than a diplomatic stranger.

The most obvious indications that Canadians were strangers could be found in the behaviour of Red River's "Canadian party," a much detested group of Ontario émigrés to

⁵⁰⁷ Begg refers "a clique of men, unpopular through their own deeds" who made the Canadian government "dreadfully unpopular with the majority of the Settlement," Begg, "Letter to the *Globe*, November 10, 1869," 83.

Red River, who advocated the unrestricted Canadian agricultural settlement of the North-West without regard for the Indigenous peoples who lived there. This vocal clique made disseminated its views known through the only newspaper in the North-West, the *Nor'-Wester*, propagandizing Canadian settlement of the region. Through the *Nor'-Wester* Métis studied the intentions of the Canadian expansionists, while assessing their suitability as potential kin, and found that the Canadian party's motives articulated in the paper did not accommodate an ongoing Métis presence in the North-West. The paper's self-styled responsibility, after all, was to "use every means in our power to further the advancement of settlement and civilization throughout the vast domain" of the North-West and to "reclaim this fair land from the hand of the monopoly and the savage."⁵⁰⁸ Due to this propagandistic vigour and hostility to an Indigenous presence in the region, the *Nor'-Wester* was intensely unpopular with the locals, although still widely read.⁵⁰⁹

The paper did little to inspire Métis confidence when it began reporting on Canadian plans to "acquire" the North-West in its Confederation issue on July 13, 1867. The *Nor'-Wester* printed a memorandum by Lord Buckingham, the Imperial Secretary for the Colonies, which supported the annexation of the North-West to Canada. Buckingham wrote that "no natural barriers exist to the physical union of the British North American Colonies from the Atlantic to the Pacific Ocean," the only complication in his estimation was "the disposal of the claims of the Hudson's Bay Company."⁵¹⁰ Dispensing with the Company's claim would allow the North-West to "be at once placed under a properly

⁵⁰⁸ "Editorial," *The Nor'-Wester*, July 28 1868. The "monopoly" and the "savage" refers to the Company and Indigenous peoples.

⁵⁰⁹ Begg notes that the *Nor'-Wester* was considered to be "the joke of the settlement," *History of the North-West*, I, 356.

⁵¹⁰ "Extracts: From a Memorandum to the Duke of Buckingham, Secretary for the Colonies, in Report of an Address to Her Majesty from the Inhabitants of the Red River Settlement, Praying to Be Turned into a Crown Colony."

organized Government, who can undertake the construction of roads, survey and lay out the land for settlement, and establish communication with Canada.”⁵¹¹ In this memorandum, Buckingham made only passing mention of “Indian title,” and glossed over Métis rights entirely, an obvious red flag for Métis readers.⁵¹² While Britain and Canada may have been comfortable with this kind of unilateral annexation, it was profoundly unsettling for the Métis people.

Adding to this unease, were fantasies of Canadian annexation printed regularly on the pages of the *Nor'-Wester*, which did little to ingratiate the Métis people to this strange and distant government. In September 1869, the paper ran an editorial that described an imagined North-West after successful Canadian annexation and establishment, while mocking the natives of the country for their lack of progress:

Among a stagnant people nothing will be done in that time. They will eat, drink and sleep; marry and be given in marriage; be born and die, and the epitaph shall, it truth be told, be *nothing*. But how different it will be with those who bestir themselves with a reasonable amount of energy; with those who realize that they are born into the nineteenth century and not in the year one. Among such a people, who will not allow their talents to rust in a napkin, we shall see onward *progress* and *excellence* adopted as the main, noon and even-songs of every day in their lives. That people will crowd the events of a century into the compass of ten years.⁵¹³

In the following decade, the *Nor'-Wester* estimated that the population of Red River was 12,000 in 1869 would grow to population of 500,000 and make the Métis a minority in their own homeland.⁵¹⁴ These changes, which were celebrated by the *Nor'-Wester*, were very unsettling for the majority Métis families whose livelihoods came from buffalo

⁵¹¹ Ibid.

⁵¹² Ibid.

⁵¹³ "Now, and Then," *The Nor'-Wester*, September 21 1869.

⁵¹⁴ Ibid.

hunting and who had fought for years to make themselves the political king-makers of Red River. Thus, the *Nor'-Wester* ultimately served as an example, rightly or wrongly, of the what the North-West would look like if Canada was to succeed in annexing the North-West, and it was a situation Métis sought to avoid.

The alienating fantasies of the *Nor'-Wester* were only reinforced by the behaviour of Canadian party members in the years before the transfer. In January 1868, a local businessman and the leader of the Canadian party, John Christian Schultz, was broken out of jail by a mob of Canadians. After being sued by his brother-in-law for the illegal dissolution of a business partnership, Schultz refused to recognize the Company's jurisdiction and did not answer his legal summons. He was sentenced to jail for contempt of court. Shortly after being locked up, however, a large party of Schultz's Canadian comrades forcibly freed him from his cell at Fort Garry, and assaulted one of the prison guards in the process.⁵¹⁵ This jailbreak triggered popular outrage in Red River and led Alexander Begg to remark that "the act of gaol breaking" cast a stigma on the characters of Canadians as-a-whole, who were, from that point on, "generally looked upon with suspicion" by the "law-abiding people of this settlement."⁵¹⁶ While there are many similarities between Schultz's jailbreak and the Métis' own rejection of Company authority at Sayer's trial, the Métis did not identify with Schultz's situation and they saw the jailbreak as unpopular newcomers flaunting the law for their personal benefit, rather than as reasonable resistance to Company oppression. Canadians, after all, were not Indigenous to the North-West, and could not so easily reject the authority of the Company.

⁵¹⁵ Bumsted, *The Red River Rebellion*, 35-36.

⁵¹⁶ Begg, "Letter to the *Globe*, November 10, 1869," 81.

More enraging for the Métis however, was the conduct of an 1869 Canadian government authorized road-building project, which came to Red River to build a road to the Lake-of-the-Woods. The project was supposed to be a relief effort that employed local men whose families were hit hard after a poor harvest. However, the project and its manager were mired in scandal from the moment of its arrival in the North-West. John Allan Snow, the official in charge of the road-building project, quickly became associated with the Canadian party and the increasingly unpopular Schultz. Snow's project, rather than providing jobs in hard times as the Canadian government had promised, was in actuality an exploitative operation that abused its Red River workforce. In the road-building camp, Snow established a camp store which Schultz provisioned and it became infamous for its wildly inflated food prices, and huge profits made at the expense of the local workers. It was known that when flour cost "three pounds sterling per barrel" in the Company's stores, Snow and Schultz "charged the poor men...three pounds twelve shillings and four pounds sterling, per barrel" while only paying them "three pounds per month".⁵¹⁷ News of these starvation wages travelled back to Red River, which further sullied the reputations of Canadians and called into question their motives for supporting annexation.

Even after the road-building project ended, Snow was implicated in a scheme with Schultz and other Canadian party members that was trying to buy up Métis lands near Oak Point, purchasing it from Indians who had no right to sell it. This land speculation scheme caused "still more discontent among the people" and further sullied

⁵¹⁷ Ibid., 82.

the reputation of Canada as a good relation.⁵¹⁸ All of these events re-enforced Métis misgivings about Canadian motivations for coming to the North-West. Métis had seen for themselves that the Canadians in their midst were willing to disregard laws, exploit individuals in need of famine relief, and most damningly, attempt to purchase Métis lands out from under them, all in an effort to enrich themselves. The Canadian party's behaviour went far establishing Canada as a diplomatic stranger in the minds of the Métis leadership. The Canadian party's anti-social behaviour demonstrated that Canada needed to be kept at arms length outside the Métis family, at least for the time being.

Métis Organizing in the Summer of 1869

The October 1869, the arrival of Canada in the Métis diplomatic universe, did not come as a great surprise to anyone. While Métis resistance to annexation may have been a shock back in Canada, this outcome was long discussed in Red River. The Métis had actually been preparing for the appearance of the man who came to take possession of the North-West, Canada's would-be Lieutenant-Governor, months before he actually arrived. Throughout 1869, Métis readied themselves to protect their country from the unilaterally imposed government of strangers, and did so by relying on traditional principles of legitimate governance established by the buffalo hunt. Following buffalo hunt protocol, Métis leaders organized several assemblies in 1869 that collectively formulated a response to the outside threat posed by the HBC-Canadian transfer. Like the hunts, the first task of these public assemblies was the selection of a chief or president, followed immediately by the election of twelve councillors, which established a government.

⁵¹⁸ Ibid.

These assemblies, also like the hunts, appointed soldiers who self-organized groups of ten men—*dizaines*—electing one of their number captain.⁵¹⁹ Following this model, Métis organized a series of increasingly influential governments aimed at asserting an Indigenous Métis political presence in their homeland while rejecting the assumption of Canadian authority over the North-West, and the Métis people more specifically.

The first Métis assembly of this kind was called in early February 1869 at Point à Coupee, by some “leading men” among the Métis for the establishment of “an independent government for themselves.”⁵²⁰ While details of this first meeting are few, these unnamed Métis leaders had apparently grown tired of Company governance and were proposing to “throw off allegiance toward her, and obey no laws but those of their own making.”⁵²¹ Establishing a government of their own to replace the long contested Council of Assiniboia was a logical first step in preventing the arbitrary seizure of the North-West by Canada, and to refute the Company’s ability to “sell” the region to a group of strangers. The meeting proposed that a second assembly should be held in May where the Métis would formalize the new government, and “elect some prominent man among them as President” of the new government.⁵²²

While a May meeting never materialized, two distinct successor assemblies were called in July to address the problems posed by the transfer. The first meeting was held on July 4, 1869 and was called by Jean-Baptiste Tourond, a popular Métis brigade chief. Because of his status as a chief, Tourond was also elected president of the meeting, and following protocol, Tourond began to create consensus on a political and military course

⁵¹⁹ Riel, "Last Memoir," 203.

⁵²⁰ "Nor'-Wester," *The Nor'-Wester*, February 19, 1869.

⁵²¹ *Ibid.* Emphasis in original.

⁵²² *Ibid.*

of action. The assembly organized armed Métis *dizaines* and empowered them to patrol the area around Red River to expel Canadian survey parties known to be in the area.⁵²³

The Tourond assembly was, in fact, the first collective Métis political response to Canadian incursions into Red River, and would influence all ensuing Métis actions.⁵²⁴

The meeting created the *dizaines* that prevented Canada's official entrance to Canada until the summer of 1870, and established a buffalo hunt political structure that would be restructured several times in the coming months, but could still trace its origin to this assembly. Tourond, too, would become an important Riel ally in the months ahead, and was elected to leadership positions in future Métis assemblies, ultimately sitting on the Executive Council of Riel's Provisional Government in 1870. Tourond's meeting grounded the fledgling Métis resistance movement in their easily recognizable political traditions and Indigenous relationship to their territory, resulting in a confidence that allowed his people to mobilize soldiers to defend their homes.

If the Tourond assembly was able to organize a swift and unified response and institute a Métis government, then the second July meeting, held on the 29th, did just the opposite. It was an argumentative and divisive assembly, and did not result in the nomination of clear leadership for the resistance it proposed. Nonetheless, the meeting was very influential, proposing a diplomatic plan of action grounded in the prairie Indigenous tradition that would inform the large-scale Métis political movements to follow. This second July assembly was organized to "consider the affairs of the Settlement," and the invitation, printed in the *Nor'-Wester* requested that "all the natives

⁵²³ O'Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 154.

⁵²⁴ Bumsted, *The Red River Rebellion*, 45-46.

of Red River be present.”⁵²⁵ William Dease, another influential hunt chief who was also elected to lead this second assembly called this meeting. His main argument, however, was less popular than Tourond’s plans of militarized resistance to Canada, and it showed in the meeting. Dease’s primary concern was holding the Company accountable for the sale of the North-West and he seemed little concerned about Canadian annexation plans. In fact, Dease individualized Métis claims to the North-West, and rather than asserting collective ownership of the country, he argued that Canada re-distribute the £300,000 it had agreed to pay to the Hudson’s Bay Company for the North-West, into equal instalments among all the original owners of the soil: the Indians, Métis, and Halfbreeds of the North-West.⁵²⁶ As an alternative of sorts, Dease’s proposal would still result in the transfer of the country to Canada, followed by annexation and settlement of the North-West. Métis had already voiced their objections to this outcome given that it would find their territory in Canadian hands, and were not going to be silenced by a cash settlement. Not surprisingly, Dease’s proposal was rejected.

Dease’s assembly, however, did make what had been somewhat localized Métis dissatisfaction with the behaviour of the Company and Canada into popular outrage. His choice issuing of a public invitation in the *Nor’-Wester* caught the attention the Governor of Assiniboia, William Mactavish, who attended the meeting to publically defending the Company’s actions and the legality of the transfer. But, in the highly unpredictable setting that was Dease’s meeting, Mactavish only succeeded in making the Métis more suspicious of Canada’s plans for the North-West. Mactavish told the assembly that the Company had only sold *the commercial and political rights contained in the Charter*, it

⁵²⁵ "Notice," *The Nor'-Wester*, July 24, 1869.

⁵²⁶ Stanley, *Louis Riel*, 56.

had not sold the land itself, because, outside of the Selkirk treaty lands, it had no right to do so. To refute Mactavish, Dease produced an 1868 report from Canadian delegation that negotiated the transfer agreement in London, which stated that the *territorial* rights of the North-West had been disposed to Canada by the Company, exposing an discrepancy in Canada's and the Company's account of what exactly the transfer agreement entailed.⁵²⁷ Essentially, the Company and Canada were making two different claims of what was being bought and sold. The Company claimed that the Métis would retain territory and freedoms outside of the Selkirk cession as descendants of the original inhabitants.⁵²⁸ Meanwhile, according to its own report, Canada was claiming it possessed a broader territorial authority over the North-West through the transfer, and that authority included the right to govern all lands and the British subjects who lived there. While Métis thought both of these claims to be fantastical, as neither recognized the pre-existing possession of the North-West's Indigenous peoples, the uncertainty over what Canada presumed this transfer entailed was disconcerting all the same. Mactavish had at least attempted to clarify the Company's position, but Canada had not communicated in any way with the people of the North-West. In 1869, Begg wrote that "nothing official has transpired to enlighten us. Everywhere is conjecture, and conjecture is the worst thing to be abroad in a country like this."⁵²⁹ With no official word from Canada, and with the Company making decidedly different claims about what the transfer entailed, Métis remained highly suspicious of everyone.

⁵²⁷ Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 188.

⁵²⁸ *Ibid.*

⁵²⁹ Begg, "Letter to the *Globe*, November 10, 1869," 79.

Attempting to harness this common Métis feeling in concerted action like Tourond had done, Dease proposed that Métis should form a government to take matters into their own hands. He proposed consolidating Métis political power in the North-West by seizing Company property in the Settlement as a demonstration of their status as *kaa-tipeyimishoyaahk*. He then suggested that the Métis leadership use this new position of strength to negotiate a treaty agreement between the natives of Red River and the Dominion of Canada to ensure Métis interests would be protected in the future.⁵³⁰ Given the crisis-like context in which it was held, Dease's assembly could have led to substantive action, but Dease was not the ideal candidate for leadership of a broad-based Métis political movement. Too many Métis saw Dease's connections with the Canadian party as reasons to deem him untrustworthy. Other influential figures, like Abbé Ritchot, accused Dease of attempting to shift the focus from Canada to the HBC as a way of distracting Métis from the threat posed by Canada.⁵³¹ Whatever the case, Dease was unable to convince the Métis to take action under his leadership, and the meeting collapsed at this impasse.

Still, Dease's meeting offered the Métis a program that built on the Tourond assembly's actions earlier in the month and one that was consistent with the sense of the Métis as a self-owning Indigenous people. Dease's program proposed a remarkably similar course to the one ultimately taken by the Métis in 1869-1870, so similar in fact that it is likely Riel's strategy originated here. It seems that, regardless of whatever personal misgivings the Métis had about Dease, his proposal resonated with the Métis assembled, and it would be carried out by other, more popular leaders. Dease's proposal

⁵³⁰ Stanley, *Louis Riel*, 56.

⁵³¹ *Ibid.*

was influential even when he was not, likely because it followed proposed a course of that asserted Métis political independence consistent with older political strategies originating in buffalo hunt protocol. It was a way of asserting Métis authority and *kaa-tipeyimishoyaahk* that Métis understood intuitively.

With the two July 1869 assemblies, the Métis had more or less established a common plan of action, and these two meetings had, according to O'Toole, allowed them to reach consensus on several key points, most notably that,

the land belonged to the people, that they had never sold their rights, that they had not been consulted on the transfer of the territory to Canada and that they should set up a provisional government in order to negotiate the terms and conditions of the entry of the territory into the dominion.⁵³²

In the coming months, Métis would indeed resist the unilateral annexation of their country, seize Company property to demonstrate that they were *kaa-tipeyimishoyaahk*, and create the diplomatic conditions necessary to negotiate entrance into Confederation on their own terms. Tourond's meeting instituted the *dizaines* that vigilant eye on the Métis lands in the North-West, and this military force, in an evolving form, would effectively control the Settlement until the arrival of Canadian troops in the summer of 1870. All that was needed was a leader that could direct these energies into a common purpose.⁵³³

Le Comité National de Metis

Before October 1869, Louis Riel could not really be classified as a Métis leader. Riel had been living in Red River a little over a year, after leaving as a child to go to school in

⁵³² O'Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 155.

⁵³³ Despite later divisions that emerged among the people including opposition to Riel's leadership by other Métis leaders, Métis for the most part agreed on the plans laid out at the two July 1869 meetings.

Quebec. It was Riel's formal Canadian education, however, that put him in a unique position among his people to navigate the complexity of the imperial logic under which Canada claimed the North-West. Because of his intensive and classical French-Canadian schooling, Riel was able to take the same discourse on civilization and nationhood used by empires to expropriate those they deemed primitive, and mount a convincing political defence of Métis governance and Indigenous territoriality in the North-West. Part of his defence involved the moulding of Métis institutions into forms more easily intelligible to Ottawa and London. While the buffalo hunt had served the Métis well for generations, and was still the basis for internal political legitimacy among the Métis themselves, its decentralized and temporary nature meant it was unlikely to be considered a political equal to Canada in a nineteenth century political context. In order to serve the ultimate purpose of treating with Canada, the form of the hunt, Riel reasoned, would need to be adapted to these new circumstances, all while keeping intact the substantive values that underlined Métis governance. The hunt would no longer just represent self-owning Métis families, but would embody the collective will of a new Métis political formation, *the Métis nation*.

Towards this end, in August and September 1869, Riel began his meteoric rise to Métis leadership by advocating for a central committee that could protect the country from the arbitrary claims of strangers. Riel suggested that the Métis people elect a representative body to "consider the state of the country and see if there were not some means at least of making a clear protest against the injustice and injuries done to the country by Canada."⁵³⁴ Riel's suggestion soon became a necessity when on October 11,

⁵³⁴ Ritchot, quoted in Stanley, *Louis Riel*, 58-59.

1869, Tourond's *dizaines* were called on by André Nault to evict Canadian surveyors from his land. Nault's "hay privilege"—land reserved for grazing beyond a river lot—was being surveyed by a Dominion survey team only a few miles from the centre of the Red River Settlement, a obvious indication to the Métis that Canada would not recognize Nault's—or anyone else's—river lot if their annexation was successful.⁵³⁵ A large party of Métis soldiers, including both Riel and Tourond, confronted the survey team. Standing on their chain, Riel ordered the surveyors to stop their work or risk the wrath of Métis soldiers. The surveyors complied, unable to oppose the *dizaines*. Not only was the team outmatched militarily, they were surveying Métis land *prior* to the scheduled transfer on December 1, 1869. Even under British law, the North-West did not properly belong to Canada, so all the survey team could do was register a complaint with the Council of Assiniboia, a complaint which the Métis ignored.⁵³⁶

About the time that Nault discovered Canadians on his river lot, the Métis were also making an unsettling discovery. Métis freighters in St. Paul noticed a large shipment bound for Red River that contained 100 carbines, 250 muskets, with bayonets, powder and 8,000 rounds of ammunition, and quickly sent word back to Red River.⁵³⁷ This shipment was sent by the would-be Canadian Governor of the North-West, William McDougall, likely to outfit the Canadian authorities in the post-transfer North-West.⁵³⁸ With this discovery, Riel's proposal for a more permanent buffalo hunt government to protect Red River and assert *kaa-tipeyimishoyaahk* seemed all the more necessary. So, on October 16, only five days after confronting Canadian surveyors on Nault's hay privilege,

⁵³⁵ Bumsted, *The Red River Rebellion*, 54.

⁵³⁶ *Ibid.*

⁵³⁷ *Ibid.*, 51.

⁵³⁸ *Ibid.*

each Métis parish organized an assembly in accordance with buffalo hunt traditions, and selected representatives for a new central committee of the Métis people. *Le Comité National de Métis* was authorized to organize the defence of Métis lands in the North-West, and to generally protect the state of Métis *kaa-tipeyimishoyaahk*.⁵³⁹

The *Comité*, like the July assemblies, bore a striking resemblance to the hunt. Like a buffalo hunt council, it was made up of twelve men, and, the President of the *Comité*, John Bruce, was chosen to fill the same role as the chief of the hunt. One of the *Comité*'s first actions was to send forty soldiers under the *dizaine* model to make a roadblock of the Pembina road on the Rivière Sale, outside the Métis parish of St. Norbert. The *Comité* ordered its soldiers to prevent the entrance of the would-be Canadian Governor to the North-West.⁵⁴⁰ It also organized scouting parties using hunt protocols to watch the Pembina road so "that within a very few hours after the Governor's arrival" in the North-West, "intelligence of the event will be received at La Rivière Sale."⁵⁴¹ In establishing the roadblock, the Métis asserted their own territorial authority over Red River, and by preventing the Canadian Lieutenant-Governor from entering the North-West, Métis could demonstrate the poverty of Canadian claims to govern the region. McDougall, and the Dominion of Canada were classified as strangers, with no prior relationship to the Métis people. Any diplomatic relationship with

⁵³⁹ Stanley, *Louis Riel*, 58-59.

⁵⁴⁰ Bumsted, *The Red River Rebellion*, 55.

⁵⁴¹ J.J. Hargrave, "Letter to the Herald, October 30, 1869," in *Reporting the Resistance: Alexander Begg and Joseph Hargrave on the Red River Resistance*, ed. J. M. Bumsted (Winnipeg: University of Manitoba Press, 2003), 76.

McDougall, then, would treat him as someone “with the title of governor of the country, from a foreign power,”⁵⁴² not an ally, relation, or even a friend.

To demonstrate the standing of Canada in the North-West as strangers rather than governors, the *Comité* drafted an official communiqué to McDougall on October 21, 1869, formally expelling him from the North-West by Métis authority:

Sir,

The National Committee of the Métis of Red River orders William McDougall not to enter the Territory of the North West without special permission of the above-mentioned committee.

By order of the President, John Bruce.

Louis Riel, *Secretary*.⁵⁴³

On November 2, the letter was hand-delivered to McDougall by *dizaine* captain Ambroise Lépine. Reportedly, McDougall demanded Lépine tell him “who had sent this imperious order?” Lépine simply replied, “the government.”⁵⁴⁴ When McDougall asked what government he was referring to, Lépine gave a reply in keeping with Métis buffalo hunt philosophy, “the Government we have made.”⁵⁴⁵

While the *Comité*'s letter expelled McDougall from the country, he was not banned permanently from the North-West. The *Comité* was willing to permit his entry if he accepted Métis terms and conditions for their entry into Confederation, which would result from free and fair negotiations between the people of Red River and Canada rather than unilateral annexation.⁵⁴⁶ Consistent with Métis goals from the July meetings, a *wahkohtowin*-inspired treaty agreement with Canada remained the *Comité*'s primary

⁵⁴² Ritchot, quoted in Stanley, *Louis Riel*, 62.

⁵⁴³ Quoted in *ibid.*

⁵⁴⁴ *Ibid.*, 65.

⁵⁴⁵ Stanley, *Louis Riel*, 68.

⁵⁴⁶ Stanley, *Louis Riel*, 65.

objective. McDougall was unwilling to entertain this idea and was left as *a governor without a country* in the Dakota Territory near Pembina. Even if McDougall was willing to agree to Métis terms, he probably lacked the political authorization to carry out any negotiations on Canada's behalf.

It was about this time that Métis discovered McDougall's uselessness in terms of obtaining their final goal. The would-be governor's only source of authority was his commission as the Queen's appointed governor for the North-West. But, as Métis had always viewed white men with the proclamations of kings and queens with a healthy dose of scepticism, and his official status held as much sway over the Métis as the Company's Charter. While such pronouncements may have compelled Company men and Canadians to accept the Queen's orders, it held no power over the Métis who were *kaa-tipeyimishoyaahk*. Not only did Métis possess military superiority on the ground, but also they possessed a type of legitimacy in the North-West that these strangers lacked, a legitimacy based on Indigenous intergenerational attachment to the land and extensive diplomatic relations with their kin. Like the Company, Canada would soon find out that for all the hard work it put into constructing a narrative fantasy of legal possession of the North-West, these legal inventions could be quickly swept aside by the on-the-ground Indigenous political power of the Métis people.

Unable to see the reality of their powerlessness however, McDougall, his would-be government, and the Canadian leadership in Ottawa all attempted to hold on to the fantasy of their legitimate possession of the North-West. They continued to act as if Métis were not a fully-relevant consideration, and that they were incapable of constituting a government that was a political equal of Canada. In an act, which would

further weaken their standing in the North-West, the Canadian Governor-General, on behalf of the Dominion Parliament, ignored the existence of Métis as *kaa-tipeyimishoyaahk*, and declare the Métis to be in a state of rebellion against legitimately constituted British authority. Governor-General John Young proclaimed in a vice-regal declaration that the Métis had “illegally joined together” and “forcibly, and with violence” prevented loyal British subjects from entering the country.⁵⁴⁷ In the Métis political context, however, the expulsion of McDougall and his party was an entirely legitimate exercise of their governing power, for they were a constituted authority in their own right. Their constitution was the buffalo hunt, and they formed their governments by its laws. By selecting a council of twelve, chosen from its constituent parishes assemblies the Métis were consciously applying this constitutional process to their new governing body, the *Comité*. Past demonstrations of *kaa-tipeyimishoyaahk* that dealt with Company encroachments, and hostile Sioux war parties followed this same constitutional process—organize a council, then use large number of armed men to protect the people from the threat of strangers. The Métis followed this process because political legitimacy flowed from these practices. The *Comité*'s expulsion of the Canadian would-be Governor from the North-West was undertaken through the buffalo hunt constitution, which, to the Métis at least, made these actions the legitimate undertaking of a duly constituted Métis government. Since Métis had never accepted Canadian authority and were exercising their own Indigenous political powers, they could not rebel against Canada, Britain or any other foreign entity. They were self-governing and self-owning and they never considered themselves to be otherwise.

⁵⁴⁷ Sir John Young, "Proclamation of Sir John Young, Governor-General of Canada, on 6th December, 1869," in *History of the North-West*, ed. Alexander Begg (Toronto: Hunter, Rose & Co., 1894), xxxiii.

The assertiveness of McDougall's letter of expulsion, and the swiftness with which the roadblock was established, is demonstrative of the self-assured nature of the *Comité* and the legitimacy of Métis political power. Such confidence made it clear to outside observers, including one anonymous correspondent to the Montreal *Herald* who visited the Rivière Sale roadblock, that the Métis had taken charge of affairs in the Settlement:

We ask the spokesman what action they are to take. He says they will have no compromise. The Governor must go back. If he attempts to pass the barricade he will be shot. But will you not hear what he has to say? Yes we will hear what he has to say, but we have made up our minds that he must go back. We will offer him no violence unless he attempts to pass our line. We want to govern ourselves. We will accept no concessions.⁵⁴⁸

This description of Metis self-government, usually attributed to Riel,⁵⁴⁹ states rather succinctly the Métis political position in 1869. Métis understood themselves as a self-governing people, with an Indigenous relationship to their territory that transcended the Crown's authority to parcel out land to its subjects. The Métis were willing to negotiate a mutually beneficial relationship with the newcomers, but only after Métis were respected as *kaa-tipeyimishoyaahk*.

By October 1869, the Métis had self-organized into a constitutional formation that generated its own political authority, but the *Comité* only represented about half of the Red River Settlement, leaving the other half—the Halfbreeds—on the outside. The most immediate goal of the *Comité*, consistent with principles of *wahkohtowin*, was to incorporate their Halfbreeds relations into this self-governing body. In mid-October, the *Comité*'s president and secretary, John Bruce and Louis Riel respectively, attended

⁵⁴⁸ "Nor'West," quoted in J. M. Bumsted, *Reporting the Resistance: Alexander Begg and Joseph Hargrave on the Red River Resistance* (Winnipeg: University of Manitoba Press, 2003), 70-71.

⁵⁴⁹ *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 193.

several Halfbreed meetings in an attempt to persuade them to join with the Métis in expelling McDougall from the North-West. The Métis leaders argued that a united settlement would make the political position of everyone stronger, but the Halfbreeds preferred to wait and see how the situation developed before committing to a course of action.⁵⁵⁰ However, successful expulsion of McDougall's government on November 2, 1869 was the kind of development that the Halfbreeds had been waiting for. So, when the *Comité* issued a public invitation to the Halfbreeds to "send twelve representatives...in order to form one body with the above council...to consider the present political state of this country, and to adopt such measures as may be deemed best for the future welfare of the [country]," the Halfbreeds accepted.⁵⁵¹ This meeting signalled the creation of a new political body in Red River, the Council of Twenty-Four, a unified political body representing the Métis and Halfbreed interests in Red River. The leadership of both peoples was now invested in maintaining their community's special relationship with land, religion, language, as well as their economic standing in the Settlement.⁵⁵² All that was left, was for the two peoples to work out the details.

More Plea than Command: Mactavish's Proclamation and Métis Understandings of Loyalty to the Crown

Even before its first meeting on November 16, 1869, the Council of Twenty-Four was dealing with controversy. In response to the formation of the Council, the Governor of Assiniboia, William Mactavish, issued a proclamation that declared the actions of the

⁵⁵⁰ Stanley, *Louis Riel*, 66.

⁵⁵¹ Comité National de Métis, "Public Notice to the Inhabitants of Rupert's Land," (Red River Settlement 1869).

⁵⁵² Bumsted, *The Red River Rebellion*, 22.

Comité contrary to British law. Mactavish issued this document at the urgings of William McDougall, in an effort to reinforce Canada's status as the future governors of the North-West. Mactavish's Proclamation attempted to circumscribe the ability of Métis to act outside of the British constitutional regime. Métis were supposed to address their concerns to the Crown's representatives in the North-West, not act independently. Mactavish's Proclamation used the Métis' sense of loyalty to the Queen in an effort to undercut their support, claiming that some Métis were behaving disloyally, and were rebelling against to Her Majesty's authority.⁵⁵³ In rather melodramatic language, Mactavish accused the Métis of committing "unlawful acts" contrary to the will of the Queen:

Instead of adopting those lawful and constitutional means, which, under the enlightened rule of Her Most Gracious Majesty our Queen, are sufficient for the ultimate attainment of every object that rests upon reason and justice, the persons who have been engaged in committing these unlawful deeds have resorted to acts which directly tend to involve themselves in consequences of the gravest nature, and to bring upon the colony and the country at large the evils of anarchy, and the horrors of war.⁵⁵⁴

In addition to general unlawfulness, the Governor of Assiniboia, accused the Métis of violating at least three "undoubted right[s] of all Her Majesty's subjects": 1) blocking the Pembina road and restricting travel and trade; 2) establishing an armed force inside Upper Fort Garry "for no legitimate purpose" with the intention "of protecting it from a danger which they allege was known by themselves to be imminent, but of which they have never yet disclosed the particular nature"; 3) having forcibly removed the Governor's party from the Hudson's Bay post at Pembina, and forced them back into

⁵⁵³ Mactavish, "Governor's Proclamation of November 16, 1869," 394-96.

