BEING MÉTIS IN CANADA: AN UNSETTLED IDENTITY

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SCHOOL OF SOCIAL SCIENCE
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**Acronyms**

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<tr>
<td>AFN</td>
<td>Assembly of First Nations</td>
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<tr>
<td>CAP</td>
<td>Congress of Aboriginal Peoples</td>
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<tr>
<td>HBC</td>
<td>Hudson’s Bay Company</td>
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<tr>
<td>IMHA</td>
<td>Interim Métis Harvesting Agreement</td>
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<tr>
<td>MCA</td>
<td>Métis Constitutional Alliance</td>
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<td>MCC</td>
<td>Métis Constitutional Council</td>
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<td>MHA</td>
<td>Métis Harvesting in Alberta</td>
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<td>MMF</td>
<td>Manitoba Métis Federation</td>
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<td>MNA</td>
<td>Métis Nation of Alberta</td>
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<td>MNAHP</td>
<td>Métis Nation of Alberta Harvesting Policy</td>
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<td>MNC</td>
<td>Métis National Council</td>
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<td>MNS</td>
<td>Métis Nation of Saskatchewan</td>
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<td>NCC</td>
<td>Native Council of Canada</td>
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<tr>
<td>NDP</td>
<td>New Democratic Party</td>
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<td>RCAP</td>
<td>Royal Commission on Aboriginal Peoples</td>
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Abstract

In 1982, the Canadian constitution included Métis as one of the aboriginal peoples of Canada, who may be entitled to certain aboriginal rights. Making aboriginal rights claims has required Métis, as a category, to be understood in a bounded, rigid manner, to fit with the wider legal system of categories of aboriginal peoples (First Nations, Inuit). Métis, as an identity, has been seen as a category based on aboriginality and mixed ancestry, but it is contested by many actors including the Canadian state, Métis organisations, academics and Métis themselves whether this means mixedness of ancestry in general (a residual category of aboriginal but not First Nations/Inuit), or a specific case of mixed ancestry in the Canadian interior in the 18th- and 19th-centuries (the Red River/Historic Métis Nation). The category of Métis is not only uncertain in the legal context, it is also unsettled in many other registers: political, personal, and social. This research, based on fieldwork in Edmonton, Alberta in 2012-13, discusses how the category of Métis is used, contested, and (un)settled, through several contexts. The contestedness of Métis is examined in the contexts of representation and self-representation of Métis identity, history and peoplehood: in Canadian courts as Métis claim aboriginal rights, in museums and festivals as Métis are displayed and display themselves in particular ways, within the Métis community, and in less formal environments as people talk about their self-identification and what Métis means to them as a folk category. The unsettled nature of Métis is made visible as Métis identity within these registers often does not overlap, for example as the self-identification and legal identity may not coincide. The separation between First Nations and Métis is particularly important, given its necessity in Métis aboriginal rights claims and in how Métis is viewed as a category of aboriginality separate from First Nations, but in practice this rigid separation is not so clear as people adjust their self-identification and recognition of others as Métis or First Nations depending on their understanding of their category of Métis. As the variety of ways of understanding Métis are made visible, it becomes clear that Métis is an identity and a category that is emerging within these legal, political and social registers, and remains unsettled, even radically unsettled.
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Dedication
To my little Dara, born and brought up along with this research and thesis, and who kept this process as stress-free as possible by making sure I spent time each day singing silly songs and pretending to be a variety of zoo animals for his entertainment, and who never once scribbled on my notes.

Acknowledgements
Thanks especially to my supervisors, Penny Harvey and Peter Wade, my husband Jasjeet Singh, and my mother Maureen O’Sullivan for all their help over the years. Thanks also to everyone I met and who contributed to this research during and after fieldwork, in Canada and in Manchester. And thanks finally to those who read sections of this work for their suggestions and feedback, especially Jenanne Ferguson, Claire Callaghan, Marketa Dolezalova Tunega, Jasmine Folz, Rachel Smith, and others.
Chapter 1. Introduction

General introduction

When I first began to read about Métis\(^1\), I was fascinated by the ambiguity this category seemed to produce. Introductory texts\(^2\) described a people who seemed to have created a new kind of aboriginality, one based on being mixed (ancestrally and culturally), and to have developed a new identity centred on that mixedness, while still being able to have that identity, eventually, recognised as an aboriginal one. Very briefly, Métis are usually described as the descendants of early French and Scottish fur traders and aboriginal women, in 18\(^{th}\)-century Canada. Rather than remaining with either of their ancestral communities, over time and through a process of ethnogenesis, they became a ‘new people’, and by the end of the 20\(^{th}\) century, had been recognised as aboriginal in their own right (rather than due to their First Nations ancestry) in the Canadian constitution of 1982 (Constitution Act, 1982). This was very interesting – how could a ‘new’ people claim to be aboriginal? What did this mean for the category of aboriginal? Academic texts discussing Métis history described a new community developing from various ancestral strands, expanding across Canada as key players in the 18\(^{th}\)- and 19\(^{th}\)-century fur trade, followed by two rebellions against loss of land to settlers in 1869 and 1885. There was then a 60- or 70-year period of near silence, when Métis seemed to have vanished as a

\(^1\) Throughout this thesis, I will use the spelling ‘Métis’ rather than some of the alternatives in use (Metis, métis). This is for consistency, and also as I feel it is the most appropriate form of the word. Capitalised, the term reflects its importance as an ethnonym, equivalent to e.g. Canadian or French. The use of the accent aigu reflects the French origins and pronunciation of the term. Most importantly, the form ‘Métis’ is the one used by the Métis organisations (such as the Métis National Council, the Federation of Métis Settlements, and so on). The use of the alternative spellings is associated with a more ‘racialised’ view of Métis identity, as, uncapitalised, ‘métis’ is the French word for ‘mixed’. This racialisation and Métis opposition to it is a theme in this thesis. For earlier discussion on the ‘Métis/métis’ debate in academia, see Peterson & Brown 1985: 6).

visible identity, before a kind of political renaissance in the 1960s and 70s, leading to inclusion as an aboriginal people in the 1982 constitution and a massive demographic surge as large numbers of people began calling themselves Métis in the censuses from 1996 onwards.⁴ What was going on with this seemingly malleable and ambiguous identity?

As I read further into debates and discussions about Métis, it seemed that the categories and assumptions about aboriginality, ethnicity, community and peoplehood were themselves uncertain and ambiguous, within anthropological theory and in popular conceptions, and even more so in the context of Métis identity.⁵ Control of the category of Métis shifted between various actors: the state, through defining (or not defining) Métis in its dealings with aboriginal peoples and its inclusion of Métis in the constitution; the courts, as they attempt to manage recent Métis claims to aboriginal rights; several Métis organisations which claim to represent Métis, but offer different interpretations of who this category includes; and individual Métis themselves, who seemed to have a variety of understandings of who is Métis and what it means to call oneself Métis. The disputed nature of Métis aboriginality was clear, alongside contestation about who claimed to speak for or represent Métis, and the fundamental disagreements between various actors as to who was Métis at all, and where the boundaries or the core of a Métis identity should be. I began to think more through the topic, shifting from my original focus on Métis aboriginal rights claims, to a wider interest in the consequences

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⁴ In 1996, 204,000 people self-identified as Métis on the census. In 2011, this had risen to 450,000 (Statistics Canada, 2013).
for people of such a disputed, or unsettled, identity. What does it mean for people to claim a Métis identity, to say that they are Métis, to claim Métis aboriginality, and aboriginal rights? How do people talk about behaving in a Métis way, and what makes people Métis in an urban environment separated (or at least seemingly separated) from the traditional Métis cultural ways of life? How are their claims to Métisness and aboriginality perceived by others, particularly the state, mainstream society and the other aboriginal peoples of Canada? While I did not follow all these paths throughout my research and fieldwork, many of these issues will be addressed throughout this thesis.

**A short history of Métis**

There are many ways to begin a description of Métis people and history, and this aspect will be a thread running through this thesis: the problem of how to describe and contextualise Métisness, and who the Métis are. What O’Toole (2013: 146) describes as the ‘orthodox account’ of the emergence of the Métis Nation from its beginnings in the fur trading French/Scottish/Aboriginal Canadian interior is in itself something that is both held up as the founding myth of Métis, and challenged as a limiting, exclusionary worldview that shuts down the self-identification claims of many Métis. This orthodox narrative comes from (especially older) academic histories of Métis, and the historical narratives of many of the Métis organisations\(^5\) such as the Métis National Council. In this short history section, I will present this narrative, and briefly examine some of the alternatives. This tension between the different ways of talking about Métis and Métisness will be an ongoing theme throughout this thesis.

\(^5\) The history and aims of Métis political organisations such as the Métis National Council (MNC) which represents Métis politically at the federal level, and local provincial organisations such as the Métis Nation of Alberta, will be discussed further in Chapters 2 and 3.
The orthodox narrative of Métis history and ethnogenesis begins with the arrival of large numbers of (French and Scottish in particular) traders and voyageurs\(^6\) into what is now Quebec and the Great Lakes, who began settling down with local women, often Ojibwe or Cree in that region in the 17th and 18th centuries (Ingersoll 2005: 23, Peterson & Brown 1985). While there had always been intermarriage between different communities, and between Europeans and local peoples after 1492, this narrative describes how, over time, the children and grandchildren of these early marriages began to separate themselves from the European or First Nations communities and to establish their own settlements, and, gradually, their own traditions, way of life, and language (Brown 1993: 20; also Giokas & Chartrand 2002; Pannekoek 1991; Schwartz 1985). Moving with the buffalo and the fur trade, in which many were involved as guides, hunters and voyageurs, families established networks of trade and kinship westward into the prairies, beyond the control of the Canadian colonial governments and the Hudson’s Bay Company (HBC), which held a Royal charter and was in de facto control of most of the Canadian interior (called Rupert’s Land) until the 1860s (van Kirk 1980: Podruchny 2006). The Métis came to describe themselves as a ‘New Nation’ (Sealey 1980) as a community grew out of the large concentration of these settlements in the area around Red River, near what is now Winnipeg, Manitoba, based on the economic and cultural characteristics of the region: the fur trade, buffalo hunting, semi-nomadic trade and kin networks all across the Canadian interior, tying together scattered communities of people who were coalescing around a new culture that had grown out of elements of French, Scottish and Aboriginal ancestral cultures (Macdougall et al 2012: 7; see also Friesen 1984). The long-distance networks of kin, trade and community (as shown in Fig. 1.1 map below), tied together by

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\(^6\) ‘Voyageurs’, from the French for ‘travellers’, refers in this context to the French-Canadian fur traders who travelled and traded throughout the Canadian interior in the 18th and 19th centuries.
the movements of people and families, allowed the development of a nation across the interior of Canada (Ray 2011: 93).

![Map showing Métis Economic Activity](image)

Fig. 1.1 ‘Métis Economic Activity’: Map showing some of the cart and boat trails and the Métis communities in the mid-19th century in the Canadian Midwest. (Source: Weinstein 2007: 6).

Living far away from other population centres and only loosely governed by the HBC, the Métis living at Red River came to see themselves, and to be seen by others, as a new, different people, with roots in Native and European culture but developing out of, rather than just combining, these elements (Bakker 1997: 50; Brown 1993: 24). From as early as the 1810s the Red River Métis were referring to themselves as the ‘New Nation’, separate from the other communities in the area (Fleras and Elliott 1992: 103; also Basson 2008: 61). The Métis became a people in their own right: ‘the genesis of a group such as the Métis rests not in the biological encounter between North American women and
European men... but in the emergence of the concept of a distinct group' (Wolfart 2012: 157). This separation was reflected in the different terminology and ethnonyms used by themselves and by others to refer to this emerging people (Schwartz 1985: 212), such as Half-breed, Michif, Bois-brûlé and so on (O’Toole 2013: 155; Wolfart 2012: 152; also Hatt 1981): it is notable that they were not seen by outsiders or the emerging Canadian state as ‘Indians’. Throughout the 19th century, the Red River Métis were interacting increasingly with outsiders, mainly Canadian traders, missionaries and settlers. Although Métis in the area continued to outnumber outsiders by a factor of eight in the mid-1800s, they were increasingly nervous of the numbers of settlers coming west and the possibility of annexation by the Americans not far to the south; they were also worried about their tenuous claims to the land they considered theirs through use, as they held no legal documents according to British legal codes showing ownership of the land they used (Dickason 1985; 29; Redbird 1980: 12). In 1845, they had petitioned the Governor of Assiniboia (the region in which Red River was situated, then under the control of the HBC), asking for clarification of their status and rights. In reply, the governor ‘had taken the position that the Métis had no more or no fewer rights that those enjoyed by all British subjects’ (Dickason 1985: 28), and so leaving them with no special legal recognition of their claims to the land (as First Nations were able to at least claim through treaties).

By the 1860s, the various colonies making up eastern British North America were working towards confederation as the new nation of Canada, which would have a large measure of independence from Britain. Canada also planned to expand further west - and this

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7 A census in 1870 recorded 10,000 Métis, 1,500 white and 600 Indians in Manitoba (Bakker 1997: 59).
8 The land they used for farming and settlements as well as access to the wider territories they shared with others as trade routes, hunting and harvesting grounds.
meant the purchase of Rupert's Land from the HBC and the incorporation of Red River into Canada. Negotiations between the HBC and the newly-formed Canada began in 1867, with no reference to or consultation with the Métis or any of the occupants of Rupert's Land (Dickason 1985: 24-5; Friesen 1984: 103; for general Canadian history see also Eccles 1972; Morton 1983). This provoked Métis fears of being swamped by settlers, the loss of their lands for which they had no legally documented title, as well as frustrations over their fate being decided without their involvement. This led to the ‘Red River Rebellion’ in 1869.

The Rebellion\(^9\) began in 1869 when Métis set up a provisional government under Louis Riel at Red River, and dispatched negotiators to Ottawa. Their intent was not to prevent the incorporation of Red River into Canada, but to negotiate the terms under which this would happen and to secure certain rights for the inhabitants of Red River (Redbird 1980: 20). The provisional government drew up a list of demands based on local decision-making and self-government (meaning that Red River would become a self-governing province, rather than a territory ruled directly from Ottawa, which had been the original intention); they also outlined a land settlement for Métis that would give them legal title to their lands (for more on the Rebellion, see Bakker 1997; Lussier 1973; Miller 2004; Pulla 2013; Weinstein 2007). Although it was ultimately defeated after a single casualty, the Red River Rebellion of 1869-70 did result in the Canadian government recognising a Métis interest in and claim to the land, and a half-recognition of Métis as a distinct people (Andersen 2008:350, Imai et al 1999: 86), at least temporarily. Some of the demands of the provisional government were acknowledged, such as provincial (rather than

\(^9\) The usual name is the ‘Red River Rebellion’, but during fieldwork I was told that it was a justified uprising, rather than a rebellion, which has anti-Canadian connotations.
territorial) status and the recognition of certain language rights (such as French-language schools - many Métis, as descendants of French voyageurs, were Francophone); in addition, a system was devised that professed to protect Métis land ownership: scrip. The scrip system\(^{10}\) was meant to recognise and legitimise Métis claims to land in Red River. The children of Métis parents were to be issued with certificates (referred to as ‘scrip’) entitling them to land (160 acres) or cash to the value of that land, but the implementation of the system was widely exploited (by settlers, agents who bought scrip for well below its value, and the government who did not prevent this) and many Métis ended up with nothing or a fraction of the value of the land (Weinstein 2007: 17; see also Ens 1999; Imai et al 1999: Pulla 2013).

Following the union of Red River into Canada within the new province of Manitoba in 1871, the flood of settlers from eastern Canada, and the disastrous application of the scrip system and consequent loss of Métis land, it is estimated that two thirds of Métis left the province, moving west and north into territory still outside of effective Canadian government control such as the old Northwest territories (which then included what is now Alberta and Saskatchewan) and Montana (Brown 1993: 42). Other Métis simply tried to blend into the mainstream Canadian society to avoid discrimination, as there was a lot of anti-Métis feeling after the Rebellion, which Friesen describes as ‘the cataclysm which divides the Métis from Canada... [Métis] being the enemy within’ (1987: 56, see also Gagnon 2009). This was amplified by a second, failed rebellion in the Northwest Territories in 1885, based on similar Métis frustrations over land title, discrimination and lack of political representation (Brown 1993: 20; Miller 2004: 18-20; Pulla 2013: 398-407).

\(^{10}\) Scrip was initially given to Métis families in Manitoba after Confederation, and later to others across the prairies from 1870-1921 as a kind of compensation for loss of lands to settlers.
The Métis became the ‘forgotten’ or ‘vanished people’ (Brown 1993: 20): they were neither ordinary Canadians nor First Nations with some recognition under the Indian Acts (1876, 1985, etc.) (legislation protecting First Nations rights) and treaty (recognition of e.g. land and resource use rights); they were invisible to the state as a group after the granting of scrip, and there was an underlying assumption that the Métis themselves had been extinguished as a people (Teillet 2012: 8; Asch 1993). Gradual political revitalisation during the 20th century, beginning with the establishment of Métis political organisations and several Métis Settlements11 in Alberta in the 1930s (AFMSA 1982; Bell 1999), led to the inclusion of Métis in the 1982 Constitution as one of the aboriginal peoples of Canada, but this recognition has not easily been converted into political rights or representation.

This is the straightforward narrative, upon which many Métis individuals and organisations have built their understandings of themselves. But other Métis have disputed this, and would have Métisness understood more broadly, without such a strong necessary connection to the specific locality of Red River, (what Nicks and Morgan refer to as ‘Red River myopia’ in 1985: 173) or even more widely as a more generalised, ‘mixed aboriginal/First Nations/European’ category. In this form, it becomes a kind of category of unspecified aboriginality, a racialised category based on ancestry rather than culture. At one extreme, the focus is on the core historical context of the 19th-century fur trade in the prairies, and the descendants of the community based around Red River. At the other extreme, ‘Métis’ comes to mean what it etymologically describes: mixedness of individuals, in a racial or genealogical sense, rather than a separate community in itself. Métis organisations have been established in other parts of Canada, such as British

11 Several settlements were established in the aftermath of the Depression as a means to alleviate the poverty of many Métis. This will be described in more detail in Chapter 2.
Columbia and the eastern provinces, which are not easily connected to the 19th-century Métis Nation at Red River, but instead trace historical links to earlier populations of mixed-ancestry settlements in the Great Lakes region, in the fur trading posts in British Columbia, and in Eastern Canada, or to a more class- and occupation-based identity centred on the fur trade (O’Toole 2013: 147-8). The category of Métis, then, has diverse faces and implications, for different people. I was interested in finding out more about how the category is used, by those who call themselves Métis and others, and what are the contested and competing claims associated with using this category.

**Theoretical framework**

Thinking about Métis in terms of an ethnic group, as a people in their own right, is complicated in this context of ambiguity and lack of agreement on who, basically, the Métis are. While all group identities may be ambiguous to some extent, this is more visible in the case of the Métis. The usual assumptions about ethnic groups, i.e. that they are based on common ancestry, history, language, territory and so on do not make sense in the Métis case: they have no territory on which they are the majority: they are scattered across the Canadian interior; they have several languages, rather than one; Métis culture is highly varied due to the diversity of their experiences, geographies, ancestral communities, and so on (Bakker 1997: 52). Building on Barth’s 1969 work, academic discussions on ethnic groups have shifted their focus from an emphasis on the construction of boundaries towards an interest in the claims people make about themselves (see for example Anderson 1983; Banks 1996; Eriksen 1993; Hall 1996), and
the concept of ethnic identity as a tool, or an instrument (Cohen 1974; Jenkins 2008; Morin et al. 1997).

If the category of Métis is so difficult to discuss in a bounded way, this becomes even more interesting in the context of Métisness as an *aboriginal* identity. Tied up with the term ‘aboriginal’ here are all sorts of assumptions and claims, political and moral, that need to be considered in the particular circumstances of the Métis case. Aboriginality, as usually understood, is similar to the term indigenous,12 and it is mostly due to its use in the Canadian context (legal and in mainstream use, as well as among Métis I spoke to) that I have used ‘aboriginal’ rather than ‘indigenous’ throughout this thesis. Aboriginality has been seen as a form of special circumstance of a group, in which there are issues of colonialism, marginalisation, discrimination, descent from original inhabitants of an area, original or pre-colonial links to a particular territory and traditions, continuity of language, practices, culture, and so on (see for example various lists or definitions of indigenous, such as Gray 1997: 8; Niezen 2003: 19-21; Smith 1994: 70; see also Barcham 2000; Bell 1989; Schouls 2003; Simpson 2000; Tully 2000). There are also assumptions of authenticity and non-assimilation, and of cultural continuity (de Oliviera 2005: 235).

A claim to recognition as an aboriginal people is also a political statement, and acceptance as such brings political capital, and moral obligations on the part of the state and the wider community (Andersen 2014: 124; Eisenberg 2009: 139; Roitman 2008: 13). Being an aboriginal people brings with it the possibility of claims for aboriginal rights, even aboriginal title to land. Because of the perceived benefits coming from the 1982

12 Aboriginal implies being the first people in a place; indigenous implies being native born, which is less temporally specific.
recognition of Métis as an aboriginal people in Canada, and the massive recent upsurge in numbers of people self-identifying as Métis (such as in the 2011 census, as noted above, and in membership numbers of Métis political organisations, which are discussed further in Chapter 2), there have been insinuations that ‘Métis’ has become a ‘second choice for individuals who cannot get Indian status’ (Lawrence 2004: 217), an alternative ‘native’ or aboriginal political affiliation. This is the kind of identity claim that many Métis argue against, that ‘Métis are not the reject pile where you throw all of the people who lost their Indian status’ (Teillet & Madden Senate SCAP evidence, 2012). The argument is again over the boundaries of Métisness, or the meaning of the term: is it limited to the descendants of the 19th-century Métis Nation, or a wider category of mixed-ancestry people, or something in between based on communities that grew out of the mix of cultures in the 18th- and 19th-century Canadian interior?

Repeatedly at issue in this brief discussion of who is Métis, or who is seen as Métis, are the meanings of categories into which a group of people have fallen: Métis, aboriginal, First Nations, and to a lesser extent, Inuit. These categories, and the terms and relations through which such categories are established (Bowker & Star 1999; Lakoff 1987; Lampland & Star 2009), are crucial to understanding the concept and category/ies of Métis. As these categories have come to have such important political, social and legal

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13 ‘Indian status’ means an individual is recognised as Indian under the Indian Act, 1985. This is usually through descent from ancestors with Indian status. Having status is a legal category of people who have specific rights in Canada, and are subject to the Indian Act. Métis, although ‘aboriginal’ according to the Constitution of 1982, do not have Indian status, as a group. This will be discussed further in Chapter 2.

14 The category of Inuit is seen as more or less self-explanatory, due to their geographical, historical and cultural separation from other aboriginal peoples. Due to the historical circumstances in which Métis emerged, in the Canadian interior, there is much less perceived overlap or uncertainty about the boundary between Inuit and Métis. Throughout this thesis, it is the much more uncertain Métis/First Nations boundary, with its complex history of kinship ties and overlapping history and geography, that will be of most interest.
consequences, there is a lot at stake in the contestation over the meaning of Métis, and the aboriginality of Métis, such as potential rights claims, legitimisation of identity, and claims to state services and funding for aboriginal peoples. It matters if a person or community calls themselves Métis, and it matters if this is accepted or challenged by others, which can include other Métis, the state, the legal system, and Métis political organisations. This, briefly, is the anthropological context of this thesis: the overlap between the understandings of aboriginality in political, legal and everyday social senses, and the place of Métis within this context, as a theoretically problematic, or at least ambiguous, case of aboriginality and identity (due to being a post-contact, ancestrally and culturally mixed people). The further ambiguity of the category of Métis, where there are diverse understandings of Métisness and who is Métis, makes it an even more interesting case to consider. The very fact that the category of Métis is so visibly contested highlights how categories generally operate at an unconscious level: ‘most categorisation is automatic and unconscious, and if we become aware of it at all, it is only in problematic cases’ (Lakoff 1987: 6).

During my fieldwork, I remember hearing two separate statements in different contexts, and being struck by the connection between them, and the performance of identity, particularly how this fits into the construction and maintenance of boundaries to identity. The statements, which I use later as a chapter title and a section header, because I found them so useful as summaries of performance, were: ‘I used to be Métis’, and ‘I’m aboriginal, I should be able to do this’. The first was said to me by a roommate in the rented house I was staying in, as we met for the first time and I had told him what I was doing in Edmonton. The second was said in the context of a general discussion during a
moccasin-making workshop, after the speaker had made a mistake in her sewing and hurt her finger. Both statements were demonstrations of self-reflexive consideration about the performance of identity, and how each speaker had understood their position on the border and boundary between categories of identity: in the first case, between Métis and Cree, and in the second, between aboriginal and non-aboriginal. In each case, they had come to the understanding that their performance of identity had not fitted in with their perception of the boundary between the categories, and hence that the ambiguity of their position was worthy of comment.

Matti, who claimed he used to be Métis, had reanalysed his identity in light of changes in his personal and legal circumstances: he was now able to make a claim to Indian legal status, and had begun to shift his performance from the ‘Métis’ identity he had grown up with, and reorient himself towards a Cree identity, which for him meant researching his Cree family, involving himself with Cree history, culture and community, and building himself as a Cree man, for example through initiation ceremonies. I will analyse his case in more detail in Chapter 5. Maria, who injured herself sewing a moccasin during a Métis craft workshop, was comparing her abilities to perform a skill associated with aboriginal women, suggesting (although jokingly) that since she was unable to perform this, she was positioned outside the boundary of ‘aboriginal (woman)’. This short excerpt from the moccasin workshop will be placed into the wider context of the moccasin craft classes in Chapter 5, but for now I wanted to highlight the importance that both these examples place on the performance of identity, and the potential to cross the boundary from one identity category to another if one’s performance is not felt to match that required,
whether this is an external decision or, as here, a slightly tongue-in-cheek self-assessment.

This short extract from a later ethnographic chapter is included here to highlight the main theoretical framework of this thesis, which is centred around identity and categories (as discussed above), and the performance of boundaries and borders around such categories and identities. The concept of performance in a social context comes most famously from the works of Turner and Schechner, as well as Goffman. For Goffman, all action is a performance, ‘all social interaction is staged’ (Turner 1987: 74). This suggests a sense of self-awareness of action, a control over representation and self-representation, a deliberate positioning of oneself and one’s actions in order to project a certain image and impression. As Turner argues, ‘participants not only do things, they try to show others what they are doing or have done; actions take on a “performed-for-an-audience” aspect’ (Turner 1987: 74, italics in original). Turner goes on to argue that social process is performative (1987: 7), that what is happening between people is always in some manner performed. Schechner, in his Preface to Turner’s book, argues that all performance is ‘at its core, a ritual action, a “restoration of behaviour”’ (Turner 1987: 7). This idea is interesting in the context of the arguments that will be made throughout this thesis about how Métis perform and present themselves in different ways for different audiences: in the courts as they make claims for aboriginal identity and rights, in cultural celebrations such as festivals and at a Métis-run museum, and in more private domains such as in informal conversations and everyday gossip.
The role of performance in the creation and negotiation of boundaries has been discussed in the case of Scottish-Americans in the southern United States by Ray (2001). Ray describes the kinds of performances made by people of Scottish ancestry in a region with a large population of such, concentrating on the actions people perform: ‘the public rituals, symbolic costumes, social organisations, and beliefs that fortify ethnic identities and their revival... the cultural construction of memory’ (Ray 2001: 1). This process of drawing on particular aspects of Highland identity is also very romanticised, and based heavily on the idealised Highland imagery of the 18th century, in particular the references made by writes such as Walter Scott. Ray discusses these performances, both public and private, as a process of remembering and ‘remind[ing] people to consciously stand together as a group apart’ (2001: 1): this is a very clear statement of negotiation of boundaries through certain ritualised acts, clothes (kilts etc.), music, dance, romanticised celebration of ancestry: performance. The assumptions of authenticity and continuity tied up in these performances and the remembering of history (at least, a certain narrative of history based on the foundational events of Culloden and the Highland Clearances that led to their ancestors leaving Scotland, 2001: 22) generate these boundaries between this group and the other populations with different ancestry in the area. There is also a lot of symbolism, rather than necessarily everyday performances in this example, such as wearing kilts on certain occasions only, as a costume rather than an ordinary piece of clothing (2001: 37). The symbolism, although originating mainly in the Highland region, is extended through performance to a wider Scottish-American population through these performances, thus negotiating the boundaries of a Scottish-American identity beyond what might strictly be ancestral connections to the Highlands from which much of the
imagery, symbolism and celebrated traditions are derived, creating a ‘sense of solidarity... and continuity’ (Ray 2001: 52).

Peers (2007) discusses the performance of identity in a study of historic reconstructions and interpretation centres at several museums and historical parks where staff, sometimes Native, are employed to perform in costume a historic identity. In this context, Peers argues that the performance of the Native interpreters, rather than relying ‘on the public performance of stereotyped and shallow elements of culture... [instead] amounts to cultural performance in a different sense: ethno-protest... a way of resisting authority and the status quo’ (2007: xviii-xix). Here Peers argues that the assumption that the Native interpreters are bounded and limited in their performance, that they must act in an expected way, is not the case in her experience. She argues that Native interpreters are able to use their position and performance to negotiate the boundaries and borders of their identities, historical and contemporary, such as through allowing visitors to understand more about the historical context of the lives of the aboriginal peoples being portrayed at these historic reconstruction sites (fur trade posts, missions etc.). This challenge to the assumptions of visitors in these ‘contact zones’ (2007: xx) can expand their understanding of Native identity and experience, as the performance of the interpreters negotiates and expands the accepted categories of aboriginal history and identity. What is performed is also a careful negotiation of identity and boundaries: reconstructions ‘are constructions, they show selected aspects of life in the past, and their carefully researched authenticities are shaped by ideologies as much as political and pragmatic considerations’ (2007: 31). These performances, the ‘ritual behaviour, words and physical acts which in fact create, make real and reinforce the intended effect’ (2007:
The performance of the Native interpreters also gives them the space and the agency to negotiate the boundaries of their experiences and identities, as the performance is ‘a vehicle for Native agendas and creates a space which can be controlled by native performers’ (2007: 61). It gives Native peoples the means to make their understandings of history visible to a wider audience of visitors.

These discussions of the performance of identity and the links between this and the construction and negotiation of boundaries and categories will be a continuing line of argument throughout this thesis. Métis, as individuals and as communities, perform in various ways for various audiences in various contexts. In the first two main chapters, which discuss the legal context of Métis identity in the court, and the state and wider society through the court, Métis must demonstrate they are authentic in a manner and understanding acceptable to their audience. In the formal environment of the courtroom and the strict boundaries imposed by the rigidity of the legal process, Métis must present and represent themselves in particular ways – they must perform as authentic, as traditional, as aboriginal, in a form that the legal system recognises as such. This entails demonstration of certain kinds of difference (from other aboriginal peoples and from Euro-Canadian society), and the production of certain kinds of evidence, such as demonstrations of documented historical continuity, and even the contemporary performance of Métisness, in terms of need for special rights (hunting, etc.) and visible markers of separation. The most visually eye-catching performance and presentation of this was through clothing, as during a court case I attended, what one audience member described as ‘wall-to-wall beads’ (referring to the beaded clothing of the Métis audience attendees), or more succinctly, what another person called ‘full Métis’. This visual,
physical performance of identity in the courtroom was intended to construct a clear boundary between Métis and others, in a context where such a boundary had to be as unambiguous as possible: a courtroom case in defence of specifically Métis aboriginal hunting rights.

The later main chapters also bring to the fore the importance of performance in situations where the boundaries of identity are being negotiated and contested, in these examples in a context where there is space for less rigidity and more ambiguity and fluidity of boundaries and across borders of categories. An ethnographic description of a Métis music and dance festival discusses how Métis perform their identity among and to themselves, as the festival is more a community event than a public or tourist spectacle. The boundaries of Métis are negotiated through the forms of music and dancing represented, the importance given to aspects of Métis culture and tradition in the talk of participants, and in the inclusion of dancers and performers from other aboriginal nations, performing Métisness without claiming it for themselves. The final main chapter also discusses the performance of Métisness in the more intimate, or at least less public and large-scale, setting of a moccasin-making workshop. In this example, the participants, a mixture of Métis and other aboriginal peoples, negotiated and performed the boundaries of Métisness through discussions of their own personal experiences, their histories and family identities, and the physical performance of creating Métis-style moose hide moccasins.
Research questions

Before beginning my fieldwork, my key points of interest had been about the relationship between Canada and Métis people, in particular how this played out through the legal system. Métis were recognised as an aboriginal people in the 1982 Constitution of Canada, and in the ensuing decades this has led to a lot of discussion about aboriginality, aboriginal rights, and how to address this in the context of Métis.¹⁵ For various reasons to do with the structure of legal aboriginality in Canada (discussed further in Chapter 2), the inclusion of Métis in the constitution did not form a clear path for them to have their claims to aboriginal rights addressed in a straightforward way. Aboriginality in Canada had historically been tied to First Nations and Inuit, and the legal inclusion of Métis as aboriginal challenged the very category of aboriginality and what it meant to be aboriginal, as it had been assumed to be about traditions and populations in existence before European contact. Métis claims had to fit within this political and historical context, in particular how it has come to be that most claims are made through the courts, rather than in direct negotiation with the provincial and federal governments.¹⁶ My first set of research questions was about the problem of what happened after 1982, and how:

- What are the implications of using the courts to claim Métis aboriginal rights?
- What is at stake for Métis in going down this route?
- How is aboriginality being claimed and demonstrated by Métis in the courts, through particular uses of language and legal history and precedent?

¹⁵ See for example Bell 1997; Driben 1983; Flanagan 1983; Morse 1985; Taylor 1983; Walkem & Bruce 2003
¹⁶ One example of this, a case referred to as R. v. Hirsekorn, involved two Métis hunters in Alberta who claimed constitutional rights to hunting as Métis after being arrested in 2007. This case was ongoing as I prepared for fieldwork, and had reached the Alberta Court of Appeal while I was in Canada in 2013. Following this case led me to an interest in the legal aspects of Métis identity, which focussed my research questions in this direction at first. This case is discussed in detail in Chapter 3.
What rights are being claimed: land and hunting rights, or self-government? What outcomes do Métis hope to achieve?

What about alternatives to the courts, such as direct negotiation with the federal and provincial governments?

Through the course of fieldwork, I adapted and shifted the focus on these questions, as the circumstances of my fieldwork allowed reconsideration of what was most important in the context I was in. I concentrated more on how claims were made in political and legal environments, such as the language and discourse around aboriginality, authenticity and tradition. I wanted to better understand the forms of argument which need to be made for an aboriginal Métis identity to become meaningful in a political and legal way. Some of the discourse surrounding Métis aboriginality focussed on this as a boundary issue, where Métis aboriginality was seen as at the boundary of aboriginal, due to assumed assimilation, or loss of (First Nations ancestral) tradition, or due to the mixedness and ambiguity of Métis history, ancestry and traditions. So there was a question of how Métis are aboriginal, and whether this is similar to how First Nations and Inuit are. There was also an issue of how Métis have been seen as on the boundary of First Nations, due especially to ancestry, and whether Métis aboriginality was a (watered down?) form of First Nations aboriginality. In all this, my focus was on how these background assumptions played out in the legal context, through the ethnographic example of the ongoing Hirsekorn hunting rights case, and especially on what it was the Métis had to do, to say and to show to the courts, the state, and wider society to have their aboriginality recognised in practice, following on from legal recognition in 1982.
During fieldwork, I also began to take a step back, to consider why it was that people were making claims as Métis – what was it that had prompted a claim? And what was being claimed? In some cases, as discussed in later chapters, people were making claims for Métis aboriginal rights to hunt, while they were not themselves interested in hunting. They wanted to do this for their children, and as an identity claim (or as a claim to identity), rather than necessarily for a practical purpose. What was this intangible reason for making claims, and what was it that people were trying to protect through making claims or undertaking particular practices? I was able to take these questions beyond the legal context later in fieldwork, as I thought more about other kinds of claims that Métis were making in relation to particular activities, such as involvement in traditional singing, dancing and crafts. These were also a kind of claim to a Métis identity, and I met people who were both experienced in these skills, who were teaching them to others, and also those who had developed a more recent interest and wanted to learn how to practice these ‘traditional Métis’ skills.

Tied up with this, the next set of research questions have to do with what Métis identity is seen as meaning, and how it is spoken about, by Métis and the wider society, including the state and the courts:

Who is and who is not Métis, or seen as Métis, or calling themselves Métis? In what circumstances? And who is making these decisions?

What are the implications for those who self-identify as Métis but who are not recognised by Métis political organisations or the courts as such?
While in the field, it became more and more clear that this – who is Métis? - was a crucial, although probably unanswerable, question. Almost every person or organisation I came across had different ideas about this, even if most had some central core notion of Métisness centred around the 19th-century fur trading in the Canadian interior, based in Red River, and around the traditions and history that came out of this area. Again, the focus of my interest shifted from ‘who is/is not Métis’ to a more nuanced understanding of in what circumstances and contexts are some individuals and communities calling themselves Métis, and why is it important to them at this time. What does it mean to them? And who is challenging this (self-) identification, and why? What are people doing when they say that they are or are not Métis, or that someone else is or is not? There are many aspects to this question, and, as with First Nations, Métis is a category that can mean different things in different contexts. A ‘legal recognition’ as Métis (in practice, recognition from a court or provincial government that an individual or specific community has some Métis aboriginal rights) is vastly different to social, cultural and personal identification with the history, tradition and culture of being Métis. Métis organisations also have criteria of inclusion and exclusion, which not all the self-identifying Métis are happy with – some feel they were too broad, some too narrow. These basic research questions are tied together through themes of self-identification and imposition of identity (as Métis or not); what it means to be Métis, according to different actors (state, courts, Métis organisations, individuals and local communities) and how people expressed this (through festivals, hunting or claiming a right to hunt, being active politically, through family or everyday life, through traditional skills and so on); as well as the ever-present separation and connection between Métis and First Nations, historically, politically and legally, and the ambiguity of the boundary this
produces. The importance of the First Nations/Métis boundary, in various contexts, is crucial to the recognition of Métis, and the discussions and debates over Métisness.

Methods

With these basic research questions in mind, I planned my fieldwork. Due to visa restrictions for remaining in Canada, I was only able to spend 11 months in the field, from September 2012 to July 2013, broken up with a trip back to the UK so as not to stay over 6 months consecutively. On the recommendation of a friend from the area, I decided to go to Edmonton in Alberta. Edmonton is a large, new city of over a million people, but with one of the largest urban Métis populations in Canada, with 31,780 self-identifying as Métis in the 2011 census (Statistics Canada 2013: 2). Just northwest of Edmonton is the smaller city of St Albert, which has a strong Métis history going back nearly two centuries. The decision to do fieldwork in a diverse, urban area rather than a smaller community was influenced by a number of factors. At the most basic, practical level, this was about accessibility and opportunity. Edmonton, as a large city, was accessible to me in that there was fairly regular public transport (I am not able to drive, and this ruled out rural areas almost entirely), the possibility of finding somewhere to live, and access to other forms of information and data such as archives, libraries, and so on. Due to this urban context, I have concentrated almost entirely on the experiences of urban Métis, while acknowledging that the experiences of rural Métis, in a context of hunting and land, for example, may be very different, especially in the context of hunting and harvesting rights, and a sense of a local Métis community in the less predominantly Euro-Canadian areas of northern Alberta.
Living in a large city also gave me many opportunities that may not have been possible elsewhere. There are universities in the city with Native Studies departments and courses on Métis history and politics, which leads to many events, talks, and gatherings of relevance to my research organised by the staff and students. There are also many events, festivals and museums across the city and in St Albert that had a Métis element or were Métis-organised, which I was able to attend and, in some cases, to assist with. The offices of various Métis organisations were also based in the city, and I was able to easily travel to Calgary, about 3 hours to the south, to attend the court proceedings in which I was interested. I was also able to meet a variety of people who talked to me about Métis issues, whether they identified as Métis or not, including in unplanned ways such as in the pub, through friends or acquaintances, and through sharing a house with up to 8 people who came and went on short rental contracts.

However, living in a city meant that my fieldwork was not of the (stereo)typical type: living with a family in a small area, meeting almost everyone, being able to be involved or at least observe many things by just being there. I had to actively seek out people and events and places, and there were times (especially over the winter) when there was not much going on that I could ‘see’. It was also more difficult to follow up the threads of various connections and individuals, as people moved away or I didn’t see people for months at a time, or only met them once or twice. It was difficult at times to do research with a community that I could not easily see, either physically as a location, or as a group of people interacting together day-by-day. Fieldwork in a big city also meant that the people I met, with a few exceptions, did not live in what would be called a ‘traditional’ way, they were academics, students, educators, charity workers, chefs, oil-camp workers,
poets, lawyers, environmental officers, admin staff, unemployed. This was even more interesting to me, as from conversations with them, I could see that they clearly felt some strong connection to their history, as well as a strong sense that they were Métis, and that this mattered to them. This form of fieldwork occasionally felt disjointed, as if I was seeing a variety of things happening, talking to a variety of people, but that they did not coalesce easily. Later, as I began analysing my data and thinking more about the connections and threads between people and events, and how they were tied together, this feeling of doing lots of separate bits of research began to fade.

In Edmonton and in St Albert, I involved myself mainly in several key locations, at first to fix myself to something that felt like ‘doing fieldwork’ and to build a regular routine, and later because these locations came to feel very meaningful and interesting to me in ways that I had not expected, and that moved away from my early research questions and aims. In this way, my involvement with one museum in particular led to many relationships and opportunities that would not have been there if I had concentrated so closely on my original research aims, which had been heavily focussed on the legal side of Métis experience. This also turned out to be a good thing for another reason – that not so much was happening on a day-to-day basis with the legal issues, and that element of my research tended to involve larger, infrequent events and interviews rather than a more day-to-day or week-to-week participant observation and informal interviewing format. Very early in my fieldwork, I volunteered to work at least once a week at the Michif Museum in St Albert, and continued this relationship for the duration of fieldwork. The Michif, as it is known, is a small museum, formerly a residence, in the oldest part of the city, and was established as a Métis museum about 15 years ago. While I was there, it was
quiet in terms of visitor numbers, but I came to see that it operated to some extent more as a community centre and a place for artefacts to be kept safe, rather than a museum in the traditional sense. The women who worked there, and the people I met and things I heard about through them, were critical for shaping my actual experience of fieldwork. I also made several contacts within the University of Alberta and MacEwan University, including academic staff within the Department of Native Studies, students, and others attached to the universities in various ways. Again this was helpful in establishing myself in the early days of fieldwork, and in creating various leads for me to follow up on. As mentioned above, this kind of fieldwork was a difficult context for creating spontaneous meetings or moments when ‘something ethnographic’ happened, so I relied at lot on working through chains of contacts and acquaintances and recommendations.

My main ‘key ethnographic event’ which I had been able to plan before arriving in Canada, was the appeal of a court case I had been following (R. v. Hirsekorn) as part of my pre-fieldwork research into how Métis make a legal claim to aboriginality and aboriginal rights. This was held in the Alberta Court of Appeal in Calgary in February 2013. I was able to attend, but not to record, the case, and through it was able to listen to and to meet some of the big names in Métis politics and law, although only briefly as they were based in eastern Canada. This case was my attempt to understand in practice the legal framework within which Métis make claims, and how they manipulate or work through this framework to prove their claims. There were also other events and meetings, classes, gatherings and festivals that I was able attend or be involved in in a more participation-based way (including a course I took on making moccasins, which is a traditional skill for both First Nations and Métis, and attending a big Métis festival competition of both
traditional music and dance), and these helped me to build up an understanding of what it is to be Métis, or how people felt themselves to be Métis, in a variety of ways – legally, culturally, ancestrally, in a community. This wide variety of sometimes unconnected groups and gatherings also highlighted to me how ambiguous and uncertain any strict understanding of Métisness could ever be, as different people, institutions, organisations and communities spoke about or defined Métisness differently, or what it meant to them, how they felt they lived as Métis.

In terms of methods, I had decided that in view of the context of my fieldwork – urban, with people of interest to me scattered across the cities, and without knowing exactly how things would pan out in practice, I would take a very flexible approach to fieldwork methods. I planned initially to begin with several more formal (planned and structured) interviews with individuals I had been able to identify and contact before arriving in Edmonton, including at the university, the Michif museum, and the Métis Nation of Alberta, the local Métis political organisation. Beyond these initial plans, I wanted to see what would unfold, what paths and diversions might crop up or be closed off, and how best to approach people and work with them. I found a combination of informal interviewing, or steered conversations, combined with participant observation, or in some contexts more strictly observation, was the best mix of methods for me to address my research questions and themes, and to establish relationships with people. Many interesting conversations and insights also came in extremely informal contexts, such as talking to strangers in a pub while a friend was borrowing cigarettes from them, or in the kitchen of the house I shared, including with one individual who memorably told me that he ‘used to be Métis’. I found that this informal, participant-observation and chatting
based approach worked best for me as a researcher, and for the people I was working with and the context in which I was working with them.

I also took advantage, while in Edmonton, of doing archival, newspaper and library-based research. The city library and the university libraries were open to non-students and I was able to find many things not available elsewhere. In the newspapers, I kept an eye on how Métis and Métis issues were reported, including in the ‘Native’ local papers. This was a useful resource at times when Métis were ‘in the news’, at the time of the court case, when Métis groups were involved in the wider aboriginal issues and events, or political protests alongside the Idle no More movement in 2012-13. In terms of archival research, I was able to look through some of the historical documents associated with Métis in Alberta, including census breakdowns, historical photographs and records, and the scrip claims and grants, which were used as a basis to both deny and reinforce Métis claims for aboriginal rights. I was also able to collect several court documents from individuals close to the case that were not accessible otherwise, and this helped with understanding the claims and counterclaims, arguments and counterarguments that underlay that case. I have also been able to continue keeping up with events through the websites of various Métis organisations, and to follow up on several important Métis court cases that have concluded in the time since I returned from fieldwork.

The form taken by my fieldwork appears (and occasionally felt) fragmented, incoherent and unsettled. Rather than undertaking research in a limited, bounded context – physical or strictly thematic – I found myself following up and chasing a variety of sometimes

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17 This was a widespread protest movement, initially involving aboriginal groups in Canada before expanding to a wider environmental and worldwide indigenous sovereignty movement. See Coulthard 2014, and the official Idle No More website at [http://www.idlenomore.ca/](http://www.idlenomore.ca/) for the history and aims of the movement.
disconnected narratives, opportunities, and individuals. The physical context of the research was multi-sited, dispersed across three cities, Edmonton, St Albert and Calgary, and a wide variety of locations, such as courtrooms, university lecture halls, museums, libraries, cafes and bars, walks in woods and along rivers, festival venues, street corners and houses, to name a few – some fixed and regular, some transient and unique. The activities linked to these locations were also extremely varied: special events such as court appeals, regular events such as festivals, rarer but organised occurrences such as craft workshops, lectures or talks, and fleeting episodes in everyday settings, such as conversations and the everyday goings-on in the Michif museum or informal conversations with people I sometimes never saw again.

