

# "ADDRESSING THE INTEGRITY OF THE HISTORIC MÉTIS NATION HOMELAND"

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Report in Response to the Métis Nation General Assembly December 2017 Resolution on the Métis Nation of Ontario



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# **Executive Summary**

At the December 12 - 13, 2017 General Assembly of the Métis National Council held in Ottawa, Ontario, a resolution was adopted mandating the President to undertake an examination of the integrity of the historic Métis Nation homeland and citizenship and how that has been and is being impacted by past, recent and continuing developments within the Métis Nation of Ontario (MNO). This President's report responds to the above mandate.

The report first examines how the MNC since its inception in 1983 and its predecessor organizations before it had defined and articulated Métis Nation homeland boundaries and citizenship. It then focuses on the terms under which the MNO entered the MNC, particularly with regard to Métis Nation homeland and citizenship, whether the MNO has adhered to the understanding that governed its admission, and the impact its conduct has had on the Métis Nation as a whole and its ability to pursue its objectives going forward. It reaches a number of conclusions that are clearly set out and form the basis for a series of recommendations for the consideration of the Métis Nation General Assembly at its upcoming Special Sitting in Winnipeg on November 28-29, 2018.

The key findings that shaped the conclusions and recommendations of the report are as follows:

Since its inception in 1983, the MNC has clearly and consistently defined the Métis Nation and its Homeland as the new and distinct Indigenous people and nation that emerged in the late 18<sup>th</sup> century with its own culture, language and political consciousness in that part of the historic Northwest encompassing today's Prairie Provinces (Manitoba, Saskatchewan and Alberta), and contiguous regions of north-eastern British Columbia, the Northwest Territories, northwestern Ontario and the northern United States;

These facts of history, territory and nationhood sets the Métis Nation apart from today's persons of mixed ancestry who don't fit within the above socio-cultural and territorial boundaries of the historic Métis Nation;

The MNO joined the MNC in 1994 with a clear understanding that registration of its membership would be restricted to those Métis from this historic Métis Nation homeland i.e those from Métis communities in that part of northwestern Ontario contiguous to Manitoba and Métis from the prairies who had moved to Ontario.

The socio-cultural and territorial boundaries of the historic Métis Nation were reaffirmed by the 2002 MNC General Assembly citizenship resolution or National Definition that was adopted by all MNC Governing Members including MNO and further reaffirmed by the MNC General Assembly Resolution on Métis Nation Homeland in 2013.

The Métis Nation government has also made decisions to enforce adherence to the National Definition: in 2004 requiring MNC's Governing Members to reregister all of their citizens according to the citizenship criteria of the National Definition; and in 2015 supporting the "national standard" for registration of Métis Nation citizens that was developed in association with the Canadian Standards Association and prohibits grandfathering-in of citizens/members who do not meet the 2002 National Definition.

#### The report draws the following conclusions:

1. From the beginning of its membership in MNC, the MNO has failed to apply historic Métis Nation membership/citizenship criteria.

Instead of complying with the historic Métis Nation criteria set out in the Métis Nation Accord 1992 and the National Definition 2002, the MNO through its registry has chosen to apply its own definition of Métis that enables it to accept anyone of mixed Aboriginal and non-Aboriginal ancestry. There is simply no way of knowing how many of its registered members would meet the National Definition criteria applied in western Canada.

2. The MNO has consistently ignored and been in breach of MNC General Assembly resolutions on citizenship and grandfathering.

The MNO has repeatedly resisted the re-registration of all of its citizens according to the citizenship criteria of the National Definition. In 2004 all of the MNC's Governing Members except for the MNO agreed to re-register all of their citizens according to the citizenship criteria of the National Definition; the MNO opted to unilaterally grandfather-in all of its signed-up members. As well, MNO failed to comply with the MNC General Assembly resolution in 2015 that prohibits the grandfathering-in of citizens/members who did not meet the 2002 Métis Nation definition. Belatedly, it did make an effort at the 2018 MNO General Assembly to adopt a Special Resolution requiring those who had been grandfathered to provide further documentation to prove they had met the registry requirements. That measure was defeated by a large margin, leaving the MNO in breach of the MNC General Assembly's resolutions on citizenship and grandfathering.

3. The MNO has attempted to extend the boundaries of the historic Métis Nation homeland without the consent of MNC and its other Governing Members.

In 2017, the MNO with the support of the Province of Ontario declared six new historic Métis communities within Ontario, only one of which is accepted by the Métis Nation as being part of its historic homeland. Some of these communities extend to the Quebec border and, indeed, are claiming traditional land usage in that province. Furthermore, MNO is asserting that members of these "new" historic communities" do not need to connect to the historic Métis Nation but

rather to any one of the communities now recognized by the MNO and the government of Ontario.

## 4. Why is action needed now?

While the problems surrounding MNO's membership policies and practices are longstanding - in fact going back to the admission of MNO into MNC decades ago - there is a growing and pressing need to deal with them now. The Métis Nation has been making unprecedented progress with the current federal government through processes that enable the negotiation of self-government as well as the co-development of policies and programs to reduce socio-economic gaps between Métis and the general population. We have finally arrived at the point where we can consolidate our nationhood and advance our interests within the Canadian federation. But we have to make sure that our foundation is strong before we can build on it.

MNO's failure to comply with the terms under which it was accepted in the MNC is a fault in that foundation. At the same time, while we are making historic gains in our self-determination agenda, there has been a rapid proliferation in recent years, particularly in eastern Canada, of organizations who have no connection to our history, culture and our centuries-old political struggle and sense of nationhood who are now opportunistically trying to appropriate the term "Métis" and our symbols, even our flag, to gain benefits. How can we refute their claims to Métis rights based on mixed ancestry when we have within our own governance structure a significant number of people from Ontario whose claim is in reality no different from theirs'? Or when the MNO unilaterally decides that our traditional territory extends to and into Quebec.

MNO's non-compliance raises the question of equitable treatment of our Métis Nation citizens. MNC's four western Governing Members have spent years in conducting the arduous process of re-registering each Métis citizen so that only those who meet the National Definition will be entitled to be registered as a Métis citizen and vote in Métis Nation elections. This process has resulted in a denial of registration rights to many people, including longstanding members of those Governing Members. Contrast this with the MNO's grandfathering-in of members that has resulted in many non-Métis voting in MNO elections and at the MNC General Assembly.

Moreover, MNO's continued membership within MNC in its state of non-compliance has acted as a major stumbling block in advancing constitutional reform and nationhood re-building. Quite simply, there are many in the Métis Nation who believe that a national registry, the direct election of a national president, and a national constitution, cannot be attempted as long as large numbers of non-Métis are registered citizens and electors in Ontario.

Clearly the time for action is now.

#### I. Introduction

At the December 12 - 13, 2017 General Assembly of the Métis National Council held in Ottawa, Ontario a resolution was adopted mandating the President to undertake an examination of the integrity of the historic Métis Nation homeland and citizenship in light of the past, recent and continuing developments within the Métis Nation of Ontario on these very questions.<sup>1</sup>

To begin this process, a meeting of the Métis Rights Panel (MRP) was convened in Fort McMurray, Alberta on March 8-9, 2018 with a half day devoted to this topic. Presidents Margaret Froh of the Métis Nation of Ontario (MNO) and Audrey Poitras of the Métis Nation of Alberta (MNA) each replaced their regular ministerial representative for this particular meeting. With their participation, a full and informed discussion was engaged in.

At the conclusion of the Panel discussion on this matter, it was decided that a panel of academics with expertise related to the history of Métis lands and genealogy, coupled with a legal perspective would be established to inform and advise on the geographic homeland boundary of the Métis Nation. Each Governing Member was to provide names of potential candidates to the MRP Chair by March 16, 2018. As of the July 18-19, 2018 sitting of the General Assembly no name or names had been submitted by any of the Governing Members, therefore it was announced by the President and Chair of the MRP that the work on the report would proceed as such and any Governing Member wishing to provide a written report or comments to inform this initiative was welcomed to do so.

This report provides a holistic approach to the Métis Nation, including its emergence and evolution in order to understand the significance of the resolution and the future of the Métis Nation itself. This particular study will only address the eastern portion of the Métis Nation Homeland, as that is what the Resolution called for, although at some point the Métis Nation as a whole must be dealt with, including British Columbia as requested by their representative at the March 2018 Métis Rights Panel meeting. Also needing examination is the situation of the Métis in the Northwest Territories as requests for joining the Métis Nation government are now being made by two of the three organizations there.

#### II. The Métis Nation and the Métis National Council

It is an accepted fact that, both historically and in contemporary times, persons of mixed ancestry resulted from the interaction between Aboriginal and non-Aboriginal peoples. However, it was only in western North America that the people originally of mixed ancestry emerged as a new and distinct Indigenous people and nation through a process of ethnogenesis.

<sup>&</sup>lt;sup>1</sup> See Appendix 1 for the resolution.

This new Indigenous people developed their own language (Michif), forms of music and dance, dress, foods, traditions, their own flag² and inventions such as the Red River cart and York boats which were instrumental in the niche the Métis carved out for themselves in the fur trade. The Métis also developed a distinct political consciousness, sense of solidarity and military strength which were evident at the Battle of Frog Plain (Seven Oaks) on June 19, 1816, the Sayer trial in 1849, the Battle of the Grand Couteau in 1851 (in North Dakota between the Métis and the Sioux), the 1869/70 Red River Resistance and the 1885 Battle of Batoche and with the two Métis provisional governments in 1869/70 and 1884/85 at the Red River and the Saskatchewan Valley respectively.

Clearly what sets the Métis Nation apart from today's persons of mixed ancestry are these facts of nationhood, territory and history. The very use of the term "nation" is critical in understanding this emergence and evolution as a new and distinct Indigenous people, nation or community<sup>3</sup>, the terms capable of being used interchangeably, and in the case of the Métis Nation, all three applying equally.

That the Métis are a people or nation is indisputable as they meet the criteria advanced by the International Commission of Jurists which proposed the following:

- a) a common history;
- b) racial or ethnic ties;
- c) cultural or linguistic ties;
- d) religious or ideological ties;
- e) a common territory or geographical location;
- f) a common economic base; and,
- g) a sufficient number of people.

After the formation of the Métis National Council (MNC) on March 8, 1983 by the Métis Nation as the governmental institution to represent its interests at the national level, the MNC engaged in the mid-March 1983 First Ministers' Conference on Aboriginal Constitutional Matters. The MNC delegation pressed for a land base and self-government on the basis of the Métis Nation's right of self-determination, vowing to never again lose control of the Métis Nation's destiny.

With its new mandate in hand, the MNC produced a pamphlet which was meant to educate governments and the general public about the Métis Nation and its continued existence as a people. In this connection, it stated:

<sup>&</sup>lt;sup>2</sup> The Métis Nation flag was first unfurled in armed conflict at the Battle of Frog Plain (Seven Oaks) on June 19, 1816.

<sup>&</sup>lt;sup>3</sup> Clem Chartier, *In The Best Interests of the Métis Child,* University of Saskatchewan, Native Law Centre, 1988 at 7 and 8.

The essence of Métis existence can best be described as Métis nationalism which embodies the political consciousness of that newly emerged community of aboriginal people. This political consciousness, which also found expression in cultural activities and values, was confined to a specific geographic area of North America. This geographic area, commonly referred to as the Métis Nation or Homeland, encompasses the Prairie Provinces, north-eastern British Columbia, part of the Northwest Territories, northwestern Ontario and a portion of the northern United States.<sup>4</sup>

The MNC's articulation of the socio-cultural and territorial boundaries of the Métis Nation merely confirmed what had already been recognized by those historians and legal analysts who had looked at the issue. It also reflected the longstanding views of organizations that had represented the Métis Nation.

At the annual meeting of the Saskatchewan Métis Society in 1946, President J. Z. LaRocque stated:

With further reference to privileges and rights we enjoyed before the dawn of intense immigration on these vast plains of ours, and what we call today Manitoba, Saskatchewan, Alberta and the North West Territories, and the following Lakes: Winnipeg, Winnipegosis, Manitoba, Dauphin, Waterhen, Cedar, Ile a Crosse (sic), Athabasca, Montreal, Great Slave, and those Rivers: Saskatchewan, Assiniboine, Rouge, Winnipeg, Churchill, Nelson, Beaver, MacKenzie, and Qu'Appelle, etc. These lakes and rivers, and one of the most fertile domains in the world, constituted our native land.<sup>5</sup>

Ironically, the statement by the MNC also found support in the national organization from which the Métis Nation split in 1983. The three prairie provincial Métis associations had founded the Native Council of Canada (NCC) <sup>6</sup> in 1971 to represent their interests at the national level but the NCC had expanded and evolved into a nation-wide pan-Aboriginal body, leading to the withdrawal of the prairie Métis in 1983 to ensure the Métis Nation was properly represented. The NCC itself had distinguished between the historic Métis Nation and its other constituents whether they called themselves Métis or non-status Indians. According to the report on the findings of a Commission on the Canadian Constitution established by the NCC in 1980:

Although mixed-blood people originally appeared in eastern Canada, they did not emerge there as a distinct national group. It was on the plains of

<sup>&</sup>lt;sup>4</sup> Métis National Council, *The Métis: A Western Canadian Phenomenon* (pamphlet produced by the MNC, 1983.