⁵⁵⁴ *Ibid.*

American territory.⁵⁵⁵ In a last-ditch attempt to salvage the myth of the Company governing supremacy, Mactavish charged those engaged in these unlawful acts “immediately to disperse themselves and peaceably depart their habitations,” or they would suffer “the pains and penalties of the law” as would be meted out by the Company.⁵⁵⁶ Despite these strong condemnations, and perhaps because he recognized the Company’s inability to compel the Métis to follow its dictates, Mactavish ended his proclamation with more of a plea than a command:

I adjure you as citizens, having the interests of your country at heart, to ratify and proclaim, with all the might of your united voices, this public notice, and protest and avert from the country a succession of evils, of which those who see the beginning may never see the end. You are dealing with a crisis, out of which may come incalculable good or immeasurable evil; and with all the weight of my official authority, and all the influence of my individual position, let me finally charge you to adopt only such measures as are lawful and constitutional, rational and safe.⁵⁵⁷

Mactavish’s Proclamation made two claims that the Métis objected to. First, he claimed that Metis political life existed purely under the authority of Her Majesty’s enlightened rule, allowing no space for independent Métis political action. Second, he argued that Métis actions occurred outside the limited scope of political behaviour acceptable under British law, and thus the Métis had behaved illegally. Like his forebears, Mactavish believed the Métis to be exclusively British subjects, without recognizing that Métis had always been a self-owning Indigenous people with authority of their own. He had attempted to reproduce the fantasy of Métis political inferiority to the Company and render “unauthorized” Métis action as illegal, and thus rebellious, but the Métis were not listening.

⁵⁵⁵ Ibid.

⁵⁵⁶ Ibid.

⁵⁵⁷ Ibid.

Riel emphatically rejected the Mactavish Proclamation at the first Council of Twenty-Four meeting on November 16, 1869. He did not pretend to accept unconditional Crown authority over Métis people, nor did he recognize the Company's ability to interfere with Métis political matters. Most importantly, Riel rejected the Company's ability to sell them to strangers.⁵⁵⁸ His view was shared, for the most part, among Métis delegates, but created great controversy with the Halfbreeds. The English delegates saw the matter differently. The primary spokesperson for the English portion of the Settlement was the Halfbreed James Ross, a University of Toronto educated lawyer, a political moderate and, until early 1870, sympathetic to Canadian rule in the North-West. His legal training gave him a sense of right and wrong based on Anglo-Canadian jurisprudence, which would colour his opinions throughout 1869-70.⁵⁵⁹ Echoing the Proclamation, Ross accused the Métis of "acts of rebellion" in violating both the laws of the Council of Assiniboia and the Crown. He argued that the Proclamation clearly stated that the Métis were acting contrary to the law of the Crown, as understood by Governor Mactavish, the Crown's representative in the North-West. Since the Métis were acting against Her Majesty's interests, the Halfbreeds felt that the Métis had a legal obligation to desist in all unlawful acts.

The Métis did not see their actions as either radical or unlawful, rather they felt they were justified in their behaviour by focusing on the unjust actions of the Company and Canada, and their status as an Indigenous people, stating repeatedly that their objection was not to the behaviour of the Queen, but her representatives and her

⁵⁵⁸ Riel, in Bumsted, *The Red River Rebellion*. Bumstead, *Red River Rebellion*, 76.

⁵⁵⁹ Sylvia Van Kirk, "'What If Mama Is an Indian?': The Cultural Abivalence of the Alexander Ross Family," in *The New Peoples: Being and Becoming Metis in North America*, ed. Jacqueline Peterson and Jennifer S.H. Brown (Winnipeg: University of Manitoba Press, 1985), 211.

ministers.⁵⁶⁰ Riel denied Ross's insinuation that Métis were rebelling against constituted authority, and asserted Métis rights and authority as the basis for the rejection of the governance of the Council of Assiniboia, actions which they felt they were entitled to as an independent Indigenous people. Riel asked the Métis of the Council, "Do we indeed only pretend to recognize [the Council of Assiniboia]?" The Métis answered in unison, "Non, non." Riel continued, "Moreover, we are faithful to our native land. We shall protect it against the dangers which menace it. We wish that the people of Red River be a free people"⁵⁶¹ Métis were hesitant to recognize the legitimacy of the Company's government, or Canada's would-be Governor. While Métis were willing to accept Company government it "so far as it exists,"⁵⁶² its inability to mediate the emerging crises between the Settlement and Canada, was the end of Métis faith in Company governance.

The difference of opinion between Ross and Riel, and more generally French and English delegates, points to a much larger divide in Métis and Halfbreed thought. Métis considered their opposition to the Company and Canada as opposition to an infringement on their inherent rights as a free people, they "saw in this change nothing less than the violation of the innate rights of the country's inhabitants, a despoiling of their most precious possessions—their land and their privileges."⁵⁶³ Therefore Métis could, as Riel argued, reject the governance of others, while still respecting the Queen. To be loyal to the Crown, and assert their own independence were not mutually exclusive acts for Métis. They could be at once loyal to the Queen, but also resist the "obnoxious

⁵⁶⁰ O'Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 167.

⁵⁶¹ The Council of Twenty-Four Minutes, quoted in Bumsted, *The Red River Rebellion*, 75-76.

⁵⁶² Riel, in *ibid.*, 76.

⁵⁶³ Trémaudan, *Hold High Your Heads: History of the Metis Nation in Western Canada*, 61.

policies”⁵⁶⁴ being forced upon them by her agents.⁵⁶⁵ Allegiance to the Queen did not detract from their own status as *kaa-tipeyimishoyaahk*. Within the context of *wahkohtowin* diplomacy, the Queen may be an important ally and friend of the Métis people, even a powerful member of their diplomatic family; but she was not the *origin* of their rights, those were something that originated from within, through the Métis’ status as an Indigenous people and as *kaa-tipeyimishoyaahk*. This distinction, while clear to the Métis, was lost on the Company’s agents. For the Métis, it did not follow that loyalty to the Queen was a blind loyalty, which they would sacrifice their interests to her caprice, rather this loyalty flowed from *wahkohtowin* and was based on maintaining good relations between family members. If the Queen or her agents were being poor relatives, the Métis were justified in reminding them of her obligations by asserting their status as *kaa-tipeyimishoyaahk*.

The English and Halfbreed delegates tended to interpret loyalty to the Crown as a more steadfast and subservient relationship. In response to Mactavish’s Proclamation, the English-speaking delegates proposed appealing to the British institutions already constituted, and to place their future in the hands of strangers. Pannekoek attributes this tendency to the Anglican ideal of “a little Britain in the wilderness”⁵⁶⁶ propagated by the English clergy and the pressure on Halfbreeds to assimilate the Protestant English cultural norms.⁵⁶⁷ The Halfbreeds more closely identified with British institutions than the Métis, who spoke French, were at least nominally Catholic, and were most likely to

⁵⁶⁴ The Provisional Government of Assiniboia, "Declaration of the People of Rupert's Land and the North-West."

⁵⁶⁵ Bumsted, *The Red River Rebellion*, 61.

⁵⁶⁶ Pannekoek, *A Snug Little Flock: The Social Origins of the Riel Resistance of 1869-70*, 54.

⁵⁶⁷ *Ibid.*, 144.

be hunters than farmers. Not only did the Halfbreeds see more in common with the Canadians than the Métis did, the Métis had a much greater social distance to overcome than the Halfbreeds. It was this English-French division which led to contention in the Council of Twenty-Four.

Differing Opinions on Negotiating with Canada

Initially, the English-speaking delegates to the Council of Twenty-Four thought it best to allow McDougall to enter the North-West, recognize him as the Queen's representative, and then lay all of the Settlement's complaints before him.⁵⁶⁸ But by November 26, after meeting as a committee, the English-speaking delegates abandoned this course of action, deciding instead that the people of the Settlement should elect a political body empowered to negotiate directly with Canada.⁵⁶⁹ Just when the English delegates were moving closer to the Métis goal of treating with Canada, however the Métis were deciding on more radical action that would again put them at odds with Halfbreed opinion. On November 23, after adjourning the Council of Twenty-Four, the *Comité National de Métis* met in a council of its own. For seven hours the delegates debated the merits of constituting a locally-led provisional government for Red River that would be directly responsible to the people of the North-West, and independent of the Crown's authority. While some members of the *Comité* were afraid that these actions could be perceived as an act of rebellion, they ultimately felt it was possible to be both a good relative to the Queen and be *kaa-tipeyimishoyaahk*. Achieving consensus, the Métis leaders determined that the *Comité*, ideally with the support of the English delegates,

⁵⁶⁸ Bumsted, *The Red River Rebellion*, 82.

⁵⁶⁹ *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 201.

would form a democratically elected body to replace the Company's Council of Assiniboia as the government of the Red River Settlement. Thinking strategically, the *Comité* planned to officially constitute the new Provisional Government on December 1, 1869, the date of the North-West's transfer to Canada.⁵⁷⁰ This symbolic act would disrupt the transfer and inaugurate a new government, very different from the appointed territorial council planned by Canada. So, no sooner had the English delegates come around to the Métis position, that the Métis adopted a more radical approach to dealing with a Canadian presence in the North-West.

Throughout November 1869, Canadians in Red River had convinced William McDougall that there was extensive backing for Canadian government in Red River, and suggested that he issue a proclamation declaring Canadian sovereignty over the North-West on December 1, 1869. It would, the Canadians thought, rally the loyal British subjects to Canada's cause. And so, armed with this dubious information, McDougall crossed the border from Pembina, and in the emptiest of empty ceremonies, read his Proclamation to a wind-swept and snow-covered prairie. McDougall haughtily declared that the provisions of the transfer agreement, and its accompanying British and Canadian legislation, were now officially enacted, the North-West, he claimed, now belonged to Canada.⁵⁷¹ The Proclamation declared the end of Company authority in the North-West, and that the HBC would "surrender" all of its "lands, territories, powers, and authorities, whatsoever, granted or purported to be granted by certain Letters Patent of His late Majesty King Charles the Second" to McDougall under the conditions of the transfer

⁵⁷⁰ *The Red River Rebellion*, 84.

⁵⁷¹ William McDougall, "Proclamation Issued by Hon. Wm. McDougall on 1st December, 1869," in *The History of the North-West*, ed. Alexander Begg (Toronto: Hunter, Rose & Co., 1894).

agreement.⁵⁷² Through this act, McDougall meant to settle any uncertainty in Red River about the existence of legitimate Canadian governance, and to prove the rebellious attitude of the *Comité*. Yet the Proclamation only succeeded in further aggravating the Métis, and pushed the Halfbreeds closer to an alliance with them. McDougall's Proclamation was a mistake for two reasons.

First, it wrongly presumed that the Crown had finalized the agreement on December 1, 1869, which it had not. The Canadian agent overseeing the transfer in London, Sir John Rose, was instructed by his government to refuse the payment to the Hudson's Bay Company for the rights to the North-West, until it could assure "quiet possession" of the country.⁵⁷³ In the interim, Canada was willing to accept Imperial intervention in the government of the North-West, rather than taking possession itself.⁵⁷⁴ Essentially, McDougall declared a Canadian authority that Canada was refusing to assume. Undermined by his own government, McDougall's Proclamation was meaningless, even within the context of British legal fantasies. Second, the Proclamation demonstrated the unenforceability of both Company and Canadian governance in the Settlement. Regardless of its content and its strong-worded claims of lawful authority, the Proclamation exposed McDougall's weakness to the world. Because he could not back up his claims of authority, nor enforce them against his opponents, his Proclamation only highlighted his powerlessness.⁵⁷⁵ What McDougall did successfully accomplish, however, was to neuter whatever little authority the Company could command in Red River by December 1869. By declaring the "surrender of all or any of the lands,

⁵⁷² Ibid., xxvii.

⁵⁷³ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 78.

⁵⁷⁴ Ibid.

⁵⁷⁵ Ibid.

territories, powers, and authorities” granted to the Company, but being unable to replace that authority, McDougall created a British legal vacuum that would allow a politically astute Louis Riel to claim that the Métis were simply creating a government where there was none.⁵⁷⁶ McDougall’s Proclamation, then, inadvertently assisted in the establishment of the *Comité’s* Provisional Government.

McDougall’s Proclamation created quite a stir with the Council of Twenty-Four on December 1. Riel, for one, was confident that McDougall lacked the authority he claimed in the Proclamation. Since, he lacked this authority, Riel reasoned that they could only seek guarantees directly from Canada, for McDougall was in reality an empty shell. With McDougall’s stature considerably weakened, and the English delegates in favour of negotiation since November 26, the Métis then prepared for earnest negotiations with Canada. They adjourned the Council for two hours and produced the first clear articulation of what Métis required to allow Canada access to the North-West, and what future responsible government for the region would look like. What the *Comité* produced was the first incarnation of the *List of Rights*, and followed that a week later with an official statement of resistance to Canadian annexation of the North-West.

The First List of Rights and The Declaration of the People of Rupert’s Land and the North-West

The *List* was a sophisticated document that outlined the basic conditions that the Métis were to form of any kind of permanent political relationship with Canada, and proposed a straight-forward resolution to the political crisis. If McDougall could guarantee the rights contained in the *List* on behalf of the Canadian government, he would be permitted to

⁵⁷⁶ *Ibid.*, 85.

enter the North-West in as Canadian Governor of the region.⁵⁷⁷ This document, which would be the first of four *Lists of Rights*, was the first articulation of the principal rights of Métis that were deemed necessary components of any future agreement with Canada, all of which envision expansive local control of the North-West, considerable checks on Canadian authority in the region, and protections for existing Métis practices and privileges in the Settlement. In fact, the *List's* in-depth description of the future governing institutions for the new territory meant that this was not a mere shopping list of demands, but rather the intended to be the constitutional framework for the new territory.

The *List of Rights* envisioned Assiniboia as a self-governing territory that had significant links with Canada. The North-West would enter Confederation as a new territory, but it would not be directly governed by Ottawa. The *List* required that the government of the North-West remain in the hands of the local Métis and Halfbreed peoples, at least the legislature. The list did not flat-out reject the possibility of William McDougall as the Lieutenant-Governor of the North-West, it did however require that his government be constitutionally responsible to the people, and that his executive powers were limited by legislative veto. So while Ottawa may have appointed McDougall and the executive branch, which would contain some appointees from the North-West, the *List* was designed to ensure that the people would control the other branches of the new government. Through direct accountability, legislators and magistrates could retain local

⁵⁷⁷ The Council of Twenty-Four, "First *List of Rights*,"(Red River Settlement, 1869). The first draft of article 13 reads "That these rights be guaranteed by McDougall before he be admitted into the Territory," although this article was later revised after McDougall had quit the North-West to return to Ontario.

control over political decision-making in the North-West, and protect local interests in the territorial government.⁵⁷⁸

The first four articles of the first *List of Rights* established in clear terms that political power in the North-West was to remain in the hands of the local people. The first four rights established that: 1) the people have the right to elect their own Legislature; 2) that the local Legislature could pass all laws in the Territory, and veto the executive by a two-thirds majority vote; 3) that the local legislature had the power to sanction/veto all future legislation passed by the Dominion Parliament that affected the North-West; and 4) that all public positions in the North-West would be elected by the local people.⁵⁷⁹ The first four articles essentially required Canada to abandon its attempts to control the North-West from Ottawa, and instead support political institutions that would be built locally. The *List* called for an elected legislature controlled by the local population, that would give the people direct involvement all in major policy decisions in the North-West. In order to protect Métis *kaa-tipeyimishoyaahk*, the legislature would also possess the unique ability to accept or reject any federal legislation. This veto power, an innovation in Canadian federalism, would ensure that the North-West, although a territory of Canada, retained significant autonomy within Confederation.

⁵⁷⁸ In addition to these four principle articles envisioned an acceptable form of local government for the North-West, the *List of Rights* also articulated Métis requirements for a host of other political institutions. For example, the Métis would be ensured “that we have a full and fair representation in the Canadian Parliament” (article 13, final version). Representation in Ottawa would also allow locals in Red River to affect Canadian policy, and to integrate the interests of the North-West with the interests of Canada. The *List* demanded the continuation of official bilingualism in the new Territory, ensuring both French and English would be “common in the Legislature and Council, and all public documents and acts of Legislature to be published in both languages. It also required that the Judge of the Superior Court would be bilingual (article 11). More expressively the final version of the *List*, wanted a guarantee “that all privileges, customs and usages existing at the time of the transfer be respected” (article 14). Ibid.

⁵⁷⁹ Ibid.

The Council of Twenty-Four accepted the content of the *List of Rights* as the requirements for the acceptance of McDougall's Canadian-appointed government, but deciding on how they would approach Canada with the list, was harder to agree on. Differing opinions on the validity of British authority over the people of the North-West resulted in fundamental disagreement over which Canadian institution would be able to guarantee the implementation of the *List's* articles. The English delegates thought that the *List* should be handed over to McDougall, to seek assurance of their rights from the Queen's appointed representative in the North-West. The Métis, however, continued to be suspicious of McDougall's power, wondering what guarantees he could actually give the people. The Métis proposal instead required the constitution of a provisional government, a body that could oversee local affairs and was empowered to enter into treaty negotiations with Canada as an equal.⁵⁸⁰ The two delegations were unable to agree upon a common course of action, which led to arguments, an impasse, and eventually the decision to dissolve the Convention of Twenty-Four.⁵⁸¹

The *Comité* was determined to assert itself as *kaa-tipeyimishoyaahk* even without the involvement of the Halfbreeds. As *kaa-tipeyimishoyaahk*, the Métis could act on their own behalf. At the dissolution of the Council Riel told the Halfbreed leadership, "Go, return peacefully to your farms. Rest in the arms of your wives. Give that example to your children. But watch us act. We are going to work and obtain the guarantee of our rights and yours. You will come to share them in the end."⁵⁸² And Act the Métis did. They

⁵⁸⁰ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 73.

⁵⁸¹ O'Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 165.

⁵⁸² Riel, quoted in Bumsted, *Trials & Tribulations: The Red River Settlement and the Emergence of Manitoba, 1811-1870*, 203.

recalled their *dizaines* at the roadblock in order to take control over a bigger prize—the seat of Company government in the North-West. The Métis soldiers marched to the centre of the Red River Settlement, and with the overwhelming force of arms seized Upper Fort Garry, confiscating it from the Company in the name of a newly constituted Provisional Government. Not only did the Métis now control the seat of government in Red River, they seized its supplies and ammunition, making the Métis Provisional Government the undisputed authority in Red River.⁵⁸³ Well aware of their unrivalled political power in the Settlement, the Métis next turned to informing the world of their new Provisional Government.

The Declaration of the People of Rupert's Land and the North-West was the first official communication from the Provisional Government. *The Declaration* presents an interesting counter-discourse to Canadian claims to the North-West. Establishing a fundamentally different foundational narrative of possession of the North-West, the *Declaration* uses Indigenous standards to define political legitimacy. Informed by buffalo hunt political protocol, the *Declaration* highlights Métis conceptions of revocable consent to governance, determining that the people were collectively capable of dismantling the political authority of those who sought to govern them—a concept they had recently put into practice when they ended Company governance in Red River. The *Declaration* also establishes the constituency of the new Provisional Government. No longer confined to the Métis parishes that the *Comité* represented, the *Declaration* repeatedly refers to “the people of the North-West” as the political entity capable of governing themselves, and expressing political power in defence of their own interests.

⁵⁸³ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 86.

The people of the North-West was a more inclusive body, not confined by language, ethnicity, but rather included all of the original population of Red River—Métis, Halfbreeds, Saulteaux living at St Peter's, and the old English settlers in Red River.⁵⁸⁴ At the same time that the *Declaration* was situating itself in old traditions, it was pronouncing to the world the birth of a new people, even a multinational, multicultural, and multilingual *new nation*. It is also in this document that we find the advent of nationalism in Red River. Where previously political communities were immediate, knowable entities formed and dissolved with self-conscious boundaries, now political leaders in Red River could speak of themselves as an imagined collective, where all members did not necessarily know one another, or did not necessarily need to interact regularly to perpetuate their political community.⁵⁸⁵ Now, Red River's leadership spoke of a people, whose nationalist aspirations bound them together and necessitated the formation of a new large-scale political institution to represent their national interests.

The basic argument of the *Declaration* was strategically expressed in liberal terms, but it was a buffalo hunt constitution to its core. The *Declaration* starts with the statement that "the people to be governed have the right to adopt or reject forms of government, or refuse allegiance to which is proposed."⁵⁸⁶ Defining the right of a people to *accept or refuse* a government in this case had a dual purpose. It obviously legitimated the Métis' rejection of Canadian governance in the North-West in favour of their own, but the *Declaration* also made direct reference to initial Métis acceptance, and later

⁵⁸⁴ Although these old settlers were referred to as "English," this was likely a linguistic distinction, as a good number of the long-resident non-Indigenous families in Red River were Scottish.

⁵⁸⁵ See Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1991), 6.

⁵⁸⁶ The Provisional Government of Assiniboia, "Declaration of the People of Rupert's Land and the North-West."

rejection of, Company governance. The Métis expulsion of Canadian authority was thus grounded in the historical precedence of Métis-Company political struggles. The *Declaration* stated that “the people of this country had obeyed and respected” the Company’s authority that “ruled...up to a recent date,” and the people had “generously supported the aforesaid government, and gave it faithful allegiance.”⁵⁸⁷ The Company and its government, however, “was far from answering the wants of the people, and became more and more so as the population increased in numbers.”⁵⁸⁸ As a free people, the Métis were entitled to revoke their allegiance to the Company and their consent to be governed, when it “surrendered and transferred to Canada all the rights which it had a pretended to have in this territory” in a transaction “which the people were considered unworthy to be acquainted.”⁵⁸⁹ As a result of this unwarranted action, the *Declaration* declared the people of the North-West “free and exempt from all allegiance to that government” and “establish any form of government it may consider suitable to its wants.”⁵⁹⁰ So, according to the *Declaration*, Métis were justified under natural law to end Company governance and constitute their own government because the Company had “pretended” to sell the North-West to strangers.

In terms of Canada’s right to govern the North-West, the *Declaration* also specifically rejected its authority, because it came to “rule us with the rod of despotism without previous notification to that effect.”⁵⁹¹ Promising continued resistance to the establishment of “Canadian authority in our country under the announced form,” the

⁵⁸⁷ Ibid.

⁵⁸⁸ Ibid.

⁵⁸⁹ Ibid.

⁵⁹⁰ Ibid.

⁵⁹¹ Ibid.

Declaration situated the Métis' Provisional Government as the sole representative of the people of Red River.⁵⁹² The Provisional Government was "the only and lawful authority now in existence in Rupert's Land and the North West which claims the obedience and respect of the people."⁵⁹³ Despite the firm resistance to Canadian authority in the *Declaration*, it nonetheless left space for the people of the North-West "to enter into negotiations with the Canadian Government as may be favourable for the good government and prosperity of this people."⁵⁹⁴ Despite its strong language, and emphatic rejection of Canadian and Company authority, the *Declaration's* goal remained a diplomatic one. While the narrative in the *Declaration* did not accept the authority of Canada or Company over the people of the North-West, *it did recognize these outsiders as potential relatives with whom the people could negotiate*. Underpinned with *wahkohtowin*, the *Declaration* offered an opportunity to make family, and for Canadians and Métis to cease being strangers. It was a diplomatic gesture, demonstrative of the desire for political negotiation between the Métis people and Canada that had long been the goal of the *Comité* and the Métis leadership more generally.

The narrative established in the *Declaration* uses familiar liberal arguments to demonstrate the lack of authority commanded by Company and Canada. Because of their illegitimacy in the eyes of the people, and had conveyed a lack of respect for the people's political rights in the past, these entities could not command the confidence of the people. The narrative then, using liberal notions of consent of the governed, dissolved the Company of its authority, and rejected of the prospect of Canadian authority taking its

⁵⁹² Ibid.

⁵⁹³ Ibid.

⁵⁹⁴ Ibid.

place. The *Declaration* therefore creates a space for a new and authoritative government to emerge, one that “commands the obedience and respect of all its peoples” based on the self-rule of the natives of the country. It is a shrewd political narrative, one that relies on many easily identifiable principles of liberalism popular outside of Red River, but it is also a narrative that is based on Métis principles of government as well. It is an argument that situated the Indigenous political narratives understood by the local people, in a tradition recognizable to those who viewed the world in the context of western political thought. This narrative, then, should be viewed as having strong resonances with natural law tradition of Anglo-American liberal thought, and strongly situated in the Métis buffalo hunt tradition.

The *Declaration* thus translated the common Métis political institutions of non-coercive authority, revocable consent of its constituent parts, and the prior existence of collective Métis authority into institutions that Euro-Canadian politicians would understand. So, the ability of Métis to revoke their consent to being governed by non-coercive hunt-style political leaders was translated to the liberal idea that “the people to be governed have the right to adopt or reject forms of government.”⁵⁹⁵ In this light, the *Declaration* can be best viewed as tactical articulation of buffalo hunt principles translated into more commonplace European political discourse. The document had two separate audiences, and thus masterfully balanced both concerns. Its first audience, the local people (or at least the Métis) would be impressed by its call to form a government under buffalo hunt principles, and the Halfbreeds would similarly be drawn in by its appeal to their “rights as British subjects” (a claim subordinate to their *kaa-*

⁵⁹⁵ Ibid.

tipeyimishoyaahk). The second audience, those in Canada and Britain would likewise find an intelligible document that appealed to notions of liberty, freedom, and natural law to make the case for a *provisional* government, in the place of two governments that lacked the confidence of the local people. Whatever its intellectual influences, the *Declaration* was an accurate description of the realities on the ground. The Métis, and their political institutions controlled the Settlement, they articulated an unrivalled political authority through their status as *kaa-tipeyimishoyaahk*, and their proposed a form of *wahkohtowin* diplomacy that could make these strange Canadians in their midst into kin. It was a realization of the political program first envisioned by the Métis assemblies in July 1869, but now presented to the outsiders in December. It was the beginning of a very new direction in Red River politics, one that was premised on Métis seizure of the initiative, and a translation of Indigenous political values into norms that Canadians could understand.

Conclusion

While the *Declaration* and the first *List of Rights* offers a first glimpse of how the Métis envisioned a relationship between the people of Red River and Canada, these positions were not the final position of the Métis and Halfbreeds of the North-West. Significant developments in Red River, as well as an ongoing process of alliance building between the two communities, would cause three new *Lists of Rights* to be drawn up, numerous declarations to be issued, and inform a series of public debates among the representatives of the people of the North-West. While the *Lists of Rights* evolved and showed greater sophistication as the crisis progressed into 1870, the foundation for the Red River

negotiating position had already been laid. Common to all future *Lists* was the principle of local governance, local political control, bilingualism, exemption from the long-distance policies of Ottawa, and the protection of the existing political status of the current inhabitants of the North-West. While this first *List of Rights* was not the final negotiating position that led to the Manitoba Treaty in 1870, it had a significant impact on all future discussions, and was a major first step in the political union of the Métis and Halfbreeds. The next chapter will explore how the groundwork laid by the Council of Twenty-Four, the *Declaration*, and the first *List of Rights* as the Métis and Halfbreeds form the successor bodies—the Convention of Forty and the Legislative Assembly of Assiniboia—in an effort to renew their alliance and negotiate a diplomatic treaty with the Dominion of Canada.

Chapter 7 – “I would like to see the power of Canada limited in this country”: The Constitutional Origins of the Provisional Government of Assiniboia⁵⁹⁶

When the Métis announced their Provisional Government during the first week of December 1869, it must have made it obvious to William McDougall that he would not be allowed into the North-West, because a week later he was on his way back to Canada. Lacking official representation, and attempting to salvage its botched transfer agreement, Canada appointed three emissaries to the North-West. The first two of these ambassadors, Grand Vicar Jean-Baptiste Thibault and Colonel Charles de Salaberry, were quickly deemed to lack “the requisite power to treat...with the people.”⁵⁹⁷ Their mission, the Métis decided, was mere soothsaying.⁵⁹⁸ A third emissary, Donald A. Smith, however, seemed to be capable of more. Smith’s strong links to the Hudson’s Bay Company made him familiar with the North-West’s diplomatic culture. Unlike his predecessors, he understood the country and its peoples, and because of this, left an immediate impression on the Métis leadership. His refusal to turn over his official papers to the Provisional Government increased their interest in him, leaving his actual mission and the powers delegated to him somewhat of a mystery—all of which made it seem as if he was capable of doing anything.

Smith was adamant that he would only divulge his message from the Canadian government directly to the people of Red River; he would not address the Métis’

⁵⁹⁶ Riel, in Convention of Forty Minutes, printed in "Convention at Fort Garry, English and French Delegates in Council, Mr. Smith's Commission, Bill of Rights," *The New Nation*, February 4 1870.

⁵⁹⁷ Louis Riel, "Reply to the Canadian Commissioners," in *Collected Writings of Louis Riel*, ed. Raymond Huel and George F. G. Stanley (Edmonton: University of Alberta Press, 1870).

⁵⁹⁸ Bumsted, *The Red River Rebellion*, 86.

Provisional Government in an official capacity. For this purpose, the First Provisional Government organized a “great mass meeting” on January 19-20, 1870, that attracted over a thousand people, and lasted some five hours on both days. Originally planned for the Fort Garry Court House, because of the large turnout, it “had to be held in the open air...when the thermometer stood at about 20 deg. below zero.”⁵⁹⁹ Smith’s long-awaited message from Canada was found somewhat unsatisfactory, as he was only authorized to make the same vague reassurances Canada had been making for weeks: “that all their priorities, rights and privileges of every kind, as enjoyed under the government of the Hudson Bay Company, will be continued” under a Canadian regime.⁶⁰⁰ He had “little more power to negotiate” with the people’s representatives, as the Métis leadership hoped he was, than the other Canadian emissaries.⁶⁰¹ Nor was Smith able to guarantee the acceptance of the specific provisions outlined in the *List of Rights*, particularly those political rights that went beyond the limited rights that Métis “enjoyed under the Company.”⁶⁰²

When Smith’s address to the people of the North-West failed to resolve the political impasse, the public assembly looked to themselves to find a solution. What Smith failed to realize was that he was not addressing an unorganized gathering of people. He was, in fact, speaking to a properly constituted public assembly akin to the buffalo hunt’s founding meeting. This public assembly possessed voting and decision-making powers, which they used regularly throughout the conduct of the meeting. The

⁵⁹⁹ “Mass Meetings. Mr. Smith, Canadian Commissioner, before the People. Official Documents,” *The New Nation*, January 21 1870.

⁶⁰⁰ “Joseph Howe, Secretary of State for the Provinces, to William McDougall, Governor of the Northwest Territory,” December 7, 1869, in *ibid.*

⁶⁰¹ *The Red River Rebellion*, 127.

⁶⁰² *Ibid.*

assembly's first act was the election a chairman, Thomas Bunn, followed by Judge Black as the secretary and Louis Riel as translator, it also passed motions, and ultimately resolved to form a new representative body for the Settlement.⁶⁰³ The great irony of Smith's speech was that rather than placating the people and assuring them of Canada's willingness to protect their rights under the proposed transfer agreement, he inadvertently initiated a new round of independent political organizing.

