

9. Métis Land Claims at St. Laurent: Old Arguments and New Evidence (1987)

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1885: the year the last spike was driven on Canada's first transcontinental railway; also, the year of the Métis Resistance. In a still pre-modern age when administrative and political communication had to contend with geographical constraints and widespread Métis illiteracy, potential governmental goodwill could be severely hampered. But to what extent should a young immature government be forgiven its all-too-frequent lapses?

*Riel and the Rebellion: 1885 Reconsidered*¹ occasioned a minor flurry of controversy, including demands by the Métis Association of Alberta, that the author be fired from the University of Calgary.² Several reviewers made rather extreme statements about the book. "For pure nastiness and vengefulness," wrote Murray Dobbin, "it is unmatched in recent literature. It is not simply flawed, but fundamentally flawed."³ Ron Bourgeault, calling it "a condemnation of a people and their struggle for democracy and national rights," compared the author's views to Jim Keegstra's holocaust denial.⁴ Dennis Duffy, on the other hand, called *Riel and the Rebellion* "a superb and timely work."⁵ Most reviewers fell between these extremes, seeing some useful new information in the book but finding themselves unable to agree with all the author's interpretations and conclusions.⁶

Polemics are momentarily entertaining, but the most important thing in the long run is to advance historical knowledge of the Rebellion and related events. This brief article takes another look at two aspects of Métis land claims at St. Laurent: scrip and river lots. On both topics there has been continued writing, and in some instances new documentary evidence has been discovered. This article is thus an attempt to update my earlier analysis in

the light of ongoing research by myself and others. My conclusions have had to be modified in certain respects, resulting in a clearer and more balanced explanation of why the Métis took up arms in 1885.

Scrip

Riel and the Rebellion argued essentially that, after many delays and administrative errors, the government was proceeding to fulfill the substance of Métis demands before the resort to arms. That is, plans were being made to administer a land grant in the North-West Territories similar to that which took place in Manitoba pursuant to Section 31 of the Manitoba Act. The chief evidence for this view is the order in council of January 28, 1885, which authorized the minister of the interior to appoint a commission of three to enumerate the North-West Métis

with a view of settling equitably the claims of half-breeds in Manitoba and the North-West Territories who would have been entitled to land had they resided in Manitoba at the time of the transfer and filed their claims in due course under the Manitoba Act, and also of those who, though residing in Manitoba and equitably entitled to participate in the grant, did not do so.⁷

Several writers have contended, in the words of George Woodcock, that “this did not—as Flanagan seems to assume—promise a resolution of Métis grievances; it merely constituted an undertaking to look into them...”⁸ Ken Hatt writes: “In this order there was no commitment to extinguish the claims of the Métis.”⁹ Hatt also sees the order as defective since it referred to the Manitoba Act rather than Section 125 of the Dominion Lands Act, 1879, which had provided for a land grant to the Métis of the North-West. Hatt and others go on to conclude that nothing of significance occurred until after the battle of Duck Lake, thus implying that a resort to arms was necessary to galvanize the government into action.¹⁰

Let us examine these contentions. First, as to timing, there is evidence that the government was moving ahead even before the Rebellion broke out. We know from the memoirs of W.P.R. Street, chairman of the Commission, that he was approached by the government in the second week of March. The other members—Roger Goulet, a Métis surveyor from St. Boniface, and A.-E. Forget, secretary of the Legislative Council of the North-West Territories—were approached on March 18 and 19.¹¹ This is well before the battle of Duck Lake on March 26 and is consistent with the only practical plan, i.e., to put the Commission in the field after the spring thaw.