This fieldwork sometimes felt difficult to pin down, to hold the shape of it in my mind, or to combine the variety of ongoing threads and one-off events, and the contradictory or partially overlapping combination of data and feeling generated by the fieldwork. This ambivalence is certainly a reflection of the subject matter of the research, and it may be that the uncertainty in fieldwork was in the nature of researching such an ambivalent and unbounded (or at least not clearly bounded) identity. The unsettledness of Métis is mirrored in, and necessitated, the fragmentary appearance of my fieldwork. My attempts to feel out the boundaries and borders of Métisness involved following multiple and sometimes disjointed threads, from formal discussions in legal contexts to untangling personal and communal feelings and emotions, in an increasingly and challengingly unbounded fieldsite.
The ambiguity of the topic, and how Métis identity played out differently in a variety of contexts, was thus mirrored in the choices and situations open to me in fieldwork, and the difficulty I then had in forming coherence from this in the early stages of writing up.

In terms of ethical considerations, I was clear with people about what I was doing in Edmonton, and what I was interested in. I had prepared a short spiel about myself and my interests, but in general people I met were satisfied with my initial explanation that I was a student interested in Métis history and legal status, and in what it meant to people to be Métis, on a day-to-day basis as well as on a more emotional or self-identifying level. As general conversations turned into more steered or focussed conversations or informal interviews, I asked for verbal consent (not every time, if talking to the same people more than once), but from people’s comments and the general atmosphere of the contexts, I felt that written consent was too formal for the conversations and interactions we were having. I made it clear to people that I was doing research that would lead to a thesis, and no one I spoke to suggested anonymity or was unhappy with speaking to me. I struggled for a long time with the issue of anonymity. In some of the contexts in which I found myself, especially in the public domain situations, anonymity would not really have been possible. It also felt unnecessary in these public contexts. By these I mean for example the court case I attended – I could not anonymise the lawyers or the judges, and it was unnecessary. I have anonymised or given pseudonyms to people and events where this could be done – informal conversations within wider public events (such as people who spoke to me or each other in the audience of the court), or more personal conversations, such as with people in a pub, or on the street, or at smaller gatherings. I have also obscured any personal statements said in confidence or anything less than full public
domain. One other example of a location I could not anonymise was the museum I volunteered in. It is small, with only a few staff, and it is also extremely easily identifiable, in that it was the only such museum.

Many of the other people I spoke to were also difficult to completely anonymise, in that they were to some extent public figures such as academics, well-known poets, or worked in the Métis organisation. I have changed or omitted names, but they would still be easily identifiable to any determined investigator. But again, they were speaking to me as part of their public role, and I have used anything they said as an aside to me in other contexts within the thesis, where it is not clear which individual has said something. Many of the other people I came across were also speaking publicly and identifiably, such as giving talks, or speeches, or teaching a class, and as such their words were in the public domain, and where they might be seen as controversial, this was done publicly. I also decided not to anonymise the more public locations and people, such as the museum or the court case lawyers, as a means for opening up further research for others, should they wish to follow up on some of what I say in this thesis.

**Structure of this thesis**

This thesis is divided into four main chapters, alongside the Introduction and Conclusion chapters. The first of these provides an overview of the historical relationship between Canada and its aboriginal peoples, and how this relationship has come to the point where aboriginal rights, in particular Métis claims to aboriginal rights, are being addressed mainly through the courts in a judicialised manner, rather than through negotiations or political means. This chapter will lay out the legal context for a Métis claim to aboriginality and aboriginal rights, through an exploration of the legal history of
aboriginality in Canada, as it has evolved from a means to deal with the colonial context through the early Indian Acts and the creation of legally recognised categories of aboriginality (Indian, Inuit), through to how Métis have negotiated and fought for inclusion within this legal framework of aboriginality. Consideration will also be given to how other countries have managed such seemingly ambiguous claims to aboriginality. This discussion will sit within the context of the anthropological theory related to aboriginality and aboriginal rights generally (Asch 1993; Bell 1989; Imai et al 1999; Ivison 2003; Perry 2002; Simpson 2000), how claims to aboriginal rights are managed in the courts, through assumptions of authenticity and continuation of tradition (Culhane 1998; Hamilton 2009; Korsmo 1999; Posluns 2007; Tully 2000) and more specifically the Métis context, including the basis for Métis aboriginal rights (Bell 2003; Stevenson 2008) and a consideration of the particular difficulties Métis have of fitting into the legal structure of aboriginality in Canada. Representation of Métis and the legal separation of Métis and First Nations will be ongoing themes throughout the thesis, alongside the difficulty of pinning down a clear idea of who is Métis, which is critical for legal and political purposes such as recognition of rights.

The second chapter is an ethnographic case-study of how these legal claims are made in practice, following one such case (R. v. Hirsekorn, 2013) in which several Métis had been charged with hunting out of season in Southern Alberta, and had claimed a Métis aboriginal right to do so in defence. This case centred around how an aboriginal right is claimed, in this case it was specifically about whether there had been a Métis community in the area before Canadian control of the region, which needed to be proved as part of the legal tests developed to address First Nations and Métis aboriginal rights claims.
Alongside this case-study there are further discussions of the processes of claiming aboriginal rights in the courts (Bhandar 2007; Clifford 1988; Korsmo 1997; Mills 1996; Walters 2009) and for Métis in particular (Bell 1999; Ray 2008 & 2011; Stevenson 2003), and the changing political context in which this is happening, in Alberta and in Canada more widely. The ethnographic event of the court case is described in detail as a means to highlight the themes arising from how Métis represent themselves as aboriginal and authentic in the particular circumstances of the legal setting, and the expectations of the court of what a Métis aboriginal rights claim should look like. An in-depth ethnographic description also demonstrates how the courts grapple with fitting Métis into their frames and understandings of aboriginality and aboriginal rights, and community and history.

The third chapter takes a step back from the legal context of Métis identity, and examines how Métis are represented and represent themselves in a more public way, in museums (including the Michif Museum), and in festivals. The theoretical context that shapes the first section of this chapter includes discussions of museums and representation of aboriginal peoples (Brown 2014; McCarthy 2007; McLoughlin 1993) and self-representation of aboriginal peoples in ‘tribal museums’ (Clifford 1991). A theme here will be the separation of Métis from First Nations in these public contexts, and yet a recognition of the artificiality of such a division. This chapter goes into more detailed consideration of the day-to-day life of the Michif museum, and the kinds of things that emerged as being important to Métis in that context and more widely: the things that people spoke about, or told me about Métis history, identity and the importance of these for the contemporary Métis community. There is a shift from the everyday to an event: an ethnographic discussion of one Métis festival, highlighting the points raised about self-
identification, tradition and history, and community. The focus on representation and self-representation highlights the more social and cultural aspects of Métis identity, in reference to the discussions of legal and political identity in previous chapters.

The fourth chapter takes a more intimate approach and, through several ethnographic episodes, investigates in more detail the kinds of claims people make on an individual, social and community level about Métis identity, why it is or is not so important to them, and what being Métis means, what it is that Métis do. The emphasis is more on individual self-identification than on representation and legal identity as above, although there are interesting examples of people whose self-identification is in contradiction to their legal identity. These examples will fit into wider theoretical discussions of ethnicity and identity (Banks 1996; Barth 1969; Eriksen 1993; Jenkins 2008). Ethnic and aboriginal identity will also be discussed in terms of borders, boundaries and categories (Bowker & Star 1999; Green 2010), and the work done to maintain these distinctions, especially between Métis and First Nations. This chapter also highlights some of what I have grouped together as ‘everyday lived experience’, including people who have shifted identity over time from First Nations to Métis, vice versa.

Very broadly, then, this thesis will argue that there are varied ways in which various Métis actors (individuals, organisations, and communities) and others (the state, through law, and the courts) are addressing the issue of Métis identity and who is Métis, and that therefore the issue of Métis identity is never ‘settled’ – instead it remains unsettled, even radically unsettled. This emerges in different forms: legal, political, cultural, and personal claims to a Métis identity, which overlap and exclude each other in various contexts, as the boundaries of Métisness are drawn, accepted and contested, by those with different
aims and emphases. This is the reality of contemporary Métis identity: it means different things to different actors, and the mainstream Métis identity (as above, based to a greater or lesser extent on the history and continuity of the 19th-century Métis Nation) is the dominant, but not unchallenged, representation of this identity, in terms of the legal recognition of Métis aboriginality, and political representation of the Métis through the Métis organisations. The unsettled nature of the Métis/First Nations boundary, as necessary for Métis identity, but also as non-rigid, ambiguous and easily crossed, is a key theme through the thesis: from the legal definitions of Métis, through the sometimes-overlapping political histories, to changes in individual self-identification based on understandings of the categories.

Métis, as an identity, is a practical one: in practice, there are various folk, official, and academic understandings of the category, and the category has a practical use. Claims can be made, and upheld, on the basis of a Métis identity. This can include certain aboriginal rights (hunting, language, a small degree of community autonomy), the right to representation and consultation at provincial and federal levels of government (through the Métis organisations, mainly) as well as the social and individual contexts and consequences of staking one’s claim as Métis, in various situations in which this may or may not be accepted by others, Métis and non-Métis.

Métis identity is also ambivalent, even inherently ambivalent. The uncertainty of Métis identity, how it is bounded, categorised, performed, and represented, and yet how it can be a functional and useful identity claimed by an increasing and diverse population, is the main argument of this thesis. The theoretical and everyday ambiguity of Métis identity, alongside its practical and pragmatic functionality, is the key theme that can be taken
from the thesis, the key contribution this thesis makes to the wider anthropological
discussions of boundaries, borders, and functionality of identity. As will be described and
discussed throughout this thesis, who, at both an individual and a community level, is
Métis, is radically unsettled. Alongside the (Red River) Métis whose development follows
the ‘orthodox narrative’ described in this section, there are a myriad of complex
permutations of individuals and communities that claim a Métis identity and, with few
strict definitions, either from within the Métis community, wider society or the academic
sphere, there is no clear or fixed Métis/not-Métis line. And yet, the category has a
function. It is a useful category in the contemporary social and political context, as well as
the legal one.

The lines and borders that the various contexts create and delineate, such as between
Métis and Indians/Inuit in the legal context (with specific legal consequences), between
different views of who is or is not Métis in the political context (with various, sometimes
competing, Métis organisations and government initiatives and programmes) and in the
social context (where individuals, families and communities draw lines and make
judgements about who is Métis, and whether or not this includes themselves), shift, align
themselves, or overlap wildly. But the category, however roughly understood, is
functional among Métis, in mainstream society, and in the formal structures of the
Canadian state. No one agrees on who is or who is not Métis, or what Métis identity
represents or means, or what special or aboriginal rights or considerations Métis people
and communities should have. But still, there is political capital and social currency with
the category. The ambivalence is functional. It may even be the ambivalence itself that
allows such a category with little internal coherence to function so effectively in many
overlapping and contradictory situations and contexts. Throughout the thesis, the
ambiguity and ambivalence of the category of Métis, the uncertainty around its borders
and what and who it includes, will be discussed through various perspectives and
contexts: legal, political, social, and personal.
Chapter 2. “Seeing no feathers or beads, the white authorities saw no Indians at all”\textsuperscript{18}: the background to Métis aboriginal rights claims

Introduction: legal aboriginality in Canada

This chapter will establish the historical and legal background and framework for contemporary Métis claims to an aboriginal identity. The category of Métis, in a legal sense, is closely connected to legal understandings of who is and who is not (status) Indian, i.e. First Nations.\textsuperscript{19} At various points, ‘Métis’ had been understood as a sort of catch-all term for people with aboriginal ancestry but lacking legal status, but this usage is highly discouraged and challenged by Métis organisations who highlight the separate history and development of Métis people, and their separation from the First Nations, legally and historically, as well as culturally. How Canada has managed, and continues to manage, its relationship with the Métis as a separate, aboriginal people has been shaped by understandings of aboriginality and the complex legal framework originally constructed around the treaties and legal statutes attached to the First Nations peoples. Métis have had to carve out recognition for themselves as a people, and as an aboriginal people, within this context. This chapter will mainly discuss this issue in the form of a historical overview of the Canadian context, alongside some comparative examples from other post-colonial contexts. The intention is to lay out the problem of why Métis have come to claim an aboriginal identity, and aboriginal rights, through particular avenues and

\textsuperscript{18} Bordewich (1996: 75) discussing the dismissal of Lumbee claims to being a federal tribe in the USA.
\textsuperscript{19} The term ‘Indian’ is still used in Canadian legal language, although it has been largely replaced with ‘First Nations’ in most other usage. In this thesis, I will use ‘Indian’ for legal contexts and ‘First Nations’ elsewhere. ‘First Nations’ does not refer to Métis, Inuit or non-status Indians (generally).
paths, mainly the legal system rather than treaties and negotiations. The next chapter will look more closely, and ethnographically, at how Métis claims are made in practice.

In 1982 the Canadian state ratified a new constitution which, for the first time, dealt with Métis in the context of aboriginal rights. Section 35 of the constitution, which outlines the categories of aboriginality in Canada, now forms one of the bases of Métis claims to aboriginal rights.\(^2\) The relevant section of the constitution reads:

\[
\text{s.35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.}
\]

\[
\text{(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada (Constitution Act, 1982).}
\]

The constitutionally recognised ‘aboriginal peoples’ are the Indians (i.e. the various First Nations), the Inuit and the Métis, and their aboriginal rights are ‘affirmed and recognised’. The wording of this section leaves open several possibilities and ambiguities. Firstly, no definitions are given. The category of ‘Indian’ is based on previous Indian Acts, and so is made up of those with Indian status. ‘Inuit’ and ‘Métis’ are not clarified, nor are several terms that are open to interpretation, namely ‘existing’ and ‘aboriginal rights’. There is also a suggestion in the wording of two interesting possibilities: firstly, that the ‘aboriginal peoples of Canada’ are not limited to only the three mentioned (‘includes’) and secondly, that there may be more than one ‘Métis people[s]’ as the plural is ambiguous. These points are important within the wider debate over aboriginal rights in Canada (for example, who else might be considered an aboriginal people?) and more specifically for

\(^2\) Other cases, such as R. v. Blais (2003) have relied on expanding s.91 (24) of the 1867 Constitution to cover Métis as well as Indians. This will be discussed further below.
the Métis (one Métis nation or several Métis peoples across Canada?) The second of these will be considered further in later sections of this chapter. The first is more relevant in this section, in the context of the consequences of the legalisation of the various categories of aboriginality, and the possibilities for those left outside of them.

Broadly, then, there are currently several kinds of aboriginal people in Canada, both individuals and communities, some of whom are legally recognised and some of whom have no special legal status at all. These include the ‘Indian, Inuit and Métis peoples’ recognised in the constitution, and the non-status Indians (those who self-identify as Indian but do not have legal status as such), and a further ambiguous group sometimes called the ‘other Métis’ (Magnet 2003: 50). These are those who self-identify as Métis, but who, as individuals or as communities, have been unable to convince the courts or the state that they fall within the category of Métis in the constitution, and consequently have no legal recognition. As the boundaries of all these categories are so complicated, particularly those of Métis and non-status Indian (as Indian and Inuit are to some extent legally defined), this ambiguity around Métis, non-status Indians, and those referred to as ‘other Métis’ is fascinating. The contradictions and consequences that appear when a state, through its legal instruments such as the constitution, attempts to bound the categories of aboriginal peoples, and what happens when those who are excluded feel they should be included, are made visible. To a larger extent this has been the story of legal Métis identity: before 1982 they had no legal recognition as an aboriginal people, although some who self-identified as Métis may have had Indian status through their ancestors. After 1982, Canada recognised Métis as an aboriginal people, but the way this has been interpreted since has left out and excluded as not being able to claim Métis
aboriginal rights, some of those who self-identify as Métis. There continues to be uncertainty over what the legal boundaries of the category of Métis are, and what inclusion in the constitution will mean for Métis. Firstly, however, I will explain further the legal categories and the position of those who fall outside them, and how this has shaped the current situation where, for both Métis and Indians, the courts have come to be a means to have their aboriginality recognised and acted upon, in the form of legal recognition of certain aboriginal rights or title to land.

The legal category of “Indian”

The ‘Indians’ in the 1982 Constitution are those individuals who fall within the Indian Act (Indian Act, 1985), known as ‘status Indians’ (i.e. their status as Indian is recognised). The legal category of ‘Indian’ began to come into use in the mid-19th-century as bands and tribes began to be registered as ‘Indian’ and came under the jurisdiction of the first Acts covering Indians in the 1850s and 60s. In the 1850s, attempts began to compile a register of Indians, although the early commissions sent out to find them were very haphazard, often missing out individuals and even skipping isolated areas entirely (Morse 1985: 1). Federal control over the lives of Indians grew as the Indian Act came into law (originally in 1876). Who exactly was to be included in the Indian Act was rarely very clear – within the Act itself, the definition is circular: ‘a person who, pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian’ (s.2 (1), Indian Act 1985) – if you (or your ancestors through the male line) were registered as Indian, then you are legally an Indian. The methods of registering, and the criteria for deciding who was Indian means that today, whether someone is or is not legally considered Indian is based on

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21 Such as the ‘Gradual Civilisation Act’ in 1857 and the ‘Gradual Enfranchisement Act’ in 1869
fairly arbitrary decisions about whose ancestors were living an ‘Indian’ lifestyle, and whether later descendants lost status through enfranchisement (if you wanted to vote you had to give up your status, and Indian women who married non-Indians lost status for themselves and their children, in other cases educated Indians lost their status) (Asch 1993: 3). This meant that status, even Indianness, became a legal identity, having no necessary connection to social or cultural, or even ancestral, identity (Frideres 1998: 24). Having Indian status is not about personal identity claims, it is a legal inheritance: overall, the concept of “Indianness” in Canada does not have much to do with cultural, racial or social factors. It is tied more specifically to various pieces of legislation, most notably the Indian Act’ (Hedican 2008: 222).

The introduction of Bill C-31 in 1985 created a legal avenue for people to have their Indian status reinstated, if it was lost by themselves or their close ancestors through e.g. their mother having married someone without status. This has enabled some people who self-identify as Indian to have this legally recognised, if they fulfil certain criteria such as descent by one or two generations from a woman who lost status. Having Indian status gives individuals certain special legal positions within Canadian law (such as access to reserve lands, hunting rights etc.), and being based on the Indian Act rather than s.35, this special status does not extend to Métis, even though they are now in the constitution as an aboriginal people.

Beyond the Indian Act, attempts have been made to legally extend the definition of Indian to apply more widely, to Métis and even to non-status Indians, through a case involving s.91(24) of the 1867 Constitution, which granted jurisdiction over Indians to the federal government, rather than the provinces:
s. 91 It is hereby declared that the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

(24) Indians, and Lands reserved for the Indians (Constitution Act, 1867)

This case, Daniels v Canada (2016), asked the courts to make a declaration that Métis and non-status Indians were ‘Indians’ within s. 91(24), and hence that the federal government would have the ability to deal more easily with Métis as a group, and that there was some potential responsibility to provide for Métis and non-status Indians; that Indian status was not the only form of special legal position. This case was not about whether the Indian Act would include Métis and non-status Indians, however. In April 2016, the Supreme Court of Canada issued its judgement, declaring that Métis and non-status Indians were ‘Indian’ under s.91 (24) – i.e. that at the time (the 1860s), the meaning of ‘Indian’ in this context was similar to how ‘aboriginal’ is used now. An earlier case, Re: Eskimo in 1939 had essentially done this for Inuit, including them under ‘Indians’ in s.91 (24) but not in the Indian Act. In asking for the (legal) category of Indian to be taken to include Métis and non-status Indians, alongside First Nations and Inuit, the claim here is a legal one, not a cultural or political recategorisation. This is not about claiming to be Indian; this is a strategy of manipulating categories to stretch legal understandings in a pragmatic way to include Métis, basically using the legal category of “Indian” to mean something closer to what is meant by “aboriginal” in the 1982 constitution. This is a key point in the seeming confusion about the Métis- “Indian” boundaries, and the ambiguity of how rigid a separation there is between the two. In some areas, it is necessary for Métis to stress their distinctiveness from other aboriginal peoples, in order to stake out a place for
themselves. And yet in this particular context, it is in their legal interests to use this avenue of broadening the category of “Indian” to include them too, as a means of having their claims to rights acknowledged.

This means that now there are several categories of aboriginality in Canadian law, with more or less special status attributed to them. In the 1982 constitution, there are the s.35 ‘aboriginal peoples of Canada’, the Indian, Inuit and Métis. The Indian Act covers status Indians. Section 91(24) of the 1867 Constitution has very recently been judged by the Supreme Court of Canada to cover Métis and non-status Indians, and had previously been judged in the 1930s to include Inuit. This judgement has not been acted upon by the government as yet, and it is still unclear exactly what it will mean for non-status Indians and Métis, as it is so new. It does provide the first real recognition of some kind of claim for non-status Indians, who historically have been sometimes classed with Métis as a residual category of aboriginal-but-not-Indian/Inuit. The old legal boundary created by the Indian Act divided aboriginal people by status, and since then, both Métis and non-status Indians have tried to have their identities recognised as legally aboriginal. It is important to note the legal ambiguity over the boundary between non-status Indians and Métis, which even now is not rigid, as individuals make claims to various identities, Métis or non-status Indian, partly in reaction to how they see they can have their aboriginality recognised. This goes against many Métis claims to identity based on their clear separation from other aboriginal peoples, that ‘we are Métis, not Indian’. This highlights the problem of legal boundaries and consequences not mapping onto individual and community self-identification, as well as ambiguities about political manipulation of categories in the pursuit of perceived benefits: the charge that some mixed-ancestry
individuals who had been ‘unable to get through the “Indian” door’ (Giokas & Chartrand 2002: 103, also Lawrence 2004: 83, Redbird 1980: 2), that is unable to be registered as an Indian, have turned to ‘Métis’ as a means of having aboriginal rights recognised. This has brought up further complications for Métis identity and standing as a separate people to Indians, especially in the perception of Métisness as another avenue for people who have been unable to claim Indian status to pursue aboriginal rights, as a ‘political vehicle for realising their rights claims’ (Giokas & Chartrand 2002: 99). This has led to some resentment among the more historically established Métis communities with strong connections to Red River and the 19th-century fur trade in the Northwest, who feel their identity is being appropriated. However the dividing line, whether legal, political, cultural or individual, between Indians and Métis is not solid, and while the constitution separates them, ‘historical and contemporary distinctions between Métis and Indians are not, nor have they ever been, so neat’ (Andersen 2008: 354). Andersen argues that Métis should not be a category to house all those whose claims to aboriginality are not otherwise accepted: ‘what obligation do any of us – Métis included – owe dispossessed Indigenous individuals and even communities, who put forward claims using a Métis identity based not on a connection to Métis national roots but because it seems like the only possible option?’ (2011: 164).

This artificial legal separation within aboriginal Canada divides people into those with and without status, i.e. legal recognition of a separate, special relationship with the Canadian state, with the possession of a status card being the dividing line (Lawrence 2004: 222). The creation of an ‘Indian’ legal identity, rather than a more broadly aboriginal one, means that many were left out of status – Métis and Inuit as not being ‘Indian’, and many
non-status Indians who for various reasons never had, or have since lost, Indian status. While Inuit and Métis now have some form of recognition through the constitution and, more recently, the Daniels case which has included both the Métis and non-status Indians in some legal meanings of ‘Indian’ through s.91 (24), the non-status Indians are still in a legal limbo, excluded from a legal status as Indian or ‘First Nation’ (Cornet 2003: 122) and with no certainty of what Daniels will lead to. The consequences of dividing aboriginal people on the basis of legal status is described for the Mi’kmaq by Palmater (2011: 19) as discrimination that continues through the generations as some are excluded from their individual and community identities and band membership because of an ancestor who was excluded from the Indian Act up to 100 years previously. The arbitrary legal distinctions, especially between status and non-status Indians, have become an established fact, even a basis now for separation: ‘this is the problem when legislation is introduced that controls a group’s identity – once created and established, it cannot simply be undone… government-created differences have now been naturalised as inherent differences’ (Lawrence 2004: 230). The created categories of status Indian and non-status Indian become naturalised and taken for granted in other forms, as the practical consequences of a legal distinction come to affect other areas of life. This will be discussed in later chapters through ethnographic examples.

This confusion and arbitrary differentiation between different legal identities of aboriginality is demonstrated by the various legal and constitutional statutes dealing with aboriginal peoples using a variety of different terms, with different meanings and applications. Terms like “Indian”, “Inuit”, “First Nation”, “aboriginal”, “Métis”, or older terms like “half-breed” or “Eskimo” have created divisions within the aboriginal people
which some say are artificial and unhelpful, even damaging (Palmater 2011), and clearly imposed by the state rather than reflecting the lived experience of the aboriginal peoples themselves. As Cornet argues:

‘the self-serving process by which colonisers classify other people on arbitrary grounds and assign legal rights and interest based on such classification, is at odds with fundamental notions of human rights and human dignity. A system of racial identification and classification imposed through colonialism is quite different from self-identifying cultural groups organising themselves into collectivities, as peoples’ (2003: 125).

Once again, the discussion in this chapter is only about legal status and categorisation, not personal or community self-identification. This chapter, and the following chapter discussing a case study of a Métis hunting rights claim, will concentrate more on the legal categorisation, while the later chapters will look more at personal and social identification and experiences of Métisness. The point to take from this is that the legal categories do not map neatly onto the self-identification and everyday life of individual people, necessarily.

**The legal category of “Métis”**

The position of Métis, as individuals and as a community or nation, within the legal context of the Indian Act and Canadian legislation, has been ambiguous for a long time. Before 1982, there was no legal category of “Métis” in British or Canadian law (although there was some recognition of Métis as a group in the case of scrip), so you were either Indian/Inuit or white (Frideres 1998: 23, also Pulla 2013: 39). In the earliest Acts that legislated for Indians in the 1850s, before the confederation of Canada, some individual
(self-identifying) Métis had been included, on the basis of Indian ancestry, and were registered as Indian at the time (Walters 2009: 34). Meanwhile others had on occasion been included in treaties in the 19th century, depending on local circumstances (Flanagan 1983: 315), but they were not acknowledged legally as an aboriginal people or nation in their own right.

In practice, however, the boundary between Indians and Métis (and also non-status Indians) has been more or less porous. In the late 19th century, when the scrip and treaty commissions were undertaking their work in identifying who was Indian (and should be registered) or Métis (and may be entitled to scrip after the establishment of the province of Manitoba, and later the Northwest Territories), there seems to have been some flexibility. Cornet describes how

‘at one time, federal policy was much more liberal in allowing for individuals of mixed Aboriginal and European ancestry to self-identify as “Indians” or as “Métis”... mixed blood people often were allowed to choose between treaty (and with it Indian legal identity) or scrip (and a Métis legal identity)’ (Cornet 2003: 142, see also Ens 1999: 4) (the ‘Métis legal identity’ that Cornet refers to was specific to the context of individuals taking either scrip or treaty – it was not a comparable legal identity to status Indian).

In cases like this, the only distinction between the two groups, members of whom may self-identify in other ways, was a legal one based on how aboriginal people of mixed ancestry had had their potential claims to aboriginal land rights dealt with - whether their ancestors had taken scrip or treaty in the late 19th or early 20th century. Occasionally now some of their descendants are challenging the legal reality this has imposed on them.
Some individuals whose ancestors fell into the ‘Métis’ category are having their Indian status reinstated and recognised (Giokas & Chartrand 2002: 94). The criteria used for separation, especially between Métis and mixed-ancestry Indians, was also dependent on the purpose of classification, and could be more generous in certain circumstances. These criteria could include things like genealogy/ancestry, cultural affiliation, self-identification, lifestyle, residence and even political ties (Pulla 2013: 403; Schwartz 1985: 225-6; Vermette 2008: 22). Again, the point here is that this separation into categories of Indian or Métis was a legal one. While many Métis I spoke to were also very clear that they were Métis rather than Indian, the ambiguity of the Métis/Indian boundary comes from the differences between how people feel, how they identify themselves and see their history, and how this maps onto the rigid legal categories identified by the Canadian state.

While the term “Métis” is widely used in various contexts, there are few actual definitions of the term at all. The Métis National Council, which represents Métis at the federal level, and the Supreme Court of Canada, as in the Powley case (R. v. Powley 2003, discussed further below), use a definition based on self-identification, ancestry and community acceptance (Schwartz 1985: 16). The term is used to potentially mean different groups, in a range of legislation (such as the 1982 Constitution, and Métis Settlements Acts\textsuperscript{22} in Alberta), in one treaty land claims process (the Sahtu-Dene and Métis settlement in the Northwest Territories in 1993\textsuperscript{23}), and in many different political, cultural and practical contexts. In particular, individual self-identification as Métis can be based on a wide range of criteria, such as descent from the Red River Métis Nation, cultural distinctiveness, to a

\textsuperscript{22}Métis Settlements Act, 2000: ‘S.1 (j) “Métis” means a person of aboriginal ancestry who identifies with Métis history and culture’.

\textsuperscript{23}Sahtu Dene and Métis Land Claim Settlement Act, 1994, is an agreement or modern-day treaty to address Dene and Métis land claims in the Northwest Territories.
general mixed-ancestry and mixed-heritage context (Isaac 2012: 385). The very fact that there is so much debate and difficulty in giving an agreed-upon meaning to the term “Métis” in these contexts, shows how crucial a struggle it is for Métis to have their identity and their aboriginal rights recognised (Isaac 2012: 385). As Saunders argues, without a clear understanding of who is Métis, the state can delay dealing with claims for Métis aboriginal rights: ‘without question, one of the most pressing and divisive issues facing the Métis Nation today involves ongoing debates over identity and citizenship... in many ways, the lack of movement on Métis rights has largely been justified by the state in the context of debates on this very issue’ (Saunders 2013: 366).

Métis as a legal identity that could contain aboriginal rights has been tested in the courts several times, most notably through the Powley case24 which began in 1993 and reached the Supreme Court in 2003. This case was seen as ground-breaking for Métis, as it was the first to test Métis s.35 aboriginal rights, and to lay out how the courts might address Métis rights. It was also important because the Métis won at every level of the courts, as the Crown appealed all the way to the Supreme Court. Powley was a hunting case from Sault Ste. Marie, in Ontario, where two hunters shot a moose without licences, and claimed a Métis aboriginal right when arrested. In the courts, they were able to prove to the judges that they met the criteria for similar First Nations aboriginal rights claims, although adapted to the circumstances of Métis history. The Powley case has many implications for Métis rights claims, and will be discussed further in the following chapter.

24 R. v. Powley 1998 (trial), 2000 (Ontario Superior Court of Justice), 2001 (Ontario Court of Appeal), 2003 (Supreme Court of Canada).
Political organisations and the 1982 Constitution

Regional and provincial political organisations for Métis interests date back to the late 19th century, established ‘in response to historical circumstances, cultural survival and political necessity’ (Pulla 2013: 397). The earliest included L’Union Nationale Métis Saint Joseph du Manitoba in 1888, to foster awareness of Métis (Weinstein 2007: 22) and the St Albert Métis Association in 1897, set up to address Métis land claims in Alberta, such as suggesting changes to scrip locally (Pulla 2013: 407). People I met during fieldwork had maintained a folk memory of the St Albert group meeting in each others’ cellars in cold winters, trying to work out the best way to deal with the government and help their situation. In the 1920s and 30s, more Métis organisations appeared in the prairie provinces, Ontario and British Columbia, in particular to deal with the ‘crushing social and economic conditions’ of many Métis during the Depression (Saunders 2013: 349). One of these was the Métis Association of Alberta in 1932, now the Métis Nation of Alberta (MNA), which was influential in the establishment of Métis Settlements in the province in the late 1930s. The extreme poverty and often landlessness pushed the Métis and the Alberta government to look for a land-based solution, and the Ewing Commission was set up in the province in 1934. It investigated ways to deal with the difficulties of Métis in the province, after the government was ‘embarrassed into developing a plan’ (Bell 1999: 12), and the first of 12 Métis Settlements were established in Alberta in the late 1930s (four were disbanded in the 1950s, but eight are still active). Although the settlements were set up as a Métis land base, the provincial government retains overall control and the settlements were promoted as ‘part of a larger social welfare programme provided to other Albertans, and not a recognition of the Métis’ Aboriginal rights’ (Pulla 2013: 410; also Weinstein 2007: 25-6).
In the 1950s and 60s, the older Métis organisations were reorganised around new issues (resources, land, rights) and new provincial organisations were established (Weinstein 2007: 30), in a wider international context of civil rights movements, decolonisation, and minority rights. With more liberal attitudes in Canada after World War II came a growing awareness of Métis and their lack of rights as aboriginal peoples, and increased political organisation of Métis and non-status Indians. The Native Council of Canada (NCC) was formed in 1970 to represent non-status Indians and Métis groups, who ‘despite their fundamental differences in history, culture, and political aspirations... found themselves in much the same relationship with the federal government’ (Weinstein 2007: 31 also Belcourt 2013: 133) – i.e. having no special status or claims. The ‘marriage of convenience’ in the NCC between Métis and non-status Indians made sense, as both were in the same legal position (Saunders 2013: 352), an alliance added to their political presence, and the federal government supported this alliance through its funding strategies (Weinstein 2007: 33). The NCC was the first federally recognised, and funded, organisation for non-status people nationally and was seen by the federal government as representative of both non-status Indians and Métis.

During the 1970s there was an increasingly perceived need for an overhaul of the 1867 Constitution in Canada, mainly for other reasons such as the Quebec referendum on sovereignty which was held in 1980 (Weinstein 2007: 40). Aboriginal rights were not originally a crucial issue in the drafting of the new Constitution, but there was a need to clarify the position of aboriginal people, especially after the uproar among aboriginal organisations following Prime Minister Trudeau’s infamous ‘White Paper’ in 1969 which had advised repealing the Indian Act, leaving status Indians and Inuit with no special
status or rights in Canada (Government of Canada, 1969). By 1980 the NCC, along with the National Indian Brotherhood (now the Assembly of First Nations, AFN, representing status Indians) and the Inuit Tapiriit Kanatami (representing Inuit) were leading the push for the new constitution to make some statement protecting and recognising aboriginal rights.

The NCC was also demanding aboriginal involvement in the creation of the new Constitution, in particular finding a way to protect Métis aboriginal rights, as they were afraid that otherwise the Métis would continue to be excluded, or the whole aboriginal rights issue may be dropped from the agenda altogether. For all aboriginal peoples, with or without status, the constitutional talks were coming to be seen as a way to recognise and cement their special relationship with Canada (Weinstein 2007: 40). A lot of publicity was generated and the aboriginal rights issue and involvement of aboriginal people in the talks moved from being a side note to a national and international concern. Representatives of the three national aboriginal organisations were eventually included in the consultation process, initially as observers but later at all levels of negotiation. A concern for the provincial governments, and their main reason for wanting to minimise aboriginal participation, was that they had a lot to lose if there was a push for more aboriginal rights to be entrenched in the new Constitution. Many of the key areas that aboriginal organisations wanted to fight for control over fell under provincial jurisdiction, such as land, resources, health care, and education (Weinstein 2007: 42-3).

At the same time, the provinces were still pressuring the government to drop the ‘aboriginal rights’ clause (what would eventually become section 35), and after much negotiation, in December 1981, the final wording was accepted by parliament as ‘the
existing aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognised and affirmed’ as section 35 of the Constitution. This was seen as a bit of a setback because of the inclusion of ‘existing’, and the fact that the rights are not defined (Weinstein 2007: 53). The new constitution was ratified and came into effect in April 1982.

Another section of the Constitution (s.37) provided for a series of Constitutional Conferences on matters directly affecting aboriginal peoples, which would include the Prime Minister, the provincial First Ministers, and representatives of the aboriginal peoples (i.e. the Assembly of First Nations, AFN, representing status Indians, the Inuit Tapiriit Kanatami for Inuit, and the NCC for Métis and non-status Indians). The Métis wanted to use these conferences to clarify their rights, in particular the problem of a Métis land base, while the non-status Indians were more interested in finding ways to regain status (Pulla 2013: 415). Métis in the NCC were increasingly worried that the organisation was dominated by non-status Indians and that at the conferences the needs of the Métis may be left out if the NCC was to be their representative (Weinstein 2007: 61).

So an already divided NCC was going into the Constitutional conferences pursuing two separate arguments. The non-status Indians wanted to pursue and elaborate on the ‘existing aboriginal rights’ while the remaining Métis and the MCA wanted to use the conference rather than the Constitution to define aboriginal rights. Their main fear was the word ‘existing’ because it would be easy for courts or provincial governments to argue that Métis rights had been extinguished by the Manitoba Act in 1870, as the distribution of scrip could be seen as compensation for lost lands and rights, and they would be left with nothing. This division pushed the NCC to breaking point and the MCA
and most of the remaining Métis organisations left in January 1983, demanding that the NCC should no longer represent itself as speaking for Métis. The conferences themselves led into a kind of deadlock and were inconclusive for the Métis (Gaffney et al 1984: 46), and the MNC and the provincial Métis organisations have since ended up using other approaches and methods to have Métis rights addressed, through negotiations between them and the government, and through claims in the courts. Political progress has stalled after a series of Accords\textsuperscript{25} based on negotiation between the federal government and the Aboriginal organisations (the AFN, Inuit, MNC and NCC – now the Congress of Aboriginal Peoples, CAP) to address Métis and aboriginal rights issues were either defeated at referendum or not acted upon by new governments (Pulla 2013: 421-3). This left the legal route as the most promising for Métis claims to aboriginal rights.

**One Métis Nation, or several Métis peoples?**

When the 1982 constitution listed Métis alongside the ‘Indian and Inuit peoples’ as one of the aboriginal peoples of Canada, it was seen as a recognition of Métis as a people in their own right, not as a kind of Indian, but as a people with a distinct culture and history developed over 250 years (Stevenson 2003: 63). However, the term “Métis” is not defined in the constitution, and since 1982 there has been a lot of discourse and debate over what the constitutional meaning will be. Some argue that it is only the historic Métis Nation based in 19\textsuperscript{th}-century Red River that is recognised, while others would argue for all who self-identify as Métis, or something in between, such as the approach taken by the courts in deciding on who can claim Métis aboriginal rights (recognising as Métis those who self-identify as Métis, are connected with a contemporary Métis community, and

have ancestral connections to a historic Métis community, see for example R. v. Powley 2003). The Royal Commission on Aboriginal Peoples was an expansive Commission into the situation of aboriginal people in Canada and their relationship to colonial history and the contemporary state, in the early to mid-1990s. In its multi-volume report published in 1996, the RCAP concluded that in a way it did not matter – as all those with a claim to an aboriginal identity are included in the ‘Indian, Métis and Inuit peoples’ in the constitution, and as such are all covered by the section 35 protection of their aboriginal rights (Royal Commission on Aboriginal Peoples 1996: 208). This would suggest that it would be unnecessary for non-status Indians or those not historically connected to the Red River Métis history to claim a Métis identity, as they would still have recognition as being aboriginal. This is a very generous reading of s.35, taking advantage of the looseness of the language of ‘includes the Indian, Inuit and Métis peoples’. The question of whether there is one Métis Nation, based around the 19th-century history of Red River and its descendant communities, or whether the Métis people come from a wider variety of mixed heritage and fur trading backgrounds in many parts of Canada, or whether there are many Métis peoples all across Canada who developed almost independently from each other, as descendants of mixed communities in different parts of the country, is tied very closely to the problems of Métis identity, and claims to legal recognition of Métis aboriginal rights, as well as a sense of their identity as a people, of their history and nation. This theme came up again and again in my fieldwork, as various people talked to me about who was Métis, why they considered themselves to be Métis, and what it meant to them. Many would disagree strongly with each other, as some would limit Métis identity to those descended from the Red River community, while others were more inclined to use ‘Métis’ as shorthand for ‘aboriginal and mixed’. This problem is central to
how Métis have represented themselves politically, and how the state has attempted to manage claims to Métis aboriginal rights. If the legal definition of Métis is based on self-identification, ancestry and community acceptance, the political understandings of what it means to be Métis, and who can be considered (by whom) to be Métis, are contested and ambiguous.

Métis in Alberta are represented at the political level by the Métis Nation of Alberta (MNA), who, along with similar organisations in other Canadian provinces, are represented nationally by the Métis National Council (MNC). The Métis Nation of Alberta (MNA) has about 45,000 members in the province, from an estimated population of 100,000 Métis (Statistics Canada, 2013), and functions as ‘basically a registry of Métis in Alberta’ one employee at the MNA told me when I interviewed him early in fieldwork (November 2012). He said that due to the apparent success in 2003 of the Powley case for Métis rights, the subsequent upsurge of interest in and support for Métis identity and aboriginality, and a growing feeling that membership creates ‘a sense of Métis citizenship’, the numbers of people applying for membership of the MNA had increased dramatically in the past decade, what my contact at the MNA describes as the ‘Powley effect’. He said that as a population with a young demographic, there were also many children and teenagers who would soon be eligible for membership, so he anticipated an even bigger representation in the next few years. The MNA’s membership criteria (see Fig. 2.1 below) are the same as that of the Métis National Council.

As with the definition used by the courts, it is based on community acceptance, self-identification and ancestry. However, it highlights the Métis as being ‘descended from the Historic Métis Nation’, the area of west-central Canada centred around the 19th-century
settlements at Red River (Manitoba) and its hinterland, extending west and north through the prairies. This definition is tied to the image of the fur trading, hunting, and farming Métis Nation that united itself politically in the mid-19th-century through its rebellions against the emerging Canadian state. This is the straightforward narrative of Métis history,

In 2002, the Métis National Council adopted a national definition of "Métis". The definition was brought to the Métis Nation of Alberta General Assembly in 2003, accepted, passed, and incorporated into the MNA bylaws under Article 3.1:

"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."

Fig. 2.1 National Definition of Métis. (Source: Métis Nation of Alberta, n.d.).

the story usually told of the ethnogenesis of the Métis Nation from the descendants of fur trading French and Scots and aboriginal women in the prairies and the interior from the
late 18th century, as I described in the Introduction chapter (see for example Bakker 1997; Friesen 1984; Peterson & Brown 1985; Podruchny 2006).

In terms of actually becoming a member of the MNA, applicants must supply evidence to show that they have an ancestral connection to this ‘Historic Métis Nation’. A genealogy must be prepared that shows the applicant’s Métis ancestry going back to the 1800s, backed up by evidence of those ancestors’ Métis identity, such as scrip certificates, or baptism and marriage records listing them as Métis, etc. The use of documented genealogies is interesting, in that it shows the ‘important social, political and legal dimensions’ that genetic ancestry has taken on (Hamilton 2012: 267), whereby genealogy becomes a practice with ‘guarantees of truth about individual identity’ (Nash 2002: 28). Acceptance as a member of a Métis provincial organisation or the MNC does not make someone Métis in a legal, de jure, sense, although in some cases such as Powley, membership of a Métis organisation has been taken as de facto meaning that an individual is a member of a contemporary Métis community, which is one of the criteria the courts use to assess an individual’s claim to Métis aboriginal rights. One of the MNC’s aims is to establish a national register of Métis, that could be used in the future by courts and the government to ascertain who is or is not eligible to claim identity as Métis, such as for aboriginal hunting rights, etc. (Métis National Council 2013: 5).

However, political representation of all those who claim to be Métis is not as straightforward as these criteria. As well as individuals, several groups fall outside the membership acceptance criteria of the big provincial organisations like the MNA, or overlap with it. First are those Métis communities in Alberta whose recent ancestors were given permission to settle in the newly-formed Métis Settlements in the 1930s. The
criterion for living on the settlements was originally racial: in the original 1938 Métis Population Betterment Act, an eligible Métis was to have ‘a minimum of one quarter of Indian blood’ although this was later dropped, and membership is based on self-identification and community acceptance (Sawchuk 2001: 75). The 6,500 Métis (less than 10% of the Albertan Métis population) in the settlements are represented in Alberta by the Métis Settlements General Council. The aims of representation of the Settlements are different from those of Métis generally, as they are in a specific relationship with the province and have some measure of local control over the land and resources.26

Another set of Métis not represented easily at the provincial and national levels by the big Métis organisations are those that less clearly fit the traditional narrative of Métis historical national development. These Métis, while claiming an aboriginal identity based on a history of mixed ancestry and development of a separate identity as a new community, are not historically connected to one specific instance of this: the established and historically prominent Historic Métis Nation based around the settlement of Red River in what is now Manitoba, in the nineteenth century. It is this Métis Nation that forms the imagined core of most recognised claims to Métis identity, as well as the basis for many of the symbols and recognition of Métis identity as it is generally understood today, and is the generally-recognised narrative of Métis history. These ‘other Métis’ are harder to fit into a narrative of a solid, easily grasped aboriginal nation, in the terms that this is generally understood – one with a common history, land base, language, and ancestry. However, as described above, there is a space for more than one ‘Métis people’ within the legal wording of the 1982 constitution, where the language is ambiguous: ‘the

“Aboriginal Peoples of Canada” includes the Indian, Inuit, and Métis Peoples of Canada’, allowing for an interpretation of the plural in ‘Peoples’ to refer to several Métis peoples.

This view that there are potentially more than one ‘people’ or even ‘nations’ that can claim to be Métis is the approach taken, most notably, by the Royal Commission on Aboriginal Peoples, which emphasised the possibility, even probability, of there being more than one ‘Métis people’ (Royal Commission on Aboriginal Peoples 1996: 199). The report suggested that for certain, the Historic Métis Nation associated with Red River was politically capable of establishing nation-to-nation relations with the Canadian state, in a similar way to First Nations, and that in the future other Métis communities may develop such a capability, or become nations in their own right (Royal Commission on Aboriginal Peoples 1996: 206), specifically highlighting the Labrador Métis Nation as one such possibility. The MNC and many Métis associated with Red River/Historical Métis Nation have challenged this view, essentially as it racialises the meaning of the word ‘Métis’, reducing it to meaning a community that has developed from two or more separate peoples, a mixed-ancestry population that has developed its own traditions (Magnet 2003: 50). The issue here is about ownership of categories, and the social and political understandings of the word Métis, and who can claim its use.