Smith's address created a renewed sense of common interest among those in the assembly. *The New Nation* described a common desire among the assembled people "to obtain the public good and to bring about in some way the permanent and solid union of the whole Settlement."⁶⁰⁴ In light of this feeling, Riel put a motion to the public assembly. He proposed the formation of a new Métis-Halfbreed body to meet on January 25, 1870 "with the object of considering the subject of Mr. Smith's commission, and to decide what would be best for the welfare of the country."⁶⁰⁵ This motion passed overwhelmingly, and a new governing body was formed, replacing the defunct Council of Twenty-Four.⁶⁰⁶ In an effort to break the political deadlock of the twenty-four-person Council, this new Convention included forty delegates from the two major linguistic communities—twenty from the French parishes, and twenty from the English. Given its size, the new body was dubbed "the Convention of Forty," and its official task was determining what course of action was "most beneficial for the country," given Smith's address. In practice, however, the body had an expansive political program that went

⁶⁰³ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 88.

⁶⁰⁴ "Model Political Gatherings," *The New Nation*, January 21 1870.

⁶⁰⁵ Quoted in *The Birth of Western Canada: A History of the Riel Rebellions*, 91.

⁶⁰⁶ "Mass Meetings. Mr. Smith, Canadian Commissioner, before the People. Official Documents."

beyond discussing the validity of Smith's statement, it would write the North-West's constitution.⁶⁰⁷

The founding of the Convention of Forty likely renewed Canadian hopes for a timely solution, because on February 7, the Canadian government sent Smith there with a potential diplomatic answer to the crisis. Smith informed the Convention he was "authorized...on the part of the Government" to officially invite "a delegation of two or more of the residents of Red River" to travel to Ottawa to confer with the government of Canada on the pressing matters facing the people in the North-West.⁶⁰⁸ This delegation could "explain the wants and wishes of the Red River people, as well as to discuss and arrange for the representation of the country in Parliament."⁶⁰⁹ While the Métis had declared a willingness to negotiate in the *Declaration* of December 1869, Canada's offer to meet with Red River's representatives was seen as an acceptance of the *Declaration's* offer.

Of specific importance was Smith's choice to present Canada's invitation to the Convention of Forty. The Convention was a democratically constituted and elected political legislature, representing the people of the North-West. Smith had personally witnessed its public formation at the January 19-20 assembly, and was therefore well aware of its popular, democratic origins. In involving the Convention, Canada seemed to be accepting something that it would later refuse to acknowledge—that an Indigenous political body already existed in Red River that could make political decisions on behalf of the people who lived there, but was not affiliated with the Company or Canada. By

⁶⁰⁷ "Joseph Howe, Secretary of State for the Provinces, to William McDougall, Governor of the Northwest Territory," December 7, 1869, *ibid*.

⁶⁰⁸ Smith, in "Convention at Fort Garry," *The New Nation*, February 18, 1870.

⁶⁰⁹ *Ibid*.

inviting the Convention to send an official delegation to Canada, the Dominion was implying a recognition of the official capacity of the Convention to represent the interests of the people of the North-West. While both Smith and the Canadian government would later deny that they officially recognized any “illegal” government in Red River,⁶¹⁰ the political reality on the ground in Red River necessitated that Canada work with the Convention, as no other political body existed in the North-West that could bring a satisfactory resolution to the crisis.

Buoyed by this new mission and its *de facto* recognition, the Convention set to work revising and reformulating the original *List of Rights* from December 1869 into a more robust political program. Through this process the Convention organically evolved into a second, more comprehensive, political entity, the *Provisional Government of Assiniboia* in March 1870, replacing the *Comité’s* Provisional Government of December 1869. This new Provisional Government involved the entirety of the people of the North-West and created a broader range of government institutions. It possessed an Executive Council, and like a hunt government had twelve councillors and a President, in this case, Louis Riel. There was also the Legislative Assembly of Assiniboia, which contained twelve (and later fourteen) representatives from each linguistic community, who oversaw all legislative matters in the Settlement, including the creation of new laws and a constitution.⁶¹¹ Finally, the Provisional Government created a fledgling judicial branch, the Supreme Court of Assiniboia, a kind of work-in-progress overseen by the Chief Justice, James Ross now reconciled with Riel and the Métis. By drafting this second *List*

⁶¹⁰ Donald A. Smith, "Report of Special Commissioner Smith," in *History of the North-West*, ed. Alexander Begg (Toronto: Hunter, Rose & Co., 1894), 491.

⁶¹¹ See Norma Hall, Clifford P. Hall, and Erin Verrier, "A History of the Legislative Assembly of Assiniboia," (Winnipeg, Manitoba: Indian and Northern Affairs Canada, 2010).

of Rights the Convention was able to envision a broader role for itself, and to create their own constitutional order in the North-West, one independent of Britain's constitutional tradition.

Compared to the rather sparse documentation of previous Métis governing bodies, the Convention and Provisional Government left behind clear written records of their political processes, including legislature and committee minutes, government statutes, official statements, statutes, draft laws, and official instructions to its political appointees. The Provisional Government even had an unfinished written constitution, including a preamble.⁶¹² When these records are viewed collectively, they present an evolving constitutional program for the people of the North-West. The *Lists of Rights*, the declarations, meeting minutes, and other public documents, were as much the part of internal constitutional discussions about legitimate governance for the region, as they were about outlining a diplomatic strategy for treating with Canada. Canada to some degree was the intended audience of the *Lists*, declarations, and other official statements, but their formation was also a process in which the government of the people of the North-West envisioned its future. The discussions captured in these documents then, represent a constitutional process of institution building for the good governance of the people of the North-West, by the people of the North-West.

Despite the Provisional Government's declaration that it was the only government of the people of the North-West, like so many other Indigenous polities, its power and authority have been seriously downplayed by academic scholarship.⁶¹³ Even with

⁶¹² Legislative Assembly of Assiniboia, "Sessional Journal of the Legislative Assembly of Assiniboia," March 18, 1870.

⁶¹³ See, for example, Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 85; Louis Riel, 76; Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*,

Canada's flimsy claims to the North-West, the idea that the Provisional Government could establish an independent constitutional existence for itself still seems quite far-fetched given the state of scholarly discourse. Yet, this is precisely what the Provisional Government did. Many scholars have tended to treat this political program as a series of *demands* made to Canada.⁶¹⁴ These documents show that the Convention and Provisional Government were not really making demands to Canada, but ultimately understood their existence as rooted in the *kaa-tipeyimishoyaahk* of their people. As an independent entity, the people of the North-West could assert its own political program, which it did throughout 1870. Even though this self-conscious distancing from the Queen's authority was, at times, controversial among several English delegates, most of these men were eventually won over by Métis arguments, or at the very least ceased to oppose independent constitutionalism. The Convention reproduced many of the same dynamics as the Council of Twenty-Four; the Métis members pressed the English delegates on what was acceptable in terms of loyal dissent from the Crown, and the ability of the people of the North-West to act independently of British authority. Ultimately Métis were generally successful in defining the constitutional principles that would be the basis for the new Provisional Government of Assiniboia. The government, which would, by May 1870 be making all the moves necessary to establish itself as the provincial government for post-Confederation North-West.

Ample documentary evidence exists to shed light on this process of constitutional development. December 1869's *List of Rights and Declaration* are merely the starting

128. All focus on the rights of the people of the North-West to create a government *ex necessitate*, (out of necessity due to a lack of constitutional government in the North-West), rather than examining the existence of local Indigenous governance prior to the *Declaration*'s printing on December 8, 1869.

⁶¹⁴ See, for instance, Stanley, *Louis Riel*, 93.

point for the complex process of working out what the Métis' Provisional Government stood for, and what it required from Canada to confederate. Throughout the first half of 1870 this original *List* would be revisited, revised, and expanded on three more times by the Convention and second Provisional Government. The combination of these four *List of Rights*, alongside extensive legislative minutes, and a multitude of official communiqués all provide the political context for the Provisional Government's actions. These documents point to a comprehensive political program, rooted in notions of *kaa-tipeyimishoyaahk* and *wahkohtowin* that created a constitutional vision for the long-term government for the North-West, with or without Canada's involvement.

The Evolution of an Independent Legislature

The most vital constitutional principle conceived by the Convention of Forty was the establishment of a local legislature that possessed significant control over Red River and its immediate environs. Indeed the Convention of Forty's existence was that all-important first-step. The Convention was an evolving institution, and constantly adapted to the new demands placed on it. It was itself the product of an evolving constitutional vision for local self-governance that found its origins in the *Comité National de Métis*, and Council. The early discussions of the Convention would embolden its delegates, permitting the political space for a progressively more ambitious constitutional vision, including the creation of a constitutionally independent government for the region of the North-West known as Assiniboia. In late January 1870, the Convention began developing its constitutional vision, without explicitly acknowledging that that was its purpose. In fact, its first task after receiving Smith's invitation to send a delegation to Ottawa was to

revise the first *List of Rights* and establish a clear program for negotiating with Canada. However, in doing so, the Convention implicitly asserted its right to establish the future government of the new territory, and began a process of constitutional development.

The first indication that the Convention had started to work on a constitutional document—the second *List of Rights*—is found in its debate over whether it could limit the number of Canadians in the new territorial government on January 29, 1870, and the subsequent debate on a legislative override on the lieutenant governor's authority. These debates not only concerned what the future territorial government of the North-West would look like, they also asked the more fundamental question: *did the Convention have the political capacity to determine the constitutional form of the new government?*

The Métis delegation, not surprisingly, felt that the Convention could construct the North-West's new government in their own vision. Métis delegate Norbert Laronce suggested that one purpose of the *List of Rights* was to determine how many Canadian representatives "we are to admit" to sit in the future territorial government. Laronce felt that it was within the Convention's power to ensure that the bulk of this proposed government would be local, elected, and representative.⁶¹⁵ Thomas Bunn, suggesting that the legislature should contain twenty representatives, proposed a ratio of 15 local representatives to five Canadian appointees, which he thought would be suitable local representation in a new territorial legislature.⁶¹⁶ However, even that proportion, seemed too much for some of the delegates. Riel objected to "allowing so many to be nominated from Canada" because if "Canada is exceedingly ambitious to have a strong

⁶¹⁵ "Convention at Fort Garry, English and French Delegates in Council, Mr. Smith's Commission, Bill of Rights."

⁶¹⁶ Ibid.

representation in this Council, it shows her desire to further the interest of Confederation more than the interest of this country.”⁶¹⁷ Riel suggested instead that the people of the North-West admit two Canadian-appointed legislators to the country instead. Even the more conservative delegates who had resisted Métis assertions of *kaa-tipeyimishoyaahk* in the past (and would again in the future) announced that they were “clearly in favour of Red River having a preponderance in the Legislature.”⁶¹⁸ For the conservative delegates, they disliked Riel’s proposal because they felt it “unjust” to have such a skewed representation of North-Westerners to Canadians. Bunn, alongside Black, was concerned that the people of the North-West could lose out on “a golden opportunity” by “being illiberal and ungenerous to Canada.”⁶¹⁹ For the conservatives, their concern was one of tact and diplomacy; they did not want to overstep themselves. The conservatives along with everyone else generally accepted the idea that the local population would have a “preponderating voice in the legislature” enough to control affairs.⁶²⁰

With the general support of the Convention, the Métis desire to significantly limit the number of Canadian legislatures won out. The legislative makeup the Convention ratified was eighteen locally elected representatives from the North-West with a mere *three* Canadian appointees.⁶²¹ Such a substantial majority in the proposed territorial legislature would allow the people of the North-West to protect their interests from the any Canadian attempts “to enrich herself” at their expense.⁶²² It would also allow the

⁶¹⁷ Ibid.

⁶¹⁸ Ibid.

⁶¹⁹ Ibid.

⁶²⁰ Ibid.

⁶²¹ Ibid.

⁶²² Ibid.

Convention to finally institutionalize an elected and responsible legislature in Assiniboia, which Métis and Halfbreeds agitated for. While a constitutionally protected local control of the legislature was an important achievement for the Convention, it did not stop there. The next debate, closely connected with this one, concerned the constitutional principle of legislative supremacy, specifically, the creation of a constitutional check on the Canadian-appointed lieutenant-governor.

The numerical makeup of a future territorial government had immediate repercussions, for the Convention also envisioned a constitutional veto of the territory's executive branch by its now-locally controlled legislature. The seventh article of the second *List of Rights* contained the constitutional provision that a two-thirds majority vote of the territorial legislature could override the governor's policies.⁶²³ Riel felt it "unjust to allow the Governor, with 8 out of 24 [votes], to over-ride the wishes of the people" since the Convention had just previously "attached great importance to the majority of the people triumphing in this country."⁶²⁴ Initially, conservative delegates attacked the veto because it was "against the Constitution of Great Britain."⁶²⁵ Judge Black was concerned that a legislative veto was "a principle plainly inconsistent with the constitution of the Confederation" and if the Convention insisted upon it, "Canada may be obligated to say that she cannot enter into the compact." The *List*, according to Black, "will be of the very best advantage to this country to be incorporated into the Confederation on proper conditions."⁶²⁶ Riel, ever ready to detach the North-West from

⁶²³ The Convention of Forty, "Second *List of Rights*," (Red River Settlement, 1870), article 7.

⁶²⁴ Riel, quoted in "Convention at Fort Garry, English and French Delegates in Council, Mr. Smith's Commission, Bill of Rights."

⁶²⁵ Bunn, quoted in, *ibid.*

⁶²⁶ Black, quoted in, *ibid.*

the Crown, disagreed, arguing that “England chose to neglect us for one or two centuries back” and as a result “we were under any very great obligations to respect her laws.”⁶²⁷

But, in a surprising move, the conservative-leaning James Ross vocally supported the veto’s presence in the *List*, even though it was “unrecognized by the constitution of England or the colonies.”⁶²⁸ Ross nonetheless felt that there were “sufficient reasons” that a veto was necessary. James Ross was motivated by a truly democratic sentiment, that if “two thirds of the people vote against the Governor, there is a fair presumption that the views of the majority of the people are against [his] views.”⁶²⁹ Ross likely shared Riel’s concern that Canada was coming to the North-West to enrich herself, and that a substantially powerful local legislature was the key to protecting the interests of the local people. Ross’s approval of a veto—he was after all one of the most learned members of the Convention—all but ensured its adoption. This veto, combined with a strict limit of three Canadians appointed to the future territorial council, created a significant constitutional limitation on the powers of the proposed territorial government. By envisioning a constitution in which the lieutenant-governor could not pass laws without the support of the two thirds approval of the territorial council—a council which would have 18 members from the North-West—the Convention set out to make the local people the effective king-makers in the territory’s politics.

The idea that Convention had the power to constitute a legislative body in its own vision was in fact so generally accepted that it was never seriously debated. The Convention, in effect, was constructing a negotiating position, as well as a constitution,

⁶²⁷ Riel, quoted in *ibid.*

⁶²⁸ Ross, quoted in, *ibid.*

⁶²⁹ Ross, quoted in, *ibid.*

as a result of their meeting with Smith. So while Métis had shown they had no problem constructing a government on their own, more cautious men like Ross felt justified in constitution-building by including “more than we are entitled to” in the *List of Rights* as they prepared to negotiate with Canada. Whatever the reason, as early as January 29, 1870, the people of the North-West felt comfortable designing their own constitutional infrastructure for their future self-government. By accepting the veto as a viable constitutional option, even though it was “unrecognized by the constitution of England or the colonies,” the Convention proved its willingness to construct a constitutional order on its own terms. In the Convention’s debates, then, the seeds were sown for a new constitutional vision, a vision that would result in a *self-constituted* government for the people of the North-West.

It was this political shift—from negotiating with Canada as a British colony to negotiating with Canada as a free people—that caused January and February’s constitutional vision to be shelved in March. In its place was a more robust constitutional vision as complex “as the Provinces of Ontario and Quebec are now governed, by a Legislature [elected] by the people, and a Ministry responsible to it.”⁶³⁰ Even though the second *List of Rights* would have little bearing on the ultimate government of the North-West by the Provisional Government of Assiniboia, and was not a significant part of the Provisional Government’s negotiations with Canada, these debates nonetheless mark an important shift by the Convention. The second *List of Rights* served more than its original purpose of categorically defining a negotiating program for a treaty with Canada, it had,

⁶³⁰ “Second *List of Rights*,” article 5.

quite suddenly resulted in the motivation for the North-West to create a self-determining constitutional program of its own.

Land and Language: The Constitutional Privileges of the People of the North-West

The Convention was insistent that on matters of land, and language, the people of the North-West, especially the Indigenous Métis and Halfbreeds, would define their own rights. Early debates on the constitution of the new territory also protected Indigenous land-holding customs, and the North-West's linguistic dualism. This assertion inevitably brought the Convention of Forty down the road of political self-determination, and resulted in the formation of a fully independent Provisional Government of Assiniboia. As early as February 1870, the Convention took great care to define land and language in the second *List of Rights* as the inalienable political rights of the people of the North-West, ensuring they would remain protected in any future relationship with Canada.

From the outset of the political crisis, fear of losing local control over the North-West's lands figured prominently into Métis resistance to Canadian annexation. It is no coincidence that the discovery of a survey team on André Nault's hay privilege ignited broad-based Métis political opposition. Because of the confrontation in Nault's field, protecting local control of land, and existing landholding practices were fundamental features of the Métis political program, and they brought this program into the Convention. There was a prevailing sentiment, especially among the Métis, that "No man will take this land here from us...unless they take our lives."⁶³¹ In response to this threat,

⁶³¹ Riel, quoted in "Convention at Fort Garry, Very Important Debates, the Bill of Rights," *The New Nation*, February 11 1870.

the Métis of the Convention proposed the constitutionalized protection of existing land holding customs in the North-West. The February debates of the Convention required that this future local legislature would possess “full control over all the public lands.”⁶³²

The entirety of the leadership of the people of the North-West was aware that, in the economic context of declining buffalo herds and a consolidated fur trade, agriculture and land ownership would occupy an increasingly important position in the new economy of the North-West. Ross acknowledged that there was a need to consolidate the landholdings among the people, because “the possession of this land will become of more important in the past.”⁶³³ Ross reasoned that in the past, “we have had a vast common... for wood or hay, and could go where we wished without hindrance.”⁶³⁴ As the economy was changing, and the people of the North-West mulled over a relationship with Canada, it would be necessary to “secure room enough” for agriculture, but if the people did not “we will be practically destroying one-half or three-fourths of the Settlement.”⁶³⁵ By safeguarding their existing lands, the people of the North-West would ensure that their privileged economic position would continue into the future.⁶³⁶ Although there was significant distance between the Métis and Halfbreed understandings of their collective relationship to the North-West, a general consensus on the need to protect landholding customs emerged during the Convention.

⁶³² Provisional Government of Assiniboia, “Third *List of Rights*,” (Winnipeg, 1870), article 11.

⁶³³ Ross, quoted in “Convention at Fort Garry, Very Important Debates, the Bill of Rights.”

⁶³⁴ Ross, quoted in *ibid.*

⁶³⁵ Ross, quoted in *ibid.*

⁶³⁶ For an analysis of the debate over the economic viability of future political relations with Canada, see Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 126-29.

The Métis position, as it had been for some time, was that the Métis territorial rights would “would have to be dealt with” alongside the Indians by the British Crown.⁶³⁷ This preemptory right of land ownership was an Indigenous right inherently connected to Métis’ relations to their Indian kin, as *descendants of the original inhabitants*. While the Métis were adamant for the protection of their collective rights to land, as kind of “derivative Indian title,” the Halfbreeds were concerned that “Indian title claims would compromise their political rights.”⁶³⁸ George Flett, the Halfbreed representative for St. James, did not see it as the place of the people of the North-West to “press any land claim...*against* the poor Indian,” Indian claims “will not detract from our just claims,” but Red River’s lands should be claimed “as civilized men.”⁶³⁹ The Halfbreeds and Métis, had nothing to lose by the assertion Indian claims, and by the obligations of *wahkohtowin* would, “cheerfully give” any assistance necessary to their relations in protecting their lands from Canadian settlement.⁶⁴⁰

The Convention’s English delegates insisted on a distinction between the rights of Indians and the rights of Halfbreeds, the latter of which were, in part, “the rights of civilized men.”⁶⁴¹ While the Convention and Assembly both understood that an Indigenous right to territory and self-governance was part of the “rights that properly belong to Half-breeds,” the Halfbreeds were concerned that claims to derivative Indian title would, as Darren O’Toole notes, limit their “civilized” rights as a free people to own

⁶³⁷ Riel, quoted in, "Convention at Fort Garry, English and French Delegates in Council, Mr. Smith's Commission, Bill of Rights."

⁶³⁸ Darren O’Toole, "The Red River Jig around the Convention of "Indian" Title: The Metis and Half-Breed Dos a Dos," *Manitoba History* 69, no. Summer (2012): 25.

⁶³⁹ Flett, quoted in, "Convention at Fort Garry, Supplement," *The New Nation*, February 4 1870.

⁶⁴⁰ Flett, quoted in, *ibid.*

⁶⁴¹ Ross, quoted in, *ibid.*

private property, or to be treated as a civilized society.⁶⁴² The Halfbreeds were concerned that any collective claim to Indian title would result, like the Indians, in being “stripped...of their political and civil rights and transferred the common law title of their property to the Crown.”⁶⁴³

The Métis saw things differently. Above all, the Métis delegates were obligated “to preserve the existence of our own people. We must not by our own act allow ourselves to be swamped.”⁶⁴⁴ Métis land rights were derivative enough from Indian title that they required the establishment of “reserves of lands” for the Half-breeds and Métis, as well as for Indians.⁶⁴⁵ Riel argued that this land reserve would make the people of the North-West “absolute masters of this tract it could be disposed of as the people desired.”⁶⁴⁶ It was therefore necessary to reserve a large tract of land for themselves and administer it “under the exclusive control of the Local Legislature.”⁶⁴⁷ A reserve possessed exclusively by the Métis and Halfbreeds—as Indigenous peoples distinct from the Indians—and allotted by the locally-controlled legislature, would not only allow them to remain at the geographic centre of the North-West, but it would also ensure that there would not be “too violent a change once the country should become part of Canada.”⁶⁴⁸

A potential solution to this impasse, was found in the Métis delegate from Baie St. Paul, Pierre Thibert’s definition of “two classes of rights” that were both “*separate and*

⁶⁴² Ross, quoted in, *ibid.*; “The Red River Jig around the Convention of “Indian” Title: The Metis and Half-Breed Dos a Dos.”

⁶⁴³ “The Red River Jig around the Convention of “Indian” Title: The Metis and Half-Breed Dos a Dos,” 23.

⁶⁴⁴ Riel, quoted in “Convention at Fort Garry, Very Important Debates, the Bill of Rights.”

⁶⁴⁵ Thibert, quoted in “Convention at Fort Garry, Supplement.”

⁶⁴⁶ Riel, quoted in “Convention at Fort Garry, Very Important Debates, the Bill of Rights.”

⁶⁴⁷ Riel, quoted in *ibid.*

⁶⁴⁸ Stanley, *Louis Riel*, 93.

concurrent”⁶⁴⁹—derivative Indian title *and* rights as civilized men. Thibert’s point was these two categories of rights did not necessarily detract from each other, but originated from the same relationship to the land. So while the Métis and Halfbreeds considered their land rights as derivative of Indian rights, their rights were not limited to these. As a civilized people, the people of the North-West could claim their rights under the law of nations, they could possess private property, and possessed the collective right of self-governance, *while at the same time* possessing an Indigenous relationship to the territory. According to O’Toole, Métis were, in effect, “refusing the colonial paradigm that constructed Indigenous rights as those of ‘uncivilized’ peoples.”⁶⁵⁰

Indeed, derivative Indian title was not the only way the Convention, decided to claim land. Private property through prior occupancy was also determined to be one of these civilized rights that warranted constitutional protection. The old English settler Dr. Curtis Bird suggested the conversion of the two-mile hay privilege to full fee simple ownership for the benefit of those old settlers who lacked access to these future reserve lands. Bird expressed the concern that some newly arrived Canadians had defied local custom when they “settled on, and ploughed these hay privileges” as if it was their own.⁶⁵¹ The long-term result of this concern was a law, passed by the Legislative Assembly on March 25, 1870, that converted the two-mile hay privilege into the private property of all homesteaders in the country. The law prevented “squatters” from establishing a homestead “at a less distance than four miles from the river frontage,” as well as making it illegal to use this land for any purpose “without the consent of the

⁶⁴⁹ Thibert, quoted in, "Convention at Fort Garry, Supplement." Emphasis added.

⁶⁵⁰ O’Toole, "The Red River Jig around the Convention of "Indian" Title: The Metis and Half-Breed Dos a Dos," 25.

⁶⁵¹ Bird, quoted in "Convention at Fort Garry, Very Important Debates, the Bill of Rights."

proper owners or occupiers of said front lots.⁶⁵² Likewise, in the first and second *Lists of Rights*, the Métis established that a “free homestead pre-emption law” that allowed the people of the North-West to claim their homesteads and additional lands *before* Canadian settlers would have access to them.⁶⁵³ The second *List* also recognized that *all* current homesteads would fall under these rights, not just those homesteads found in the Hudson’s Bay Company “official” land records.⁶⁵⁴

Halfbreed land rights were a complex constitutional formulation. They embraced the existence of private property, but also recognized the collective ownership of territory, which would also be constitutionally protected in the new political context of the North-West. The establishment of a Métis and Halfbreed reserve was part of the rights that Métis and Halfbreeds possessed as the descendants of the original inhabitants or in contemporary terms, as Indigenous peoples, just as the private property of the river lots were possessed by the people of the North-West as the rights of civilized men. This consolidation of individual and collective landholding allowed the people of the North-West to reinforce their social, economic, and political status in the region and to protect their long-term interests in any future relationship with Canada. Such moves allowed the people of the North-West to build a bulwark of reserve land and private property against the coming influx of land-hungry settlers, establishing themselves as the central landholders in the province. By constitutionalizing collective and individual land holdings, the people of the North-West would be able to retain their land-base, as well as the social and economic status that it guaranteed.

⁶⁵² Provisional Government of Assiniboia, "An Act Respecting the Hay Privilege," Provisional Government of Assiniboia (1870).

⁶⁵³ Council of Twenty-Four, "First *List of Rights*," article 5.

⁶⁵⁴ Convention of Forty, "Second *List of Rights*," article 17.

In the nineteenth-century North-West language rights entailed much more than the right to speak one's mother tongue in public institutions, it included cultural and political elements as well. Language was the primary means for political organization in Red River, and both linguistic communities were responsible for autonomous organization within the larger Convention and Provisional Government structures. Both French- and English-speaking constituencies held their own elections, and settled their own electoral disputes.⁶⁵⁵ While many of the English and French representatives were, in fact, bilingual or had at least some knowledge of the other tongue, there was a concerted effort in the Convention and Provisional Government not to favour either language.

To cement this duality, the Executive and Legislative branches of the various political bodies strictly maintained a policy of equal representation—both the Executive Council and Legislative Assembly had equal numbers of French and English members. The Convention, and Legislative Assembly, even appointed two different secretaries so that kept minutes were kept in both English and French.⁶⁵⁶ Language was the cultural and political dividing line for the major communities of Red River; it distinguished the more radical independence of the Métis from the circumscribed loyalty of the Halfbreeds. Recognizing the constitutional equality of the French and English languages in the new political institutions, then, also established of political equality between the two major cultural groups in Red River. In the Convention and Assembly debates, there is little discussion on the role of language in the new constitutional order. What discussion did occur involved an almost complete acceptance of language duality. It seemed, that given

⁶⁵⁵ At the first meeting of the Convention of Forty, some of the elections were contested, "it was resolved that each side settle its own contested election cases," quoted in "Convention at Fort Garry, English and French Delegates in Council, Mr. Smith's Commission, Bill of Rights."

⁶⁵⁶ Ibid.

the existing relationship between the French and English, and the manner in which they had governed together so far, language equality was a natural and uncontroversial constitutional principle of political life in Red River.

Language protection in the North-West was perhaps the most consistent demand made in the four versions of the *List of Rights*, with little change in content among the first three *Lists* and with an expansion of language protection in the fourth. In fact, the articles that pertain to language equality in the first *List of Rights* are copied almost word-for-word for its predecessors. The First *List* states: “that the French and English language be common in the Legislature and Council, and all public documents and acts of Legislature to be published in both languages,” and “that the judge of the Superior [Court] speak French and English.”⁶⁵⁷ The third and fourth *Lists* also specified the new executive will “be familiar with both the English and French languages.”⁶⁵⁸ The fourth *List* adds an article noting the constitutional necessity of separate schools for the linguistic and religious groups of the province, funded proportionally according to the denomination’s provincial population.⁶⁵⁹ The principle of language equality remained a central feature throughout the constitutional development of 1870, although growing more complex with each revision.

The matter-of-factness in which the issue of language equality in the North-West was approached, and the lack of controversy that surrounded this proposal, attests to the centrality of this principle in the daily public life of the region. Given its importance, it seems obvious that the people of the North-West would wish this situation to continue

⁶⁵⁷ Council of Twenty-Four, “First *List of Rights*,” articles 10-11.

⁶⁵⁸ Provisional Government of Assiniboia, “Third *List of Rights*,” article 17; “Fourth *List of Rights*,” (Winnipeg, 1870), article 17.

⁶⁵⁹ “Fourth *List of Rights*,” article 7.

into the future. As a result, the use of French and English equally in all public business of the new government was a grounding constitutional principle. French and English could be used equally and without prejudice in the daily operation of government, and “all public documents, as well as all acts of the Legislature” would be “published in both languages.”⁶⁶⁰ In this sense, the equality of the French and English languages in the constitution of the Provisional Government of Assiniboia was an inclusive political principle that defined the language of government, and the political equality of the peoples of Red River.

On February 8, 1870, two weeks after its founding, “the work of the Convention seem[ed] about at an end.”⁶⁶¹ It had reached consensus on a comprehensive second *List of Rights*, and it had agreed on three delegates to send to Canada to negotiate the entry of the North-West into Confederation—Abbe Noel-Joseph Ritchot, Judge John Black, and Alfred H. Scott. Everything the Convention was mandated to do by the Public Assembly of January 19-20, 1870 had been accomplished. Yet, the question remained on what institution was to govern in the place of the Convention. There were two different perspectives on this problem. The Métis shared Riel’s sentiment, that Red River “must have a more fixed existence before proceeding much farther. Unquestionably our position can be improved by drawing closer together by bonds of friendship and self-interest. Union is strength.”⁶⁶² The Halfbreeds as usual were less comfortable with behaving in any way that may be considered disloyal or rebellious to the Queen. During speeches by pro-Provisional Government French delegates, two English delegates slipped out to see

⁶⁶⁰ “Third *List of Rights*,” article 16.

⁶⁶¹ Riel, quoted in, “Convention at Fort Garry,” *The New Nation*, February 18 1870.

⁶⁶² *Ibid.*

the deposed HBC Governor of Assiniboia, William McTavish and “asked his opinion as to the advisability of forming a Provisional Government.”⁶⁶³ In what the two delegates interpreted as official endorsement of a future Provisional Government, Mactavish replied “form a Government for God’s sake, and restore peace and order in the Settlement.”⁶⁶⁴ When this statement was relayed back to the Convention it erupted into cheers, and heartily endorsed the constitutional establishment of a new, united Provisional Government of Assiniboia.