<sup>&</sup>lt;sup>5</sup> Conference of The Metis of Saskatchewan Proceeding, July 30, 1946, Regina, Sk Archives. The Saskatchewan Métis Society was founded in 1935.

<sup>&</sup>lt;sup>6</sup> Now the Congress of Aboriginal Peoples (CAP).

western Canada in the late  $18^{th}$  century that the Métis nationality developed.

••••

As generations passed a unique culture and lifestyle emerged in the Red River Valley and the mixed-blood people became an endogamous group.

. . . .

It was in the Red River Settlement that Métis nationalism was born.<sup>7</sup>

In the period leading to the patriation of the Constitution from Great Britain, the NCC held two workshops in early 1982, one in Vancouver for the western Métis and one in Moncton for NCC's eastern constituents, mainly Quebec and the Maritime provinces. Representatives from Ontario attended both workshops. At the Moncton workshop, it was made clear by the participants that they viewed the Métis as a western Canadian Aboriginal people.

In order to deal with the topics of discussion the workshop participants were organized into eight groups and then reported back to the plenary:

Group 1: that the group was non-status and the person making the report indicated in response to a question that she didn't think the native people of the Maritimes should be classed as Metis.

Group 2: that the definition of Metis was primarily a western issue, but did state that they viewed Metis as the result of "mixed marriages."

Group 3: stated that the Metis should be included in the *Indian Act*.

Group 4: that "the Metis people in the western provinces are a separate nation."

Group 5: their group decided "to be called Indians".

Group 6: only stated that "the Constitution should read: In this Act, Aboriginal peoples of Canada includes the Indian, Inuit and Metis as being the direct descendants of the original peoples."

Group 7: only dealt with Indian issues.

<sup>&</sup>lt;sup>7</sup> Métis and Non-Status Indian Constitutional Review Commission, *Native People and the Constitution of Canada: The Report of the Métis and Non-Status Indian Constitutional Review Commission*: Harry W. Daniels, Commissioner (Ottawa: Mutual Press, 1981) at 6.

### Group 8: only dealt with Indian issues.8

The formation of the Métis National Council on March 8, 1983 as the Métis Nation's political and legal representative was required in order to secure a space at the March 1983 First Ministers Meeting on Aboriginal Constitutional Matters. In a subsequent book, a member of the Manitoba government delegation commented on the distinctions between the historic Métis of western Canada with their "nationalist conception" of who they were and the mixed-blood populations within the NCC who adhered to a racial definition of Métis:

The distinction between the two groups (Metis National Council and Native Council of Canada) is a contentious matter. It depends on how you define Metis. If a Metis is defined as a person of mixed Indian and non-Indian ancestry, then many non-status Indians across Canada qualify as Metis. Many Metis in Western Canada, however, adopt a nationalistic rather than a racial definition of Metis. They claim that the Metis were a distinct ethnic group which became conscious of and fully realized its own identity in Western Canada in the 19<sup>th</sup> century. The Metis nation, they say was centered around the Red River settlement in Manitoba. A person is not a Metis simply because of mixed ancestry; rather, he must identify himself as a Metis and be accepted as such by the successor community of the original Metis. The Metis National Council adopted the nationalistic conception in its legal presentation to the Supreme Court of Ontario.9

In addition to its 1983 pamphlet referred to above, the Métis National Council on September 8, 1983 presented a brief at a hearing of the Standing Senate Committee on Legal and Constitutional Affairs. As part of its presentation on being Métis, the following was stated:

Outside of the historic Metis homeland, a Metis identity did not emerge with the result that to this day people of mixed ancestry in the Maritimes or the Yukon, for example, generally identify either as Indians or Whites. The point we wish to make is that, contrary to the assumption of many, being Metis is not just a matter of being mixed-blood: if that was the case, many if not most Indians, both Status and Non-Status and indeed many white people would be Metis. They are not because they do not share our nationality which has been molded by a common history, culture and political will. The Metis Nation is a holistic national minority conceived and developed on the soil of Western Canada.<sup>10</sup>

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<sup>&</sup>lt;sup>8</sup> Clem Chartier, *In The Best Interests of the Métis Child,* University of Saskatchewan, Native Law Centre, 1988 at 18.

<sup>&</sup>lt;sup>9</sup> Clem Chartier, *In The Best Interests of the Métis Child,* University of Saskatchewan, Native Law Centre, 1988 at 33-34.

 $<sup>^{10}</sup>$  Clem Chartier, *In The Best Interests of the Métis Child,* University of Saskatchewan, Native Law Centre, 1988 at 22.

Further, the 1983 pamphlet also addressed criteria which would help in understanding who the citizens of the Métis Nation are:

- 1) The Metis are:
  - a. an aboriginal people distinct from Indians and Inuit;
  - b. descendants of the historic Metis who evolved in what is now western Canada as a people with a common political will;
  - c. descendants of those aboriginal peoples who have been absorbed by the historic Metis.
- 2) The Metis community comprises members of the above who share a common cultural identity and political will.<sup>11</sup>

Almost a decade later, in 1992, the Métis National Council, joined by the Metis Nation – North West Territories (MN-NWT) and the Ontario Metis Aboriginal Association (OMAA) through a political arrangement, was able to negotiate a companion arrangement, the Métis Nation Accord, to the main Charlottetown Accord. Unfortunately, in a public referendum held in October 1992 the Accords and proposed constitutional amendments were defeated by a slight majority of Canadians

Nevertheless, there was agreement by the representatives of the Métis Nation, along with the MN-NWT and OMAA to the following definition of Métis which identified the Métis in historical and legal terms as the descendants of those entitled to receive Métis land grants under 19<sup>th</sup> century federal legislation covering the original "postage stamp" Province of Manitoba in 1870 and then the rest of the prairies.

#### 1. Definitions

For the purposes of the Métis Nation and this Accord,

- (a) "Métis" means an Aboriginal person who self-identifies as Métis, who is distinct from Indian and Inuit and is a descendant of those Métis who received or were entitled to receive land grants and/or scrip under the provisions of the Manitoba Act, 1870, or the Dominion Lands Act, as enacted from time to time.
- (b) "Métis Nation" means the community of Métis persons in subsection a) and persons of Aboriginal descent who are accepted by that community.<sup>12</sup>

<sup>&</sup>lt;sup>11</sup> Clem Chartier, *In The Best Interests of the Métis Child,* University of Saskatchewan, Native Law Centre, 1988 at 22-23.

<sup>&</sup>lt;sup>12</sup> Volume 4 Perspectives and Realities, Chapter 5 – Métis Perspectives, Appendix5D: Proposed Métis Nation Accord.

In 2002, the General Assembly of the Métis National Council, including the MNO, adopted the National Definition of Métis as follows:

Métis means a person who self-identifies as Métis, is of historic Métis Nation ancestry, is distinct from other Aboriginal peoples and is accepted by the Métis Nation.

"Historic Métis Nation" means the Aboriginal people then known as Métis or Half-Breeds who resided in the Historic Métis Nation Homeland.

"Historic Métis Nation Homeland" means the area of land in west central North America used and occupied as the traditional territory of the Métis or Half-Breeds as they were then known.

"Métis Nation" means the Aboriginal people descended from the Historic Métis Nation, which is now comprised of all Métis Nation citizens and is one of the "Aboriginal peoples of Canada" within s.35 of the *Constitution Act of 1982*.

"Distinct from other Aboriginal peoples" means distinct for cultural and nationhood purposes.

This definition, setting out the citizenship criteria of the Métis Nation tied to the historic Métis Nation homeland, was adopted by all levels of government within the Métis Nation in their respective Constitutions, Bylaws or Governing Documents.

In 2011 the Supreme Court of Canada further clarified the social and territorial boundaries of the Métis in *Cunningham* wherein Chief Justice McLaughlin on behalf of the Court stated at para. 5:

The Métis were originally the descendants of eighteenth-century unions between European men — explorers, fur traders and pioneers — and Indian women, mainly on the Canadian plains, which now form part of Manitoba, Saskatchewan and Alberta.<sup>13</sup>

The MNC General Assembly also passed a Métis Nation Homeland resolution in 2013 confirming that there is only one Métis Nation, as well as its geographic homeland:

WHEREAS the Métis emerged as a distinct Aboriginal people in what was then known as the historic Northwest.

<sup>&</sup>lt;sup>13</sup> Alberta v. Cunningham, 2011 SCC 37; [2011] 2 S.C.R. 670, McLachlin CJ., para 6.

AND WHEREAS there is only one Métis Nation.

AND WHEREAS the Supreme Court of Canada in the *Cunningham* case acknowledged that the Métis "mainly emerged in the prairies in the provinces which are now Manitoba, Saskatchewan and Alberta".

AND WHEREAS legal counsel in harvesting rights litigation have consistently argued that the Métis homeland is specific to the Northwest.

BE IT THEREFORE RESOLVED THAT this General Assembly re-affirms that there is only one Métis Nation, and that the geographic homeland of the Métis Nation is the historic Northwest which entered into confederation in 1870 through the negotiations of the Métis Provisional Government led by President Louis Riel.

BE IT FURTHER RESOLVED THAT the term "west central North America" in the 2002 definition of Métis means the "historic Northwest". 14

While there has been no precise definition of what is meant by the "historic Northwest", lawyer Jean Teillet has portrayed it as of 1821 as being principally in Western Canada, through a map depicting the Métis Nation Homeland.<sup>15</sup>

As part of this initiative, examination of the historic Métis Nation homeland and its geography was also undertaken. The result of this examination is a map rendering which approximates that crafted by Ms. Teillet which is appended to this report.<sup>16</sup>

For further reference, also attached are two maps: one setting out the economic history of the Métis Nation and one setting out the areas covered by the Scrip Commissions.<sup>17</sup>

Finally, to put the historic Métis Nation homeland in perspective with the newly created country of Canada in 1867 and the Métis Nation's subsequent joining Confederation in 1870, an 1870 map with the Métis Nation homeland inscribed on it is provided.<sup>18</sup>

## III. Métis Nation General Assembly Resolutions

In addition to defining the citizenship and boundaries of the Métis Nation over the past thirty-five years, the Métis Nation General Assembly has also dealt with the threat of non-Métis gaining Métis Nation citizenship or appropriating the

<sup>&</sup>lt;sup>14</sup> MNC General Assembly Minutes (GA1301-14), March 23-24, 2013.

<sup>&</sup>lt;sup>15</sup> See Appendix 2 for the Teillet map.

<sup>&</sup>lt;sup>16</sup> See Appendix 3 for the Homeland map.

<sup>&</sup>lt;sup>17</sup> See Appendices 4 and 5.

<sup>&</sup>lt;sup>18</sup> See Appendix 6.

symbols of the Métis Nation. Numerous individuals and organizations in Eastern Canada have surfaced in recent years using the symbols of the Métis Nation, as well as referring to themselves in many cases as a "Métis Nation". In this connection, the General Assembly at the 2013 General Assembly passed a resolution calling on the leadership to combat this growing trend, as well as seek legal protection for its flag<sup>19</sup>.

In follow-up to this resolution the Métis National Council as the national government of the Métis Nation applied for, and secured, the registration of both the Métis Nation flag and the term "Métis Nation" as official marks of the Métis Nation government, as represented by the Métis National Council<sup>20</sup>.

Furthermore, an initiative was undertaken by the Métis Nation through the Canadian Standards Association (CSA) to ensure that the citizenship registries set up by the Governing Members were applying the 2002 National Definition of Métis in a fair, open, transparent and objectively verifiable manner.<sup>21</sup> The CSA report<sup>22</sup> "Métis Nation Registry Operations" established as its first principle for the operation of the Registry the following: "The National Definition of Métis shall be applied to the identification and registration of all citizens/members of the Métis Nation, without exception."

The General Assembly in 2015 adopted a Resolution supporting the resulting "national standard" for registration of Métis Nation citizens, as well as reaffirming that grandfathering-in of citizens/members who do not meet the 2002 Métis Nation definition is not allowed.<sup>23</sup>

It should also be noted that efforts by the General Assembly to consolidate the governance of the Métis Nation including the adoption of a Métis Nation Constitution, a national registry and the national election of the President, have been impeded due to the issues of citizenship and homeland boundaries which speaks to the concern over registration of non-Métis as citizens of the Métis Nation.<sup>24</sup>

#### IV. The Métis Nation of Ontario and the Métis National Council

From its inception, the MNC recognized that its historical homeland centered on the prairies and extended into northeastern BC and northwestern Ontario. As well, it recognized that significant numbers of Métis from the prairies had migrated to BC and Ontario in search of employment over many decades.

<sup>&</sup>lt;sup>19</sup> See Appendix 7 for the resolution.

<sup>&</sup>lt;sup>20</sup> See Appendices 8 and 9 for the official marks (which are provided to governments only).

<sup>&</sup>lt;sup>21</sup> See Appendix 10 for the resolution.

<sup>&</sup>lt;sup>22</sup> CSA Report Z710-15 - Métis Nation Registry Operations.

<sup>&</sup>lt;sup>23</sup> See Appendix 11 for the resolution.