The Labrador Métis claims make an interesting example. They were based around several small communities along the Labrador coast in eastern Canada, where a population of mixed Inuit and European ancestry had ‘long lived in distinct communities and pursued a distinctive way of life. That, they contend, is precisely what the word Métis means in section 35’ (Royal Commission on Aboriginal Peoples 1996: 256). They claimed that this mixed heritage from which a new, and yet aboriginal, culture developed was within the
meaning of ‘Métis’ as it was in the 1982 constitution, and that therefore they were a Métis people, although not associated with the Historic Métis Nation (Royal Commission on Aboriginal Peoples 1996: 256). The Métis National Council, among others, was not happy with what they saw as the appropriation of a Métis identity in an example of mixed-ancestry or mixed-heritage. Their definitions of Métis specifically confine the term to the historical communities of the old Northwest, from parts of Ontario westward (Métis National Council, n.d.(a)). After consideration of their position, following further historical research, and in recognition of their likely rejection for Métis aboriginal rights in a case similar to the Powley case (Weinstein 2007: 168, as they could not be able to prove a connection to a ‘historic Métis community’), the Labrador Métis Nation has since decided to pursue recognition as Inuit, rather than Métis (Andersen 2014: 189; Madden 2015: slide 68).

One academic I interviewed in Edmonton is strongly opposed to this understanding of Métisness-as-mixedness. He argues that in the case of Labrador Métis, ‘this movement - particularly the decision to emphasise “mixedness” as part evidence of their Métisness – seemed to me pretty straightforward evidence of a post-hoc, racialised pilfering of Métis nation rhetoric’ (Andersen 2014: 54). He told me that the Labrador Métis were an interesting case of identity formation, but that they could not claim to be Métis. The suggestion that a claim to Métis identity is open to anyone with mixed European/aboriginal heritage undermines the claims to nationhood of the Métis Nation, and the entire history of the fur trade, 19th-century Red River, rebellion, and the symbols of Métis identity and nation associated with this history. In opening up the category of
Métis to mean communities of mixed ancestry, Hele (2007 quoted in Andersen 2014: 52) argues that

“mixed-race” communities other than those in/at/from/attached to Red River ought to be able to self-identify as Métis because Métis is ultimately about hybridity and historical separateness from tribal communities. Since these dynamics occurred outside Red River as well as in, those descendants who choose to contemporarily self-identify as Métis should be able to.

The name ‘Métis’ now has political and social capital, and legal recognition (if uncertain), and the question remains about who can claim this identity, and the ‘symbolic prestige’ it now carries. For Andersen however, it is not an unsettled question, and only those with a historic connection to Red River (although not necessarily from there – the settlement was connected to trade and kin networks all across the Canadian prairies and the Northwest and these connections created the Métis Nation) have a claim to the Métis Nation and its associated symbolic prestige and political power. Anything else is a racialisation of Métis identity, turning it into any instance of mixed-heritage individuals or communities. It is on this basis that he excludes the Labrador Métis. For him, Métis is a national identity, not a racial one, and the nation it refers to is the Historic Métis Nation based around 19th-century Red River. He argues that a racialised view of Métis-as-mixed shows no respect for the political core of the Métis nation and its history (See Andersen 2008; 2014).

Some of the complexity in this issue is related to how the legal category of Métis developed in Canada alongside the category of Indian, and some is linked to the visibility and mainstream association of Métis with Red River and the fur trading history, alongside
a contradictory understanding of Métis as meaning mixed heritage, or mixed race. The
two extremes of this spectrum are, at one end, that claims to Métisness should be limited
to the descendant communities (not necessarily individuals) of the Historic Métis Nation
at Red River, while at the other pole is the view that any community of mixed ancestry
can claim use of the term Métis, in an etymological sense, and as such attach itself to
the political and legal capital now associated with the category. This matters because it
has legal and political consequences, in terms of representation and aboriginal rights. If
all mixed-heritage communities can at least put forward a claim to a Métis identity, and
with this constitutional recognition, then, as Andersen argues (2011; 2014), the identity
becomes racialised, rather than an identity based on shared history, culture, and political
action. It becomes more clearly a residual category to catch those who do not ‘qualify’ for
First Nation status, but have some claim to aboriginality through descent. Métis identity is
not fixed, defined and accepted by all, and ‘it seems clear that the term “Métis” is an
evolving one that shows no sign at the moment of settling’ (Giokas & Chartrand 2002:
103), or, similarly, ‘the question of Métis identity is fraught with challenges related to
culture, history, law and modern Métis politics’ (Stevenson 2003: 64).

In the following section, I will discuss the development of the concept of aboriginal rights,
and how other states have dealt with claims to aboriginality, in particular in relation to
law and the legal system as a route for claims, before returning to the Métis and how the
legal route has become the means for them to claim aboriginal rights, in light of how
courts have developed as a possibility for them and for First Nations in Canada.

27 In dictionaries, ‘Métis’ is usually defined in racialised terms, rather than cultural (Asch 1993: 4-5; Hedican
2008: 7-8).
The concept of aboriginal rights

In this section, I will briefly outline a history of the concept of aboriginal rights, as something that certain people(s) can or cannot claim, and what they are generally assumed to protect. I will then take a comparative approach to see how other countries have addressed claims to aboriginal/indigenous rights, in both North and South America, and in Australia. I will focus especially on the more ambiguous or marginal cases, where the claimants have struggled to have their identity as aboriginal/indigenous recognised, and where they have taken their claims through legal channels rather than direct negotiation with the state. I will then return to Canada, to discuss how the colonial and post-colonial state has managed its aboriginal population, and the different approaches to its treatment of First Nations and Inuit on the one hand, and Métis on the other. The focus will be on the legal relationship developing between the state and aboriginal peoples, shaped by and shaping claims to aboriginal rights and legal protection.

The concept of aboriginal rights developed through centuries of colonialism, as colonisers encountered and interacted with local peoples in various parts of the world. A broader concept of aboriginal rights developed, as a means of mediating the relationships between aboriginal peoples and the states and societies around them. Aboriginal rights have come to be seen as a way to negotiate some protection for aboriginal people within the state, to ‘obtain recognition for their collective rights to their land and economy within structures of authority that systematically discriminate against them’ (Kenrick & Lewis in Asch et al 2004: 263). Kenrick elsewhere argues for an understanding of aboriginal rights as an equalisation of unequal historical contexts of exploitation and dispossession, seeing aboriginal rights as ‘not “special rights”, only special circumstances’
Aboriginal rights came to be based on the prior or original occupation of a territory before the establishment of colonial control in the area, and the idea that a people should not lose its rights because of the creation of a colony (Asch 1993: 30, 41). However, in practice, it is the colonial and post-colonial state that through its laws or treaties has been the power behind the recognition of aboriginal rights, and in some cases this has meant that aboriginal rights are to an extent on its terms: for example that aboriginal peoples must prove that they satisfy a state’s criteria to have their claims recognised, and that aboriginal rights appear to be something bestowed by a generous state rather than a recognition of pre-colonial sovereignty (Scholtz 2006: 40). In this way, what is actually meant by aboriginal rights, especially in terms of the content, of what it is that is to be protected, has been based on assumptions of how a people were living at the time of contact or state exertion of control, and this tended to limit any recognition of aboriginal rights to

‘specific customs, traditions and practices that were integral to pre-European contact aboriginal cultures, thus apparently ruling out of bounds a general right to aboriginal self-government meaningful for modern aboriginal communities... aboriginal rights thus protect “the means by which an aboriginal society traditionally sustained itself”’ (Walters 2009: 47).

This means that it is only the ‘Aboriginal rights of Aboriginal peoples’ that are recognised and protected (Royal Commission on Aboriginal Peoples 1996: 277). These rights are considered to be communal, attached to aboriginal communities, and exercised by individual members of those communities, which are a contemporary continuation of historically aboriginal communities (Bell 2003: 390). These are generally considered to
include rights to land, language, economy, culture, law and government (Imai et al 1999: 29). To claim aboriginal rights, individuals and communities must demonstrate to the state (or, often, the courts) that they are themselves aboriginal, and that the rights they are claiming relate to traditions or customs that predated colonial power. This has meant that a legal view of aboriginality tends to focus on the past, who an aboriginal people were and what they did, rather than a contemporary community: ‘real indigeneity was rather than is – the more modern we appear, the manifestly less Indigenous we must be’ (Andersen 2014: 105). How this happens in practice, in various court cases in the Canadian context, will be discussed later in this chapter and through an ethnographic case-study in the next chapter.

Aboriginal rights in other post-colonial contexts

Here I will mainly consider Australia and the United States as more directly comparative with the Canadian context, alongside some Latin American examples. The route that Canada has adopted, based mainly on legal claims to aboriginal rights based on historical case law, current statutes and constitutional provisions, as well as a level of political negotiation, has not arisen independently of the contexts of international law, opinion and political understandings of indigeneity. Australia and the United States, also originally colonies of Britain, have some common bases in their legal frameworks that have led to similar approaches to their indigenous populations, at various times in history. Latin America, as another post-colonial region, but one with a much larger proportion of indigenous peoples and mestizos, is interesting in a comparative way as to how states there have handled the issue of how indigeneity and mixedness (biological or cultural or
both), and the idea of an indigenous identity based on colonial, rather than pre-colonial, history.

Canada as a state has been trying to manage and clarify the presence and role of the aboriginal people within its society for many years, and has recently turned to the legal system (through laws and statutes concerning aboriginal people specifically) and to the new constitution which acknowledges that aboriginal peoples in Canada may still possess certain rights through treaty or as an element of their identity. Canadian society has also been trying to reconcile the presence of aboriginal peoples and their potential claims to special rights, with the larger Canadian and immigrant populations in the country and its view of itself as a democratic, multicultural and human rights-oriented society. Povinelli (2002: 154) discusses a similar context of Australia’s questioning of the past and trying to understand the present relationship between its indigenous population and the wider, mainstream Australian society, media and government. Povinelli is interested in how indigenous people fit into Australia’s image of itself, and I would argue that the Australian and Canadian contexts have many similarities. Both have developed from a 19th-century British colonial background, in areas where the aboriginal people had been spread out across a large country, and were very quickly outnumbered by early immigration from, particularly, the United Kingdom and Western Europe. Both countries have inherited the forms of government and the legal history and concepts of the British state, although these have been adapted in the time since independence from the UK. Both countries have struggled with how to manage their aboriginal populations, what legal protection and recognition to extend to them, and what forms any aboriginal rights should take, as
well as the enormous question of who they should be extended to – who is aboriginal, or aboriginal enough (Povinelli 2002: 117).

Aboriginal peoples in Australia have, as in Canada, been turning to the courts recently as a means to have their status within the country recognised. Two recent examples in Australia include the Mabo case (Mabo and Others v. Queensland, 1992) and the Hindmarsh Bridge controversy in the 1990s. The judgement in the Mabo case famously made the statement that Australia at the time of European discovery was not a ‘terra nullius’, and that the Aboriginal population still retained native title to much of the land (Povinelli 2002: 157). It led to government reviews of aboriginal rights and land title in Australia, and the creation of the Native Title Act (1993), which would ‘give Aboriginal persons and communities the means to protect sites and objects that can be demonstrated to be particularly important to the culture or religious life of Aboriginal claimants’ (Weiner 1999: 193). The Hindmarsh Bridge episode concerned protests by an aboriginal community against the construction of a bridge, based on the sacred nature of the separation of an island from the mainland, and required a group of aboriginal women to explain some secret knowledge to a court in order to prevent the bridge from being built. Weiner argues that ‘the legislative requirements for the presentation of indigenous culture and society conceal the extent to which this culture and society are themselves elicited by the very form and process of the legislation’ (1999: 193), saying that the necessity to prove title or culture or tradition or knowledge to the government, in courts for example, to some extent shapes how aboriginal peoples must present their traditions and history. This point will be discussed further below and in the following chapter.
My point here is to illustrate that in Australia, as in Canada and elsewhere, aboriginal peoples are making claims to rights in a judicialised framework, and are either bringing cases to the courts, or defending themselves in the courts, to address these claims. The courts are now a source of power for aboriginal rights, but are also to some extent powerful in shaping who can claim these rights: ‘the court is now empowered to prohibit and to (de)certify cultural difference as a rights- and resource-bearing identity’ (Povinelli 2002: 185). Aboriginal rights are wrapped up in law, parliamentary acts and statutes, and legal definitions.

In the United States, various groups have also claimed an indigenous identity based on mixedness, most notably the Lumbee and Mashpee. These groups have each struggled with conforming to the stereotypes or expectations that others have of what an aboriginal people should look and act like. The Lumbee, a mixed-ancestry (Indian, black, white) group in North Carolina, in trying to be recognised federally as a native ‘tribe’, (which would enable them to make claims for title to their land) were ‘having to cope with the images that whites have about Indians in general in such a way Lumbees can be included in the category “Indian” (by changing the characteristics of the category, or by making their own characteristics appear to fit, or both)’ (Blu 1980: 5).

As with the Lumbee, the Mashpee in Massachusetts were not very ‘Indian’: they were English-speaking, mostly Christian, heavily mixed-heritage (white, black, other indigenous groups etc.) and were not visibly ‘different’ from the American society surrounding them. They appeared to be completely integrated into mainstream society and the general workforce, were not a federally-recognised tribe, and had little visible traditions that could easily demonstrate authenticity or ‘Indianness’ (Clifford 1988: 278-80). In 1976, the
Mashpee Wampanoag Tribal Council sued for lost tribal lands in the state of Massachusetts. The court case ended up as a trial to ‘determine whether the group calling itself the Mashpee tribe was in fact an Indian tribe and the same tribe that in the mid-19th-century had lost its lands’ (Clifford 1988: 277). The Mashpee found themselves having to prove that they were in fact ‘still’ Indians, and that they were descendants of the original tribe in the area, as well as having to prove that they were the owners of the land that had been lost and that they were now suing for.

In the Mashpee trial, the decision of whether or not these Mashpee constituted a ‘tribe’ was based ultimately on the types of evidence accepted by the court. The state of Massachusetts, in defence against the Mashpee’s claim for lands, argued that they were not an authentic Indian tribe, and that the Mashpee were an amalgamation of the remains of different eastern tribes, as well as free or escaped slaves and various white people, and were therefore the creation of the colonial encounter: and hence, that not just anyone with some native blood or claim to adoption can be an Indian, and not just any Native American group can decide to be a tribe and sue for collective lost lands’ (Clifford 1988: 289). They also argued that whatever their origins, the group calling themselves Mashpee were in any case fully assimilated into American society and were not ‘an Indian community’, but instead were now ‘Americans of colour’ and entitled to no special rights The Mashpee Tribal Council, in answer to this, claimed that they had not fully assimilated; they had instead ‘kept alive a core of Indian identity over three centuries against the odds’, presenting an outward appearance of compliance while inwardly resisting assimilation and the destruction of their culture (Clifford 1988: 302-312). In directing the jury how to make a decision in this case, the judge said that they would have
to decide whether the Mashpee were a tribe now, had been a tribe at various dates in the past, and whether they are an ‘Indian community’ as opposed to a ‘community of Indians’ (Clifford 1988: 334). The jury decided, based mainly on documentary evidence, that the Mashpee had been a tribe up until the mid-19th century, but were no longer as they had assimilated, and were not now entitled to the lands they claimed (Clifford 1988: 338).

A very interesting aspect of this trial is the separation that Clifford makes between the kinds of evidence that the state and the Mashpee presented. The state of Massachusetts and the jury concentrated on historical documents as a valid source of evidence, even to the extent of hunting through old documents to find instances of the use of the word ‘tribe’ in reference to the Mashpee — ‘it had to exist or not exist as an objective documentary fact’ — if there was a reference, then the Mashpee were a tribe because it was documented, if no reference could be found then they were not a tribe as they were not documented as such (Clifford 1988: 340). This was in contrast to what Clifford calls the more anthropological approach to examining the authenticity of the Mashpee as a tribe. These forms of evidence used oral histories, life histories and the expert testimony of anthropologists. The complexity of using this type of evidence in the courts came from the difficulty of arguing that the Mashpee were still a tribe, but without giving fixed definitions of what ‘tribe’ or even ‘culture’ meant in a concrete way, and the perceived subjectivity of this oral evidence in opposition to the apparent objectivity of written historical, documentary evidence (Clifford 1988: 324). In the end, the jury favoured cold historically documented ‘fact’ over anthropological oral histories, and basing their decision on the lack of references to Mashpee as a tribe and their apparent assimilation,
ruled in favour of the defence. Interestingly, in 2007 the Mashpee did succeed in being recognised as an official federal tribe (Bureau of Indian Affairs, 2007).

An interesting point here is the connections between this trial in 1976 and the Powley case. In both cases, the people claiming aboriginality had to prove themselves to be authentically an aboriginal group, and not the individual remnants of an assimilated historical people. The Mashpee had to prove they were still ‘an Indian community’ rather than a ‘community of Indians’, and that this community has persisted over the centuries. Meanwhile the Métis have had to prove continuity of ancestry and practice from a historical, pre-European control Métis community to be considered eligible for Métis aboriginal rights. Both groups have had to negotiate claims of assimilation through arguing that they had been at various times forced ‘underground’. Part of this assumed assimilation has been the question of visibility of difference: in the Powley case, this was the Métis community in Sault Ste. Marie not always being visible as a distinctly Métis community, and in the case of the Mashpee this was in arguing that although superficially they may appear totally assimilated and undifferentiated from the American mainstream society, they have maintained a core Mashpee identity below the surface. The necessity of both groups to establish a separate, visibly aboriginal identity has proven to be difficult in the context of the dominant discourses and ideas of authenticity and perceived lifestyles and assimilation. The law deals with persons in relation to its categories (Strathern 2005: viii). In order for the courts to effectively manage the claims of the Métis and the Mashpee, it was necessary for them first to make clear which categories they fell into – assimilated or ‘authentic’, Indian or ‘American of colour’, Métis or Indian or non-aboriginal.
The Latin American context is historically and demographically different from North America and Australia, in that the ‘mixed’ population is a much higher proportion of the population, and the legal history derives from sources other than the British system. However, some interesting comparisons can be drawn. Etymologically, the Spanish ‘mestizo’ is more or less the equivalent of the French ‘Métis’, but the contexts in which these terms are used and the situations of the peoples they refer to are very different. As described for Ecuador (Roitman 2008) and Peru (de la Cadena 2000), rather than the term ‘mestizo’ referring to a (more or less) single group developing from a colonial situation (as with the Métis and the fur trade), it seems to refer more to a cultural process (of mestizaje) or a kind of stage between indigenous and acculturation into the dominant culture (Roitman 2008: 3). De la Cadena describes mestizaje as ‘a process of de-Indianisation’ in Peru, as being more about comparative economic context, class or education rather than race or ancestry necessarily (2000: 6). However, in recent decades there has been a change in the understandings of indigenous and mestizo identities, and what makes an indigenous community. In some cases, this has taken the form of what Sieder et al have called the ‘judicialisation of politics’, where indigenous or other minority communities have taken claims for recognition and protection to the courts or sought a legal clarification of their position: the ‘increasing resolution of political, social or state-society conflicts in the courts’ (2005b: 3). An emphasis on pursuing recognition of indigenous rather than minority status can carry with it additional legal and moral dimensions (Dyck 1985b: 13), that may place extra political pressure on the state, but this also involves groups making claims to demonstrate their special status and context, ‘indigenous communities must legally establish their legitimacy through the rhetoric of cultural continuity in order to gain official recognition, protection and access to resources’
Claiming a group’s identity as indigenous can place them in a different relationship with a state than if their status was that of a minority: ‘imputed aboriginality and continuity with the past can be important sources of political legitimacy’ (Eriksen 1993: 71). This need to demonstrate legitimacy is especially salient in cases where a group’s identity as an indigenous may not be so clear to the state or society, as with the Mashpee and Lumbee examples.

The North and South American and Australian comparative examples demonstrate a common experience of an increased judicialisation and legitimisation of aboriginal identity and a turn towards an emphasis on legal recognition as a means to create a relationship between the state and an aboriginal group, which may involve certain rights. This is also the path that aboriginal groups in Canada have been taking, as will be discussed in the following section.

**The judicialisation of aboriginal rights in Canada**

The historical development of the concept of aboriginal rights, and how this could be addressed, took various forms in Canada. A legal basis to the relationship between the colonial state and aboriginal peoples was established with the Royal Proclamation in 1763 (Primary Documents, n.d.), which is now seen as one of the main sources of later Aboriginal rights claims in Canada. The Royal Proclamation was a statement signed by George III that laid out the relationship between aboriginal people and the colonial state, and the obligations of both toward each other. This was not a negotiated treaty; it was a decree directly from the British king. The Proclamation listed several provisions for treatment of the aboriginal people, including that all unceded lands were to be kept communally as their hunting grounds, and that land could not be bought off them by...
settlers without a licence from the Crown (Asch 1993: 57-8; Culhane 1998: 69; Elliott 1985: 52-4). Teillet argues that within the Royal Proclamation there was recognition of aboriginal peoples as political units, as nations that could enter into agreements with the Crown (2012: 17), and this is part of the reason why the Proclamation is seen as one of the foundations of aboriginal rights in contemporary Canadian law. With the Confederation of Canada in 1867, the new state inherited the Proclamation, and it continues to have the legal status of a statute as it was never repealed (Elliott 1985:56).

Whether or not the Royal Proclamation created aboriginal interest in their land and ownership, as well as other aboriginal rights related to hunting and trapping and so on, or whether it merely recognised them as pre-existing, is not clear (Asch 1993: 41-2). There is also uncertainty over where the Proclamation held jurisdiction – especially in relation to British Columbia which was not a part of the Canadian colonies or Rupert’s Land in 1763 (Kulchyski 1994:8). Nor is it clear exactly who was to be considered as Indian, especially in the case of the Métis. It seems that some Métis in the Ontario region were invited to attend the meeting at Niagara in 1764 where the Proclamation was read to the aboriginal peoples and gifts were distributed (Teillet 2012: 17). Despite these ambiguities, the Royal Proclamation is one of the foundations of current aboriginal law in Canada, and has provided some aboriginal claims with a legal basis (Ray 2011: xxvii).

Treaties were another means by which the colonial, and later the Canadian state created and formalised legal relationships between itself and the aboriginal populations of what is now Canada. Initially a disorganised and inconsistent process through the late 18th-century and into the 19th-century, treaty-making developed as a process in changing social, political and economic circumstances (Miller 2004: 116). Treaties were negotiated
as settlers were increasingly interested in lands outside the earlier Canadian colonies in the east, and as they claimed land further west, the government began to negotiate with the aboriginal peoples on the land to sign treaties giving up most of it for settlement (Miller 2004: 187).

As a negotiated agreement between two politically capable nations or, at least, political units, the treaties are another basis for contemporary aboriginal rights claims. The argument is that treaties are generally negotiated between two or more groups that acknowledge each other’s capacity to represent their people, and sovereignty to make decisions and enter legal contracts on their own behalf. Aboriginal groups point out that treaty-making was an implicit acknowledgement of aboriginal sovereignty, or at least autonomy, at the time the treaty was made. So, if the state implicitly recognised this autonomy while making treaties, it would seem that this was an unofficial recognition of prior aboriginal interest in the land and political control over it, and that the treaties made on this basis could be used to claim aboriginal rights now. There are a few problems that make this slightly unclear, especially in areas of western, eastern and northern Canada where treaties had not been signed (British Columbia, and parts of eastern Canada especially where treaty-making began too late for the local aboriginal populations, and in the Yukon and the Northwest Territories) (Asch 1993: 58).

As with the Royal Proclamation, it was not initially clear if Métis communities would have treaties negotiated in the same manner that First Nations did. At first Métis individuals were sometimes included in a local First Nations treaty, such as in the Robinson Treaty in Ontario in 1850 (Isaac 2012: 147). By the 1870s, with the beginning of the more structured treaty-making processes in central and western Canada, Métis as a group were
specifically excluded from treaties, but in practice individual Métis were signed up if their lifestyle was “Indian”, or if they chose (and were accepted) to be classified as Indian (Bakker 1997: 72; Teillet 2012: 8). From the 1880s, the treaty process became much stricter and excluded Métis entirely (Lawrence 2004: 88-9). So in general, Métis as a group were not a part of the treaty-making process, and have since had a different path to negotiation with the state from the First Nations, who were accepted into treaty as a people/nation on their own terms, as well as the Indian Act: ‘from an institutional, legal and policy perspective, the Métis have always been treated differently from Canada’s two other groups of Aboriginal peoples’ (Saunders 2013: 341).

The ‘modern era’ of aboriginal rights claims and the use of the courts for these claims began in the 1970s, and several important aboriginal and Métis court cases in the four decades since have shifted the focus of aboriginal rights away from negotiation and towards the courts, helped by the 1982 constitution, which provided a solid basis for claims (section 35). The first major ‘turning point’ case in aboriginal jurisprudence was the Calder case (Calder v British Columbia, 1973), which involved the Nisga’a Nation in British Columbia. The Nisga’a had asked the court to make a declaration that aboriginal title to their lands had never been legally extinguished. The case was brought to the Supreme Court, where the judges agreed that, at the time of the Royal Proclamation in 1763, the aboriginal title to the lands had not been extinguished, but they were divided as to whether the title had since been extinguished. This judgement shifted the perception that aboriginal rights or title to land came from the Royal Proclamation, and was an acknowledgement that prior occupation was the basis to aboriginal rights, rather than Canadian or colonial law (Bell 1989: 160). It also opened to door for other similar claims
across Canada, particularly in the areas where treaties had never been negotiated (Asch 1993: 51). The case had an impact too on Canadian policy towards aboriginal land claims more widely, especially the overhaul of the older Indian lands claims system and the development of a new ‘comprehensive land claims’ process, again mainly in parts of the country where land title could not be proved to have been extinguished, for example through treaty (Weinstein 2007: 33). Lastly, the case was important in that, while the Supreme Court agreed to make the statement that the Nisga’a had certainly possessed title to their lands at the time of contact, and that they may still do so, the court urged the Nisga’a and the provincial and federal governments to work out the consequences through negotiation rather than through litigation. The Nisga’a case came to an end with an Agreement-in-Principle signed in 1996 to negotiate further on issues such as hunting, land, taxation, and culture (Korsmo 1999: 129).

With the new Constitution in 1982, there was now a further avenue open to aboriginal people who wanted to make rights claims, through the section 35 recognition of aboriginal rights. One of the first cases to take this approach as far as the Supreme Court was the case of R. v Sparrow (1990). This case was about the Musqueam aboriginal right to fish in British Columbia. The case asked whether there was an aboriginal right to fish, where the nets used were longer than those allowed under general provincial fishing legislation. The Supreme Court in Sparrow took the approach that there were three basic things to consider in the application of s.35 in these cases: 1) the role of s.35 in recognising aboriginal rights; 2) the interpretation of “existing” rights in s.35; and 3) the justification of limits placed on the practice of these rights (Nichols 2003: 95). It took the view that the existing aboriginal right at stake was to fish for food, but that s.35 should be
interpreted in a purposive and generous way, and so may include a right to fish at a level above subsistence, as the court must take into account the changing practices of the Musqueam. It stated that any limits on aboriginal fishing rights must be justified, and that in the case of Sparrow, the length of net was not sufficient justification.

This case was important in that it addressed what was meant by “existing” and “extinguished” rights in s.35, and the duty of provincial and federal governments not to infringe aboriginal rights without justification. This approach, as well as the duty of the government to act in good faith where aboriginal rights are concerned (i.e. not to arbitrarily assume they are extinguished or can be curtailed) has been the basis of how later courts have dealt with s.35 cases since (Royal Commission on Aboriginal Peoples 1996: 294). A second important conclusion made by the Supreme Court was that, while the court would make statements of constitutional facts, such as a s.35 right to fish, it was up to the parties themselves to negotiate how to overcome the problem: the idea was that a court judgement would provide aboriginal peoples with a measure of negotiating power when dealing with the provincial and federal governments. Teillet argues, however, that this leaves aboriginal peoples vulnerable to inconsistencies and party politics depending on who is on the other side of the negotiating table (Teillet 2009: 335).

**Métis aboriginal rights**

This is the legal and political context in which Métis have been pursuing claims to aboriginal rights in the courts in recent decades. This final section of this chapter will discuss how Métis claims to aboriginal rights fit into the established legal framework, which had been built up on the state’s relationship with status Indians and Inuit, and the
treaties, the Indian Act and an understanding of aboriginality based on pre-contact traditions described throughout this chapter.

A state acknowledgement of Métis as an aboriginal group in their own right has taken centuries. From the earliest legal structures such as the Indian Act and s.91 (24) of the 1867 Constitution, Métis were, as a group, excluded from recognition as an aboriginal people, with an entitlement to some form of aboriginal rights. An early half-acknowledgement of Métis as having some aboriginal claim to the land was in the Manitoba Act of 1870, which established the province of Manitoba on lands that had been part of the Métis settlement of Red River and its hinterland. The Act provided for 1.4 million acres of land to be given to the ‘children of half-breed heads of families’ as ‘extinguishment of the Indian title’ (Manitoba Act, 1870: s.31) – as a means of extinguishing any claims the Métis may have, and also as a response to the Red River Rebellion of the previous year. Soon afterwards, in 1885, the then Prime Minister John A Macdonald distanced himself from any implication that Métis had had Indian/aboriginal title in the first place, saying the Manitoba Act had been political expediency:

‘that phrase (the extinguishment of the Indian title) was an incorrect one, because the half-breeds did not allow themselves to be Indians. If they are Indian, they go with the tribe; if they are half-breeds, they are whites, and they stand in exactly the same relation to the Hudson Bay Company and Canada as if they were altogether white’ (Official Report of the Debates of the House of Commons, July 6, 1885: 3113 quoted in Hedican 2008: 33, see also Flanagan 1983: 315).

This official assumption that Métis were essentially assimilated and had no legal claim to aboriginality persisted for a century. In the late 1960s Prime Minister Trudeau was still
arguing that the Métis were not aboriginal, and the government viewed Métis as assimilated (Asch 1993: 63). The major legal paths open to the First Nations and the Inuit, through status and the Indian Act and through the federal jurisdiction and duties towards them coming from s.91 (24) of the 1867 Constitution essentially bypassed the Métis, who were assumed to be assimilated, or to have had any aboriginal claims extinguished by scrip and the Manitoba Act (Bell 2003: 413). Others have argued that the Métis are not aboriginal, or not in the same way as First Nations and Inuit, and that consequently their claims to aboriginal rights are dubious: ‘the Métis are certainly indigenous to North America – they came into being as a distinct people in the continent. But they are not aboriginal in the same sense as the Indian and the Inuit: they were not here from the beginning’ (Schwartz 1985 quoted in Bell 1989: 21, see also Flanagan 1983). Counter to this, Chartrand and Bell (as described in Stevenson 2003: 66) have described how ‘it is both Métis lineage to their Indian forbears as well as the emergence of a distinct Métis identity that is at the heart of Métis aboriginal rights’. This ambiguity over whether Métis can claim aboriginal rights, although alleviated by their inclusion in the 1982 constitution, has shaped how they make claims and the avenues through which they can pursue them. In some cases, such as the Métis Settlements in Alberta, this has meant

‘adopting a pragmatic negotiating strategy and agreeing to certain compromises which may be unacceptable to some First Nations who, supported by treaties, an ongoing legal and political relationship with the federal government, substantial case law, and abundant academic opinion, negotiate in an entirely different environment’ (Bell 1999: 6).
Since 1982, and the inclusion of Métis in section 35 of the constitution, legal claims through the courts have become a common route for Métis aboriginal rights claims. This has meant developing a way for courts to establish the aboriginality of Métis people, when for a century the assumption has been that they were not / were no longer aboriginal (i.e. that they had assimilated). The next chapter will address how Métis claims are managed in the courts, from early successes – most notably the Powley case in 2003 – to more recent cases such as the Hirsekorn case which addressed Métis hunting rights in southern Alberta.

Introduction

I had heard a lot about the Hirsekorn case in the months leading up to the appeal court date in February 2013. Some of the people that I spoke to had argued that the case had the potential to be a ‘Powley of the western plains’; another landmark case, should the Métis win, that would solidify Métis claims to hunting and harvesting in large parts of Alberta. Others dismissed it as not very relevant beyond individual hunters, or said that it was founded on a shaky case where a solid connection to a historical Métis community in the area was hard to prove, and there were fears that losing this case might close the door for further Métis claims across the province. I was also told that the case might not be entirely relevant case to my interests (claims of aboriginality in the courts), as this case was a hunting rights case centred on the geographic extent of a community rather than one dealing directly with the aboriginality of the Métis. I found this not to be true: it was interesting to me as it was about proving that a particular community was Métis, which implied demonstrating what a Métis community should look like to the court. As my understanding of the case progressed I found that it highlighted many important points for me, that I hope to draw out here as I describe the appeal that I attended, the assumptions that led to how it was argued, and the many issues that arose from it.

The aim of this chapter is to discuss, using the ethnographic example of the Hirsekorn case (R. v. Hirsekorn, 2013), how Métis claims are experienced and dealt with in the courts, and how Métis themselves experience and deal with the courts. This case is about a claim for Métis aboriginal hunting rights in southern Alberta, an area in which the prosecution disputed that there had historically been an established Métis community
from which the contemporary Métis could have inherited an aboriginal right to hunt. The case fits into the on-going development of Métis aboriginal rights claims as distinct from First Nations claims, and how the courts have tried to adapt the processes and evidences to the specific historical context and contemporary complexities of Métis identity and aboriginality.

The main approaches to Métis aboriginal rights claims through a legal framework have been based on two pieces of law: s.35 of the Constitution Act, 1982 and s.91 (24) of the Constitution Act, 1867. The s.91 (24) route involves trying to widen the category of ‘Indians’ within the original Canadian constitution, considering Métis (and non-status Indians) to fall within this category: an example is the Daniels v. Canada case, discussed in the previous chapter (Chapter 2). The s.35 route involves pushing for clarification of the 1982 constitution’s statement that Métis are one of the aboriginal peoples of Canada and that their aboriginal rights are protected.

The s.35 approach was most famously and successfully used for Métis claims in the Powley case, which was heard at the various levels of trials and appeals between 1996 and 2003. This case was based on claiming an aboriginal right to hunt, protected by s.35 of the Constitution. It became the blueprint for how Métis s.35 claims would be addressed, as it was the first big s.35 case, and the first to get as far as the Supreme Court. The case itself was handled as a variation on First Nations s.35 claims, in that it was argued in a similar manner and the court looked for arguments based on a similar logic, but with some adaptations and considerations for the circumstances of Métis history and community. The methodology laid out by the judges in the Powley case was to adapt the
approach for First Nations cases \(^{28}\) which focussed on proving that the right being claimed had been an integral part of the nation’s culture prior to the time of European \(contact\), and that the community claiming the right were the descendants of the pre-contact historical community. The Powley judges changed the criteria to an emphasis on pre-Euro-Canadian \(control\) practices and historical communities. The distinction is that Métis culture developed after European contact, but that they had established themselves as a separate people with their own ways of life and entitlement to rights before the Canadian state took effective control of the interior of Canada. So for all subsequent Métis s.35 aboriginal rights cases, each individual or community making the claim for a particular right (for example hunting or fishing in a particular area) would have to prove that there had been a Métis community in that area exercising that right as a fundamental part of their way of life, before Euro-Canadian control had been effectively established over the area. The timeline for this varies across Canada, so the local timeline would also have to be established. Then they would have to prove that there is a current Métis community in the same area that has descended from (or is a continuation of – the emphasis is not on genetic descent) the pre-contact community, and that the right being claimed has been continuously practiced and is still important today.

This approach has shaped the form that evidence and arguments have taken in Métis cases in the past 10 years. As I will describe for the Hirsekorn case, this often means arguing over exact dates of effective Euro-Canadian control in an area, and how long before this a Métis community could be proven to have existed – how long is long enough to generate an aboriginal right? And how can you prove presence in an area when the kinds of evidences the court looks for (births/marriages, settlements, records of Euro-

\(^{28}\) Known as the ‘Van der Peet test’ after an earlier case, R. v. Van der Peet, in 1996.
Canadians and so on) may be absent due to the lack of the structures of Euro-Canadian control, since the point is that presence in the area must be proved as pre-control? These were some of the questions that I kept in mind as I observed the Hirsekorn appeal, as they raised issues about what the court is looking for and what Métis need to produce and to present to satisfy the court.

The issue of satisfying the court comes down to the successful performance of a particular kind of identity in the specific context of a court. An aboriginal group must present themselves in a particular way, showing the court that they are the right kind of aboriginal, that they fit into the court’s understanding of what an aboriginal group looks and behaves like. In the Mashpee case (discussed in the previous chapter), Clifford described the unique circumstances of the Mashpee and the legal context in which they had to perform and demonstrate aboriginality. The lawyers for the city, arguing against Mashpee claims to status as a tribe, had argued that the Mashpee ‘were not real Indians’, i.e. that they were not performing Indian-ness to the satisfaction of the court (Garoutte 2003: 62). The lawyers went on to criticise and challenge the performance of Mashpee aboriginality, stating that ‘Indianness had been erased’ through intermarriage, and that a recent cultural revival was ‘a mishmash of borrowing from local tribes and from stereotyped images of Indians’ (Garoutte 2003: 62-3). As discussed in the previous chapter, the Mashpee lost their case, and alongside this defeat came ‘feelings of shame [that] attend cultural performance that they judge inadequate’ (2003: 79) – being unable to convince powerful others of your identity and its borders is felt as a failure in performance. Performance of identity to the state (via the courts here) is a kind of
‘persistent, contradictory and inventive politics of survival’ (Clifford 2013: 36). A group must demonstrate aboriginality to the satisfaction of the courts.

In the Mashpee case, as in the Hirsekorn case below, to some extent it is difficult for both the aboriginal people and the courts themselves to know exactly what they are looking for, what needs to be performed for the performance to successfully convince: ‘how distinctive was distinctive enough?’ (Garrouthe 2003: 63). As Clifford describes it, ‘cultural subjects “play themselves” for multiple audiences’ (2013: 47). In the Mashpee case, as in Hirsekorn and others, the courtroom context unfolded as a contest with the various actors performing their understanding of aboriginal identity in particular ways. This performance is very clearly tied to assumptions of authenticity and tradition, as aboriginal people are required to demonstrate continuity and tradition in order to make claims for aboriginal rights. As Schochet argues, describing or making (or performing) something as ‘tradition’ is also to ‘police’ that thing – to maintain it through ‘borders of permissibility against rival claimants’ (2004: 296). This is what Métis had to do in the Powley case (above) and the Hirsekorn case (below): to perform or demonstrate authenticity, and to negotiate boundaries of exclusion for other claimants, in some cases those who self-identify as Métis but are not from the more ‘authentic’ Red River tradition.

The issue of tradition is a crucial one for aboriginal claims in the legal context. Laforet discussed the danger of an uncritical use of the term ‘tradition’, and it is this use that has permeated through to the courts:

‘the term “tradition” has come to be rather hazardous in anthropology. Too often and too loosely used in regard to indigenous societies to identify all cultural practices, regardless of their temporal period or social impact, it has come to

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connote something both monolithic and incapable of change without loss of authenticity’ (2004: 36).

In this context, Phillips agrees with Laforet that the construction of tradition as a counterpart to modernity is problematic for aboriginal peoples, with its attendant assumptions of essentialist identity and authenticity, and that this situation has led to aboriginal peoples, especially in the judicialised context of North America, to ‘argue explicitly for the authenticity of the hybrid and the syncretistic’ (2004: 58). This arguing for and performance of the authenticity of the hybrid is exactly what the Métis must do as they make claims in court for their status as aboriginal.

**Background to the Hirsekorn case**

The Hirsekorn case developed as a test case of how Powley could be applied in Alberta, in a specific context of legal and political change. Alberta has its own Métis history and current legal provisions, which differ from the context of the Powley case further east. Hirsekorn’s hunt and subsequent arrest, charges and court case were a deliberate strategy by the Métis Nation of Alberta to force the province to address Métis hunting and harvesting in the new legal and political situation created by the 1982 Constitution, the Powley victory in 2003, and the particular historical and political circumstances of Alberta.

In 2004, in the immediate aftermath of the Supreme Court’s decision in the Powley case, provincial governments (especially in the Prairie Provinces) found themselves having to figure out how they would manage Métis aboriginal rights claims in their jurisdictions. Powley, a local Ontario hunting rights case, had become important across Canada, as it was the first to address Métis s.35 rights. In Alberta, the provincial government initially
took the approach that it would be best to negotiate with the provincial Métis organisations on how best to manage the implementation of Powley in Alberta. This process culminated in the signing of an agreement between the Albertan government (represented by the Ministers for Sustainable Development; for Aboriginal Affairs and Northern Development; and for Community Development) and the Métis Nation of Alberta (represented by the President of the MNA and the Minister for Métis Rights) in September 2004. This agreement, the Interim Métis Harvesting Agreement (IMHA) (Government of Alberta, 2004), was intended as a temporary measure to address Métis claims for harvesting and hunting rights, while a more permanent agreement could be worked out.

The IMHA allowed Métis to hunt, trap and fish in all seasons on unoccupied Crown lands (public land not privately owned, and controlled at the provincial or federal levels) across the province, subject to several provisions: that the hunting is for subsistence, not commercial purposes; that conservation and safety regulations are met (e.g. firearms safety laws); and that only members of the MNA or those eligible for membership will be recognised as “Métis” for this agreement. The IMHA was to continue until it was replaced by a more permanent Agreement, or with 90 days’ notice of reasons of cancellation by either party. The aim of the Agreement was to provide a solid basis for dispute resolution and continued negotiation between the province and the MNA (Government of Alberta, 2004).

However, by 2006 the mutual cooperation was threatened by the on-going difficulties of managing negotiation within a changing political context in the Alberta provincial government. This was brought up by various people that I spoke with, formally and
informally, while I was in Canada. One such occasion was at an event held by the University of Alberta which included a talk by a Métis historian on the changing political context of Métis in the province. Her lecture was well attended by staff at the department of Native Studies, a group of students who were doing a Métis Politics course, and various others who had heard of the talk through friends or colleagues, or through the event publicity. The speaker, Heather Devine, is an academic at another university, whose current research is on Métis politics in Alberta, especially in the wake of Powley, the annulment of the IMHA, and the changes in the provincial government with recent elections. After a brief introduction and historical context to the current situation of Métis in Alberta, the audience became noticeably more vocal when she began to speak about recent political changes at the provincial level. People began to nod along, to make gestures of agreement, and to tut knowingly as she described the consequences for Métis of recent provincial elections in Alberta and the swing to more conservative politics. It should be noted that this talk was given in 2013, and the political context has since changed in Alberta after the 2015 elections when the more centre-left New Democratic Party won control of the province.

Devine described how initially, the province had worked with the MNA in 2003 to manage the implementation of Powley in Alberta, resulting in the negotiation of the Interim Métis Harvesting Agreement in 2004. However there had also been a lot of opposition to this blanket extension of hunting rights to Métis across the province, particularly from conservationists, non-aboriginal hunters and lobbyists, and from some members of the governing Progressive Conservative party, which was itself in upheaval with internal divisions at the time. Sections of the party, led by Ted Morton (the mention of whose
name brought snorts of derision from some of the audience at Heather’s talk), wanted to ignore the Powley decision completely in Alberta, and as he challenged the incumbent to the party leadership in 2006, prior to the 2008 provincial elections, Métis hunting rights became a political issue across Alberta that year. Morton did not win the party leadership, but became the Minister for Sustainable Development in the reshuffled government, as such having responsibility for hunting regulations and hence a say in the IMHA and the political recognition of Métis hunting rights. In 2007, Morton cancelled the IMHA amid suggestions that it may be unenforceable, as it had not been properly written into Alberta’s regulatory regime by the government which had negotiated it (as described in the case of R. v. Kelley 2007; see also MNA, 2007a). He then unilaterally imposed a new Métis Harvesting in Alberta policy (MHA) (Government of Alberta, 2007), which limited Métis hunting to individuals who could prove a connection to one of the 17 officially recognised contemporary and historical Métis communities (membership of the MNA was not sufficient), and who self-identified as Métis. Harvesters are limited to unoccupied Crown land within a 160km radius of their home community, or on land where they have the owner’s permission, and are subject to safety and conservation laws and may only hunt for subsistence. All animals killed must be registered with the provincial authorities (Government of Alberta 2007: 1-3). This change in provincial law without negotiation with the MNA or any Métis is the basis of the Hirsekorn case, as it is this unilateral cancellation that the MNA decided to challenge by organising the hunt after which Hirsekorn was arrested.

29 There are 17 such communities dating back to at least the late 1800s, mainly in northern Alberta, recognised as both contemporary and historic Métis communities by the Alberta government, and in addition the eight Métis settlements that were established in the 1930s are also recognised (Government of Alberta 2007: 2).
Morton is also well known for being one of the “Calgary School”, a group of neo-conservatives that also includes Tom Flanagan (well known for writing in opposition to any Métis claims to aboriginal rights, and who is often an expert witness for the Crown in Métis rights cases), and Stephen Harper, the Canadian prime minister from 2006 to 2015, is a former student of theirs. Many people suggested to me, while discussing the current apparent backlash against Métis aboriginal rights claims after the initial post-Powley optimism, that this particular school is now politically powerful enough to impose their refusal to consider “special rights” for Métis nationally and provincially. Their approach has been to claim that there is no basis, whether legal, moral or political, for Métis aboriginal rights, and that they are completely integrated and assimilated in Canadian mainstream society (Flanagan 1983: 320). There is also a fear that this approach may also be taken towards other aboriginal groups in the future, that unless Indians help the Métis challenge Morton et al, they will find themselves accused of assimilation and stripped of rights in the future too. This point is important as it demonstrates again the interconnectedness of Métis and First Nations aboriginal rights, even though there is this legal separation between them and a need for Métis to distance themselves to highlight their separate identity.

Devine suggested that the courts had a large role to play in how these arguments were presented in the mainstream, in the media and politically. Specifically, she spoke about the creation of courtroom truths, the symbolic power of judgements to shape understandings of who the Métis are (Andersen 2012: 393), and what they need to be to claim aboriginal rights, and the extent to which they need to demonstrate historical continuity and authenticity, and how this is done and measured. These again are some of
the key questions I was interested in for the Hirsekorn case: the legitimising power of the courts, and what needs to be proved for the Métis to be legitimised. As Devine ended her talk, she was engulfed with questions, offers of coffee, a “small token of appreciation” of a bunch of flowers, and whisked off for dinner with the organisers.