Le droits du gens: The Origins of the People’s Political Rights

With the creation of the Provisional Government, the confidence and authority with which the Métis and Halfbreeds acted was increased exponentially. The constitutional development of the institution also grew more confident, as the new Legislative Assembly of Assiniboia turned to both more foundational and more specific questions. Perhaps the most foundational constitutional question yet unanswered by the people of the North-West was, from where and whom did they draw their authority? Was it, as some English-born leaders argued, an institution congruent with British constitutional norms, or was it, as the Métis had always argued, a self-constituting body that found its origins in their Indigeneity? Was the people’s power to govern and engage in diplomacy with other peoples rooted in the people of the North-West independent *rights as a people*, or in their more limited *rights as British subjects*?

Establishing the origin of people’s rights, and the political authority this created, was *the* central constitutional question for the Provisional Government of Assiniboia in

⁶⁶³ Sutherland, quoted in, *ibid*.

⁶⁶⁴ Sutherland, quoted in, *ibid*.

March 1870. How the Legislative Assembly answered it would determine all future courses of action. If it represented a people with rights independent of their relationship with the Queen, they could govern themselves indefinitely, and negotiate some future agreement with Canada on an international basis, but if they were mere British subjects, the Provisional Government was a subsidiary authority of the Crown, and would be unable to assert any political rights that contradicted the British constitution.

Within a week of the formation of the Legislative Assembly, its members debated these very questions. On March 16, 1870, a dispute broke out between Riel and a Halfbreed representative in the Assembly, Thomas Bunn, over the seemingly innocuous translation of a draft motion from English to French. Initially, Bunn objected to what he considered a mistranslation of an English phrase, “rights as British subjects,” to “*le droits du gens*” (the rights of men).⁶⁶⁵ Bunn thought this the “vague” term “rights of men” would detract from their well-defined “rights as British subjects,” a concept that had clear constitutional meaning in the British tradition.⁶⁶⁶ These British constitutional rights protected the people of the North-West from abuses of power, and were guaranteed to them by their allegiance to the Queen. Riel, on the other hand, was firmly committed to the original French wording. He launched into a rigorous defence of “*le droits du gens*,” arguing it was necessary to be “as explicit as possible” in asserting the freedom of the people of the North-West to act in their own interests, in other words, they were *kaa-tipeyimishoyaahk*. The French phrase, Riel argued, was used for very specific reasons, it “alludes to our rights *as men—a people—a nation*. In that capacity we have been

⁶⁶⁵ Legislative Assiniboia, "Sessional Journal of the Legislative Assembly of Assiniboia," March 16, 1870.

⁶⁶⁶ Bunn, in *ibid*.

ignored.”⁶⁶⁷ Bunn and Riel had very different conceptions about the political origins of the rights possessed by the Provisional Government. For Bunn, these rights were a mere “privilege accorded by the Crown” to the people of Red River to protect the Queen’s subjects from domestic illegalities,⁶⁶⁸ but for Riel, the rights of men—the rights that Canada had violated in attempting to govern them—were inalienable and existed outside of British constitutional framework. The rights of the people of the North-West had an independent existence, which allowed Métis to govern themselves, own themselves, and act according to the law of nations, as other people did. To Riel, to have rights as a people meant that they need not claim their rights from the British Crown, but that these rights were self-constituted by Métis peoplehood. These positions were difficult to reconcile, although several members tried.

Alfred Scott, an American with republican sympathies, proposed a revision to address both Riel’s and Bunn’s concerns. He suggested that the Legislative Assembly instead use the phrase “our rights as a people” and its French equivalent.⁶⁶⁹ But, Bunn immediately objected. This wording was too far removed their rights from the British political system, for he believed that “it is only as British subjects that we have any right to complain of the transfer. If we were subjects of any other Power, we would not have a word to say in the matter.”⁶⁷⁰ Riel, did not disagree with Bunn’s assessment, but argued that it was possible to have both rights as a people and rights as British subjects, it

⁶⁶⁷ Riel in, *ibid.* Emphasis added.

⁶⁶⁸ O’Toole, “The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba,” 190.

⁶⁶⁹ Scott in Legislative Assembly of Assiniboia, “Sessional Journal of the Legislative Assembly of Assiniboia,” March 16, 1870.

⁶⁷⁰ Bunn in *ibid.*

mattered only that their rights as a people were primary.⁶⁷¹ He stressed the primacy of their rights as a people: “We complain not because we are British subjects merely, but because we are men. We complain as a people—as men—for if we were not men we would not be British subjects.”⁶⁷² Having rights as a people did not necessarily interfere with their rights as British subjects, but Riel, and likely the rest of the Métis caucus, considered their primary rights as Indigenous and thus independent of any rights claimed from the Crown. This was the fundamental principle of being *kaa-tipeyimishoyaahk*—Métis owned themselves. While it was possible to have a rights-based relationship with the Crown, and even to have *wahkohtowin* obligations to the Queen, this by no means displaced the Métis’ self-owning capacities any more than their treaty with the Sissetons made them subject to domestic Dakota laws. And, what was true for the Métis people, was also true for the people of the North-West. They were a self-owning political people, their rights originated from beyond the Crown, and they could assert themselves both outside the Crown’s jurisdiction, and as British subjects through their long-term kin relationship with the Queen.

In this particular debate, Bunn’s motion to replace ‘*le droits du gens*’ with ‘rights of British subjects’ won the battle, but lost the war. Even with the preference for claiming only the limited constitutional rights of British subjects by some old settlers and Halfbreeds, in practice the Provisional Government adopted the constitutional principle that the people of the North-West possessed the independent rights of a people. This principle manifested itself everywhere in the Provisional Government’s constitutional documents.

⁶⁷¹ Riel in *ibid.*

⁶⁷² Riel in *ibid.*

When on March 18, 1870, the Legislative Assembly passed article 3 of its unfinished constitution, invested “all legislative authority” in the “President and Legislative Assembly composed of members elected by the people.”⁶⁷³ And when the Provisional Government reiterated the people’s status as British subjects it tempered this reassertion with their rights as a people. The first motion adopted by the Legislative Assembly of Assiniboia seemingly reaffirms a commitment to the Crown; indeed it has largely been interpreted that way in scholarly literature.⁶⁷⁴ It was a symbolic and reconciliatory motion, tactfully used to demonstrate respect for British constitutional law, but it had an important qualification:

That notwithstanding the insults and sufferings borne by the people of the North-West heretofore, and the sufferings which they still endure, the loyalty of the people of the North-West towards the Crown of England remains the same: *provided* their rights, properties, usages and customs be respected.⁶⁷⁵

While this motion may appear to be expressing an unconditional loyalty to British authority, it is carefully worded so that the authority of the people of the North-West would not be limited to the rights granted by British Crown. Loyalty to the British Crown was acknowledged, “*provided* their rights, properties, usages and customs be respected.” If their preexisting rights and customs were not respected, the Provisional Government ensured that their authority would not be limited to their rights as British subjects.

The Provisional Government’s oaths of office also differed considerably from the Company-run Council of Assiniboia’s oaths. The old Councillors swore an allegiance to “our Sovereign Lady, the Queen or Her Heirs and Successors,” declaring that the

⁶⁷³ Ibid., March 18, 1870.

⁶⁷⁴ See Bumsted, *The Red River Rebellion*, 131.

⁶⁷⁵ Legislative Assembly of Assiniboia, "Sessional Journal of the Legislative Assembly of Assiniboia," March 15, 1870.

councillors “lawfully exercise[d] her authority,” in her name and on her behalf.⁶⁷⁶ The Provisional Government’s oaths of office, however, vested constitutional authority in the will of the people of the North-West. Riel’s oath as president, for example, makes no mention of the Queen or her authority in governing the North-West. The president was “elevated by the grace of Providence and the suffrages of [his] to the highest position in the government.”⁶⁷⁷ The president swore he would “faithfully fulfill” all his duties as president, “as they may hereafter be defined by the voice of the people.”⁶⁷⁸ The oaths for the members of the Legislative Assembly of Assiniboia also contained no reference to the Queen or royal authority:

I, _____, do solemnly swear that I will, to the best of my ability, perform all the duties of a member of the Legislative Assembly of the Provisional Government of Assiniboia – So help me God.⁶⁷⁹

These oaths self-consciously resituated the collective rights to self-government, in the hands of the people, a right that flowed from their “voice” rather than by the power of some distant monarch. By holding the President accountable to the voice of the people rather than to the “Sovereign Lady,” and by asserting rights originating in their peoplehood, the Provisional Government did much to decentre the Queen and her royal authority in their new system of governance. Even Bunn himself excluded the Queen’s authority in his capacity as the Secretary of State for the Executive Council of the Provisional Government of Assiniboia, when he instructed Assiniboia’s delegates to

⁶⁷⁶ Council of Assiniboia, quoted in Hall, Hall, and Verrier, “A History of the Legislative Assembly of Assiniboia,” 15.

⁶⁷⁷ Office of the President Provisional Government of Assiniboia, “Proclamation to the People of the North-West, April 9, 1870,” (Government House Fort Garry 1870).

⁶⁷⁸ Legislative Assembly of Assiniboia, “Sessional Journal of the Legislative Assembly of Assiniboia,” March 24, 1870.

⁶⁷⁹ Ibid.

Ottawa without reference to the Queen's authority that they would "do their utmost to secure their rights and privileges which have hitherto been ignored," reminding them that they "carry with [them] the full confidence of this people."⁶⁸⁰ Bunn, too, it seems was able to conceptualize the peoples' capacity to negotiate with Canada, not just as British subjects, but *as a people* as well.

Displacement of the Crown's authority in the constitution of the Provisional Government was not just a symbolic victory. By removing the Queen from the origins of Métis and Halfbreed political existence, the Provisional Government asserted that the people were *kaa-tipeyimishoyaahk*, and grounded their authority in their self-ownership. Any diplomatic gesture made to Canada, was therefore made by the people of the North-West as a free, politically independent, and self-constituting people who were able to make decisions about diplomacy without depending on foreign political institutions. Indeed, this is how the Provisional Government functioned; it received its mandate from the people through elections and ongoing consultation, its government did not recognize the Queen as its head-of-state, and the people of the North-West repeatedly asserted their right to govern their own affairs.

The Provisional Government of Assiniboia consistently demonstrated itself as the independent government of the people of the North-West, and grounded these assertions in the rights of the people of North-West articulated by Riel in the Assembly's debates. The people of the North-West, or at least their leadership, was not opposed to claiming rights as British subjects, and indeed they identified themselves as the loyal subjects of

⁶⁸⁰ Thomas Bunn, "Letter of Instructions," in *The History of the North-West*, ed. Alexander Begg (Toronto: Hunter, Rose & Co, 1894), 476.

the Queen.⁶⁸¹ The Métis were, however, unable to rationalize limiting their political powers to the rights that they could claim under British law. Being British subjects above all else was hardly how Métis understood themselves, and they carried this belief with them into the Provisional Government. What the Provisional Government claimed was much more than being subject to some other power—their rights as a people consisted of a collective right to self-government that found their inalienable origin in their Indigenous peoplehood. These were not privileges to be granted at the pleasure of some distant monarch, but were self-constituting rights to govern oneself—*kaa-tipeyimishoyaahk*—that existed because it was being asserted by political collectivity that was Indigenous to the country it was governing.⁶⁸² First and foremost, then, the Provisional Government claimed their rights *as a people*. This allowed it to exercise political authority independent of Canada, Britain, and the Hudson's Bay Company, including governing the North-West. This justified independent Métis action outside of British constitutional norms, and it was also consistent with Métis self-understandings of being *kaa-tipeyimishoyaahk*. Whatever disagreements existed between the Métis and Halfbreeds about the origin of their rights, the actual constitution of the Provisional Government of Assiniboia followed protocols that were informed by a sense of accountability to the people, and with explicit references to the existence of their rights as a people. In spite of philosophical differences in the rationalization for how to conduct negotiations with Canada, both sides accepted that the governing authority of the

⁶⁸¹ During the Convention of Forty, Riel stated: "Of course I am a British subject; but I am not a Canadian subject yet: and for that reason the Governor-General of Canada has no business with me yet, and I have no business with him." In "Convention at Fort Garry, English and French Delegates in Council, Mr. Smith's Commission, Bill of Rights."

⁶⁸² Andersen, "*Moya 'Tipimsook* ('the People Who Aren't Their Own Bosses'): Racialization and the Misrecognition of 'Metis' in Upper Great Lakes Ethnohistory," 52-53.

Provisional Government, as well as its ability to negotiate with Canada on the people's behalf, came more from the people than the Crown.

From Provisional to Provincial Government: The Transitional Authority of the Provisional Government of Assiniboia

The Convention's debate on the second version of the *List of Rights* had explicitly rejected provincial status in Confederation as a right of the people of the North-West, preferring a territorial legislature with a sizeable majority of local representatives.⁶⁸³

But with the formation of the Provisional Government of Assiniboia, the Executive Council, with Louis Riel at its helm, pursued province-hood with or without the Assembly's blessing.⁶⁸⁴ The logic for provincial status was the assurance of political equality with the other jurisdictions in Confederation, and a federal division of powers that would safeguard local political autonomy.⁶⁸⁵ With a move towards provincial status within Confederation, the principle of local autonomy grew to encompass more robust constitutional powers.

One of the criticisms to be overcome by the Executive Council in its path to provincial status was the assumption that the political inexperience of the territory's population prevented them from being capable of governing themselves. Riel, during the February debates had already rejected this position. He asked the Convention, "is it not possible for us to settle our own affairs in a satisfactory manner? Cannot we make

⁶⁸³ "Convention at Fort Garry, Very Important Debates, the Bill of Rights."

⁶⁸⁴ Provisional Government of Assiniboia, "Third *List of Rights*."

⁶⁸⁵ O'Toole, "The Red River Resistance of 1869-1870: The Machiavellian Moment of the Metis in Manitoba," 181.

regulations for outsiders, with reference to the sale and disposition of our lands?”⁶⁸⁶ For Riel and much of his Executive Committee, territorial status within Confederation would unreasonably constrain the people of the North-West in determining their future. Provincial status, on the other hand, entitled the people to “all the rights and privileges common to the different Provinces of the Dominion.”⁶⁸⁷ Similar to the other provinces of Canada had in 1867—Ontario, Quebec, New Brunswick, and Nova Scotia—the North-West would enter Confederation as a pre-existing polity. Like the four original provinces, the Provisional Government, could justify the establishment of extensive constitutional infrastructure that would carry into the new province. Even without consensus on provincial status in the Assembly, the Executive Council started to develop its own constitutional vision, as the Provisional Government prepared to send delegates to Ottawa. Regardless of the Assembly’s view on provincial/territorial status, it too, became caught up in the constitution-building of the moment, establishing a whole host of new institutions that would be the starting point for this new entity.

The name choice of “Provisional Government” was itself a tactical one, implying that the government established by the people of the North-West was not a permanent fixture, and that it would soon be replaced with another one sometime in the future. Interestingly, “Provisional Government” was also how McDougall’s failed territorial government was described.⁶⁸⁸ In both cases the term “provisional” was meant to provide

⁶⁸⁶ Riel, quoted in, "Convention at Fort Garry, Very Important Debates, the Bill of Rights."

⁶⁸⁷ Provisional Government of Assiniboia, "Third *List of Rights*," article 1.

⁶⁸⁸ A letter from the Joseph Howe as Secretary for the Provinces, reprinted in the North-West, describes McDougall’s government as “merely provisional and temporary; and that the Government of Canada will be prepared to submit a measure to Parliament granting a liberal constitution, so soon as ... [the governor has] had the opportunity of reporting fully on the wants and requirements of the Territory.” "Mass Meetings. Mr. Smith, Canadian Commissioner, before the People. Official Documents."

assurance of the government's temporary nature and that some other, more satisfactory political arrangement would be concluded in the future. This has typically been the scholarly view of the Provisional Government of Assiniboia, that its existence was a temporary one, and it would disband once "all necessity for [its] existence having passed away."⁶⁸⁹ It has been generally presumed that the Provisional Government "was only waiting to surrender the government into the hands of the Canadian Lieutenant Governor" upon the arrival of Canadian authority.⁶⁹⁰ However, there is ample evidence that by April 1870, the Provisional Government of Assiniboia envisioned a different constitutional role for itself—as the body responsible for establishing the political infrastructure of the new province then being negotiated in Ottawa. This evidence suggests that the Provisional Government of Assiniboia's provisional nature was debatable, and that the leadership of the North-West intended that the Provisional Government was responsible for the creation of, and political transition to, the new Provincial Government. It was as if it sought to preserve the privileged political standing of the people of the North-West by cementing the country's accepted constitutional norms into real life political institutions.

There are three activities that suggest that the Provisional Government of Assiniboia was laying the constitutional groundwork for a future provincial government. First, the Provisional Government created a comprehensive judicial system. This judicial infrastructure—including the formation of laws and regulations, and the appointment of judicial officers—went beyond what was needed in the country if it was just an interim arrangement to be replaced after the conclusion of the arrangements with Canada.

⁶⁸⁹ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 125.

⁶⁹⁰ *Ibid.*

Second, the Provisional Government passed laws that would exist beyond the reasonable timeframe for the completion of negotiations—laws with fixed annual deadlines, and political appointments that would last two years or longer. This forward-looking approach to legislation and political office suggests that the Provisional Government assumed that these appointments would continue after confederating with Canada. Third, the Provisional Government established a senate, proposing the appointment of men from the Settlement's old elite for a term of several years. The creation of this Upper House also coincided with the addition of an article in the final *List of Rights* that required the creation of a senate in the future government of Manitoba. As a result of this evidence, it is my contention that the Provisional Government understood itself as the forerunner of the new provincial government, responsible for establishing the political infrastructure necessary for the creation of the new provincial government.

While the Convention of Forty had dealt primarily with the creation of the second *List of Rights*, and later the establishment of the Provisional Government of Assiniboia, this second body was much more focused on domestic institution building than the first. During the first session of the Legislative Assembly, a flurry of domestic legislation replaced a number of the old laws put into effect by the Company-driven Council of Assiniboia. Since, the Provisional Government's policy was to adopt "all local Laws + regulations which were in operation under the rule of the Governor + Council of Assiniboia" until such a time as the Legislative Assembly changed those laws.⁶⁹¹ On March 24, 25, and 26, 1870, the Legislative Assembly of Assiniboia created the legislative infrastructure for a number of important institutions: it ratified a constitutional

⁶⁹¹ Provisional Government of Assiniboia, "An Act Providing for the Due Administration of Public Justice,"(1870).

preamble, passed an act for the administration of justice in the North-West, made provisions for the collection of custom's duties at Assiniboia's border, it established a new constabulary force, and legislated regulations on "duties, postal service[s], fires, animals, hay, alcoholic beverages, business licenses, roads and so on."⁶⁹² These laws are noteworthy, not only because they "indicate how seriously Riel and his councillors filled their role, acting in an enlightened and conscientious manner,"⁶⁹³ but because this legislation contains detail that would be superfluous if the laws were to be replaced by the 'coming of Canadian authority' in a few months time.

The establishment of the Assiniboian court system is an excellent example of this attention to detail. A law passed by the Legislative Assembly on March 26, 1870 established the new constitutional infrastructure for the judicial system, and the Executive Council and the legislative Committee on Laws, had fully fleshed out the judicial infrastructure by May 7. In constituting the new Assiniboian justice system, the Provisional Government created seven judicial districts and appointed justices of the peace and magistrates for each. The Assembly ratified these appointees to their offices on May 7, who were tasked with enforcing the regulations developed by the Assembly's Committee on Laws. The Committee met throughout April to develop an extensive (and tedious) legal code that, amongst other things, regulated the operation of the courts.⁶⁹⁴ The district courts would adjudicate cases involving any violation of liquor laws, debts under £10, and offences where the maximum fine was £10 or less. Any major criminal offence, or offences that exceeded maximum fines of £10 would fall under the

⁶⁹² Trémaudan, *Hold High Your Heads: History of the Metis Nation in Western Canada*, 93.

⁶⁹³ Ibid.

⁶⁹⁴ Committee on Laws Legislative Assembly of Assiniboia, "Committee on Laws Minutes," (Red River Settlement: Manitoba Archives, 1870), April 7, 1870.

jurisdiction of the Supreme Court, presided over by James Ross in Winnipeg.⁶⁹⁵ All decisions could be appealed to the Supreme Court, which met quarterly “on the Third Thursday of February, May, August and November.”⁶⁹⁶ The Committee’s legal code also went into extensive detail about the functioning of the courts, including who would be responsible for the travel costs of witnesses, and which district court would be responsible for adjudication when the claimants were from different judicial districts.⁶⁹⁷ The Legislative Assembly, in turn, ratified the appointment of 17 magistrates and six justices of the peace on May 7, 1870, to serve in the district courts and to serve notices to those called before the bench.⁶⁹⁸ The incredible detail of these regulations, which cover almost every foreseeable possibility in jurisdictional disputes, as well as the appointment of magistrates to oversee its operation, all occurred very close to the resolution of the Ottawa negotiations. The timing of the legislation suggests that the Provisional Government intended for this court system to exist well into the future, beyond the limited existence of the Provisional Government as currently constituted. These were long-term laws and regulations, and included extensive appointments of men who were capable of serving these in these positions. Such detail, and the act of carrying it through, suggests that the Provisional Government desired its newly developed legal code, as well as its revived region-wide court system, to exist beyond the conclusion of a treaty with Canada as part of the new provincial political constitution. Since, the Provisional Government’s policy was to adopt the Council of Assiniboia’s laws until such a time as

⁶⁹⁵ Ibid.

⁶⁹⁶ Ibid., April 4, 1870.

⁶⁹⁷ Ibid., April 8, 1870.

⁶⁹⁸ Legislative Assembly of Assiniboia, "Sessional Journal of the Legislative Assembly of Assiniboia," May 7, 1870.

the Legislative Assembly changed them, it can be reasonably assumed that the Provisional Government representatives acted as if their laws would transition into the new provincial jurisdiction in the same way.⁶⁹⁹ Institutions created by the Provisional Government, such as the court system or law code, would then be carried into existence in Confederation, and then adapted to fit new needs.

The Provisional Government typically created laws with fixed annual dates and meeting times well beyond any reasonable assessments of the conclusion of negotiations in Ottawa. Dates were set for annual, semi-annual, and quarterly meeting times, suggesting that the meeting times and deadlines of political institutions would continue after confederation with Canada. On May 3, 1870, the Provisional Government replaced the Company's liquor licensing regime with its own, repealing all existing licenses, and replacing them with new licenses issued by the Office of the President.⁷⁰⁰ The new licenses, by regulation, would only be issued "on the first weekday of Dec., and on no other day" in future years.⁷⁰¹ Given that successful negotiations with Canada would be concluded in a week's time, it is likely that this law was intended to stand long after the establishment of the new provincial government. The Legislative Assembly also revived the quarterly court model of the Company's old Governor and Council of Assiniboia. The district courts were to meet alternating Tuesdays in their districts, while the Supreme Court of Assiniboia would meet on the third Thursday of February, May, August, and November every year.⁷⁰² This schedule resumed standard judicial processes in the region

⁶⁹⁹ Provisional Government of Assiniboia, "An Act Providing for the Due Administration of Public Justice."

⁷⁰⁰ Legislative Assembly of Assiniboia, "Sessional Journal of the Legislative Assembly of Assiniboia," May 3, 1870.

⁷⁰¹ *Ibid.*, May 4, 1870.

⁷⁰² Legislative Assembly of Assiniboia, "Committee on Laws Minutes," April 6, 1870; April 4, 70.

and ensured that the courts would meet at quarterly intervals. The Committee on Law's first date for the Assiniboian Supreme Court's sitting was on the third Thursday of May—about six weeks away—the Committee ensured the court would sit before the completion of Ottawa negotiations. However, by instituting annual meeting dates in the more far-off August, November, and February, the Committee, as well as the Provisional Government, was suggesting that the regular meeting of the Supreme Court of Assiniboia would be set well into the future, even beyond confederation with Canada.

The third event that supports the contention that the Provisional Government was developing a transitional governance strategy in the spring 1870 is the creation of an Upper Chamber or Senate in the Legislative Assembly of Assiniboia. The proposed Assiniboian Senate was, in many ways, a method for the Provisional Government to consolidate its political power in Red River by incorporating the old leaders who had been marginalized by the fall of the Council of Assiniboia in December. The first discussion of a senate occurred in the Convention of Forty's deliberations over the second *List of Rights*, but the Upper House proposal was reintroduced in early May 1870, by the Executive Council, who suggested to the Legislative Assembly that the Senate should include "those composing the old Govt; and it might be well if men such as these had an opportunity of joining in the administration of affairs."⁷⁰³ The Executive Council, envisioned the senate as an appointed body that would represent the many elements of Assiniboian society, forming a representative function similar to the old Council of Assiniboia, but still subordinate to the Assembly. The Executive went as far as suggesting a number of former leaders in the Settlement, who could be made senators:

⁷⁰³ Legislative Assembly of Assiniboia, "Sessional Journal of the Legislative Assembly of Assiniboia," May 7, 1870.

Rt. Rev Bishop Taché, Rt. Rev Bishop Machray, the Representative of the Hudson Bay Co. in this country, Mr. Salomon Simlin, Mr. Roger Goulet, Mr. And. McDermot, sen., Mr. Patrice Breland, Mr. John Sutherland, Mr. McKenzie of Portage Laprairie, + either Mr. Truthwaite or Capt. Kennedy.⁷⁰⁴

O'Donoghue, speaking for the Executive Council, suggested that the Senate “be composed of 10 members, appointed for 2 years each – that the 2 bishops & their successors [should] be members for life.”⁷⁰⁵ By determining that the senate should have appointments lasting two years—again well beyond the time expected for the completion of negotiations with Canada—and including two permanent senatorial positions, suggests that the Provisional Government considered itself responsible for building the future provincial political infrastructure.

In addition to local designs on a senate, the fourth version *List of Rights*, issued to Abbé Ritchot just as he was leaving Red River for Canada in late March, also noted that Manitoba would have, a Canadian-appointed lieutenant-governor, a ministry responsible to the provincial legislature, *and a senate*.⁷⁰⁶ By initiating the creation of a senate in the Legislative Assembly in advance of the completion of negotiations with Canada, the Executive Council was carrying out the provisions contained in the *List of Rights* on its own terms, and independent of Ottawa. Consistent with principles of *kaa-tipeyimishoyaahk* asserted by many proclamations and legislative debates, the Provisional Government was exercising its prerogative as a government to determine what its constitution and political future would look like. However, the fate of the Assiniboian Senate was left open-ended. Two days after the discussion of the establishment of the

⁷⁰⁴ Ibid.

⁷⁰⁵ Ibid.

⁷⁰⁶ Stanley, *Louis Riel*, 126; Provisional Government of Assiniboia, "Fourth *List of Rights*," article 1, section 2.

senate, the President closed the session without the Assembly appointing senators.⁷⁰⁷

While the Senate was never formally organized, and no one named as a potential senator was ever appointed, the intention to establish a senate was noted in both the Legislative Assembly's debates, and in the final *List of Rights* that were the basis for negotiations with Canada. Regardless of how events unfolded, that the Provisional Government intended to establish a Senate for Assiniboia that would remain a constitutional force after the new Provincial Government of Manitoba came into being.

Like the creation of a senate, the establishment of a judicial system, with laws that would be enforced on an annual basis, and the formation of embryonic senate infrastructure all went above and beyond the immediate needs of Red River and its negotiation with Canada. Why 28 of the North-West's most influential leaders continued to meet and construct laws that were motivated by no pressing need to build constitutional infrastructure, can only be explained if there was some assumption on their part that the Provisional Government, and the laws it made, would have a meaningful impact on the future politics of the new province. The Provisional Government, not least the Legislative Assembly, invested a large amount of time and energy in debating these bills, and constructing these laws, it can only be assumed that they were intended to carry into the next phase of governance in the North-West, a phase which the natives of the country would have considerable control over through the establishment of strong and continuous government institutions that worked to protect their interests.

⁷⁰⁷ Legislative Assembly of Assiniboia, "Sessional Journal of the Legislative Assembly of Assiniboia," May 9, 1870.

Conclusion

The many constitutionally relevant documents of the Convention and Forty and Provisional Government of Assiniboia give a clear indication of the country's self-understanding in the first half of 1870, as it prepared to enter Confederation. The people of the North-West were a politically independent people, who possessed rights at the subjects of Queen Victoria, but also rights that existed independent of the British constitutional system. Constitutionally speaking, then, the people of the North-West were like the Métis, *kaa-tipeyimishoyaahk* and could therefore form their own constitutional order to suit their local needs. And they did precisely that. They formed a judicial system and ratified a legal code, they created a legislature and executive that were in some senses British, in some senses republican, and in many cases involved buffalo hunt institutions. Uniformly, despite repeated pronouncements of being British subjects and being loyal to the Queen, none of these bodies claimed to express the Queen's authority. Some of these constitutional rights, too, were explicitly defined as the rights of Indigenous people. They were collective rights to land, derived (for the Métis at least) from Indian title, which could be claimed collectively independent of the Hudson's Bay Company's shaky claims to the North-West. These rights existed both separately and concurrently to the rights of civilized men, which allowed the Métis and Halfbreeds to claim their river lots as private property and British-derived legal rights. These rights were all expressed by an independent legislature formed by the people, and responsible to them. The legislatures of 1870 repeatedly grounded their political legitimacy in the voice of the people of the North-West. It was this locally-derived authority that was so crucial to this whole constitutional order. By deriving their legitimacy and political power from the people,

they were not only authorized by the people to negotiate with Canada, but were ultimately recognized by Canada as the North-West's representatives for the purposes of treaty-making. It was this constitutional order, in addition to ensuring stable and legitimate governance in Red River that made treaty negotiations possible.

Chapter 8 – “a matter of settling affairs peacefully”⁷⁰⁸: the building blocks of the Manitoba Treaty Negotiation

On March 22, 1870, three delegates from the Provisional Government of Assiniboia were officially dispatched to Ottawa. The delegation was chosen to represent the Provisional Government’s broad constituency. Judge Black was appointed to represent the English-speaking people of the Settlement, Alfred Scott was selected from the small population of Americans, and Abbé Noel-Joseph Ritchot was chosen to represent the Métis.⁷⁰⁹ The delegation was far from perfectly selected. Black was too sympathetic to the Canadian position to be of much use, and Alfred Scott lacked much political conviction of his own, but he nonetheless supported the Métis position. Fortunately for the people of the North-West Ritchot was both the most committed delegate and occupied the most radical political stance—mirroring the Riel’s most closely. It was Ritchot who was ultimately responsible for the bulk of the negotiations, as well as for relaying the Provisional Government’s position to Canada. Each delegate received a commission, a set of instructions, and a *List of Rights* that detailed how they were to conduct negotiations with Canadian government. The delegates’ commissions were explicit; the Red River delegates were to “lay before the Dominion Government the accompanying list of propositions and conditions as the terms upon which the people of Assiniboia will consent to enter into Confederation with the other provinces of the Dominion.”⁷¹⁰ Some articles in the accompanying *List of Rights*, the delegates were “left at liberty, in concert

⁷⁰⁸ Noel-Joseph Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," in *Manitoba: Birth of a Province*, ed. W. L. Morton (Altona, MB: D.W. Friesen & Sons Ltd., 1965), 148.

⁷⁰⁹ "Convention at Fort Garry."