<sup>&</sup>lt;sup>24</sup> See Appendix 12 for the December 2010 Governance Resolution.

During the 1970s, the Métis within the province of Ontario were part of the Ontario Métis and Non-Status Indian Association (OMNSIA), an affiliate of the NCC. The realignment of the prairie Métis in 1983 and the formation of the MNC had a significant impact on the Métis people in Ontario. In order to ensure representation for the Métis of northwestern Ontario in the First Ministers Conferences on Aboriginal Constitutional Matters between 1984 – 1987, the MNC admitted into its membership the Northwestern Ontario Metis Federation headed by Patrick McQuire. During this period, OMNSIA morphed into the Ontario Métis Aboriginal Association (OMAA).

With the pending constitutional talks of 1991/1992, the Charlottetown Round, the MNC engaged in dialogue with OMAA and entered into a political arrangement which would see the Métis Nation citizens represented by OMAA become engaged in the negotiations and join as a potential signatory to the draft Métis Nation Accord. The same was done for the Métis Nation citizens living in the Northwest Territories.

As mentioned earlier, the Métis Nation Accord defined the Métis in historical and legal terms as the descendants of those entitled to receive Métis land grants under 19<sup>th</sup> century federal legislation covering the original "postage stamp" Province of Manitoba in 1870 and then the rest of the prairies. As OMAA was part of the Métis Nation negotiation process leading to the draft 1992 Métis Nation Accord, and was to be a signatory had it been approved in the October referendum, it surely must have understood that it was agreeing to the definition contained in that draft Accord.

As OMAA began its process to go "Metis-only" in the fall of 1992, surely its leadership and constituents must have understood and agreed to abide by the Accord definition. This was the understanding of the Métis Nation leadership which subsequently welcomed the Ontario Métis into its government, but as we will see, this understanding was not kept.

Following the failure of the Charlottetown Round through the majority "no" vote in the October 1992 referendum, the MNC and OMAA entered into a process through which the Métis Nation citizens within Ontario would become a formal part of the MNC. During 1993-1994 OMAA undertook a re-organization which resulted in the creation of the Métis Nation of Ontario (MNO) for the purpose of representing Métis Nation citizens in Ontario and formally joining the MNC. The non-Métis Nation citizens of OMAA would remain part of the NCC, which later changed its name to the Congress of Aboriginal Peoples (CAP).

Being a party to the draft Métis Nation Accord in 1992 which contained an explicit definition of Métis, MNO in joining the MNC in 1994 was expected to abide by that criteria. Unfortunately, within months of formal membership in the MNC, the MNO embarked on the same path which the NCC had followed in

1971 and began signing up non-Métis Nation citizens. This was done through the application by MNO of a definition of Métis for its own purposes, essentially, anyone of mixed Aboriginal and non-Aboriginal ancestry.

Further, in 2004 all of the MNC's Governing Members except for the Métis Nation of Ontario (MNO) agreed to re-register all of their citizens according to the citizenship criteria of the National Definition. The MNO unilaterally opted to grandfather-in all of their signed-up members.<sup>25</sup>

### V. Testimony in *Powley*.

The first Métis s.35 rights case to reach the Supreme Court of Canada was the *Powley* case which was heard in Sault Ste. Marie beginning in April 1998. For the defence, while the defendants were not called to the stand, there were five self-identifying Métis who provided testimony: Tony Belcourt originally from Lac St. Anne, Alberta and four, including a genealogist, from the Sault Ste. Marie area.

Their testimony speaks for itself, and is provided from the trial transcripts:

1. *Anthony (Tony) Belcourt*: On April 27, 1998 the trial of *R. v. Powley* began, with MNO President Tony Belcourt being called as the first witness. President Belcourt informed Judge Vaillancourt that he is also the Registrar for the MNO.

In describing the Métis Nation, of which he stated there is only one, President Belcourt testified that the Métis Nation's traditional homeland,

"stretches from the rivers and waters of Ontario across both sides of the American border, all of the rivers and valleys of Wisconsin, Michigan and North and South Dakota into Montana, across the Plains and into the northern reaches of British Columbia ... and the Northwest Territories".

He further testified that all one had to do to get an MNO membership card was to have at least one grandparent who was Aboriginal. The Bylaws of the MNO Secretariat were tendered as Exhibit Seven, and President Belcourt read the citizenship section into the record:

2.2 – Citizenship in the MNO shall be limited to individuals interested in furthering the objects of the Metis Nation of Ontario who 1) are Metis within the definition adopted by the Metis Nation of Ontario in accordance with the Metis National Council which is as follows: Anyone of Aboriginal ancestry who self-identifies as Metis, is distinct from Indian or Inuit, has at least one Grandparent who is Aboriginal and who is accepted by the Métis Nation of Ontario. 2) ......

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<sup>&</sup>lt;sup>25</sup> See Appendix 13 for the Métis Registration Guide, MNC 2011.

Following this, MNO's membership application form was tendered through President Belcourt as Exhibit Eight, which implemented the Bylaw provision/definition. In Cross Examination, the following exchange took place which is self-explanatory:

- Q. ... One other question, your application indicates that one of the Grandparents of the applicant must be Aboriginal. What do you mean by Aboriginal?
- A. A person who is either ... as described by the Constitution, an Indian and Incure or Metis.
- Q. I missed the last part, I'm sorry.
- A. An Indian, an Inuk or a Metis.

President Belcourt also testified that as MNO Registrar, 90% of the applications that came to him were approved, while 10% still required further documentation, and that 6,000 had been approved to date (April 1998).

2. Art Bennett: Mr. Bennett of Bruce Mines, in the neighbourhood of Sault Ste. Marie, provided testimony about his family tree. He stated that he was born in Sault Ste. Marie. He attributes his Aboriginal ancestry to his grandmother whose maiden name was Eva Lesage who was from the Great River Reserve. That her father, Leonard Lesage was from the Batchewana Band.

He further testified that Eva Lesage married a non-Aboriginal person and lost her Indian status and was asked to leave the reserve. She had a number of children, including Evelyn Micks (his mother) and Alberta Micks (Steve Powley's mother). He further testified that his mother Evelyn "considered herself half Indian, a Half-breed".

Mr. Bennett testified that Steve Powley is his first cousin, and that he, Art, identified as Metis. He also testified that he has cousins who identify as Metis, including the Powleys.

In terms of Metis identity, Mr. Bennett testified that he has "white blood in me and I have Indian blood in me and my definition of Metis is Half-breed and it's just a polite word for Half-breed".

In cross-examination by the Crown, Mr. Bennett was asked the following:

Q. OK. Do you recall when you started defining yourself as Metis? As a Metis, I appreciate you said earlier about always thinking of yourself as half Indian or part Indian, but when did you start to use the word ......

A. When I actually started using the word Metis? Probably ten, eleven years ago.

Q. Ok, and ... and I just want to make sure I got your definition of what a Metis is right. My understanding is that you believe a Metis is ... is a person with mixed Aboriginal and non-Aboriginal blood, is that correct?

A. Yes.

Mr. Bennett also testified that he was in the process of applying for Bill C-31 status on behalf of his mother shortly after its enactment in 1985, when she died.

3. William Bouchard: Mr. Bouchard testified that he considers himself an Aboriginal person and identifies as Metis. That his mother did not identify as Aboriginal in the early years, although she knew she had Aboriginal ancestry. That he had applied for Indian status for himself and his mother under Bill C-31. The response he received back from Indian Affairs stated that his greatgrandmother, Mary Jane Roy was entitled to be registered under 6(1)(c) of the Indian Act and his maternal grandfather, Thomas Bellerose was entitled to be registered under 6(2) of the Indian Act.

He further testified that he only applied for Indian status in order to get evidence from the Department of Indian Affairs that he had Indian ancestry in order to apply for membership in a Metis organization. Stating, "... it's a government letter signed by the Federal Government of Indian Affairs that my Grandfather's Native. There's my proof." That he began identifying as Metis for the past eight or nine years.

In cross-examination Mr. Bouchard provided the following testimony with respect to his family tree:

Q. ... this Thomas Bellerose line of people, who ... where is the ... who were the Aboriginal people:

A. Joseph Roy was a status Indian. His Band number like, Thessalon's Band number is 202. His personal I.D. number was number 15. Josette Legris' number was, on the Thessalon Band was number 48. Mary Jane Roy, my ... her Band, personal number was 47 and grandfather was never given a number cause he was deceased because I had him ... by my ... I had him receive his Status, but they didn't give a number to a deceased. They just recognize him as a Status person.

He further stated in cross-examination that when he received this response from the Department of Indian Affairs that "it's enough proof to ... I could say I'm Metis and join the Metis Nation of Ontario." His testimony in cross was that anyone of Aboriginal ancestry could claim to be Metis if he or she so chose:

Q. OK. When you were testifying yesterday, you were asked a number of questions I think ... about whether or not your brothers and sisters identify themselves as Metis and my recollection is that your ... that you ... you said that it's a matter of choice, that if your ... you had Native blood and your brother has Native blood, it's a matter of choice whether they would ... whether he would identify himself as a Metis or as an Indian. Is that ...

A. I never said about my family. I was asked a question on what's the difference is between what I thought the difference was between a non-Status and a Metis.

Q. OK.

A. That's up to the individual to self-identify as they choose, whether they want to choose non-Status or ...

Q. Right, so it's a matter of choice.

A. That's right.

Q. Ok. Can ... can anyone choose to be Metis?

A. If they have Aboriginal blood, yes, if they wish to choose, say they're Metis or non-Status, that's up to them, yes.

Q. So ...

A. As long as they have ... meet the criteria that they ... and the main one is that you have to have Aboriginal blood.

Q. So anyone that has Aboriginal blood can say I'm a Metis.

A. If they wish to, yes.

4. *Heather Armstrong*: Ms. Armstrong was qualified as an expert witness in genealogy. She identified as Métis. She did not provide any direct evidence as to her understanding of who are the Métis or what constitutes being Métis. She provided evidence that Steve and Roddy Powley are of Aboriginal descent and therefore Métis. As the evidence also included documentation from the United States, the classification through blood quantum also came into play.

She testified that the great-great grandmother of Steve Powley was Madeleine Lagarde who married a Jean Baptiste Lesage, a Frenchman from Quebec. That Madeleine is Aboriginal as her name appeared in an 1839 Half Mix Blood list from an 1837 Chippewas of Lake Superior Treaty (USA). There is also reference to another list by an Indian Agent in Michigan which lists Madeleine Lesage as one-half and her children Moses, Pierre, Louis, Madeleine, Marie, Eustace and Antoine as quarter-blood.

- Q. Thank you. Now, when it says it's got this blood and it says Madeleine is half, her children are quarter, do we understand that to be, is that strictly accurate necessarily?
- A. Not necessarily, but the information was given by the person herself, so obviously she would know of whether or not she was a half-blood and that her marriage to Jean Baptiste would have in fact produced children who would be classified as quarter-blood.
- Q. And that's a classification in the United States?
- A. That's ... yes.

Madeleine's son Eustace mentioned above married Melinda Shunk a German woman and had a son named Leonard Lesage. Ms. Armstrong gave evidence that both Madeleine and Eustace were on the paylists of the Batchewana band near Sault Ste. Marie, Ontario.

Leonard married Sarah Kay, a non-Aboriginal person and they had Eva Lesage who married Ancel Micks, an Irishman. According to Ms. Armstrong, Eva was on the Batchewana Band paylist in 1918 but was removed the following year upon her marriage to Ancel Micks.

- Q. In 1919. Now, being removed from the pay lists, does that equate to losing status?
- A. Yes, it would.

Ms. Armstrong further testified that Eva and Ancel Micks had two daughters, Alberta Micks and Evelyn Micks, the mother of Art Bennett. That Alberta Micks married Harold Powley, a non-Aboriginal and had a son, George Steven (Steve) Powley.

She further testified that Steve Powley married Brenda Konawalchuk, a non-Aboriginal person and had a son, Roddy Powley (the co-defendant in this case).

- Q. Now, Ms. Armstrong, this six generations, I guess seven if you count Roddy, you have said in your report in paragraph two that, and again, I'm back at Tab 1 that George Steven Powley has strong Aboriginal ties.
- A. Yes, I have.

In cross-examination, the Crown in addressing the Aboriginality of Steve and Roddy Powley took the unprecedented American approach reflecting the testimony provided by Ms. Armstrong:

Q. The Aboriginal ... I'd just like to do a bit of math. The information we've got is that Madeleine Lagarde was one-half Indian, is that right?

- A. That's what was mentioned in 1839, yes.
- Q. Is that what you believe to be true?
- A. There is a possibility, but I cannot confirm that.
- Q. OK, but ... so at most, Madeleine Lagarde is one-half Indian, is that ...
- A. At most, yes.
- Q. OK, so Madeleine Lagarde is one-half Indian, then that would mean that Eustache or you indicate Mizigun Lesage would be one-quarter at most, is that right?
- A. If his father was French, yes.
- Q. OK, and then that would mean, and we know that Melinda Shunk is not Aboriginal.
- A. Yes.
- Q. So Leonard Lesage would be one-eighth Indian, is that correct?
- A. Yes, that would be.
- Q. And I'm using the term Indian to ... to mean Aboriginal.
- A. OK.
- Q. OK? I'll use the word Aboriginal actually. So, Leonard Lesage then is at most one-eighth Aboriginal, correct?
- A. By blood, yes.
- Q. Yes, and Sarah Kay, you have some feeling that she's Aboriginal, but there's no indication that she is.
- A. That's correct.
- Q. If we assume for the purposes of this exercise that she's not Aboriginal
- A. OK.
- Q. ... then Eva Lesage has one-sixteenth, is one-sixteenth Aboriginal, is that right?
- A. That's correct.
- Q. And Ancel Micks is not Aboriginal, correct?