Others I met also held the view that things were changing for the worse, in Alberta especially but also at the federal level, as part of this perceived post-Powley backlash. Early on in my fieldwork, before I developed an understanding of the political context of Alberta and the federal government, a throwaway comment from another acquaintance also alluded to the detrimental impact on Métis claims of the changes in political leadership and party politics at the national level. In this case, the individual concerned was slightly drunk so I could not get many details from him, but he suggested that ten years ago he had had far more ability to hunt in various parts of Canada (he is Métis from Ontario), but that now he was much more limited in what he could legally do. He blamed a combination of “people who took advantage” (i.e. he suggested that some Métis were hunting beyond the original intention of the right, to hunt for subsistence) and the more conservative government in recent years at the federal level. Another historical researcher that I met also mentioned the Alberta political context as being difficult for Métis, arguing that ‘now is a bad time for aboriginal people’, with the conservatives in power both in Alberta and in Canada (i.e. 2013 when I was in Canada). He said that things were less positive than they had been a decade earlier. His own funding for Métis historical research had been dropped as ‘the government is not so interested in this kind of thing now’.
This was also corroborated by a man I met from the MNA, who told me that the provincial government was months behind on passing on promised funding to the organisation, that the level of funding had not been increased for over ten years despite a huge rise in MNA membership, and that he was not certain whether funding would continue to be available from the province. While the MNA has other sources of funding, such as low-cost housing rentals etc., most of their money comes from the province. He blamed a swing to a more conservative government, and had taken the step of advising MNA members as to how to vote more strategically in the next set of provincial elections in 2015, advising Métis to vote for the centre-right conservative party (Morton’s Progressive Conservatives) rather than the centre-left (the New Democratic Party, NDP), because the centre-right one had more of a chance of beating the more extreme party (the Alberta Wildrose Party) that looked likely to win in 2015. In fact, it was the NDP who won in Alberta, a result that was celebrated in a special newsletter by the MNA in May 2015 (Poitras 2015). The MNA welcomed the news that the long-standing conservative government in Alberta had been replaced by one that is seen as being much more sympathetic and understanding of Métis and aboriginal issues, so it is possible that some new form of Métis hunting and harvesting policy may be negotiated with the province in the future. He also made the same points that Heather Devine had about Métis rights being an election issue at the provincial level, especially among what he called “Alberta’s rednecks” who did not want Métis to hunt where they could not, without a licence or seasonal limitations. I was firmly told by others too that the recent political atmosphere in Alberta had turned against Métis aboriginal rights, funding for Métis and aboriginal organisations, and interest generally in Métis and aboriginal issues.
In reaction to the cancellation of the IMHA and the unilateral imposition of the MHA policy in 2007, the MNA began to consider how it might protest these unnegotiated changes. In August 2007, the MNA released a press statement to say that they would oppose Morton’s MHA, and instead develop their own Harvesting Policy (MNAHP) (Métis Nation of Alberta, 2007c) to manage Métis aboriginal hunting rights in the province, based on the historic Métis laws of the hunt. Their objection to the MHA was that it was unilateral, that it arbitrarily limited Métis hunting to certain parts of the province near government-approved “Métis communities”, ignoring the south of the province entirely, and that it leaves the Albertan government as the ultimate arbiter of who is or is not a Métis harvester. The MNA agreed to support any hunters charged while hunting according to its own MNAHP and to continue to negotiate a long-term agreement with the Alberta government (although with the Department of Aboriginal Relations rather than with Morton’s Department of Sustainable Resource Development). The MNA’s Harvesting Policy was developed and agreed upon by the MNA and its constituents in August 2007. This policy supported Métis hunting and harvesting of animals, plants, fish, wood and water for personal and community subsistence, including food, medicinal and ceremonial purposes, as long as the use was reasonable and not commercial. The Policy would apply to all members of the MNA issued with a Harvester’s identification sticker to go on their MNA cards, and who were hunting in a traditional Métis area according to the terms of the Policy. Again, the hunt was limited to unoccupied Crown lands or with the permission of landowners. There was an obligation to report harvesting to the MNA so it could monitor activity for conservation and statistical reasons. The aims of the Policy were to encourage responsible hunting and harvesting, to encourage safety and respect
for the land, to teach these skills to younger generations and to self-manage the hunt in cooperation with communities (Métis Nation of Alberta 2007c: 1-8).

The Policy formed the basis of the MNA’s Action Plan to deal with Morton’s MHA and the question of how to claim Métis aboriginal hunting rights in Alberta as had been done by the Powley case in Ontario. The next step was outlined in a later press release in which the MNA stated its intent to hold traditional hunts across Alberta. The MNA again stressed that it would support any hunter charged with breaching the provincial MHA as long as they were abiding by the MNA’s Policy. The hunts were advertised almost as a family day out, with food, music and dancing at the hunting camps to show support for the hunters (Métis Nation of Alberta, 2007b: 1). The MNA stated that if hunters were arrested, they should show their MNA cards and inform the Wildlife Officer that they were exercising a Métis aboriginal right to harvest, and then contact the MNA who would provide lawyers.

Ron Jones and Gary Hirsekorn were two of the hunters who participated in this hunt, shooting a deer 32km from Medicine Hat in October 2007 (Hirsekorn) and an antelope 50km from the town in January 2008 (Jones) (see Fig. 3.1 below). They were both arrested and charged on the basis of breaching the Wildlife Act, 2000 (by hunting outside the hunting season without a licence and possession of wildlife without a permit), and the case was heard in the local court in Medicine Hat in southern Alberta beginning in May 2009. This was a deliberate action by the men to force a Powley-style test case in the Alberta court system, and they had carefully informed the Wildlife Officers that they would be hunting without a licence, and where to find them, prior to the day of the hunt. The plan was that they would be charged, the MNA would support them with legal and
financial help and the province would be forced to deal with the Métis claims to hunting rights beyond the provincial government’s unilateral MHA. The idea was that the courts might provide a more permanent guideline to what Métis hunters had an aboriginal right to do, and how these hunters would be identified. The ideal scenario would be an
Albertan Powley, with widespread recognition and implementation of Métis aboriginal rights to hunt across Alberta. Both men had volunteered to participate, knowing that the likelihood was that they would be arrested. It was hinted to me that a third man had originally planned to take part as well, but that he changed his mind before the hunt, saying he was worried that his job would be at risk or his family would be dragged into difficulties with the police or the provincial government, and so he decided not to join in.

The Hirsekorn trial

The original trial had taken place over 40 days between May 2009 and June 2010 at the court in Medicine Hat in Southern Alberta. The question at trial was whether Métis, specifically Hirsekorn and Jones, had a s.35 right to hunt in the area around Medicine Hat:

‘were the lands of this region of Alberta included within the hunting ranges of any historical Métis community? If Métis hunted in the region, did they do so prior to the assertion of effective control in the area either by Britain, as represented by the Hudson’s Bay Company, or by Canada after 1870?’ (Ray 2011: 128).

To address this, the trial judge applied the Powley test (as described in the previous chapter, Chapter 2) to the evidence presented. Breaking it down, this meant that Hirsekorn would have to prove that: 1) there had been a historical Métis community in the area before the time of effective Euro-Canadian control (as well as defining when that control could be said to have been asserted); 2) that this community had been practising the right being claimed, here to hunt for subsistence; 3) that this historic community is linked to a contemporary Métis community; 4) that the contemporary community continues to practice the right, and 5) the Hirsekorn and Jones were members of this community. It also had to be shown that the right being claimed was ‘a central and
significant part of the society’s distinctive culture’ (Bhandar 2007: 101). Arthur Ray, who was an expert witness for the Métis in this trial, as well as in other Métis and First Nations aboriginal rights trials previously, wrote about his experiences and, as the original trial transcripts are unavailable, I am basing the following discussion on his work (Telling it to the Judge, 2011).

The defence team was led by Jean Teillet, a well-known Métis lawyer who had also worked on the Powley trial a decade earlier. Their evidence was based around providing a narrative of local Métis history in southern Alberta, and more widely across the plains of western Canada, that demonstrated the long history of Métis occupation and hunting in the area. They had to produce this narrative in a manner that made sense to the judge and the Canadian legal system; as with other aboriginal cases, this involved ‘a reconstruction of a people’s past presented in a way that satisfies western legal traditions’ (Korsmo 1999: 119). The experiences and traditions had to be ‘framed in terms cognisable to the Canadian legal and constitutional structure’ (Scholtz 2006: 22) to be easily slotted into the experience and understanding of the judges, who, as Ray repeatedly notes, are rarely experts in aboriginal history. This meant dealing with the expectations of the court, who tend to view settlements as permanent villages rather than as nomadic hunting camps, and who expect occupation and use of land to be exclusive to one group rather than shared between several neighbouring groups. Wolfart recognises this problem, describing how ‘Métis lived and functioned in an aspatially organised world... an adequate account of their existence has seemed elusive to historians informed by a spatialized view of the world’ (2012: 155). In the Hirsekorn case, neither of these were straightforward: the Métis use of the area was as hunting lands
when following the buffalo migrations, rather than as farming or settlement land. The area was considered a ‘neutral territory’ and was also used by the Blackfoot (further west), and the Cree and Assiniboine (further east and north) (Ray 2011: 133).

The first issue was how to prove all this. The courts are most comfortable with historical documents that can be cross-referenced and clearly demonstrate the history of the area in an apparently neutral way. These can include documents such as government or missionary records, censuses, photographs, trade post records, explorers’ journals and so on. The difficulty with this in many aboriginal rights cases is that these kinds of written primary sources very rarely exist for areas where Euro-Canadian control had not yet been established, and where they did exist, the were created for other purposes rather than documenting aboriginal life accurately. Instead records such as those of fur trading posts and explorer journals tended to mention local Métis in the area only in passing, or to mention their local hunting economy, or Métis trade networks (Ray 2011: 90). For his expert evidence at the Hirsekorn trial, Ray, a historical geographer, began by outlining his sources for evidence of a historic Métis community in southern and central Alberta. As there were no permanent fur trade posts in the area in the early/mid-19th-century (Ray 2011: 128), he had to go to the fur trade records from the post at Fort Edmonton 300km further north. The trade post’s journals mention local Métis in the area in the 1860s and 70s, including mentions of a regional Métis community that hunted buffalo to the south and east of the Fort. This area is assumed to mean the Cypress Hills, as by the 1870s the area was one of the last areas where buffalo survived in North America (Ray 2011: 129).

While there was not a lot of this kind of documentary evidence to present to the court, and in particular little written by Métis themselves, a ‘failure to mention the Métis in a
particular record did not necessarily mean that they had not been present’ locally (Ray 2011: 123), and this was especially true after the Métis rebellion in 1885 when many Métis hid their identity.

Teillet and the Métis lawyers also had to prove the presence of a contemporary Métis community and that Hirsekorn and Jones were a part of this community. For this, the kinds of evidence that are presented by the lawyers and accepted (or not) by the courts tend to be documents such as family trees and genealogies showing the link between the individual and the historic community, usually built from birth/marriage/ death records, later censuses, and scrip claim certificates. Individuals can also use their membership of Métis organisations like the MNA, or eligibility to join such organisations, as proof of community membership, as these are based on self-identity as well as community acceptance.

When the trial judgement was released in December 2010, Gary Hirsekorn was found guilty of hunting without a valid licence, and his defence that as a Métis he had an aboriginal right to do so was dismissed. The second hunter, Jones, had died between the end of the trial and the release of the judgement, so his case was no longer under consideration. The court found that two parts of the Powley test had not been met: firstly, the hunt he took part in had not been to provide food for subsistence, but had been a politically-motivated challenge to provoke a charge against him and a subsequent court case. Secondly, the trial judge found that there had been no established Métis community in southern Alberta prior to when effective Euro-Canadian control of the area began in the 1870s, i.e. with the arrival of the RCMP and the rule of law in 1874 (R. v. Hirsekorn 2010 para 138). The court also found that the Métis had not hunted in southern
Alberta, because of the presence and occupation of the Blackfoot in that area, and that in any case the practice could not have continued to the present since the buffalo had died out by the 1870s. This literal interpretation of hunting buffalo rather than hunting in general was a return to the ‘species-specific’ approach to aboriginal hunting that had been rejected by the Supreme Court in the Powley case in 2003 (Ray 2011: 143-4).

The issue of whether the presence of the Blackfoot in southern Alberta had necessarily meant the exclusion of all others (i.e. that they had exclusive occupation rather than some sort of shared arrangement) had been raised at trial by the prosecuting lawyer, Rothwell, who had argued that ‘the Blackfoot had fiercely defended their territory against all intruders, including the Métis’. He cited the fearsome reputation of the Blackfoot warriors, an explorer’s journal which described being chased out of the area, and the lack of fur trading posts in southern Alberta from the 1830s to the 1870s as evidence (Ray 2011: 130). This had been challenged by Ray as the expert witness, who argued that the dominance of the Blackfoot had never been total, that there had been intermarriage between the Métis and the Blackfoot, and that there had been an ebb and flow of accommodation of and hostility towards Métis hunters depending on local circumstances (Ray 2011: 131). While Ray had argued against too simplistic an interpretation of the history of the Blackfoot, this was the history that was accepted by the trial judge.

The point was further contested in later appeals, and the Blackfoot and their relations the Siksika sent intervenors to later appeal hearings, to support the province’s position that the Métis had been excluded from hunting in the area historically. The Blackfoot, whose traditional territory was across Southern Alberta as far east as the Cypress Hills, argued that they had had exclusive control over the area until the time of Euro-Canadian control.
after they signed Treaty Seven\(^\text{30}\) in 1877 (Indigenous and Northern Affairs Canada, n.d. (a)). At first, it seemed strange to me that the Blackfoot would side with the Canadian state against the Métis, probably because I had heard a lot in other arenas about pan-Aboriginal unity and had made this assumption. What was in it for the Blackfoot? In this case, it was the fact that the Métis hunt had taken place on what the Blackfoot said were lands covered by Treaty Seven, a provision of which was that only they would have the right to hunt there. The Blackfoot were arguing that ‘judicial recognition of a Métis right to hunt ... [on Blackfoot] traditional territory could clearly have an adverse impact on the Treaty rights’ of the Blackfoot (Ecolex, 2011). They were afraid that a successful Métis claim would weaken their hunting rights, which were guaranteed exclusively to them in the area by the 1877 Treaty.

Hirsekon and the Métis Nation of Alberta appealed to the next level of the provincial judiciary, the Court of the Queen’s Bench. This hearing also took place in Medicine Hat, over three days in June 2011. At the appeal, the Métis argued that it was incorrect to speak about localised Métis communities, and to expect there to have been a separate, discrete Métis community in Southern Alberta. They argued that the historic Métis community the court should be looking for through the Powley test was instead a wider ‘Métis of the Northwest’ community, made up of many families all across the Old Northwest from Manitoba to the Rockies, associated with various fur trading posts as well as nomadic buffalo hunting all across the region, and that the court should reconsider this in its application of the Powley test. The judgement from this hearing, released in

\(^{30}\) Treaty Seven was negotiated between three of the Blackfoot nations (Peigan, Siksika and Blood) and two other nations, the Tsuu T’In and the Stoney-Nakoda, and Canada. All these nations were to retain the right to hunt on the ceded lands in the south and south-west of Alberta. For a map of the area, see Fig. 3.4, page 135 below. (See Treaty 7 Tribal Elders et al, 1999).
November 2011, dismissed the appeal, reiterating that there needed to be a Métis community in central and southern Alberta prior to Euro-Canadian control, and that this had not been found.\footnote{To summarize, there are two reasons why the defendants have failed to prove the existence of an historic community in southern Alberta: 1. It is clearly evident that prior to the arrival of the North West Mounted Police no Métis group had a sufficient degree of use, occupation, stability, or continuity in the area to support a site-specific constitutional right. 2. The evidence has not established a Métis group in southern Alberta with customs, traditions and a distinct collective identity from Indians.’ \( \text{R v Hirsekorn, 2010 para 134.} \)} The judge also agreed with the trial judge that the hunt in question had been political, and not about subsistence. There was a further challenge to Hirsekorn’s right to claim aboriginal rights in the area by the judge who said that while he had proved himself to be Métis and to have connections to historic Métis communities, the communities in question were in other parts of the country, including the Northwest Territories, Manitoba and northern Alberta (\( \text{R. v. Hirsekorn 2010 at para 149.} \)) This meant that even if there was a historic Métis community in the south of Alberta, as Hirsekorn’s ancestry was in other areas, he would still be unable to claim an aboriginal right to hunt there.

Again, Hirsekorn and the MNA appealed, this time to the Court of Appeal in Calgary. The Court gave permission for the appeal to go ahead, on the basis that, firstly, there may be some legal grounds for doing so - that the previous judges had made mistakes in law in applying the Powley test and had applied the test in a strict, rather than a purposive, manner, i.e. that the judges had not paid attention to the purpose of s.35, the protection of aboriginal rights. Secondly, the judge allowed the appeal to proceed because of the importance and complexity of the case. \( \text{R. v Hirsekorn has come to be seen as the test case for the application (or not) of Powley in Alberta – almost the make-or-break case to show whether or not Métis in Alberta could claim aboriginal rights in the way that Powley had successfully done further east in Ontario. There was a feeling in aboriginal law and} \)
academic circles that the question of Métis rights needed to be addressed, that there was very little existing case law and that perhaps a test case such as Hirsekorn would clarify the situation for both Métis and the provincial government, whose approach to Métis hunting and harvesting rights has been ambiguous and variable since Powley in 2003.

The Alberta context was different from the cases further east, as there was more room for interpretation of the Powley test criteria, such as how exactly a Métis community should be bounded: should it be related to place - southern Alberta - or were historic and contemporary communities more generalised and extensive, a ‘Métis of the Northwest’ rather than local. A second question was how to relate these communities to hunting areas in cases where hunting could be nomadic and long-term, rather than associated with the hinterland of a permanent, clearly-defined settlement. A further issue was about how to manage the pre-Euro-Canadian control criteria of the Powley test, as the actual date of assumption of control is contested in many parts of Canada. The judge who allowed Hirsekorn to appeal in Calgary hoped that some of these issues may be addressed (Manitoba Métis Federation 2012).

**Hirsekorn at the Calgary Court of Appeal**

The Hirsekorn appeal was held in early February 2013, at the Court of Appeal in Calgary, and was scheduled to begin at 9.30 in the morning, so 8.45am found me in a small café nearby, as five or six people came into the café, and from their clothing and their conversation I guessed they were in some way involved with the case. It was a cold morning, so some of the group were dressed in warm ski jackets, but some were wearing

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32 In general, it is difficult for courts and constitutions to accept a spatially vague community as being a minority ethnic group, entitled to claim land rights. One example where this has happened is in Brazil which began recognising ‘quilombo’ communities after the 1988 constitution. However, this was challenged by the popular media who argued it was a ‘fraudulent identity’ being used to claim land rights for black communities (see Farfán-Santos 2015, French 2009).
the Métis-style beaded moose hide jackets, with fur trimmed mittens. They spoke about having been asked by the local branches of the Métis Nation of Alberta to come to the court that morning as a show of support for the defendant, and they had specifically been asked to “dress Métis”, meaning to wear traditional Métis beaded clothing. This was to show support for the Métis hunter and to show the court that there was a strong Métis community in Alberta, and that this case was important to them. It was a clear statement of identity. One or two of the jackets had a beaded pattern of the Métis flag, a white infinity sign on a dark blue background, while others had the usual flowers and leaves patterns (see Figure 3.2 below for an example of the beadwork style). The group left after a quick cup of coffee, and I followed them to the court building.

Fig. 3.2 Example of the kind of Métis beaded jacket worn by those “dressing Métis”. This example shows a cloth jacket, with similar beading to the hide jackets commonly worn. Source: the author, 2013).
In the lift and waiting outside the courtroom, I got some curious looks as I had come alone and was clearly not Métis (by accent, clothes or appearance – I was not wearing Métis regalia as many of them were, and I was not a part of the general conversation as people placed each other and identified common relatives and acquaintances), and was asked if I was a journalist or a law student. I explained that I was a student from Dublin, interested in Métis history and aboriginal rights claims. People seemed satisfied with my short explanation, and moved on to discussing the case, and greeting old friends from other parts of the province who had come down to Calgary for the occasion. There was something of a festival atmosphere as people began to crowd into the courtroom, between the gossip of old friends catching up, the contrast of the moosehide clothes with the formal court dress of the lawyers and the seriousness of the surroundings, and the bustle of many people trying to find space to sit in a small courtroom. As one man beside me remarked, it was “wall to wall beads and moccasins in here”. It seemed the court had underestimated the numbers of Métis who would come to observe and support the case, and the court officials were negotiating with the security guards over how to handle so many people. I managed to squeeze onto a bench in the back row, but eventually more chairs had to be brought and there was a disagreement about how many could fit in the central aisle without breaking fire safety regulations. In the end, some observers were seated in the defendant’s stand (with jokes being made about it not being very comfortable, and asking the security guard not to forget and accidentally handcuff them after the hearing), and it was decided to begin the hearing.

I estimated there were about 50 or so observers in the room, as well as four sets of legal teams (one for Hirsekorn’s defence, one for the provincial prosecutors, and one each
from the Blackfoot and Siksika Nations who were intervening on the side of the province in the case), as well as three judges, several court clerks and stenographers, and some security guards. The three judges sat on a raised platform on a wood-panelled stage, behind a large wooden desk, facing the rest of the room. In front of them on a lower level were the court clerks and typists, with one security guard standing to one side, arms held attentively behind his back. At ground level were two long desks, on one side the defence lawyers, Jean Teillet and Jason Madden, both of whom had previously worked on several high-profile Métis aboriginal rights cases, including the Powley case a decade earlier. There was also an intervenor on behalf of the Métis National Council. Between the two desks stood a lectern, at which whoever had the floor stood to speak, facing the judges. At the other long desk were the prosecuting legal team, made up of two provincial lawyers, Thomas Rothwell and Angela Edgington, and the intervenors from the Blackfoot and the Siksika Nations, who were to make representations to back up the province’s case.

As the lawyers took their places there was some light joking between them as to who should sit next to whom, and whether the Blackfoot and the Métis might start a fight if they were too close. Towards the front of the observer benches I recognised some well-known Métis political leaders and activists, including Clement Chartier, the president of the Métis National Council (MNC, which represents Métis at the national level), Audrey Poitras, the president of the Métis Nation of Alberta (MNA), and some of the MNA staff I had met previously. They had asked others to come to show support, and had done so themselves very visibly. With the exception of the judges, the provincial lawyers and the

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33 I have not anonymised those involved in this case – the lawyers, the defendant or the judges – as this information is widely available, and the court case took place in the public domain. Others who spoke to me or whom I overheard speaking to each other privately during the case have been anonymised.
intervenors from the MNC, Blackfoot and Siksika, the court officials, myself and three law students, all the others in the room seemed to be Métis, as most of them wearing some form of clothing identifying themselves as such, although the Métis lawyers were dressed in formal black gowns.

First to speak was the defence lawyer Jean Teillet, who is well known as a Métis rights lawyer and scholar, and had been instrumental in the Supreme Court Powley victory in 2003. She began by introducing the defendant, Gary Hirsekorn, who had come along that day although he would not be expected to speak. The process for appeal involves submitting arguments prior to the hearing, so she said she would only highlight the more important points in her allotted time. The format of the hearing allowed for each of the lawyers and intervenors to have a certain amount of time to make their arguments, with the judges able to interrupt with questions at any point. There were no witnesses or evidences being submitted, as this had all taken place at the trial stage three years before, and what was happening on this day was an opportunity for each side to either present or contest the case for the previous judges having misinterpreted the evidence or misapplied the case law and legal statutes, in this case specifically the Powley test. Teillet laid out her arguments as to why the trial and the Queen’s Bench judges had erred in their judgements, arguing that there were parts of the Hirsekorn evidence that the trial judge had failed to take into account or had misinterpreted, and that this had led to him making errors in his application of the law to the case. As it was not permitted to take any form of recording device into the courtroom, I can only rely on my notes and readings of available documents to describe these arguments. The original evidence presented in 2010 has not been published.
Teillet spoke from notes, referring to them briefly to give more exact references to the points of evidence given in the original trial. As she read out page references for these, the judges were able to consult their copies of the trial transcripts and to make notes on what was being argued. Each of the judges, the clerks, and the lawyers had a set of spiral-bound transcripts, associated case law, earlier judgements and appeal factums in front of them to refer to. Teillet’s main arguments centred around several points of evidence and interpretation: the inappropriateness of the prosecution’s characterisation of the Cypress Hills rather than southern/central Alberta being cited as the ‘site-specific area’ (i.e. a s.35 right to hunt is not a general right, it can only be exercised in specific areas that can be demonstrated to be traditional hunting grounds, and so are limited geographically); the argument about how many Métis had been in southern Alberta prior to Euro-Canadian control and whether they constituted a historic Métis community (density of population, permanent or nomadic); the Blackfoot claims to exclusive control over the hunting grounds prior to their 1877 treaty with Canada (they were arguing that a Métis community was not established in the area before the 1870s because they would not allow it); and the forms of evidence that were put forward at trial to demonstrate Métis historical continuity in the area (birth certificates, photographs, etc.). What she was doing was attempting to retell, reassess and reemphasise the points of evidence provided by the defence at trial that she felt had been incorrectly dealt with or dismissed by the trial judge. As she spoke, the judges nodded along, or asked questions to clarify a point or to ask why Teillet was making the point. The three judges had different ways of doing this – one was mostly silent, only asking for some clarifications about what was meant by site-specificity, one interrupted often and abruptly, and the last seemed broadly sympathetic but wanting to keep things clear in his head.
To start with, the main issue that the judges wanted clarification on was this idea of site-specificity of the right, how the trial court had initially defined it (the Cypress Hills in South-eastern Alberta only) and how this was being challenged by Teillet and the Métis lawyers. This was such an important point because of the way the Powley test had been developed a decade before, and how courts were measuring claims to aboriginal rights as localised rather than country-wide or province-wide. Because aboriginal rights are understood to be site-specific, a right to hunt is limited to a locally-based practice. You can only have a right recognised in the specific area where you can prove your historic community hunted. In the Powley case, the hunters had claimed a Métis aboriginal right to hunt in ‘the environs of Sault Ste. Marie’, a city in the south of Ontario. So they proved a historical Métis community had been continuously in the area, hunting for subsistence as far as possible up to the present day. The claim was limited to the Sault Ste. Marie area, and this is the right that was granted when they won the case at the Supreme Court in 2003. This meant that Métis with a connection to Sault Ste. Marie could hunt for food in the area, but not necessarily elsewhere – unless they could prove connections to other Métis communities and make a separate claim there.

What Teillet and the Alberta Métis were claiming was that limiting the area for hunting - the “site-specific area” - to only the Cypress Hills was unnecessarily limiting, and would also almost guarantee that it would be impossible to prove a connection to a historical community that hunted in this smaller area, rather than in southern and central Alberta in general. The judges had asked for clarification on this point – did this mean that people with an aboriginal right to hunt could only hunt in certain areas, or all across Canada? What if they moved from one community to another, did they take their right with them?
This has been one of the points of confusion about how aboriginal rights work, and how they have developed in practice. As aboriginal rights are seen as community-based, while being practiced by individuals, this would mean that they would not necessarily be able to carry the right with them to a new area. Again, you can only practice your right in the area your ancestors did. One suggestion on how to manage this has been to treat Métis individuals and communities in a similar way to the status Indian context. Here, there is some possibility for individuals who move from one community to another, and to switch their band membership to another band, to therefore “give up” their rights in the first community and become eligible for rights in the new community. As the court-used definition of aboriginality involves self-identification and community acceptance, this has been made possible. This in itself is an interesting point about the localisation and geographical limitations of the practice of some aboriginal rights – especially hunting and harvesting rights. The area in which you can claim a right is dependent on where you can prove your ancestors lived and practised this right.

Teillet and the Métis were also arguing that limiting the location of the right to practice hunting and limiting the definitions of “historical Métis community” was making it very difficult to generate a broadly accepted approach to Métis aboriginal hunting rights. It meant that each community (seen by the province and the federal government as individual small, permanent settlements, disconnected from each other) had to claim separate rights to hunt in their immediate surroundings. Instead, Teillet wanted to broaden the historical Métis community at issue in this case to “the Métis of the Northwest” rather than the Métis of southern central Alberta, and their site-specific hunting area to a broader “northwest plains” rather than the Cypress Hills. She
emphasised that this was the lived reality of historical Métis families and communities; rather than living in discrete settlements, the 19th-century Métis families were rarely attached to only one settlement or area. They had kin and trading connections all across the Northwest, between many small settlements. In this context, what the court wants to see in terms of connection to a single settlement is asking the wrong question for determining where aboriginal rights would be considered. Teillet argued that how the court and the provincial government defines the “Métis community” is crucial to how Métis aboriginal rights claims are judged, claimed and contested. She argued it would be more historically true not to divide the Métis community of the plains/northwest into separate communities, who would each have to claim rights in their local area, and rather to see the whole region as one large, interconnected, interrelated and interdependent community.

While these arguments were being made by the lawyers, I was also paying attention to the performance of the court itself, the behaviours expected and delivered by the participants, and the reactions and involvement of the audience. There were many little rituals of court behaviour going on, such as calling the judges “my lord” and “my lady”, and referring to the opposing counsel as “my friend” or, more pointedly, “my learned friend”. The atmosphere in the room felt relatively friendly, or at least non-combative and not aggressive. As the case had been going on since 2010, the lawyers on all sides all knew each other, and occasionally one lawyer would help the opposing team to find a reference to an earlier case or to pick up a dropped pen. The people in the audience sometimes whispered comments to each other on how they felt the arguments were proceeding (the general feeling was that Teillet was doing well, and that surely the judges
would be persuaded), or about the strangeness, the formality and artificiality, of the situation. Eventually, it was decided to take a twenty-minute break, and to move to a bigger courtroom, as people were still arriving outside and the security guards were becoming very nervous about fire safety regulations.

The new location was up on the 18th floor of the building, which had a fantastic view of the Rocky Mountains to the west. People began to gather outside the room as the break time came to an end, talking in groups about how they thought the appeal was going. Several ventured the opinion that Teillet was doing a great job of demolishing the previous court’s verdict, and that surely they would win this appeal. Others said it might be best if they lost at this level too, because then they could appeal to the next court – the Supreme Court - and then if they won at that stage it would be more official and binding across Canada rather than remaining, as at present, a provincial matter. Again, one or two people gave me curious glances and asked if I was a journalist, but smiled at my explanation of being interested in Métis claims to aboriginal rights. Eventually the security guards came and opened the doors – the new courtroom was enormous, seating about 200 people and apparently was only used as a ceremonial courtroom normally. The room was all dark wooden panelling and carved brackets and benches, with large Canadian flags in the corners and a raised platform for the judges to sit facing the lawyers, clerks and observers.

While people were beginning to settle down, I became aware of a group near me, who were having an animated discussion about the case and the possible outcomes. Seated on the bench behind me was Clement Chartier, the president of the Métis National Council (representing Métis at the national/federal level), and standing around him were two or
three others, who seemed to be students of aboriginal law. I eavesdropped for a while, waiting for an opportunity to join in without seeming too pushy, as Chartier is normally based in Ottawa or Toronto and seemed to have come to Alberta especially for this case. Chartier is a lawyer, and has been involved with Métis law and politics since the 1980s. He was dressed this day in “full Métis” – a tanned moosehide jacket, embroidered in beadwork with the Métis style of flowers (roses and petals), and with a hide cap, also embroidered in beads with the Métis symbol – a white infinity sign (∞) on a dark blue background – which is also the Métis flag. He seemed to be cheery and open to questions from the students, and from others who stopped as they walked past to their seats to say hello and ask his opinion on the case.

Once there was a break in the conversation, I turned to him and asked if he was Clement Chartier. He nodded, smiling, and said that he had noticed me listening in and was curious who I was and why I was there. I gave my little speech about what I am interested in (Anthropology student from Ireland, interested in Métis politics, law and history) and asked him a few quick questions about what he thought of this as a means of claiming aboriginal rights and having them recognised. Conscious that the lawyers were returning to the room, he spoke briefly about the connection between the three big Métis cases that were all active at the time – this one, the Daniels decision on whether Métis were Indian for the purposes of s.91(24) (i.e. that the federal government had responsibility for and particular duties and obligations towards them), and the Manitoba Métis Federation (MMF) case, about whether scrip had been fairly dealt with in Manitoba from the 1870s to the 1920s or whether Métis there may still have claims to the land (MMF Inc. v. Canada, 2013). With the Daniels case, the decision on which had been published the
week before, in favour of the Métis (that they should be considered Indian for s.91 (24) placing them under federal jurisdiction as Indians are), he pointed out that while it is a victory for the Métis, there was also another school of thought that argued that the federal government had not necessarily always been a benevolent protector of the Indians, and that possibly Métis would not be better off either.

This situation is similar to how the Inuit came to be included under s.91(24) in the 1930s where again the point had been to extend some recognition and protection to them as a special group, but not necessarily as similar to the Indians, and again the Inuit were not expected to come under the Indian Act in general. So inclusion for Métis within s.91 (24) may enable them to claim some federal protection, but there was no guarantee that they would have the services that Indians received under the Indian Act (education, reservations, free health care etc.) extended to them too. There are practical and financial reasons for this not being popular nationally, as there are half a million Métis in comparison to about 800,000 status Indians currently, so potentially the budget for services would nearly double, which is of course politically dangerous. He recommended looking more into this issue, especially what the MNC (of which he is president) had published on the subject recently. All three cases (Daniels, MMF and Hirsekorn) are different means of trying to force recognition from the government that Métis have a claim to aboriginal rights, using different legal paths.

We were still talking when one of the clerks announced that the lawyers were ready and that we should all stand for the entrance of the three judges, so I returned to my bench, where I now had sufficient elbow room to take notes without annoying my neighbours. As before, the three judges were seated behind a large desk on a raised platform, facing
the rest of the room, with the clerks and the stenographer in front of them, then the rows of lawyers facing them at floor level. Behind the lawyers then were rows of benches for the observers, with the law students all bunched together near the front, with others more spaced out since there was now more room. This time, the Métis lawyers and the intervenor on behalf of the MNC were seated at one desk to the left, while the lawyers for the province (prosecution) and the intervenors on behalf of the Siksika and the Blackfoot Nations were together at the long desk on the right-hand side.

Teillet was called up again to finish her arguments. She spoke about the issue of the Blackfoot claim to exclusivity to the land around the Cypress Hills at the time (1850s to 1870s, “pre-European control”). The Blackfoot had claimed at trial to have had sole control and occupation of the area of southern and central Alberta up until the time they signed Treaty Seven with Canada in 1877. Teillet argued that the Métis had a long history of travelling within the territories of others, of having permission to use lands for hunting, and of kin relations and intermarriage with other nations including the Blackfoot. She argued that in the Northwest of the mid-19th century, this kind of long-distance travelling, harvesting food and animals on the go, was part of the shifting combinations of alliances for travel and trade all across the plains. At different times, for various reasons, Métis would have arrangements with other groups for safe travel, access to land, and hunting and harvesting rights – and that the idea of an exclusively Blackfoot area into which all others were denied access was not historically accurate. She also argued that by the mid-19th century, the power of the Blackfoot was in any case going into decline; due to waves of smallpox and other diseases, as well as the introduction of alcohol, they were less able to maintain their boundaries even if they had wanted to. The issue here is that
to claim hunting rights in the Cypress Hills, the Métis had to demonstrate presence on the land before the coming of European/Canadian control to the area, estimated by the judge in the original trial as between 1874-78 (R. v. Hirsekorn 2010 at para 139). With this, Teillet finished her portion of the argument, and handed over to her colleague Jason Madden, another well-known Métis lawyer.

Madden began his argument by highlighting the need for the right being claimed to be properly characterised – this is one of the steps in the Powley test that was developed to determine Métis aboriginal rights claims. It needs to be made clear exactly who is claiming the right to do what. He argued that the first issue is the identification of communities – both historic and contemporary (again this is part of the Powley test). But in the case of the Métis, it can be far more difficult to pinpoint a community which may be both mobile (nomadic or semi-nomadic, following buffalo to hunt) and flexible (in membership, location, primary economic activities and so on). Métis communities in the plains had not necessarily been permanent in location, stable in composition or population, or constant over time – often families left in the summer to hunt, joining up with other relatives, only returning to the original area later in the year, though not necessarily every year. Especially in the context of southern Alberta, where Métis mainly went to hunt rather than to establish permanent villages or to farm, this meant following migrating buffalo all across the area, rather than coming and going from a fixed settlement. He argued that looking for a permanent Métis settlement in the plains was the wrong approach, and that for hunting rights especially you had to take into account the actual practices of the community: following a migrating herd across large distances rather than a narrow interpretation of a settlement as the location of a community.
Madden argued that this had been one of the mistakes made by the trial judge, who he had looked at too narrow a geographical region (the Cypress Hills, where the temporary Métis winter camps were located) rather than the larger region where the hunting and subsistence actually took place – which was on the plains all around. He argued that taking all this into account, the judges should conclude that the historic community that the right to hunt being claimed comes from, and the site-specific location for exercising this right, need to be recognised as southern and central Alberta, or even the Northwest generally (i.e. the area between Manitoba and the Rocky Mountains, see Figure 3.3 below), rather than the narrow region of the Cypress Hills only.34

Fig. 3.3 ‘Métis Homeland’ (Source: An Indigenous History of North America, n.d.) The three provinces in the centre (Alberta, Saskatchewan and Manitoba) are the region claimed as the homeland of the “Métis of the Northwest”.

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34 The extension of the Métis community beyond the province of Alberta, to be decided by an Albertan court, may have been problematic, due to limits of jurisdiction. This is an issue in using courts to make claims, due to the provincial structure of trial courts: a case claiming an intra-provincial community may have had to appeal to a federal court. This is one of the reasons why it was hoped that Hirsekorn would get as far as the Supreme Court.
While these arguments were being made, the lawyers and the judges were continually quoting case law from similar cases in Métis and other First Nations law and precedent at each other, but here Madden tried to keep the focus on the interconnectedness of hunting on the plains with the cart trails and canoe routes up to the more permanent settlements in northern Alberta (which are recognised by the provincial government as historic and contemporary Métis communities). He was painting a picture of scattered families of Métis, coming together and separating throughout the year, shifting between various economic elements (farming, hunting, trading as middlemen, long-distance hauliers, etc.) of a large, geographically extensive community across the northwest plains. He outlined this as extending roughly from southern Alberta north to the North Saskatchewan River and Fort Edmonton, east across Saskatchewan to Manitoba and Red River, and back southwest to the plains along the border with the USA. He emphasised again that this should be seen as one community, the “Métis of the Northwest”, not a series of smaller, localised areas, and that this wider community should be considered as the “historic, rights-bearing community” that the court is looking for as part of the Powley test.

His next point was that in the 1880s, a treaty commission passed through the area meeting with the Blackfoot and the Siksika to sort out treaty entitlements under the recently signed Treaty Seven. He explained that a scrip commission had travelled alongside them in the area, which was standard practice further east to deal with the Métis left out of treaty. He suggested that this indicated there had to have been an established Métis community in the area, with some settled since at least the early 1870s,

35 The scrip commissions travelled in the interior after the 1860s, dealing with Métis families who could claim either money or land, alongside the Treaty Commissions which dealt with First Nations
for the scrip commission to deal with. This ties in with Madden’s final argument, which was about the inappropriateness of the timeline of “effective European-Canadian control” in the area. Again, this is a part of the Powley test, that occupancy of the land must be proved to be established before Canadian state control of the region. The debate in this case is about when exactly that could be said to have taken place. The date accepted by the trial judge was 1874 with the arrival of the police force (the RCMP), but Madden argued that for a start, control over the whole region was not established as soon as they arrived, and that there were a series of points at which control was being established, that it was more of a process than a single event. He argued that effective control was more about when the lifestyles of the people living in the area and patterns of land use began to be affected and changed by the presence and effects of the state, and that this did not begin to happen until after 1879, when the buffalo population collapsed and hunting became unsustainable. This forced a shift in the way of life of the Métis, as they had to adapt their economy from one based on buffalo hunting and nomadic trade to a more sedentary economy based on farming and wage labour. A little later in the early 1880s, land surveying began, and this had an impact on Métis land use and ways of life, and this combination marked the beginning, along with the signing of Treaty Seven with the Blackfoot in 1877, of the assertion of state control and authority over southern Alberta, including the Métis living there. Madden concluded his arguments at this point, and gave the floor to the first of the prosecuting lawyers.

Thomas Rothwell was the first provincial lawyer to make his arguments. He spoke firstly about the issue of the jurisdiction of this court (the Alberta Court of Appeal), and whether an appeal should have been permitted to take place at all in this case. He argued that
normally, as is standard court procedure, the appeal courts did not have the authority to challenge the facts that had been accepted at the trial, but only to challenge mistakes of law, or misinterpretations of the facts. Next, he emphasised that there was simply not enough evidence presented at the trial to have concluded that there had been historically “enough” occupation or use of the land from the Métis in the area, whether in levels of population or duration, to ground a contemporary aboriginal rights claim in. He argued that the Métis lawyers were too generous in their interpretation of the evidence available, that they were too lenient in what constituted enough occupation to justify a claim now. He argued too against re-evaluating the use of the Powley test in Alberta, that just because in this case Hirsekorn had failed to meet the criteria in southern Alberta, did not mean that the test was unsuitable for use in Alberta at all and should be amended to suit this case.

He also spoke about the issue of overlapping rights, whether it was possible for First Nations like the Blackfoot and Métis to both have rights in the same area. He accepted that it was not necessary to find permanent Métis settlements in the area, but that the evidence given did not support sufficient “patterns of usage” and enough of a presence, as there was no evidence of a settlement or even regular patterns of hunting. He repeated that this was not a failing of the Powley test, under which some communities in northern and central Alberta had been able to claim hunting rights (the Métis settlements recognised as meeting the Powley test in the 2007 Métis harvesting policy of the Albertan government – see Government of Alberta 2007: 5), but that in southern Alberta this just was not the case – there just had not been enough Métis there for long enough before effective Canadian control. He also argued that the Métis lawyers’ attempts to argue to
extend the “historic Métis community” from the community of southern Alberta to a community of the “Métis of the Northwest” was far too broad, and that land-based rights such as hunting should remain site-specific. Some of the judges interrupted several times, mostly for clarification of historical points or to understand exactly his argument against the appeal.

Soon after, a half-hour break was called for lunch, and the courtroom emptied as people drifted off to the small café on the ground floor, chatting in groups and waving to acquaintances. By 1.30, the session was ready to begin again, and people began to swarm into the lifts up to the 18th floor. More new people had arrived, and the courtroom began to fill up. Some of the people who had been there in the morning had phoned local friends and relatives and asked them to come over to show support too, and there were groups of people explaining to the newcomers what had been happening. To some extent, the court system and the legal style of arguing was probably beyond the everyday experiences of a lot of people in the room, and by the afternoon the attention of some people began to wane – one older man fell asleep towards mid-afternoon and had to be prodded awake when he started to snore gently. A few drifters snuck in to the room as the provincial lawyer continued his arguments from the previous session.

Again, taking up his challenge with the Métis lawyers’ characterisation of the historical community as “the Métis of the Northwest”, he argued that this was extremely problematic. There was no evidence to show that this purported community was as tightly linked and interconnected as Madden and Teillet had argued, and that they were in fact widely scattered with infrequent contact between each other, and that in any case many of the Métis in this area had no ties to Red River. He argued that historically, the
Métis of Northern Alberta (around Fort Edmonton) had been a separate group from the plains/Red River group – that some were of more recent aboriginal/European ancestry. It was also not possible to demonstrate that this group in Northern Alberta had ties to any individual Métis who may have been in southern Alberta in the 1870s: they were not the same community. This links back to the site-specificity part of the Powley test, where if the community today is not a continuation of the individual Métis hunters in the 1870s, then there is no southern Albertan historic community to base a claim on, and so no contemporary right to hunt. This is an important point because it highlights again how localised these claims have to be – the hunting right has to be for a specific area, made by a contemporary community who live there now and are the descendants (not necessarily genetic) of the community who was there historically. Being Métis is not enough to be able to claim a Métis right in any area with a historic Métis community.

His next argument was about how connections had been made with other aboriginal hunting cases, and how this was erroneous, especially the use of the R. v Adams (1996) case from the 1980s in Quebec. This case was about Mohawk claiming fishing rights in an area in which they had only been present for three or four years before the time of European control – they had moved from another part of Quebec in the 1700s at a time of population upheavals across aboriginal eastern Canada. Rothwell argued that this case could not be extrapolated onto the Hirsekorn case, as the facts were not the same. He said that the site-specificity test meant that you had to exercise the rights on the tract of land which the historical community had hunted on and that hunting rights were not portable. Therefore, if there was no Métis presence in southern Alberta, then a presence in other parts of the Northwest was not relevant. His second point was about the volume
of evidence. The Adams case was based on very slight evidence, due to the circumstances of the time – 18th-century, low levels of literacy, little documentation, so the threshold for evidence was necessarily lower. He argued that this did not translate to late 19th-century Alberta and that more evidence of Métis presence should be available. If such evidence was lacking then this was because it never existed, rather than that it had been lost over hundreds of years.

His next point was about the question of the date of “effective Canadian control”. He said that what Teillet and Madden had argued for – a date of control in the early 1880s based on changes in Métis way of life after the collapse of the buffalo herds – was not relevant. He argued that there was evidence instead for a quick assumption of control by the RCMP (police) soon after they arrived in 1873, and that the local Treaties (Treaty Four to the east of the Cypress Hills in 1874, and Treaty Seven in southern Alberta in 1877 – see Fig. 3.4 below) had in any case put an end to aboriginal control of the area. The accepted date of control should remain as mid-1870s. My impression from all these arguments was that what was being discussed were competing interpretations of history, or competing histories. The lawyers all had different views and emphases and interpretations of what vague documentary artefacts might mean, or of what was unwritten. This highlights the continuing problem in courts of how legal ‘truths’ are found, or constructed, from the evidence presented, the interpretations constructed, and the arguments shaped. As Culhane argues in relation to the Delgamuukw case, ‘legal findings are based on [the] historical and cultural interpretations’ of the actors, and the synthesis the judge creates from their understanding of these (1998: 289). This is about how history and historical facts are understood and used, and this is done in very different ways: academic
understandings tend to see perceptions of the past as socially constructed and connected to current concerns, while the legal view understood in the courts sees historical ‘facts’ as a means to permanently answer or resolve disputes (Ray 2011: 152). The trust in the neutrality of the forms of evidence available and how they are interpreted shape the ‘facts’ that emerge – were there Métis hunters in the area before the RCMP established control? How can you fix a date for control?

Fig. 3.4 ‘First Nations in Alberta’ (Source: Indigenous and Northern Affairs Canada, n.d. (b)). A map of the treaty areas of Alberta – Treaty 8 (green), Treaty 6 (orange) and Treaty 7 (blue, the 1877 treaty with the Blackfoot), with Medicine Hat and the Cypress Hills in the southeast, just on the edge of Treaty 7.
Once the provincial lawyer was finished, it was the turn of the intervenors to speak. These were representatives of various groups who had applied to the court to have their arguments heard in support of one or the other side. The first intervenor was Katie Smith, speaking on behalf of the Métis National Council, in support of the Métis case. She began her submission by describing what she saw as the two errors of law made by the trial judge, which had led him to an incorrect verdict. The first of these was the inferences that had been made on the basis of the available evidence. She said that allowances should have been made for the scarcity of available evidence, as at the time there had been no missionaries or Canadian settlers in the area to produce written sources of evidence, although oral history was present among the Métis. The only written evidence was from accidental meetings of Canadian explorers or traders who happened to encounter any Métis in the area; there was no systematic way of keeping count of actual population levels. She was emphasising the process of inferences being made, how these can be interpreted differently, even where the evidence is not disputed. The facts themselves were not being challenged, just the meanings attributed to them.