⁷¹⁰ Thomas Bunn, "Commission and Letter of Instructions to the Delegates to Ottawa," in *History of the North-West* (Toronto: Hunter, Rose & Co., 1894), 475.

with your fellow commissioners, to exercise...discretion,” while also noting that the delegates “in the exercise of this liberty...will do your utmost to secure their rights and privileges which have hitherto been ignored.”⁷¹¹

These instructions also clearly established which terms in the *List of Rights* were considered negotiable by the Provisional Government, and the nine terms deemed pre-emptory for any agreement with Canada. The delegate’s *List of Rights* pre-emptory clauses included requirements that the local “properties, rights, and privileges” of the people of the North-West be preserved, that there would be federal funding for the new government but no federal taxation for five years, that the local legislature will determine voting qualifications for the first set of elections, that this negotiated settlement would supersede the HBC transfer agreement, and that the North-West would remain a bilingual political entity.⁷¹² Only by accepting these pre-emptory conditions would Canada be granted entry to the North-West. Because of their centrality to a successful agreement, these non-negotiable articles structured the negotiations, and subsequent treaty relationship between the Provisional Government and the Dominion of Canada.

In the historical studies that examined this process, scholars have downplayed the role of the Provisional Government in forging an agreement, while at the same time exaggerating Canada’s political power, treating it as if it were the only party constitutionally capable of creating a new province. Stanley notes that the Dominion “studiously avoided any recognition of the right of the Provisional Government to ratify the terms of the settlement” lest it involve “a recognition of Riel and his associates for

⁷¹¹ Letter of Instructions to the Delegates of the Provisional Government of Assiniboia sent to Ottawa, quoted in Begg, *History of the North-West*, 475-476.

⁷¹² Provisional Government of Assiniboia, "Third *List of Rights*."

which the British and Canadian governments were not prepared.”⁷¹³ Due to this assumption of an overriding Canadian constitutional power, the Manitoba Act has not typically been interpreted as the definitive expression of negotiations between the people of the North-West and Canada. It is instead simply re-imagined as a simple Canadian statute. It was as if this piece of Canadian legislation could, on its own, transform the people of the North-West’s constitutional existence, from a once independent people into a domesticated population inside of the Canadian Dominion. However, as the people of the North-West so often demonstrated, they were a viable political entity in-and-of themselves, and, it will be remembered, they were in firm political and military control of Red River. A meagre Canadian statute could not transform this political reality any more than previous Canadian proclamations announcing Canadian possession of the North-West made that true. The Manitoba Act alone could not bring the people of the North-West into Canada, it required an international agreement—a treaty—to unify these two distinct bodies.

Following Stanley, conventional scholarly interpretations of the Manitoba Act have obscured a distinctive vision for Manitoba, a Manitoba born out of government-to-government diplomatic relations, not unilateral legislation. These scholarly interpretations provide only a partial understanding of the formation of Manitoba, while undermining the creative political power of the Provisional Government. Manitoba was not, as it has so often been presumed it to be, a kind of Canadian colonial vision buoyed by a series of minor compromises to a delegation from Red River. Rather Manitoba found its basis in a distinctly North-Western vision of local governance—protections of

⁷¹³ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 124.

local customs and a constitution more closely resembling the Provisional Government's four *Lists of Rights* than Canada's original territorial plan, which was sent West with William McDougall in October 1869. Previous scholarship has missed two vitally important historical realities resulting in a misleading ascendancy of the Manitoba Act of 1870.

First, the people of Canada and the people of the North-West built a *shared vision* of Manitoba that was contained, not in a single document, but in a series of written and verbal agreements during the Ottawa negotiations of 1870. When properly re-assembled these "texts" constitute a bilateral agreement among political equals. Together these documents form the Manitoba Treaty, solemnizing formal political union of the people of the North-West with the people of Canada through a confederal relationship that preserved significant political autonomy for both parties. All concerned parties understood that substantive oral agreements were fundamental components for an agreement, and in many cases were regarded as the agreed-upon interpretation of the sometimes-vague wording of the Manitoba Act. The Manitoba Act alone, then, is an incomplete and one-sided representation of the shared vision of the future of Manitoba. A more robust understanding can be found in the many oral and written texts comprising the Manitoba Treaty. It is this latter form that best embodies the original treaty relationship envisioned by the Red River and Canadian delegations and their respective governments in 1870.

Second, the Provisional Government entered into Confederation *as a constitutionally independent government*; both the negotiation process and the Manitoba Treaty recognized this distinct political existence. Rather than acquiescing to British or

Canadian authority, the people of the North-West initiated a treaty-making process consistent with the *wahkohtowin*-based diplomacy Métis had long been practicing on the prairies. The bilateralism of the treaty negotiation process was repeatedly referenced by the Red River delegation to Ottawa, *as well as* the Canadian politicians who negotiated and ratified the agreement. We can gain a better understanding of the original intent of this government-to-government relationship by focusing on the bilateral Treaty that preserved the people of the North-West's independence, as opposed to the Act—which as a piece of domestic legislation held no sway over the self-owning North-West.

The Treaty and the Act

Before entering into a substantive discussion about the Manitoba Treaty negotiations, it is first necessary to distinguish between the Manitoba Treaty and the Manitoba Act. The Manitoba Treaty is a robust international agreement, containing a number of written and oral “texts,” born out of compromise between the government of Canadian and the people of the North-West. The Manitoba Act is a piece of domestic Canadian legislation and therefore much more limited in scope than the Treaty. It is my contention that the Act is *at most* capable of legislating the Canadian constitutional changes required for the addition of Manitoba to Confederation, and as a piece of legislation foreign to the people of the North-West does not alter their independent constitutional status.⁷¹⁴ While the Manitoba Act's preamble quite ambitiously claims its purpose as “the organization of

⁷¹⁴ Flanagan's interpretation of the Manitoba Act seems to share this view: “In a legal sense, the Manitoba Act was an ordinary statute of Parliament, later given constitutional status by the Constitution Act (British North America Act), 1871, and the Constitution Act, 1982. But in a political sense, the Manitoba Act arose out of negotiations between the delegates of the provisional government of Assiniboia—the Abbe N.J. Ritchot, John Black, and Alfred Scott—and the representatives of the Canadian cabinet—Sir John A. Macdonald and Sir George Etienne Cartier” Flanagan, *Metis Lands in Manitoba*, 29.

part of the [North-West] Territories as a Province” as well as “the establishment of a Government thereof”.⁷¹⁵ Canada, in fact, could claim little viable authority in the North-West at the time of the Act’s Royal Assent on May 12, 1870. Since the people of the North-West were busy solidifying their own constitutional existence at this time, and since they had never been subsumed under British, Canadian, or Company constitutional authority, they remained in firm constitutional and physical control of the Settlement in spite of the Act’s claims otherwise. The Act alone simply did not have the legal force to create a government for the people of the North-West, and since they already had created their own, this was unnecessary. What was necessary, however, was constitutionalizing this government within the Canadian political system, which is what the Act really accomplished. Thus, only a bilateral agreement to confederate with Canada—that is, *an international treaty*—to which the people of the North-West freely consented to and then ratified by their own internal process, could transform the self-owning government of the people of the North-West and forge a new relationship with Canada.

Canadian scholarship has traditionally interpreted the Manitoba Act as embodying the final outcome of the negotiations, but this is both erroneous and misleading.⁷¹⁶ Ens, for example, treats the Act as if it was the origin of Métis rights and privileges recognized in the new province. It “provided for,” “promised” and “granted” the rights outlined by the Provisional Government.⁷¹⁷ ⁷¹⁸ However, since Canada is only one party in this treaty relationship, and since both parties are equal partners in the agreement, the traditional

⁷¹⁵ Canada, “Manitoba Act, 1870,” in 33 *Victoria*, c 3(Canada: 33 *Victoria*, c 3).

⁷¹⁶ See Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*; Flanagan, *Metis Lands in Manitoba*.

⁷¹⁷ Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 140-44.

⁷¹⁸ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 123-24.

interpretation of the people of the North-West must be given equal weight. We cannot, for example, read too much into Sir George-Etienne Cartier's claim that the Manitoba Act need not be submitted to the people of the North-West for their approval.⁷¹⁹ Canada's unilateral pronouncement did not trump the Provisional Government's own constitutional requirement that its legislature ratify any agreement with Canada.⁷²⁰ Nor can scholars reproduce the European privileging of written documents over verbal agreements, an assumption at odds with Indigenous treaty-making traditions.

Scholarly studies then, must instead look for evidence of consensus in the negotiations to find the elements of the Treaty where there was a meeting of minds—a common language of diplomacy borne out of a kind of political middle ground. The most inaccurate studies of these negotiations are the ones that have taken the Manitoba Act as the lone means from which to understand the creation of Manitoba. The primary “text” for understanding the Treaty's shared vision, therefore, is not the Act alone, but the constellation of verbal and written agreements that reveal consensus among the treaty parties. The Treaty can be interpreted through a variety of sources which include, but are not limited to, Abbé Ritchot's *Journal* (the lone surviving eye-witness account of the negotiations),⁷²¹ the *Lists of Rights* sent with the delegation to Ottawa as the basis of

⁷¹⁹ Cartier in W. L. Morton, "Extracts from the Debates on the Manitoba Bill, May 2 - May 9, 1870," in *Manitoba: The Birth of a Province*, ed. W. L. Morton (Winnipeg: D.W. Friesen & Sons Ltd, 1965), 178.

⁷²⁰ Bunn, "Commission and Letter of Instructions to the Delegates to Ottawa," 476.

⁷²¹ Ritchot's *Journal* is significant because it contains the most detailed records of the negotiation process. Translated into English by W.L. Morton, Ritchot's *Journal* is considered the most clear and comprehensive source of these discussions. Morton writes: "No other document reveals more clearly the fundamental reason for the creation of the province of Manitoba, that it was to be an area in which French as well as English would have roots in the land and a voice, in their own language, in the conduct of government." Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 132.

negotiation,⁷²² written communications during the negotiations,⁷²³ the debates of the legislatures in Ottawa and Red River concerning ratification of the agreement,⁷²⁴ and of course, the oft-cited Manitoba Act.⁷²⁵ This chapter's (as well as the following chapter's) examination of the Manitoba Treaty will draw these numerous sources to develop a more robust understanding of this shared vision for Manitoba. Such an approach is not entirely new. Indeed Abbé Ritchot brought a robust understanding of the Manitoba Treaty back to Red River following the negotiations.⁷²⁶ It was Ritchot's belief that "the agreement with Canada included not only the act but also Cartier's letter and the verbal reassurances...*as if they were supplementary protocols of a treaty.*"⁷²⁷ Ritchot took great care to ensure that all the subtleties of the agreement were well understood by both delegations. Throughout his time in Ottawa as a delegate of the Provisional Government, Ritchot sought assurance of ongoing consensus between the treaty parties, usually in writing, concerning land allotment policies, governing institutions, and a general amnesty. This assurance of consensus was brought back to Red River, and with these "supplementary protocols" only then could Ritchot assure the Provisional Government of Canada's good faith, and that the Treaty and the new province would protect all of his people's interests. The

⁷²² Council of Twenty-Four, "First *List of Rights*."; Forty, "Second *List of Rights*."; Assiniboia, "Third *List of Rights*."; "Fourth *List of Rights*."

⁷²³ Noel-Joseph Ritchot, "Letter to Sir John Young," in *MG 26 A* (Library and Archives Canada).

⁷²⁴ Legislative Assembly of Assiniboia, "Sessional Journal of the Legislative Assembly of Assiniboia."; Morton, "Extracts from the Debates on the Manitoba Bill, May 2 - May 9, 1870."

⁷²⁵ Flanagan also seems to share this view, although he falls short of constitutionalizing the negotiations: - "These negotiations produced not only the Manitoba Act but also written reassurances from Cartier as well as oral statements from other federal politicians and of the governor general. When Ritchot returned to Manitoba and presented the Manitoba Act to the people, he glossed it with his understanding of what he had heard from Cartier and others" Flanagan, *Metis Lands in Manitoba*, 29.

⁷²⁶ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 132; Flanagan, *Metis Lands in Manitoba*, 32.

⁷²⁷ *Metis Lands in Manitoba*, 47.

inclusion of verbal clarifications in the final agreement was explicitly communicated to Ritchot by the Canadian delegates, Macdonald and Cartier, who told him that all their “verbal agreements were known and approved by the ministry”.⁷²⁸ These supplemental agreements that assured consensus were vital for Red River’s ratification of the agreement in June 1870, and were as much constitutionalized by them, as the Manitoba Act constitutionalized the agreement for Canada. The main source for scholarly analysis, then, should be the more robust Manitoba Treaty, a complex collection of agreements, both written and verbal, that lead to a consensus—a meeting of minds and a shared vision—on a political future for the two polities. Consistent with other treaty processes, the Manitoba Treaty was a negotiation between two independent peoples, allowing them to envision a common future.

The Manitoba Treaty is what J.R. Miller calls a territorial treaty, an inter-societal agreement that permitted “non-Natives access to and use of First Nations lands.”⁷²⁹ Since the Canadians had been formally expelled, and held no standing in the region, they required the people of the North-West’s consent to enter their country and settle there. These kind of territorial treaty relations give rise to a new political dynamic for settler states, James Tully calls this “treaty constitutionalism,” a diplomatic context premised largely on Indigenous treaty-making traditions.⁷³⁰ Tully argues that, for settler states like Canada, “treaties give rise to a constitutional association of interdependence and protection” with Indigenous peoples, but this new relationship does not result in the

⁷²⁸ Ritchot, *Journal* in Morton, 147.

⁷²⁹ Miller, *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada*, 5.

⁷³⁰ See Tully “The Historical Formation of Common Constitutionalism: The Rediscovery of Cultural Diversity, part I” in Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity*.

Indigenous people's political "discontinuity or subordination" to a European sovereign.⁷³¹ Treaties do not result in "internal colonization," where settler states "incorporate" and "domesticate" subordinated Indigenous societies "as minorities, domestic dependent nations, Aboriginal peoples or First Nations of Canada."⁷³² Rather they are agreements where "Aboriginal peoples and newcomer Canadians recognize each other as equal, coexisting and self-governing nations and govern their relations with each other by negotiations, based on procedures of reciprocity and consent."⁷³³ Treaty constitutionalism, then, is a political relationship where two independent bodies—in this case the people of the North-West and the Dominion of Canada—mutually agree to form a new, interdependent constitutional relationship, which does not undermine the political independence of either party. Treaty constitutionalism is not a domestic arrangement, as it does not subordinate Indigenous nations to European sovereignty, but it recognizes their political independence as peoples capable of managing their own affairs. A treaty that gives rise to this interdependent association has constitutional implications for both parties, as both of their constitutions are transformed by the process: new institutions may be created, others rendered powerless, some rules of conduct may be altered, and new ways of relating to one another envisioned. Yet, what is vitally important for treaty constitutionalism is that neither party subsumes the other, and neither party loses their sovereignty when forging this new constitutional relationship. From an academic

⁷³¹ Ibid., 126.

⁷³² "The Struggles of Indigenous Peoples for and of Freedom," in *Public Philosophy in a New Key, Volume I: Democracy and Civic Freedom* (Cambridge: Cambridge University Press, 2008), 259-60.

⁷³³ "The Negotiation of Reconciliation," in *Public Philosophy in a New Key, Volume I: Democracy and Civic Freedom* (Cambridge: Cambridge University Press, 2008), 226.

standpoint, treaty constitutionalism allows us the intellectual space to understand the Manitoba Treaty as the Métis of the nineteenth century would have.

Manitoba would not be any another province, or even one subordinated to the federal government, rather it proposed to enter Confederation as a pre-existing political entity, much like Ontario, Quebec, Nova Scotia, and New Brunswick had before it. All of these polities brought their colonial legislature into the new political union, and so too, would the people of the North-West. In this sense, the four original provinces of Canada united by common agreement—a treaty—which gave rise to a new confederation of provinces called Canada. Each colony negotiated their own entry into Confederation, and was able to accept or decline admittance, those colonies that initially declined admittance—Newfoundland, Prince Edward Island, and British Columbia—retained their independent constitutional status. It was this confederated political entity that Manitoba was joining, and a new treaty—or “a bargain of Confederation” as it has been called—was required to constitutionalize the new agreement.⁷³⁴ The Canadian leadership was well aware that Manitoba would be a unique province, one where, in terms of political power within a confederal union, it would possess, as Cartier boasted, “much more than all the other provinces.”⁷³⁵ Manitoba, much like Quebec, would retain extensive autonomy, and control over the institutions important to its political and cultural vitality.

What follows is an interpretation of the Manitoba Treaty from a Métis perspective, in order to identify the consensus that emerged, leading to a shared understanding of what was being negotiated, as well as what the new creation would look

⁷³⁴ See Paul L.A.H. Chartrand, "Niw_Hk_M_Kanak ('All My Relations'): Métis-First Nations Relations," *Research Paper for the National Centre for First Nations Governance* (2007): 8.

⁷³⁵ In Ritchot's *Journal*, on May 4, 1870, he notes that ““Sir George told us that the government wished to treat us like spoiled children and to grant us much more than all the other provinces, etc.” Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 146.

like. It is obvious to any observer that there was an initial discrepancy of vision between the two delegations tasked with negotiating the Treaty, however, over the course of several weeks, the delegations were able to reach consensus on a surprising number of key issues leading to a shared vision that both parties could live with. First, however, both parties needed to come to the conclusion that a negotiation was a viable way to settle their political disagreement. The first consensus-building process then, was determining if a negotiation between the people of the North-West and the Dominion of Canada was possible.

Seizing the Initiative: Métis Treaty-making Overtures

As early as December 1869 the people of the North-West were making public announcements inviting Canada to treat with them. These overtures were clear that the people were only interested in diplomatic relations with Canada if their status as *kaa-tipeyimishoyaahk* and their rights to the future governance of their homeland were both respected. Having already developed a worst-case scenario from the Canadian Party's colonialist rants of the *Nor'-Wester*, Métis were determined to seize the diplomatic initiative, steering events onto a terrain familiar to them.

Aside from the terse note officially expelling McDougall's company from the North-West, *The Declaration of the People of Rupert's Land and the North-West*, as Red River's first official communication with the government of Canada. It also structured the process in which Canada could engage with the people of the North-West by proposing a diplomatic resolution to the crisis. In typical prairie protocol accorded to strangers the *Declaration* denounced Canadian actions and threatened them with war, before changing tone and proposing an alternative diplomatic solution. The *Declaration's* first diplomatic

task was the explicit rejection of “the authority of Canada which pretends to have a right to govern and impose on us a despotic form of government.” Canada was publicly defined as “a foreign power” and thus, a stranger to the people of the North-West. As a stranger under prairie diplomatic protocol, the people owed no particular *wahkohtowin* obligations to Canada, and were therefore within their rights as *kaa-tipeyimishoyaahk* to “repel all invasions from whatsoever quarter they may come.”⁷³⁶ Any Canadians in their territory could be legitimately evicted from the region, using violence if necessary. This was no hollow rhetoric, as McDougall’s party had already found out, the Métis were quite capable of mobilizing a large, disciplined fighting force to retain control of their country, and they were capable of going to war with Canada if needed. Despite this war-like language, the people of the North-West (much like the Sissetons in the 1850s)⁷³⁷ informed Canada, that while they were ready to fend off a Canadian military invasion, they did not wish for war with the Canadians preferring instead a negotiated peace. Despite Canada’s responsibility for the “numerous evils,” now facing the North-West, the people were willing to make relations out of these strangers who once claimed their lands. By the end of the *Declaration*, its tone changed from an adversarial and confrontational rhetoric, to a language of peace-making, offering the first hint of a negotiated solution.⁷³⁸ The people of the North-West, as early as December 1869, were officially willing “to enter into such negotiations with the Canadian Government as may

⁷³⁶ Provisional Government of Assiniboia, "Declaration of the People of Rupert's Land and the North-West."

⁷³⁷ The *Declaration* makes reference to past wars with “the neighboring tribes of Indians” as well as the subsequent peace-making treaties which allowed them to be “on friendly terms” with the people of the North-West. *Ibid.*

⁷³⁸ *Ibid.*

be favourable for the good government and prosperity of this people.”⁷³⁹ The *Declaration* is in fact the origin of the diplomatic solution, which Smith later “proposed” to the Convention of Forty on February 7, 1870. It was the Métis Provisional Government that initiated this bilateral course of action in 1869, and it set the tone for all future discussions between the two governments. It was also Métis diplomatic protocols that allowed the two parties to transform an adversarial, war-like standoff between strangers into a political relationship premised on *wahkohtowin* obligations.

While the Métis announced their intention to negotiate in December 1869 and were debating the exact content of the negotiations in the various *List of Rights* developed from December 1869 to March 1870, the Canadian leadership took longer to accept the necessity of negotiating with Red River. The Dominion government was at first unwilling to accept the treaty-making process that Métis leaders proposed. They came to accept it, however, once they recognized that treating with the people of the North-West was Canada’s only viable option if it wished to have any involvement in the future of lands west of Ontario.

It is difficult to pinpoint the precise moment when Canada accepted negotiation with Red River as a necessity. The Canadian Prime Minister Sir John A. Macdonald’s early objectives seem to have involved reiterating the good will of the Canadian government, while at the same time using his “notorious charm” to convince Red River to accept the “the bland reassurances that Red River had already rejected as insufficient.”⁷⁴⁰ There has been a tendency among scholars to depict Macdonald as a disingenuous negotiator, placating the Métis long enough to inevitably “swamp” the

⁷³⁹ Ibid.

⁷⁴⁰ Philippe R. Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba" (Dissertation, University of Manitoba, 1986), 92.

North-West with Anglo-Protestant settlers. The content of one of Macdonald's oft-cited letters to Sir John Rose on February 23, 1870, is the origin of this theory: "These impulsive half-breeds have got spoilt by this *émeute* and must be kept down by a strong hand until they are swamped by the influx of settlers."⁷⁴¹ These settlers, it was thought, could displace the Métis in Manitoba and transform the political character of the North-West into a territory closely resembling an Orange and Protestant Ontario.

However, there are many other elements to Canada's pre-negotiation vision for Manitoba that warrant mention, and perhaps present a different understanding of its intentions for negotiating with Red River. While Macdonald's letter to Rose has received much scholarly attention, other letters portray a different, more conciliatory Canadian government. When writing to Bishop Taché on February 16, 1870, Macdonald suggested that the democratic institutions the people insisted on in their *List of Rights*, were satisfactory to Canada, and indeed already in the works. Macdonald assured the Bishop that Canada's intention was, much like the *List's*, "to grant to the people of the North-West the same free institutions which [Canadians] themselves enjoy."⁷⁴² In fact, the original territorial government's goal had always been, at least according to Macdonald, the speedy establishment of "representative institutions" in the North-West.⁷⁴³ Macdonald informed Taché that a shared goal for democratic representation in the people North-West already existed, and when the North-West sent a delegation to Ottawa "they will be

⁷⁴¹ Sir John A. Macdonald, "Letter to Sir Jonathon Rose, 23 February 1870," in *MG 26 A* (Library and Archives Canada), Volume 14, 24-28.

⁷⁴² "Letter to Tache, February 16, 1870," in *Report of the Parliamentary Select Committee on the Causes of the Difficulties in the North-West Territory in 1869-70* (Ottawa: L.B. Taylor, 1874), 19.

⁷⁴³ *Ibid.*

kindly received, and their suggestions fully considered” by the Canadian government.⁷⁴⁴

While Macdonald was overreaching in Canada’s ability to “grant” democratic institutions to the people of North-West—institutions that were already in existence there—his letter did hint that a common vision for the democratic future of the North-West was within sight. Both the Métis *Lists of Rights* and Canadian government envisioned an establishment of a new self-governing authority in the North-West that would be representative, democratic, and responsible to the local people. The major difference in Macdonald’s February letter to Taché, and the most recent *Lists of Rights*, was one of time. While *Lists* required that a representative legislature be created immediately on the North-West’s own terms, Macdonald proposed to “speedily” establish responsible government in the North-West in a few years time.

Not long after Macdonald and Taché exchanged letters, Joseph Howe, Canada’s Secretary of State for the Provinces, was telegraphed the second *List of Rights* by Taché. On the February 25, Howe responded to Taché in a letter, notifying him that there was already much consensus between the Canadians and the people of the North-West on the *List*: “Proposition in the main satisfactory, but let the delegation come here to settle the details.”⁷⁴⁵ Howe’s telegram also implied that the basis for an agreement was already in place by late February, all that was left to do was to work out the finer points. Both Macdonald’s letter and Howe’s telegraph indicate a willingness on the part of Canada to engage in diplomacy with the people of the North-West, as well as an acknowledgment that the basic components of a common vision for the North-West already existed. Both the people of the North-West and the Canadian Government envisioned democratic

⁷⁴⁴ Ibid.

⁷⁴⁵ Joseph Howe, "Telegraph to Tache, February 25, 1870," *ibid.*

institutions, representative government, and a significant degree of local autonomy. Any difference on time frame, according to Howe, could be settled in Ottawa by the two parties' delegations.

In February 1870, Canada's preference for negotiation and responsible government in the North-West was likely motivated by the practical reality facing the young Dominion, still very much dependent on British support for their policies. Despite the imperialist bravado of his letter to Rose, Macdonald was no doubt aware of the practical limitations in keeping the Métis people "down by a strong hand" and reviving the appointed territorial government that had already been rejected. And despite the Canadian government's belief that they possessed the exclusive right to govern the region, Canadian authorities were unable to physically enter the North-West because of armed Métis *dizaines*. With the militarization of the Métis hunters, the potential for Métis self-defence was great—much greater, in fact, than Canada's offensive capacity. The Canadian militia was considerably green; there were few battle-tested soldiers, and a shortage of competent commanders capable of leading soldiers in the field.⁷⁴⁶ Canada's only option, then, if it wished to unilaterally enforce its own political vision on the North-West was to request military support from the Britain.

However, the British government was unwilling to assist Canada's military annexation of the North-West either by sending troops for an invasion, or even approving the HBC transfer in the Imperial Parliament. The Canadian government was told on March 5, 1870 in a "tersely worded telegram" from Lord Granville, Minister for the Colonies, that it should not expect Imperial support for a military expedition to Red River

⁷⁴⁶ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 127.

unless “reasonable terms are given to the Roman Catholic Settlers.” Only then could the Canadians expect “to proclaim transfer simultaneous with movement of troops” in an expedition to Red River.⁷⁴⁷ Britain was simply uncomfortable in participating in a military operation in Red River without first insisting that Canada satisfy the people of the North-West that their rights and interests would be protected in the future.⁷⁴⁸

Given the Métis people’s considerable military capacity, as well as Métis determination to treat with Canada, the prospect of Canada successfully “taking possession” of Red River with a host of green militiamen was strategically unlikely, and without the transfer approved by the Imperial Parliament any such act would be unconstitutional under Imperial law. A Canadian-led military operation in the face of a determined Métis adversary was never a viable option for Canada, since it would only lead to further rejection of an imposed political settlement, and probably succeed only in further uniting the Settlement against Canada. The Métis military power in the North-West could not easily be matched making any political imposition on the people of the North-West a difficult prospect for Canada to imagine.

Thus, by Imperial decree, the potential for military conquest of the North-West was effectively closed, a reality Macdonald accepted, as evidenced in a April 10 letter to the Governor-General of Canada, Sir John Young:

if we accept the Country, England will send Troops, but in [Granville’s] instructions to Sir C.[linton] M.[urdoch] he says the troops are not to be used to force the people to unite with Canada, in other words to be of no use.⁷⁴⁹

⁷⁴⁷ Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 78. Lord Granville, "Telegraph to Sir John Young, March 5, 1870," in *MG 26 A* (Public Archives of Canada), 40471.

⁷⁴⁸ Bumsted, *The Red River Rebellion*, 193.

⁷⁴⁹ Sir John A. Macdonald, "Letter to Sir John Young, April 10, 1870," in *MG 26 A* (Library and Archives Canada), 40585-87.

The political reality of Imperial politics, combined with Métis military superiority in the North-West meant that diplomacy was the only avenue that allowed Canada to achieve its primary goal of settlement in the North-West. Without the use of diplomacy to achieve “reasonable terms” to bring the people of the North-West into Confederation, Canada could not count on Imperial support for the troops, or even the ratification of the transfer of the Company’s proclaimed rights to govern the territory. From the beginning then, Canada’s only real option, even if they refused to acknowledge it, was a government-to-government negotiation with the people of the North-West—a reality Macdonald and his government accepted in time for the arrival of the Red River delegation.

On April 25, 1870, the delegation from Red River was demanding recognition from the Canadian cabinet of its status as a representative diplomatic mission from the North-West. At this meeting, the delegations for both Canada and the people of the North-West met at Cartier’s Ottawa residence.⁷⁵⁰ However, even in this semi-official setting, the Red River delegation found their political position ambiguous, and insisted on official clarification of Canada’s understanding of the delegation’s role. Ritchot acknowledged in his *Journal* that the delegation was “received with great courtesy,” but he was also put off by the lack of official recognition:

The whole conference was pretty [much] confined to asking questions or requests for information on the respective positions of the two parties. Our instructions [from the Provisional Government] were not asked for.⁷⁵¹

Seeking recognition of the Canadian government’s reception of the delegates *as a delegation representing the people of the North-West*, Ritchot requested a clarification of

⁷⁵⁰ Bumsted, *The Red River Rebellion*, 176-77.

⁷⁵¹ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 136.

their status in the eyes of Canada, telling Macdonald and Cartier that the delegation “had nothing to do so long as we did not know where we stood officially.”⁷⁵² The delegation had been in Ottawa for more than two weeks and had not yet received any *official* communication from the Canadian government, and Ritchot, fed up, informed the Canadians that the delegation would remain silent until their official status as delegates was recognized.⁷⁵³

With the Red River delegation refusing to commence negotiations without official recognition from Canada, Cartier immediately told Ritchot that the Red River delegates that “were officially recognized” and that he and Macdonald were participating “in the name of all his colleagues, that to-day again they were delegates.”⁷⁵⁴ Cartier’s statement recognized both the delegation from Red River as officially constituted, as well as establishing Macdonald and Cartier as delegates from the Canadian cabinet, relying on the shared imagery of a diplomatic negotiation between two equal delegations representing distinct governments—a recognition corroborated by Macdonald who noted in 1874 that “Sir George Cartier and I had been appointed...by Order in Council, to represent the Government in dealing with these delegates.”⁷⁵⁵ Ritchot noted that the delegation was “much honoured” by the official verbal recognition, but requested that another formal acknowledgement be made available to them in writing, so that they could return to their constituents who “have the right...to demand an accounting of us.”⁷⁵⁶

⁷⁵² Ibid., 138.

⁷⁵³ Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 95.

⁷⁵⁴ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 138.

⁷⁵⁵ Macdonald’s testimony, "Report of the Select Committee on the Causes of the Difficulties in the North-West Territory in 1869-70," (Ottawa: Parliament, 1874), 103.

⁷⁵⁶ "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 138.