- A. That's correct.
- Q. So, Alberta Micks one-thirty second Aboriginal, is that right?
- A. That would be, yes.
- Q. That's at ... the most.
- A. At most.
- Q. And Harold Powley is not Aboriginal.
- A. That's correct.
- Q. So Steve Powley is at most one-sixty fourth Aboriginal, is that right?
- A. Based upon, yes. The math, yes.
- Q. And Steve Powley's wife does not appear to be Aboriginal:
- A. At this time, yes.
- Q. So that would mean that Rod Powley is one-one hundred and twenty-eight Aboriginal, is that right?
- A. I'll take your math for that, yes.
- Q. Well, if Steve Powley is one-sixty fourth, one-half of one-sixty fourth is sixty-four times two is one-hundred and twenty-eight, is that right?
- A. Yes.
- Q. OK? Would you agree with me that there would be an awful lot of people in Ontario that could find one hundred and one ... one hundred ...
- A. Twenty-eight.
- Q. One, one-twenty eight Aboriginal blood?
- A. There's a probability, yes, however ...
- Q. And ... and a lot of people could trace their ancestry back to one-sixty fourth Aboriginal blood.
- A. Yes
- Q. Yes.
- A. However, that is an American evaluation.

5. *Olaf Bjornaa*: Mr. Bjornaa testified that his grandmother, Julia Desjourdain married a non-Aboriginal, Joe Cadreau and lost her Indian status, that upon marriage she became a "red ticket holder" and could no longer live on the Reserve. Their daughter, Mr. Bjornaa's mother, married Olaf Bjornaa from Norway.

He further testified that his mother identified as Métis and also identified her children as Métis. That his grandmother Julia also identified Olaf and his siblings as Métis. Mr. Bjornaa also testified that he was "automatically a Metis when I was born", as his father was from Norway, that anybody born in Canada with "mixed blood" is Metis.

Mr. Bjornaa testified that he gained Indian status about two years previous to his testimony (making it around 1996), and that he did so for health purposes, and other Treaty benefits.

Mr. Bjornaa explained his becoming Metis as follows:

- Q. Why do you think Metis have rights, Mr. Bjornaa?
- A. Well, I think we're ... we're part of the First Nations. Our forefathers came here, that's how Metis come into place. ... He (his father) came here and I was born a Metis because my Grandmother, when she married my Grandfather, she lost her rights as a red ticket. Then my mother was a Metis and raised us and when she married my father and we were born, that even put us more Metis.

In cross-examination by the Crown lawyer, Mr. Bjornaa in reference to his grandmother stated as follows:

- Q. And what was her last name?
- A. Desjourdain.
- Q. And what was her status?
- A. Well, like I stated earlier, she lost her status when she married Joe Cadreau.
- Q. So, she was an Indian and she lost her status because she married somebody else.
- A. That's correct.

In further cross-examination on the issue of being Métis, the following exchange took place:

- Q. Alright, let's look beyond your family if you would please and I have understood, in fact, I recorded that you said anyone with mixed blood you considered to be a Metis. Am I correct? Did I get that right?
- A. With Native blood.
- Q. OK, so is it anybody with some Native blood you would consider to be a Metis?

A. Yes.

•••

- Q. ... all the people who have some Native blood in them in Canada, you would consider to be a Metis?
- A. If they so choose. I can't speak for them.
- Q. Fair enough, but if they chose, they could be Metis?
- A. I feel they could.

•••

- Q. You've agreed with me earlier that anybody that has some Aboriginal blood is a Metis person, is that correct? Remember saying that?
- A. Correct.

•••

- Q. I see. So, being told you are a Metis would make a person a member of the Metis Nation, is that what you've just said?
- A. If they say ... so joined.
- Q. If they ... sorry?
- A. If they joined the Metis Nation.
- Q. I see, and anybody with any amount of Indian blood could join the Metis Nation, is that what you've said?
- A. If they so choose to be a Metis.

In its decision in *Powley*, the Supreme Court of Canada ruled that the Métis were a full-fledged rights-bearing Aboriginal people with constitutionally protected harvesting rights. It recognized that being of mixed Aboriginal and non-Aboriginal ancestry did not in itself make one Métis and established a test of

objectively verifiable criteria for membership in a Métis rights bearing community based on ancestral connection to a historical Métis community, with continuity to and acceptance by the contemporary Métis community.

Under this "Powley test", citizens of the Métis Nation within its geographic homeland in western Canada have been successful in defending their s.35(1) Aboriginal rights.<sup>26</sup> In many court cases in Atlantic Canada and Ouebec, persons of mixed ancestry have to date not been successful in asserting s.35(1) rights<sup>27</sup>, with the courts consistently finding there is no evidence of historical Métis communities in these regions.

In Powley, despite the testimony of witnesses that the term "Métis" included anyone of mixed Aboriginal and non-Aboriginal ancestry who chose to identify themselves as Métis, the Court stated that the Powleys were part of a contemporary Métis community which had ties to its historic antecedents, even though its members may have gone underground for a while or joined an Indian community. The Court opined that there was likely more than one Métis people, ie that there were "Métis peoples". 28 The Court went further and stated that they may also be part of a larger Métis people, the Great Lakes Métis.<sup>29</sup>

While the Powley test did not negatively affect the criteria adopted by the General Assembly of the Métis National Council in 200230, it did not exactly coincide with the National Definition, permitting a more local sense of community for community acceptance than the national Métis community adopted by the MNC on behalf of the historic Métis Nation. As a consequence, while the citizens of the historic Métis Nation, as determined by their governments, meet the criteria set out in *Powley*, it does not mean that others who also meet the *Powley* criteria such as those who were the subject of the *Powley* decision are part of the historic Métis Nation.

<sup>&</sup>lt;sup>26</sup> See for example R. v. Laviolette [2005] 3 C.N.L.R. 202; R. v. Belhumeur 2007 SKPC 114; and R. v. Goodon [2009]2 C.N.L.R. 278.

<sup>&</sup>lt;sup>27</sup> See for example *R. v. Chiasson* [2002] 2 CNLR (N.B.P.C); 2004 NBQB 80 (CanLII); leave to appeal to the Court of Appeal denied 2005 NBCA 82 (CanLII); R. v. Castonguay [2003] 1 C.N.L.R. (N.B.P.C.); 2006 NBCA 43; R. v. Daigle [2003] 3 CNLR 232 (N.B. P.C.); 2004 NBQB 79 (CanLII); R. v. Hopper [2004] N.B.J. No. 107; [2005] NBJ No. 477 (QB); [2008] 3 CNLR 337 (NBCA); R. v. Caissie 2012 NBPC 1; R. v. Vautour 2017 NBCA 21, leave to appeal to Supreme Court of Canada dismissed in February 2018; *Quebec v. Corneau* 2018 QCCA 1171, leave to appeal filed with the Supreme Court of Canada in September 2018.

<sup>&</sup>lt;sup>28</sup> R. v. Powley (2003) SCC 43 at para 11.

<sup>&</sup>lt;sup>29</sup> *Ibid*, at para 12.

<sup>&</sup>lt;sup>30</sup> Ibid, at para 30. While the SCC refers to "community" acceptance as a criteria, the Métis National Council's criteria of "Métis Nation" acceptance would be accommodated.

#### VI. MNO declares six new Historic Métis Communities in Ontario

The MNO, acting with the political support from the province of Ontario, engaged in a number of studies for the purpose of identifying Métis communities within the province of Ontario and adjoining parts of Quebec. As a result of these studies, the province of Ontario and the MNO on August 21, 2017 declared six new historic Métis communities within Ontario.<sup>31</sup>

One of these identified communities, The Historic Rainy Lake/Lake of the Woods Métis Community, has always been held out by the Métis Nation as being part of its historic homeland, so as a matter of fact, the MNO does represent a small geographic part of the historic Métis Nation.<sup>32</sup> It is also a fact that many Métis Nation citizens have moved outside of the geographic boundaries of the Métis Nation homeland to other parts of Canada including the province of Ontario.

Coupled with what the MNO describes as the "Historic Sault Ste. Marie Métis Community" the MNO's position is that, at a minimum, there are seven historic Métis communities in Ontario, with the proviso that there may be more, and that each of these "historic Métis communities developed their own distinctive collective identities, each with its own customs, practices, and traditions".

These six newly identified historic Métis communities are:

- The Rainy River/Lake of the Woods Historic Métis Community
- The Northern Lake Superior Historic Métis Community
- The Abitibi Inland Historic Métis Community
- The Mattawa/Ottawa River Historic Métis Community
- The Killarney Historic Métis Community
- The Georgian Bay Historic Métis Community

In a companion document released on August 22, 2017 by the MNO headed, "Identification of Historic Métis Communities in Ontario" reference is made to the *Powley* Supreme Court of Canada decision which they say "provides the framework for identifying Métis communities in other parts of the province as well as other parts of Canada."<sup>33</sup>

Further, it stated that in deciding the right to belong or be a member of the identified "rights-bearing Métis communities" one must "ancestrally connect to

<sup>&</sup>lt;sup>31</sup> See Appendix 14 for the Press Release announcing the six new historic Métis communities.

<sup>&</sup>lt;sup>32</sup> See Appendix 15 for the Historic Rainy Lake/Lake of the Woods Métis Community. It should be noted that on December 11, 2017 the MNO and Canada entered into an Agreement on Advancing Reconciliation with the "Northwestern Ontario Métis Community" which represents this Historic Métis Community.

<sup>33</sup> See Appendix 16 for the companion document.

the historic community". This surely must mean that one does not need to connect to the historic Métis Nation, but rather, that they can or must belong to any one of the seven Historic Métis communities now recognized by the MNO and the government of Ontario. Further, this could also mean that each of the seven, based on their own distinct identity, would be able to accept its own members based on their respective decisions as to which criteria to apply.

## VII. MNO 2018 Annual General Assembly

At the MNO AGA on August 17-19, 2018 in Peterborough, several Special Resolutions were brought forward for the consideration of the General Assembly delegates. These were posted well prior to the Assembly and received wide comment through social media.

One of the commentators was former MNO President, Tony Belcourt who spoke against the Special Resolutions which had the potential to affect current MNO members who may not meet the MNO criteria for registration as Métis. The MNO had initiated a registry review in October 2017 whereby all current MNO registered citizens' files were to be reviewed to ensure that all necessary documentation proving they meet the MNO's criteria for registering as Métis were complete.

This process was put in place in anticipation of the MNO entering into formal self-government and Métis rights negotiations with the governments of Canada and Ontario, which occurred through the signing of a tripartite Self-Government Framework in December 2017 between the MNO, the federal government and the government of Ontario. The registry review is referred to as the "Registry and Self-Government Readiness Process (RSRP)" and as of July 2018 work was well underway.

Special Resolution #1, entitled "Special Resolution on Verifying all MNO Citizens Are Métis Rights-Holders and Meet Current MNO Citizenship Requirements" was a proposed amendment to the MNO Bylaws which would formalize and give official sanction to the PCMNO October 2017 resolution putting in place the Registry and Self-Government Readiness Process", also known as the "Registry Review".

By this potential amendment to the Bylaws, all MNO members (citizens) must ensure that they meet the requirements for citizenship by July 31, 2020 or be subject to removal. Through the registry review process those with complete files meeting the MNO criteria would need to do nothing more, those with incomplete files would be asked to provide further documentation. In order to remain registered the individual so notified must provide the documentary proof required, or else he/she would be removed from the registry.

<sup>&</sup>lt;sup>34</sup> See Appendix 17 for Special Resolution #1.

The debate around this Special Resolution was both animated and extensive. Most of the MNO delegates speaking to the resolution were opposed to it. Former President, Tony Belcourt in speaking against the resolution stated that as President of the MNO in 1994 he used the same approach that he used in 1971 when he was the first President of the Native Council of Canada (now the Congress of Aboriginal Peoples). Basically, that anyone who could prove they had at least one grandparent who was Aboriginal was eligible to register as Métis. This basically accorded with his testimony in *Powley* where he stated that as long as one had one grandparent who was Aboriginal, being either First Nations, Inuk or Métis, one would qualify as Métis.

During the debate, another delegate stated that a previous decision had been made to grandfather-in all of their previous citizens/members and that this should not now be reversed.

The final vote was 77 in favour, 147 against and 8 abstentions. Special Resolution #1 that would require those who had been grandfathered to provide further documentation to prove they met the registry requirements was therefore defeated and did not get anywhere near the 66% required for Bylaw amendments. Rather, it only received 33% support with 64% opposed.<sup>35</sup>

#### VIII. Conclusion

The MNO joined the MNC in 1994 with a clear understanding that registration of its membership would be restricted to those Métis from the historic Métis Nation homeland i.e those from Métis communities in northwestern Ontario and Métis from the prairies who had moved to Ontario. From the beginning, the MNO breached this understanding, signing up non-Métis Nation citizens across the province through the application of its own definition of Métis that enabled it to accept anyone of mixed Aboriginal and non-Aboriginal ancestry.