One example of this was the interpretation that the Métis had been too afraid of the Blackfoot to venture into their territory (there was some scoffing from the audience at this, and a smile or two from the Métis lawyers) before the protection of the RCMP had been established. This inference had been made on the basis of one documented remark by a Canadian traveller who was himself apparently terrified of the Blackfoot, and this had been extrapolated and inferred too broadly (all Métis were afraid of the Blackfoot) than its value as evidence warranted. This also ignored the very different contexts of a Canadian traveller in unknown areas, as compared to Métis hunters who may have had
kin ties to the Blackfoot, and also had different purposes in the area (hunting rather than surveying for settlement), and a different history and relationship with the Blackfoot. Her main argument was that there was a logical leap being made between the evidence accepted, and the conclusions that had been drawn by the trial judge and accepted unchallenged by the first appeal judge at the provincial court in 2011.

The next to speak was the intervenor for the Blackfoot Nation Blood Tribe. They had applied to make arguments in support of the province as prosecution, telling the story of the Blackfoot history and relations with Métis in the 19th century. His main arguments were about time, geography, and treaty promises. He argued firstly that there had not been sufficient time for Métis to establish presence, for a Métis claim to be created or “wedged in” between the time of Blackfoot dominance of the area, and the beginning of RCMP/Canadian control. He said the RCMP had established “swift and thorough” control over the area within a few months of their arrival in 1873, setting up a new order of law and enforcement. Before this, Blackfoot hegemony of the area had not been challenged, either by the Métis, or other aboriginal groups such as the Cree. He claimed 1875 as the latest possible date of effective Canadian control in the region, at the time that Treaty Seven was being negotiated with the Blackfoot. He said that the Métis had not been involved in the Treaty negotiations, and that this indicated there were not enough of them in the area for the state to worry about dealing with them, and this implied they had no claim to the area that the state had recognised as needing to be cancelled.

The second part of his argument was about the promises given to the Blackfoot in Treaty Seven: that the land would be exclusively for their use, that no consideration or inclusion would be given to others’ claims to rights in Blackfoot territory. His claim was that, as the
Blackfoot were the only signatories to Treaty Seven in southern Alberta, recognising any rights for others in their area would be a violation of the promises made in the Treaty. He emphasised that this was not a “hierarchy of rights” where Blackfoot claims would inevitably trump Métis claims, but that in this particular region, in the context of the provisions of Treaty Seven, the Blackfoot had been guaranteed exclusivity over the land.

The last to speak was the intervenor for the Siksika Nation, who are closely related to the Blackfoot. This lawyer, LaFond, argued mainly that the actual right Hirsekorn was claiming – the rights to hunt buffalo in Blackfoot territory in the Cypress Hills – was never a practice that was integral to Métis culture. This need to prove that the practice is integral or vital to the Métis culture is another part of the Powley test. He accepted that buffalo hunting in general was almost certainly integral, but not in that particular location. Again, this is related to how long a practice must be done in a certain area before it becomes integral and a claim can be established. He argued again about the issue of lack of evidence, saying that if hunting in that area was really so vital to the Métis, enough evidence should have accumulated to support this.

After the intervenors had spoken, the court was adjourned. Judgement was reserved to allow the judges time to consider the arguments before coming to a decision. In July 2013, their judgement was published, and the appeal was denied. Soon after, Hirsekorn asked for permission from the Supreme Court for his appeal to be heard there, on the basis that the nomadic nature of the Métis in 19th-century Alberta was a special case of Powley. Leave to appeal was refused, apparently ‘with no explanation offered’ early in January 2014 (Narine 2014). When it began in 2007, the Hirsekorn case was part of the MNA’s plan to push a Powley-style test case in Alberta. The case had not succeeded in
providing a clear confirmation of Métis rights in the province. A second aim, to get as far as the Supreme Court, and hence to force a detailed debate over where across Canada Métis rights could be claimed, had also not been achieved.

**Conclusion: Métis in the courts**

Use of the courts can be seen as a potentially fruitful way for groups to claims to aboriginal rights. The courts can be a stepping-stone to direct negotiations with the state, or as a means to press for recognition in the face of state inaction. The courts also have an impact in wider society, and can lead to a wider recognition and acceptance of aboriginal rights claims in the mainstream. But there are also limits to the courts, and Métis and aboriginal experiences of them have been mixed.

Where the state has been slow to deal with aboriginal claims, pushing a case through the courts can provide an aboriginal group with a solid base from which to force the state or provincial governments to negotiate with them, or at least to take their claims seriously: the courts are used ‘not to settle the dispute, but to acknowledge its validity’ (Culhane 1998: 87).

After the 1982 constitution recognised the aboriginal rights of Métis, the original intent had been to negotiate the content of these rights and to decide upon their implementation, but this process ground to a halt (Weinstein 2007: 94-103). By the 2000s, in order to find another route to restart this process, and to force the federal government to recognise its responsibility to the Métis, the Métis had been left ‘with few options but to go to court to secure support for implementation of their twenty-year-old section 35 rights’ (Miller 2004: 276, also Giokas & Chartrand 2002: 84). So, the courts have become an alternative route to forcing action on Métis aboriginal rights, giving them
the choice between ‘prov[ing] the existence of these rights in Canadian courts... or tak[ing] what they can get from provincial governments which are significantly influenced by local opinions of non-aboriginal citizens’ (Bell 1999: 3). This point was made in the talk given by Heather Devine about the provincial government of Alberta and its uncertain relationship with Métis claims, depending on the changing political context referred to earlier. The courts have become an alternative to be pursued where negotiation has failed (Korsmo 1999: 122).

Recognition of the existence of aboriginal rights in the courts can lead to wider understandings of these issues in Canadian society, and can be constitutive in forming mainstream views of aboriginality (Andersen 2014: 7).

In this context, it is interesting that the main claims have been for Métis hunting and harvesting rights (s.35), and, through s.91(24) and the Daniels case, for recognition as a group for whom the government has a responsibility, as ‘Indians’. This has shaped what is seen as relevant for Métis aboriginal rights: that it is about access to resources and being, in some legal contexts, ‘Indian’. Many people I spoke to in Canada had told me that, although they themselves did not hunt, and lived in an urban environment, that these cases were important because of their symbolic value, and also to enable future generations to maintain traditions such as hunting and harvesting if they wanted to. The Daniels case about government responsibility towards Métis, as ‘Indians’ within s.91 (24), was seen as partly ‘to get some of the benefits that Indians get’ such as financial assistance for education and healthcare, but also as a kind of making up for historical injustice of being left out of these benefits when they were extended to First Nations and Inuit, but not Métis and non-status Indians. This is an interesting point in terms of the
difference between the claims being made, and the actual situation of many (especially urban) Métis on the ground, who may never claim special benefits or need to exercise hunting rights.

Bell also argues that courts are becoming more conscious of their impact, and of the ‘practical and political consequences of its decision making in the area of aboriginal law’ (2003: 423). So, while a court case win can help to legitimise Métis aboriginality and identity, the courts are becoming more wary of the consequences of their judgements, including financial or political consequences when rights are recognised for a large number of people, such as Métis.

As well as its impact in wider society, the courts’ ability to legitimise identity though recognition also means that certain kinds or understandings of identities can be legitimated, and that the power of the court can exclude others from shaping their own identities. As Daniels and Chartrand argue for the Métis, ‘courts have a lot of power in their job of defining the Métis people. Once they have done it, it is not likely to be changed soon, if ever’ (2001: 24). As the courts have not yet dealt with the issue of Métis identity as a whole, this has not yet happened. Métis cases have tended to be local or provincial, rather than about ‘the Métis’ as a whole. But the courts, through their interpretations of s.35 and understandings of aboriginality, have the power to define who is and who is not aboriginal (Vermette 2008: 215). So aboriginal identity, through the courts, is shaped into a legal category, a kind of identity that the courts can recognise; ‘aboriginal identity becomes imagined as something that can be discovered through legal inquiry’ (Macklem 1993: 18). This again takes the power of shaping and narrating their
own identity away from aboriginal groups, as they need to interact with the courts to have their identity and claims to rights legitimised.

Aside from these considerations, there are other limits to the abilities of the courts to act in Métis rights claims. The structure of the law means that in many cases, Métis rights claims tend to be addressed as localised claims in the provincial courts, possibly being appealed to higher courts, rather than as nationally-applicable claims that can clarify Métis rights across the whole country and for all who can claim to be Métis. Because this case-by-case approach has taken Métis claims as one relatively small community at a time (e.g. for the Hirsekorn case this was Métis of southern Alberta), the court’s interpretation of the law is likely to develop its methods of managing and understanding Métis claims based on an understanding of localised circumstances, rather than dealing with the Métis as a whole (Daniels & Chartrand 2001: 46). In fact, the Supreme Court has not yet had to deal with any case that has involved, or even needed a straightforward definition of ‘the Métis People’ – it has always been local and regional Métis communities at stake (Chartrand & Giokas 2002: 268). This has meant that the Métis have not yet had to risk their entire nation’s aboriginal rights claims in one case, but it also means that there has been no consistency or implementation of judgements vindicating Métis claims across the whole country, or even across several provinces. Nothing has been settled, or even attempted, at the national level in the courts, except arguably for the Daniels case which sought to have Métis considered as Indian in some legal contexts.

Another point about using courts as a means to claim aboriginal rights and to have them recognised is that in some ways, there is often little alternative. As the basis of protections of aboriginal culture and traditions are legal and constitutional, the courts are
the forum for these to be addressed. It has been argued that ‘aboriginal peoples do not have the luxury of choosing not to engage in litigation to secure and protect rights’ (Culhane 1998: 73), that they feel this is the only path they can take. For the Métis especially, as their claims are so disputed and new from a constitutional perspective, this has put them in a position where, since negotiations with the federal government fizzled out in the 1980s, there is no other way:

‘the very thing which was to bring justice and reconciliation between Métis and the non-aboriginal governments that govern them, constitutional rights, has instead left the Métis in a position where direct confrontation with the government, through a court of law, appears to be the only way in which a firm definition of these rights can be established’ (Nichols 2003: 99).

It becomes a vicious circle, where talks with the provincial governments about hunting and harvesting rights have been desultory, as there is ‘a view that in order for the consultation obligation to be triggered, the existence of an aboriginal or treaty right must be proven conclusively in a court of law’ (Stevenson 2003: 75). Métis need to have their rights recognised first in the courts before the provinces are prepared to negotiate seriously with them about how to manage Métis hunting or harvesting practices. But the courts are also influenced by the political context and this process can take a very long time to go through the various levels of courts. And then as described above, any recognition of Métis rights tends to be limited to a local or regional recognition. So, the courts appear to be a necessary but to some extent unsatisfactory method for Métis to force the provincial and federal governments to take their claims seriously.
The process of making the courts listen to their claims, the very context of the courts – the language, the settings, the expectations and the process itself – can force Métis claims to be presented in ways that have to be shaped into a representation of history and culture that the court recognises as aboriginal, and understands as legal. Writing about First Nations land claims, Valverde describes this as

‘the legal architecture of aboriginal title claims has forced Aboriginal peoples to pretend to be the “owners” of a timeless, essentialised culture authentically expressed in certain highly ritualised performances of elders, a “culture” that (to be legally effective) should not be contaminated by English literacy, commerce, or creative revisions’ (2012:18-9).

Although this seems a little more extreme than what Métis have had to do in the courts, the theme of having to shape their history and communities into the court’s understandings of settlements or what constitutes occupation or land use, over a sufficient amount of time to generate an aboriginal right is comparable. Aboriginal culture remains ‘a fact to be proven’ (Chartrand 2008: 43), and in Métis cases this often means proving they were present as a community in a particular place, distinct from First Nations and Euro-Canadian settlements and ways of life. Weiner, discussing similar court cases in Australia, argues that this process of shaping history has become invisible and accepted as self-evident: ‘the legislative requirements for the presentation of indigenous culture and society conceal the extent to which this culture and society are themselves elicited by the very form and process of the legislation’ (1999: 193). For Métis, this has begun to be challenged, for example in the Hirsekorn case when the assumptions of aboriginal settlements were taken up by the Métis lawyers, who argued that the ideas of
permanent, year-round or even yearly hunting in the same area as historic Métis settlements was not appropriate in the case of Alberta, as it did not reflect the reality of a nomadic, long-distance Métis community that had networks of trade and kin across the prairies, and hunted buffalo as they migrated across a continent. In the Hirsekorn case, this argument for a broader Métis community across the Northwest was rejected by the Court of Appeal in 2013, but as it was the historic reality, even if it does not fit with what the court understands to be a historic Métis community according to the Powley test, it may come up again in a similar case in the future.

The courts have been seen to hold the promise of clarifying Métis aboriginality and what it means for concrete rights claims, and as a way to force provincial and federal governments to do something about Métis claims. But the reality of court cases and the appeals and counter appeals, the need to present narratives of Métis history and culture that fit with what the court views as legitimate aboriginality, makes this approach not entirely risk-free or unproblematic for the Métis. So much seems to be at stake: their aboriginality, their ability to define who they are and where the limits of their identity might lie, what their history was and how it relates to Euro-Canadian and First Nations histories, and where they fit into contemporary understandings of what it is that makes a people aboriginal. In some ways, it seems like a court case at the level or the Supreme Court could make or break them, in that a loss could close the door to some rights, while a victory could permanently open other doors (funding, recognition, land claims, protection and so on). The Daniels case, that asked the court to declare Métis to be ‘Indians’, and hence under the protection of the federal government, seemed in the same way to be a watershed moment. Over a decade earlier in 2003 the Powley case was
paraded in the same way, as a victory for Métis that would change everything; and yet the problems still persist since each case that gets close to or as far as the Supreme Court is seen as holding the same promise.

Maybe this is why the court case seemed so disconnected to me, from the everyday lives and conversations of the Métis I spent time with, and from the rest of my fieldwork. It was in a different city (Calgary), concerning hunters from another community in the far south of the province. Although Métis families all across the province and further afield have networks of kin ties with each other, on a basic day-to-day practical level Hirsekorn did not seem to affect people that much. Some of the hunters I knew had been able to hunt anyway, by buying general provincial hunting licences or because they were connected to the Métis communities in the north of the province where the Alberta government’s Métis Harvesting in Alberta policy already recognised a right to hunt. Others did not personally hunt and so the actual practical changes that a Hirsekorn victory may have brought would not have had an impact on them in this way.

And yet the case was important. For the few weeks surrounding the appeal in Calgary, it was spoken about in the media and especially within the MNA, as it was their hunting Action Plan that had led to the hunters being arrested and charged in the first place. There was a feeling, from comments in the courtroom and from the atmosphere of friendly expectation that something important was happening here, and that it might be a good thing for Métis in Alberta. It might break the political deadlock that the provincial government had forced the Métis into, by creating a lever with which to force negotiations and better recognition of Métis in Alberta, who exactly they were, and where they fitted in in the province. It might have brought some of the ‘post-Powley
euphoria’ that buoyed up Métis in 2003, as it had in 1982 when they were included in the constitution. It might have legitimised their identity and their presence in the province, and seeped from the courtroom into wider society. The expectation was that this case would in some way settle the issue of Métis aboriginal rights in Alberta, and provide impetus to negotiations with the provincial government on a solid basis. These hopes seem to have to some extent shifted to the next big case: the appeal of the Daniels v. Canada case (which the Métis won) to the Supreme Court in late 2015. The courts do something, in a context where there sometimes are not many other ways to get things done, but they have not been able to settle the issue in the way that was expected, partly because the case was a local Alberta Métis one, which would never settle rights for Métis all across Canada by itself. The case was also unable to really address the settling of the question of the different ways and limits of being Métis, and the construction of Métis as a certain type of community, or nation. While this chapter dealt with the presentation and performance of Métis history, identity, tradition and contemporary culture in the legal context of aboriginal rights claims, the following two chapters will discuss these themes further in non-legal contexts: in museums and at festivals (Chapter Four), and in less formal contexts (Chapter Five).
Chapter 4. “Beads, bibles and buffalo”: Métis in museums and festivals

Introduction

This chapter will discuss the museum in which I spent a lot of time during fieldwork, and the wider local Métis context and community in which, I argue, the museum is involved in many formal and informal ways. The museum itself, colloquially known as the ‘Michif’ (Michif, meaning ‘mixed’ is one of the Métis words for ‘Métis’, and is also the name of the language spoken by some Métis), was situated in the small city of St Albert, just to the north of Edmonton. The Michif proved to be an interesting site for fieldwork in that it was a location where many different strands of local Métis life come together, and a place where a Métis community, in an otherwise predominantly Euro-Canadian city,\textsuperscript{36} is made more tangible and visible. The Michif is also an informal community hub, a gathering place, where information and gossip are exchanged, stories are told, and people in various ways connected to the local Métis community pass through, stopping in for a coffee and a chat.

Alongside an awareness of the Michif as a kind of community hub, in the earlier sections of this chapter I will look more closely at the role of museums in the context of the representation of Métis history and culture, in particular how Métis are separated from First Nations and other aboriginal peoples in museum contexts. The Michif sits within the context of the historical development of museums in general, and more specifically within what Clifford (1991: 215) refers to as ‘tribal museums’, those run by the indigenous

\textsuperscript{36} St Albert was originally a Métis community, but was settled extensively through immigration and migration within Canada from the 1860s onwards. In the 2011 national census, the population of the city was 60,480 of whom 1,630 (2.7\%) described themselves as ‘single identity Métis’, out of an aboriginal population of 2,205 (Statistics Canada, 2016).
people themselves. The next section examines the history of the Michif and its everyday life, through ethnographic descriptions of the museum, its visitors, and the sense of a Métis community maintained there. This links into later sections, which then discuss various events that were associated with the Michif in various ways, formal or informal, e.g. where the Michif was part of the organisation of the events, or where the staff within the museum, or people dropping in, led me to other events and festivals that are also involved in a local Métis sense of community.

Throughout this chapter, another strand of argument will address how Métis are represented, and represent themselves, in the public domain and to wider society. I am interested in the more public ways in which Métis have made themselves Métis, or celebrated Métisness in a more performative way. This strand of argument will discuss how Métis history and culture are presented in museums, and how this is related to Métis understandings of the importance and means of displaying and promoting that culture and history to others. This is especially interesting in the context of the Michif museum, which was set up and is run by local Métis. Next, I describe one of the main, although newly established, Métis festivals in this part of Alberta, the Métis Spring Festival, which is centred on Métis music, dance and singing competitions. This is a local celebration of Métis music and dance, and also has a strongly evangelical aim of involving amateur and especially young Métis in learning these traditional arts, and encouraging them to perform and continue to preserve the practices for the future. Again, I am interested in what Métis choose to highlight, to celebrate, and how this is done in practice.

A further strand of argument, always bound up with questions and discussions about Métis history, identity and culture, is the theme of the porous but critical separation
between the categories of Métis and First Nations. This boundary arises in the contexts of decisions about how to place Métis within the organisation of museums: are they a part of general displays of ‘aboriginal culture’, alongside the First Nations and Inuit? Or is their place in wider Canadian history, in the context of the history of exploration, the fur trade, and confederation? How are the artefacts of each group made to differ, to represent different peoples, when in many cases (hunting apparatus, beaded clothing and so on) Métis items can be very similar to those of First Nations?

I aim to draw these strands together at the end of the chapter, to highlight how they connect to each other and the wider arguments of the thesis, especially the question of how the legal and community or personal identities of people as Métis work together or not, as the case may be. This is connected to the issue of how the quest for Métis to be able to define for themselves who they are, and what they are, whether in the legal, political, cultural or community contexts, has proven to be such a difficult thing for them to achieve.

**Museums and aboriginal peoples: a brief discussion**

Before considering the positioning of Métis in museums, I will address the wider question of the roles and purposes of museums in general, as well as how they have historically and more recently represented indigenous peoples. The literature on this topic is extensive but I will provide only a short outline of what I found to be most relevant to the particular context of the presence of Métis as a subject for display and representation in museums.

The purposes and activities of museums have increasingly been challenged in the past 40 years. Traditional museums were seen as repositories of knowledge, as locations where
the natural and human world was categorised, made sense of, and represented to the public in an educational manner. However, museums have been described as colonial institutions, bound up with issues of relative power and decisions over representation: ‘the museum’s mandate – to collect, preserve, interpret, and educate – is inherently an assumption of power: of the power to define and limit the meanings of those objects, and those cultures, it provides homes to’ (Mcloughlin 1993: 365). They were also spaces for the storage of salvaged historical materials and artefacts, but again even the act of salvage involved museum agents and curators making decisions over what deserved to be kept, remembered and treasured is ‘the product of an ideology of conquest’ (Mcloughlin 1993: 367). In terms of the representations of human cultures and history, items in museums were usually arranged geographically or typologically, ‘in galleries organised by colony, culture or continent’ (Brown 2014: 201-2). Museums operated according to systems of categorisation and taxonomy, and sought to order the human world and represent it as discrete sets of artefacts associated with each group. This ‘archiving was intended to arrange knowledge according to taxonomic structures that made sense within the archive, though ultimately it contributed to the destruction of context’ (Brown 2014: 197) as artefacts became separated from their histories, uses and social contexts.

Discussing the exhibition in the 1950s at the Cambridge Museum of Archaeology and Anthropology of its collection of artefacts collected by the Franklin expedition to the Canadian prairies in the 1920s, Brown describes how ‘each showcase was a visual containment of a particular nation, with a range of materials chosen on the authority of the curator to summarise its whole existence’ (2014: 214). So peoples were represented through the display of their symbols and material culture in a somewhat fixed, timeless
and arbitrary way, based on the decisions made by the collectors and the curators of the exhibitions as to what artefacts were worth collecting, and what was representative of the culture in question. Museums and museums displays, as ‘active agents in the construction of knowledge’ (Moser 2010: 22), shaped more mainstream ideas of what a culture was, and what identity meant.

I was also interested in how museums shaped and positioned Métis, in relation to First Nations especially. As in the political and legal contexts, there was a similar effect as that produced by the 1982 constitution, i.e. that Métis fall within a wider ‘aboriginal’ categorisation, but are separate from First Nations, and are represented alongside them spatially in museums. This seems to be a more political decision, since First Nations and Métis history is necessarily closely intertwined, and to some extent there is an overlap of material culture, or at least an acknowledgement that Métis drew on First Nations ancestors as well as their European ancestors, as they shaped what has come to be understood as representative of Métis material culture.

The Glenbow museum in Calgary held an exhibition in 1985 entitled ‘Métis’, the ‘first major museum exhibition devoted exclusively to Métis culture and history’ (Thistle 1984: 367), to coincide with the centenary of the Northwest Rebellion in 1885. Contemporary reviews of this exhibition (Friesen 1987; Thistle 1984) were much more positive about its inclusivity, its ability to challenge the usual methods of displaying aboriginal culture, history and identity as static and timeless, and how it managed to portray the recent history and contemporary experiences of Métis. Rather than separating Métis from the mainstream of Canadian history, as tended to be done with First Nations exhibitions, this exhibition instead tried to present Métis history in terms of ‘the diversity of its population
and its relationship to the white world’ (McLoughlin 1993:369). The emphasis of the new exhibition was to be on clarifying the contemporary experience of Métis and addressing misunderstandings, by

‘presenting the material culture of the Métis, a more useful holistic version of the mixed bloods of the northern plains is offered... the emphasis in this exhibit on the twentieth-century experience of Métis in Alberta will be an important corrective to the commonly held assumptions of most Canadians’ (Friesen 1987: 53).

These assumptions included an association of Métis with an image of 19th-century buffalo hunters, rather than 20th-century experiences of poverty, political organisations, and revival. Another review of the exhibition notes that ‘significantly, the exhibit avoids a common failure among museums which exhibit only items from an apparently static "traditional" culture, while ignoring the developments inherent in Native cultures as dynamic systems’ (Thistle 1984: 367). In terms of the actual objects on display that sought to challenge the usual essentialised representation of aboriginal culture, it appears from the contemporary reviews that these were, in fact, similar to those of previous styles of aboriginal exhibitions: clothes, religious items, several commissioned pieces, beadwork, and an alleged piece of the rope that hung Louis Riel in 1886 (Thistle 1984: 368). There were, however, also more contemporary items related to Métis soldiers in the Canadian army, and samples of scrip certificates, to show the relationship between Métis and wider Canadian history. The main difference seems to have been in the conscious and explicit links made in the accompanying texts and labels that highlighted the historical and ongoing development of Métis identity and culture, and its diversity (Friesen 1987: 54).
The intent was to move beyond a rigid, static and timeless representation of what Métis was, taking into account the changes in museum practices and philosophies.

My point here is that this is the usual, consistent and accepted view of what makes Métis Métis, and what separates them from especially the First Nations and Inuit with whom they are so often grouped together under the Aboriginal banner, whether in museums, politically, or legally (as in the constitution). My argument is that this ‘beads, bibles and buffaloes’ representation is how Métis identity is imagined in the context of the public displays of culture and history in museums. First Nations (and Inuit) tend to be represented more in a direct chronological line from the Ice Age to a pre-colonial ‘ethnographic present’, although this is changing with a much greater emphasis on the consequences of colonialism and the experiences of aboriginal peoples in recent times being addressed now in museum displays. Métis tend to be represented within the wider context of Canadian history. While the actual material goods that are chosen to represent First Nations and Métis in museums are similar, the separation of the categories within the museums seems to be based on implicit assumptions about cultural difference and historical experiences, as well as an appreciation of Métis understandings of their own identity. This links to the wider argument of this thesis, by highlighting that the representation (and self-presentation) of Métis in public (or mainstream or wider society) is always shaped by this historical demonstration of separation and difference from other aboriginal peoples on the one hand, and e.g. French-Canadians on the other. This imagined essential Métis is based on the idea of a fur trader, Catholic (usually), self-sufficient, musical, moccasined community that is also tied to the representation of Métis communities in the courts and in the legal system. This is the image within which
contemporary Métis make their claims for aboriginal rights in the courts, and for political representation and recognition in other fields. The legal issues related to Métis claims to aboriginal rights are another facet of this public display of Métisness, and Métis as an increasingly relevant and legitimate, if contested, identity.

Historically, museums have tended to represent indigenous peoples in fixed, timeless ways, often with little mention of the consequences of colonialism or an indication of their contemporary experiences. McCarthy discusses the history of how Māori have been represented, describing how the exhibitions and displays created an image of a ‘frozen fragment of the Māori “as he was”, set within a timeless ethnographic past’ (2007: 3). For the communities visited by the collectors of the Franklin Expedition in the Canadian prairies in 1920s, the artefacts and items were collected and categorised ‘according to what Richard Hill (2000: 42) describes as “the anthropologist’s checklist for defining Indian culture: house; cradle-boards; dress; bands (beaded, woven, metal); ornaments; transportation; tools for war, hunting, fur-making, smoking; ceremonial items; and the ever-present miscellaneous”’ (Brown 2014: 195). This checklist was seen to cover the essentials of indigenous life, and together to make up and to represent how people live and their material culture. The items chosen for collection and display tended to be those that ‘conformed to widespread stereotypes of “exotic” tribal peoples irrespective of whether these pieces were accurately documented, they were chosen to fit pre-determined narratives rather than to be incorporated into artefact-led displays based on the stories they could tell’ (Brown 2014: 199). These fed into each other: what was chosen to be collected and displayed came to be seen as representative of that
indigenous culture, and then were later sought out as representative or stereotypical of that culture.

This essentialisation and the limitations of museums for representing diversity in aboriginal identity and experience were a part of the challenges to the roles and purposes of museums from the 1970s onwards. The power and responsibility of museums towards their source communities, as well as issues about accountability, collaboration and decolonisation, were also challenged, in particular in relation to indigenous peoples and how they were incorporated into and represented by museums. Unruh (2015: 78) describes the rise in ideas of ‘dialogical methods’ within museums that dealt with the material culture of indigenous peoples, which aimed to challenge how these museums represented their subjects. This centred on the issues of decolonisation of museums, source community ownership and repatriation of artefacts, and self-representation and collaboration between the museum and the communities. One of the desired outcomes of this attention to the power structures and relationships between museums and indigenous peoples in a post-colonial context was ‘to demonstrate the dynamism of indigenous communities, without ignoring the impact of relations with the West’ (Brown 2014: 222).

In Canada, one major catalyst for a rethink in the relationship between aboriginal peoples and museums, and how they and their history is represented, was an exhibit entitled ‘The Spirit Sings’, which was held in the Glenbow Museum to coincide with the Winter Olympics held in Calgary that year (1988). The exhibit, of First Nations cultures and artistic heritage, was controversial and led to protests and calls for boycotts by First Nations, and even some other museums. The controversy was partly about the exhibit being
sponsored by an oil company, at a time when there were protests about the incursion of oil companies onto aboriginal land across Canada, and also about the exhibit being made up of many items and artefacts that had been looted or taken out of their homelands decades previously. Devine argues that the controversy around the Spirit Sings exhibit had ‘exposed the profound gulf that existed between the largely non-Native administrators, curators, designers, and educators, and the Indigenous peoples whose heritage they presumed to interpret to the rest of the world’ (2010: 218). The protests over the ‘lack of contemporary Native voice and presence’ (McLoughlin 1993: 366; also Devine 2010b: 231) led to a major redevelopment of how Canadian museums work with aboriginal communities, and some of these changes have filtered through over time into a concentration on engagement, education of the mainstream public, collaboration with source communities and aboriginal leaders, and so on (Harrison 1987; Phillips 2004).

This change came about through the museums’ and the government’s reaction to the protests, which led to the establishment of a Task Force on Museums and First Peoples, which issued a report in 1992 entitled ‘Turning the Page: Forging New Partnerships between Museums and First Peoples’. This report, jointly developed by the Assembly of First Nations and the Canadian Museums Association, has been extremely influential in creating understanding of the need for change in the relationship between aboriginal peoples and museums in North America generally. The Task Force, along with the Native American Graves Protection and Repatriation Act, 1990 (NAGPRA) in the United States, laid out some of the changes necessary, and how they should be implemented (Conaty 2006: 254).

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37 The Native American Graves Protection and Repatriation Act, 1990 legislated for the repatriation of cultural objects, human remains, and cultural patrimony from federally-funded institutions to federally recognised tribes in the United States.
The Task Force’s report examined three key issues that it identified as necessary for restructuring the relationship between aboriginal peoples and Canadian museums. These were: ‘1) increased involvement of Aboriginal peoples in the interpretation of their culture and history by cultural institutions; 2) improved access to museum collections by Aboriginal peoples, and: 3) the repatriation of artifacts and human remains’ (Turning the Page 1992: 1). The report goes on to make several recommendations, especially in relation to establishing partnerships and working relationships between aboriginal peoples and museums, through concepts such as co-management, co-responsibility, and equality in decision-making (p7). Other specific recommendations included aboriginal involvement in planning and interpretation of exhibits, as well as representation in the governing structures of museums; widening of access of aboriginal people to museums, both as visitors and as staff through training as museum professionals; and serious discussions and movement on the issue of repatriation of human remains and sacred objects (Turning the Page 1992: 8-10; Devine 2010b: 223, Harrison 1987). For my purposes in this chapter, I will mainly discuss the impact of the recommendations for aboriginal involvement in museums, as this aspect of the Task Force’s report is most relevant to the discussion of representation and the development of indigenous museums, of which the Michif is an example.

The recommendation for aboriginal community involvement evolved into a concept of aboriginal collaboration in, even co-management of, future exhibits on aboriginal peoples, history, and contemporary life. This has unfolded differently in different museum contexts (Phillips 2003: 158), and I will discuss several examples in this section. These can
range from aboriginal consultation on museum plans for an exhibit, to full co-
management and collaboration between communities and museums.

An early example of such collaboration has been the development of the relationship
between Blackfoot and the Glenbow museum in Calgary, Alberta. The Glenbow began to
work more closely with First Nations in 1990, setting up a First Nations Advisory Council
and managing loans of objects to communities for ceremonies, as well as inviting First
Nations staff to deliver school and public programmes, and addressing the issue of
repatriation (Conaty 2003: 230-1). In the light of increased contact with First Nations and
the impact of the Task Force, Conaty, who worked at the Glenbow, argues that ‘it became
increasingly clear that our permanent exhibits no longer reflected the spirit of our
partnerships’, and in this spirit, a new permanent Blackfoot exhibit was planned in 1998
(2003: 231). The collaboration between museum staff and Blackfoot extended to what
needed to be said in the planned exhibit and how, and the differing expectations,
methodologies and understandings of all the actors involved had to be balanced. The
result was a new exhibit, Nitsitapiisinni: Our Way of Life which opened in 2001, which was
seen to ‘embod[y] the spirit’ of the recommendations of the Task Force (Conaty 2003:
237). Hendry describes the Glenbow’s view of this exhibit as a success, boasting of ‘full
collaboration… a real partnership’ with Blackfoot (2005: 35). The Glenbow has continued
‘partnership building’ with the Blackfoot, building up to an ongoing formal working
relationship (Onciul 2015: 99).

Another example of recent collaboration is that between Haida and other museums, both
on the Canadian mainland and in the UK. These relationships were developed more as a
means to manage repatriation of artifacts and human remains (Krmpotich & Peers 2013;
This example involved discussions of the appropriate means of storing and displaying (or not) certain objects, and the exchange of understanding about handling of objects from the Haida to mainstream museums. These issues about the care of items, handling, and understanding of indigenous attitudes towards objects emerged from the increased engagement between museums and source communities. (Onciul 2015: 121-3), leading to a ‘greater effort to engage and collaborate with Aboriginal peoples in the development of new research and curatorial practices’ (Macdougall & Carlson 2009: 167).

A further example is the Canadian Museum of Civilisation, which endorsed the Task Force report and appointed an Aboriginal Advisory Committee to develop a new hall. This was to be ‘a defining break with the traditional academic and disciplinary structures of curatorial authority because it fundamentally altered the power relations of the consultative process’ (Ames 1999 in Phillips & Phillips 2005: 698). The idea was that western scientific knowledge (as archaeology, history etc.) would not be privileged above traditional indigenous knowledge (as oral traditions) in the presentation and interpretation of the exhibits. (Phillips & Phillips 2005: 700), and that there would be more information about contemporary aboriginal peoples and issues incorporated into the new hall, such as residential school, legislation, and so on (Phillips & Phillips 2005: 702; also Hendry 2005: 34).

These examples can paint a very positive picture of wholehearted engagement with the Task Force report and its recommendations, but there were also concerns that, since the 1990s, ‘there has been a tendency to present inclusion as a solution rather than the start of a new form of relationship between museums and communities’ (Onciul 2015: 1), that collaboration can be a simple cosmetic fix to the lack of aboriginal agency in museums, a
cosmetic rather than a substantive change (Devine 2010b: 225-6), a ‘symbolic restitution’ rather than ‘a new era of social agency for museums’ (Phillips 2003: 158). There was also some ‘hurt and resentment’ among museums who thought they were harshly judged by the Task Force’s report (Devine 2010b: 231), as well as suggestions that museums may have gone too far in ‘self-effacing’ their contribution towards new halls or exhibits, to showcase their credentials in aboriginal involvement and co-management (Phillips 2003: 165). However, in general, ‘the anger with which First Nations confronted museums in the early 1990s seems to have diminished, and Canadian museums have made great strides towards becoming more open and more accepting of other perspectives’ (Conaty 2006: 256).

**Indigenous museums**

Beyond local or national mainstream museums, smaller indigenous museums (or ‘tribal’ museums: see Clifford 1991) have begun to be set up and to operate. The development of such Indigenous Community Centres in North America since the 1980s has been dramatic (Onciul 2015: 5), in part also related to the impact of the Task Force’s recommendations for training aboriginal people in museum studies and as professional museum staff. This recommendation was ‘enthusiastically’ responded to by Native communities (Devine 2010b: 232), and the newly-trained aboriginal museum professionals initiated the spread of indigenous museums and spaces. Clifford argues that these tribal museums have a different approach to representation and different understandings of what needs to be displayed to explain their own histories and identities. Tribal museums, rather than necessarily being aimed at a wider mainstream public, are instead focused on ‘local
audiences and [are] enmeshed in local meanings, histories and traditions... [they] express local culture, oppositional politics, kinship, ethnicity and tradition’ (Clifford 1991: 225).

A more local, communal focus means that greater detail was possible in obtaining and presenting histories of some of the individual objects and artefacts than is usually available in larger museums. For example, rather than as is the norm in mainstream museums where artefacts are labelled by region or nation, in the museums Clifford describes, labels listed the owners of the objects by chief or family (1991: 228), as this knowledge was available locally. This form of de-anonymising their history, as Brown describes, can ‘facilitate connections between artefacts, images, and individuals [and] can help restore honour and dignity to their ancestors’ (Brown 2014: 224). This created a much closer connection between the museum and the community, and for Clifford this was an important point, that there was a greater sense of kinship or ownership between the community and the artefacts in the museum. For example, Clifford describes seeing an older man with a small girl in the gift shop of one of these tribal museums: they were looking through a photograph book for a picture of one of the girl’s aunts (1991: 232).

As well as differing approaches to representation, these indigenous or tribal museums or spaces have also changed the functions of museums, shifting from exhibits based on the display of historical artefacts to more community-based cultural centres which may host more than collections of artefacts, for example with regular workshops on reviving and traditional crafts and skills, engagement with local schools, community events such as traditional feasts and family history and genealogy, religious ceremonies, and so on (Hendry 2005: 36-7). The museums become more a gathering place for a community, both in areas where the indigenous community may be a significant section of the local
population, as well as in bigger cities, as I argue below is the case for the Michif museum in St Albert.

Clifford describes two examples of tribal museums, both in British Columbia and associated with the Kwagiulth First Nation. These museums, the U’mista Cultural Center in Alert Bay, northern Victoria Island, and the Kwagiulth Museum and Cultural Center, Quadra Island (off the east coast of Vancouver Island), were set up in the 1970s, initially to house and make available a set of objects that had been confiscated from the Kwagiulth Nation in 1921 by the RCMP after an illegal potlatch. It was decided that the collection of artefacts should be shared between the two new centres, as representatives of the source communities from which the items were taken (Clifford 1991: 228-9). In describing these museums, Clifford is interested in how tribal museums and cultural centres work as ‘institutions that both do and do not function on the terms of the dominant, majority culture’, and with what kinds of aims and intentions (Clifford 1991: 215). These museums are seen as providing an alternative way of representing the histories and material cultures of peoples, and of interacting with their communities in different ways than the larger mainstream museums. As Boast argues, ‘indigenous museums and cultural centres are creating their own centres of collecting, performance, and presentation. They are increasingly giving up on the academy as the accumulator of voices and appropriating the technology of the museum to their own ends’ (2011: 67).

Another example of a tribal museum is the establishment of a Zuni museum in New Mexico, discussed by Isaac (2005). The local Zuni community, concerned about both loss of traditional knowledge and cultural heritage among its community, as well as the interpretations of Zuni history and experience in Euro-American museums, had opened its
own museum (2005: 3). However, its experience of managing this community museum was not straightforward, as it had to work around some of the uniquely Zuni cultural issues that were highlighted in the attempts to adapt Euro-American museum practices to the Zuni context. One substantial challenge was that, in Zuni society, cultural knowledge is held by particular groups in society, and taught on a need-to-know basis, rather than distributed freely. Zuni knowledge is the responsibility of specific individuals who maintain the knowledge for the wider group. When it came to setting up a museum, Zuni struggled to balance this tension between Euro-American and Zuni approaches to the transmission of knowledge, and had to work around what knowledge and artefacts to have on display in the museum, and how much the museum staff should be told by the traditional keepers of knowledge. This also extended to non-Zuni visitors to the museum, generating conflict between ‘the process of self-recognition, which implies a sort of introversion of the community… [and]… the desire to represent oneself, that is to compose and project images for the consumption of others’ (Isaac 2005: 14).

Managing these tensions made the museum a location of cultural revival to some extent, as Zuni used the museum as a forum to open up issues around how they transmit knowledge amongst themselves as well as to outsiders (Isaac 2005: 15). In this example, the functioning of the museum was closely related to its ability to be a part of the Zuni community, and to undertake activities and processes, such as cultural revival and consideration of the place and purpose of museums in Zuni land, that are not necessarily the tasks of mainstream museums. The Zuni museum was a part of the community, a place where Zuni issues were made visible, even a kind of gathering place for Zuni as they managed the future of cultural revival.
A final example concerns the development of an exhibit in Saskatchewan about local Métis history and contemporary life. This exhibit, ‘West Side Stories’, opened in 2007 in an Exhibition centre in Saskatoon (Macdougall & Carlson 2009: 156). It was developed by the local Métis community as a challenge to the ‘existing paradigm in which Métis history is captured’, in particular the emphasis on the history of Red River and the Historic Métis Nation further south and east and the symbols usually associated with Métis, such as buffalo hunting, the sash, Louis Riel and so on, which were less relevant to the specific history of Métis in Saskatchewan (2009: 158, 180). The exhibit aims to ask the public to ‘reconsider their understanding of who the Métis are and reflect upon the diversity of Métis experiences within Canada’ (2009: 159), by shifting the focus from historical events and battles to research into smaller communities and socio-cultural traditions. The exhibit, which was developed locally with input from the Saskatchewan Métis communities, grew from the Métis community in response to the way they had been presented in mainstream museums, as collections of artefacts and histories. Instead, the local Métis ‘started with a community of living people who wanted to share their history, stories, values, and ideas about who they were and how their community existed’ (Macdougall & Carlson 2009: 170). This example demonstrates a Métis community creating an exhibition (rather than establishing a museum, but the arguments remain useful) in a way that they feel reflects the reality of their community, their historical experience, and what they feel is useful for outsiders, and their own community, to understand about the Saskatchewan Métis.

It seems that the expansion of indigenous cultural centres and ‘tribal museums’ is providing aboriginal communities with a means of shaping the museum structure to suit
their own community needs and expectations. While the Task Force recommendations have altered the work practices and assumptions of many mainstream museums, leading to large-scale and long-lasting relationships of collaboration with aboriginal communities in some cases, the tribal museums and cultural centres are creating a space for something more connected to and relevant for their communities, something that is less a traditional museum and more a community hub, or a gathering place for the cultural life of that community. Macdougall & Carlson argue that ‘aboriginal societies’ adoption of the museum as an idea has been transformative for a people who had no historical practice of collecting and displaying objects as a means of relating their history and sense of nationhood’ (Macdougall & Carlson 2009: 168), and that they have shaped this adoption of the museum form in particular ways. These alternative forms demonstrate how for these tribal museums or cultural centres, the priority is the community itself, rather than outsider visitors necessarily, and the development of a safe place for heritage objects, and a resource for cultural learning (Hendry 2005: 40). Many such museums even change their title from ‘Museum’ to community names such as ‘treasure house’ or ‘cultural centre’ (2005: 48). Hendry describes such places, with their emphasis on being a centre for services, languages, and skills, and their renewed function as a meeting or gathering place, as ‘living museums’ (2005: 100), which, interestingly, was also how the Michif was described to me by one of the founders the first day I met her, as discussed in the following section.

With Clifford’s and others’ examples of the tribal museums in mind, and also his understanding that these small local museums can be connected to the (aboriginal)

38 The Michif Museum, described throughout this chapter, itself changed its name to ‘Michif Cultural Connections’ after its overhaul and reestablishment in July 2016.
communities in ways that are not possible for larger, less specialised museums, and that their functions in these communities might also differ from those of mainstream museums to ‘collect, preserve, interpret, and educate’ (McLoughlin 1993:365), operating instead as a gathering place, I will now have a closer ethnographic look at the Michif museum and how it fits within the context of the local Métis community, of which it is also a part.

The Michif Cultural and Resource Centre (the Michif museum), St Albert

The Michif Museum is in a large house, one of the oldest in St Albert. The building itself (see Figure 4.1 below) is about a hundred years old, with white-washed walls and two storeys with low ceilings, and a cellar (reportedly home to the friendly ghost of a priest who had lived there, and who had a tendency to move things around at night). There is a garden around the house, although once it started to snow heavily this was hidden under about a foot of snow, and it wasn’t until the thaw in early May that I noticed there was a full-size replica Red River cart in one corner of the plot. The Museum had been established in 2000 by Thelma Chalifoux, who is very well-known locally, and her daughter Sharon, who now runs it. The museum was set up in St Albert as a branch of the Michif Resource Center, founded by Thelma in 1991 (City of St Albert, n.d.). Thelma, who describes herself as Métis, is from southern Alberta, and has been active in aboriginal politics and activism for over fifty years, including being the first aboriginal woman to be nominated to the Canadian Senate. Now retired, she is in her late eighties and beginning to struggle with her memory. I met her several times while at the museum, but she had not been well and I was asked not to tire her or confuse her. The other main member of
staff was Lisa, who worked part time at the Michif and was in charge of the day-to-day running of the museum.

The museum was set up as what Sharon called ‘a living museum’, a phrase she never really explained explicitly, but she meant that she did not want a dry, dusty set of artefacts in cases, with no sense of everyday life and activity continuing into the present. She wanted the museum to be a part of the local community, a place where things happened, not just where things were stored. This phrase is also in the museum’s publicity leaflets. The museum was also intended to be a resource for local Métis, with access to information about Métis history and ancestry, classes on Métis crafts, and so on.

The Museum is not-for-profit, and does not charge for entry, having a donation box instead. It receives no formal or predictable continuous funding from the city, although the utilities are paid by the city and the museum is given the use of the building, and Lisa

Fig. 4.1 ‘Historic Juneau House’ (Source: St Albert Gazette, 2013).
told me that they struggle financially as the only regular income is from the gift shop and donations. The museum also maintains a small library at an old house a mile or two away, although this is not open regularly or usually staffed. Following its establishment, the museum was registered with the Albertan authorities in 2002, with the aims

> To establish a Métis Museum

> To research Métis history

> To compile a genealogical library of Métis families

> To compile a pictorial inventory of Métis history, culture and people

> To establish a Métis Sash registry

> To preserve and sustain the Michif language

> To provide resources for Métis development

> To conduct workshops on Métis history, culture and value systems (City of St Albert, n.d.).

Having spent time in the museum over the year of my fieldwork, these aims often felt to me to some extent divorced from the everyday reality of the museum, which seemed much more to be a place of gathering of a local Métis community, rather than a traditional museum or a place used regularly for research. These original aims seem to me to be based on establishing a clear, historical basis or ancestry for the local Métis community (language preservation, a museum, research into history and genealogy), and a continuation of that community over time (resources for development, workshops). Of these aims, those I most directly observed during everyday fieldwork were the workshops
(moccasin and drum-making), as well as the artefacts and pictures salvaged and stored in the museum itself. With this in mind, this section will describe what it is that the Michif does within the Métis community of St Albert and Edmonton.