Hatt's query about the wording of the order can also be answered. Section 31 of the Manitoba Act had set aside 1.4 million acres in the province for distribution "among the children of the half-breed heads of families residing in the province at the time of the said transfer to Canada [July 15, 1870]..."¹² This meant that Métis residing outside the province at that date were not eligible for the grant. A second group of Métis excluded from the grant arose in the course of the actual distribution in the years 1875–80, for by that time some Métis who were legally eligible had moved away and could not receive their allotments. Analysis of the order in council of January 28, 1885 shows that it was intended to address the needs of both groups. The "half-breeds in Manitoba and the North-West Territories who would have been entitled to land had they resided in Manitoba at the time of transfer" were the first group, i.e., the Métis who had been outside Manitoba on July 15, 1870. "Those who, though residing in Manitoba and equitably entitled to participate in the grant, did not do so" were the second group, i.e., those who were omitted for administrative reasons, chiefly for being absent when the distribution was actually made.

Hatt is correct that it would have been better to refer to Section 125 of the Dominion Lands Act, 1879, which was the statutory authority for distributing land to the North-West Métis¹³; and this mistake was subsequently corrected in an order in council of March 30, 1885. But there is no reason to see in the oversight anything more malign than administrative confusion. Analysis of the wording of the order of January 28 shows that it was intended to reach the right target groups.

Finally, it is clear that the Commission was more than another investigation that might have no tangible result. Its mandate was not merely to investigate matters. Rather, it was appointed "with a view of settling equitably the claims" of the Métis. It was instructed to "enumerate" them, i.e., to conduct a census and collect the information necessary to determine eligibility for each individual. This was an exact repetition of the procedure followed in Manitoba, where a commission composed of J.M. Machar and Matthew Ryan had enumerated the Métis prior to distribution of the land grant.¹⁴ By way of improvement, two members of the North-West Commission were to be French-speaking and one a Métis.

If everything was fine, why were the Métis of St. Laurent not pacified? The answer seems to lie in faulty communication. The minister of the interior, Sir David Macpherson, telegraphed to Governor Dewdney on February 4, 1885: "Government has decided to investigate claims of half-breeds and with that view has directed enumeration of those who did not participate in grant under Manitoba Act..."¹⁵ This was a very weak expression of the

contents of the order in council of January 28, as shown above. *Riel and the Rebellion* erroneously states that Dewdney “sent a copy of the telegram to Charles Nolin.”¹⁶ In fact, Dewdney realized that the brief telegram from Macpherson would not satisfy the Métis. He wrote back to Sir John A. Macdonald: “I feared to send the Telegram as worded by Sir David as it would at this season when they have nothing else to do seem to the bulk of the French Half Breeds who are making demands that they have nothing to expect.”¹⁷ Instead, Dewdney sent a new telegram to D.H. Macdowall of Prince Albert, a member of the North-West Territories Council, who had been acting as an informal intermediary between Riel and the government: “Government has decided to investigate claims of the Half Breeds and with that view has already taken the preliminary steps.”¹⁸

Dewdney had made two important changes in content. First he had removed the statement that the government would deal with “those who did not participate in grant under Manitoba Act.” Dewdney knew full well that most of the Métis of St. Laurent had emigrated only recently from Manitoba, had participated in the distribution of land and scrip in that province, and thus would not be eligible for consideration by this commission. He did not believe they should receive anything further, and he was not trying to do anything for them; he merely wanted not to disappoint their hopes until they had scattered for the freighting season and were no longer capable of uniting to make a disturbance. This alteration in the telegram was not particularly honest, but it was at least consonant with his goal of preventing trouble over the winter. However, his second alteration worked against his own objectives; for in omitting to mention in his telegram that there would be an enumeration, he had made the government’s initiative seem like a mere investigation, perhaps only another delaying tactic.