The MNO has repeatedly resisted the re-registration of all of its citizens according to the citizenship criteria of the National Definition. It grandfathered-in all of its signed-up members in 2004 and ignored a resolution of the MNC General Assembly in 2015 that supported a national standard for registration of Métis Nation citizens and prohibited the grandfathering-in of citizens/members who did not meet the 2002 Métis Nation definition. At the 2018 MNO General Assembly, a Special Resolution requiring those who had been grandfathered to provide further documentation to prove they had met the registry requirements was defeated by large margin.

The MNO has unilaterally declared six new historic Métis communities within Ontario in 2017, only one of which is accepted by the Métis Nation as being part

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<sup>&</sup>lt;sup>35</sup> It should be noted that the MNO criteria which must be met by this proposed Special Resolution does not necessarily comply with the criteria adopted by the General Assembly in 2002.

of its historic homeland. They join what the MNO calls the Historic Sault Ste. Marie Métis Community that was recognized in the *Powley* decision. But that decision reminds us that while the Supreme Court's test for determining Métis s.35 rights entitlement is fair and objective, it is still the Court's test, not ours. While it enables citizens of the historic Métis Nation to meet the criteria set out in *Powley*, it does not mean that others who also meet the *Powley* criteria such as those in the Sault Ste. Marie Métis Community or potentially those in MNO's "new" historic communities are part of the historic Métis Nation.

With the emerging use of the term "Métis" by thousands of persons of mixed Indigenous - non-Indigenous ancestry throughout Canada, in particular Eastern Canada, who have no connection to our history, culture and longstanding political consciousness, the Métis Nation has no alternative but to take a strong stand on its right to exist, regardless of criticism which has been, and will continue to be, leveled at it and its leaders. How can we refute their claims to Métis rights based on mixed ancestry when we have within our own governance structure a significant number of people from Ontario whose claim is in reality no different from theirs'?

The four western Governing Members of the MNC have spent years in conducting the arduous process of re-registering each Métis citizen so that only Metis people who meet the National Definition will be entitled to be registered as a Métis citizen and vote in Métis Nation elections. This process has resulted in a denial of registration rights to many people, including longstanding members of those Governing Members. Contrast this with the MNO's grandfathering-in of members that has resulted in many non-Métis voting in MNO elections and at the MNC General Assembly.

Moreover, the longstanding impasse with MNO over its citizenship system has served as a major stumbling block in advancing constitutional reform and nationhood re-building. Quite simply, there are many in the Métis Nation who believe that a national registry and direct election of a national president cannot be attempted as long as large numbers of non-Métis are registered citizens and electors in Ontario.

Clearly the time for action is now. It is with this sentiment that the December 2017 MNC General Assembly resolution on the MNO must be addressed. Following are recommendations for action by the General Assembly that can correct a longstanding abuse of our citizenship system while at the same time ensure that historic Métis Nation citizens in Ontario will continue to be represented within the national government institutions of the Métis Nation.

## **RECOMMENDATIONS:**

#### ONE:

That the Members of the General Assembly adopt a map which depicts the Homeland of the historic Métis Nation.

#### TWO:

That the Members of the General Assembly adopt a resolution suspending the Métis Nation of Ontario from the government of the Métis Nation, including further participation on the Board of Governors and in the General Assembly until such time that the Métis within the province of Ontario (MNO) meet the conditions for re-admission, while at the same time mandating the Board of Governors to make interim provisions for the continued participation of the Métis Nation citizens of northwestern Ontario in the governance institutions of the Métis Nation, as represented by the "Northwestern Ontario Métis Community" and to initiate the identification of Métis Nation citizens throughout the province of Ontario.

#### THREE:

That the General Assembly consider the following conditions for re-admission in its suspension resolution if one is adopted:

- That all MNO members must meet the criteria for citizenship in the Métis Nation set out in the 2002 General Assembly citizenship resolution (National Definition) to be eligible for enrollment.
- That the MNO must abide by the 2004 Métis Nation government provision that all members shall re-register under the 2002 criteria with no grandfathering-in of members.
- That a committee of the MNC Board of Governors shall be established to organize a registry review of all MNO members to ensure the above two conditions are met;
- That a panel of registrars from the western Governing Members working under the direction of the above committee shall conduct the registry review of existing MNO members and will ensure that all future citizenship applications shall abide by the 2002 criteria.
- That until such time that the MNO meets the conditions for re-admission, the MNC Board of Governors shall take steps to enable individuals being

enrolled under the National Definition in Ontario to participate in the governance structure and programs of the Métis Nation.

 That the MNO rescind its declaration of six new historic Métis communities.

#### **FOUR:**

That the General Assembly pass a resolution adopting a communications strategy in relation to the above Recommendations if adopted.

#### **FIVE:**

That the General Assembly adopt a resolution encouraging the Board of Governors to renew efforts to expedite national matters including a national registry, the acceptance process and a Métis Nation Constitution in follow-up to the 2020 Resolution adopted by the General Assembly in April 2017 and the December 2010 General Assembly resolution.

#### SIX:

That the General Assembly adopt a resolution encouraging the Board of Governors to trigger the s.35 rights recognition agenda item in the Canada-Métis Nation Accord (April 2017), in order to pursue the affirmation of the Métis Nation's right of self-determination.

## LIST OF APPENDICES

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## **December 2017 Resolution: MNO**

#### It was MOVED (Will Goodon, MMF) and SECONDED (Gerald Morin, MN-S)

WHEREAS the Métis National Council adopted the National Definition of Métis in 2002, which has been enshrined in the Constitutions and Bylaws of all its Governing Members;

WHEREAS the MNC adopted legal strategies to protect the rights of the historic Métis Nation population whose rights have been recognized and affirmed by the Supreme Court of Canada;

WHEREAS the Manitoba Metis Federation, Métis Nation-Saskatchewan, Métis Nation of Alberta and the Métis Nation British Columbia have established registries and have commenced the arduous process of re-registering each of their former members so that only those persons who meet the National Definition will be entitled to be registered as a Métis Nation citizen;

WHEREAS the MNC General Assembly in 2015 adopted a resolution confirming that there shall be no grandfathering-in of former members of the Governing Members;

WHEREAS the Métis Nation of Ontario has by its own admission grandfathered-in all previously registered members regardless of whether they meet the National Definition or not;

WHEREAS the MNC General Assembly in 2013 adopted a resolution reaffirming the territory of the Historic Métis Nation Homeland;

WHEREAS the MNO and the government of Ontario in August 2017 announced the recognition of six new Métis regional communities in Ontario, only one of which falls within the Historic Métis Nation Homeland;

WHEREAS the MNO states that MNO citizens in registering "can ancestrally connect to one of seven historic Métis communities in Ontario or to the Métis Nation in western Canada" and thereby creating two separate and distinct constituencies, one being the Métis Nation and a second being a compilation of mixed ancestry communities that are not part of the Métis Nation;

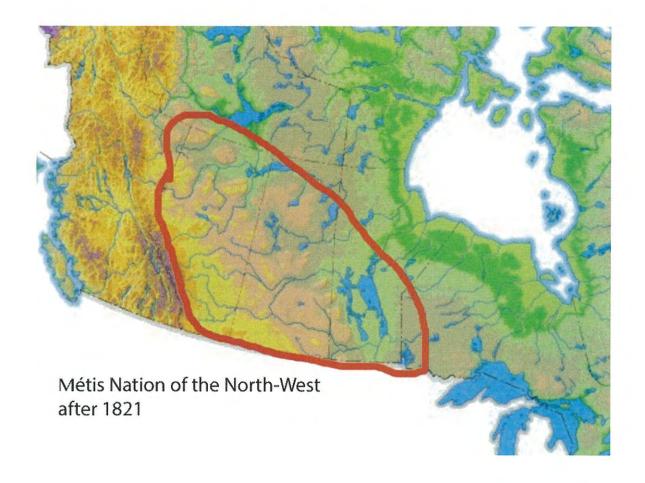
**AND WHEREAS** there is a pressing need to address the integrity of the Historic Métis Nation Homeland and Métis Nation Citizenship;

**THEREFORE BE IT RESOLVED THAT** the General Assembly hereby exercise its inherent authority and mandates the President to initiate an examination of this matter and table a report with recommendations to the Board of Governors for follow-up prior to the next sitting of the General Assembly.

**CARRIED (GA1706-11)** 

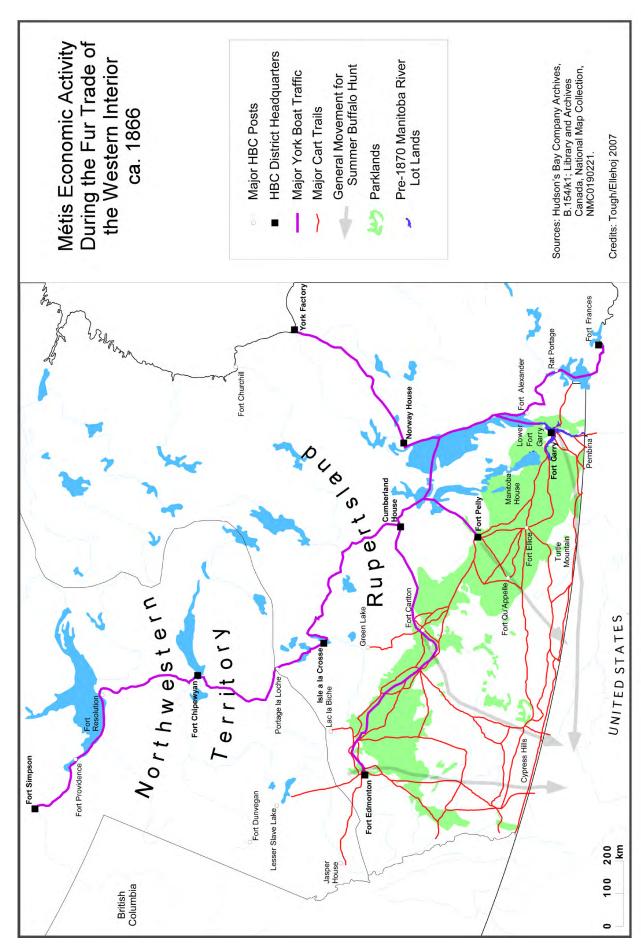
(35 delegates voted in favour)

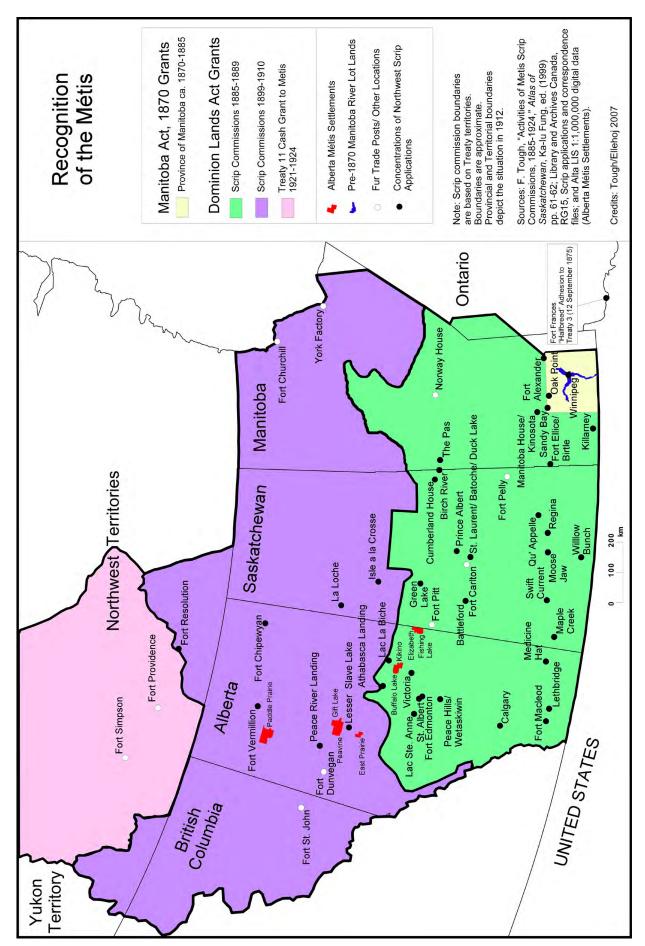
## Appendix 2

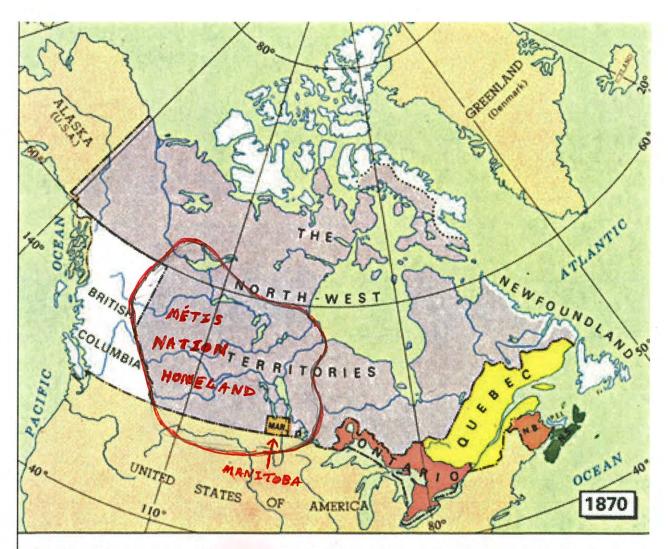


# Appendix 3









The North-West Territories (Rupert's Land and the North-Western Territory) are acquired by Canada from the Hudson's Bay Company. From part of them Manitoba is created as the fifth province.