On April 26, when the delegation returned to Cartier's for the second day of meetings, Ritchot noted in his Journal, "we were given in writing a reply to our demand for recognition. We presented our request to enter anew on negotiations."⁷⁵⁷ This official written recognition came in the form of a letter from Joseph Howe, the Canadian Secretary of State, who wrote to the delegates were officially recognized by the Privy Council as "delegates from the North-West to the Government of the Dominion of Canada" and that "the Hon. Sir John A. Macdonald and Sir Geo. Et. Cartier have been authorized by the Government to confer with you on the subject of your mission."⁷⁵⁸ Statements Macdonald had made in Parliament a few weeks earlier, suggesting the delegation would be received with the "credentials of representatives of the people" from Canada probably influenced Howe's letter.⁷⁵⁹

While the Canadians avoided recognizing the Provisional Government outright, they seemed to have little problem recognizing the ability of the people of the North-West to engage in diplomatic discussions regarding their constitutional future. And since the Provisional Government repeatedly asserted that its mandate came from the people of the North-West, the Red River delegation was likely contented with their role as the people's representatives, regardless of whether they were seen as the representatives of the North-West. What was important to them, or at least to Ritchot, was that the Red River delegation represented a self-owning political people who had come to Canada to treat and protect their political independence in a larger political union.

⁷⁵⁷ Ibid., 139.

⁷⁵⁸ Howe, "Letter to the Delegates, April 26, 1870," 70. Emphasis added.

⁷⁵⁹ Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 89.

While Canada may have been able to maintain to some degree the self-delusion that it alone had the ability to determine the final form of the new province of Manitoba, it was repeatedly forced to accept the delegation's *List of Rights* due to Canada's weak negotiating position. By balancing multiple demands, particularly the Imperial government's insistence that the Métis and other peoples in Red River be satisfied before constitutionalizing the HBC transfer, Canada was forced to accept that it was dealing with a powerful political collective. The result was regular *de facto* recognitions of the Red River delegation as the representatives of a foreign political entity, one that was both immune to local Canadian laws and capable of representing the political and constitutional interests of the people of the North-West. This demand for recognition of the official status of the delegation was not a superficial demand; rather it was an essential element in the Treaty process. Howe's letter, alongside Cartier's verbal recognition acknowledges the existence not just of the Red River delegation, but also the delegation from Canada—it was recognition by both parties as a process of two distinct peoples engaging in diplomacy. Howe's letter clearly defined the roles of negotiators as the representatives of their people, establishing a common understanding of the constituencies that they represented. But, as Cartier noted previously, he and Macdonald were there to represent the Canadian ministry—and the Crown, as Her Majesty's Government in Canada—and as Howe's letter clearly states, the Red River delegation was the officially recognized "representatives of the North-West."

The Red River leadership was acutely aware of the need for Canada to understand the relationship this way. The delegates did not actually leave Red River until the new Provisional Government was developed enough to issue them their official instructions,

ensuring that the delegates were issued their commissions and instructions from new political body.⁷⁶⁰ In these instructions the Provisional Government took great care to ensure the delegation had all the powers, privileges, and dignity that any mission to a foreign government should possess. This means that the instructions issued by the Provisional Government to the delegation authorized Ritchot, Black, and Scott to treat with Canada by initiating a government-to-government negotiation between political equals, a reality that Canada could not unilaterally deny.⁷⁶¹ After all, the Red River delegation was negotiating a program authorized by the Provisional Government, on Provisional Government commissions, to create an agreement subject to the ratification of the Provisional Government. The Provisional Government's involvement in the process, even if Canada failed to mention it in writing, could not be hidden from anyone's view.

In sum, Canada's ultimate acknowledgment of the Red River delegation as *delegates of the people*, and *delegates of the North-West* in the place of the delegation's self-affirmed status as the *delegates of the Provisional Government*, should not be considered too incompatible, since the delegation's authority flowed from all three locations. The region of the North-West, the people who lived there, and the representative political structure of the Provisional Government of Assiniboia were all sources of the political authority that the delegation used to assert their status as a foreign delegation capable of entering into treaty negotiations with Canada. In Howe's letter, combined with Macdonald's recognition of the delegation as "representatives of the

⁷⁶⁰ Bumsted, *The Red River Rebellion*, 169.

⁷⁶¹ Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 65.

people,” and Cartier’s official recognition of both parties as representative of their constituencies, we find Canada’s acknowledgment of the delegation as a diplomatic delegation from outside Canadian political authority. Since the Red River delegation was a foreign body, their arrival in Ottawa, and the commencement of negotiations would be informed not by the domestic politics of Canada, but rather as bilateral international protocols and the treaty-making traditions of both the people of the North-West and the Canadian Confederation. It is here we can locate the structure that informed the negotiations.

Conclusion

At the commencement of negotiations, the two delegations had established a diplomatic atmosphere conducive to their long-term political goals. Both parties had acknowledged the other’s existence as a representative body for their respective constituencies, and both had accepted the need to negotiate the extensive constitutional infrastructure of the new entity. The involvement of the Red River delegation in determining Manitoba’s new form is perhaps the most extensive form of political recognition by Canada. Canada’s acceptance of the ability of the delegates from Red River, particularly Abbé Ritchot, to dictate the terms in which the people of the North-West would confederate with Canada is demonstrative of how seriously Canada accepted the political power of the Provisional Government. The end result is the creation of a shared vision for Manitoba between the Canadian and North-Western delegations. This shared vision came to so closely resemble the various *Lists of Rights* produced by the people of the North-West, and was such a profound departure from the vision of Canada for a Ottawa-administered territory that such a vision could not have emerged without Canadian respect and recognition of the

political independence of the people of the North-West. The best evidence perhaps of both the Manitoba Treaty, and Canada's recognition of the people of the North-West's political independence can be found in the protracted process of negotiating a treaty agreement in April and May 1870. It was here that Canada came to share the original Métis vision from 1869 of a locally administered entity that was both within Confederation and an entirely unique entity—a Manitoba which was independently governed by the people of the North-West, officially bilingual, and with significant land reserves set aside for the natives of the country. This was the Manitoba the people of the North-West and the Provisional Government had envisioned.

Chapter 9 – “free men consenting to unite with Canada”⁷⁶²: A shared vision for Manitoba

On April 26, 1870, the Canadian Privy Council issued a letter to the Red River delegation, accepting them as the representatives of the North-West. As the last chapter has shown, the letter along with several verbal recognitions established the meetings as a negotiation between two delegations—one from the North-West which included Abbé Ritchot, Judge Black and Alfred Scott, the other representing Canada consisting of Sir John A. Macdonald and Sir George-Etienne Cartier. After the two delegations had painstakingly defined their diplomatic relationship with one another, they spent the next two weeks working out the particulars of what a future political arrangement between the two polities would look like.

Consistent with the diplomatic tradition of prairies embodied by *wahkohtowin*, the Red River delegation sought a meeting of minds on what would become *a shared vision of Manitoba*. Likewise, the Canadian delegation wanted to establish the conditions necessary to encourage its own settlement of the prairies, preventing American encroachment onto what it considered to be British possessions. Whether these discussions were thought to occur between two independent peoples—as the Métis tended to interpret matters—or if these were negotiations concerned two parts of the British Empire—which is how the Canadians viewed the situation—the meeting of the two delegations was not a matter of domestic policy-making. Rather it involved the subtle (and not so subtle) give and take of international diplomacy, and was left unmediated by

⁷⁶² Macdonald, speech to Parliament, May 2, 1870, in Morton, "Extracts from the Debates on the Manitoba Bill, May 2 - May 9, 1870," 196.

a foreign power. Ritchot was even told by Cartier that the Canadian government would “treat with us.”⁷⁶³ This is not to say that it was not a competitive process, it was. All diplomatic negotiations are competitive to some degree and many involve hard bargaining, which may involve on some levels, bluffing. However, the competitive drive of the Canadian delegation should not be confused with bad faith negotiation—bad faith was to follow the agreement, but not precede it—from the available evidence it appears that two parties sincerely invested in its outcome negotiated the Manitoba Treaty and *at least at the time* both parties seem committed to honouring it. Its eventual violation should not be read into the negotiations and the competitive drive of the negotiators should not be over-emphasized to the point that the major principles of the agreement are obscured. For there is much in the negotiations of the Manitoba Treaty that demonstrate the good intentions of Canada and it is this good faith—regardless of whatever bad faith followed—which produced a moral imperative for both parties to adhere to this treaty relationship today.

With no real mediator to broker a compromise and the British Empire pressuring Canada to accommodate the Métis and their allies without direct intervention, matters were left to the two delegations to find a solution. The ensuing agreement between Canada and the Provisional Government, then, was dependent upon the creation of a common understanding in which both peoples would be satisfied. Despite some difficult compromises made by both parties, the outcome was to be something that everyone could live with. Such an agreement needed to satisfy both parties’ primary objectives. For the Dominion it must ensure adequate Canadian settlement in the new province of Manitoba

⁷⁶³ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 133.

and for the North-West it needed to establish new provincial political institutions that would protect the pre-existing Métis and Halfbreed rights.

In addition to convincing Canada to accept Red River's terms for Confederation, the Red River delegation had the complex task on the one hand, of protecting the rights of an existing political community, while on the other convincing Canada to accept, as an equal, an entirely new political entity—Manitoba—into Confederation. The basis of the North-West's negotiating position were the rights articulated by the Provisional Government in its various *Lists of Rights*. These *Lists* were not a series of demands made by a delegation of British subjects from Red River to their future governors,⁷⁶⁴ but rather a point-by-point negotiation program for two peoples to work out what a common confederal relationship looked like. These rights were fundamental *a priori* political privileges of the people of the North-West, which predated Canada's and Britain's political presence there, and existed independently of British constitutionalism, they were therefore not things that could be bargained away. The *Lists* thus represented foundational, constitutional documents, around which the entirety of the negotiations were structured, and the final *List of Rights* represented the conditions under which the Métis would consent to transition from a buffalo hunt economic and political system, to a new way of life based on farming and Westminster-style sedentary government in partnership with the Canadian provinces. The delegation from Red River was quite successful in communicating this position to the Canadian representatives. So much so,

⁷⁶⁴ As Macdonald's testimony would have us believe, "Report of the Select Committee on the Causes of the Difficulties in the North-West Territory in 1869-70," 103.

that at the conclusion of the negotiations, Sir John A. Macdonald described the process to Parliament as one where “free-men would consent to be united to Canada.”⁷⁶⁵

After their April 26 recognition, the Red River delegation again set the tone for the rest of the negotiation process, so much so that both negotiating parties used the *List of Rights* to structure the negotiation process. Where the early meetings between Ritchot and Cartier were decidedly informal, the negotiations after April 26 took on a much more formalized structure. Immediately after formal written recognition of the Red River delegation, the Canadian delegates requested a copy of the instructions from the Provisional Government, which they had previously avoided for fear of instilling the kind of recognition on the Red River delegation they had just given. The Red River delegates presented the Canadians with their credentials and the final *List of Rights*. Having already prepared some draft legislation based on the second *List of Rights* in an attempt to avoid outright negotiation, the Canadians were initially reluctant to discuss this new *List*. Ritchot informed them, however, that nothing could be accomplished based on old documents, as he had specific instructions from the Provisional Government that required them to negotiate only using the most recent *List*.⁷⁶⁶ The Canadians would need to start fresh, and it was from this final *List*, that the two parties negotiated a shared vision for Manitoba. The *List* was the death knell for the appointed territorial government that Canada had been attempting to install since McDougall’s failed government. Despite some initial resistance during the negotiations, Canada ultimately accepted, albeit with some modification, the Provisional Government’s four major pre-emptory requirements

⁷⁶⁵ Macdonald May 2, 1870, speech to Parliament, in Morton, "Extracts from the Debates on the Manitoba Bill, May 2 - May 9, 1870," 196.

⁷⁶⁶ Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 99-100.

for a future political relationship: i) Manitoba would be an independent province with a local legislature dominated by the current inhabitants of the country; ii) the province would include an exclusive land-base set aside for Métis and Halfbreeds; iii) Manitoba would be a bilingual province which respected the political equality of the two major political entities already existing in Red River; and iv) a general amnesty would clarify that no wrong-doing occurred in the establishment and defence of the Provisional Government of Assiniboia.

The Manitoba negotiations acknowledged both a pre-existing and self-constituted political institution in the North-West—the Provisional Government of Assiniboia—as well as the necessity of creating a new constitutional entity within Confederation, the Province of Manitoba. The agreement recognized that Assiniboia with its well-established political culture would be transformed into Manitoba, an autonomous province in which Métis and Halfbreeds would retain their political authority, and express it through a Westminster-style bi-cameral legislature. Despite this change in legislative form, the Red River delegation ensured throughout the discussions that the people of the North-West would retain the ability to determine the future of their homeland. This shared vision included three political elements that would constitutionally protect a long-standing political independence for Manitoba, drawing from the Provisional Government's pre-emptory requirements for union: a bi-cameral legislature with a locally appointed Senate, a limit placed on the franchise of new immigrants to Manitoba, and a transitional role for the Provisional Government. The Red River and Canadian delegations ultimately agreed on all three of these points, embodying a shared vision for the new Province of Manitoba, which would protect Métis and

Halfbreed political power, while allowing Canadian immigrants to settle on Manitoba lands.

Local Political Control for the People of the North-West

Abbé Ritchot was clear during the negotiations that only full provincial standing within Confederation could safeguard the political autonomy to protect the interests of the people of the North-West. A provincial government with a bicameral legislature was therefore an absolute requirement for an agreement between the parties.⁷⁶⁷ Manitoba's confederation with Canada was both a symbolic and practical act, and thus provincial status imparted a sense of continuity with the current political status of the people of the North-West. Provincial status meant Manitoba would have "a form of government similar to those of the provinces" already in Confederation and would be joining them on equal terms. Manitoba would be respected as an equal, instead of a pseudo-self-governing territory with an Ottawa-appointed government.⁷⁶⁸ A province also ensured that Canada and immigrant Canadians would respect its constitutionalized autonomy under the federalist system. If the North-West was not an autonomous and independent entity within Confederation, then the rest of the *List of Rights* would protect very little. Ritchot's insistence that Manitoba enter Confederation as an autonomous and self-governing province was the basis for the entirety of the Manitoba Treaty. It is fitting then that provincial/territorial status was the first major disagreement between the two parties, because its resolution would mark a significant shift in the diplomatic dynamic of the negotiations. Once Canada accepted that the North-West's consent required Manitoba to

⁷⁶⁷ See Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 138-39.

⁷⁶⁸ *Ibid.*, 141.

be co-created as a province among other provinces, its resistance to other points in the *List of Rights* seemed to melt away.

Despite initial reluctance by the Canadian delegation to agree to Manitoba's provincial status, they ultimately came to accept it as a necessity for Confederation. At the outset of the negotiations an obvious divide existed between the two parties on the opinion of what political institutions would exist in post-treaty Manitoba. Up to this point, Canadian negotiators still clung to hope that they could convince the people of the North-West to accept their appointed territorial system that had already been rejected by the *Comité National de Métis* in November 1869. In an attempt to persuade Ritchot to accept their original position that an appointed territorial council could satisfy the people's needs, Macdonald first offered the Métis and Halfbreed political elite a share in the patronage appointments that would comprise a Manitoba territorial council. When that was rejected, he then proposed a further compromise likely drawn from the Convention of Forty's second *List of Rights*, suggesting that local territorial legislature contain six appointees from Ottawa and twenty locally-elected members.⁷⁶⁹ However, after the Convention's debates the Provisional Government had abandoned its original position that three appointed representatives from Ottawa could sit in the territorial legislature. Instead it envisioned a fully elected assembly and issued its delegates instructions for a fully autonomous and fully elected provincial legislature.⁷⁷⁰ Ritchot also

⁷⁶⁹ *Ibid.*, 139.

⁷⁷⁰ Provisional Government of Assiniboia, "Third *List of Rights*," article 1.

dismissed the Canadian's proposal that a fully-elected legislature could follow in six-months to a year's time.⁷⁷¹

Given the Métis' open distrust of past Canadian appointees, as well as Red River's now well-accustomed habit of directly electing its representatives, Ritchot rejected Macdonald's second proposal out of hand. A territorial legislature, partially appointed from Ottawa, failed to meet the minimum threshold for local control of the North-West required in the final *List of Rights*, even if the Canadians accepted that a majority of local representatives for the assembly.⁷⁷² A territory—even one with a large number of locally-elected representatives—would not be constitutionally distinct from the federal government, possessing only powers delegated from Ottawa. A territory would not contain the jurisdiction that flowed from status as a province; the North-West would therefore be an inferior entity subject to the whims and pleasures of the federal government. Territorial status would effectively down-grade the people of the North-West's from a self-governing people to subjects of Canada. An elected provincial legislature was therefore constitutionally necessary to ensure the long-term political control of the new province by the people of the North-West.

The very lack of provincial status would decisively limit local control of the local government, and so it was a deal-breaker for Ritchot. He was not willing to compromise on the necessary condition of a locally elected and responsible legislature in Manitoba. After prolonged discussion between the two delegations,⁷⁷³ the Canadians relented and

⁷⁷¹ Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 98.

⁷⁷² Ibid.

⁷⁷³ Unfortunately Ritchot did not record this discussion in his Journal, noting only there was further discussion.

accepted the Provisional Government's position that "a responsible government composed of two chambers" was a foundational constitutional requirement for Manitoba's entry into Confederation.⁷⁷⁴

The importance of this new consensus cannot be understated. The Canadians had started the day intending to oversee the completion of an annexation of a British territory, but ended it on the agreement to create a new provincial jurisdiction with a popular Indigenous government they refused to recognize two days earlier. Ritchot recognized the importance of this moment with the marginal note in his *Journal*: "this is the precise moment at which the creation of a province was decided on."⁷⁷⁵ The difference between a mixed Canadian-appointed/locally elected territorial council and a locally elected provincial legislature was the difference between being, what Mailhot describes as "a partner in Confederation rather than a colony of Canada."⁷⁷⁶ The co-creation of a new provincial jurisdiction within Confederation would all but eliminate the possibility of direct Canadian control over the people of the North-West.

Once Ritchot had achieved consensus on Manitoba's provincial status, he turned next to the new province's political constitution, for which the Provisional Government's instructions required a bicameral legislature. Ritchot informed Macdonald and Cartier that Manitoba must possess a provincially-appointed Upper Chamber, in addition to the just agreed upon elected Lower Chamber. The two delegations agreed without much debate that Manitoba's Upper Chamber would consist of no less than seven, but no more than ten members, who would be appointed for life by the Lieutenant-Governor on the

⁷⁷⁴ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 139.

⁷⁷⁵ Ibid.

⁷⁷⁶ Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 99.

advice of the provincial government.⁷⁷⁷ The Senate, as an institution, could safeguard Métis interests over the long term, and as an appointed body, it could remain dominated by Métis and Halfbreed members, even after a time where they could no longer command an electoral majority in the province. As was described in the chapter 7, the Provisional Government had a clear idea of what the Senate's composition should look like, and even prepared a tentative list of appointees—including major Métis and Halfbreed leaders and the heads of the Catholic and Anglican churches.⁷⁷⁸ By filling the Senate with old-guard leaders who were generally supportive of local autonomy, the Senate could provide political fortification for a point in the future when Canadian immigrants to Manitoba could out-vote the original inhabitants of the North-West. The Senate could therefore ensure a Métis/Halfbreed majority in at least one chamber of the Legislature over the long term, and act as a conservative body that would protect Métis interests even if there was a settler-majority in the elected Lower House.

Cartier and Macdonald offered little resistance to the creation of an appointed Upper Chamber, even though they likely understood that this would limit the potential for the political “swamping” of the original inhabitants by Canadian settlers. By accepting both the proposals for a province and a bicameral legislature, the Canadian delegates in effect, allowed the people of the North-West, or at least Ritchot and the Provisional Government, to design a provincial government in their own image, and with minimal input from Canada. The Canadians' lack of sustained resistance to the Provisional Government's vision of Manitoba signals perhaps a respect for the political sophistication

⁷⁷⁷ Ibid., 100.

⁷⁷⁸ Legislative Assembly of Assiniboia, "Sessional Journal of the Legislative Assembly of Assiniboia," May 7, 1870.

of the proposal. Whatever the case, the Canadian prime minister seemed to feel that Canada's interest in settling the North-West was compatible with a provincial political system where the people of the North-West exerted a significant amount of control over local affairs. Maybe he was still confident that the Canadians in Manitoba could quickly outvote the people of the North-West, but with each agreement made with the delegates from Red River, the local voting power of the people of the North-West was increased.

The negotiations now set about establishing the membership of the new political community and precisely when this membership would be extended to Canadian immigrants. The Provisional Government had initially sought significant limitations on the enfranchisement of non-native Manitobans, upwards of a three-year disqualification of voting rights for new immigrants to the territory. This would allow the original inhabitants of Red River to maintain an electoral majority in the province for a longer period and further consolidate their political power in Manitoba. During negotiations this stance softened and Ritchot ultimately conceded some ground, given that the Canadians felt that any limitation on the voting rights of British subjects was unfair.⁷⁷⁹ The political primacy of the natives of the North-West was nonetheless protected by a one-time twelve-month qualification period for new residents to be enfranchised.⁷⁸⁰ After this twelve-month period, all property-owning men could vote in all future provincial elections with no further restrictions on the enfranchisement of new immigrants.⁷⁸¹ Even with this apparent compromise from Ritchot, a twelve-month period where only those who owned property prior to confederation with Canada could vote meant that the first

⁷⁷⁹ Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 101.

⁷⁸⁰ Canada, "Manitoba Act, 1870," section 17.

⁷⁸¹ *Ibid.*, section 17(4).

election and the initial four years of provincial governance would be determined exclusively by those resident in the North-West during 1870. By preventing newcomers from voting in provincial elections for at least one year, the Provisional Government could be certain that they would control the first government in the new province. This one-year residency and property requirement was designed to prolong local control of the Lower Chamber of the Legislature, while Métis and Halfbreed appointments to the Senate during this four-year period would cement their control of the Upper Chamber. The result would be a significant amount of Métis and Halfbreed political power in the definitive years of the new provincial legislature.

While the Macdonald government after 1870 would repeatedly downplay the Provisional Government's role in the creation of Manitoba, the reality was that it was influential in generating the form and content of the new political institutions of the province.⁷⁸² As was noted in chapter 7, the Provisional Government began to act as a transitional government by the end of its tenure, passing laws, and developing institutions that would exist long after confederating with Canada. Canada accepted that the Provisional Government would remain in political control of the North-West until the arrival of the new Lieutenant Governor in late summer 1870, who would then immediately call elections.⁷⁸³ With these circumstances in mind, the negotiations preserved much of the institutional structure of the Provisional Government in the new provincial government. While there was general agreement that a new provincial government would replace the now-existing Provisional Government after the ratification

⁷⁸² See Macdonald's testimony, "Report of the Select Committee on the Causes of the Difficulties in the North-West Territory in 1869-70," 103.

⁷⁸³ Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 125.

of the agreement, the new provincial body had an obvious resemblance to the Provisional Government of Assiniboia. The new provincial legislature, for instance, as described by Macdonald, bore a remarkable resemblance to the Provisional Government. The new provincial assembly was to be “composed of a body of twenty four members” elected by electoral districts created with “due regard to the various communities into which the settlement is at present divided.”⁷⁸⁴ The divisions of the new province into twenty-four electoral districts based on pre-existing community membership, would result in a more-or-less equal allotment for English and French representatives, basically along parish lines. The result was that, in the new Manitoba, the electoral boundaries would bear a striking resemblance to the old electoral boundaries of Assiniboia already in use by the Provisional Government. The rough population equality between Métis and Halfbreed communities would re-create a linguistic duality in the new provincial legislature⁷⁸⁵ and reflect a linguistic dualism that pervaded political life in the North-West. This new provincial legislature would contain twelve French and twelve English members, which is the number of delegates originally allotted by the Provisional Government’s own constitution. The Legislative Assembly of Assiniboia only departed from the 12-12 model to include fourteen French and fourteen English representatives in order to satisfy special request made on behalf of the village of Winnipeg.⁷⁸⁶ Basically, the new

⁷⁸⁴ Macdonald, May 2, 1870, speech to Parliament, in W. L. Morton, *Manitoba: The Birth of a Province*(Winnipeg: D.W. Friesen & Sons Ltd., 1965), 167.

⁷⁸⁵ The Métis did, in fact, control the first Manitoba legislature, according to Ens, “The election of 1870 returned twelve Métis, three old settlers, five French Canadians, two English Canadians, and two others. Métis and old-settler interests dominated the Assembly, and, at least in the short run, controlled the legislative agenda in their province. One indication of the confidence the Métis had in controlling their political destiny, and that local interests would determine the course of politics in the new province were the numerous voting blocs in the first legislature” Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 141.

⁷⁸⁶ Hall, Hall, and Verrier, "A History of the Legislative Assembly of Assiniboia," 6.

provincial legislature and its constituent ridings would be identical in form to the Legislative Assembly of Assiniboia laid out in the Provisional Government's constitution.

This situation is likely the result of the adoption of the Provisional Government's existing model for Manitoba's government during the negotiations, namely a Lower Chamber with twenty-four elected members, split evenly among the linguistic communities. Both parties probably saw the parish-based electoral districts already in use as the logical basis for future provincial ridings, and thus the origin for a new government that would emerge out of the old. This undoubtedly reinforced the Provisional Government's status as a *de facto* transitional body. Given this consistency between the old political institutions of the Provisional Government and the new institutions of Manitoba, it is probable that a significant number of the men elected to office in the Legislative Assembly of Assiniboia, would also be elected to the first Manitoba Legislature. If all else remained the same, then, the first Provincial Government of Manitoba would greatly resemble the make-up of the Provisional Government of Assiniboia, and a level of legal and constitutional continuity would extend through the two bodies. The Métis/Halfbreed alliance would also probably remain in tact for at least the first four years of Manitoba's existence and in this time, they could consolidate their control over Manitoba's future.

During the earliest phase of formal negotiations, the Red River delegation convinced the Canadian delegates to accommodate the Provisional Government's political requirements for confederation with Canada. While initially unconvinced of the viability of the *Lists of Rights*, the Canadians nonetheless came to share the same political

vision of Manitoba that the final *List* proposed. With few modifications, the political institutions envisioned by the final *List of Rights* remained in tact—there would be a bicameral legislature, with modest restrictions on the voting rights of incoming settlers, alongside a legislature that remained consistent with established political practice of the people of the North-West. The political institutions envisioned by the Manitoba Treaty were actually quite conservative, they perpetuated rather than transformed those institutions already in existence, and preserved, rather than undermined, the balance of power as it was in the Assiniboia of 1870. Had all else remained equal, and no punitive military expedition intervened, Manitoba would have likely seen a kind of continuation of the Provisional Government in the new provincial government, as well as a consolidation of Métis and Halfbreed political power in these institutions.

Métis/Halfbreed Control of Manitoba Lands

Local control over, and protection of, Métis and Halfbreed lands in the North-West was the second major concern of the Provisional Government, and closely connected to its insistence that local political autonomy be maintained. The initial goal of the Provisional Government was to retain control of the new province's modest land base, controlling all of their traditional hunting and grazing ground outside of Red River not possessed by their Indigenous neighbours. The Provisional Government also required that Canada conclude formal treaty negotiations with the Indians of the North-West.

The Provisional Government wanted to ensure that the jurisdiction over what the Canadians referred to as unoccupied “waste” lands remained with the provincial government—the same constitutional arrangement that the other provinces of Canada had established with the federal government. Although it proved in Macdonald's words

“impossible” for a consensus to be reached on the provincial jurisdiction for “unoccupied” lands in Manitoba,⁷⁸⁷ the delegation from Red River was ultimately able to protect the Métis and Halfbreed land base through three interrelated policies: i) the federal government would gain jurisdiction over Crown lands, providing it prevented land speculation in the province; ii) a sizeable land reserve for Métis and Halfbreeds would be set-aside from the Crown lands, and a local committee would oversee and allocate these lands on behalf of the people of the North-West; and iii) the federal and provincial governments would agree to legalize all existing homesteads in Assiniboia as fee simple property, regardless of whether or not the Company had recognized the title of the occupant in its records.

The final agreement on the future of Manitoba lands *is not* for the most part found in the Manitoba Act, but if several other sources are consulted—sources that comprise the Manitoba Treaty—a fairly clear consensus emerges. There are scholars who prioritize the Manitoba Act’s text for understanding the jurisdiction over Manitoba’s lands.⁷⁸⁸ Accordingly, this section demonstrates that doing so reveals only a limited understanding of the actual agreement created in Ottawa. If we examine the negotiations on Manitoba lands we again find a consensus on how lands were to be distributed and managed in the new province—an agreement that satisfied both parties.

After all, land distribution was important to both the people of the North-West and Canadians. For the North-West, significant control of the local land base was a part of the Provisional Government’s pre-emptory requirements. For the Canadians, access to fertile settlement lands was the very purpose of treating with the natives of the country to

⁷⁸⁷ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 140.

⁷⁸⁸ See Flanagan, *Metis Lands in Manitoba*.

begin with. The consensus on Manitoba lands was a central component of the Treaty that is not done justice by the Act, as key components are conspicuously absent from it. A more comprehensive analysis of the robust Treaty documents produces a better understanding of the shared vision for Manitoba lands, which was, after all, created by mutual compromise and consensus, not the unilateral action of Canadian Parliament. This agreement on Manitoba lands, it should be noted, concerned only the Métis and Halfbreeds represented by the Provisional Government and Canada—it was not binding for the other Indigenous peoples of the North-West. The Provisional Government was clear on this point, and included in its final *List of Rights*, as in previous *Lists*, the stipulation that “treaties be conducted between Canada and the different Indian tribes of the Northwest, at the request and with the co-operation of the Local legislature.”⁷⁸⁹ Determining the land holding protections of Métis and Halfbreeds were never intended to detract from Canada’s obligations to make similar arrangements with other peoples, only to ensure that the Métis and Halfbreed peoples had enough land to secure the future prosperity of their people in a changing economy.

Consensus on Manitoba lands emerged only after both parties compromised on their initial position. In the end, just like the consensus on Manitoba’s political institutions, the consensus on land policy reflected Red River’s original position, more than it did Canada’s. In its initial bottom line, the Provisional Government required “that the Local Legislature of the Province have full control over all the lands of the Northwest,”⁷⁹⁰ which was the initial proposal put to the Canadian representatives by the Red River delegation. But as Ritchot noted in his *Journal*, Canada required a guarantee

⁷⁸⁹ Provisional Government of Assiniboia, “Fourth *List of Rights*,” article 13.

⁷⁹⁰ *Ibid.*, article 11.

that their people would have some land to settle, and that was best to be done by creating federal jurisdiction over all non-homesteaded lands in Manitoba.⁷⁹¹ Ritchot was not happy about this, if Manitoba lacked control of “Crown lands” when the other provinces possessed this jurisdiction, Manitoba would essentially be a province with second-class status.⁷⁹² He instead insisted that the people of the North-West must “maintain our rights in common with the other provinces.”⁷⁹³ Ritchot’s argument for the provincial control of lands gained the sympathy of the Canadian delegation, noting that “Sir George supports me, Sir John is of the same opinion.”⁷⁹⁴ However, it was also agreed that in order to get the arrangement accepted by Parliament, it was “necessary to make some concessions” on both sides.⁷⁹⁵

The Red River delegation was made comfortable with Ottawa’s jurisdiction over “unoccupied” land in the province, after it was agreed that a significant land reserve, overseen by the provincial government, was to be created to ensure a sizeable Métis/Halfbreed land base. The delegation from Red River was able to argue for this reserve by invoking the Métis’ and Halfbreed’s Indigenous relationship to their lands, or in nineteenth-century terms, their “Indian title.”⁷⁹⁶ The existence of the Métis and Halfbreed “Indian title” was somewhat confusing for the Canadian delegates, who interpreted Indian title as being the vestige of a “primitive” people, not those who

⁷⁹¹ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 140.

⁷⁹² Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 106.