I got involved with the museum through a friend I had met years earlier, who is from St Albert and was at a conference in Copenhagen in 2007, which we were both attending as masters students. Once I had gotten interested in Métis a couple of years later, she suggested to me that I get in touch with the museum, as she knew of it and had worked with Sharon on other projects in the area. I had contacted Sharon asking for a meeting the day after I arrived in Edmonton, and she answered quickly and with interest. We met a few days later at the Michif, where I also met Lisa, who runs the museum on a day-to-day basis, although only part-time as she also has two or three other jobs. The museum was open four days a week, sometimes full days or afternoons only, according to Lisa's other commitments. Sharon herself worked at the Musée Héritage Museum in St Albert, but was involved with the Michif regularly, dropping in every so often. As we spoke the first morning, I thought it would be a good idea to establish a regular place to go every week to ‘do fieldwork’, and thought a Métis museum sounded ideal as a basis to establish myself in a Métis community that I was finding it difficult to physically locate within a large city, so I asked Sharon and Lisa if I could volunteer there. They agreed, and Sharon told me to sort out the details with Lisa, as she was the one at the museum most days. We decided that I would come in one day a week, to help out with whatever jobs Lisa needed done.

At first, when I went to the museum, Lisa would have a list of jobs for me to do: vacuuming, helping to reorganise furniture and the exhibits, tidying up the gift shop, filing,
making preparations for the craft classes, or sometimes just knitting up thick mittens to sell in the gift shop. As she got used to me, and possibly ran out of ways to reorganise the small museum’s displays, we spent more time drinking coffee and gossiping, especially when other people dropped in to visit. Many visitors were people Lisa knew – there were very few people who came along specifically to see the museum itself, unannounced. Sometimes people came by who were looking into their local family history, as the museum had sourced a lot of its items locally, or had local people donate items to it, and so people could often find something that had belonged to a relative on display, and tell us its history. Often the visitors were friends of Lisa’s who were in the area, and dropped in for a gossip. The most regular of these were Sharon, and Ken, who lived nearby and worked for the city council managing the trees and open spaces in the area. Ken described himself to me as a local Métis, and when he saw that I was interested in Métis history and identity, would sometimes tell me stories of local history from the area, or more often would gossip with Lisa about the city council and other public figures they both knew. Sharon dropped by every so often, usually if there was some administrative work or a funding application that needed her signature, and again she often stayed for a gossip or brought another friend who would stay for a while.

The museum was made up of two large rooms on the ground floor, three large rooms upstairs, and two huge rooms in the cellar, as well as a few outbuildings and sheds. It was on a residential street, close to the river and a park, where the Little White School (the town’s original school), and the Oblate Mission and church were. The Michif is mentioned
as a historical building in its own right, as well as a Métis museum, in the city’s tourist materials such as leaflets, websites and on plaques with maps of tourist sites in the city.\(^{39}\)

In the early days, as I spent a lot of time vacuuming and dusting, I had a detailed look at what the museum had, both on display and in storage in the cellar. Of the two large downstairs rooms, one was Lisa’s office/meeting room/small kitchen. The other, which opened out from a small entry hall between the front door and the stairs, held several exhibit cases, many pictures on the walls, and the gift shop in the corner. There were small storage rooms and a bathroom in one corner. There were cases of Métis beaded clothes and moccasins (see Figure 4.2 below), hunting paraphernalia, Inuit clothing and tools,\(^{40}\) and religious artefacts (Michif language bibles, rosary beads, small lockets with pictures of saints as well as sweetgrass pouches and pipes). On the walls, there were paintings and photos of animals, traditional First Nations-style paintings, and photos of important local Métis leaders; some of these were for sale. The gift shop was made up of five or six stands, including two of moccasins made from moose hide and artificial fur trims, or wolf or bear fur trims on the more expensive ones; these were mostly made by Joan Beaver, who is very well known across the province for her crafts. The other stands held beaded jewellery, Métis sashes (the scarf-like woven sash tied around the waist), little pins with the Métis flag, some books and CDs, and items such as feathered dreamcatchers, small wooden Red River carts, and herbal medicines.

\(^{39}\) See for example Musée Héritage Museum, n.d.

\(^{40}\) I was curious as to why there were Inuit objects on display in a Métis museum: it turns out they had been donated and the Michif had decided to display them in a separate case as aboriginal history.
The display cases were carefully organised by theme – hunting, clothing, buffalo, religion, and the Inuit objects. There were a few small explanatory notes beside some of the items, and some of the display cases had pull-out drawers with more things inside, covered in a plastic sheet to protect them. Upstairs there were three more rooms of items, but they were less organised and the items were on tables or against the walls rather than in cases. There was a room of buffalo-related things, including an enormous buffalo-fur coat that was immensely heavy but very, very warm – important in an Albertan winter. There were also a few toys and stuffed buffaloes, which myself and another volunteer arranged to form little scenarios that amused us and Lisa. Another room had things related to Métis war veterans and the Métis rebellions – here were the lists and photos of the original St
Albert Mounted Rifles militia who protected the local Métis and the priests during the
1885 rebellion, as well as Northwest Mounted Police and Canadian World War II army
uniforms, with photos of local Métis who had been in the army. The last room had a
collection of miscellaneous items, such as the dress worn by Thelma when she was sworn
in to the Canadian Senate, some childhood toys and music items: a fiddle, some Métis
recorded albums, and a flute. The tables were covered with cloth woven in the Métis
colours (red, green, blue, white and yellow) or cured animal skins, and there were
paintings and pictures on the walls.

In terms of what was physically present in the museum, and what was on display, it was a
mix of items donated to the museum by local Métis and others over a decade. It was not
a museum that could afford to buy items specifically selected for a curated collection. The
organisation of items was based around what was available and how these could be
grouped together. While I and another volunteer had rearranged the upstairs rooms
under Lisa’s (lenient) direction (“tidy up a bit upstairs”), I got the impression that the
actual objects on display had been out for a few years, and the longer I spent there, the
less it seemed to matter what was on public display at all. More and more it seemed that
the purpose of the museum was to create and maintain and give a home to a local sense
of Métis community. The items had almost all been donated by local Métis families, and
there was a clear sense of the contents of the museum as a record of the life of the
community over time: there were early local photographs and possessions of the early
Métis community in the area, things like children’s toys, beaded clothing and moccasins,
and old musical instruments. Then there were items coming from the time of the
Rebellions and the early twentieth century, the lists of local men who went to fight for
Canada in the world wars, bibles and rosary beads, as well as sweetgrass pouches, and items belonging to Thelma from her time as Senator that she had donated. These strong local, family connections between the artefacts in the museum and the local families, and the care taken on the labels to note who had donated what (information that was also stored in Lisa’s memory), is an example of the connection and sense of community between the local people and the ‘tribal’ museums that Clifford described for the museums in British Columbia (1991). The local objects donated by known local individuals, from their own family history that was recognised by others, are a link between the community and the Michif. This creates a sense of purpose for the museum, as a place of local, Métis history, where this history can be stored and preserved in a way for others to feel the museum as a sort of repository of community, rather than a formal, distant museum.

In the St Albert city tourism leaflets and history ‘story panels’ (a series of large panels dotted around the city highlighting important historical locations and events), people are directed to the Michif for information on Métis history and community. It seems to be the centre point for the visible Métis community in the city. St Albert was originally a Métis fur trader and farming settlement in the early 19th century, and for a long time the city had a large Métis population, only reducing as a proportion of the total population with large-scale migration from Quebec, Ukraine and eastern Canada from the late 19th/early 20th century. So the museum, along with some of the Métis festivals (to be discussed later in this chapter), have become the visible expression of the local Métis community, as well as a resource for Métis history and identity.
As we drank tea and gossiped in the quieter months of the year, Lisa told me about herself, as well as about the city and people she knew there and the various goings-on in the community. Lisa is an interesting woman, and as she told me about her family history and her life, as well as local gossip, I found that a lot of what she spoke about was important for my own research, especially about how people identify themselves, in relation to legal categories or not, and how these categories are or are not relevant to ordinary life. She describes herself as ‘Dogrib Métis’, which she explained meant that she came from a Métis community that developed alongside the Dogrib First Nation, near Hay River in the Northwest Territories. She described growing up in a community there, which was kind of associated with the “Indians” in that the Métis also lived in poverty on the margins of the town, but which was separate from the First Nation people, legally and in terms of lifestyle and history. Because the use of the category of Métis, in a non-legal way, is so fluid and unexplained, it can be difficult sometimes to understand exactly what someone means when they use it. Sometimes, it is used to mean “Indian” but not living on a reserve; at other times it means having mixed ancestry, and at others not having legal status. In Lisa’s case, she meant that her family had seen itself as Métis in the ‘classic’ sense: a long history of fur trading, a mixed ancestry of Scots and aboriginal, and a sense of a separate community and identity growing over time. She has an Alberta Métis card too, meaning she had been able to demonstrate to the MNA that she had ancestors referring to themselves as Métis for at least a couple of generations. She also had a bit of a negative attitude about “Indians”, but I occasionally felt she sometimes played this up to tease me, talking about the drunken Indians she knew as a child, and how she had tried to separate herself from this when she moved to Edmonton to get a job and to study in her late teens. I felt she was teasing because of the way she looked at me as she said this,
as if she was testing my reaction to the stereotypes, then laughed. But her point was serious about the negative stereotypes and her own attempts to side-step the reactions of others by separating herself consciously from her hometown and her presentation of herself as Métis.

Lisa was in her sixties, and worked in a few different places: the museum, with an aboriginal women and children’s support group, with young offenders in the justice system, among other places. She had been a social worker at one point too. She knew everyone in St Albert, and also a lot of people in Edmonton. Some of her children were also active in various aboriginal organisations, including her son who had recently received an award for his work as a director on an aboriginally-produced television series (*Blackstone*, 2011) that was shown across Canada. She had known Sharon and Thelma for a long time, and had been involved with the museum since it was set up in 2000. She was interesting to me because, with her involvement in all these Métis and aboriginal causes locally, she was to some extent a central figure in the local Métis community, knowing everyone and being involved in the organisation of many Métis or aboriginal events locally. Having Lisa in the museum meant that a lot of the local Métis community was accessible to me, in that people came to visit and had a chat, and that things that were important locally cropped up. This is how I came to see the Michif, and Lisa within it, as helping to maintain a sense of Métis community, or at least a place for it, in St Albert.

Through Lisa, I came to meet or hear about many other people involved to a greater or lesser extent in different forms of Métis activism or cultural activities, such as those involved in politics (Métis or aboriginal or, indeed, anarchist), crafts and hunting, charity fundraising, local history, and music and dance festivals. This is what I mean when I
describe the Michif, and by extension Lisa, as a centre (note: not the centre) of a local Métis community in St Albert and Edmonton. She knew everyone, and the Michif was the place where these different strands and activities and personalities came together, either in terms of the aims of the museum, which began this section, or in terms of a less formal maintenance of a sense of a Métis community locally, which forms the basis of the next section.

**The Michif museum as a community or ‘gathering place’**

One frequent visitor to the Michif was Ken, who often dropped into the museum if he was working nearby, clumping in with his heavy boots in the winter, trailing an apprentice or two. He and Lisa were old friends, and both enjoyed a gossip at the expense of city council officials or the government. He sometimes brought things he thought might interest her or me – old photographs of St Albert taken from the air, books of Métis poetry, stories about the northern lights, some cake, or a nugget of information about local history. Lisa would put her feet up and I would make coffee, and we would all sit around and talk for a while, until Ken had to go back to work. If anyone else called in, they would pull up a chair and join us while Ken told stories. He told us the rumours about the foundations of an old Métis trapper cabin in the woods on the edge of the town, in a place that was earmarked for housing developments, and he and Lisa plotted to sneak out there one night to investigate. They thought that if there was a cabin there, it must be over a hundred and fifty years old, and related to the Grey Nuns’ house nearby, as all the other land in the area had been built over in the 1940s and 50s. Or he and Lisa talked about the smell of sweetgrass (a grass used in smudging that is lit in knots and left to burn), and its legality or not in the more ‘uptight’ Canadian mainstream. Traditionally,
aboriginal midwives lit sweetgrass when a baby was born, but hospitals were very disapproving when the odd bit was smuggled in. Another time they told stories they remembered hearing as children about the northern lights, and how if you whistled you could call them up, but then they would not go away.

With these stories, he was in a gentle way making clear that Métis had a different history, both from the Euro-Canadians and from other aboriginal groups. Although sweetgrass and the northern lights stories are also parts of First Nations culture and identity, Ken emphasised the Métis version of these, that they had some separate understanding or way of telling the stories, that Métis emphasised different qualities when telling stories, such as the need for independence: he was also emphasising the image of Métis as free from some of the rule-bound constraints of mainstream Canadians, through talking about smuggling sweetgrass or sneaking into old cabins at night. Freedom and certain practices that could be described as ‘spiritual’ are some of the aspects claimed as particularly Métis characteristics, but as with artefacts in museums, the actual matter being discussed as a Métis thing rather than a First Nations one, often looks to be the same thing. These stories are setting up and clarifying a boundary between Métis, mainstream Canada, and to a lesser extent, First Nations. This is a further example of a kind of maintenance of community, through emphasising its boundaries and what makes it unique, through a ‘Métis’ version of a story that is common across aboriginal Canada: it is not how different the content is necessarily, but the way that Métis are claiming a difference, and that the difference is significant.

He also told stories about local history, particularly a time when there had been a famine, or at least scarcity of food for the poorer locals, at an uncertain date but probably in the
late 19th century. He described a story he had heard repeatedly since he was a child, about a man during this time who lived with his family out in the woods. Their cabin was very isolated, and the family was not seen for months over the winter. The local people began to worry about the family, but early in the spring the man dragged himself into the settlement, on the edge of starvation, begging for food. He wouldn’t say what had happened to his wife and children, and the locals became suspicious. They went out to the cabin and found the bodies of the family, with unmistakeable marks of having been killed and eaten. The local legend was that this action would make the man into a bad spirit, known across central aboriginal Canada as a windigo, and the only way to deal with this would be to kill him. The man knew this, and begged for his life, but he was killed and buried, and the affair was hushed up by the community who did not want to get the RCMP involved. (The RCMP had only just arrived in the area at that time; previously crimes would have been dealt with by the Hudson’s Bay Company officials.)

This story weaves together elements of Métis and aboriginal stories about cannibalistic witches who, having once eaten human flesh in times of starvation, turn cannibalistic permanently. These stories are still being told as a means to shape behaviour and also build a sense of community through a shared understanding and common morality.

Independence and yet willingness to look after others are seen as Métis characteristics too, based on their history as loose alliances of families connected over great distances, needing to be connected to each other for mutual support. Ken was particularly interested in another morality tale, an old Métis story about the ‘giving tree’. This story described some children who were in desperate need of some food as they were

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41 Stories of Windigos are common across aboriginal Canada, and Métis folklore has several stories relating to them. Also known as ‘Witigo’, they were a ‘cannibal spirit... during times of famine or extreme hardship it could take over a human’ (Macdougall 2010: 46). See also Carlson 2009.
travelling, and found a tree with a cavity in a knot in the trunk. They found some food there, and took it, replacing it with some rope they had spare. Later another person who badly needed rope found this, and took it, leaving something else in return. As Ken told me, the moral was that help would be available if you also helped others, and these kinds of morality tales had grown out of the Métis traditions of cooperation, and a sense of community as helping others. Ken wanted to work this traditional story into a tree-planting ceremony he wanted to hold as part of his work with the city council. They were replacing some of the older, dying trees that lined the streets in the older parts of the city, including the street outside the Michif.

The city council itself was intermittently interested in the Michif, at one point sending out some architects to talk to Sharon and Lisa about local Métis history, and also facilitating the Michif’s involvement in running classes on aboriginal history for children at the Musée Heritage Museum. This emphasised again how the museum was seen as the place to go in St Albert to find the Métis community and for knowledge on Métis history. But Lisa was often annoyed with the council, saying that they didn’t fund the Michif directly, and that although they were meant to pay for the utilities for the building, this did not always happen on time. When I arrived on the morning of the day that the architects came to Michif, Lisa and Sharon were deep in gossip about what they might want. They speculated that maybe it was to do with the history of the building itself, or some of the items in the museum.

When they arrived, two middle-aged men in suits and ties, they laid out their files on the table as I made coffee and Lisa and Sharon introduced themselves. It soon became clearer what they were interested in: the Métis history of the city overall, and which buildings or
areas of the city were important for the local Métis. One architect in particular kept talking about ‘the intangible history’ – Sharon and Lisa giggled later that this must be a phrase he had just learnt and was determined to use at every opportunity. There seemed to be a wider city project to acknowledge and protect the artefacts and buildings that were connected to this Métis history. They had come to Sharon and the Michif as a starting point: a clearly ‘Métis’ place that could tell them about the history and any other areas of potential interest. What the architects wanted to hear about was the history of the building itself – who had owned it previously, were they Métis, what other existing local buildings had a Métis history, and what kinds of ‘Métis resources’ there were in the city – buildings, land plots, and so on. Sharon and Lisa suggested other buildings – Sam Cunningham’s house – was it still standing? He had been the first ‘mayor’ of the town, before it was St Albert, when it was the Métis settlement of Big Lake in the mid-19th century. Eventually, with their notes on local Métis history safely in their briefcases, the architects left. This visit was incorporated into a wider City of St Albert Heritage Management Plan (City of St Albert, 2013), to identify and protect historic buildings in the city.

Interestingly, in mid-2015, I heard from a former volunteer at Michif that it had been closed down. This turned out to have been a slight panic on her part – the museum was temporarily closed as the old building was being preserved and restored. The Michif had finally gotten the interest of the city council, and the funding, to preserve the building and to enable the museum to continue there once the building was restored (mostly the foundations and the 120-year-old wooden framework). So the city had taken an interest in its Métis history and contemporary cultural institution, and although the Michif is also
Currently ‘a digital museum’ (although its online presence seems to be limited to Facebook) with its artefacts held in storage, it reopened in Juneau House in 2016. The building had been ‘designated by the city as a municipal historic resource’ and $600,000 put up to fund its restoration (Ma, 2015). However, it was the building itself that the council were interested in preserving (as one of the oldest buildings in St Albert) rather than the museum itself necessarily. The preservation of the building was part of the city’s Heritage Management Plan, as was the identification through the meeting with Lisa and Sharon of other important Métis local historic sites that should also be considered for preservation.

These small examples of some of our chats, mixed in with local gossip about mutual acquaintances, at first felt to me like small unrelated bits of interesting but incoherent ethnographic data. I enjoyed the stories about local history and childhood cautionary tales, but could not easily fit this into my wider ideas of what my fieldwork was about – the legal side of Métis identity. Over time, listening to these kinds of stories, I began to think of these as the more everyday ways of having an interest in a personal Métis or aboriginal identity. While Lisa had long been involved in some aspects of a public Métis identity, such as her work with the museum and various Métis and aboriginal groups, this was more in a social kind of a way than a political way – she helped aboriginal women and children escape from abusive relationships or the rehabilitation of teenagers involved in petty crime. I also came to see that the Michif seemed to have developed, at least in everyday practice, from its stated aims of compiling and housing artefacts of Métis history and culture, to being more the focal point of the Métis community in the city, a gathering place for Métis and a location for Métis culture.
The St Albert city council looked first to the Michif for information on the historical and contemporary Métis community, and the activities that the Michif involved itself in centred on the contemporary community and promoting Métis culture, through the craft workshops it holds (one example of this will be discussed in Chapter Five), and its support for Métis festivals and the general community. The more traditionally museum-type artefacts seemed, in the everyday, to be one of the least important factors. However, I do not want to separate the museum as a museum too rigidly from its daily life, because through its assembly of donated items from the local community, it is a ‘living museum’ in the sense that the local community can feel a link to it, even in recognising photographs of their relatives on display, or being friendly with the woman who makes the moccasins for sale in the gift shop. I am not arguing that the preservation of Métis artefacts, or the museum’s function as a repository of Métis history and culture in the form of such artefacts, was not important to the museum or the community, but that in the everyday life of the museum, this was not the main focus of activity. I argue that the museum maintained a sense of a Métis community and provided a location or gathering place for this community, and that this was its most vital everyday function. At first, I was vaguely concerned that when I spent time in the museum, no-one seemed to visit it as a museum, to view the artefacts and so on. I worried that this meant that the museum was somehow failing, that people were not interested. But over time I came to see the museum as a hub of other kinds of community activity. This is similar to the kinds of indigenous cultural centres and tribal museums discussed in the previous section, where the community had created and adapted the form of a museum to house the objects, events and activities that they felt were important for their community. The Michif, as with other indigenous cultural centres, functioned as a gathering place: in the case of the Michif, it was a
gathering place for stories and gossip (through Ken and Lisa), for information and knowledge about Métis history and culture (through its library, artefacts, and staff, as reflected in the Michif being the port of call for the city authorities on Métis history and culture), for workshops and activities on traditional skills (drum-making, moccasins workshops), and as a location for wider Métis cultural events to come together, such as the links to Métis festivals and through providing stalls and objects to city and provincial festivals.

A Métis community beyond the Michif: in the ‘Festival City’ of Edmonton

This next section will go beyond the immediate context of the Michif, to look at some of the other ways in which it helps to maintain a sense of a local Métis community, mainly here through participation in and dissemination of information about local festivals and events. Here, I discuss some events and festivals that the Michif and Lisa had some involvement with, whether formally (as with the Métis Spring Festival where Lisa manned a stall on behalf of the Michif), or informally, where Métis had heard through her networks of events or other festivals in which there was a Métis element, and had told me and others about it, suggesting that I should go, as a way of seeing Métis community.

Edmonton is known as the ‘festival city’, as people will jokingly tell you, because the winters are so cold and long that they have to do something to cheer themselves up. There are many festivals of all kinds held throughout the year, and some of these have an ‘aboriginal’ or ‘Métis’ element, while others are entirely a celebration of Métis or aboriginal culture, history or art in the city. I am interested in what these festivals do: what is presented and celebrated, by whom and for whom. This was not one of my original research intentions, but as the festivals seemed to be a gathering and
representation of what it meant to be Métis (at least according to the organisers), they came to seem like a useful series of events to think about.

I am interested in how Métis are represented (or represent themselves) in these festivals, and as always how they are positioned in relation to the First Nations or Inuit, within a wider category of ‘aboriginal’. What do Métis do at the festivals, what do they choose to celebrate about themselves? What do they highlight as being ‘Métis’? Edmonton has a large Aboriginal population: in the 2011 census, out of 1,139,585 people living in the metropolitan area, 61,765 (5.3%) identified as aboriginal, of whom 31,775 identified as Métis (Statistics Canada, 2015). This gives roughly 30,000 each of First Nations/Inuit and Métis in the city. Some of the festivals held while I was in Edmonton had an ‘aboriginal’ day or section, and there were ‘aboriginal’ events or stalls in others, such as the Children’s Festival in St Albert (which had a Métis tent, holding weaving and bannock-making classes, as well as storytelling and history workshops. Edmonton Poetry Festival, an annual festival, had an ‘aboriginal day’, which featured Métis poets alongside First Nations and Inuit, as did the Edmonton International Film Festival. Within these ‘aboriginal days’, Métis contributions were advertised as ‘Métis’ but were scheduled with First Nations and Inuit contributions.

Then there were specifically Aboriginal festivals, especially centred on Aboriginal History Month and National Aboriginal Day in June. National Aboriginal Day has been celebrated across Canada on the 21st of June every year since 1996. It aims to be ‘a day for all Canadians to recognize and celebrate the unique heritage, diverse cultures and outstanding contributions of First Nations, Inuit and Métis peoples’ (Indigenous and Northern Affairs Canada, 2016). In Edmonton in 2013, National Aboriginal Day was
celebrated with several events across the city, the culmination of a series of events in Aboriginal History Month including films, bannock and tea gatherings, arts and crafts. The main events included a series of speeches and music in a government building in the city centre, and an outdoor concert/performance in a city park near the provincial legislature buildings. Both events included First Nations, Métis and Inuit elements.

Lastly, there were several specifically Métis festivals, including Métis Week in November (which featured Métis Veterans Day, a flag-raising ceremony at the City Hall, and tea and bannock evenings), the Métis Spring Festival in May, and a bigger rural Métis festival in late summer. In this section, I will concentrate on the Métis Spring Festival.

**The Métis Spring Festival, May 2013**

As part of its formal, and informal, role in the maintenance, continuation and support of the local Métis community in St Albert and Edmonton, the Michif was involved in and represented at the Métis Spring Festival. In May, the Poundmakers Lodge, a treatment centre for aboriginal people with addiction, hosted the annual Métis Spring Festival in St Albert. It was held over a Friday evening, and all day Saturday and Sunday, in an enormous indoor sports centre in the city. The festival has been an annual event since 2009, based around singing and dancing competitions and performances. The building was in an industrial estate just outside the city, with photocopied papers on the doors pointing people to the hall where the Métis festival was being held. It had been advertised in the local newspapers (the St Albert Gazette and the Alberta Native News) and I had also been told about it by Lisa, who was manning a stall selling some of the items from the museum gift shop at the back of the hall. She had raided the museum's
stores of Métis sashes, moccasins and flags for the occasion, although she told me later that the sashes were the only things that had really sold, at $20 each.

The room was laid out with several stalls (some food, information stands, the museum stand, and a few selling jewellery etc.) lining the back walls by the double doors, through which the noises coming from the basketball courts further down the hall could be heard. Then there were probably 150 plastic stacking chairs laid out in rows facing the stage, with a lot of space at each side, which soon filled up with children racing around playing, and groups of people gathered talking. I sat towards the back, and watched the chairs fill up and the preparations being made for the competition. The first evening was a country dance, while the weekend schedule was for dancing (individual jigging and group square dancing) and fiddling competitions. The competitions were very informal, with anyone who wanted to join in being encouraged to sign up and get on the stage. As I wandered around before the competitions began, Lisa saw me and waved me over, explaining that she had wanted to introduce me to several people but that she was busy running her stall and helping others, and that she would find time later. In the meantime, I chatted briefly to people around me, who told me about how their children were competing, or that they had come down to St Albert for the weekend specifically for this festival, since it was a way to meet up with old friends, but that they might be persuaded to have a go at the dancing. It seemed that the event was more than a dancing competition, that it was an occasion, a chance to maintain their scattered community by grouping together, involved in an activity that was ‘Métis’, and so giving a sense of continuation of tradition, the importance of passing these dances (and their importance) down to the younger generations, and even just of having fun together as a group, a community of closely-
connected people who knew each other (or of each other). The atmosphere was one of a relaxed community, gathered together for a specific event but mainly just hanging around together doing something that they are familiar with.

Before the competitions, one of the organisers introduced everyone and read out the schedule for the day, and gave a short talk about the history of the event and why it was being held. He said that music and dance was a very important part of the culture and the feeling of being Métis; that people had continued to play music and to dance over the decades, even if they could only do it in their own homes, among friends and family. He talked about how Métis identity was reflected in the style of music and dance, how it was a combination of many influences that made up Métis history – French, Cree, Scottish, Anishinaabe, and others. The music was based on the fiddle, an instrument that could easily be handmade and passed on, and learnt at the knee of an older player. But the structure of the music was slightly different, based on 15 beats instead of 16 (I was not very clear about music structure here, but he was saying that where standard music goes in four sections of ‘tap-tap-tap-tap’, Métis fiddle music had a rhythm of three sections of ‘tap-tap-tap-tap’ followed by one of ‘tap-tap-tap’ – so missing a beat). This meant that the dancing was also based on this structure, and so was a bit more complicated to master. This special form was central to Métis music, which, being centred on the fiddle, the guitar and the accordion, sounds a lot like Scottish/Irish or French folk music, since these are the background from which it developed in the 19th century.

The dancing was also visibly related to Scottish/Irish jigg ing and square dancing/ ceilidh dancing, both in the form of the individual dances and the group dances. The organiser summed up by giving the names of the musicians (who nodded or waved in
acknowledgement) and outlining the rules – basically, that there were three judges who would decide who could go through from each category to the final the next day, and that no professional dancers were allowed to compete – and how the prize money of $20,000 would be divided up between the categories, although all children under the age of 6 would receive $20 for competing. As he spoke, others interrupted or made jokes about the judges or about sending their children up two or three times for the $20, and the atmosphere was very relaxed. There were nods and some clapping while he spoke about the history of the music and dances, and what made them uniquely Métis, and why this was important today.

The first age categories were lining up beside the stage, a low platform with black curtains at the back concealing a small ‘backstage’ area where competitors were directed to wait before going on one at a time, and the musicians (two or three fiddlers, some small drums, an accordion and a few guitars) warmed up. The individual jigs were in age categories ranging from ‘tiny tots’ to ‘golden age’ – the very youngest children were encouraged by their parents and the whole audience to climb up on the stage and have a go. The older categories of children, teens, 18-35, 36-59 and ‘golden age’ (60+) were more organised, as some of the people competing asked the musicians to play particular songs or had dressed up in ‘full Métis’, as they and the organiser called it, wearing beaded moose leather jackets or moccasins. Some of them were wearing Métis sashes, and dancing shoes with steel in the heel like tap-dancing shoes, as well as satin shirts or cowboy shirts with frills down the sleeves for the men and satin blouses and very frilly knee-length skirts for the women. People were coming and going in front of the stage, sitting on the chairs or waving to friends, and calling across to each other. The organiser
called for calm and introduced the ‘tiny tots’ group, with about seven or eight very young children each saying their name and being encouraged to try to jig – mostly hopping from one foot to another, as the musicians played a jig and the audience clapped along. Most then ran off the stage to their parents, and one of the organisers handed each child their $20. The organiser made a few short remarks about how important it was to encourage children to learn to jig and not to be afraid of competing or doing it in public, that they should be proud of the Métis jig. He said he was delighted at how many had come on stage to have a go, and at the encouragement they were given, and joked that at this rate they would need more prize money the following year.

The older age categories were then called up, and the children and teenagers each had a chance. Again, the set-up was that each went on stage, gave their name and where they were from, and danced for a minute or two until the musicians stopped playing. The children especially were loudly clapped. As the competitors got older and their dancing improved, the musicians began to play faster and faster to make them dance more quickly. When the adult age categories came on the stage, the atmosphere became much more teasing, as friends of the dancers called out to them or made jokes about how they had done in previous years. This was taken in jest and the competitors made jokes back, such as why the joker didn’t have the ability or confidence to get up and try themselves, or suggesting they had been disqualified from competing for various reasons. The musicians played for longer and faster for the adults, who started jigging when the music started and had to keep going until it stopped. The jigging itself was unstructured, as each dancer did particular moves or steps as they wanted, in time to the regular pattern of the music. People made comments to each other and to me, talking about the dancing, who
was known to be a good dancer, and how the style of the older people was looser than
the more rigid, organised, tidy style of the trained younger dancers. Others told me about
how “you should have seen my grandfather dance”, he could dance faster, longer,
without a break, he used to do it at home in the kitchen. Now my daughter is going to
classes, and it is great to see her interested in the Métis jigging.

During a break in the competition, as the judges were deciding who would go through to
the finals in each category and have a chance to dance again, three Métis square dancing
groups gave a performance; these groups were well known locally and even nationally –
they often toured. Two of these groups were mixed Métis/Ojibwe dance groups, living in
Métis and First Nations communities in Manitoba from where they had travelled by bus
(at least a day or two’s journey) for the festival, and had performed in previous years.
Both of these groups, the Asham Stompers and the TNT Square Dancers, \(^{42}\) have travelled
across Canada and even as far as Scotland to perform. This extension of Métis dancing
styles to First Nations communities, and their embracing of it, is interesting in terms of
the blurring of the boundaries around what makes Métis Métis, and different from First
Nations. It was made clear at the event, and on the websites of these groups, that they
are a mix of Métis and First Nations, performing Métis dances. So a separation is being
made, but on the available evidence (where they are from and what they identify
themselves as) it is difficult to see the basis on which this is done, although it seems to be
done on the basis of labelling and self-identification in this context.

A third group was the Métis Child and Family Dancers (so-called because they grew out of
the Métis Child and Family Services, an agency set up by Métis organisations in the 1980s

\(^{42}\) For a video of them performing, filmed at this event, see TNT Square Dancers - St Albert Métis Spring
Fest 2013. (2013)
to address the large numbers of Métis children becoming involved with the social services and care system in Alberta), based in Edmonton. All the groups were dancers aged from about 15-25, and some of them also competed in the individual jigging categories (none of the groups are professional). Again, the organiser made a small speech, talking about dancing as an alternative activity for aboriginal and Métis youth, that can keep them out of trouble and give them pride in who they are and their traditions. He emphasised again that Métis culture and traditions, through music and dance, can become meaningful for young people and can teach them other skills and values, such as helping each other, respect for themselves and their ancestors, and even budgeting and organisational skills.

As with Ken’s morality stories, this emphasis on certain characteristics and skills as being more ‘Métis’ indicates an ideal type of Métis, as someone who is proud of their traditions and history, is respectful of their ancestors and elders, and who is independent and able to manage themselves. The organiser’s emphasis of this demonstrates a form of community maintenance, by highlighting what is expected of Métis young people, what makes them a good Métis.

Each group was dressed in colourful satin uniforms, the men in shirts and trousers and the women in a blouse and frilly skirt or a frilly knee-length dress, and with tap-dancing shoes. Some also wore Métis sashes – See Fig. 4.3 below for one of the groups (the Métis Child and Family Dancers) performing. Each group had eight performers, four men and four women, and the dances were various kinds of very energetic square dancing – similar to barn-dancing, and especially similar to Scottish country dancing or ceilidh dancing. Each couple moved in a set pattern to the music, twirling as a couple or with the women moving clockwise and the men anti-clockwise, stopping with each new partner to swing
them around or take each other’s arms. The dancers stepped very quickly, and the music sped up as they worked through each pattern. Each group performed two or three dances, and one I recognised as having learnt at school, a Scottish dance called ‘the Gay Gordons’. The dance was almost identical, although the music was faster and the costumes were very different from Irish or Scottish country dancing costumes – much more colourful, the frilly skirts shorter, and made from satin. The skill of the dancers was greatly appreciated by the audience, who clapped enthusiastically and shouted encouragement as the music got faster and the pace of dancing increased near the end of each dance. After the performances, there was a long applause and cheering, and as the dancers came off the stage they were hugged and given water.

![Image](image.jpg)

Fig. 4.3 ‘The Sash’ (Source: St Albert Gazette, 2013).

After the square dancers, the individual category finalists were called forward, and in each category (except the ‘tiny tots’), they danced again. This time there was slightly less joking and raucous cheering, or at least not while the dancers were jigging. The music was
speeding up again, and after each jigger was finished they received huge applause and pats on the back as they came back from the stage to sit with the audience. After all the categories had finished, there was a break as the judges decided who would win each prize. Finally, they made their announcements. At this point all the dancers were mixed in with the audience, rather than standing together on the stage, and as their names were called, they walked up to the judges beside the stage to shake hands and be given their prize envelope. Once or twice as the names were called, no one came forward at first and people began shouting from the audience that they would ‘accept’ the prize for the winner, or that they must have sneaked out for a cigarette. These comments got laughs from everyone, including the judges.

Eventually all the winners had been awarded their prizes and were back with the audience shaking hands and being hugged, and the whole room emptied very quickly as people gathered their things and left. The Métis Spring Festival continues to take place, but from 2014 hosting duties were taken over by the Métis Child and Family Services. In 2016, the festival recorded its largest ever attendance (over 2,000 people) and in 2017 hopes to attract external sponsorship and to expand (Copley 2016: 10). The event is still being held in the same sports complex, and the prize money fund has increased to $30,000, although the festival has been shortened to two days (losing the Friday evening Dance), and the entry fee had risen from $8 to $10 for adults.

The Spring Festival seemed to me an interesting event. In contrast to some of the other festivals in Edmonton, it was seemed to be more by and for Métis themselves. The organisers, the people taking part, and the audience all seemed to know each other, and the biggest impression I got from the event was of it as a community-building event, as
well as a more straightforward celebration of what Métis saw as distinctly their own
cultural style of singing, dancing and music. It was community-building in several ways:
through bringing together groups of people who knew each other or were related, but
maybe lived far away and as such could enjoy spending time together there and catching
up. This was clear in how people gathered together, spoke to each other, calling across
the room to an old friend, joking and laughing with the competitors, showing off their
children to each other. It was also community building in terms of emphasising the
content of Métis culture and promoting and celebrating it: music, dance, song, clothes, a
shared history and ancestry, contemporary struggles of the young people in an area
where they may be vulnerable to wider social problems like addiction, violence, family
breakdown, unemployment (the statistics for Métis in these areas, as with aboriginal
people more widely, tend to be higher than for the general population). The atmosphere
of the festival was a family, friendly, informal one. People knew each other, there seemed
to be few ‘outsiders’, apart from one or two photographers for the local newspapers.
People joked and laughed and enjoyed themselves, as they joined in or watched their
friends and family taking part in visibly, clearly ‘Métis’ activities. This is part of what Métis
do, what makes a person Métis: they dance, sing and play music, they share time with
friends and family, they wear beads and moccasins and sashes on special occasions. This
is one side of the main theme being dealt with in this thesis, about the contestedness of
what it is to be Métis, who can claim it, and what effect this has in practice, in the
ordinary lives of people.

My argument with these examples of festivals and museums is that Métisness,
contemporary and traditional, is represented in particular ways, usually in the form of
material culture and traditional practices like music, dance and crafts (discussed further in Chapter Five). As has been described throughout this chapter, there is often little difference in content between what is presented as Métis or First Nations in some ways: for example, in some of the material culture in museums, in the traditional stories told with variations, or in the music and dance (although with perhaps more French/Scottish influences claimed for Métis). It seems to some extent to be a difference in interpretation of history, in how the importance of difference is ascribed, more than the actual stuff of beaded moccasins or stories about windigos. These symbols of Métis history, culture and identity have developed from a particular emphasis on Métis identity as rooted in the historical context of the Canadian interior fur trading, exploration and networks from the 18th-century onwards, but most especially associated with the Historic Métis Nation of Red River (now Winnipeg) in the 19th century. This association of contemporary Métisness with the history of Red River, the rebellions, a strong Scots and French influence, and an independence based on long-distance kin ties across Canada, nomadic buffalo hunting combined with settled farming and middlemen trading, is the basis for the contemporary Métis Nation, and how it is represented: Bibles, beads and buffaloes.

Conclusions

Several themes can be drawn from this discussion: the representation and self-representation of Métis culture and history, and specifically that of Métis, the sense of community, and the always present but porous and uncertain boundary that separates Métis from the other aboriginal peoples. Because of the context in which Métis find themselves, in a position where they have to prove themselves to be a separate aboriginal people and thus entitled to constitutional protection, it is necessary for them
to present themselves as aboriginal, and yet distinct from First Nations and Inuit. This
separation is made visible partly in legal and political terms (as discussed in Chapters 2
and 3), and in this chapter, in the areas of museums and festivals: the public recognition
and celebrations of Métisness. Museums have developed and evolved a specific way of
representing Métis, based on particular material culture that is seen as summing up the
specific history of the Métis, and separating it spatially from that of mainstream Canada
and First Nations. Métis have certain objects and artefacts, they celebrate dance and
music in certain ways, and this is some of what makes them Métis. They also are
characterised by certain values, such as a strong sense of freedom and self-reliance,
combined with generosity, which comes through in the morality stories. These elements
combine to create an image of Métisness, and also serve the purpose of maintaining a
sense of Métis community in the context of an urban environment, a large city
(Edmonton) and a satellite city (St Albert), which are overwhelmingly non-aboriginal in
population.

And yet, many of the artefacts or traditions associated with Métis are very similar to
those of others, in particular First Nations. The stories of windigos and Northern lights,
the beadwork clothing and moccasins common across the Canadian interior, the hunting
artefacts in museums: the boundary of what is Métis and what is First Nations in terms of
material culture and traditions is constructed as a solid separation in museums and in
festivals, but is often more a case of interpretation or historical ascription. As Macdonald
argues:

‘people are being called upon to revive, maintain and express the cultural
particularity that it is assumed they have somehow lost touch with: they are being
called upon to expressively individuate themselves as “cultures”. The irony of this, however, is that the form that properly recognisable “cultures” are supposed to take is, in many respects, rather invariant... external markers of difference [such as] distinctive language, food, music, dance, folklore, traditions, folk art and material culture, and perhaps dress and literature’ (1997: 246).

For Métis, the separation from (in particular) First Nations, but also French-Canadians (through music and religion) is a crucial but ambiguous border. As Friesen argues, writing about the Métis exhibit at the Glenbow in 1985, there were ‘all too few objects which could stand alone and convey a striking and immediate sense of “Métis” (1987: 54). If museums and festivals are a form of packaging of culture, the particular culture packaged as ‘Métis’ is often that of Red River and the Métis Nation (the beads, bibles and buffaloes) in a similar way to the representation of Métis history and community in the courts described in previous chapters. Métis are constructed as different, separate from First Nations and mainstream Canada, through the representation in museums, festivals and in stories like those told by Ken and Lisa and yet where exactly the separation is (in terms of material culture and so on) is uncertain.

The contestedness of the category of Métis can be seen in this chapter too: in how museums are negotiating the positioning of Métis history and experiences within their frameworks, and in how festivals represent Métis. Museums portray particular historical narratives of Métis history and culture, what I have described here as the ‘beads, bibles and buffaloes’ that are symbolic of the Red River Métis, and this shifts Métis back to a contested, unsettled category whose content is uncertain and not agreed upon, and yet is a dynamic category. This dynamism and uncertainty, which stands out from the more
'ethnographic present’ way in which First Nations are represented (and as McCarthy describes for Māori, 2007), opens the category of Métis up to possibilities not available to First Nations, such as a looser approach to membership, and a wider willingness to position Métis within the history of mainstream Canada.

Finally, the Michif museum itself, in its uncertain balance between its stated aims and rationale and the everyday reality of what took place there, highlights a further theme throughout this thesis: the links between the everyday and the event. I have found my fieldwork, and the context of Métis in general, to be a combination of events and everyday, linked together and yet separate. If I understand ‘events’ as the court case in the previous chapter, the festivals and the museums as museums, I see the everyday as the normal work of the Michif as a place for gossip and community. Several times during my fieldwork, most dramatically with the court case, there seemed a separation from the ordinary lives of Métis and such events. In the lead up to the court case, and similarly the political construction of the aims of the Michif and the event of the Métis Spring Festival, a determination to be Métis and what this meant was thrown into the public view, while I felt that otherwise people got on with things: they hunted or didn’t hunt, and so on. This apparent separation of the everyday and the event broke down for me in some of the conversations and experiences described in the next chapter, in which I describe what I have called the ‘lived experiences’ of identifying as Métis, and the choices and considerations that peoples undergo as they negotiate their identities as Métis or not.
Chapter 5. “I used to be Métis”

Introduction

This chapter will discuss the lived experiences of claiming or refusing a Métis identity, and what people view as being integral to being Métis, in a social or personal way, rather than in a legal sense. I will consider what people told me was important for being Métis, why they felt they were or were not Métis, what it means to be Métis, and where people draw the boundaries between Métis identity and others, especially in relation to other aboriginal and First Nations identities. While the earlier chapters discussed the legal definitions and understandings of Métisness and the representation of Métis publicly, this chapter will focus more on the political and personal understandings that people have of what it is to claim a Métis identity, the impact of ‘discovering’ a Métis family history, and how they explained their self-identification to themselves and to me, and the negotiations that people perform when there is a contradiction between their self-identification and their legal identities. Firstly, I will outline the ‘official’ political (as opposed to legal) understandings of who can claim to be Métis, followed by examples from my fieldwork.

Politically, the main two poles of difference in consideration of who is Métis are between the Métis National Council and the Congress of Aboriginal Peoples. Both organisations position themselves as representing Métis (although the CAP also represents non-status and off-reserve Indians: Congress of Aboriginal Peoples, n.d. (a)). As described previously, the Métis National Council ties itself very strongly to the fur trade history of central and western Canada, and especially the 19th-century region of Red River. The Métis National Council asks all members to prove their descent from an ancestor who had been
associated with the Red River settlement in order to be eligible to join, through the membership criteria of the provincial organisations that are affiliated with the MNC, such as the MNA in Alberta. The MNC is recognised by the federal government as representing the Métis people (Métis Nation of Alberta - Government of Alberta Framework Agreement 2017: 1), so without membership here there is no formal political representation.

Conversely, the Congress of Aboriginal Peoples, previously the Native Council of Canada (which had been active in the Constitutional talks before 1982, representing Métis), and soon to be renamed the Indigenous Peoples Assembly of Canada, also seeks to represent Métis. The CAP takes a much broader approach to Métis identity, recognising and representing all the various groups and individuals who claim to be aboriginal but have no legal or political recognition. These include people who identify as First Nations but who have lost or never had official status for various reasons, as well as all Métis. The CAP sees Métis more as a racial category combined with self-identification, so it does not demand a genealogy going back to the 19th-century central Canada, instead describing a ‘culture syncretized into what is today a distinct aboriginal group’ (Congress of Aboriginal Peoples, n.d. (b)). In this view, Métis can even be seen as a residual category of people who are of mixed ancestry (as many First Nations also are), but who have no other aboriginal identity, not being legally considered First Nations or Inuit, and so having no status. It becomes almost a catch-all term for individuals of mixed ancestry who self-identify as aboriginal but don’t fit into the status Indian or Inuit groups. This view upsets the Métis National Council, as it dilutes their perception of their claims to Métis nationhood and common culture and history, as well as genealogy and kinship ties. In some cases, there
are claims that opening up the category of Métis too wide will threaten any aboriginal rights claims, because these claims have to be based on the performances of authenticity and continuity of culture as described in Chapter 3. So there is a lot of competing policing of the boundaries of Métisness going on in political and legal spaces, both externally and internally by the various Métis organisations.

This wider view of Métis as mixed-ancestry individuals, with no necessary cultural connections, or even kinship ties, between them, is what Andersen (2008:348) describes as ‘racialisation’ of Métis. He disputes this approach, arguing that it removes everything from Métis history, common experiences, traditions and identity, leaving only ‘mixedness’ as the basis of being Métis, as opposed to being anything else. Andersen, whom I met several times while in Edmonton, as he is based at the university there, is even more vociferous in person on the subject of Métis as a nation rather than a racial category. He argues that Métis are not Métis because they are mixed, as many other aboriginal groups also have diverse ancestry, but that there is more to it than this, and that it is wrong for Canada to take this racialised approach to identity (2008: 353). He argues that it is the development of an identity in the last 3 centuries, a connection to a history of Red River and the Rebellions, that is the basis of Métisness, that Métis are culturally specific, not a generic mixed-ancestry group. He is strongly proud of being Métis, and traces his Métis ancestry through his mother back through several generations in rural Saskatchewan. He objects to the way that Métis had been produced in the census and in government categories, which he argues feed into each other and into everyday folk categories of Métis. The census is in itself an interesting tool of governmental categorisation, and the ‘classification of identities as legal and bureaucratic categories’ (Ruppert 2008: 1). But for
categories to be effective, they must be useful to people, to be practical for general understanding (Ruppert 2008: 8), and over time changes in the categories used in the Canadian census have reflected the ‘mix of assumed cultural and legal distinctions’ (Andersen 2008: 358), such as moving from a ‘halfbreed’ category in the census from 1886-1906, which was then dropped, and not replaced with ‘Métis’ until 1941 (Andersen 2008: 355).