A final disruption of communication occurred when Macdowall gave the telegram to Charles Nolin. It is not clear why Macdowall passed it on to Nolin, but the explanation is probably not sinister. Nolin and his brother-in-law Maxime Lépine, using money advanced by Macdowall, bid to supply telegraph poles for a telegraph line between Duck Lake and Edmonton.¹⁹ Nolin was frequently in Prince Albert in connection with this business deal, and Macdowall perhaps gave him the telegram out of sheer convenience. In any case, Riel, who was also in contact with Macdowall over his claims for an indemnity from the government, probably felt slighted by the way the telegram was transmitted; we know he reacted emotionally when he saw it on February 8.²⁰

The net result of these successive lapses in communication was that the government’s decision to proceed with the long-delayed Métis land grant in

the North-West was perceived by Riel and the Métis as yet another evasion and delay. It was tragically like the classic experiment in which people are asked to whisper a bit of news to their neighbours around a circle. What emerges at the end may be unrecognizable or even the opposite of what was first said.

River Lots

On the question of river lots at St. Laurent, *Riel and the Rebellion* argued that, as with scrip, the federal government was guilty of administrative mistakes and delays but did ultimately accede to the substance of Métis demands before the Rebellion. However, two important questions could not be fully answered on the basis of the evidence presented at the time: 1) Why was only one stretch of land on the South Branch surveyed into river lots, producing seventy-one such lots at St. Laurent? Why were other areas surveyed on the rectangular principle? 2) On what terms did the Department of Interior offer entry to the Métis of St. Laurent in early 1885? Since the official schedule of recommendations had not been found at the time of writing of *Riel and the Rebellion*, the Department's decisions had to be inferred from later records, leaving open the possibility that the relatively generous treatment ultimately accorded had not been envisioned before the Rebellion.

Surveys

Subdivision of the St. Laurent area began in the summer of 1878. Working on the east side of the river, Montague Aldous marked out a river-lot reserve embracing all of T.43, R.1, W.3 and half of T.44, R.1, W.3, thus creating seventy-one river lots. Standing instructions for surveyors were to create river lots wherever they found substantial numbers of settlers already on the land who desired this system. Aldous's notebook shows that he regarded only twenty-four of the seventy-one lots as occupied, almost all of these lying towards the northern end of the settlement.²¹ By his own standards, he was apparently tolerant in recognition of claims. For example, he entered the claims of the Carrière family in his book, while noting: "Lots Nos. 20 to 27 (inclusive) are only claimed by the Carriers [*sic*]*—*they are not at present in occupation."²² Aldous may have missed some claimants; several other Métis stated in 1884 that they were cultivating land there as early as 1877.²³ But such oral, retrospective statements are not necessarily accurate to the exact year, and in any case the issue here is what degree of settlement had to be perceived by the surveyor in order to justify a river-lot survey. The answer in this instance seems to be about one-third.

The same summer, Duncan Sinclair was surveying north of the river and east of the great bend (T.45 and T.46, R.28, W.2; T.45, R.27, W.2; T.45, R.26,