⁷⁹³ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 140.

⁷⁹⁴ Ibid.

⁷⁹⁵ Macdonald, in *ibid.*

⁷⁹⁶ *Ibid.*, 141.

governed themselves as “civilized men.”⁷⁹⁷ The Canadian delegates thought Métis/Halfbreed self-governance through the Provisional Government precluded them from claiming an Indian title to the North-West, as did their desire to form a province. Macdonald and Cartier argued that the people of the North-West where “claiming and having obtained a form of government fitting for civilized men” required that they “ought not to claim also the privileges granted to Indians.”⁷⁹⁸

However, Ritchot explained that Métis/Halfbreed aspirations to join Confederation as a province did not undermine their “national rights” as a people extending from their indigeneity in a manner similar the Métis arguments in favour of Métis land title made during the Convention of Forty. For Ritchot, the creation of Manitoba, and Métis and Halfbreed title that descended from their status as Indigenous peoples, were two entirely different discussions. In envisioning “a form of government similar to those of the provinces of other subjects of Her Majesty,” Ritchot argued, the people of the North-West did not “propose by that to deprive of their rights any one among them who possesses rights either personal or national,” which did not automatically cause “the loss of the rights that the *métis* of the North West have as descendants of Indians. They wish only to have the rights common to the other provinces of Confederation, and to my mind nothing is more just.”⁷⁹⁹ Thus, Ritchot managed to separate the matter of Manitoba lands from the people’s assertions of self-government “as civilized men,” allowing the negotiators to view the issue of “civilized” government and Métis/Halfbreed land rights as separate issues.

⁷⁹⁷ Ibid.

⁷⁹⁸ Ibid.

⁷⁹⁹ Ibid., 142.

So on April 27, 1870 when the Canadians again proposed that the federal government gain jurisdiction over Manitoba's Crown lands (subject to future treaty relationships with the regions other Indigenous nations), Ritchot was able to ensure Canada accepted a different kind of land base protection policy. He was adamant that the people of the North-West would not yield their lands to Canada "without compensation," meaning that the Métis required some other form of protection for their land rights in the new province.⁸⁰⁰ These separate Métis/Halfbreed land rights would come to be recognized as a massive million-acre reserve, set aside for those Métis and Halfbreeds who did not yet possess homesteads of their own in the North-West.

The initial "compensation" proposed by Canada for release to federal responsibility for "unoccupied" lands, was a mere 100,000 acres of land to be set-aside for Métis and Halfbreeds who were minors in 1870. While Ritchot did not object to the formation of a reserve, he did immediately refuse the "impossible" Canadian proposal of 100,000 acres, it need to be bigger, much bigger.⁸⁰¹ Ritchot instead suggested that, "we could perhaps yield control of the lands of the province on the following conditions," first that all currently in the territory—men and women, Métis, Halfbreed, English or Canadien—would be eligible for 200 acres in a single parcel. Second, that all of the children of these men and women who reach the age of sixteen, would be eligible for a 200 acre parcel, for a mutually agreed upon time period, such as 50 or 75 years.⁸⁰² There

⁸⁰⁰ Ibid.

⁸⁰¹ Ibid.

⁸⁰² Ibid., 142-43.

would also be “a safeguarding law to keep the land in the family” ensuring that the reserve land stayed in the hands of the original inhabitants of the new province.⁸⁰³

A long-winded discussion then ensued over April 27 and 28 on how the reserve land would be allotted to the children of the Métis and Halfbreeds. Ritchot advocated that no upper limit on acreage be attached to the reserve, instead that claimants could receive a parcel of land for a set time period of 50 to 75 years, while the Canadians attempted to limit the size of the reserve upping their proposal to 200,000 acres, a still insufficient amount that Ritchot refused to accept.⁸⁰⁴ The next day, April 29, the delegations continued their discussions on the land reserve, but as time went on, consensus seemed to move in the direction of a finite quantity of land, rather than a time period in which Métis and Halfbreeds could claim their part of the reserve. Ritchot eventually compromised, accepting the Canadian proposal of a fixed acreage of reserve land, providing that the reserve be capped at three million acres, fifteen-times larger than the Canadian delegation’s most recent offer. Cartier then countered at one million.⁸⁰⁵ With further back and forth on the acreage of the reserve, it took until May 2 to reach consensus on the size, fixed at 1.2 million acres.⁸⁰⁶ A later compromise during the Manitoba Bill debates again increased the reserve’s cap to 1.4 million acres, a number fourteen times the size of Canada’s original position.

Once there was a clear consensus on the size of the land reserve, the two parties then discussed how the reserve would be managed and distributed. Both agreed that the people of the North-West should control it. They agreed that the local legislature—

⁸⁰³ Ibid., 142.

⁸⁰⁴ Ibid.

⁸⁰⁵ Ibid., 143.

⁸⁰⁶ Ibid.

presumably controlled by the people of the North-West—would be responsible “to distribute these parcels of lands to heads of families in proportion to the number of children existing at the time of distribution” and the families would then distribute the lands accordingly, but under the guidance of the local legislature “which could pass laws to ensure the continuance of these lands in *métis* families.”⁸⁰⁷ To protect the people of the North-West’s land base during the distribution, it was also agreed that this land reserve would be overseen by “a committee charged with choosing and dividing, as may seem good to them, the 1,400,000 acres of land.”⁸⁰⁸ The all-important question of the make-up of this oversight committee would be determined by the Red River delegation “as soon as might be after the Bill should be passed” and reinforced with an executive order from the Canadian Privy Council.⁸⁰⁹ It was then agreed, that for the sake of a speedy journey through Parliament, the Manitoba Bill need not mention this committee but it was understood that it would be acknowledged in a Canadian Order in Council, as soon as it was expedient to do so.⁸¹⁰ Therefore, by the time Canada tabled its Manitoba Bill in Parliament, a consensus had been established between the two delegations, both of which envisioned a Manitoba where significant Canadian settlement could occur, but that the reservation of the existing land base of the Métis and Halfbreeds would protect their future interests.

This land reserve, as was understood by both parties at the time of the negotiations, was the exclusive purview of the Métis and Halfbreeds; a committee of their own making would choose lands surrounding their current communities—some of the

⁸⁰⁷ Ibid.

⁸⁰⁸ Ibid., 147.

⁸⁰⁹ Ibid.

⁸¹⁰ Ibid.

most desirable lands in the province—and that laws would ensure that Métis and Halfbreeds, and not Canadians, would own this land. The key element in this shared vision of Manitoba lands was the power of the local legislature, likely to be controlled by the current political leadership during the land allocation period, to ensure that this land reserve would remain in Métis and Halfbreed hands. With this agreement specifically in place, and the inclusion of the reserve committee to be chosen by the Red River delegation, Métis and Halfbreeds would be in control of the entire reserve selection and distribution process—from selecting the reserve lands, to dividing and distributing them, to enacting laws through the local legislature to prevent non-Métis/non-Halfbreeds from acquiring these lands. In short, this reserve would greatly expand Métis and Halfbreed landholdings, while ensuring that they retained a central geographic location in their new province. Without such consensus, it is unlikely that the Provisional Government would have ratified the Treaty and Canadian settlers would have been prevented from settling in the North-West.

The final element of the Manitoba lands consensus involved the recognition of all existing homesteads in the North-West as owners in fee simple of their immediate lands. Prior to the negotiations, Canada was prepared only to recognize as legitimate fee simple property those homesteads “granted” by the Company to individual families.⁸¹¹ However, the people of the North-West had long asserted “the land was their by natural law and that there was no need to bother about the Company’s title.”⁸¹² Only a fraction of Métis and Halfbreed landholders had their river lots registered with the Company, and if the

⁸¹¹ Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 102.

⁸¹² Stanley, *The Birth of Western Canada: A History of the Riel Rebellions*, 14.

Canadian government's position was adopted, they would be considered mere squatters in their own country. The initial Canadian position would result in the dispossession thousands of families.

After thorough debate, the Canadian delegates were seemingly won over by an appeal to fairness. They accepted the possession of a homestead as a legitimate demonstration of property ownership, a distinction which the Company's records would not affect.⁸¹³ Ritchot recorded the verbal agreement during negotiations, that would later be reinforced by an order in council, as "possession (*gratis*) for those who possess lands of the Company without having a contract or a connection with the Company [would] be granted...them."⁸¹⁴ It is important to note that while the consensus on the recognition of *all* homesteads peaceably possessed in Red River is not contained in the Manitoba Act, like the consensus on the committee to oversee the land reserve, the agreement was still made.

In support of the recognition of the existing landholding in the North-West, the Canadians assured the Red River delegation that the immigration of Canadians onto Manitoba lands, would result in new agricultural settlement, not land speculation. In fact, the Canadian government committed itself to protecting the lands, so that only legitimate settlement would be possible in the new province. Canada's stated concern was simply for the fair settlement of the North-West, *and not to empower land speculators*.

Macdonald stated as much in Parliament during the Manitoba Bill debates: "No land would be reserved for the benefit of white speculators, the land being only given for the

⁸¹³ Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 102.

⁸¹⁴ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 140-41.

actual purpose of settlement.”⁸¹⁵ In addition, Cartier noted in Parliament that the 1.4 million acre land reserve was the primary concern of the government, since government policy “*after settling these claims*, was to give away the land so as to fill up the country.”⁸¹⁶ This meant that the allotment of Métis and Halfbreed lands would occur *ahead of* any Canadian settlement of the region. Métis and Halfbreeds, through their lands allotment committee and their local legislature, would have the pick of Manitoba’s lands, in advance of Canadian settlers. Such an arrangement inevitably would result in a strong position for the original inhabitants to protect their geographic control of the new province, and settle in the most fertile lands of their sizeable land base. This, of course, did not preclude the Métis’ and Halfbreed’s relations, the Cree, Saulteaux, and Assiniboine from also occupying and setting aside their own reserves alongside the Métis/Halfbreed reserve. As the Métis claimed their reserve they preferred growing out from their existing settlements,⁸¹⁷ onto lands they were already familiar with, it did not regularly come into conflict with Saulteaux, Assiniboine, or Cree lands. For the most part, the intended reserves were lands that Métis had used collectively for many years and tended not to conflict with the traditional settlements and hunting grounds of their neighbours.

Despite this emerging consensus, very early on Ritchot was concerned that the Manitoba Act appeared “very much modified” from the negotiations of the preceding week. The agreement that the “lands without having a contract or connection with the Company ought to be granted” did not appear in the Act, a point to which Ritchot

⁸¹⁵ Macdonald, speech to Parliament, May 4, 1870, in Morton, “Extracts from the Debates on the Manitoba Bill, May 2 - May 9, 1870,” 204.

⁸¹⁶ Cartier, speech to Parliament, May 2, 1870, in *ibid.*, 176. Emphasis added.

⁸¹⁷ See, for instance, Flanagan, *Metis Lands in Manitoba*, 73.

objected to strenuously.⁸¹⁸ However, since the Canadian and Red River delegates were all concerned about the successful passage of the Bill in the House, it was agreed that the wording of the Bill was secondary to the consensus reached during the negotiation, and the Canadians told Ritchot, that regardless of the variation in wording, “in practice it amounted to the same thing.”⁸¹⁹ Anything left unclear by the act “they promised that they would give us by order in council, before our departure, assurance of the carrying out of our verbal understandings.”⁸²⁰ On May 18, 1870, Ritchot seeking fulfillment of this promise, wrote to Cartier requesting that the Governor-General authorize, “a Committee composed of men who we ourselves were to propose to select these lands and divide them among the children of the half-breeds,” even mentioning the potential members—the Catholic and Anglican bishops as discussed during the negotiations.⁸²¹ Cartier, replied to Ritchot on May 23, 1870, with few specifics, but reassuring Ritchot that the 1.4 million acres “will be of a nature to meet the wishes of the half-breed residences,” and “to guarantee, in the most effectual and equitable manner, the division of that extent of land amongst the children of the heads of families of the half-breeds residing in the Province of Manitoba.”⁸²² Cartier and Macdonald clearly left Ritchot with the impression that the agreement they made concerning Manitoba lands would be in force by the time of the union between Manitoba and Canada—although this oversight committee would never actually materialize.

⁸¹⁸ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 147.

⁸¹⁹ Ibid.

⁸²⁰ Ibid.

⁸²¹ Ritchot, "Letter to Cartier," May 18, 1870, in "Report of the Select Committee on the Causes of the Difficulties in the North-West Territory in 1869-70," 73.

⁸²² Cartier, "Letter to Ritchot," May 23, 1870, in *ibid.*, 74.

Ritchot also sought other clarifications on the Canadians' interpretations on the matter of lands. On May 9, for example, Ritchot and Alfred Scott met with Cartier to ensure that the consensus reached was clear on the inclusion of all Métis, even the *hivernants*, not currently living in Red River. Ritchot's *Journal* notes Cartier agreed that,

all the *métis* who were winterers or tripmen who had not left the country to establish themselves in another; but who passing a great part of their lives on trips or in wintering, regarded the Red River Settlement as home. The government knew that part of the *métis* are nomads, and it considers them to be settlers in the province of Manitoba.⁸²³

Ritchot's search for further consensus is indicative that there was in fact, a clear meeting of minds on the possession of Métis and Halfbreed lands in Manitoba and that the Canadians approved of the agreement they had negotiated with Ritchot. Each successive clarification seemed to make the consensus tighter and clearer.

In effect, the Canadian delegation essentially recognized all the existing landholding practices in Red River, and indeed, this recognition is apparent in the Treaty documents. All those is peaceable possession of their lands would have it, according to the Manitoba Act "converted into an estate in freehold."⁸²⁴ Even when the Act did not include a provision to recognize those lands within the HBC settlement region, unrecognized by the Company, the Canadian delegates assured the Red River delegation that, despite the shift in language "in practice it amounted to much the same thing" and it would be followed up with a clarifying Order in Council.⁸²⁵

By the time of the Manitoba Act's ascension on May 12, a consensus had emerged regarding the status of lands in Manitoba, it was understood by both parties that

⁸²³ "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 149.

⁸²⁴ Canada, "Manitoba Act, 1870," article 32(2).

⁸²⁵ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 147.

Métis and Halfbreed lands, in which they were already in peaceable possession would convert over to fee simple title under the new provincial legal regime. This agreement assured that Métis and Halfbreed families would own some of the most fertile lands in the province, in the most desirable areas for settlement. In addition to the 1.4 million acres reserved for their children, the Métis and Halfbreeds were well-poised economically and socially to benefit from this valuable land base. Recognition of current landholdings was a central aspect of the Treaty, without which, the Canadians could not hope to gain access to Manitoba; therefore this agreement was foundational to the entire treaty process.

By agreeing that land would be set aside for the use of the natives of the country and by stating publicly that speculation would be prevented by federal policy, the two delegations had again created a shared vision of Manitoba's future. Significant lands would be set aside for Métis and Halfbreed communities to remain in a central geographic, and thus political, position in Manitoba, while also ensuring that the only settlement was family farmers in the territory—a less threatening prospect than the thoroughly Canadianized territory envisioned by the Canadian party in the old *Nor'-Wester*. As has been previously discussed, Métis were not opposed to Canadian settlement—indeed many Métis hoped to profit from it. The concern among the people of the North-West was the disruption of their land base and loss of their political power, but with adequate protections in place, there was less concern over disruptive settlement of the North-West by Canadians. By establishing federal control of Manitoba lands, the Provisional Government was making a significant concession to Canada, however, the land reserve and the federal protections against land speculation was enough for the two

parties to meet in the middle. As a result, the two delegations had come to a basic consensus on land jurisdiction; it was now a matter of simply putting it into practice.

Language Equality

The third major concern of the Provisional Government, and the people of the North-West more generally, was equal respect for the French and English languages in every facet of public life of their new province. As was noted in chapter 7, language equality was often coded to mean political equality between the French and English political communities in Red River. Language equality, along with a denominational school system that represented the various linguistic and religions in Red River, was a central concern for the Provisional Government. In a letter Riel sent to Ritchot on May 11, 1870, he described the importance of language in maintain two distinct political and cultural communities in the North-West:

Demand that the country be divided into two so that the custom of two populations living separately may be maintained for the protection of our most endangered rights...be good enough also to demand that this division of the country be made solely under the authority of the local legislature.⁸²⁶

While this division was territorial—reserve lands were to be allotted distinctly to French and English communities to do with as they pleased—it also reinforced a the existence of the two separate, national communities at Red River. Language, then, was as much political as it was a cultural distinction, and the preservation of a bilingual Red River was also the preservation of a bi-national political entity. Bilingualism, as the recognition of a distinct bi-national Red River, comprised yet another preemptory requirement for confederation with Canada.

⁸²⁶ Riel's Letter to Ritchot, April 19, 1870, quoted in Flanagan, *Metis Lands in Manitoba*, 31.

In negotiations language equality proved to be the least controversial of the Red River delegation's negotiating points. It was more or less accepted by the Canadian representatives as a given with little discussion on the particulars. Mailhot notes "the proposal for a denominational school system...rated barely a mention in Ritchot's Journal."⁸²⁷ This would suggest that the Canadians accepted from the very beginning the existence of a strong French presence in Manitoba, and were comfortable with public protections in the new province that would ensure that perpetuated this French-speaking political community. For all the controversy that the French-language schools would create (including their abolishment in 1890), the inclusion of language equality in the Manitoba Treaty proved to be entirely uncontroversial.

Amnesty

The Provisional Government stated that it was an absolute necessity for an official amnesty clarifying that no wrongdoing occurred during any events prior to the confederation of Manitoba and Canada. Ritchot told the Canadian delegation, quite matter-of-factly, "a general amnesty is a condition *sine qua non* of any settlement."⁸²⁸ This *essential condition* was non-negotiable, and there was no room to compromise on it. The amnesty would clarify that all actions of those affiliated with the Provisional Government as justifiable under British common law, and prevent the retroactive criminalization of any actions carried out by the body. Given the recent execution of Thomas Scott by the Provisional Government, and the furor of the Ontario Orangemen it

⁸²⁷ Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 102.

⁸²⁸ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 138.

provoked, an amnesty would safeguard the Métis leadership from those who labeled it a murder and sought legal revenge. The Red River delegates had already faced legal harassment upon their arrival in Ontario, and knew very well of the practical implications of an amnesty.

During the negotiations, the Canadian government was emphatic that no Canadian laws were broken in Red River over the past eight months, because Canadian authority did not yet exist in the North-West. When Sir John A. Macdonald was asked in Parliament if Riel would be tried by the Canadian courts after Manitoba joined Canada, he stated that Canada “could not have any *ex post facto* jurisdiction” in the North-West, meaning Canada could not claim criminal jurisdiction *after the fact*.⁸²⁹ If anyone had the power to arrest Riel and his allies, it was the British government, who according to Macdonald had the only valid claim to jurisdiction over the North-West.⁸³⁰ It was this lack of jurisdiction that initially made the Canadian delegation non-committal on an amnesty. Macdonald and Cartier told Ritchot, “that the affair was not within their competence, that they wish to treat only of affairs that concerned them, that that was a matter solely for the local government or for England.”⁸³¹

There is also no evidence to suggest that the British government was interested in pursuing charges against any person involved with the Provisional Government, and British authority was at best debatable in Red River, as it always had been. With the Canadians claiming a lack of jurisdiction, and the British government showing no interest

⁸²⁹ Macdonald, speech to Parliament, May 2, 1870, in Morton, "Extracts from the Debates on the Manitoba Bill, May 2 - May 9, 1870," 199. He even used the example, “if there was a prisoner in Newfoundland at Confederation he would be tried under the same laws as he was taken into custody under.”

⁸³⁰ Macdonald, speech to Parliament, May 2, 1870, in *ibid*.

⁸³¹ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 139.

in pursuing legal redress for any supposed “wrongs”, the real purpose of the amnesty was symbolic. Recognizing that the Provisional Government and its members were not liable to be punished by British or Canadian authorities was a *de facto* recognition of the independent political authority of the people of the North-West. It symbolized that the Provisional Government existed outside of British jurisdiction and would confederate with Canada on a clean slate. It also had more practical implications, such as undermining the claims of Orangemen who sought redress for Thomas Scott’s “murder.” A universally recognized amnesty would mean that British and Canadian authorities would acquiesce to the Provisional Government’s political judgment during a time of crisis, while not attempting to determine the moral acceptability of the Provisional Government’s decisions.

Because of the importance placed on the general amnesty as an essential condition for the Manitoba Treaty, the Canadian prime minister arranged for a meeting between the Red River delegation and the Governor-General of Canada, Sir John Young on May 3, 1870 to build consensus around an amnesty. At this meeting, the Governor-General expressed great sympathy with the position of the people of the North-West. In a remarkable shift from his December 6 Proclamation, in which Young called the Métis rebels, he told Ritchot that he understood that the situation was not nearly as dire as those exciting Ontario were presenting it, and the people of the North-West had not fought, “against the Crown,” but rather “against McDougall.”⁸³² Young then told Ritchot, that his December 6, 1869 Proclamation had,

promised in the name of Her Majesty that no one of those who had taken part in the unfortunate violation of the laws would be troubled, that in effect there would

⁸³² Ibid., 145.

be a general proclamation of amnesty, that Her Majesty asked nothing more than to re-establish peace in the Dominions.⁸³³

Young's Proclamation stated only that under the Queen's authority, in the case of "immediate and peaceable obedience and dispersion" that he, as the Governor-General, would guarantee that "no legal proceedings be taken against any parties implicated in these unfortunate breaches of the law."⁸³⁴ Since the Provisional Government did not immediately disperse or express any obedience to Canada, any amnesty in this 1869 Proclamation was quite limited, and likely did not apply to current circumstances in the spring of 1870. It does, however, demonstrate a willingness on behalf of Canada to accept the principles of an amnesty as a necessary condition of a resolution. Canada had already committed to an amnesty once surely, Ritchot assumed, they would do it again.

This was likely Ritchot's thinking when he requested that Young's statement that "no one of those who had taken part in the unfortunate violation of the laws would be troubled, that in effect there would be a general proclamation of amnesty" be issued in writing. Young told Ritchot that, "when one dealt with men such as those before him...that they must have a certain latitude," and that the people of the North-West "could be reassured that no one would be troubled."⁸³⁵ Whatever wrong doing (if any) that had occurred at Red River, Ritchot was assured that it would not be criminalized in the new provincial era. Any Canadian legal issues would be covered under Young's December Proclamation, while an amnesty from the Queen would clear up any legal complications under Imperial laws.

⁸³³ Ibid., 146.

⁸³⁴ Young, "Proclamation of Sir John Young, Governor-General of Canada, on 6th December, 1869."

⁸³⁵ Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 146.

Although initially satisfied that Young was committed to a second amnesty to cover events after December 1869, Ritchot returned to Rideau Hall to see Young again on May 19, and received a second verbal reassurance that “Canada has no jurisdiction at Red River” and that his “proclamation of December is enough to assure us that a general amnesty is going to be proclaimed immediately, that it is not necessary to give another guarantee in writing.”⁸³⁶ Macdonald would later give assurances to Bishop Taché on the same grounds, that it was necessary to procure the amnesty, but it did not need to be committed to writing. Taché later stated in 1874 that “I understood from the tenor of the conversation that the amnesty would apply to all acts up to the time of my arrival, provided that the people should consent to unite with Canada.”⁸³⁷ Whether written or verbal, the commitment of Sir John Young to the declaration of a general amnesty in Manitoba was part of the consensus developed for the Manitoba Treaty. The commitment on behalf of Canada to an amnesty was necessary for the Red River delegation’s commitment to the agreement, and the Provisional Government’s ratification of the Treaty. While many in the Provisional Government may have rejected British and Canadian authority, and the idea that an amnesty was necessary at all, it was a necessary component in putting the past behind the treaty partners and moving forward as confederated allies.

While the Canadian cabinet and Governor-General would later deny making these agreements with Ritchot and the other Red River delegates, such denials are not only inconsistent with the accounts in Ritchot’s *Journal*, but also with the December

⁸³⁶ Ibid., 153-54.

⁸³⁷ Taché, testimony, "Report of the Select Committee on the Causes of the Difficulties in the North-West Territory in 1869-70," 18.

Proclamation, which was essentially an amnesty agreement. It is probable that the consensus on an amnesty described by Ritchot emerged during the negotiations; otherwise, he would have fought it as he had fought the other essential conditions outlined by the Provisional Government in his instructions. Whatever reasons the government of Canada had to deny this amnesty consensus after the Treaty was ratified, is not relevant in determining whether or not a consensus existed that led to ratification. Regardless of Canada's future claims, there is enough evidence to assume that both Canada and the Provisional Government ratified the Manitoba Treaty with the understanding that an amnesty would protect the leaders of the Provisional Government from future criminalization. Both parties also understood that this was an essential component of the agreement. It is in this spirit that the treaty was accepted at Red River. Without this provision included in the Treaty, the entire agreement would have failed in Red River and consensus would have been lost.

Canada's Defence of the Treaty in Parliament

This chapter has so far demonstrated the existence of shared vision between the Provisional Government of Assiniboia and the Government of Canada for the new province of Manitoba in 1870. It has also shown that, despite initial disagreements on the terms of the agreement, the two parties were able to reach a consensus on four key components—local political control, a large Métis/Halfbreed land reserve, official bilingualism, and the mutual recognition of a general amnesty. Despite presumptions by some scholars that “the delegates were intentionally misled from the beginning,”⁸³⁸ and

⁸³⁸ See Mailhot, "Ritchot's Resistance: Abbe Noel Joseph Ritchot and the Creation and Transformation of Manitoba," 116.

the Canadians had negotiated in bad faith, the Conservative government actively protected the agreement, even after they had met the minimum British threshold of accommodating the Métis. If the sole purpose of the negotiations was to appease the Imperial government, the Canadians continued to champion the Manitoba Bill in the spring of 1870, protecting its most central elements from a hostile opposition inside and outside the legislature, even after they needed to do so.

It is my contention that the Conservative Party's support for the Manitoba Bill demonstrates the Government of Canada's commitment to the agreement made with the Red River delegation, and in the government's defence of the agreement, we find ample evidence that the government of Canada, at least initially intended to live up to the consensus of the Treaty. This section will examine how the Canadian government showed remarkable support for the Manitoba Bill in the House of Commons, allowing it to maintain its integrity and coherence when it came under attack from the opposition benches. Even though Liberals in Parliament sought to undermine the agreement, the Conservatives vocally defended it. Even the most eminent Tory M.P.s—including three who were knighted⁸³⁹—spoke in defence of the original agreement, methodically challenging each attack on the Bill by the opposition, as if they intended to keep the Bill true to the consensus developed during the negotiations. The Liberals in the Commons, on the other hand, sought to undo the agreement, and return to Canada's original plan, an Ottawa-administered territory. Liberal members proposed to again appoint an unaccountable government from Canada for the North-West, explicitly rejecting the ability of the people of the North-West to govern themselves. They also targeted the

⁸³⁹ Sir John A. Macdonald, Sir George E. Cartier, and Sir Francis Hincks.

Métis/Halfbreed land reserve, which they felt created special rights for some classes of people, while disenfranchising other British subjects. In response to these Liberal attacks on the Bill, the Conservative government disputed the Liberal claims, ultimately guaranteeing that the Bill passed Parliament as agreed with the Red River delegation.

The Manitoba Bill was officially introduced to the House of Commons on May 2, when Sir John A. Macdonald submitted to Parliament, “the result of our deliberations for the framing of a constitution for the country heretofore known as Rupert’s Land and the North-West Territory.”⁸⁴⁰ In his this opening address, Macdonald reiterated the importance of the new provincial Legislative Assembly, noting that while this Bill would structure the initial government of Manitoba it was not set in stone. While Macdonald stood by the agreement outlined in the Bill, he also believed that the people of Manitoba were ultimately free to alter the provincial constitution as they saw fit, meaning that the people of the North-West could transform their government to meet future needs, respecting the self-determination of the North-West. Macdonald told the House of Commons, “all the clauses and stipulations are, or course, subject to alteration by the people themselves”.⁸⁴¹ He also explained the land reserve as a tract of land “appropriated as a reservation for the purpose of settlement by half breeds and their children” amounting to 1.2 million acres,⁸⁴² soon to be increased to 1.4 million acres.

The opposition in the House, Alexander Mackenzie’s Liberal Party, which was riding the wave of anti-Métis and anti-Riel sentiment in Ontario, was bitterly opposed to most of the agreement and fought the Bill in the House. William McDougall, still the

⁸⁴⁰ Macdonald, speech to Parliament, May 2, 1870, in Morton, "Extracts from the Debates on the Manitoba Bill, May 2 - May 9, 1870," 162.

⁸⁴¹ Macdonald, speech to Parliament, May 2, 1870, in *ibid.*, 167.

⁸⁴² Macdonald, speech to Parliament, May 2, 1870, in *ibid.*, 168.

hypothetical Lieutenant Governor of the North-West Territory, had crossed the floor to sit in the opposition and in an effort to heal his wounded pride, now attacked the new agreement. Together Mackenzie and McDougall condemned the fundamental principles of the Manitoba Treaty, and sought to amend the Bill in such a way as to eradicate its intended purpose—the creation of a new, self-determining province in Confederation with a sizeable Métis/Halfbreed land reserve. Despite the introduction of a number of amendments to the Bill by these two men, the Conservative government was able to keep the Bill in tact, as it passed through the House without substantive alterations.⁸⁴³

The Liberal assault on the Manitoba Bill began immediately after its First Reading in the House of Commons. Neither Mackenzie nor McDougall had first-hand knowledge of the negotiations, or as their Parliamentary statements show, little understanding of the people of the North-West. But in an attempt to make up for this deficiency, the two men communicated extensively with the Canadian party members now living in Ontario and organizing against the Provisional Government. This only made the men the mouthpiece for an intensely unpopular element of Red River, leading to some absurd claims from the pair of Liberals as they attempted to speak on the behalf of the people of Red River.

McDougall's personal goal, likely a face saving measure because of his expulsion from the North-West, was the revival of the failed Ottawa-appointed, territorial government. He criticized the Bill by claiming, quite wrongly, that the people North-West "were not prepared for, and did not want so cumbrous and intricate a system of

⁸⁴³ Bumsted, *The Red River Rebellion*, 183.

Government, and it was absurd to impose it upon them.”⁸⁴⁴ What the North-West really needed, in McDougall’s estimation was a “cheap, simple and direct system of Government such as that provided for in the Bill of last Session” which he claimed “would meet the almost universal approval of the people.”⁸⁴⁵ But McDougall’s opinion on the Bill was both misinformed and inaccurate, since it was precisely the opposite of the expressions of the people of the North-West in the various *Lists of Rights*. His claims also conflicted with the negotiating position of the Red River delegation sent to Ottawa by the Provisional Government.

McDougall’s arguments were not just at odds with the opinions of Red River, but they were also at odds with the Government of Canada’s commitments. The government responded to McDougall’s claims by first defending the presence of elective institutions within the province, and later the province’s ability to elect members to the federal legislature. Macdonald said he “regretted the nature of the discussion that had taken place with regard to the principles and details of the Bill,”⁸⁴⁶ concerning the existence of elective institutions in the new province, arguing it was, “hopeless to expect that free-men [to] consent to be united to Canada without a representation in the Canadian Parliament being provided for. Hence the necessity for such a provision in that Bill.”⁸⁴⁷ Rather than downplaying the collective political existence of the people at Red River, Macdonald argued that elective institutions were “a necessity” for Red River’s “consent” to join with Canada. The Conservative government recognized that it was indeed

⁸⁴⁴ McDougall, speech to Parliament, May 2, 1870, in Morton, "Extracts from the Debates on the Manitoba Bill, May 2 - May 9, 1870," 179.