The Royal Commission on Aboriginal Peoples (RCAP) took a more generous view of how to define or interpret Métis identity than the Métis Nation organisations had. One of its more interesting comments for me was the view it took of Métis as a community or a people – the Commission recommended the possibility that there may be more than one Métis people, in the same way as there is more than one Indian people or nation (Royal Commission on Aboriginal Peoples 1996: 299). This opens up a whole new way of thinking about the boundaries of Métisness: if there are more than one Métis people, then surely the confusion around the term is related to the problem of the single word ‘Métis’ being used to refer to different populations by different actors. The Report also suggests that, while the Métis Nation associated with the MNC and the history of Red River may be in a position currently to claim rights as a people, it may not be the only group to do so, and those who consider themselves Métis but would not meet the criteria of the MNC may still be considered part of a different Métis community (Royal Commission on Aboriginal Peoples 1996: 206). The Report suggests the Labrador Métis (mixed Inuit and European ancestry) as one possibility, and leaves open the question of whether there may be others, for example in Quebec or British Columbia, which have different histories of
contact, intermarriage and identification (Royal Commission on Aboriginal Peoples 1996: 207).

In between all these viewpoints and methods of categorisation are the lived realities of individuals and communities who have various ways of understanding their Métis identity and where it fits into the national discourses of aboriginality. Aside from the political organisations and the court decisions, Métis identity comes down to self-identification and how people talk about themselves. This also takes us back to the huge increases in self-identification as Métis in the censuses between 1991 (190,000) and 2011 (452,000) (Statistics Canada, 2013). This dramatic increase was described by Statistics Canada as ‘heightened awareness’ in the wake of the 1982 constitution and the Powley decision in 2003 (Andersen 2008: 347). Regardless of any membership of Métis political organisations like the Métis National Council or its provincial and local equivalents, people call themselves Métis and live in communities they see as Métis, whether that is in rural areas or in big cities like Edmonton. Although I was sometimes shown a Métis card as proof of identity, in general the people I met continuously told me that they knew who they were, and that they were Métis. It was not important to them whether or not they had a Métis card from the Métis National Council or not, or whether they met the application criteria or not. Some of these individuals would not have been accepted as Métis under the stricter criteria, or even under the kinds of proofs that the courts are asking for, but on a day-to-day basis this did not worry them. They were interested in their own personal and community identity, not in a wider political or legal definition of Métisness.
This very strong self-identification, regardless (or maybe dismissive) of the perceptions of the boundaries of Métisness of others, such as the state, the courts, the Métis organisations, and the wider Métis community (whoever that might consist of exactly) seemed to come from individual folk categories and personal understandings of their own identity, and what being Métis means to them alone, although this understanding is formed in a particular local context too. Of course, this clashed often with official understandings, and often people who considered themselves Métis came up against other actors who refused to recognise them as such. In some of these cases, the individual concerned simply shrugged off the lack of recognition, arguing that they ‘knew they were Métis’, while in other cases this misalignment between an individual’s view of themselves as Métis and the rejection by others of their self-identification was the catalyst for challenges to broader understandings or official criteria of who can claim to be Métis. This is manifested in things like court cases which are common when a hunter gets caught deliberately hunting without a licence so as to force a court decision to recognise them (and by extension their community) as ‘officially’ Métis, as was discussed in a previous chapter (Chapter 3), or in other cases challenges to the Métis political organisations, including the establishment of rival organisations (especially on the fringes of Canada, in Quebec, British Columbia, and the North, where the established Métis organisations do not recognise Métis communities).

‘I’m Aboriginal; I should be able to do this!’

As part of my fieldwork, I was interested initially in legal claims to a Métis aboriginal identity, and the forms of aboriginality that had to be performed ‘authentically’ for people to be able to claim Métis aboriginal rights. However, I also became interested in
the different meanings people saw in the category of Métis, and how various people I met described their own Métis identity. This made me think about the relationship between the different ways in which people could be Métis, or claim to be Métis, whether taking a legal approach and claiming rights, a political approach through the Métis organisations, or through their normal everyday lives. It seemed to me that the courtrooms drama and performances of what the law wanted to see as authentically aboriginal may only be one part of the story, and a particularly self-conscious one. To an extent it is similar to the experiences of French in north-eastern Brazil (2009) at a time where a mixed-ancestry group was beginning to claim status as an indigenous group. French describes almost a relearning of the group’s history, a more conscious attempt to differentiate itself from its neighbours, and a deliberate effort to revive old traditions and perform indigenousness in a way that seems compatible with social expectations of what it should look like (2009: 50, 133, 136.). This kind of deliberate reculturification as a process tied to attempts to claim a legal indigenous identity (and, in consequence, to claim land) seemed to me to be very self-conscious and thought-out (and at least to some extent curated by outsiders – including a priest), and I wondered if similar things were occurring alongside the contemporary process of Métis claims for aboriginal rights in Canada.

I wanted to find out more about how people understood their Métis identity on a day-to-day basis, rather than in legal contexts where political statements on the validity of Métis aboriginal identity were being consciously made. Here I will talk through one example of what initially felt to me like it might be a similar process, but upon reflection seemed to be much more natural, everyday and mundane kind of expression of identity rather than performance. This example centres on a group of aboriginal women taking part in a
moccasin-making class in the early winter, run by the Michif Institute and taught by a Métis Elder.

Lisa, who ran the Michif Institute, told me about the moccasin-making classes that the Institute was going to run a couple of weeks before they started. Moccasins are a traditional kind of footwear across North America, made from tanned leather, usually moose or deer hides, sometimes seal. Different aboriginal traditions have different designs and styles associated with them. The Métis style usually includes intricate flower imagery picked out in the leather with tiny detailed beadwork (see Figure 5.1. below for examples). I had seen some of these in the museum shop, and had thought they felt quite delicate, but if they are waterproofed properly they are perfectly functional outside shoes in summer and winter (with fur or felt lining). Joan, who would be teaching the classes, was well known in Métis and aboriginal communities locally, and even nationally, for her hunting and crafting skills. I signed up for the classes, which were to take place over four days of two successive weekends in St Albert, and paid my $120.

Fig. 5.1 Moccasins for sale in the Michif gift shop. (Source: the author, 2012).
On the morning of the first class, in mid-November, I stomped three miles from the bus through the new snow to the building where the classes were held, which functions as a Métis library run by the Michif Institute, a workshop and crafting space, and a place for Elders from further north to stay while they were in Edmonton. As I banged the snow off my feet and took off my boots, other people who were already huddled around the coffee machine smiled and nodded hello. There were six or seven others who had come for the course, as well as Joan and her assistant Tania, and Sharon, who is the overall manager of the Michif Institute, who was hovering around to make sure Joan had everything she needed.

Once everyone’s snowy boots were off and cups of coffee had been handed around, we all trooped upstairs, where there was a huge table laid out, already set up with piles of moose leather, felt, thick woollen material, jars of coloured beads, needles, scissors, thread and moose sinew, three or four sample pairs of moccasins, and so on. We all settled around the table, and as Joan and Tania were digging around for the right bits of leather and patterns for us, the rest of us started small conversations between ourselves. Over the next few hours, I learned people’s names and a little bit about their backgrounds, and how they identified themselves. Joan herself was a Cree-Métis, from Northern Alberta, in her early seventies. Tania was Cree, and aged about 40. Beside me at the table was Debbie, who was Métis and looked in her early thirties, but she said later that she had an 11-year-old grandson so must have been older. Beside her were two sisters-in-law, Karina and Maria, who were about 40. Maria was Cree, and Karina, Métis, was married to her brother. Across from me was Nadia, who was 23, and French-Canadian. At a smaller table were Carrie, who was about 19 and Métis, and Janet, who
was in her sixties and also Métis. Historically, there have long been close connections and
kinship ties between Métis and Cree communities, as they lived in similar areas, had
similar economies based on the fur trade and hunting, and many of the aboriginal
ancestors of the early Métis were from Cree communities. It struck me as interesting here
how the people I spoke to separated themselves in this way, as being either Cree or
Métis, and what the basis for this was: especially the two sisters-in-law who were from
the same area but who obviously felt they were from different traditions. Joan was also
an interesting example, describing herself as “Cree-Métis”, indicating a dual heritage,
where other political or social definitions might have believed that this mixedness would
have made her firmly Métis, in its most literal interpretation.

Joan began by showing us how to make a shoe pattern by drawing around the outlines of
our feet to form a large rounded triangle which would become the sole, heel and sides of
the shoe. Separately we were shown how to make a pattern for the tops of the shoes,
which Joan called the ‘vamp’. While people were outlining their feet, there was a lot of
chatter, as people asked each other if they were doing it right, or giggled as they tried to
balance while outlining their feet, and asked Joan questions about how to cut the leather
and felt linings from the cardboard patterns they had made.

Once everyone had settled with their patterns, Joan next showed us how to cut through
the leather, and which pieces to cut to make up the shoes. The leather had to be cut in a
particular direction due to the nap, or direction in which the skin stretched naturally, and
we also had to take into account the shape of the leather (widest at the shoulders,
narrower near the legs of the hide) and any natural holes or thinner areas from the
tanning process. We also had a choice of (artificial) fur trims for the moccasins, while both
Debbie and Janet had taken in their own moose hide and wolf fur trim to use. Janet had been given her skin by a family member, and Debbie had cleaned and processed hers from a moose her husband had recently shot (as card-carrying Métis, she and her husband are entitled to hunt in certain areas near their home community, for subsistence purposes – and making the moose skin into footwear for yourself is considered a subsistence use: Government of Alberta 2007: 4).

Once we all had all the parts cut out in the right materials and in the right quantities, Joan started to talk about the patterns and designs and colours of beads we might like to put on our moccasins. The common Métis pattern is the prairie rose in various colours, with some leaves and a stem, or a few smaller flowers surrounding it. Other common patterns were bear footprints, stylised animals, and thunderbolts and so on. Some other aboriginal communities based their designs on geometric patterns. I decided on a basic rose pattern, while some of the others were more ambitious, aiming for complicated geometrical patterns or animal motifs, or different kinds of flowers (see my own example of the Métis style, made during this workshop, Figure 5.2 below). Janet decided on a bearclaw because that is what her mother used to bead onto her shoes as a child. Joan explained how to centre your imagined bead pattern on the vamp, and which (very thick and sharp) needles to use, and how to split and double up the moose sinew which would be used as thread. She also demonstrated how to sew the beads on, putting the needle through three or four tiny beads, then sewing through the material, then going back to do a securing stitch between the middle two beads. As everyone settled into the immediate task of beading, and got more familiar with the process, people began to talk more, generally to the room or directly with their neighbour, although this was interrupted by
the occasional muffled curse as people stabbed their fingers pushing the needle through the material, or when they found they had missed a bead in their pattern and had to undo some work. I had to keep a tissue beside me as I had no calluses on my fingers and kept pushing the needle too hard into my fingertips and making them bleed. We agreed that when the moccasins were finished, they would literally contain our blood, sweat and tears.

Fig. 5.2 Some examples of hand-made moccasins. The first has the Métis-style prairie rose, the second a more geometric pattern associated with Cree tradition. (Source: the author, 2012).

As she was showing us what we needed to do, Joan had been talking about herself and her experiences with making moccasins and beadwork, and later more generally about the kinds of crafts she does, and her subsistence hunting and harvesting. She describes herself as Cree-Métis from a small community about 400km north of Edmonton, but had come to the city in the 1960s for work. Her father had grown up as Cree-Métis, but her mother was white, the schoolteacher in the aboriginal community in the 1930s and 40s. Joan had grown up speaking Cree (and sometimes spoke to us in Cree by accident), and living what would be seen as a traditional lifestyle, based on going hunting with her father, learning medicine and healing from her grandmother, and harvesting the fruits
and any vegetables that grew that far north. Joan had learnt all these crafts and hunting skills as a child, and now made a living teaching craft classes and selling her work. She makes moccasins, tipis, fur clothes, beadwork, medicine bags, and hide mittens and boots (mukluks). She also makes bread and bannock on an industrial scale, and hunts moose and deer for food and skins for leather (some groups of Métis in rural parts of northern and central Alberta have recently been allowed to hunt for subsistence without a licence, as First Nations people with status can, depending on where they live and if they can prove long-term community membership and ancestral connection to the area – this is the Alberta government’s Métis Harvesting in Alberta policy 2010, as described in Chapter 3 above).

Joan is a recognised Elder in her community (the title of Elder comes from community consensus), which is a position and a social role that means she is a holder of traditional knowledge, and includes an obligation to teach others (Council on Aboriginal Initiatives 2012: 21). She also spent a long time working as a cook in oil camps and in the city, and her second husband is Czech. Throughout the classes, she told many stories about growing up, and her experiences now with practicing these traditional activities. One particularly amusing little story was about how her father had taken her Czech husband out hunting, and had taught him a particular call that moose would answer and come towards. The husband, delighted with himself that he had finally learnt how to imitate the call properly, started making it in the forest one day, and he heard an answering moose call and the rustle of leaves as the moose came towards him. Excited, he called again and got another answer, and was getting ready to aim his gun at the moose as it came out of the trees, when a fellow hunter appeared from the bush, who had been trying the same
trick. Joan’s father told the story to anyone who would listen and Joan liked telling it too, repeating it two or three times.

As Joan spoke about learning beading and clothes and shoe-making as a child, some of the other women talked about how they remembered their grandmothers and mothers doing these kinds of work when they were small, and that they had learned a little, but had not tried for many years. They explicitly linked the ability to make moccasins and similar crafts with what is expected of someone who is aboriginal, especially a woman. Having a connection to these practices and traditions was spoken of as a part of aboriginal identity, a marker of being ‘properly aboriginal’. Maria got a little frustrated at one point with the intricate detailed beadwork she was sewing, and in mock-irritation said that ‘I am aboriginal, I should be able to do this!’ Everyone giggled, acknowledging the mismatch between the perception of aboriginal women as competent and able in the skills that historically kept their families alive in cold climates, and the present reality of a roomful of women stabbing themselves as they tried to master these skills, and Joan went around the table to help her unpick the messy part of the beading. Maria and her sister-in-law Karina both spoke about wearing home-made moccasins as children, and Janet had helped her mother with making them when she was a child. They all spoke about not having time or the chance to practice with someone who knew what they were doing since they had left home, and that was part of the reason they had come along to this course. It felt like they were not so much interested in nostalgically reviving a tradition for sentimental reasons, more like this was something that was well within living memory and practice, that had been normal for their mothers and grandmothers, and themselves when they were children. They wanted to learn how to make these shoes so
they could make wearable and sturdy shoes for their families that would be long lasting, as their grandmother’s shoes had been. Although it was a continuation of historical practice explicitly connected with their identity as aboriginal, the actual experience of these classes made me feel that it was about (re)learning something that had been a part of everyday life, which they associated with their childhoods.

The conversations wove around people getting up for coffee, pausing to untangle a mess in their sewing, lunch breaks, phones going off, and questions for Joan, and periods of silence as people concentrated on a particularly intricate part of the beading. Conversation drifted from moccasin-making to other common experiences they had had, growing up aboriginal or Métis. They talked about hunting (including the best way to skin a moose), residential school, First Nations status and Métis cards, bingo (what Joan called a ‘well-known aboriginal “vice”’ in that part of Canada), their families, their jobs. From my point of view, it was fascinating sitting at a table with these women who were talking about which skin makes the best leather for shoes: deer, seal or moose, how the hunting regulations affect those without official Indian status, such as Debbie’s husband taking his white friend out hunting, where the husband has a Métis card so (at the time) could hunt any age or sex of moose for food, while the friend needed a hunting licence and could only hunt what was in season – adult bull moose. These things were all normal, lived experiences for them and their families, and yet were the exact things that are brought up in claims to aboriginal identities and proofs to the courts that a group is authentically aboriginal. It was a great chance for me to see things that people had spoken to me about in a more abstract sense previously, in a more day-to-day context – for example I had met several people who had fully supported Métis claims for hunting rights equivalent to
those enjoyed by people with First Nations status (permission to hunt for subsistence all year round and not regulated by age/sex of the animal, or in some cases species), but who said that in practice they themselves have not hunted and only want their children to have to opportunity to if they are interested later. At the same time, I found it very interesting that the general conversation moved so quickly and decisively to experiences of aboriginality and stories of aboriginal childhoods. I made no prompts in this direction – I never needed to.

The issue of Métis identity also came up as people talked about their experiences, especially of hunting. The way the law works in Canada is that people who have Indian status have the right to hunt for subsistence on unoccupied Crown (i.e. not privately-owned) land. For some time in the mid-2000s there was an attempt to extend this to Métis people, through having Métis hunting rights recognised as an aboriginal right in the 1982 constitution, and having the federal and provincial laws changed to reflect this.

At the time of writing, it was possible for people with Métis cards (which are federally recognised to some extent) to hunt for subsistence near their home communities without licences and regulation, if they lived in communities recognised as ‘Métis’ (as with Joan, Janet and Debbie above). To prove their eligibility for a Métis card, people have to apply to the provincial Métis organisation (in Alberta, the Métis Nation of Alberta) which issues these cards to those who meet their criteria: self-identification as Métis and an ability to prove an ancestral and contemporary connection to a Métis community (see for example the definition given on the MNA website, Métis Nation of Alberta, n.d.). This is usually done through documentary proof of Métis genealogical ancestry (census records, birth or

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43 As discussed in Chapter 2, there are 17 ‘Métis communities’ recognised in Alberta, and Métis from these communities can hunt in the surrounding areas.
marriage certificates listing ethnicity, and so on) and a connection to a current specific community – this usually means some affidavits of other community members agreeing that the individual is a member of the local Métis community.

Genealogy and family trees seem to be critical to claiming Métis identity through the Métis organisations, as they promise to demonstrate a history of generations of people claiming to be Métis. I was regularly shown family trees and detailed histories, including by one administrator in the Métis Nation of Alberta, which administers the cards, and another by the daughter of a well-known Métis politician. The first of these, Adam, who worked at the MNA, showed me his as a demonstration of what it means to be Métis, almost apologising that it only extended back six generations (which I found impressive at times when baptism and marriage certificates may not have been preserved, or even produced, in the rural interior of Canada). It extended as far as the ancestors who came from Brittany and Orkney, although it was less well-documented on the aboriginal ancestral lineages of the chart. The second family tree was staggeringly imposing, consisting of a lever-arch file full of charts, individual life histories, and maps. This one reached back over 900 years on the European side, although again (understandably) was less well-documented on the aboriginal side. These genealogies are a crucial element of acceptance into the Métis organisations, and must demonstrate not only mixed ancestry, but a history of identification as Métis, which could for example be on old marriage certificates or residential school records.

The Métis card is entirely linked to membership in a provincial Métis political organisation, which are under the umbrella of the Métis National Council. The MNC, as discussed earlier, claims to represent the descendants of the Historical Métis Nation
(based at Red River in the 1860s), and as such excludes those who cannot prove an ancestral link to this community. So individuals who consider themselves Métis but do not fit these criteria, are therefore unable to obtain membership of their provincial association, and so then cannot obtain a Métis card and have permission to hunt locally.

Debbie mentioned that she had recently applied for and received her Métis card, and had also done so on behalf of her grandson, who is eleven. Debbie does occasionally go hunting for food and hides, but she had also wanted the Métis card as a sort of legitimisation of her Métis identity (in the same way as First Nations status can be perceived as doing – you are a ‘proper’ Indian if you have status). Some of the other women had First Nations treaty status or Indian status, even some who called themselves Métis, as legal status is inherited through the paternal line and is not necessarily related to self-identity. As a side-note to this, however, Sharon, who is the overall manager of the Michif Institute and had organised this course, had talked to me about the Métis cards when I first met her just after arriving in Edmonton. She told me how she used to have one of these Métis cards in the 1990s after they were first introduced, however changes in the membership criterion when the MNA matched its membership criteria to that of the MNC in 2002 (Belcourt 2013: 133) had made her no longer eligible. Sharon said that after the criterion changed, she was told her card was no longer valid. She was furious about this, about having her card taken away, but also was very insistent that losing her card did not make her any less a Métis in her own eyes or the eyes of those who knew her and her family history. In the end, she compromised with the MNA and agreed to keep her card, but to have a corner of it clipped to show it was invalid. Others I met had said the same thing, or had even avoided getting a Métis card they were entitled to because
they felt it had no bearing on their own self-identity and awareness of their community. However, as noted above, not having a Métis card does limit the possibility of claiming aboriginal hunting rights, as that is how the eligibility of individuals is judged and the rights are granted and administered. Possession of a card, or eligibility for one, has also been used as demonstration of community membership in the courts as the MNA claims itself as representing the local Métis community.

Later on, as we became more confident with what we were doing in sewing the beads into our patterns, conversation became more generalised. As Joan told us stories of growing up aboriginal in rural northern Alberta, the others joined in with their own stories and comments. Some of the women talked about the effects of residential school. Although they were too young to have gone themselves (residential schools generally stopped being compulsory in the 1960s and 70s), they all knew people who had been, usually their parents or older brothers and sisters. Maria spoke about the effects of residential school on her father, who had been taken away from his family and kept there for six or seven years, with only a few weeks at home in the summers. She said it had destroyed him, and his links to his family – he lost his ability to speak Cree through having it beaten out of him at school, his long hair was cut, he was taught that his aboriginal background was something to hide, to be ashamed of. The communities the children came from were also devastated by having their young people taken away from them at the time they should have been learning the important skills from their parents and elders. While Maria spoke, the others nodded in recognition, and the atmosphere became more serious and quiet for a while.
As an aside to this, another woman I spoke to talked about the various issues surrounding residential school – her parents had met there, and in the late 19th and early 20th centuries, residential schools did at least teach basic literacy to First Nations and Métis children who might otherwise not have had the opportunity for formal education. The Métis context for residential schools was also slightly different from that of First Nations – as the dividing line between First Nations and Métis has always been blurred, some Métis children were rounded up with the First Nations children and sent to school. Others were missed, or went voluntarily to obtain an education, but as Métis were not included in the Indian Act and were not entitled to free education, they had to pay school fees. Métis children sometimes found themselves with the worst of both worlds, subject to similar racism and discrimination as First Nations children but also having to work by cleaning or helping to prepare school meals to pay their fees.

While personal residential school experiences were less common for the women learning how to make moccasins with me, they all had stories about their experiences of growing up aboriginal, generally within a wider aboriginal community. The experiences of the Cree women seemed quite similar to those of the Métis women, especially to do with feelings of fitting in (or not), and experiences of the everydayness of things like hunting and some degree of self-sufficiency of families. Karina talked about how she had felt in school, how she didn’t quite fit in with the other aboriginal children, or with the white children. She said her brother was lighter than her, and couldn’t understand her problem, he had said he ‘played Indian with the Indian kids, and played white with the white kids’. Some of the others agreed that maybe boys were just more practical about these things, and had one big fight to straighten things out, then got along ok after that.
By the last morning of the class, time was running out and the room was much quieter as everyone concentrated on finishing their shoes. Joan hurried us along, as she wanted to pack up and leave by the early afternoon, since she had a five-hour drive back up north ahead of her and it was getting dark earlier. She began to help people who were struggling – at one point she had to undo the seams of Carrie’s second shoe as they had been put together in a slightly off-centred way, and re-sew them quickly for her. She also took over the most difficult part of sewing up the shoe for Nadia – the part where you need to sew the two layers of the vamp onto the two layers of the sides, with an extra strip of leather in between for strength. This meant forcing a needle through five layers, and at the same time folding over the seams of the soles so they would form a 3D shape when finished. This was very heavy work and there was a lot of cursing and needle pricks while it went on. Then we just had to attach our fur lining to the open part of the shoes, and turn them the right way around, and sit on them for twenty minutes to settle the seams.

**Identity, ethnicity, and groups: borders and boundaries**

A short discussion of identity and ethnicity in anthropological theory seems necessary here, to provide a framework for my discussions and analysis of fieldwork experiences. The ambiguity of identity, in particular aboriginal identity, combined with the certainty demanded by legal categories of identity, was the basis of my thinking when analysing the conversations and events in this chapter. The concepts of ethnicity and identity as analytical categories within anthropological theory have been debated for decades. Early assumptions of ethnic identity as a primordial or essential, of ethnicity as ‘a collection of rather simplistic and obvious statements about boundaries, otherness, goals and
achievements, being and identity, descent and classification’ (Banks 1996: 5) have long been challenged, beginning especially with Barth’s work in the 1960s. Barth refocussed interest in ethnicity onto the boundaries of groups, and maintenance of these boundaries, rather than the ‘content’ of groups (Banks 1996: 12). Over time, the concept of ethnic identity came to be seen as situated, constructed, and relational. Ethnic identity was understood as open to negotiation rather than fixed (Eriksen 1993: 3), as defined situationally and strategically, and as socially constructed (Jenkins 2008: 46), and yet based on some common core: ‘a human group whose members share common myths of origin and descent, historical memories, cultural patterns and values, association with a particular territory and a sense of solidarity’ (Smith 1994: 709). The idea of a situated identity, negotiated strategically, is of relevance to the Métis case. As a new identity, a new ethnicity, it is less convincing as a primordial or essentialised identity, tied to land and ancestry since time immemorial.

In discussions about Métis identity, what is interesting is how this identity has come to be accepted, even legally recognised, even if in a contested manner, in particular how ‘ethnicity emerges and is made relevant through social situations and encounters, and through people’s ways of coping with the demands and challenges of life’ (Eriksen 1993: 1). In the Métis case, this has been the original construction of Métis identity in the context of their separation from the First Nations and Euro-Canadian communities in the Canadian interior from the 18th-century onwards, and more recently in the increased political activism as Métis specifically, leading up to their recognition as a separate aboriginal people in the 1982 Constitution. Métis was more clearly an ethnic identity when it was necessary to separate themselves from other identities, in the pursuit of
recognition and rights. Once the state and wider society came to accept the idea of a Métis identity, it became far more instrumental and politically useful: as Eriksen argues, ‘ethnic identities must seem convincing to their members in order to function – and they must also be acknowledged as legitimate by non-members of the group’ (1993: 69). Ethnic identity is valuable, a form of symbolic capital, when it is recognised by others.

In the following section, I will try to think through some of the ethnographic contexts in which people spoke to me about what they felt their identity was, why they defined (or didn’t define) themselves in certain ways, and how their social or personal self-identities related to their legal status. Different kinds of identification and self-identification can include whether an individual is recognised as someone with Indian status (officially recognised as First Nations), someone with a Métis card (which is not a legal document, but a recognition given by various Métis organisations that the individual meets their criteria for who is Métis, although it may be accepted in some cases as proof of a constitutional aboriginal right to hunt), or someone with no legal aboriginal identity, but who nonetheless sees themselves as aboriginal. I will also discuss how some people linked their identity, whether social or legal, with particular everyday practices and lived experiences, and how important they felt that connection to be. Firstly, I will place the ideas spoken of above about boundaries and borders of categories into a more theoretical context, beginning with Green’s work on borders (2010) and Bowker and Star’s discussion of the creation and purposes of categories (1999). I will then discuss this in terms of specifically aboriginal boundaries, and the meanings associated with which side individuals are seen to fall, or place themselves, on the aboriginal/non-aboriginal boundary.
Bowker and Star’s *Sorting Things Out* (1999) analyses in detail how categories are produced, what purposes they serve, and how they are policed and maintained. They describe categories as ‘a set of boxes, metaphorical or literal, into which things can be put to then do some kind of work’ (1999: 10). They argue that for categories to be useful, there must be at least some level of consensus about what falls into which category. There is a certain level of agreement of what constitutes the category of Métis (at least some aboriginal ancestry, some process of ancestral mixedness, some self-identification with an aboriginal identity) but, as described above, there are differing opinions as to where the borders of this category are, and who specifically can be said to fall into it.

What ‘work’ the category of ‘Métis’ does depends to some extent on who is understood to fall into that category, and who is excluded. Legally, the category of Métis works to differentiate those with a historical and/or ancestral, as well as a contemporary, connection to a Métis cultural group (and hence may be entitled to claim certain legal rights) from those of aboriginal ancestry who are not connected culturally to this group. However, as seen in the cases described above and below, Métis is not only a legal category, and the social and personal understandings of who claims to be Métis can vary enormously. This makes it harder to see what work this category does in the everyday, or non-legal, spheres. For some it is a residual category of aboriginality that can be claimed when you do not fit into another category, and for others, it is related to the historical Métis Nation of 19th-century Red River and the fur trader history of central Canada. For others, it can fall somewhere in between, maybe relating to a long-term mixed-ancestry community, but not necessarily directly descended from the Red River tradition (i.e. Métis communities in British Columbia, Labrador and the Northwest Territories).
Bowker and Star further note that categories can shift over time (1999: 10), and also that there is a certain amount of work involved in how categories come to be created, accepted or imposed (1999: 44). It seems that currently these competing, contested ways of bordering the category of Métis, whether legally or socially (or politically), have not resulted in one view being accepted or imposed above the others. Alongside the state and the Métis organisations who are working to have their definitions accepted and circulated, there are competing ‘folk’ categories of Métisness which contradict or do not conform to them. Bowler and Star also discuss what happens when people fall into these contradictions. Speaking about apartheid South Africa, which rigidly defined and classified people by colour and race, they argue that there were cases where an individual’s self-perception, and even others’ classifications of them, contradicted that of their official designation (1999: 220). This resulted in serious problems for those who fought to be officially reclassified, as they tried to reconcile the official categories with their own understandings of their identity. Bowker and Star conclude by highlighting that ‘classification systems are often sites of political and social struggles’ (1999: 196), and this can certainly be seen in the case of the continuing construction of Métis identity as a category.

I have found it interesting to think about the implications of having such a strong border, such a crucial legal boundary, between the various categories of aboriginality, most especially the First Nations/Métis and the Métis/not aboriginal boundaries. Green argues (in the context of the Greek/Turkish border, but I think many of her points can be transferred to the aboriginal/non-aboriginal borders) that ‘borders generate the differences that they mark, rather than simply reflecting them... borders help to maintain,
reinforce and explicitly define the distinction that they mark’ (2010: 261). In the context of categories of aboriginality, this could be argued to extend to the ways that identities are hardened and similarities erased or hidden, in a bid to clarify a separation with profound legal and political consequences (as in the previous chapter, as similar artefacts are separated as First Nations or Métis). One example of this would be the MNC’s insistence on policing the boundary between Métis and non-status Indians by strictly enforcing criteria of ancestral connections (such as the genealogies required for membership applications) to Red River, and long-term (at least four or five generations) self-identification as Métis. In this manner, the MNC hopes to establish a clear boundary between who it sees as Métis and others with aboriginal or mixed ancestry but less of a clear historical and cultural connection to Métis communities. The MNC also wants to connect Métis identity more clearly with a political project of state recognition and extension of certain aboriginal rights, especially through section 35 of the 1982 Constitution. I found that this rigidity was not always reflected in the conversations that I had with people who self-identified in a variety of ways, for a variety of reasons.

‘I used to be Métis’: the borders of Métisness

Two short conversations during my fieldwork helped me to begin to think about some of the less clear, or maybe less officially accepted (whether by the state or other Métis), claims to a Métis identity. The first of these was a conversation with a woman called Teresa, who I met while out for a drink one night with a Blackfoot friend called Anna in Edmonton. I had met Anna months before, and we went out for a drink whenever she was in the city. As Anna looks “aboriginal” – dark hair and eyes, brown skin and aboriginal features - she often ends up being approached by and talking to other aboriginal people
when she is out at night. Teresa had run into us outside the bar, where she was trying to wheedle a cigarette from passers-by. Teresa joined us, and she and Anna talked a bit about their backgrounds, trying to figure out if they knew the same people. Teresa told us that she was of Cree ancestry, but had been adopted by a white family when she was a baby and so had never learned much about her cultural or family background. She said that because of this personal history, she called herself Métis. She saw herself as aboriginal but she didn’t feel she could call herself Cree, because she couldn’t speak the language and she hadn’t been brought up “in the Cree way”.

It seems that Teresa was defining herself more by what she felt she was not (Cree), rather than in a positive way of associating and identifying herself with the Métis history and culture. She was using ‘Métis’ as a residual category of ‘unspecified aboriginal’, which goes against the representation of Métis identity by many other actors – the state and the legal system, the Métis organisations, and the general self-identifying Métis community that connects itself with the fur trade history, Red River, and 200 years of ethnogenesis and traditions. For Teresa, the boundary between Cree and Métis was based on her perception of what it was that made someone Cree, and as she did not meet the criteria that she felt such a boundary brings with it, she felt herself unentitled to claim a Cree identity. Her self-identification as Métis, as a sort of ‘unspecified aboriginal’ category, is one of the long-standing contradictions with Métis identity, and very interesting for me. In this context, three women talking outside a bar one night, all the decades of Métis self-promotion as an aboriginal people in their own right, with their own histories and traditions and contemporary culture alongside the First Nations and Inuit,

\[44\] Cree are the largest group of First Nations in Canada, with a population of 317,000 living across Canada from the eastern seaboard to British Columbia, and into Montana: ‘Cree’ in Canadian Encyclopaedia, n.d.
was of little importance to the self-perceptions of individuals trying to describe to me what they felt their identity to be. Legal definitions of Métis, or even of Cree (as covered by the Indian Act), were not, in this example, of importance in shaping how Teresa saw herself, and her reasons for this.

Some months later, I met a man called Matti, who, when I explained what I was interested in, volunteered that he ‘used to be Métis’. He said his grandmother was Cree, but she had lost her Indian status when she married a Danish man in the 1960s, and consequently her children and grandchildren then automatically had no right to status. The law changed in the 1980s and so after Matti’s grandmother was able to regain her status for herself and her descendants several years ago, he feels he can now call himself a ‘proper’ Cree. While he was growing up with no status, he had identified as aboriginal, but without official recognition and rights he took the same view as Teresa had, that he was not ‘properly’ Cree, and so put himself into the only aboriginal category he felt was available to him – Métis. Like Teresa, he saw it as a label that showed he was aboriginal in some way, but not clearly (or legitimately) connected to the legally-identified First Nations peoples like Cree. However, he also felt that a further condition of his being a ‘proper’ Cree would still have to be fulfilled by him participating in some of the Cree men’s initiation rituals, especially the Sun Dance (common across much of the central plains of North America). He was particularly interested in undergoing the ritual that involves young men having the skin of their chests pierced with hooks, then dangling from a tree by the hooks (this had been illegal in Canada between the 1890s and the 1950s, although it was rumoured to occasionally take place in secret). He felt that this would

45 Bill C-31, introduced in 1985, as described in chapter 2 above.
46 See Pettipas 1994 for details on the Sun Dance.
be a proper recognition of his grandmother’s ancestry and would entitle him to call himself an adult Cree man.

Matti and Teresa here show an inconsistency and contestation between the different ideas of what Métis should mean and who the category should extend to, even the purpose of Métis as a category, legally or culturally. I think what they were doing with these claims to a Métis identity was a sort of self-policing of the boundary of what they saw, and what they perceived was seen by others, as Cree, and as they felt they did not fit their view of the criteria (growing up in a Cree community, having legally-recognised Cree parents or grandparents, not knowing the language or the way of life), they did not allow themselves to claim a Cree identity, instead classifying themselves as Métis. While Métis is generally accepted politically and in wider society as referring to a distinct community that grew out of the combination of European fur traders and local aboriginal groups eight to ten generations back, it is also used (by other political actors, as well as individuals like Teresa and Matti, in a way that really annoys the Métis political organisations) as a sort of catch-all term for people who are aboriginal but do not have status, or have some mixed ancestry, or are for various reasons not clearly attached to any particular First Nation. This muddies the waters for Métis claims to political peoplehood (or even nationhood) in their own right, as it makes Métisness appear as an all-encompassing category for various individuals not able to fit themselves tidily into First Nations categories. The point is that the social or cultural category of Métis, not to mention the legal category, is contested among various groups and this causes extreme difficulties as Métis political organisations present themselves to governments and courts as a self-evident, historically-based nation in their own right.
Teresa and Matti also demonstrate a fluidity of identity, an ability to choose for themselves to some extent how to self-identify, and potentially for this to change if their circumstances change, as with Matti feeling himself able to reclaim legal status as First Nations. The boundary between Métis and other categories, such as French-Canadian but especially First Nations, has long been seen as porous and open to a certain amount of flexibility, at least in social and political terms, if not always legally. Both Matti and Teresa would now be entitled to Indian status, Matti through his Cree grandmother having regained her status, and Teresa through her Cree parents before she was adopted. For Matti, a legal change in status (from non-status to status Indian) changed his view of his own personal identity, reflected in his comment that he ‘used to be Métis’ until he was legally able to claim Indian status. Teresa was operating with a slightly different concept of the overlap of the legal and social categories of First Nation/Indian and Métis – for her, although she could legally hold Indian status, she still called herself Métis as she felt she did not fulfil the other criteria that she saw as important – being brought up in a Cree family and community, knowing the language and the ways of life.

According to the Métis National Council’s (MNC) definitions of what makes someone Métis, and the criteria used by the Canadian courts, however, neither Matti nor Teresa would be considered Métis. The MNC sees Métisness as a cultural identity based on a shared tradition and history of being a people, which descends (by genealogy or by adoption) directly from the early/mid-19th-century central plains community of Red River (Métis National Council, n.d. (b)). As Matti and Teresa come from a Cree background, not a historical Métis community, they would not be accepted by the MNC as Métis. The courts also take a ‘modified self-identification’ approach (as in the case of R. v Powley).
which recognises as Métis for the purpose of s.35 of the Constitution, those who self-identify as Métis, are accepted by the Métis community as such, and who have an ancestral genealogical connection to a recognised Métis community.47 Again this would exclude Teresa and Matti, on the basis of not being accepted by a Métis community (i.e. de facto the MNC, which is recognised by the state as representing Métis in Canada: Métis Nation of Alberta - Government of Alberta Framework Agreement 2017: 1) and not having ancestral links to a Métis (rather than a Cree) community. So here are two individuals who have chosen to self-identify as Métis rather than Cree, as a means to recognising their aboriginal heritage, while feeling they are not ‘proper’ Cree or First Nations. At the same time, they would also not be accepted as Métis legally, although they would be entitled to be accepted as status Indians. They seem to fall into a contradiction between their legal identities and their personal or social identities, and to have to negotiate this inconsistency in their own ways.

This relationship between legal status, state labels and categories of aboriginality, and the lives of individual people was demonstrated for me one afternoon over coffee at the Michif Museum. A woman called Sarah, who knew the women at the museum, called over one day to visit, and after she was introduced to me she sat down and told me about herself and her own family history. Her mother had recently had a book published on this very topic48 – the impact of the loss of legal Indian status on women (as they lost it automatically if they married someone who did not have status) and the following

47 “Self-identification, ancestral connection, and community acceptance are factors which define Métis identity for the purpose of claiming Métis rights under s. 35. Absent formal identification, courts will have to ascertain Métis identity on a case-by-case basis taking into account the value of community self-definition, the need for the process of identification to be objectively verifiable’ (R. v. Powley 2003 SCC 43 preamble)

generations. This automatic loss on marriage was overhauled with Bill C-31 in the 1980s, but many of the descendants of those who lost status in this way are still in the process of having it reinstated. Sarah’s mother had lost status in this way, and was having a very difficult time now in proving her entitlement to get it back. Sarah said that since her mother had lost status before she was born, she had been “raised as Métis”, by which she explained, she meant without a solid state-accepted aboriginal identity and legal protections that status brought, but that she personally felt herself to be strongly aboriginal and connected to a community locally, off-reserve (as non-status, her mother had raised the children in the area next to the reserve, which is often where there is a large population of Métis people). Her mother had finally regained her status, and Sarah now felt herself in something of a dilemma. She feels it would be “ungrateful” or disloyal now to her mother if she did not also pursue regaining her Indian status, but at the same time she “knows who she is, she has always known she is Métis”, and she doesn’t need the government to tell her who she is.

This struck me as a particularly interesting case – first of all in the idea of loyalty to her mother, as I had heard similar sentiments before when a mother or grandmother regained status (as with Matti). It had felt like a betrayal not to then assume the identity, legal and even social, that the ancestor had lost decades previously, and to a greater or lesser extent people felt a dilemma about “giving up” the Métis identity they had grown up with. It also highlights the ambiguity of the boundaries of Métisness and Indianness, especially of non-status Indians. This use of Métis as a marker of a general aboriginal identity, by an individual without Indian status, is exactly the use of Métis identity that many Métis, in particular the Métis political organisations, strongly disagree with, as they
feel it discards all Métis history, identity, and traditions built up over 200 years, instead seeing Métisness as basically another word for non-status Indian. Interestingly, Sarah was not challenged by the others in the museum as she explained her history, no-one asked her why she called herself Métis in this way. This shows again how ambivalent it can all be, and yet the legalisation of Métis identity following 1982 calls for such clarity and precision in delineating who is or is not Indian or Métis, with no room for ambiguity of this sort. Maybe no one challenged Sarah because she was talking about her self-identity, her understanding of herself, and not making claims to speak for everyone, nor was she making a political or legal claim to a Métis identity: she did not have a Métis card nor seem to be entitled to one. She had settled the issue of her self-identification to her own satisfaction. While the law and political structures and organisations demand a rigid boundary between Métis and other aboriginal peoples, and consequently the criteria used in these cases can be more clearly confined to those with ancestors in the Red River fur trader tradition, others claim to be Métis in other circumstances too, even where the law and Métis organisations may specifically reject their claims: such as the ‘Labrador Métis’ (discussed above in Chapter 2), or other groups who fall outside the MNC’s criteria, which as Magnet argues ‘pays little respect to Métis diversity’ (2003:50).

‘Aboriginal heritage, but not aboriginal’

Alongside those who have a family history of a strong Métis identity, whether or not they chose to conceal this at various points in time (such as the aftermath of the rebellions), or those who have been in a position to ‘choose’ a Métis or Cree identity (as in the previous section), there is also a large literature, academic and otherwise, about the particular issues surrounding individuals and families who ‘discover’ a family history of Métis
identity, and must deal with the confusion of finding that their (assumed) identity as Canadian, maybe French-Canadian, was actually existing alongside a concealed or submerged family history as Métis. In this case people, as adults and having therefore not been socialised in a Métis context, must analyse and judge their personal and social, and indeed political and possible legal, identities from the perspective of this new information. Discussions of personal histories in relation to the ‘discovery’ of a Métis ancestor, or Métis identity, by individuals in adulthood are fascinating in this context. Several Métis academics have written about their own experiences of finding out, usually after years or decades of hints or hidden histories, that they have Métis ancestry, and have gone on to write further about how they have incorporated this knowledge into their personal identity, and reflected on what this means for their own identity. I will consider this literature as a basis from which to discuss the ‘submersion’ or ‘concealment’ of Métis identity in the families of some of my informants, in the section below.

One Métis academic who discusses such a discovery of a concealed Métis ancestry is Heather Devine, whose lecture on Métis politics I described in Chapter 3. Devine describes being unaware of her Métis ancestry as a child, although over time there were hints from local children and Métis that her family did not fit easily into the local ethnic classifications (Indian, Métis, ‘respectable Métis’, white), and that her mother’s family may have had Native ancestry (2010: 183-186). As a young adult, Devine’s mother discovered her ancestry after her adoptive parents told her her birth name and passed on some personal details they had. With this information, Devine and her mother were eventually able to contact Devine’s grandmother and aunts. Devine writes about ‘what happens to a person who discovers previously hidden ancestral roots’, including the
‘relief’ that certain hints now made sense (2010: 188), followed by ‘an intense desire to find out everything’ about her Métis family (2010: 189) – her own direct family genealogy, as well as wider Métis history. This interest developed alongside an increasing identification with Métis people and political issues, as well as what she describes as fear, ‘I was afraid of how people would react… I was afraid of being rejected by Métis people’ (2010: 192).

Devine went on to study Métis history at postgraduate level, and eventually to write a detailed study of her family history, tracing her genealogy to an ancestor from France who arrived in Quebec in the 1660s (Devine 2004). Through the lens of her family (the Desjarlais) history, she discusses the social, economic and political forces that shaped the ethnogenesis and early history of Métis identity formation, through the early French presence in Quebec, to increasing involvement in the fur trade, and the expansion and intermingling of established Métis families and lineages across the central and western plains of Canada in the 18th and 19th centuries. This study, titled The People who own Themselves: Aboriginal Ethnogenesis in a Canadian Family, 1660-1900, grew out of her curiosity and interest in her family’s history, once she had discovered the concealed Métis family. She later wrote how, after her research into Métis history and her increasing involvement with the Métis community and politics, ‘I recognise now how important acceptance by other Métis is to the process of developing one’s sense of self as a Métis person’ (Devine 2010a: 201). Macdougall wrote a similar detailed family history after herself coming to know more about her family’s Métis history and identity. Her book, One of the Family: Métis culture in nineteenth-century Northwestern Saskatchewan (2010), focuses on the family in one area of Saskatchewan, and details their experiences. She
particularly notes the importance of family to the Métis (which is of interest also to this discussion about the acceptance into the Métis community and wider family of individuals who had lost their identity through concealment). Macdougall discusses how the Métis worldview and way of life revolved around family, and the creation of family ties through intermarriage with outsiders - ‘the marriage of two individuals spread outward to encompass all their relatives’ (Macdougall 2010: 9) - as well as the importance of family support, obligation and mutual assistance was crucial in times of need (2010: 1).

As with Devine’s personal story, Welsh (1997) also describes growing up in 1960s urban Saskatchewan, and visiting a rural settlement and a graveyard as a child every summer, without understanding that it was the area her Métis ancestors came from. She had been told that the names on the headstones were French. Over time, with other hints about her grandparents, she felt how understanding that her family had Native ancestry, and that this was seen as something to be ashamed of, ‘seemed to seep into my consciousness through my pores’ (1997: 57). By the time she came to university in the 1970s, it was more a part of her: ‘no matter how hard I tried to hide it, my Native background seemed to be written all over me’ (1997: 58). She describes the history of concealment, as family members in previous generations made the decision to conceal their Métis ancestry, as ‘silence – the silence that is the legacy of assimilation’ (Welsh 1997: 65). It was this silence that had prompted her to investigate her family history and ancestry, and to uncover a family history of identification as Métis, and hence her own decision of what impact this may have on her personal identity.