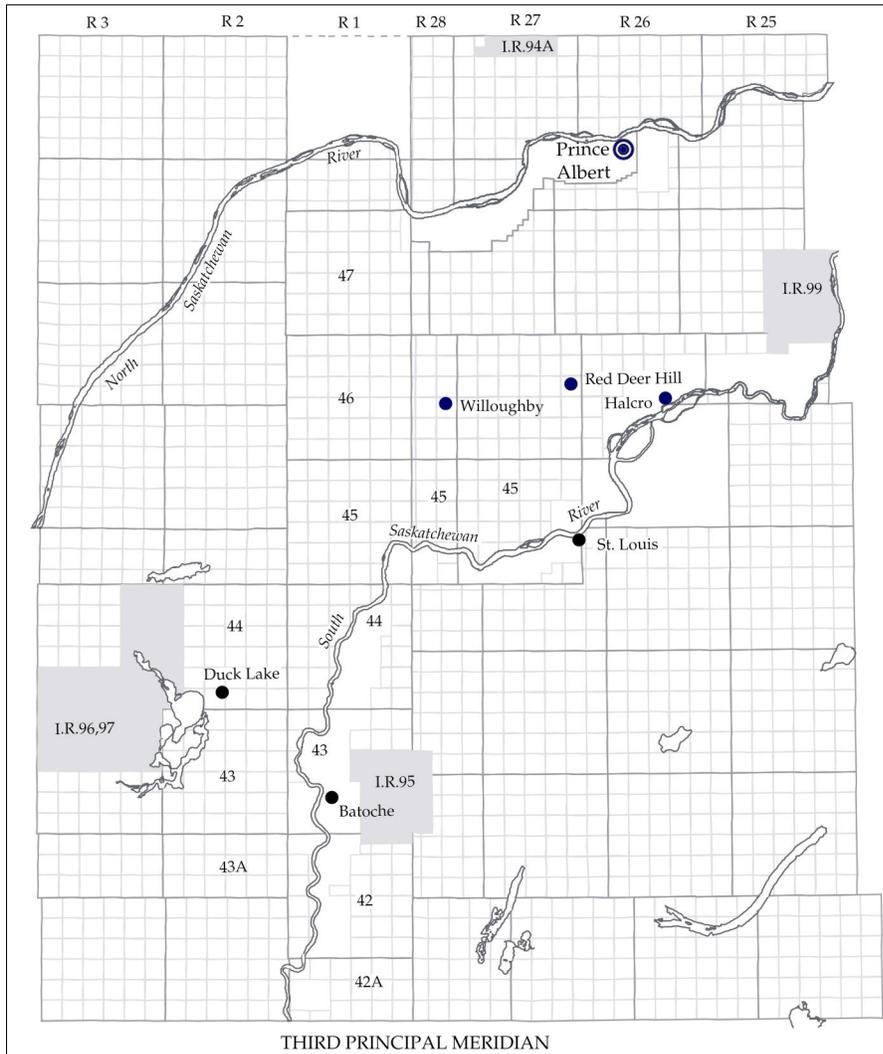


Figure 1. Early Surveys in the Saskatchewan Valley, 1878-82. Cross-hatched areas were surveyed on the sectional system; blank areas, apart from Indian Reserves, were surveyed into river lots. Note that, around Batoche, river lots were drawn only on the east side of the South Saskatchewan River in T.43 and T.44, R.1, W.3. The west side of the river was square-surveyed, even though some French Métis were already settled there before survey. Around St. Louis, only the north side of the river, settled by English half-breeds, received river lots (T.45, R.28, R.27, and R.26, W.3). The south side, where French Métis were settling in numbers around the time of survey (1882), was done on the rectangular principle. The map is adapted from Public Archives of Canada, National Map Collection, V1/502 (1903)

W.2), i.e., across from what would become the parish of St. Louis de Langevin. This area, to the extent that it was settled at all in 1878, was inhabited only by a few Scottish mixed bloods. Sinclair's notebook for T.45 and T.46, R.28, W.2 stated: "There are five settlers on it already that made a beginning last year and are doing well"; it mentioned the names McLean, McKay, and Cameron.²⁴ His maps show no prior settlers at all in T.45, R.27, W.2 and only five in T.46, R.26, W.2, again with English or Scottish names.²⁵ In spite of this thin occupancy, Sinclair obligingly drew river lots throughout the townships. This generous treatment of an English-speaking area would later seem like unfair partiality to French Métis who did not receive the same privilege.

River lots were not so readily granted in 1879. In that year J. Lestock Reid surveyed T.42, R.1, W.3 (the Fish Creek area) on both sides of the river as well as T.43 and T.44, R.1, W.3 on the west bank, directly across from the St. Laurent river-lot reserve created the preceding summer by Aldous. Regarding T.42, Reid noted: "There are a few families of French Halfbreeds at present living in this township and from the number of plough furrows marking out the boundaries of claims I am led to suppose a large number are about breaking here."²⁶ In spite of this observation, he must have used a strict criterion for recognition of claims, for his sketches and final map show only four claims: Dubois, Poitras, Vandal, and Dumont.