#### 2013 GA Resolution re Métis Nation.

It was MOVED (Helene Johnson, MNS) and SECONDED (Lennard Morin, MNS)

WHEREAS there is a pressing need to protect the name "Métis Nation" which describes the Métis people who emerged in their historic homeland, mainly on the prairies which forms the provinces of Manitoba, Saskatchewan and Alberta and extends into a contiguous part of British Columbia, Ontario and the Northwest Territories respectively, and into a contiguous part of the United States of America; and

WHEREAS persons of mixed Indian ancestry outside of the Métis Nation traditional territory in what was historically known as the Northwest are using the term "Métis Nation" and incorporating organizations as such, expropriating the Métis Nation flag and other symbols for their own purposes;

**BE IT THEREFORE RESOLVED** that this Métis National Council (MNC) General Assembly provides the authority to the MNC to contact the responsible federal government department(s) to deal with this matter, and in particular the Department of Consumer and Corporate Affairs which administers the Non-Profit Corporations Act and lodge a complaint of their actions in granting registration to non-Métis Nation organizations, such as the Métis Nation in Canada and the Métis Nation of Quebec, amongst others; and

**BE IT FINALLY RESOLVED** that the MNC be given the authority to take legal means to secure a trademark or patent for the Métis Nation flag, the 200<sup>th</sup> anniversary of which will be marked in 2016, at the time it was flown in battle, at the Battle of Seven Oaks.

**CARRIED UNANIMOUSLY (GA1301-15)** 

(1 delegate abstaining from the vote.)

#### **Appendix 8**



Office de la propriété intellectuelle du Canada

Un organisme d'Industrie Canada Canadian Intellectual Property Office

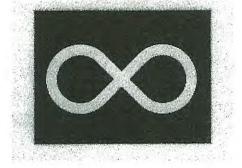
An Agency of Industry Canada

Certificat

Certificate

Il est par la présente certifié que, dans le Journal des marques de commerce daté du 11 novembre 2015, le registraire des marques de commerce a donné, en vertu du sous-alinéa 9(1)(n)(iii) de la Loi sur les marques de commerce, un avis public d'adoption et emploi au Canada par l'autorité publique identifiée ci-dessous de la marque reproduite ci-après comme marque officielle pour des produits et services.

This is to certify that in the Trade-marks
Journal dated November 11, 2015,
the Registrar of Trade-marks
gave public notice under
subparagraph 9(1)(n)(iii)
of the Trade-marks Act
of the adoption and
use in Canada by the
public authority identified
below of the mark shown
below as an official
mark for goods and services.



Numéro de dossier File Number

923676

Autorité publique Public Authority Metis National Council Secretariat Inc.

Registraire des marques de commerce Registrar of Trade-marks

(CIPO 196)11-10





FILE No./No

923 676

Subparagraph 9(1)(n)(iii)

ADVERTISED/ANNONCÉE DANS LE JOURNAL

# FILING DATE/DATE DE PRODUCTION: PUBLIC NOTICE DATE/DATE DE L'AVIS PUBLIC:

02 oct/Oct 2015 11 nov/Nov 2015

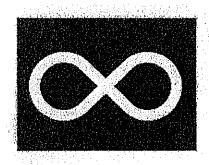
#### REQUESTING PARTY/DEMANDEUR:

Metis National Council Secretariat Inc. 4 - 340 MacLaren Street Ottawa ONTARIO K2P 0M6

#### CONTACT:

(TM 108712-1)
BORDEN LADNER GERVAIS LLP
World Exchange Plaza
100 Queen Street, Suite 1300
Ottawa
ONTARIO K1P 1J9

#### PROHIBITED MARK; OFFICIAL MARK/MARQUE INTERDITE; MARQUE OFFICIELLE:



MARK DESCRIPTIVE REFERENCE/RÉFERENCE DESCRIPTIVE DE LA MARQUE:

MÉTIS FLAG/INFINITY SYMBOL

#### GOODS/PRODUITS:

Goods/Produits

12 nov/Nov 2015 JF-93-94 Page 1



# Office de la propriété intellectuelle du Canada

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BORDEN LADNER GERVAIS LLP World Exchange Plaza 100 Queen Street, Suite 1300 Ottawa ONTARIO K1P 1J9 Date
11 nov/Nov 2015

Votre référence - Your reference
TM 108712-1

Numéro de dossier - File number

923676

Autorité publique - Public Authority

Metis National Council Secretariat Inc.

Marque interdite; Marque officielle - Prohibited Mark; Official Mark MÉTIS FLAG/INFINITY SYMBOL

#### **PUBLICATION**

Vous trouverez ci-joint un certificat. Un avis public a été donné conformément à l'article 9 de la *Loi sur les marques de commerce*.

Les détails ont été publiés dans le Volume 62 No. 3185 du Journal des marques de commerce du 11 novembre 2015.

#### ADVERTISEMENT

Enclosed is a certificate. Public notice has been given pursuant to section 9 of the *Trade-marks Act*.

The particulars have been published in the Trade-marks Journal of November 11, 2015 Volume 62 No. 3185.

Registraire des marques de commerce Registrar of Trade-marks

Contact: Section du journal/ Journal Section 819-956-8394





#### **Appendix 9**



Office de la propriété intellectuelle du Canada

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An Agency of Industry Canada

Certificat

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subparagraph 9(1)(n)(iii)
of the Trade-marks Act
of the adoption and
use in Canada by the
public authority identified
below of the mark shown
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## **MÉTIS NATION**

Numéro de dossier File Number

923692

Autorité publique Public Authority Métis National Council Secretariat Inc.

Registraire des marques de commerce Registrar of Trade-marks

(CIPO 196)11-10







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Canadian Intellectual Property Office

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BORDEN LADNER GERVAIS LLP World Exchange Plaza 100 Queen Street, Suite 1300 Ottawa ONTARIO K1P 1J9 Date

11 nov/Nov 2015

Votre référence - Your reference

TM 108713-1

Numéro de dossier - File number

923692

Autorité publique - Public Authority Métis National Council Secretariat Inc.

Marque de commerce - Trade-mark MÉTIS NATION

#### PUBLICATION

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Les détails ont été publiés dans le Volume 62 No. 3185 du Journal des marques de commerce du 11 novembre 2015.

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Registraire des marques de commerce Registrar of Trade-marks

Contact: Section du journal/ Journal Section 819-956-8394



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#### It was MOVED (Gerald Morin, MNS) and SECONDED (Karen Larocque, MNS)

WHEREAS the Métis Nation has inherent jurisdiction to identify the members/citizens of the Métis Nation; and

WHEREAS the Métis National Council (MNC) General Assembly ratified a National Definition for the identification of Métis Nation citizens, and amended it from time to time; and

WHEREAS the Governing Members have adopted the National Definition in their respective jurisdictions and have established registries for the purpose of identifying and registering Métis Nation members/citizens pursuant to the National Definition; and

WHEREAS it is in the best interest of the Métis Nation to identify the members/citizens of the Métis Nation in a way that is open, transparent, consistent, objective and verifiable; and

WHEREAS the Supreme Court of Canada has required that the process of identification of Métis Aboriginal rights holders must be objective and verifiable; and

WHEREAS the MNC, on the recommendation of the Métis Rights Panel, has passed unanimously a motion to engage with Canada and the Canadian Standards Association (CSA) in developing a standard of registry operation which reads as follows:

It was MOVED (Bruce Dumont, MNBC) and SECONDED (Gary Lipinski, MNO)

That the Métis National Council Board of Governors: o) supports the recommendation of the Métis Rights Panel (MRP) for moving forward with the CSA Scoping Document and the Standard Setting Process; and further b) accepted the MRP recommendation that there be political oversight of the project management team by the MRP, with the involvement of Executive Directors and registrars with the CSA. CARRIED UNANIMOUSLY (2012-01-06); and

WHEREAS the CSA Standard Setting Process requires the drafting of a CSA Standard through a CSA Technical Committee, the posting of that draft Standard on the CSA webpage for a 60-day public review process, and finally that the CSA Standard be published pursuant to the CSA Group publishing process;

THEREFORE BE IT RESOLVED THAT the MNC General Assembly directs the MNC and Governing Members to ensure: a) that the National Definition of Métis is applied in all registrations; b) that the MNC and Governing Members engage fully in the CSA Standard setting processes to the completion and publication of a Métis Nation Registry Operations Standard, which can be used to ensure that the identification and registration of Métis Nation members/citizens is consistent, respectful, objective and verifiable.

**CARRIED (GA1401-10)** 

(30 delegates voting in the positive; 24 delegates voting in the negative.)

#### **Appendix 11**

2015 Métis National Council General Assembly

#### It was MOVED (Will Goodon, MMF) and SECONDED (John Fleury, MMF)

WHEREAS the Métis National Council and its Governing Members have engaged in a multi-year process with the Canadian Standards Association (CSA) and the Government of Canada on the development of a common standard for the registration of Métis Nation citizens; and

WHEREAS this national standard has been finalized and posted by the CSA;

THEREFORE BE IT RESOLVED that this General Assembly ratifies that CSA standard and adopts it as a guiding document in the registration of Métis Nation citizens; and

**FURTHER BE IT RESOLVED** that all Métis Nation citizens shall meet the criteria of the 2002 Métis Nation definition of Métis in order to be a registered citizen of the Métis Nation, with no allowance for grandfathering of persons issued citizenship or membership by Governing Members prior to the application of the 2002 Métis Nation Definition.

**CARRIED UNANIMOUSLY (GA1501-18)** 

#### It was MOVED (Claire Riddle, MMF) and Seconded (Anita Campbell, MMF)

WHEREAS the Métis people have expressed their nationalism through the formation of the Métis National Council (MNC) in 1983;

**WHEREAS** the MNC was established as an expression of the nationhood of the Métis people based on: common history; common language and culture; common territory; and a common will to be self-governing;

WHEREAS Métis rights have been recognized in the Canadian Constitution and have been elaborated upon in the Supreme Court of Canada *Powley* decision;

**WHEREAS** the Métis Nation in Canada has been in pursuit of exercising self-determination over the past 27 years and is seeking a new modern Constitution as an expression of self-determination and self-government;

**THEREFORE BE IT RESOLVED** that the MNC, with its Governing members, will undertake a Pre-Consultation phase (Phase I) for the remaining part of fiscal year 2010/2011 including:

- a national meeting of Registrars to advance issues of Métis Citizenship, standardization of processes, and streamlining genealogy and research to support the Registries by January 2011;
- a Métis Rights Panel meeting to inform the scope and approach of constitution consultations by February 2011;
- a Presidents Retreat on Governance by February 2011; and
- bilateral meetings with the MNC President and respective Governing Members by March 2011 to inform detailed consultation plans;

**BE IT FURTHER RESOLVED** that the MNC, through/with the provincial bodies, will undertake Consultations (Phase II) throughout fiscal year 2011-2013 including activities related to:

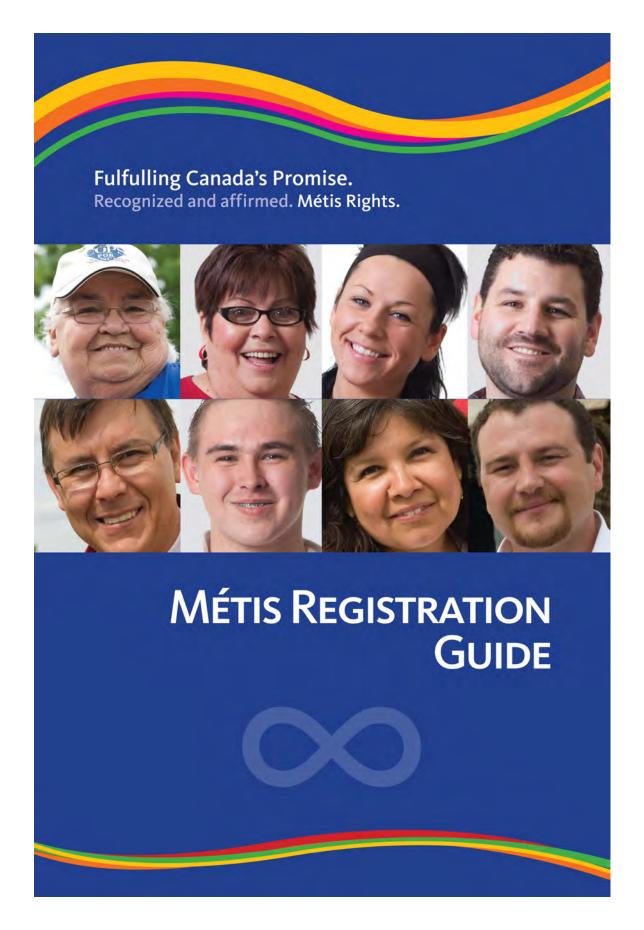
- convening a Constitution Workshop in 2011 to discuss the draft Métis Nation Constitution;
- conducting Constitution Hearings throughout the Homeland from June 2011 to March 2013;
- presentations at Governing Members' Board of Directors/Council meetings and Annual General Assemblies at appropriate times; and
- production of a formative Consultations Results Report by March 2013;

**BE IT FURTHER RESOLVED** that the MNC will wrap-up Community Consultations and move toward Adoption of a new modern Métis Nation Constitution including the acceptance process and the traditional Homeland boundary throughout fiscal year 2013/2014 (Phase III) by convening a Constitution Convention in conjunction with a General Assembly in 2013 for the purpose of reviewing and adopting a Métis Nation Constitution.