⁸⁴⁵ McDougall, speech to Parliament, May 2, 1870, in *ibid.*

⁸⁴⁶ Macdonald, speech to Parliament, May 2, 1870, in *ibid.*, 196.

⁸⁴⁷ Macdonald, speech to Parliament, May 2, 1870, in *ibid.*

“hopeless” to expect the North-West to unite with Canada without such institutions, and thus an agreement that would need to recognize the existing political rights of the people of the North-West to govern themselves. The recognition that the people of the North-West were freely consenting to confederate with Canada is demonstrative of just how far Macdonald had come since beginning negotiations eight days earlier. Macdonald knew from his discussions with Ritchot that it truly was “hopeless” to attempt to craft any kind of new relationship with Red River without first recognizing the political power of the people there. Thus the government recognized it was necessary to protect the shared vision of a self-governing province with an autonomous and responsible legislature agreed to during the negotiations process.

Unlike the Conservatives, the Liberals repeatedly dismissed the necessity of elective institutions in Manitoba, hoping to limit local political power. They were particularly opposed to a bicameral legislature, which they thought too complicated for such a small population, so distant from civilized Canada. The Liberals felt it “preposterous” to establish,

a little municipality in the North-West of 10,000 square miles—about the size of two or three counties in Ontario—with a population of 15,000 people, having two Chambers, and a right to send two members to the Senate and two members and four to the House here.⁸⁴⁸

In true Victorian fashion, Mackenzie thought the new provincial government “had such a ludicrous look that it only put one in mind of some of the incidents in Gulliver’s Travels.”⁸⁴⁹ Mackenzie proposed instead that “a state of tutelage was necessary” and that

⁸⁴⁸ Mackenzie, speech to Parliament, May 2, 1870, in *ibid.*, 172.

⁸⁴⁹ Mackenzie, speech to Parliament, May 2, 1870, in *ibid.*

only after this period, would it be wise to create representative political institutions.⁸⁵⁰

Another Ontario Liberal, James Young, suggested that, in order to limit the ability of the current inhabitants of Assiniboia to maintain legislative control, the first Manitoba Legislative Assembly should be limited to an inaugural two year-sitting. A short sitting would allow “every British subject going to Manitoba” to vote “as soon as he became a resident householder,” and effectively reduce the voting power of the people of the North-West, displacing them with Ontario immigrants.⁸⁵¹ Such statements were the same arguments used by the Canadian party in their Red River paper *The Nor'-Wester*. The Canadian party had originally advocated a political “schooling” by the more experienced Canadian émigrés:

until we come to a good understanding as to the proper functions of both the elector and the men to be elected and the men to be elected, would it not be well for us to remain for a few months under the pupilage of those who have had a schooling in all of the important political questions which have agitated the eastern Provinces for the last twenty-five or thirty years.⁸⁵²

The Liberal opposition in the House attempted to break down the protections that the Manitoba Treaty provided to the original inhabitants, allowing for Ontario immigrants to fill the political void created by this displacement.

Using the rhetoric of “equality,” the Liberals masked their inherently imperial motives for governing the North-West as a territory. Mackenzie argued that the protections for the people of the North-West amounted to “special claims or privileges” that were contrary to British law.⁸⁵³ These special privileges, Mackenzie argued further,

⁸⁵⁰ Mackenzie, speech to Parliament, May 7, 1870, in *ibid.*, 224.

⁸⁵¹ Young, speech to Parliament, May 5, 1870, in *ibid.*, 213.

⁸⁵² "Editorial," *The Nor'-Wester*, September 7 1869.

⁸⁵³ Mackenzie, speech to Parliament, May 2, 1870, in "Extracts from the Debates on the Manitoba Bill, May 2 - May 9, 1870," 172.

must be eliminated “so as to retain the liberty of every class and creed of Her Majesty’s subjects of the same footing.”⁸⁵⁴ Of course, the Liberal rhetoric masked that it was the destruction of the North-West’s political rights—the right to determine their own political future—that would allow for this even playing field for British subjects. Only by eradicating the political rights of the local population, or what the Liberals referred to as special rights, would they accept this Bill. Essentially, the Liberals were advocating a return to the territorial system long rejected by the people of the North-West. There would be an appointed council from Ottawa, little local input into the territories affairs, and no land rights for those who had lived on lands for generations, but lacked the arbitrary recognition of their homestead by the Company.

The government of Canada, which a few weeks earlier was imagining a similar scenario to the Liberals, was now anxious to defend the agreement. In response to the Liberals’ rejection of adequate political institutions in the new province, Conservative M.P. from Nova Scotia, Adams Archibald, defended the Bill’s contents on the basis that they were actually quite similar to what the Canadian government was proposing for confederation with Prince Edward Island. Archibald asked the Liberals,

after all, is [Manitoba] so very small? It contains 14,000 square miles. That is not a very large tract, perhaps, in the minds of the people from the great Province of Ontario, but with us by the seaboard a Province five or six times as large as Prince Edward Island, in no contemptible territory.⁸⁵⁵

The difference of opinion between the Liberals and Conservatives is at its core, an ideological disagreement. The Liberals premised their arguments on the supposedly-inherent Canadian political and cultural supremacy over the people of the North-West.

⁸⁵⁴ Mackenzie, speech to Parliament, May 2, 1870, in *ibid.*

⁸⁵⁵ Archibald, speech to Parliament, May 7, 1870, in *ibid.*, 219.

The Conservative parliamentarians, however were willing to negotiate with a people for their “consent,” owed to all free people and all British subjects. To support of their proposal of an Ottawa-appointed territorial council, the Liberals relied on the old fantasy of Canadian discovery of the North-West discussed in chapter 2. Alexander Mackenzie argued that the North-West had always been part of Canada, having “always looked upon the Territory as their own, and the payment [to the Company] as a payment simply to obtain a quit claim deed to us of that Territory.”⁸⁵⁶ Using this logic, the Liberals claimed that Canada already possessed legitimate political authority in the North-West, and therefore it was within Canada’s right to determine *on its own* what government was appropriate for the region. As a legitimate possession of Canada, the legislature could to establish such a government on its own accord. In fact, James Young, chastised the government because the Manitoba Bill “bore traces of a bargain, a compromise, and of being largely dictated by the Red River delegates,”⁸⁵⁷ a process unnecessary since Canada already acquired governing authority over this territory.

The government, however, defended both the political competence of the people of the North-West, as well as the negotiations that led to the agreement, stressing the capacities of the people of the North-West to negotiate with Canada. Cartier, for instance, acknowledged that the authority of the Canada was quite limited in the North-West. He noted, “as Canadian authority did not exist there, the rebellion did not affect them” the only impact that the crisis had was to prevent Canada from exercising the powers which they were now to claim under the Manitoba Bill and Treaty.⁸⁵⁸ Therefore, Cartier “did not

⁸⁵⁶ Mackenzie, speech to Parliament, May 2, 1870, in *ibid.*, 171-72.

⁸⁵⁷ Young, speech to Parliament, May 5, 1870, in *ibid.*, 213.

⁸⁵⁸ Cartier, speech to Parliament, May 7, 1870, in *ibid.*, 222.

approve of their being always termed rebels and insurgents, for they never pretended that they were opposed to the sovereignty of the Queen.”⁸⁵⁹ Like Cartier, Conservative Secretary of State Joseph Howe objected to these classifications of the people of the North-West, having been to the North-West in the Fall of 1869, he described the inhabitants as well educated and intelligent, specifically noting specifically, “the inhabitants are not savages.”⁸⁶⁰

Because the people of the North-West were negotiating independent of Canadian authority, the negotiation process was dependent on the consensus that emerged. The fact that this legislation was a product of a consensus with representatives from the North-West was often highlighted by government members in their defence of the Bill. They continually pointed out that this Bill was not just created by the government, but was the result of thorough negotiations with a delegation from Red River. Adams Archibald noted that “we invite[d] them to send delegates, and they [sent] them on our invitation”⁸⁶¹ and Sir Francis Hincks stressed that “all points had been fully discussed between the Dominion Government and the gentlemen who had been sent as delegates.”⁸⁶² There was also an explicit recognition of the give-and-take nature of the negotiations, and the delegation’s role in the process. Hincks’ told the opposition “that all those identifying themselves with the Province of Manitoba were equally interested in getting all they could out of Canada whether by way of subsidy or otherwise.”⁸⁶³ Hincks did not understand why any of the opposition members “were afraid of elective institutions,” in

⁸⁵⁹ Cartier, speech to Parliament, May 7, 1870, in *ibid.*, 221-22.

⁸⁶⁰ Howe, speech to Parliament, May 2, 1870, in *ibid.*, 193.

⁸⁶¹ Archibald, speech to Parliament, May 7, 1870, in *ibid.*, 218.

⁸⁶² Hincks, speech to Parliament, May 2, 1870, in *ibid.*, 184.

⁸⁶³ Hincks, speech to Parliament, May 2, 1870, in *ibid.*, 183.

fact, he noted, the government was “quite ready to assent to them.”⁸⁶⁴ Manitoba was only behaving as any other government entering Confederation, or considering it had done before: “the Governments of all Provinces and the people,” Hincks said, “desired to get all they could out of the Dominion.”⁸⁶⁵ Bargaining and negotiation was nothing new to the Canadian government, and Hincks cautioned against expecting Manitoba follow a different path than the other provinces.

The negotiation itself was part of the legitimate expansion of the Dominion. Hincks said was sure that “the Dominion Government could have made better terms with those representing Canadian interests, than with those representing the Convention [of Forty].”⁸⁶⁶ It was not enough to “make better terms” with those friendly to Canada, like the Liberals were doing with the Canadian party now in Ontario. The Canadian government well understood the importance of negotiating with the right people, in this case the Provisional Government, for the Bill’s legitimacy. Canada could not negotiate with just anyone, (such as those “those representing Canadian interests”), but rather was obligated to negotiate with a representative body of the people of the North-West—a delegation that could command the confidence of the people. The government thus made a distinction between the delegation from Red River, which they considered a credible negotiating party because they represented the local people, and the Canadian party which was not because they had no viable constituency in the North-West. The Conservatives understood that making terms with this delegation from Red River that

⁸⁶⁴ Hincks, speech to Parliament, May 2, 1870, in *ibid.*

⁸⁶⁵ Hincks, speech to Parliament, May 2, 1870, in *ibid.*

⁸⁶⁶ Hincks, speech to Parliament, May 2, 1870, in *ibid.*, 184.

was at the heart of the agreement's legitimacy, an agreement then, that needed to be upheld as it passed through Parliament.

The Liberals did not just object to the political institutions of the new province, they also disputed the necessity of the Métis and Halfbreed land reserve, which they saw as an impediment to the proper Canadian settlement of the territory. Mackenzie's condemnation of the reserve focused on, "the effect of this policy would be to shut up that portion of the Territory from immediate settlement" turning the right kind of emigrants "from Manitoba to lands not more inviting, but less difficult of access, on the other side of the line."⁸⁶⁷ In response to these criticisms, the government again defended their agreement with the North-West, and argued that the reserve was a necessary component, because of the indigeneity of the people of the North-West. It was because "half-breeds had a strong claim to the lands, in consequence of their extraction" that the reserve was necessary for "settling those claims."⁸⁶⁸ Mackenzie rejected the indigeneity of the Métis and Halfbreeds, pointing to their "civilized" ways as evidence that they were not Indians,

But these half-breeds were either Indians or not. They were not looked upon as Indians, some had been to Ottawa, and given evidence, and did not consider themselves Indians. They were regularly settled upon farms, and what the object could be in making some special provision for them that was not made for other inhabitants was more than he could understand.⁸⁶⁹

Macdonald, who was more aware Métis assertions of land ownership, argued that the reservation was required "for the purposes of extinguishing the Indian title" of the

⁸⁶⁷ Mackenzie, speech to Parliament, May 7, 1870, in *ibid.*, 225.

⁸⁶⁸ Macdonald, speech to Parliament, May 4, 1870, in *ibid.*, 204.

⁸⁶⁹ Mackenzie, speech to Parliament, May 2, 1870, in *ibid.*, 172.

Halfbreeds and Métis.⁸⁷⁰ The Métis and Halfbreeds would transform this title into an exclusive right to access the 1.4 million acre reserve, alongside their existing river lots, a reserve that was to be collectively managed forming a large, semi-autonomous land base. Archibald stated that the reserve would ensure, “that their rights shall be guaranteed, their property held sacred, and that they shall be secured in all the privileges and advantages which belong to them, as Britons and as freemen.”⁸⁷¹

During the Manitoba Bill debates in the House of Commons, the government faced ongoing criticism from the opposition, criticism that attacked the core elements of the Manitoba Treaty. But most telling of Conservative support for the agreement can be found in how in handled any amendments to the Bill. Despite a vicious opposition assault in Parliament and agitation against the Manitoba Bill throughout Ontario, the Canadian government only accepted one amendment to the Bill, and they did so only after they gained the consent of the Red River delegation for the change. After first reading on May 2, 1870, Cartier met with Ritchot to discuss a change in the Bill to win support in the House. Cartier asked the delegate if he “had any objection to allowing the settlers of Portage to come into the province of Manitoba.”⁸⁷² Ritchot felt that, with the addition of 1,000 more English-speaking Canadians, the original inhabitants would require a larger land reserve. Cartier and Ritchot then agreed that, with the inclusion of Portage la Prairie in the new province, the Métis/Halfbreed land reserve would be expanded by 200,000 acres, to 1.4 million.⁸⁷³ If the passage of the Bill was truly all that mattered, and the consent of the people of the North-West was unnecessary, then Canada had no need to

⁸⁷⁰ Macdonald, speech to Parliament, May 2, 1870, in *ibid.*, 168-69.

⁸⁷¹ Archibald, speech to Parliament, May 7, 1870, in *ibid.*, 220.

⁸⁷² Ritchot, "The Journal of N.-J. Ritchot, March 24 to May 28, 1870," 145.

⁸⁷³ *Ibid.*

gain the Red River delegation's consent to alter their agreement. But, since the maintenance of consensus was deeply important to the agreement (and necessary for Métis soldiers to stand down to allow Canadian settlers in), Canada returned to the negotiating table to ensure the shared vision remained in tact.

With this in mind, we can say with some certainty that in May 1870, the Conservatives in the House of Commons envisioned a Manitoba much in the same way that the delegates from Red River did: a province created by negotiation and consensus. This shared understanding of Manitoba meant that the new province would ultimately become a shared space, where peace between the various peoples reigned. Archibald told the House of Commons that Canadian authority would not conquer the North-West, but would ensure peace, "we shall satisfy the people there that we have no selfish object of our own to accomplish, that we go there for their good as well as for our good."⁸⁷⁴ It may have been easier to follow the path of least resistance, to cater to the opposition and the angry Orange demonstrations in Ontario, but the Conservative government opted instead to keep the agreement in tact. The government thus ensured that the core elements of this treaty agreement were accepted by Parliament, and agreed that all the oral elements not clearly stated in the Act could always be "clarified" by Orders-in-Council. The Canadian government of May 1870 clearly understood the importance of the agreement, and keeping consensus around its provisions, even returning to the Red River delegation when it was necessary. These debates are perhaps the best evidence of both Canada's commitment to treaty-making with Red River, and the bilateral nature of the creation of the province Manitoba—a new entity emerging from an old political tradition, born in

⁸⁷⁴ Archibald, speech to Parliament, May 7, 1870, in Morton, "Extracts from the Debates on the Manitoba Bill, May 2 - May 9, 1870," 221.

compromise and consensus, and agreed to be the protected home of the people of the North-West. It was in this very spirit that the Canadian government defended the Manitoba Bill, and in this spirit that the Canadian Parliament constitutionalized it.

Conclusion

Canada ratified the Manitoba Treaty, with the Governor-General granting Royal Assent of the Act on May 12, 1870—a mere ten days after it was first introduced in Parliament. After this ratification, Ritchot left Ottawa for Red River. Upon his return home, Ritchot set himself to communicate to his people the robust consensus embodied by all elements—written and unwritten—in the Manitoba Treaty. Ritchot’s address to the Legislative Assembly noted that the agreement extended beyond the Act, “wherever there is doubt as to the meaning of the act, let me state, it is to be interpreted in our favour.”⁸⁷⁵ He also clarified that the Bill passed Parliament in Canada, but had not yet been accepted by the people of the North-West:

The Manitoba Bill passed; but, you will observe, it differed from our Bill of Rights, and, as delegates, we could not say if the people of the North-West would accept it.⁸⁷⁶

Ritchot, was only a delegate, and acknowledged that he had no authority to treat on behalf of the delegation, only negotiate for a consensus with Canada. Having achieved this, according to his instructions, he was obligated to turn over responsibility for ratification to the Legislative Assembly.

The Provisional Government’s ratified the Treaty on June 24th, 1870, when a Métis member of the Legislative Assembly of Assiniboia, Louis Schmidt tabled a motion

⁸⁷⁵ "The Legislative Assembly of Assiniboia, Third Session," *The New Nation*, July 1 1870, page 2.

⁸⁷⁶ *Ibid.*, page 3.

that “the Legislative Assembly do now, in the name of the people, accept the Manitoba Act, and decide upon entering the Dominion of Canada, on the terms proposed in the Confederation Act.”⁸⁷⁷ The motion was carried unanimously, as the Assembly erupted into spontaneous celebration. This was the moment Provisional Government of Assiniboia confederated with Canada. It did so, not by a presumption of Canadian authority over them, but through the ratification a treaty the Provisional Government had negotiated with Canada. The Manitoba Treaty transformed the self-governing region of Assiniboia into the new semi-autonomous Province of Manitoba. The Métis and the Halfbreeds had entered into Confederation on their own terms, and had done so in a way that would allow them to remain *kaa-tipeyimishoyaahk*, self-owning. Through this treaty, the people of the North-West had established new treaty relationship with Canada. A few short months ago Canada was considered a stranger, but now it was a political ally and relative of the people of the North-West.

The people of Canada and the people of the North-West built a shared vision of Manitoba that was institutionalized in the Manitoba Treaty of 1870. The treaty was a bilateral agreement with Canada, and was ratified by the respective legislatures of both parties. The result was a formal political union of the Métis people with Canada through a confederal relationship that preserved significant local autonomy for the Red River peoples. The people of the North-West entered into this confederation as a politically independent people, and the negotiation and the ratification processes of the Manitoba Treaty recognized this independence. Rather than acquiescing to British or Canadian authority, Métis initiated a treaty-making process consistent with their worldview. The

⁸⁷⁷ Legislative Assembly of Assiniboia, "Sessional Journal of the Legislative Assembly of Assiniboia," June 24, 1870.

bilateralism of the treaty negotiation process was repeatedly referenced by the Red River delegation to Ottawa, *as well as* the Canadian politicians who negotiated and ratified the agreement. The result of the negotiations was not fully embodied in the Manitoba Act, and both parties understood that substantive oral agreements were also part of the agreement. Going beyond the Act, the Manitoba Treaty contains both written and oral agreements, with the oral component clarifying the language of the Act. These clarifications would allow the parties to determine how certain clauses of the Act would be interpreted when put into practice after ratification. Therefore the written Manitoba Act is an imperfect representation of the shared vision of the future of the North-West, and a more robust understanding can be found in the Manitoba Treaty, which includes both written and oral components. It is the latter form that, I argue, best embodies the original treaty relationship envisioned by the Red River and Canadian delegations and their respective governments in 1870.

Despite the consensus, and the bilateral ratification of the Treaty, this Manitoba never came into existence. An expeditionary force, which the delegation from Red River was informed about, but “never said a word for or against their coming.”⁸⁷⁸ Ritchot, nonetheless felt that “the intentions of the Government in this respect, appear fair enough. They mean well in the premises.”⁸⁷⁹ However, the intentions of the troops seem to have been quite different than the intentions of their governments—both British and Canadian—and the arrival of the expedition would lead to a very different Manitoba than original envisioned by Red River and Ottawa in the Manitoba Treaty.

⁸⁷⁸ "The Legislative Assembly of Assiniboia, Third Session," page 2.

⁸⁷⁹ Ibid.

Chapter 10 – Conclusion: ‘If you do not want to recognize these rights, do not ask us to enter confederation. We are not bound to enter the dominion’⁸⁸⁰

With the Manitoba Treaty accepted by both parties, and a broad consensus reached on the future of Manitoba and Canada, the transition into this new political world should have been simple. Upon the arrival of the Lieutenant-Governor elections should have been called, and the Métis/Halfbreed majority would have returned a government similar in make up to the Provisional Government to the Legislature. This new government, along with the Lieutenant-Governor would together implement the land policies that would secure Métis/Halfbreed landholdings and thus their political centrality in Manitoba. The provincial government and Lieutenant-Governor would appoint a senate and the federal government would make treaties with the Cree and Anishinabe in Manitoba. All of this was to be completed *before* the arrival of Canadian settlers to Manitoba. This vision was laid out during the treaty negotiations in Ottawa, and agreed to by the legislatures of both treaty partners. However, before the arrival of the new Lieutenant-Governor to Red River, the expedition of British troops and Canadian militia arrived in the Settlement throwing the whole region into utter chaos. Despite its agreed-upon mandate to keep the peace, its conduct, and particularly the conduct of the Canadian militiamen, rapidly undermined any hope for the realization of the agreed upon political arrangement. The Métis and Halfbreed leadership, the obvious choices for the leaders of the new government, was forced into hiding, and some of them, like Louis Riel, into outright exile.

⁸⁸⁰ Riel, *ibid.*, 2.

The original vision for the expedition, as Macdonald described it, was a peacemaking mission that possessed “no hostile spirit” and would “establish law, and peace, and order” for Her Majesty in the new province. The chosen head of the expedition was a British commander, Colonel Garnet Wolseley. The command of a British officer was considered essential, as the people of the North-West had a less combative history with the British than with the Canadians. A British command, at the Queen’s order, would be “received not only with kindness, but with gladness, and that the people will be glad to retain them much longer than as a force than there will be any necessity of them staying.”⁸⁸¹ The British were considered a neutral party in the eyes of the people of the North-West and a more suitable candidate to keep order during the transition into a new constitutional order than an armed Canadian force. British troops with a British commander sent strong signals that this expedition would be impartial, whereas an all-Canadian contingent would appear annexationist—an obvious colonizing force.⁸⁸²

Unfortunately the expedition was not as neutral as either Canada or Britain intended it to be. The bulk of the Canadian militiamen, supposedly there only in a supporting role to Her Majesty’s troops, were blatantly anti-Catholic, anti-French, and anti-Indian, and in short, anti-Métis. The anti-Métis sentiment in Ontario, combined with Thomas Scott’s martyr-like status, led to a swelling of the recruitment lines, and when there was a lack of volunteers in Quebec, those battalions were filled, like the Ontario battalions, with angry Orangemen, eager to go west. Some of the volunteers, it was said,

⁸⁸¹ Macdonald, May 2, 1870, speech to Parliament, in Morton, "Extracts from the Debates on the Manitoba Bill, May 2 - May 9, 1870," 170.

⁸⁸² Bumsted, *The Red River Rebellion*, 194.

even brought with them a length of rope, in which to hang Thomas Scott's "murderers."⁸⁸³

As the Provisional Government pressured Canada to ensure that the Lieutenant-Governor arrived in advance of the troops, Métis scouts began to report the progress of the military expedition *en route* from Canada. It was observed from a distance in order to determine its intentions for Red River. One scouting party even contained members of the Executive Council, including Riel and O'Donoghue.⁸⁸⁴ The day before the troop's arrival, August 26, 1870, Riel was informed by one of his scouts that he was to be lynched by the troops. Riel and his Executive Council wisely fled Fort Garry and went into hiding among their people.⁸⁸⁵ With the obvious leaders of the Settlement in hiding, there ceased to be a viable Métis authority in Red River for the first time in Métis history, this authority was replaced by a foreign military power that claimed to govern the North-West on behalf of the Queen of Canada. Unable to command the support of the people, and making no efforts to be democratic, this military-led regime was essentially an occupational force, and one that held no allegiance to the agreement made a few months ago.

This foreign occupation transformed the political dynamics of the Settlement, as the militiamen and Canadian settlers undermined efforts for a peaceful future relationship in the North-West between Canadians and the original inhabitants. On September 6, 1870, John Christian Schultz returned to Red River and with an armed band of off-duty

⁸⁸³ Ibid., 195.

⁸⁸⁴ Ibid., 216.

⁸⁸⁵ Ibid., 216-17.

militiamen, “broke into the house of Thomas Spence, editor of the *New Nation*.”⁸⁸⁶ Then Schultz “personally administered a horsewhipping to the hapless editor.”⁸⁸⁷ Schultz and his men “proceeded to trash the newspaper’s printing press” destroying an independent voice for the Métis and Halfbreed peoples.⁸⁸⁸ On September 13, off-duty militiamen chased Elzéar Goulet, a member of the tribunal that sentenced Thomas Scott to death, through the Winnipeg streets. When he attempted to flee across the Assiniboine to the French quarter, he was struck in the head with a rock thrown by the militiamen, and drowned.⁸⁸⁹ No one was found liable for either incident, and this signalled the arrival of a culture of impunity for Canadian-led violence.

In this atmosphere, and with vocal hostility back in Ontario, the actual implementation of the Manitoba Treaty proved impossible. While treaty relationships require the treaty partners’ governments to ‘mind their own’ or punish their people who transgress the agreement, the Canadian government was unwilling, or more likely, unable to do so. So violations of the Treaty occurred and Parliament was unable to censure the violators. In this state of occupation, with no visible Métis power in place, the consensus reached in Ottawa a few months earlier was never to be properly implemented. Indeed, the policies of the new regime in Manitoba were quite different from those envisioned by the Provisional and Canadian governments.

The Lieutenant-Governor thus arrived under very different political conditions than was agreed upon in the Treaty negotiations and ultimately he played a very different role than the parties intended. By the time the Lieutenant-Governor reached Winnipeg

⁸⁸⁶ Ibid., 222.

⁸⁸⁷ Ibid.

⁸⁸⁸ Ibid.

⁸⁸⁹ Ibid.

Manitoba had already ceased to be the province envisioned by the Canadian and Red River governments. The Lieutenant-Governor's presence was supposed to signal arrival of Canadian authority in Red River, and a new constitutional order, however the presence of the Canadian militia, and their conduct towards Métis and Halfbreed peoples prompted a marked shift into the realm of settler colonial occupation, hardly consistent with the shared vision found in the Manitoba Treaty. While Canada and the Provisional Government initially had common understanding on the role of military expedition, the Canadian government's inability to 'mind its own relations' in Ontario, and discipline those who transgressed the Treaty's shared vision, led to a settler colonial occupation of Manitoba, rather than a treaty-based union of the people of the North-West and Canada.

Contrary to the expectations of the Treaty, the first provincial elections saw a very different make-up in the provincial government than previous Métis and Halfbreed governments would have indicated. With the most obvious and experienced leadership in hiding, or otherwise intimidated by militiamen violence, only a few men who served the people in either the Provisional Government or the Council of Assiniboia were elected, and there was little-to-no sense of continuity between Provisional Government and the provincial legislature.⁸⁹⁰ Likewise, Canadian settlement began immediately—before the Métis and Halfbreed land reserve had been properly allotted—and Canadians seized land that was to be set-aside for Métis children.⁸⁹¹ The result was that much of the nearby land desired by the people for a reserve was lost to Canadian settlement, a clear violation of the agreement. In addition, the committee to oversee the reserve was never organized by

⁸⁹⁰ See Ens, *Homeland to Hinterland: The Changing Worlds of the Red River Metis in the Nineteenth Century*, 141.

⁸⁹¹ See *ibid.*, 175.

the Lieutenant-Governor and no law was passed that would protect Métis ownership of reserve land. In fact, an entirely new lottery system was introduced to allot lands, a process administered by Ottawa through the Lieutenant Governor of Manitoba, not by the local legislature as was originally agreed.⁸⁹² The leadership never saw its amnesty, and many—Riel, O’Donoghue, and Ambroise Lépine—were either forced into legal exile, or faced trumped-up criminal charges, for actions prior to the establishment of Canadian legal jurisdiction.⁸⁹³

As a result of these treaty violations, Métis found themselves without access to their best lands, without a strong voice in the governance of their territory, and facing harassment on the streets of Red River by armed (and often drunk) Canadian militia. Many Métis left for greener pastures, moving West, East, North, and South to places further away from Canadian settlers. This was not the Manitoba that was envisioned in the Treaty, it was an entirely new jurisdiction unaffiliated with the agreement in Ottawa that happened to bear the same name.

Whatever the problems with the implementation of the agreement, this dissertation demonstrates two things. First, we are reminded that the Manitoba Treaty was a good-faith agreement between two political entities that shared a common vision for the future—a future defined by a political confederation of the two parties. Second, this dissertation shows us that Métis legitimately possessed political authority in the North-West, and this authority could only be altered by Treaty, and not extinguished unilaterally. Therefore, this Métis political authority continues to exist today, as does the binding agreement created in the Manitoba Treaty. The Manitoba Treaty remains a

⁸⁹² Bumsted, *The Red River Rebellion*, 242.

⁸⁹³ *Ibid.*, 230-31.

binding, bilateral agreement between political equals. It is a reminder that Canada's presence in the North-West was possible, not through some abstract notion of "Discovery" or by purchasing the North-West from the Hudson's Bay Company, (whose claims to the North-West were rooted in similarly suspect claims). The addition of Manitoba to Confederation was the decision of a pre-existing political collectivity, like the other component parts of Confederation before it. Unlike the other provinces in Confederation, however, Manitoba did not find its existence in the British political tradition, but rather in the Indigenous political universe of the prairies. Therefore, we should view the creation of the Manitoba Treaty, and the new Manitoba it envisioned, as an act of diplomacy rather than imperial policy making, and as *wahkohtowin* (family making) rather than a simple policy arrangement. Because of this reality, we can dismiss the contemporary pretension that Manitoba was created by a mere piece of domestic legislation in consultation with some representatives of Red River. Clearly, there was more going on than this narrative allows.

The Manitoba Treaty—like all treaties from the treaty-making traditions of the plains—is a binding nation-to-nation agreement. The leaderships of both the Métis and Canadian peoples understood the government-to-government relationship at the core of the arrangement. In the prairie tradition, a breach of a treaty does not result in its dissolution—this is not contract law—treaty violations provide the treaty partners with an incentive to *renew* their original agreement. Therefore, this binding bilateral agreement has not ended because it has failed to be enforced for over a century—rather it is more valid than ever given the dysfunctional relationship between the Métis and Canadian people. The Manitoba Treaty shows us all that it is possible to envision a drastically

different relationship between Canada and the Métis people than the one that exists now, and it is my contention that a return to the principles of the Manitoba Treaty is a necessity more than ever.

While it is unlikely that the Métis people will ever gain control of the Province of Manitoba, as was originally agreed, it does not mean that the Manitoba Treaty is not an excellent guidepost for how Métis and Canadians can renew our political relationship with one another. In fact, the creation of a significant-sized land reserve with provincial powers and status—including an equal voice in the Confederation of Provinces—lies at the heart of the Treaty, and the creation of such an entity would not be difficult to imagine. Nor does it need to be in one place, but could itself be a confederacy of smaller Métis settlements who together embody the combined political power of the Métis nation. Whatever form this renewed treaty relationship will take, we can be sure of two things. First, that the current relationship is not working for anyone, and second, that both the Canadian people and the Métis people have an obligation to do something about it.

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