A similar contradiction marked Reid's surveying as he worked his way up the west bank. In T.43 he noted: "Both banks of the River are settled by French halfbreeds"²⁷; yet he recorded the presence of only two claimants. In T.44 he wrote: "The South Saskatchewan River runs diagonally through this township ... both banks of the river being settled by French Half breeds whose chief occupation has been trading and hunting on the Plains but who are now turning their attention more to farming."²⁸ Even though his sketches and map show half a dozen instances of settlement, covering almost all sections fronting on the west bank of the river, he still did a square survey rather than river lots.

Although one cannot give a precise quantitative measurement, it seems clear that Reid was operating on a different basis than Aldous, and that Aldous would certainly have created river lots in T.44, and probably in T.43 and T.42. Unfortunately, the available documents do not explain this difference between the surveyors; but since there is no evidence of a shift in official instructions, one can only infer that it was a personal difference in outlook.

Roughly the same situation occurred in St. Louis de Langevin. Whereas in 1878 Duncan Sinclair had surveyed the north bank of the river into river

lots, in 1882 Hugh Wilson surveyed the south side into quarter-sections, even though he encountered a higher incidence of settlement than Sinclair had found in 1878. Wilson encountered four river-front claimants in both T.45, R.28, W.2 and T.45, R.27, W.2, not as many as in the St. Laurent area but still far from negligible. Also there is other evidence that Métis were coming in to settle in St. Louis precisely at this time.²⁹ They may not have had a chance to make visible improvements by the time of survey, but Wilson should have known what was happening.

All this evidence substantiates the conclusion reached in *Riel and the Rebellion*: “it was an error not to have extended the river-lot survey to comprise the whole St. Laurent colony in the first place.”³⁰ There is no evidence to show the mistake was other than a matter of surveyors’ judgement in the field, but it nonetheless had serious long-term consequences.

Entry

In spite of many requests, the government refused to resurvey quarter-sections along the river into river lots. Instead it proposed the administrative compromise of allowing squatters to make entry for *de facto* river lots by adding together twenty-acre legal subdivisions. In May 1884 Prince Albert lands agent George Duck collected evidence from ninety-nine Métis claimants at St. Laurent, and on the basis of these submissions made recommendations to the Dominion Lands Board. After some further delays, the Métis were notified between February 26 and March 7, 1885, of the terms on which they could make entry. *Riel and the Rebellion* depicted this process as a reasonable solution to the difficulties created by the original mistake of not having surveyed all of St. Laurent into river lots.

There was, however, a weak link in the book’s evidence. Since the schedule of cases investigated by Duck had not been located, it was necessary to infer the substance of the Lands Board decisions from actions recorded in later homestead files. D.N. Sprague used this lacuna in the evidence to propose an alternate interpretation, according to which “what most people received was a provocative denial of their demand for title to the lands they had occupied for years.”³¹ Sprague pointed out that most claims to *de facto* river lots on quarter-sections involved odd-numbered sections; indeed this was inevitable, since creating a river lot by means of legal subdivision meant that it had to cross two or sometimes three contiguous sections, at least one of which had to be odd-numbered. Now according to Dominion Lands regulations, odd-numbered sections were not open for homestead but were reserved for preemption, i.e., purchase at a favourable fixed price, so that successful homesteaders could expand their landholdings. Reasoning from precedents in other parts of the west, Sprague argued that the St. Laurent

Métis would have been informed that they could make homestead entry on odd-numbered sections but would have to purchase them outright, at one dollar or two dollars per acre, depending on the date of first occupation.³²

The missing schedule of St. Laurent cases investigated by Duck has now been found, and it shows unequivocally that Sprague's theory is wrong.³³ Squatters whose claims involved odd-numbered sections were indeed allowed to make homestead entry for up to 160 acres. If their claim encompassed more than 160 acres, as sometimes happened with river lots because of the river's irregular course, they could purchase the surplus at one dollar or two dollars per acre, depending on the date of first occupancy. All of this was recommended in 1884, long before there was any question of taking up arms.