**BE IT FURTHER RESOLVED** that upon adoption of a Métis Nation Constitution, the Métis Nation further pursue self-determination by working toward the passing of a *Canada - Métis Nation Relations Act* by the Parliament of Canada which recognizes the Métis Nation Constitution thereby acknowledging the Métis Nation's right to self-government.

**CARRIED (GA1012-15)** 

(1 abstention)



## **MÉTIS NATION REGISTRIES**

It is now possible to be registered as Métis, in much the same way that First Nations are registered as Indians in the Indian Registry.

Métis are included as one of the Aboriginal peoples of Canada under section 35 of the Constitution Act 1982, which reads:

- 35 (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
  - (2) In this Act, the aboriginal peoples of Canada includes the Indian, Inuit and Métis peoples of Canada.

The Métis emerged as a distinct people or nation in the historic Northwest during the course of the 18th and 19th centuries. This area is known as the "historic Métis Nation Homeland," which includes the 3 Prairie Provinces and extends into Ontario, British Columbia, the Northwest Territories and the northern United States. This historic Métis Nation had recognized Aboriginal title, which the Government of Canada attempted to extinguish through the issuance of "scrip" and land grants in the late 19th and early 20th centuries.

The Métis National Council consequently adopted the following definition of "Métis" in 2002:

"Métis" means a person who self-identifies as Métis, is distinct from other Aboriginal peoples, is of historic Métis Nation Ancestry and who is accepted by the Métis Nation."

In 2003, the Supreme Court of Canada confirmed that Métis are a rights-bearing Aboriginal people. Its judgment in *R. v. Powley* set out the components of a Métis definition for the purpose of claiming Aboriginal rights under section 35 of the *Constitution Act, 1982.* These are:

- · Self-identification as a member of a Métis community
- Ancestral connection to the historic Métis community whose practices ground the right in question
- Acceptance by the modern community with continuity to the historic Métis community

For many decades, Métis were lost and forgotten within a general population without status under the *Indian Act*, and little effort was made to identify who we were. This is no longer tenable. Métis have rights under the Canadian Constitution, not because we are of mixed Indian and European ancestry, but because we are descendant from distinct Métis communities that emerged and thrived in various parts of Canada before the Canadian State took control, notably the historic Métis Nation community that emerged in the historic Northwest. The Supreme Court

2



If I am already a member of a Governing Member, do I have to apply all over again to be registered as Métis?

Yes. Citizenship cards issued by MNC Governing Members in the past did not require verification of ancestry in the historic Métis Nation. All existing members of Governing Members with the exception of Ontario are being asked to apply for new membership/citizenship cards. The Métis Nation British Columbia moved in 2007 to invalidate all old membership cards and only Registry issued cards are now recognized in that province. In Manitoba, the MMF will require all existing members to confirm their membership by submitting an objectively verifiable genealogy by September 1, 2012. Though policies vary from Governing Member to Governing Member all, except Ontario, are encouraging the existing citizenship to apply for registration.

#### How much will registration costs?

Most Métis Registries do not impose any processing fees; and where they do, such as in Manitoba, the processing fee is nominal (\$10). Ontario charges \$30 but does not charge for replacement cards. There can however be other costs involved: the costs of obtaining Long-Form Birth Certificates from provincial Vital Statistics (normally about \$25 for each certificate); costs of obtaining baptismal and other church records (normally about \$35 per record); and sometimes the costs of obtaining passport quality photos. If you chose to have your genealogy produced by certified genealogists or recognized genealogical institutes, you may also have to assume costs associated with producing a genealogy. It is important to note that many Governing Members subsidize these costs or else have made arrangements to reduce costs to applicants.

You cannot belong to both the Métis Nation and a First Nation at the same time. Métis Registries will normally require you to consent to a search of the Indian Registry ...

# 2011 TO 2020 HAS BEEN DECLARED BY THE MÉTIS NATION AS THE "DECADE OF THE MÉTIS NATION"



#### MÉTIS NATIONAL COUNCIL

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Produced Summer 2011

## Ontario and the MNO announce identification of historic Métis communities

21 August, 2017

Ontario and the Métis Nation of Ontario (MNO) are pleased to announce that collaborative work has resulted in the identification of historic Métis communities located throughout Ontario.

In the spirit of reconciliation, the province and the MNO have been working together to determine whether historic Métis communities existed in given areas in Ontario. As a result of this collaboration, six new historic Métis communities have been identified:

- The Rainy River / Lake of the Woods Historic Métis Community
- The Northern Lake Superior Historic Métis Community
- The Abitibi Inland Historic Métis Community
- The Mattawa / Ottawa River Historic Métis Community
- The Killarney Historic Metis Community
- The Georgian Bay Historic Métis Community

These historic Métis communities developed their own distinctive collective identities, each with its own customs, practices, and traditions. While identification of these historic Métis communities is a significant milestone, this alone does not determine who in Ontario is Métis or who holds Métis rights, nor define Métis harvesting areas or territories.

Working in partnership with the MNO to identify historic Métis communities is one of many steps on Ontario's journey of healing and reconciliation. It reflects the government's commitment to work with Indigenous partners, creating a better future for everyone in the province.

#### QUOTES:

"Ontario has built a strong partnership with the Métis Nation of Ontario and we are committed to advancing meaningful reconciliation and fulfilling our constitutional obligations to Métis. In circumstances where there are overlapping obligations to First Nations and Métis, Ontario is committed to working together with affected partners to reach fair and balanced resolutions."

David Zimmer, Minister of Indigenous Relations and Reconciliation

"The Métis Nation of Ontario is pleased and proud to announce the results of our collaborative work with Ontario in identifying historic Métis communities. The advancement and recognition of Métis rights has always been and remains the highest priority for our citizens and communities. This important milestone provide a foundation for meaningful reconciliation as well as future negotiations with the Crown on these important issues."

- France Picotte, Acting President of the Métis Nation of Ontario

#### QUICK FACTS:

- In 2003, the Supreme Court of Canada confirmed in the R v Powley decision the existence of a Métis community in and around Sault Ste. Marie, with its own distinctive Métis culture. This case also recognized that this community has a Métis right to hunt for food. Under the Powley framework, the first step to recognize Métis rights is identifying whether an historic Métis community existed in a given area
- Métis are recognized as one of the three distinct Aboriginal peoples with rights protected by section 35 of the Constitution Act, 1982.
- Distinct historic Métis communities began to emerge as a result of the fur trade in what is now Ontario. These communities developed along strategic water and trade routes prior to Crown government effecting political and legal control in these areas.

#### ADDITIONAL RESOURCES:

Identification of Historic Métis Communities in Ontario

#### HISTORIC MÉTIS COMMUNITIES IN ONTARIO

#### THE HISTORIC RAINY LAKE/LAKE OF THE WOODS MÉTIS COMMUNITY

Based on the existing research on Métis communities in Ontario and the criteria established by the Supreme Court of Canada in *R. v. Powley* ("Powley"), a historic Métis community developed from the inter-connected Métis populations along Rainy Lake and Rainy River at Lac La Pluie (Fort Frances) and Hungry Hall (Rainy River) as well as at Rat Portage (Kenora) and Eagle Lake (Dryden/Wabigoon) in the Lake of the Woods area. The Lake of the Woods area also includes White Fish Lake, Northwest Angle, Wabigoon and Long Sault (collectively known as the "Historic Rainy Lake/Lake of the Woods Métis Community").

#### Identifying the Historic Métis Communities in Ontario

In *Powley*, the Supreme Court of Canada held that Métis rights—protected by section 35 of the *Constitution Act*, 1982—exist in Ontario. This case established the framework for the recognition of Métis rights.

The Métis within section 35 refers to distinctive peoples or communities who, in addition to their mixed First Nation and European ancestry, developed their own customs, way of life, and recognizable group identity separate from their forebearers.

In order for a contemporary Métis community to possess section 35 rights it must have its roots in an identifiable historic Métis community that emerged prior to the time when Europeans established effective political and legal control in the area. It is therefore crucial to identify such historic Métis communities.

Identifying a historic Metis community requires demographic evidence that the population was identified as distinctive, evidence that the community had its own collective identity, and, evidence that the community had its own shared customs, practices and traditions.

#### Rainy River / Lake of the Woods Timeline

| 1787 | The North West Company (NWC) establishes Fort Lac La Pluie (also known as   |
|------|---|
|      | Athabasca House or Rainy Lake House) as a means to shorten turnaround time  |
|      | for the NWC Athabasca brigades, rather than having them continue on to Fort |
|      | William or Grand Portage.   |

- The Hudson's Bay Company (HBC) pushes into the area and establishes a fur trade post at Lac La Pluie as well as posts at Eschabitchewan House, Manitou Rapids, Rainy Lake, and Portage l'Isle. The HBC abandoned the region in 1796-97, but returned in 1817, setting up Lac La Pluie House on the Canadian side of Rainy River (known today as International Falls).
- There is a merger of the HBC and NWC fur companies and Lac La Pluie becomes a part of the HBC's York Factory department. HBC posts are also maintained at Rainy Lake, Vermilion Lake, and Lake of the Woods, with tough competition from the American Fur Company.
- Governor Simpson visits the region and Lac La Pluie is renamed Fort Frances in his wife's honour.

| 1831  | The HBC establishes a post at Shoal Lake (North West Lake of the Woods).  |
|-------|---|
| 1836  | The HBC establishes a post at Rat Portage, a strategic portage location between the Winnipeg River to the west and the Rainy Lake area via Lake of the Woods to the east. |
| 1850s | HBC posts are established at Keewatin, Eagle Lake (Dryden), and Dinorwic.   |
| 1870  | Shoal Lake post is closed and moved to North West Angle. By 1878 the North West Angle post is closed.   |
| 1870s | During this period in Lake of the Woods and Rat Portage, the lumber industry, mining, fishing, and railroad construction brings settlers and change to the area.          |
| 1873  | Treaty 3 is concluded, opening up lands in the region for settlement.   |
| 1875  | The "Halfbreeds of Rainy River and Lake" sign an Adhesion to Treaty 3 on September 12, 1875.  |
| 1880  | By 1880, lumbering, mining and commercial fishing as well as some surveys are all affecting the area.   |
| 1890s | The HBC Rat Portage post is reorganized and maintained as a sales shop.   |
| 1901  | HBC employees from Lac La Pluie are frequently sent to "the mouth of the river" where Rainy River drains into Lake of the Woods, where Hungry Hall is later established.  |

#### **Demographics**

Fur trade and census records document a persistent, inter-connected, and identifiable Métis population in the areas identified below from the early 1800s and into the early 1900s:

#### Lac La Pluie / Fort Frances:

Between 1838 and 1870, HBC "Lists of Servants" show a stable group of Métis surnames in Lac La Pluie/Fort Frances. As well, other "freemen" with Métis surnames appear in the vicinity of the post. A group of 85-100 Métis individuals (up to 20 families) are referred to in connection an Adhesion to Treaty 3, which was signed by Nicholas Chastelain on behalf of the 'Halfbreeds of Rainy River and Lake' on September 12, 1875.

In 1877, there were 7 Métis families that collected annuities on the Couchiching Reserve. As well, the 1881 census enumerates 39 individuals (10 Métis families) living just outside of the Couchiching Reserve at McIrvine Township. Many of the Métis surnames from the early 1800s continue to appear through to the 1901 census, which identifies 211 Métis individuals between Couchiching Reserve and McIrvine Township.

#### Lake of the Woods Area:

In 1835, the White Fish Lake (North West Lake of the Woods) outpost was inhabited by families with Métis surnames that were connected to the Lac La Pluie / Fort Frances fur trade.

Between 1875 and 1899, members of several Métis families appeared on the Treaty paylists of the Long Sault (two bands), Hungry Hall, and North West Angle Bands.

#### Rat Portage and Outposts:

Between 1836 and the 1890's, the Rat Portage post was managed by several Métis individuals. From the 1890s onward there are references to Métis individuals at Rat Portage, and three more were reported to occupy dwelling houses in Rat Portage. Between 1882 and 1897, at least 11 commercial fishermen in this area were identified as Métis.