As a final example, Kearns discusses her experience of uncovering her Métis family history. As with Devine above, there were hints, but no explicit admission, that her family
had very ‘tangible connections to and a family interest in Indigenous people’ (Kearns 2013: 60). She writes about the profound affect the discovery of Métis ancestry had for her, and the importance of what she calls ‘blood memories’ to the connection between herself and her ancestors (2013: 62). She views these blood memories as an underlying connection, felt before she fully knew her ancestry, to Métis and other aboriginal peoples, and the feeling that this connection involves a kind of responsibility to find out more about her ancestors and contemporary Métis. She concentrates this connective energy into collecting stories of Métis who have either concealed their Métisness for various reasons, or those who have rediscovered their Métis ancestry. She sees this as ‘not only an academic endeavour, it is also part of my quest to get to know my family and myself, and why we (and others) have been silent in naming ourselves “Métis”’ (Kearns 2013: 63). Finding out that your family is Métis opens some possibilities for learning more about her family and Métis culture more widely, and Kearns feels pride that people no longer feel such a need to conceal their identity. As her poem, collated from statements of her family and others who have discovered Métis family histories, states: ‘Today/ I am grateful that being Métis is an available/ cultural and/ legal identity./ I am grateful that my kids can jig in public./ And we have so much more to learn...’ (Kearns 2013: 68).

The reasons why some families in previous generations of Métis chose to conceal their identity as Métis to others, as well as their children and grandchildren, are discussed in this literature on discovery. Devine argues that, for her family, it was the local social attitudes towards others of mixed ancestry, the social stigma, that led her grandparents to disavow and to hide their Métis identity (2010: 186). In the social hierarchy of mid-twentieth century central and western Canada, there was no space for what she calls the
‘respectable Métis’, i.e. those with jobs or careers, a settled family, and long-term connections to an established Métis community. You were either white or Indian, with all the negative stereotypes that label implied. Schenck discusses this binary in the context of Métis in the United States, where individuals and families were categorised to some extent as ‘white’ through having an education, or an established business, or having white ‘habits’ (Schenck 2010: 238). And so, among these ‘respectable Métis’, ‘a discreet silence was maintained about their Native ancestry’ although local people would be aware (2010: 185). She goes on to argue that the effects of this silence are now being felt by the descendants of those Métis, that

> ‘it is the children of the respectable Métis, as well as the offspring of those Métis forced to make their living in the mainstream towns and cities of the non-boreal south, who met a wall of silence from their parents and grandparents when they asked questions about their Aboriginal past... [it is these who are now] trying to reconnect with their long-lost heritage’ (Devine 2010a: 198).

Welsh describes this silence and her family’s denial of their Native ancestry, ‘not as a betrayal but as the survival mechanism that it most certainly was’ (1997: 64-5).

Kearns is interested in these stories and experiences, wanting to understand the decisions of people who fall between two worlds (the mainstream Canadian world, and the aboriginal world from which, through the concealment of their family history, they may struggle to fit into. As Richardson argues, ‘for many Métis, there was a tension between trying to “pass” for white and a “sadness of being excluded in the First Nations world”’ (2006: 56). This idea of possible rejection was mentioned by Devine (above), and also by many people I spoke to during fieldwork, as with Matti and Teresa in the previous section.
Ancestry, family history as Métis (or Cree for Matti and Teresa) were not enough, that some knowledge of and socialisation in a Métis community must follow. This is an issue for the contemporary Métis community, because of the need for a clear, bounded Métis identity, as discussed in the previous section and throughout the thesis, in order to make solid claims for Métis as an aboriginal people, entitled to certain rights. An influx of ‘new Métis’, unfamiliar with the nuances of Métis communities having been socialised elsewhere, threatens to undermine the Métis claim to a solid identity based on a long history and common culture:

‘the presence of uncomfortable cultural and economic differences between new and established Métis sometimes made it difficult to integrate new arrivals... the Powley case in 1998 has now made it imperative to establish a visible, recognisable corporate identity for the eyes of sceptical government officials and the Canadian public at large’ (Devine 2010a: 194).

There is also an issue about ‘new Métis’ being reluctant to ‘shake the boat’ in established Métis communities and political organisations, because they want to be accepted by the long-standing community. Devine gives an example of this, as she had been accepted as a member of a Métis organisation whose financial dealings were questionable. She had felt that she was not entitled to challenge the management, whereas her cousin who ‘was born and raised Métis on both sides of his family, he had no insecurities regarding his identity. He had torn up his Métis card some time earlier’ (Devine 2010a: 201).

The above discussion, combined with the previous section that considered ethnic identity in terms of contested borders, boundaries and categories, is the frame for the following ethnographic discussion of an individual who found herself in somewhat of an ethnic
dilemma. Natalie was a fascinating case of someone who could potentially claim several different social or personal (if not legal) identities, and had considered for decades how to identify herself, and what it was within herself and her history and ancestry that would place her in which categories, on the basis of the various kinds of criteria that are generally used to judge this: ancestry, practice, cultural up-bringing. She spoke articulately about finding herself choosing to make a conscious claim to an aboriginal or Métis identity (or not), and her personal and family experiences of this. I met Natalie after a mutual friend had given me her email address, and said I might be interested in talking to her. She worked as a university academic advisor, and also wrote poetry about her mixed background, and had recently published a book of it. She is a very interesting woman, who had in her younger days hitch-hiked across Canada alone and canoed the old voyageur/Métis fur trader route from Hudson Bay to the Pacific. When I went to see her at her office, she was delighted and curious that someone had heard about her and wanted to meet her. We talked for hours over herbal tea, about her experiences of growing up at the boundary of being seen as aboriginal or not, and how in her case she seemed to have a measure of control over how she saw and identified herself.

We moved downstairs to the university canteen, and she began to tell me about her family, of whom she is very proud. Her father, who had died recently and whom a lot of her poetry was about, was raised in a tiny Cree village in east-central Alberta (near where the Métis Settlements were set up in the 1940s), where his Scottish parents were schoolteachers, and so he had grown up speaking Cree and living a Cree lifestyle with the elders and the other children in the village (Natalie laughed that sometimes this caused him a little difficulty later, such as his “aboriginal” approach to timekeeping which
employers did not expect in a white man). Her mother describes herself as ‘Cree/Métis’, from a Cree-speaking aboriginal community in rural north-western Saskatchewan, and had grown up in the 1930s when it was not favourable to identify strongly with a Métis identity, as the 1885 Rebellion was still within living memory. So her maternal grandparents had made every effort to raise Natalie’s mother in as ‘Canadian’ a manner as possible, at least facing the outside world. They did not speak Cree to her, and she was firmly instructed to ‘act white’ outside the home. This seemed an interesting thing to do in a small, predominantly aboriginal, rural area (1930s Saskatchewan) where everyone must have known the family histories of their neighbours, but maybe the parents intended to prepare her for the wider world when she went to school and later went to the city to work.

Similarly to this, the issue of ‘acting white’ came up at other times in my fieldwork too. Lisa, who ran the Michif museum, once spoke of this as she had been growing up. One afternoon over coffee in the Michif library, as we were classifying and arranging some newly-donated history books, she was telling me about growing up Métis in the Northwest Territories, and her experiences when she moved down to Edmonton in the 1970s. She had grown up near Hay River, a small town with a large aboriginal population, in a Métis community beside a First Nations reserve. When she moved to Edmonton to get a job, she said she had made a conscious decision to ‘act white’, to try to separate herself from the prevalent discrimination and negative stereotyping of aboriginal people. She dyed her hair blonde (and still does – as she remarked, ‘why do you think my hair is still blonde?’), and as her skin is quite pale, she seems to have been able to ‘act white’, which she explained meant especially limiting her drinking and associating with locals in
Edmonton rather than others there from her home community. She spoke of one occasion when some relatives came down to the city, and wanted her to come out for a few drinks with them. She told them that she was at the university studying psychology, which she believed sounded like a ‘white’ thing to be doing, and this gave her an excuse not to stay out too long with them. She also made sure she brought them to the more ‘aboriginal’ bars in the city where she knew she would not run into any white friends, who would then associate her with the negative stereotypes of drunken, unreliable Indians.

Lisa said she ‘grew out of’ this unwillingness to feel comfortable in the city as a Métis, and has since worked in various aboriginal organisations, and has also acquired a Métis card from the MNA. But her experience was very interesting in highlighting a certain manoeuvrability of identity, a flexibility that some Métis have in being able to choose to some extent an identity for themselves. Lisa was able to make use of this fluidity at various times to conceal or highlight her Métisness, which she says she never lost – but found it prudent to dissociate from at various times. I think that this ability in some situations to ‘act white’, depending on physical appearance as well as socially-stereotyped behaviour (being at university rather than drinking) is also an important part of Métis ambiguity in the eyes of others. ‘Acting white’ has a form and content: certain behaviour and appearances, while ‘acting Métis’ is not so straightforward, as discussed throughout this chapter, and with the discussions about material culture and dressing in “full Métis” in the previous chapters. This is another part of what makes it so hard, socially, culturally and personally, to pin down what makes someone Métis, and if they can be Métis if they say they are not. This is the contemporary version of the discussions above of parents and grandparents concealing a Métis family history and identity,
although in Lisa’s case it was a temporary concealment rather than an intergenerational ‘survival mechanism’, as Welsh argued. However, back to Natalie.

Natalie spoke very gently about her father, and once or twice with tears in her eyes and her voice, as he had died only two years before. She had enjoyed the irony of having a Métis mother who could barely speak in Cree, and a Scottish father who was fluent in it. She said her father had inspired her to learn Cree, as he had often spoken it at home, and mentioned one occasion when her mother’s mother was still alive, they had all been sitting around the table eating, when her father asked the grandmother to pass the bread, in Cree. The grandmother had answered in Cree, almost unconsciously; neither Natalie nor her mother had ever heard the grandmother speaking the language, as she had always been taught to be ashamed of her Métis and Cree background, and had raised her own daughter as ‘white’ as possible.

Natalie herself, raised in Edmonton with two older brothers, did not identify herself as Métis (nor do people generally, as she doesn’t “look aboriginal”, she told me), although her mother identifies now as Cree/Métis. Natalie describes herself as having aboriginal heritage, rather than being aboriginal, because she feels that she was brought up in a mainstream kind of way, despite her mother being Métis and her father fluent in Cree (this seems like a neat parallel to Teresa shifting her identity from Cree to Métis, as Natalie shifts hers from aboriginal to having aboriginal ancestry for similar reasons). This is her attempt to consciously acknowledge her ancestry and her mother’s history, while at the same time shielding herself from accusations of claiming an identity she does not
‘fit’. She said ‘the aboriginal thing’ had not been a big deal for her growing up, as she and her brothers were very fair, but that it lingered in the background. She has a younger adopted sister, who is Cree, so had always been aware of the different treatment her aboriginal sister received growing up in the 1970s in Edmonton. This identity as ‘aboriginal heritage but not aboriginal’ was later challenged by others when Natalie returned to university in 2004 to learn Cree and to start a masters in English literature. Her thesis was built around her poetry, which was written in a mixture of English and Cree, and spoke about her family history of complex identity. She hinted, without naming names, at some people within the university who challenged her right to write in and about Cree, as she was not herself ‘Cree enough’, according to them. Again, she got quite upset about this, tearful at how she had had complaints made against her when she applied for funding for her work in Cree, and had felt side-lined within the department as a result of anonymous complaints against her and accusations of cultural appropriation.

While talking with Natalie, I started to think about how, especially in ambiguous or boundary cases like Natalie’s, there was some flexibility in the choices people could make about which aspects of their identities people could emphasise. Natalie agreed, saying her brothers had never bothered with their aboriginal heritage (calling themselves Scots or French-Canadian through their European ancestors, which could to an extent be similar to Lisa’s ‘acting white’), and she herself had only become interested in the past 15 years or so, and did not feel entitled to call herself aboriginal or Métis. But she spoke of others in similar situations who had chosen to concentrate more on their aboriginal heritage,

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There is a wide, and negatively connoted, vocabulary to describe people who claim an aboriginal identity while being perceived as not really entitled to make such a claim, such as ‘pretendian’ or ‘from the tribe Wannabe’. In the context of European Indian enthusiasts, ‘wannabes’ were seen by the more ‘serious’ Indian enthusiasts as ‘self-indulgent fascination with Native Americans, which was seen as questionable, slightly ridiculous, and bordering on an identity crisis’ (Kalshoven 2012: 27). See also Green (1988: 48), who describes ‘wannabes’ as ‘those who play Indian’.

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and making a deliberate claim to an aboriginal or Métis identity as they learnt more about their family histories. We talked a bit about the reasons why people might make these choices (social, political, personal, even possibly economic), either to emphasise or to downplay some aspects of their ancestry, and the changes over time in the social acceptability of these choices. While Natalie’s mother and grandmother had not really had a choice to be very ‘aboriginal’ in 1930s rural Saskatchewan, things were changing by recent decades. Natalie herself, as mentioned above, had been challenged as to her entitlement to write in Cree, so did not have an uncontested choice to highlight her own potentially Métis identity, but this challenge had come from a Cree woman, not mainstream society. Natalie’s compromise to reconcile her own identity seems to be an acknowledgment of and growing interest in her aboriginal heritage, claiming an aboriginal history but not necessarily a current aboriginal identity.

After speaking to Natalie, I tried to fit her self-identification in with other cases which could be described as ‘borderline’ or contested – again, comparing with Teresa and Matti’s approach to self-identification. What leaped out at me again was the policing of borders of categories, both by others and by the self, and the feeling of not being fully entitled to claim a particular identity, and instead fitting oneself into a residual or negative category - I am not Cree/Métis, I am Métis/of aboriginal ancestry. As with Teresa and Matti and being Cree, Natalie felt she could not claim a Métis identity personally, although (possibly legally – by getting a Métis card and claiming s.35 rights, as well as socially) she would have a claim to through her mother. I found this category of ‘aboriginal heritage but not aboriginal’ to be an especially interesting one. It seems to be a sort of ‘folk category’ developed to accommodate a particular sort of personal history
and self-identification. Although I did not hear others describing themselves in such a way, it seems to me to clearly be a residual category to aboriginal, in the same way that others use Métis as a residual category to being ‘properly’ aboriginal or First Nations. There is certainly no legal aspect to the category, so returning to Bowker and Star, there is no legal work being done. The social work done is clear, though – it allows an individual to stake a partial claim, to acknowledge their ancestry and family history, without claiming a personal, current identity as aboriginal. In the case of Natalie, this was because she felt she personally did not fit the ‘aboriginal’ category criteria, whether Métis or Cree, or aboriginal in general. Her Cree colleague clearly agreed on this, that she was not ‘aboriginal enough’ to allow her to claim a right to certain things, although while she refrained from calling herself aboriginal, the colleague had wanted her to refrain from writing academically through the medium of the Cree language at all.

Again, Natalie’s case highlights further the contestedness of the categories related to Canadian aboriginality, whether it is Métis, Cree, or aboriginal more generally. But a further consideration of the contestedness of categories relates to Bowker and Star’s comments about categories shifting over time (see above). Green goes on to argue that what constitutes a border can change, and ‘the way in which borders classify, define and categorise people, places and things… the conceptual work going into making border could also be changing thinking about border, about what kind of entity of qualities constitute border’ (2010: 262). In applying these ideas to the Métis context, and specifically the First Nations/Métis boundary, it is useful to think about how this border has been variously constructed, challenged, and reconstructed over time, by whom, and for what purposes. The reasons given and location for a separation of Métis and First
Nations have varied, from ideas of lifestyle, ancestry (even blood quantum at times), culture and group history, as well as more recent focus on the importance of self-identification as creating or upholding the border between the two groups, each of which is considered aboriginal, but with different legal, social and political connotations.

Linking back to Natalie, how borders and boundaries are policed and performed is also an interesting part of the puzzle of categories. Massey, in her 2005 work on space (paraphrased in Green 2010: 271), talks about ‘how border is performed depends on the vantage point: it depends on where you are, as well as where you have been’. This view allows for personal shifts in self-identification as circumstances change, whether this is related to learning more about your family history (Natalie) or changes in legal status (Matti). How they performed boundaries changed depending on the context – Matti was Métis but ‘became’ Cree, and as Natalie has investigated her family’s aboriginal history, she had edged closer to an aboriginal identity – in fact she also said she would not rule out a future claim to being aboriginal should she learn enough about her Métis ancestors and ways of life, and feel herself more culturally fitting in, more able to perform aboriginality to her own satisfaction, and that of others (real or imagined), in the future.

**Conclusions: The boundaries of Métis identity**

The conversations mentioned throughout this chapter, as well as the longer ethnographic description of the moccasin classes, raised interesting and interconnected questions for me, about the lived experiences of aboriginal identity, especially Métis identity as an ambiguous form of aboriginality. The thing that struck me the most, especially with the moccasin-making women, was the extent to which all the theoretical and legal discourses about claiming aboriginal identities really were not particularly relevant to their
experiences of being aboriginal, or at least only relevant in certain circumstances (residential schooling, hunting regulations). They seemed to me to just get on with it. A lot of what I had been thinking about in terms of identity, things like nostalgia, sentimental attachment, or conscious performance of what is perceived as an authentic aboriginal identity – did not feel relevant while I was talking to these women and learning how to make moccasins alongside them. They were making moccasins because it was a practical way to make sturdy footwear, as their mothers and grandmothers had done, in a way that seemed perfectly normal for them. They hunted moose and other species for food when they could, because that is what their parents did, and it is a normal way to fill a freezer for winter. Claims for rights based on things like hunting and harvesting are not only symbolic claims to recognition of an imagined Métis nation, they are also practical claims to a right to continue doing what their families had done for generations. It is in these places where the individual Métisness comes up against legal categories of Métis and the boundaries of claims to aboriginal identity and rights, and the various categorisations and borders collide.

Making moccasins with a group of Métis and Cree women did not feel to me like a self-conscious demonstration of a Métis identity, even if they did joke that as aboriginal women, they should have these skills. In any case, as people said in relation to the Métis cards, they did not need validation or legal recognition of their Métisness to know who they were. This is an important issue when it comes to aboriginal communities and nations in Canada, as the legal structure based on inheritance of Indian status is so clearly unrelated to who feels themselves to be aboriginal. The Indian Act that recognises legal identity purposely excludes Métis individuals and communities, and hundreds of
thousands of other who self-identify as aboriginal do not have Indian status (and hence no legal recognition of any special place within Canadian society). This shows both the massive disconnect, and yet also the ambiguous ties, between legal aboriginal identities (currently Inuit, status Indian and a tentative but undefined category of Métis) and the lived experiences and self-identification of many others who feel themselves to be aboriginal, and live as aboriginal.

From both the women attending the moccasin classes, and from Natalie, Matti and Teresa and others, I got a strong sense of the complexities, contestedness and choices involved in identifying as aboriginal, and the kinds of things expected or perceived to be aboriginal or Métis. Throughout fieldwork these questions popped up in various ways, and with various types of answers to them. I can now begin to address them more clearly, thinking through what others have said to me and how it was to spend time with people who, consciously or not so consciously, have to manage their Métis identity in a context where the category itself is contested and ambiguous. It seems that borders between different categories of aboriginal (especially between Indian/First Nations and Métis, and non-status Indians) have arisen partly in a legal context, relating to status, treaties, historical divisions based on lifestyle criteria or blood quantum etc., but to an extent also socially these categories are marked out differently, although the boundaries where they separate are not always agreed upon. They are separate categories in people’s minds, but most definitely closely connected, as Métis has often been a category tied to that of Indian and First Nations, with non-status Indians as occasionally being an overlapping or a further residual category, depending on if Métis is seen as a racial or a cultural category. The distinction between the categories is meaningful, in a legal sense, in a political sense,
and in a social and individual sense too. It *matters* to people what category they put themselves in to, even if this is unrelated to any special rights or if it clashes with the understandings of others. To conclude, I will quote a recent work on Métis identity, which sums up the current contestedness of Métis identity and meaning by arguing that

‘it may be that all we can, or even should, say is that being Métis in Canada is the result of a confluence of factors that the individual and the community determine are relevant to creating a sense of community and giving the individual a feeling of belonging within that community’ (Peach, Dahl & Adams 2013: 493).

Various individuals and organisations discussed in this chapter will have different ideas of what exactly this community is and what sense of belonging they feel towards it, but there is something called a Métis identity that they feel is important to them.
Chapter 6. Conclusions: ‘The struggle for recognition is gradually transformed into the struggle for “definition”’

Towards the end of my fieldwork, I met again with one Métis academic as we both attended a conference on the work being done in the Department of Native Studies at the University of Alberta. He spoke again about the basic flaw in the state and the wider society’s understanding of Métis: that it is still perceived as a racial category, not a national one (see also Andersen 2008: 348 ‘the term Métis has been constituted according to “racial” rather than indigenous national constructions’). By ‘national’, Andersen is arguing that Métis are more than a people, they are a nation in terms of a political unit, in a similar way to the Quebecois: nation ‘implies not only self-ascription, but a political consciousness’ (O’Toole 2013: 151). However, this racial understanding is also that of many who self-identify as Métis: that Métis is about mixedness, rather than a specific culture and nation in its own right. Another man at the conference commented that the idea of Métis as a nation should be taken further, that in fact Métis should not be pursuing aboriginal rights and recognition as an aboriginal people, but instead should pursue national rights within Canada, similar to the Quebec context. These few short comments get to the root of the ‘struggle for definition’: that there are widely different understandings of the term Métis at work, as well as widely differing aims and ideas about what it means to be Métis. At issue is the meaning of Métis in several registers: including legal, political, community and personal. There are many terms and categories with similarly various, equivocal meanings, such as aboriginal, Indian, genealogy/ancestry, aboriginal rights, Métis/métis, and so on. These have been discussed throughout this

50 Chrétien 2005: 96
thesis as contested, even radically unsettled categories, open to interpretation in various ways by individuals, communities, the state, Métis organisations, and others. The variety of contested understandings of terms such as Métis makes political and legal claims far less straightforward: it is difficult to have claims to recognition and rights understood and addressed when the actual content of the category is disputed, although Isaac (2016: 17) argues that difficulty ‘cannot be a reasonable reason for not addressing what is a constitutional imperative’ (i.e. who is Métis for s.35 purposes).

I have continued to talk about ‘Métis identity’ throughout this thesis, as it was a category that people used in practice, and meant a lot to many people. Identity was a very clear ‘category of practice’ in use by many actors in discussions about Métis, although, as Brubaker and Cooper argue, it is less useful as a category of analysis, due to the contestedness of the ways in which the category is used (2000: 5). While theoretically, an understanding of the concept of identity as constructed helps to understand identity, in practice, this does little to explain how identity is used in an essentialist way in contemporary identity politics (Brubaker & Cooper 2000: 1). I have tried to understand people’s comments about identity in this way, as an everyday folk-category that people understand in various ways, without myself expressing a view as to which is ‘true’; as Warren and Jackson argue, ‘for anthropologists the issue is not proving or disproving a particular essentialised view of culture, but rather examining the way essences are constructed in practice and disputed in political rhetoric’ (2002b: 9). In general, I have found it more useful, although I am fascinated by the borders and boundaries created and policed by various actors, to try to see identity itself as ‘a nexus of relations and transactions actively engaging a subject’ (Clifford 1988: 344).
I have not tried to define what is and what is not Métis identity, or who is and who is not Métis: this would be inappropriate and impossible. As can be said for all social categories, there is no external viewpoint from which the category of Métis can be observed and defined, although I argue that this is more pronounced in the case of Métis. This is, however, something that various actors are trying to do: to define who is Métis and to have this accepted, for example in the courts where the limitation of the category of Métis to certain individuals and communities, and hence a kind of definition, is to some extent being negotiated between the courts and some Métis. I have discussed the various ways that different actors have described or defined Métis and Métisness, from different viewpoints and for different purposes, and the effects of these overlapping and sometimes contradictory understandings of Métisness on people who identify themselves as Métis. The state, through the constitution; the legal system, through the application of the law in the Powley and other cases and its use of the status category; Métis and other political organisations, through their mission statements and membership criteria; and individuals and communities, through their policing and self-policing, representation and self-representation, and identification and self-identification: there are many voices claiming to know who is Métis, and to speak for them or to them. Through all this, I have tried to understand how people fit themselves into their own concept of Métis, and how they relate their self-identification to the wider discussions about the category of Métis. This issue is about the situated emergence of different understandings of Métis, and what it is to be Métis: as Wolfart argues, ‘the term Métis classically illustrated the kind of concept that only makes sense if it is interpreted dynamically’ (2012: 156). Métisness is not necessarily about residence, or ancestry, but about individual self-identification and community acceptance, both of which are dynamic, negotiated processes. Brubaker and
Cooper also describe the emergent, contingent nature of group boundedness (2000: 31), and Li argues that ‘a group’s self-identification is neither inevitable nor simply invented, adapted or imposed. It is, rather, a positioning which draws upon historically sedimented practices, landscapes and repertoires of meaning, and emerges through particular patterns of engagement and struggle’ (Li 2000: 151). I argue, from the ethnographic evidence and literature presented in this thesis, that this emergence and negotiation is ongoing: it is not ‘settled’ at any level or register.

Throughout my fieldwork, various Métis individuals and organisations made clear to me their understandings of Métis, and how this fit into the kinds of claims to identity they were making. People told me ‘I know who I am, I know I am Métis’, others told me that they were Métis, but that others who thought themselves Métis were not. Some fought against the state or the court’s categorisation of them as not-Métis (or at least non-Métis for the purposes of the constitution), or made it clear that the law’s or the Métis organisations’ judgements that they did not satisfy membership criteria meant little to them: ‘I don’t need anyone to tell me who I am’. The top-down definitions coming from the MNC and the courts, and even academia through discussions of identity are situated alongside the contradictory and messy real experiences of self-identification, and yet this works in practice. The openness of the concept of Métis, its unsettled nature allows for these possibilities. I was interested in how this plays out, in various arenas: the law, the everyday, in celebrations of Métis, and this is what I have attempted to describe overall in this thesis.

Métis identity is ‘an intensely political question’ (Magnat 2003: 49). In the courts and the state’s relationship with Métis, the Métis issue has focussed around a need for rigidity
and clarity, for example through the application of the ‘Powley test’ in the courts as defining whether or not a group is Métis for the purposes of s.35, by matching that group’s history and contemporary community against a rigid criteria of pre-control presence, continuity of practices, and so on. While there is a need for clear and rigid boundaries to Métis for legal purposes, even the state’s attempts to define Métis have been vague. The 1982 Constitution recognised Métis as an aboriginal people alongside First Nations and Inuit, without defining them, and with ambiguous wording (“Métis peoples”), and yet for the rights and recognition promised in the constitution to be unpacked, understood and applied, clarity is necessary (Isaac 2016: 12). To achieve this clarity, identity is more easily understood as a bounded entity, and this is what the legal context requires: if an individual or a community meets the criteria or passes a legal test, then they are Métis for legal purposes and have s.35 Métis aboriginal rights. If not, they don’t – as with the Hirsekor case. Although even here a lack of acceptance of an individual or community as Métis in a legal sense is not intended by the state, as represented by the court, to mean they are not Métis, only not Métis for the purposes of s.35. At stake is a legal identity as Métis, as aboriginal, and potentially the ability to claim specific special rights: as such ‘a legal identity is seen as something worth fighting for – it is seen as a resource with value’ (Daniels & Chartrand 2001: 5).

There is a level of political capital and symbolic power that comes from legal and state recognition of Métis identity (Andersen 2014: 15). Although there is no strict definition, in practice it is the courts and the Métis political organisations that have shaped the way aboriginal rights have been understood in the Métis context, by shaping the more ‘official’ perception of who is Métis: closing this to those who cannot prove historical ties
to Métis communities, in particular Red River. Red River and descent from the Historic Métis Nation there is seen as providing ‘a solid factual and legal “core” which is useful in weighing the merits of boundary cases’, according to Chartrand and Giokas (2002: 272). The MNC in particular has tried to maintain control over an official definition of Métis, fearing that if it does not provide an accepted definition, the courts may develop their own definition, less tied to the Historic Métis Nation at Red River (Sawchuk 2001: 80). In 2013, the MNC cautioned against ‘backsliding’ by two of its affiliates, the Métis Nation of Ontario and the Métis Nation of Saskatchewan (MNS), for not supporting its National Definition of Métis, and castigated in particular one individual in the MNS who had said that people of mixed ancestry across Canada are Métis (Métis National Council 2013: 5). This is an example of how Lampland and Star discuss standards, as screening out unlimited diversity, and sometimes also limited diversity, within a category (2009: 8).

Alongside this are competing understandings of who is Métis, from other organisations (such as the CAP), communities (such as the Labrador Métis), and individuals. Being Métis or not matters to people, but the different perceptions and criteria mean that the identity itself comes to be seen as ambiguous. Is it about mixedness, or one specific incidence of mixedness 300 years ago? Are Métis a group, a people, a community, a nation? Is Métis a fixed category or a relational one that ties into other categories around it – First Nations, French-Canadian, non-status Indian and so on? Is there one Métis people, or the possibility of many, as the report of the Royal Commission on Aboriginal Peoples suggested in 1996? When people self-identify as Métis, it is not immediately clear what they might mean by this, and they are also unable to control the assumptions of others as to what the category of Métis means: even declaring yourself “Métis” means ‘taking on
aspects of identity and otherness that have been defined by the dominant society’ (Sawchuk 2001: 73). The understandings of the category of Mètis is much up for debate, and yet people self-identify, join organisations, claim aboriginal rights as Mètis, and sometimes have these claims recognised and respected. Although many different actors are operating with various more or less rigid ideas of who is Mètis, the category is still an effective one for people, in terms of personal identification and wider social recognition. The ‘classification struggles’ whereby categories ‘are constituted as a result of battles over truth, debates controversies etc.’ (Ruppert 2008: 8) is ongoing at various legal, political and personal levels, but the category itself is an accepted, practical one for many people. That the category of Mètis is unsettled, even radically unsettled, is not in itself a reason to see it as not useful for the various actors who make use of it. People and organisations call themselves Mètis, the government and the courts act on the basis of the category: it is functional despite its contestedness.

The role of the courts is fascinating. Many of the Mètis cases have been, directly or indirectly, brought by Mètis themselves, whether directly (as with the Daniels case and MMF in Manitoba) or indirectly, as with Powley and Hirsekorn where the intention was to be arrested, charged and brought to court (Nichols 2003: 92). Going to court was, for Mètis, a form of action, it is impactful, and an alternative to political negotiations, especially when these had stalled after the Constitutional Conferences of the 1980s (Weinstein 2007: 117). The idea is that the court can ‘fix’ or settle the identity and recognition issue of Mètis: that legal acceptance of Mètis rights legalises and fixes this identity as real and aboriginal. The symbolic power of the courts within wider society can legitimise Mètis identity and claims: or, at least, certain Mètis identities. The courts were
meant, after the new constitution in 1982, to be a means to clarify what s.35 would mean, both for local Métis communities and for the state too. The idea was that s.35 stated that Métis were aboriginal and could potentially have ‘existing aboriginal rights’, but political negotiation and claims through the courts would figure out the details of what this would actually mean. The standardisation of the category of Métis within the courts and the Métis organisations is, as Lampland and Star argue, ‘a necessary technique designed to facilitate other tasks’ (2009: 10). In this case, to be able to act upon the category of Métis: to recognise rights, to create a register of Métis as the MNC is working on doing (Métis National Council 2016: 1), to decide who can be represented by which organisation, what their relationship to the state is, as individuals or communities. But in practice, while the court can make judgements endorsing and recognising Métis aboriginal rights, the issue of Métisness is never ‘settled’. A legal judgement on Métis identity or membership does not mean that those who identify as Métis will accept this: ‘we are no more or no less Métis for the contours of our juridical recognition, and a repeated and unnecessary investment in juridical definitions serves to infuse the Canadian courts with a constitutive power they otherwise neither possess nor deserve’ (Andersen 2014: 199).

In this, the courts are almost a distraction, a way of solving many local issues (hunting rights in one area, the possibility of claiming compensation for lost land elsewhere), but the full Métis issue is never decided. The courts have never claimed to define Métis, only to list who is Métis for the purposes of e.g. s.35 or one particular claim. Hence, for example, while Hirsekorn lost his case, the courts never said he was not Métis, only that he was not Métis for the purposes of s.35 in that part of Alberta. The courts, it turns out,
cannot settle the issue. The whole question of Métis identity is kept in a paradox of flexibility and rigidity, where the law has a view of who is Métis in specific legal contexts, but that it accepts that others may self-identify as Métis, without being Métis according to the legal view.

The complexities and contestedness within the category of Métis, as well as the attempts by various actors to address and clarify the category, seem to me to be overall about settlement – about settling the issue of who is Métis, across the several registers through which I have discussed it in this thesis: legal, political, social and personal. I argue that at all these levels, Métis is a (radically) unsettled identity. The category of Métis identity itself is accepted as meaningful by Métis themselves, wider society and the Canadian government, but the content and boundaries of this is contested in all these registers. At the legal level, Métis organisations and individuals are using the courts as a means to settle Métis according to their understanding of who is Métis, and have partially achieved this, through the de facto use of e.g. MNC and MNA membership criteria and cards as one of the three pillars of Métis identity (community recognition, alongside self-identification and ancestry). But because the courts are local and regional, apart from the Federal Court and the Supreme Court, even then when Métis win hunting rights cases (such as Powley), the wider issue of who (individually) is Métis, or what is the boundary of ‘Métis’ as a community or people on a national level, is never actually dealt with. While the constitution and the use of the courts are attempts to address the ambiguity, nothing has been settled.

Similarly, in the political context, Métis organisations seeking to be accepted to negotiate with the state as representatives of ‘the Métis’ are also contested. As the MNC is
generally accepted as representing Métis, other organisations also claim to do so, in particular for those ‘left out’ by the MNC’s criteria. The state has also kept a door open to other potential Métis peoples not represented by the MNC, such as the Labrador Métis or the provincial organisations on the eastern seaboard, through its attention to the recommendations of the Royal Commission on Aboriginal Peoples (as discussed in Chapter 2, the RCAP suggested that there were several Métis peoples that the government should recognise and work with). The state continues to work within the reality of ambiguity about representation of Métis, rather than limiting itself to the ‘official’ MNC as representative of all Métis, and hence as the judge of who is Métis in the political arena. Again, after 100 years of political representation of Métis through Métis organisations, and increasing negotiation with the government, the issue of who, politically (as opposed to legally) is Métis and what exactly the state’s relationship with them should be, is not settled. The courts, through the Powley test and more recently with the judgement that Métis are ‘Indians’ under s.91 (24), and the state, through its relationship with the MNC balanced with a view that this may not be the only Métis population in need of political representation, work with the contestedness of the category of Métis, alongside a variety of Métis actors such as the MNC, the CAP and individuals.

On a more personal and social or cultural level, the meaning of the category of Métis is similarly challenged and debated, as shown throughout this thesis, but in particular in Chapters 4 and 5, as I discuss public and personal representations and understandings of Métis in the contexts of museums, festivals, and private conversations. Again here, the category of Métis is contested and unsettled, in that there is little agreement among
various groups and individuals about who is or is not Métis, and what this means. For example, I discussed several individuals (Matti, Teresa, Lisa, Natalie and the women at the moccasin workshops) who have claimed or deliberately not claimed a Métis identity, according to their own constructions of what it is to be Métis. At this level, the wider political and legal understandings of Métis were seemingly almost irrelevant to their personal self-identifications, with perhaps the exception of Matti who ‘used to be Métis’, identifying now as Cree due to his ability to claim Indian status. In these cases, their identities as Métis conflicted with each other, and often with the ‘official’ legal (i.e. the court’s s.35 criteria) and political (MNC membership guidelines) understandings of Métis. It is of interest then to discuss whether people felt unsettled by this, that their self-identification as Métis or not may be contested both by other Métis and by the courts and other actors, such as Métis organisations.\textsuperscript{51} I argue that this was not necessarily the case: that in fact the combination of flexibility and rigidity within which people managed their identification as Métis led to a space where the category could to an extent mean something for everyone, while still having legitimacy more widely. Sometimes people felt their exclusion from the more rigid legal or political categories, and made statements such as ‘I don’t need the MNC to tell me I am Métis’ or ‘the government can’t tell me who I am’. But this was balanced by a deep feeling that it was down to them themselves to decide if they were Métis or not, and that exclusion from some more ‘official’ views of Métisness did not necessarily impact on their own self-identification.

\textsuperscript{51} I raised this point with one of the staff at the MNA, as to what happened if someone came to their office saying they were Métis and wanted to access the organisation’s services. He told me that this had never been an issue – his words were that ‘no one “faked” being Métis’, but that the membership criteria were not applied to all service users (such as apprenticeship schemes, housing assistance, or family services), only to those applying for full membership (e.g. voting rights and an MNA card). He also noted that he ‘could tell’ if someone was Métis, based on surname, accent, demeanour, and so on. This example nicely contradicts the MNA’s own criteria of judging membership eligibility based on documented ancestry, and therefore demonstrates the unsettled nature of Métis even within organisations with seemingly solid boundaries.
And yet for others a change in their legal identity prompted a change in their self-
identification, in particular in cases where the individual’s use of Métis had been as a kind
of category of unspecified aboriginality, a marker that a person sees themselves as
aboriginal, but not connected to a particular First Nation or group identity (such as Matti
in Chapter 5, who was then able to gain Indian status and shifted his identity to Cree).
This shows the relationality of Métis identity, and also how identity can be a continuous
process of negotiation, and apparent inconsistency, for people. Salmond argues that such
inconsistency is not a problem for identity, that ‘in a relational ontology there is no
requirement that a person is consistent in their assumptions, even though these may be
incommensurable, for the self itself is contextually defined’ (2012: 125). The boundary of
Métis, especially as it relates to First Nations/Indians, is a social and personal boundary,
as well as a legal one. For many of the individuals I spoke to who are negotiating that
boundary, the line was between Cree and Métis, and for them Métis meant a lack of
Cree-ness, rather than a strong, clear identity in its own right, as tied in with a specific
tradition associated with Red River. People negotiate and shift their identities along a line
between a ‘core’ of Cree (in this example) and Métis, according to how the boundary
separating them is policed and self-policed. A clear separation is necessary for legal work,
but in practice it is porous, relational, tied together, and yet critical. A separation is
always made, in different places and for various reasons, but it is always there:
‘distinctions are always made at a particular place and particular time, in relation to
particular other concepts, and never succeed in being complete and abstract and
confined to their own meaning and references’ (Pulkinnen 2009: 9 quoted in Green 2010:
262). The understandings of various actors about Métisness are contingent and
emergent, within specific contexts. And yet from my conversations with many people on
the topic of Métis identity, their own or that of others, it did not seem to me that people were unsettled by the way that Métis identity itself is not settled. In contexts where clarification was necessary, such as the delineation of who was legally Métis in the courts, or membership criteria of Métis organisations, rules were made and lines were drawn, although contested. However, in the everyday people did not seem overly concerned about the contestedness of the identity they chose to claim, or not claim. There was a pragmatic attitude that individual self-identification, with some form of community recognition, was what was important.

In 2017, it seems from discussions with various people I met during fieldwork, recent changes in government and Métis reactions to this, and the judgements in the main Métis court cases, that Métis strategies for political recognition may be changing again. While the legal route has provided Métis with some clarity, and what they have described as victories (such as Powley in 2003, and the Daniels and MMF cases in 2013), the judicial approach seems to have run its course for now, as it is clear that the courts cannot ‘solve’ or settle the issue entirely. Regional and provincial courts can only judge on local cases, and unless claims progress to the Supreme Court, cannot be implemented nationally. This was one reason that the Métis had hoped that they would not ‘win’ at the provincial level in the Hirsekorn case, as it would be more settling nationally if the Hirsekorn case had gone as far as the Supreme Court. Even ‘successful’ cases did not settle the contestedness of Métis identity. People I spoke to wanted these aboriginal rights claims to succeed and for Métis rights to be recognised and implemented by the provincial governments, but at the same time for many I met, permission to hunt without a licence (etc.) was not the main point of their self-identification as Métis or their understanding of what it was to be
Métis. Again and again I was told that this was not for others to tell them: Métis identity was a personal negotiation. Legal recognition or non-recognition did not always alter the self-identification of individuals.

But these paths had been pursued for years, at financial cost and with the possibility of having definitions of Métis opened up to a variety of actors that Métis say should not be telling them who they are: the state, wider society, lawyers. It seems now that the momentum may be moving back towards political negotiation, especially with the recent changes in government. That path now seems like it has more potential, that the political will to undertake negotiations with Métis may be present. The initial hard work with constitution and legal cases has established a foundation and has led to a basic acceptance of Métis as an aboriginal identity, and with the possibility that they might still have aboriginal rights. But now there are other ways to build on this – through other forms of identity claiming (representation in museums, festivals), and just getting on with the normal life of being Métis in the city. Settlement of the issue of Métis identity is not necessarily linked to legal acceptance and implementation of rights, as the category of Métis is so undefined that who may or may not be included is so unclear. Settlement may instead mean acceptance that the category is so equivocal, and that the courts or the Métis organisations do not have the sole claim to deciding who may use the category in whatever way. As long as some communities accept an individual’s claim to being Métis, even if this is not the ‘official’ kind of Métis, the category remains contested and unsettled, and yet functional and practical.
Afterword: the context in 2017

In the years since I completed my fieldwork, several things have changed for Métis in Alberta, and across Canada. Nationally and provincially in 2015, there were changes in government: in Alberta, the Progressive Conservatives, who had ruled for 40 years, lost in a landslide to the New Democratic Party, and at the federal level, Harper and the Conservatives lost to Trudeau and the Liberal Party. The federal election result was celebrated by the MNC, with the President saying he was optimistic about the new government’s Métis policy: ‘with the election of the Trudeau government in October and its positive Métis Nation policy based on recognition of the Métis as a people and as a nation, there has been a dramatic shift in the relationship between the Métis Nation and the federal government… [to a] nation-to-nation basis’ (Métis National Council 2015: 2).

In Alberta, the MNA also released a statement celebrating the NDP’s victory in the province as a ‘political game-changer’ for Métis-Alberta relations (Poitras 2015). The general feeling was that after 40 years provincially and nearly 10 years nationally of governments perceived as uninterested in or even hostile to Métis, there is now some optimism among Métis organisations and individuals for progress in political negotiation and working with the governments: that more solid government commitments to working with Métis can be set up, and issues such as hunting rights addressed. It will be interesting to see where this leads in terms of Métis claims in the courts, whether political negotiation with the provincial and federal governments in a more encouraging climate may shift Métis activism towards negotiation and away from more direct confrontation through the court system. This potential shift in tactics is suggested by several of the more recent (2016) monthly newsletters published by the MNC, which discuss moves
towards political negotiation, engagement with the federal government, and a nation-to-
nation standing (Métis National Council 2016).

In 2016, a review was undertaken nationally and a report published about how Métis s.35
rights may be organised and addressed in the future (Isaac 2016), including a call for ‘the
development and maintenance of an objective and legally-sound registry of who is “Métis”
for the purposes of section 35’ (Isaac 2016: 16). In Alberta, the provincial government and
the MNA collaborated to produce the Métis Nation of Alberta – Government of Alberta
Framework Agreement (2017), which recognised the MNA as the democratic
representatives of Métis in the province, and laid out a plan for ‘nation-to-nation’
collaboration and reconciliation, leading to annual meetings, funding for the MNA, and
plans to work towards the implementation of the Daniels Supreme Court decision, and a
potential Métis self-government in the future. So while Isaac’s report in 2016 argued that
‘outside of litigation, Métis presently have no formal means to bring claims relating to
Section 35 rights before Canada for consideration’ (2016: 30), Alberta seems to be taking
seriously the RCAP’s recommendation that ‘political negotiation on a nation-to-nation
basis be the primary method of resolving Métis issues’ (1996: 200), rather than the courts.

As well as political changes, several high-profile court decisions have been published in
recent years. As discussed in earlier chapters, there have been three significant
judgments handed down that impact on my fieldwork: Hirsekorn, Daniels and MMF. At
the federal level, in April 2016 the Supreme Court denied the government’s appeal in the
Daniels case, stating that Métis are “Indians” according to s.91 (24), which opens up many
potential paths for Métis to establish relationships with the government and address their
rights, beyond the s.35 avenue. Secondly, the Manitoba Métis Federation’s long-running
case about the 1870 Manitoba Act was partially successful at appeal at the Supreme Court in March 2013. This case has emphasised the need for the provincial and federal governments to establish relationships and negotiate with Métis, in particular to address the ‘unfinished business of confederation’ (Teillet & Madden 2015: 11) such as potential Métis land claims in Manitoba, as well as wider Métis-state cooperation.

In Alberta, the Court of Appeal upheld the guilty verdict in the Hirsekorn case in July 2013, and the Supreme Court denied leave to appeal in January 2014 (Supreme Court of Canada, 2014). This is the end of the road for this case, and the Métis and the MNA must either move on to another similar case, or find a new means to have their situation in Alberta clarified, to seek after a settlement that would establish Métis rights in a similar way that First Nations rights to hunt (etc.) are recognised. The loss of the Hirsekorn case does not actually answer any wider questions, or settle the question of Métis rights in Alberta: it does not mean that Métis in Alberta have no hunting or harvesting rights in the province outside of the provincial government’s 17 recognised Métis settlements, but only that the particular case of Mr Hirsekorn in that specific location of the Cypress Hills in south-eastern Alberta was found not to have a strong claim to a pre-control Métis community existing in the area.

On a more local scale, the Michif museum where I spent a lot of time during fieldwork had been closed for restoration of Juneau House, the building in which it was housed. Restoration work took place from August 2015 to July 2016, and the building reopened at the end of September 2016. The Michif museum has been rebranded as Michif Cultural Connections, and has changed its focus from that of a museum to a learning institute, as the local newspaper reported:
Now that the organization has moved back in, Michif Cultural Connections looks forward to a bright new future with a new name and a new direction. It’s going to be more of a learning institute, [Sharon] Morin noted, with the main floor now devoted to the library that came from former senator Thelma Chalifoux, the founder of the organization. The collection of artefacts will move to the upstairs.

“I’m looking at talking with some of the places that offer museum studies and having our collection to research so they can learn more about Métis specific artefacts and lifestyle and so forth. The gift shop will be back better than it ever was before too, I think.” (Hayes 2016)

This is an interesting development, especially in terms of the organisation shifting its emphasis away from a museum towards an institute, with an interest in Métis culture in a more active sense, rather than as artefacts. This new development fits in with my experiences at the Michif, which was most lively as a community than as a traditional museum. At the time of writing, the reopening and rebranding has only just taken place, and it has not yet been possible for me to find out more about this new institute, as the website and old contact details have not yet been updated or replaced. For now, the online presence is limited to a new Facebook page.52

52 Michif Cultural Connections page available at https://www.facebook.com/michifcultural/?ref=py_c accessed 19/01/2017
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