Sprague's criticism has, however, been fruitful in another respect. It has drawn attention to the fact that, while the Métis had asked for immediate free patents, the Department of the Interior offered in almost all cases only the right of entry. By 1885, the Métis had generally been on the land more than the requisite three years, but their improvements were not usually sufficient to qualify for patents. *Riel and the Rebellion* did not take sufficient note of this important distinction. Entry required a fee of \$10, not in itself an insuperable obstacle for most Métis. But entry did not carry with it the rights to mortgage or sell the land; these rights came only with patent. With the end of the buffalo hunt, the Métis were looking for new sources of cash to increase their intensity of farming or to invest in businesses such as woodcutting and freighting. There may have been many who were disappointed with receiving only entry rather than patent, thus helping to explain why the notification between February 26 and March 7 did nothing to prevent a resort to arms.

Another question that still nags, even if it is of secondary importance, is what form the notification took. *Riel and the Rebellion* asserted that "a letter was sent to each of the claimants stating the terms on which he could make entry,"³⁴ but this may have been an overstatement. If so many letters were actually sent, it is odd that not even one has ever been found. Two homestead files contain specific notations that letters were sent,³⁵ but others merely report that claimants were notified to make entry.³⁶ Even if letters were sent to everyone, it is possible that many Métis did not fully grasp their significance, since hardly any of them could read. With the advantage of hindsight, it seems too bad that a French-speaking employee of the Prince Albert Lands Office did not make a trip to St. Laurent to explain precisely what was being conceded.

Conclusion

Although clichés are always suspect as explanations, it truly seems that a “breakdown in communications” was crucial to the outbreak of the North-West Rebellion. On the two main grievances of scrip and river lots, slow and awkward governmental attempts at explanation were vitiated even further by the intrinsic difficulties of communicating in mid-winter with a non-literate francophone group living in a remote place. If government is to be faulted, it is primarily for not taking extra effort to explain its actions rather than for the substance of its actions.

Collateral support for this interpretation comes from André Lalonde’s careful study of the Prince Albert Colonization Company. Lalonde has shown that, in spite of many allegations, the Prince Albert Colonization Company did not present the slightest threat to the Métis living on the South Branch.³⁷ The parish of St. Louis de Langevin did grow up on land bought by the Company, but the latter had no power to evict settlers and no steps were ever taken in that direction. And yet at least some Métis had the impression that the Company was a threat to their lands. Louis Riel wrote after the Rebellion:

La Puissance arriva à ne plus garder aucune modération. Elle vendit à une société de colonisation une paroisse métisse toute ronde, le prêtre était là. Elle vendit la paroisse de St. Louis de Langevin avec la terre de l’église, sur laquelle était une chapelle en voie de construction; elle vendit la terre de l’école et les propriétés de trente-cinq familles.³⁸

Even if in reality there was no threat to the Métis from the Company, the perception of a threat may have reinforced the feeling that a resort to arms was necessary.

There are essentially three views about the federal government’s role in the origin of the Rebellion. First, that Sir John A. Macdonald deliberately provoked the Métis into taking up arms so that he could crush their power in the west while simultaneously securing funding for the Canadian Pacific Railway. This is the conspiracy theory suggested by A.-H. de Trémaudan,³⁹ sketched by Howard Adams,⁴⁰ and expanded to great lengths by Don McLean.⁴¹ Second, that the government unintentionally drove the Métis into rebellion by grave delays and mistakes in lands policy. This is the standard view in the tradition of George F.G. Stanley. Third, that the government’s policy should have satisfied the Métis but did not because it was not properly communicated to them. This is the view developed in *Riel and the Rebellion* and presented here with certain refinements and new information.