#### Vocation and Cultural Practices

These interconnected Métis populations shared a number of customs, traditions, and common vocations, including:

#### Social Life

HBC and NWC records provide evidence of fur traders and their First Nation or Métis wives and children interacting socially—even between competing posts—for Sunday night dances and special event get-togethers. The record also shows the Métis population of Fort Frances exhibiting a distinctive dress, embracing Christianity (Protestant and Catholic), and maintaining inter-group kinship practices (i.e., godparenting, marriage witnessing, etc.), often separate from First Nation and settler populations.

#### Post Provisioning and Niche Occupations

At Lac La Pluie, Métis were hired as interpreters, winterers, runners, canoe-builders, interpreters, country-food providers, and fishermen, including as commercial fishermen at Lac La Pluie/Fort Frances. In particular, fishing was a staple country food at both Lac La Pluie and Rat Portage and a frequent activity of post employees at Lac La Pluie from the 1790s onwards.

The wives or partners of company employees or retired servants engaged in fort-provisioning activities such as harvesting maple sugar, gardening, snaring rabbits, fishing, and picking berries.

Records also show ongoing Métis participation in fishing as well as commercial fishing operations regulated by government; this was a distinctive feature of the Métis population not found in First Nations populations at this time.

#### **Distinctive Collective Identity**

There is evidence of a distinctive and persistent Métis population in the area of Rainy River / Rainy Lake that was intermarrying and relatively stable since the early 1800s. There is also some evidence that the Métis traders in Rainy Lake supported Cuthbert Grant's leadership of a "New Nation" in clashes between the Earl of Selkirk and the NWC in Red River.

The historic record documents Métis assisting in treaty negotiations with First Nation circa 1870 (for example, in acting as interpreters, witnesses, etc.). Further, during the treaty negotiations, the First Nations distinguished between their "children" living outside the area being able to benefit from the treaty if they come home within two years from the treaty (i.e., their direct First Nation relations) and their "halfbreed children" who have married First Nations women and live among them. There is also substantial documentation produced by Canada which consistently referred to "Indians" (i.e., First Nations) and "half-breeds" as separate groups. Certain "half-breed" families were consistently identified as such over successive generations.

Métis from Fort Frances petitioned Canada to form a separate "half-breed" band with their own chief. By 1875, it was clear that a strong sense of distinctive community had developed among the Fort Frances Métis under the leadership of Nicholas Chastelain. A "Halfbreed Adhesion" to Treaty 3 was entered into on September 12, 1875 and signed by Nicolas Chastelain as "Chief" of the "Halfbreeds of Rainy River and Lake."

#### About this Document

This summary was prepared collaboratively by the Métis Nation of Ontario ("MNO") and the Ontario Government ("Ontario"). It is based on currently available historical research on Métis in Ontario. Many of the reports reviewed and relied on to create this summary are available online at: <a href="http://www.metisnation.org/registry/citizenship/historicresources/">http://www.metisnation.org/registry/citizenship/historicresources/</a>. The parties will consider additional historic information as it may become available.

Identifying historic Métis communities is a necessary part of the legal requirements for establishing Métis rights, protected by section 35 of the *Constitution Act, 1982*, however, the identification of historic Métis communities alone does not define contemporary rights-bearing Métis communities, determine who in Ontario is Métis, who holds Métis rights, or define Métis harvesting areas or territories.

This summary does not necessarily address the claims of other self-identifying Métis communities not represented by the MNO. The conclusions in this summary do not limit the potential for other historic Métis communities to be identified or the expansion of recognition historic Métis communities in the future based on additional historic research.

#### **Appendix 16**

11/20/2018

Métis Nation of Ontario | News and Media | News



Métis Nation of Ontario 500 Old St. Patric St, Unit3 Ottawa, ON K1N 9G4

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### Identification of Historic Métis Communities in Ontario

August 22, 2017

Métis are recognized as one of three distinct Aboriginal peoples in Canada with rights protected by section 35 of the Constitution Act, 1982.

Since then the Supreme Court of Canada has released a series of judgments that urge governments and Indigenous peoples to work together to achieve reconciliation, which includes the reconciliation of the rights, interests and ambitions of Aboriginal and non-Aboriginal Canadians.

Métis communities emerged as a result of the North American fur trade, during which First Nations peoples and European traders forged close economic and personal relationships. Over time, many of the children born of these relationships developed a distinct sense of identity and culture. They had shared customs, practices and a way of life within their communities, which were distinct from their First Nation and European forbearers.

These Métis communities formed along strategic water and trade routes prior to the Crown effecting political and legal control in these areas. Many of these communities persevered and continue to celebrate their distinct identities and histories today, practicing their unique culture, traditions and way of life. These communities are a part of the diverse heritage of Ontario, both past and present.

In 2003, the Supreme Court of Canada recognized a Métis community with a communal right to hunt for food in and around Sault Ste. Marie. This case provides the framework for identifying Métis communities in other areas of the province as well as other parts of Canada.

#### Moving forward

For many years, Ontario and the Métis Nation of Ontario (MNO) have worked together to strengthen their relationship and to advance reconciliation. This has included the signing of a relationship Framework Agreement in 2008, renewed in 2014, which led to initiatives that aim to improve the quality of life and wellbeing of Métis children, families and communities across Ontario.

Guided by the Framework Agreement and consistent with Ontario's constitutional obligations to the Métis, Ontario and the MNO have worked together to exchange and review historical reports regarding historic Métis communities in Ontario. These reports have been prepared by independent professional historians and ethno-historians and provide research regarding "mixed Aboriginal ancestry" as well as "Métis" populations in particular areas in the province.

Since 2010, Ontario and the MNO jointly reviewed these reports, identifying information that provides evidence of the emergence of historic Métis communities that meet the <u>criteria</u> provided by the Supreme Court of Canada in R. v. Powley. Through this work, the MNO and Ontario jointly identified six historic Métis communities in the province that meet the criteria in addition to the historic Sault Ste. Marie community recognized by the Supreme Court of Canada. These historic Métis communities include:

- Rainy River / Lake of the Woods Historic Métis Community
  - The inter-connected historic Métis populations in and around: Lac La Pluie (Fort Frances); Rat Portage (Kenora), Eagle Lake (Dryden/Wabigoon) and Hungry Hall (Rainy River). The Lake of the Woods area includes Rat Portage, White Fish Lake, Northwest Angle, Wabigoon and Long Sault,
- · Northern Lake Superior Historic Métis Community
  - The inter-connected historic Métis populations north of Lake Superior, including the Métis people who worked for period of time or settled at: Michipicoten, Pic River, Fort William, Nipigon House and Long Lake.
- Abitibi Inland Historic Métis Community
  - The inter-connected historic Métis populations at the inland posts between New Post and Timiskaming, including: Frederick House, Abitibi House, Kenogamissi, Flying Post, Mattagami and Matachewan as well as the historic Métis population at the Moose Factory Post and environs, several families of which were inter-related to members of the historic Abitibi Inland Community and migrated south to become a part of this community.
- Sault Ste. Marie Historic Métis Community
  - The historic Métis population at Sault Ste. Marie and environs, which the courts recognized extended as far as "Batchewana, Goulais Bay, Garden River, Bruce Mines, Desbarates, Bar River, St. Joseph's Island, Sugar Island and into Northern Michigan."
- Mattawa/Ottawa River Historic Métis Community.
- The historic Métis population centred at Mattawa and spanning the Ottawa River from Lac des Allumettes (Pembroke) to Timiskaming and environs.

Line 2

- · Killarney Historic Métis Community
- The historic Métis population at Killarney and environs.
- · Georgian Bay Historic Métis Community
  - The inter-connected historic Métis populations at Penetanguishene and Parry Sound and environs.

Modern day membership of rights-bearing Métis communities must ancestrally connect to the historic community. While identifying historic communities is a significant milestone towards respecting Métis rights in Ontario, this alone does not determine who in Ontario is Métis or who holds Métis rights, nor define Métis harvesting areas or territories.

Ongoing work based on the identification of these historic Métis communities will inform policy approaches to consultation and related issues such as the independent review of the MNO Harvester Card system currently underway that is targeted for completion in fall 2017.

In addition, Ontario and the MNO will consider additional historical research that may become available respecting the potential identification of other historic Métis communities or of new information that may change or expand any of the seven historic Métis communities. While the joint work undertaken by the MNO and Ontario does not necessarily address the claims of other self-identifying Métis communities that are not represented by the MNO, the existing research may inform Ontario's overall approach on these issues.

More information about each of the identified historic Métis communities can be found in factsheets posted on the MNO's website.

See ALL news articles

#### PROPOSED SPECIAL RESOLUTION #1

# Special Resolution on Verifying All MNO Citizens Are Métis Rights-Holders and Meet Current MNO Citizenship Requirements

WHEREAS the MNO has initiated the Registry and Self-Government Readiness Process (the "Registry Review") to determine how many MNO Citizens meet the current citizenship requirements set out in the MNO Bylaws and are verified Métis rightsholders;

AND WHEREAS the MNO's legitimacy, credibility and future recognition—as a Métis government—will be built on its representation of Métis rights-holders and rights-bearing Métis communities in Ontario as well as its objectively verifiable citizenship registration system;

AND WHEREAS the 2018 MNO AGA wants to establish a fair and transparent <u>two-year process</u> to ensure all MNO Citizens are verified as Métis rights-holders and meet the current requirements for MNO citizenship <u>by July 31, 2020</u>;

THEREFORE BE IT RESOLVED that the 2018 MNO AGA directs the following:

- 1. That the following "Removal from the MNO Registry" provision be added as the new section 7 to the MNO Bylaws:
  - 7. All MNO Citizens must have documentation in their citizenship file to demonstrate that they meet the current MNO requirements for citizenship as set out in sections 4 and 5 of the MNO Bylaws and MNO Registry Policy by July 31, 2020. If, as determined by the MNO Registrar through the process set out below, a MNO Citizen has an incomplete citizenship file on July 31, 2020, that individual will be removed from the MNO Registry and cease to be a MNO Citizen effective immediately.
  - 7.1 On or before March 31, 2019, the MNO Registrar will write to all existing MNO Citizens at their last known mailing address, to make them aware as to whether their citizenship file meets the above-noted requirements (*i.e.*, whether their citizenship file is "complete" or "incomplete"). The onus is on individual MNO Citizens to provide the MNO Registry with the necessary documentation to complete their citizenship file and to keep their contact information with the MNO Registry up to date.
  - 7.2 Upon receiving a letter from the MNO Registrar identifying their MNO citizenship file as incomplete, the individual shall have twelve (12) months to provide the outstanding documentation to the MNO Registry before

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- their file is determined to be "officially incomplete." If, at any time during this period, the MNO Citizen provides the necessary documentation to complete their citizenship file, the MNO Registrar shall issue the Citizen a letter indicating their file is now complete.
- 7.3 Prior to or after the twelve (12) month notice, a MNO Citizen with an incomplete citizenship file may appeal the Registrar's determination for reasons other than missing documentation. An applicant may appeal the Registrar's decision by:
  - completing a Registry Review Appeal Form and submitting said form, along with materials to be considered as a part of the appeal, to the MNO Registry; and
  - including a payment of \$250.00 payable to the MNO for the administrative costs associated with the appeal, which will be returned to the MNO Citizen if their appeal is successful.
- 7.4 Upon receipt of the required items set out in section 7.3, the Registrar shall forward the contents of the MNO Citizen's citizenship file and the appeal materials to an independent, qualified genealogist or consulting firm with experience in Métis genealogy for review and consideration of the appeal.
- 7.5 The individual or firm identified above will review all of the appeal documents and the appellant's citizenship file based on the MNO Bylaws and Registry Policy in order to determine whether they will uphold or overturn the Registrar's determination. A letter setting out the reasons for upholding or overturning the Registrar's determination will be provided to the MNO and the appellant. This decision shall be final and binding on the parties. Best efforts will be made for the appeal will be completed within ninety (90) days of the materials being provided to the individual or firm.
- 7.6 If an existing MNO Citizen has an appeal pending as of July 31, 2020, they will still be removed from the MNO Registry and cease to be a MNO Citizen as of that date, however, if their appeal is ultimately successful they will have their citizenship reinstated on the date of the successful appeal decision and will not have to reapply for MNO citizenship.
- 7.7 Subject to meeting all MNO citizenship application requirements that are in place, any individual who was removed from the MNO Registry and ceased to be a MNO Citizen as of July 31, 2020, may re-apply for MNO citizenship.

^

2. That section 5 of the current MNO Registry Policy—Guidelines be replaced with:

No registered MNO citizen will be removed from the MNO Registry unless:

- a. the MNO Citizen requests, in writing, to have their name removed from the MNO Registry; or
- b. the MNO Citizen is removed pursuant to the authorities and processes set out in the MNO Bylaws.

Signed copies of this proposed resolution, along with their respective MNO citizenship numbers, were received from the following individuals and will be provided to the 2018 MNO AGA pursuant to MNO Policy #2011-002: Margaret Froh, Sharon Cadeau, Pauline Richardson, Theresa Stenlund, Mitchell Case, Verna Porter-Brunelle, Joseph Bergie, Ali Dusome, Kelly Duquette, Paul Robitaille, Shari Smale, Jordyn Playne, Donna Grayer.





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